



Grenfell Tower Inquiry

Day 149

June 23, 2021

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Phone: +44 (0)20 3008 5900

Email: transcripts@opus2.com

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Wednesday, 23 June 2021

1
2 (10.00 am)
3 SIR MARTIN MOORE—BICK: Good morning, everyone. Welcome to
4 today's hearing. Today we're going to hear evidence
5 from Mr Robert Black, who was formerly the chief
6 executive of the TMO.
7 Is that right, Mr Millett, you're going to call
8 Mr Black?
9 MR MILLETT: Yes, Mr Chairman, good morning. Good morning,
10 members of the panel. I now call Mr Black.
11 SIR MARTIN MOORE—BICK: Thank you.
12 MR ROBERT BLACK (sworn)
13 SIR MARTIN MOORE—BICK: Thank you very much. Sit down,
14 please, make yourself comfortable.
15 (Pause)
16 Right. Okay, when you're ready, Mr Millett, yes.
17 MR MILLETT: Mr Chairman, thank you very much.
18 Questions from COUNSEL TO THE INQUIRY
19 MR MILLETT: Mr Black, good morning.
20 A. Good morning.
21 Q. Can I start by thanking you very much for coming to the
22 Inquiry and assisting us with our investigations. We're
23 extremely grateful to you.
24 I'm going to ask you a number of questions over the
25 course of the next three days or so. If you have any

1

1 difficulty understanding any of those questions, please
2 say and I can repeat the question or put the question in
3 a different way.
4 Can I please also ask you to keep your voice up, so
5 that the transcriber, who sits to your right, can get
6 down every word you're saying fully and completely, and
7 also ask you not to nod or shake your head, but to say
8 "yes" or "no" as the case may be, because it is the
9 words and not the gestures that go on to the transcript.
10 If you feel you need a break at any point other than
11 the scheduled breaks we will take in the customary way,
12 please just say. We will take a break mid—morning and
13 mid—afternoon, according to the Chairman.
14 Now, you have made a number of statements to
15 the Inquiry. I want to show you the one we're going to
16 use in your examination. It's on your screen, or will
17 appear on your screen, and it's dated 8 February 2019 at
18 {TMO00000888}.
19 Is that the first page of your witness statement?
20 A. It is.
21 Q. And it's, as you can see, in response to a Rule 9
22 request of 24 October 2018 from the Inquiry.
23 Can we please go to page 35. We will see a date
24 there, 8 February 2019, and a signature above the date.
25 Is that your signature?

2

1 A. It is.
2 Q. Now, before I ask you whether the contents are true,
3 I believe that you have some corrections that you would
4 wish to make to this statement. Is that correct?
5 A. That is correct.
6 Q. Let's look first, please, at paragraph 26 on page 5
7 {TMO00000888/5}. It starts at the bottom of page 4,
8 I think, but is there a correction you would wish to
9 make to that paragraph?
10 I think we need the bottom of page 4 {TMO00000888/4}
11 for that, please, which starts:
12 "TMO did not in any way manage the statutory utility
13 companies ..."
14 A. It's on the second page.
15 Q. Page 5 {TMO00000888/5}, please.
16 What correction would you make to that paragraph?
17 A. It's the last line, starting — sorry, just ... starting
18 "to provide LFB with all information it required". The
19 last sentence:
20 "TMO respected LFB's decisions not to supply
21 documents etc that LFB did not wish to receive."
22 When I reviewed this document — apologies, it's the
23 first time I've looked at it in two years — I couldn't
24 quite understand what I was meaning. I really tried,
25 but I would rather say that I don't quite understand

3

1 what I'm meaning now.
2 Q. Right. So would you delete that sentence?
3 A. I would delete it, please.
4 Q. Right.
5 Page 12 {TMO00000888/12}, please, paragraph 63.
6 Is there a correction or change you would wish to
7 make to that paragraph?
8 A. Yes, it is, and it's on the ... starting, "residents on
9 Universal Credit and two Officers to help support
10 residents who were assessed to be vulnerable".
11 When I reviewed this, I wasn't quite sure if that
12 was right, and actually I would like to change it. So
13 the two officers were tenancy support officers.
14 Q. Tenancy support officers. So we add the words "tenancy
15 support" between the word "two" and the word "Officers"
16 in that line?
17 A. Yeah, and to change the word "vulnerable".
18 Q. To what?
19 A. To "to be supported in terms of areas such as ASB,
20 antisocial behaviour, rent arrears, and support
21 generally a bit more than the current neighbourhood
22 officers could supply".
23 Q. Then paragraph 151 on page 29 {TMO00000888/29} I believe
24 is a further paragraph to which you want to make
25 a change. Is that right?

4

1 A. Yes. Again, when I reviewed this, and certainly since
 2 I've been preparing for today I've been looking at lots
 3 of documents, and it's clear I missed the fire in 2010
 4 at Grenfell Tower.
 5 Q. You missed it?
 6 A. Yeah. I apologise for that.
 7 Q. Does that mean you forgot about it when you —
 8 A. I just didn't remember it.
 9 Q. Yes.
 10 A. — looking through the papers.
 11 Q. Yes.
 12 Then page 31 {TMO00000888/31}, paragraph 165 to 167,
 13 I believe you have changes to make to that?
 14 A. Generally, again, I think it's fair that when I was
 15 reading through the paperwork, preparing for it, I've
 16 come across emails and conversations that obviously show
 17 that I did know about certain things, so I'd just like
 18 you to be aware of that.
 19 Q. Well, we will come back to that in due course, perhaps,
 20 when we examine those paragraphs in the course of your
 21 evidence.
 22 A. Yeah.
 23 Q. Subject to those changes, having read this statement
 24 recently, can you confirm that the contents are true?
 25 A. Yes.

5

1 Q. Have you discussed your statement or your evidence with
 2 anybody before coming here today?
 3 A. The only person was when I made a phone call to
 4 an ex-colleague to clarify the job title of the tenancy
 5 support officers. I didn't discuss my evidence.
 6 Q. Right. Thank you very much.
 7 I'm going to start some questions with your
 8 background and qualifications and experience.
 9 You gave evidence, as you will recall, in
 10 September 2018 at Phase 1 of this Inquiry.
 11 You started work with the TMO, I think — is this
 12 right? — in 2009 as chief executive officer?
 13 A. Yes, May.
 14 Q. In the May?
 15 A. Yeah.
 16 Q. Are you able to tell us when in the May?
 17 A. I was appointed in March by the panel, and it was
 18 supposed to be the end of May, but the chief exec who
 19 was in place left before I came, so they asked me to
 20 come in earlier. So I'd imagine it would be about the
 21 middle of May, but I can't recall precisely.
 22 Q. And this was your first chief executive role; is that
 23 right?
 24 A. Yes.
 25 Q. Yes.

6

1 Can you help us with training that you received. Do
 2 you have any specific professional qualifications?
 3 A. No.
 4 Q. Do you have any specific health and safety
 5 qualifications or experience?
 6 A. Not qualifications. In terms of over 30 years working
 7 in housing, I've had numerous health and safety courses
 8 at different levels as I've worked myself through the
 9 career, and generally, when it was lower, it would be
 10 sort of practical health and safety within a scheme or
 11 a hostel or whatever; as I got into management, it was
 12 about wider management health and safety responsibility.
 13 And at the TMO we did training on health and safety, I'd
 14 had that with my induction, and before I left, before
 15 the fire, we'd introduced modules of training for all
 16 staff, which included health and safety, which
 17 I completed.
 18 Q. Have you had any training that deals with fire safety in
 19 a social housing management role?
 20 A. Not specifically on that matter.
 21 Q. Did you get any fire safety training at Circle 33 or
 22 Circle Anglia when you were at those organisations?
 23 A. No.
 24 Q. No.
 25 Now, you told us that you became chief executive

7

1 officer, CEO, of the TMO in 2009. Did you have any
 2 fire safety training when you arrived?
 3 A. I was introduced to Janice Wray, who was the health and
 4 safety officer, manager, at that time, and she explained
 5 her role to me and what she was doing at that time.
 6 That was my introduction.
 7 Q. In a sentence, can you tell us what she told you about
 8 her role?
 9 A. Her role was health and safety manager for the TMO,
 10 where she would advise — advised the company on health
 11 and safety, fire safety.
 12 Q. Now, did you have any training on fire risk systems or
 13 fire risk management systems when you arrived and took
 14 up the job of CEO?
 15 A. No.
 16 Q. No. Would it follow from that that you had no training
 17 on fire safety in the context of asset management or
 18 housing stock at that point, or after that?
 19 A. In terms of when I arrived in May, there was no specific
 20 training because the chief exec had left and I came in
 21 to pick up the reins, in a sense, and as I met people
 22 who were still there, they explained their role to me,
 23 so the members of the executive, the members of the
 24 senior management team, what they did. So it was more
 25 a narrative of what they were responsible for so I could

8

1 get an understanding.
 2 Q. Did you have any training, whether before you arrived at
 3 the TMO or after you had arrived at the TMO, on any
 4 aspect of the Regulatory Reform (Fire Safety) Order
 5 2005, or the RRO, as I'm going to call it?
 6 A. Not specific training, but I was informed by Janice Wray
 7 in terms of the work they were doing to implement that.
 8 Q. So, just to be clear, you had no training on it, but
 9 Janice Wray told you what work they were doing to
 10 implement the requirements of that legislation?
 11 A. Yes.
 12 Q. I see.
 13 I'm going to assume that you had no training at all,
 14 either before or during your entire time at the TMO —
 15 and correct me if I'm wrong about this — on something
 16 called the Sleeping Guide, which is HM Government's
 17 "Fire safety risk assessment: sleeping accommodation",
 18 2006.
 19 A. I'd heard about it, because I was a member of a National
 20 Federation of ALMOs chief exec group, and they had
 21 policy briefings every now and then, so there were
 22 policy briefings from that time every now and then about
 23 the RRO and aspects of it. But it was quite brief at
 24 a high level type of stuff.
 25 Q. What about the LACORS, "Housing — Fire Safety — guidance

9

1 on fire safety provisions for certain types of existing
 2 housing?"
 3 A. I can't recall that.
 4 Q. That's a 2008 publication.
 5 A. No.
 6 Q. No?
 7 What about PAS 79 of 2012? There was one in 2007 as
 8 well. Did you ever get any training on that
 9 specifically?
 10 A. I've heard of it, but not any training specifically on
 11 it.
 12 Q. You've heard of it. Again, did you get any policy
 13 briefings about the contents of either of those editions
 14 of that PAS?
 15 A. No.
 16 Q. What about the LGA, Local Government Association,
 17 publication in the summer of 2011, "Fire safety in
 18 purpose-built blocks of flats"?
 19 A. Yes, I knew about that.
 20 Q. You knew about it?
 21 A. Yes.
 22 Q. Did you ever —
 23 A. Yes.
 24 Q. — have any training on it?
 25 A. So — not training. So that guidance was being

10

1 developed, and the National Federation of ALMOs, of
 2 which I was a member, had a policy group which was
 3 contributing to the development of it. So the chief
 4 exec group, we got briefings on how that was going, and
 5 then when the guidance came out, we got briefings on
 6 that as well, and I had at the time reviewed the
 7 documentation.
 8 Q. Who gave you the briefings on the LGA guidance?
 9 A. That's when I was at the National Federation of ALMOs,
 10 plus Janice told me as well, when — because she would
 11 be — because I was going at a chief exec level, and
 12 there was also a policy group at the National Federation
 13 of ALMOs which she would go to, and she would get
 14 similar briefings, probably a bit more detail.
 15 Q. Were these briefings in paper form that you could read
 16 at your leisure, or such that you had any?
 17 A. It was sort of presentation-type stuff. There might
 18 have been some papers at the time as well.
 19 Q. What about something called PAS 7 from 2013, do you
 20 remember having any training on that?
 21 A. No, I haven't had any training on that.
 22 Q. Again, was that something which you knew about or had
 23 any high-level briefings on?
 24 A. I can't recall at the moment.
 25 Q. Did you get any training specifically on the role of the

11

1 responsible person under the RRO or who that was?
 2 A. I think at my induction — not my induction — well,
 3 I had an induction, but when going through and
 4 understanding the company, I began to understand the
 5 role of the responsible person, and as we developed
 6 a health and safety statement, that was the role I was
 7 to take on within the company.
 8 Q. I see.
 9 Did you have any training either — well, you were,
 10 I think, already at the TMO — on the lessons to be
 11 learnt from the Lakanal House fire in Camberwell in the
 12 summer of 2009?
 13 A. I would have picked that up — I'm sure there must have
 14 been a briefing at the TMO, but I obviously picked that
 15 up at different areas I went. So I was also a member of
 16 the National Federation of Housing and attended CIH,
 17 which is Chartered Institute of Housing. So there was
 18 quite a lot of briefings at that time on that subject.
 19 Q. Yes.
 20 Did you ever receive any training on or ever read
 21 any briefings in respect of fire risk assessments?
 22 A. I knew about fire risk assessments and the principle of
 23 them, but I didn't — that was something that Janice was
 24 involved in, in developing for the company.
 25 Q. You say Janice was involved in; in your role as CEO, did

12

1 you have an overall supervisory position in —
 2 A. No.
 3 Q. — respect of her work in relation to FRAs?
 4 A. No, Janice — I don't know if it's useful if I, in terms
 5 of when I joined, explain the structure and what
 6 happened.
 7 So when I joined, quite a lot of people left soon
 8 after. Janice was health and safety manager, and
 9 I linked in with Lornette Pemberton, who was health —
 10 HR manager, and as — quite soon after that, Lornette
 11 became a member of the executive in terms of responsible
 12 for training and development and HR, and because of —
 13 there was very few other people about, and because of
 14 Lornette's role, I linked Janice into that role, so she
 15 was managed by Lornette Pemberton.
 16 Q. Let's look at the governance, then.
 17 You deal with your appointment in your witness
 18 statement on page 2 {TMO00000888/2}, if we can go to
 19 that, please, paragraph 11, that's where it starts.
 20 At paragraph 12 you say you were interviewed by TMO
 21 board members and RBKC's executive director of housing
 22 and environment.
 23 Do you remember which board members interviewed you
 24 specifically?
 25 A. It was a mixture of residents and independents.

13

1 I'm afraid I can't remember individuals at that time.
 2 There would have been a leaseholder who was a board
 3 member, and there would have been a tenant, and I think
 4 there was two independents. The chair would have been
 5 there. I'm just trying to remember how many that comes
 6 up to.
 7 Q. When you say you were interviewed by RBKC's executive
 8 director of housing and environment; was that
 9 Laura Johnson?
 10 A. No, that was Jean Daintith, who was —
 11 Q. Oh, right. Jean Daintith.
 12 A. — at that time the exec director of housing, social
 13 services and environmental.
 14 Q. Now, as CEO, you reported to the board; is that right?
 15 A. Yes.
 16 Q. And the board was a non-executive board; is that right?
 17 A. Yes.
 18 Q. That meant that it didn't get involved in the day-to-day
 19 management of the TMO.
 20 A. No.
 21 Q. That was your job.
 22 A. Yes.
 23 Q. And the board was reliant on you — is this right? —
 24 for accurate, timely and complete information about what
 25 was happening in the business?

14

1 A. Yes.
 2 Q. Now, if you go on to paragraph 13 at the foot of page 2,
 3 you say:
 4 "When I joined there were a number of concerns
 5 raised both at my interview by the panel and once I was
 6 formally in position."
 7 Pausing there, who was it, do you remember, who
 8 raised the concerns in your interview, was it the TMO or
 9 was it RBKC?
 10 A. No, I think you have to go back to the beginning.
 11 So when I applied for the job, the role was being
 12 managed by a set of consultants, I think it was Veritas,
 13 so I applied and then I got — they contacted me saying
 14 they wanted to do a longlist interview, it was called,
 15 so we had a telephone conversation. I then had
 16 a sort of informal meeting with the consultants who were
 17 running it, and they whittled down through that process
 18 the number of candidates they wanted to take to the
 19 board.
 20 Through that process, they were telling you about
 21 the organisation, it's a tenant management organisation,
 22 a membership organisation, this and that, about how it
 23 had got three stars, excellent, from the
 24 Audit Commission. But they were also raising in terms
 25 of issues that had been coming through in terms of

15

1 performance not being great, concerns RBKC had about its
 2 performance, that sort of — so they're trying to paint
 3 a picture, to be fair, so that you don't go in blind.
 4 Actually, when I got shortlisted for the final
 5 interview in front of the panel, they were giving a test
 6 basically to: here's the issues, come up with
 7 a six-month improvement plan. So you basically had to
 8 look at their business, their finances, and then come up
 9 and do a small presentation in front of the panel, and
 10 then they ask you questions, and that was the end of
 11 that part of the interview, and then you were sort of —
 12 went away and then they decided to pick you.
 13 Q. I actually asked you just who it was who had raised
 14 these concerns. I'm not sure you actually answered that
 15 question.
 16 A. Apologies. So some concerns were raised by the
 17 consultants on behalf of the company as they were
 18 telling candidates, and then the panel, it would have
 19 been the chair as you went through the process explained
 20 the circumstances, and then you had to prepare the
 21 presentation based on that.
 22 Q. Right.
 23 Now, at paragraph 14 of your statement you list the
 24 issues, if we can go to page 3 {TMO00000888/3}, and you
 25 list them as: governance, the repairs service, general

16

1 KPI performance, resident engagement, customer
 2 complaints and overall satisfaction, asset management
 3 and overall relationship with RBKC.
 4 I just want to focus, if I can, for a moment, on the
 5 words "customer complaints and overall satisfaction".
 6 Given that customer complaints and overall
 7 satisfaction was expressly part of your remit, did you
 8 regard it as your responsibility from the start to get
 9 to the bottom of what was causing any dissatisfaction
 10 and to understand its causes?
 11 A. I think it was my role to understand, as you say,
 12 causation of why it was happening, so I needed to
 13 understand some of the history. I then had to
 14 understand — because there's a key link between
 15 customer satisfaction — customers' feeling and
 16 satisfaction. My previous job at Circle 33 as the exec
 17 director of customer services, we did a huge amount of
 18 work on that. So complaints is only one aspect of
 19 customer satisfaction, that's the negative end, but
 20 there's lots of stuff in between that actually drives
 21 what makes the customer or the resident happy with the
 22 service. So I think that's one of the things why,
 23 you know, they — we spent a lot of time looking at
 24 that.
 25 They also explained there had been a report, which

17

1 I didn't really know about until — from — RBKC had
 2 commissioned someone to do a report, I think from
 3 complaints from leaseholders, I can't remember the name
 4 of the author.
 5 Q. Is that the Memoli report?
 6 A. That's the one, yeah.
 7 Q. We're going to come to that in detail.
 8 A. Yeah. So I'd heard of that but hadn't seen it.
 9 So, yeah, I think those two things driving —
 10 understanding your customer.
 11 Q. So I think the answer is yes?
 12 A. Yes.
 13 Q. Thank you.
 14 Can I take it, given your answer being yes, that you
 15 were at all times familiar with the detailed terms of
 16 the TMO's complaints policy and procedures?
 17 A. Yes.
 18 Q. Yes. Without going to it — we can if you want to —
 19 would you agree that it cast the TMO as a service
 20 provider and the resident as a customer?
 21 A. Yes.
 22 Q. Rather like a consumer relationship.
 23 A. Yes.
 24 Q. Yes.
 25 Did you also understand, however, that the TMO was

18

1 not just providing a consumer service, but people's
 2 homes?
 3 A. Of course.
 4 Q. Yes. Given that the TMO was providing people with
 5 homes, did you understand that it was reasonable for
 6 them to expect to repose a high degree of trust in the
 7 TMO?
 8 A. Yes.
 9 Q. And particularly when it came to safety in their homes;
 10 yes?
 11 A. Yes.
 12 Q. Yes. So this wasn't just about having satisfied
 13 customers, but having residents who could trust you
 14 utterly to keep them safe in their homes?
 15 A. I would say that's in every job I've done, not just the
 16 TMO.
 17 Q. Would you also that if they felt unsafe in their homes,
 18 particularly in numbers, that would tend to indicate to
 19 you a fundamental, perhaps existential, problem with the
 20 TMO?
 21 A. No.
 22 Q. No?
 23 A. No.
 24 Q. You wouldn't?
 25 A. I suppose if ... the issue, you've gone on to this, in

19

1 a sense, they're just background to stuff, which I don't
 2 know if you're going to come on to in terms of what the
 3 TMO is in terms of its structure, its membership.
 4 Q. Well, I'm just asking you as a general proposition.
 5 Would you accept, as a general proposition, given
 6 that you were the CEO, that if people felt unsafe in
 7 their homes, at least in numbers, then that would tend
 8 to indicate a fundamental and perhaps existential
 9 problem with the way the TMO was working?
 10 A. I'm not sure if I agree with that.
 11 Q. All right. We'll see how that plays out later.
 12 Can we go to paragraph 23 of your witness statement
 13 on page 4 {TMO00000888/4}. You say there the TMO was
 14 a non-specialist organisation typical of —
 15 A. Can you confirm —
 16 Q. — a social housing manager of its size —
 17 A. — what paragraph you're talking about, sorry?
 18 Q. 23.
 19 A. 23.
 20 Q. I'm sorry, I'm reading from the wrong one, it's my
 21 fault. Page 4, paragraph 23:
 22 "The company was therefore a resident-led
 23 organisation with a majority of local tenants on its
 24 Board to manage the Council's housing stock. The Board
 25 of TMO operated independently of RBKC, except on matters

20

1 relating to the Housing Revenue Account (HRA), with
2 an internal audit process commissioned by TMO Board and
3 conducted by external auditors."

4 How was the TMO's independence restricted in
5 relation to the HRA?

6 A. So the HRA was the housing revenue account, which was
7 the local authority account which the rents went into.
8 Up until 2012, the HRA was managed by the Government, so
9 the rents went into a central account and then the
10 Government gave each local authority a grant. So the
11 local authority, depending where you are, didn't always
12 get the same amount of money that was raised through the
13 rents. So that's key. And then because it was run by
14 the Government, they would only give you a grant per
15 year.

16 So it was a very local authority, sort of, way they
17 operate. It's very difficult for long-term planning
18 when you're only getting a one-year grant which you
19 don't know the amount, and it's completely different
20 from the housing association sector, where you generally
21 worked on three-year, five-year and 30-year plans
22 because you knew your income coming in.

23 So the way we were affected is the RBKC didn't know
24 how much money it would get each year, therefore
25 actually the TMO didn't know how much money it would get

21

1 until the local authority knew, and because the local
2 authority, the way they're funded and legalised, they
3 can't commit until they know how much money they have.

4 So what it means is instead of knowing well before
5 when your financial year starts on 1 April that you've
6 got, say, 3 million, you might not get the Government
7 grant until June. So, therefore, actually all RBKC
8 could do within its terms of how it had to legally
9 operate is give you an indication of how much money you
10 would receive. So it was sort of very difficult within
11 all local authorities to plan long term in terms of
12 investment.

13 The impact on that historically is you get very low
14 investment across local authority housing, until the
15 Labour Government introduced Decent Homes, and
16 Decent Homes is based on a recognition that local
17 authority housing hadn't had the investment it required
18 compared to other sectors, and that meant things like
19 kitchens, windows, bathrooms, had deteriorated and
20 people weren't living in great condition. So
21 Decent Homes was a direct grant to actually identify
22 programmes, investment in social housing in England.

23 Q. Forgive me for interrupting you, and you may have come
24 to the end of your answer. Does this tell us that when
25 you say, "The Board of TMO operated independently of

22

1 RBKC, except on matters relating to the Housing Revenue
2 Account", you mean there that the board of the TMO, and
3 indeed the whole TMO, depended on RBKC for money coming
4 from the housing revenue account?

5 A. Yes.

6 Q. Yes. I'm slightly more interested in operational
7 matters, though.

8 Is it the case that the board of the TMO would not
9 operate independently of RBKC in respect of money coming
10 from the housing revenue account when making decisions?

11 A. Well, the board of the TMO was depending on RBKC
12 providing it with its management fee. Therefore, the
13 TMO had to — if it got given an indication, then had to
14 base its service and its delivery on the money that
15 would be given to it. So, yeah, as a board, they
16 couldn't go and order things without knowing there was
17 income coming in.

18 They had, however, stuff they did outside that,
19 which they had reserves, so they had their own reserves
20 as a company which they'd built up over a number of
21 years, but in terms of — they hadn't really used them
22 before.

23 Q. Really what I'm seeking to tease out here is whether
24 you're actually saying that the decision-making process
25 at board level within the TMO, when it came to the

23

1 housing revenue account, was not independent of RBKC?

2 A. Yes.

3 Q. Thank you.

4 Let's look at paragraph 29, page 5 {TMO00000888/5}.

5 We can take this I think quite quickly. You say:

6 "All day-to-day operations of TMO were managed by
7 an Executive Team who reported to me as Chief Executive
8 supported by three Executive Director[sic]. They were
9 Executive Director for Operations; Financial Services &
10 ICT; and People, Performance and Governance. Although
11 they had the title 'Executive Director', like me they
12 were not statutory directors."

13 Now, you've identified the individuals there.

14 Although you don't say it, it's right, isn't it,
15 that Barbara Matthews was executive director of
16 financial service and ICT from July 2015, wasn't she?

17 A. Yes.

18 Q. Yes, and she was responsible for health and safety and,
19 in particular, fire safety, wasn't she?

20 A. Yes.

21 Q. Was there a particular logic for health and safety being
22 covered by the finance and ICT director?

23 A. I had a small team and, when I looked at that team,
24 I had to — the team had changed, so it had reduced in
25 size, and we had to then look at the portfolio of stuff

24

1 that people had, so I had to look at workloads,
 2 responsibility, and how they would manage it, and when
 3 we looked, Barbara was quite a good fit for it in terms
 4 of actually her role, in terms of actually how much
 5 capacity she had to take on.
 6 Q. What was Barbara Matthews' background? Was it financial
 7 service, ICT, or health and safety?
 8 A. It was a range of background. I mean, her background,
 9 as far as I can remember, she worked in the — when she
 10 was younger in the sort of private sector, a range of
 11 roles, and then moved into the housing sector. She'd
 12 told me that she'd had a wide brief in certain
 13 organisations before. I can't remember specifically if
 14 she said she'd managed health and safety.
 15 Q. Did you recruit Barbara Matthews yourself?
 16 A. She was recruited — I'm just trying to remember, sorry.
 17 Yes, I would have been part of the team who recruited
 18 her.
 19 Q. Did you check her experience of fire risk management as
 20 part of the process to recruit her?
 21 A. Not specifically.
 22 Q. Why not? Why didn't you?
 23 A. It just didn't come up, apologies.
 24 Q. Right.
 25 Did you know or do you now know whether she had any

25

1 previous responsibility for fire risk management in
 2 a senior role?
 3 A. I can't remember.
 4 Q. Right. Did you ask her?
 5 A. I can't remember that long ago, sorry.
 6 Q. Do you know whether she had any experience of managing
 7 health and safety more generally in the context of
 8 social housing stock?
 9 A. I ... I'm not sure.
 10 Q. Right.
 11 We've heard her evidence. Can you account for
 12 having a head of health and safety who had no health and
 13 safety background?
 14 A. I can, because I've worked in other places, other
 15 organisations, where health and safety sits under
 16 executive director. I've not worked in an organisation
 17 where health and safety is a sole focus of an executive
 18 role, and executive directors tend to have broad
 19 portfolios, depending on their management. So, in
 20 a sense, they're managing specialists; it doesn't mean
 21 they're specialists themselves.
 22 Q. Yes. That wasn't quite an answer to my question.
 23 Can you account for having a head of health and
 24 safety, in effect, who had no health and safety
 25 background?

26

1 A. Because I appointed her.
 2 Q. Well, that's —
 3 A. Because we didn't — when we recruited, we were
 4 recruiting — I'm trying to remember ...
 5 Q. Why didn't you recruit someone specifically with
 6 a health and safety background?
 7 A. Because I didn't — to have a specific role? I wouldn't
 8 have had the income to be able to have someone sitting
 9 in the executive specifically doing health and safety.
 10 I can't — I mean, I can't remember the details when
 11 we recruited her, apologies. It may have been in the
 12 pack or the questioning, but it's quite a long time ago.
 13 Q. It sounds from your answer, when you say, "I wouldn't
 14 have had the income to be able to have someone sitting
 15 ... specifically doing health and safety", that this was
 16 a question of money.
 17 A. I think it's a question — so can you —
 18 Q. Is that right?
 19 A. Yes, it's a question of money, because in terms of —
 20 an organisation has to live within its means, and in
 21 a sense, between 2009 and continuing, local authority
 22 funding across the country and with everybody has been
 23 cut. So, therefore, I didn't have a big enough budget
 24 to have a specific health and safety role on my
 25 executive.

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1 Q. Did you —
 2 A. What I wanted was an executive director to manage my
 3 health and safety manager.
 4 SIR MARTIN MOORE-BICK: Mr Black, it sounds to me — tell me
 5 if this is right or not — that you regarded the role of
 6 executive director as one which required general
 7 managerial experience, without any specific experience
 8 of the departments under —
 9 A. Yes.
 10 SIR MARTIN MOORE-BICK: — its responsibility?
 11 A. Yes.
 12 SIR MARTIN MOORE-BICK: Right. Yes, thank you.
 13 MR MILLETT: Did you ask or think of asking RBKC for more
 14 money so that you could recruit somebody with a specific
 15 health and safety background?
 16 A. I ... the situation of the TMO, the year I took over,
 17 because they'd agreed a 5% cut with RBKC, the company
 18 lost 500,000 because they hadn't — although they'd
 19 agreed a cut, the executive and board hadn't agreed how
 20 to finance that cut. So really, after that, the TMO,
 21 you know, then had to legally have a small surplus, so
 22 we worked on producing each year within the management
 23 fee a surplus of 36,000.
 24 In terms of asking RBKC for more money, you know, we
 25 were lucky within the sector that, in general, for our

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1 management fee went up 1%, where across the sector with
 2 the colleagues I worked with, people were experiencing
 3 5%, 10%, 15% cut per year. This was what was happening
 4 in local authorities just with — across lots of other
 5 statutory services.
 6 Q. Yes. This is 2009, I think, is what you say in your
 7 answer. What about in 2015? Did you —
 8 A. 2015, I think we had a cut of 2% to our budget.
 9 Q. Now, let's look at the TMO's health and safety policy
 10 from July 2010. {TMO10031078}, please.
 11 This is a document which, at the very foot of the
 12 page and the foot of your screen, Mr Black, you can see
 13 your name as chief executive and the date, July 2010;
 14 yes?
 15 A. Yes.
 16 Q. It's entitled "Health and safety policy". Section 1,
 17 "Statement of intent". It's a document that runs for
 18 some eight pages. It has your name at the bottom, as
 19 you can see.
 20 If you look in the second paragraph, it says this:
 21 "The legal, operational, and financial
 22 responsibility for the management of health and safety
 23 rests with the Chief Executive of the TMO, and each head
 24 of division and manager is responsible for the
 25 implementation, execution, control, and monitoring of

29

1 this policy."
 2 Now, you would agree — is this right? — that that
 3 meant that you were ultimately responsible for health
 4 and safety and, in particular, fire safety at the TMO?
 5 A. Yes.
 6 Q. Yes.
 7 What did you understand to be your responsibilities
 8 as chief executive in respect of health and safety in
 9 general and fire safety in particular?
 10 A. In general, I recognised I needed a competent person
 11 within the organisation, and that was Janice Wray,
 12 and — sorry, what was the second part?
 13 Q. And fire safety in particular.
 14 A. And Janice Wray's position covered fire safety as well.
 15 Q. So is your answer that your responsibility was to make
 16 sure you had someone who was sufficiently experienced
 17 and expert in health and safety in general and
 18 fire safety in particular?
 19 A. Yes.
 20 Q. Yes.
 21 How did you ensure that the health and safety policy
 22 contained in this document was implemented?
 23 A. It went to all — well, so I had an overall structure,
 24 so we had policies in place. How we delivered it was
 25 through our organisational structure, in terms of

30

1 actually appropriate people with skills, we ... sorry,
 2 just a second ... had plans in place, we measured, we
 3 reported, and we audited.
 4 Q. Plans, measured, reported, audited, and having the right
 5 people?
 6 A. Yeah, and the people were key for me.
 7 Q. And how did you yourself, as CEO, monitor the carrying
 8 out of this health and safety policy in those respects?
 9 A. In the sense we had a corporate health and safety
 10 committee, which Janice reported in to, and that — and
 11 a range of people who attended, because of their roles
 12 and responsibility, and those people would then cascade
 13 roles and responsibilities through their teams.
 14 Q. Now, if we go to the fourth paragraph, it says this:
 15 "The TMO will ensure that all persons are competent
 16 to carry out the duties asked of them, and will provide
 17 adequate information, instruction, training and
 18 necessary supervision. It will provide an in-company
 19 appointed health and safety professional, who will be
 20 responsible for providing advice on all health, safety
 21 and welfare matters."
 22 You, as the chief executive of the TMO, were
 23 responsible, weren't you, for ensuring the competence of
 24 all staff in this respect?
 25 A. In the sense of I wouldn't recruit every individual, but

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1 in the principle of when jobs are advertised, they went
 2 through a professional process, depending on the level,
 3 might be with consultants, with their job description,
 4 and in terms of through interview.
 5 Q. Yes.
 6 A. So I'd allocated responsibility through my executive
 7 team, my senior management team and my management team
 8 when they did those recruitment.
 9 Q. Do you agree that it was your responsibility to ensure
 10 that staff received adequate training, instruction and
 11 supervision?
 12 A. Yes.
 13 Q. Did the TMO plan any system to ensure or check that
 14 staff did receive adequate instruction, training and
 15 supervision?
 16 A. In a sense, the system was the responsibility for each
 17 manager to assess their member of staff. We had
 18 a training budget, we had a director of organisational
 19 development, and we had each year an assessment of staff
 20 with training needs, and those training needs could vary
 21 depending on the role, and that was included in each
 22 budget.
 23 Q. In the last sentence, as I've read to you, there is the
 24 reference there to an in-company appointed health and
 25 safety professional responsible for providing advice on

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1 health, safety and welfare matters; who was that person
 2 when you drafted this policy or signed this policy in
 3 July 2010?
 4 A. Janice Wray, and it could also be my HR director, in
 5 terms of actually there's a lot of stuff there that
 6 could actually fall into managing the welfare of your
 7 staff.
 8 Q. I see, and the HR director was?
 9 A. At that time it was Lornette Pemberton.
 10 Q. That was Lornette Pemberton, was it? And then it
 11 changed, I think, after that.
 12 A. Yeah, there was —
 13 Q. In 2012.
 14 A. — a few after, which I can't remember all their names.
 15 They were all professionally recruited.
 16 Q. Did the role of in-company appointed health and safety
 17 professional, at least that occupied by Janice Wray,
 18 include providing advice on fire safety matters?
 19 A. Yes.
 20 Q. And what about fire safety on capital projects like
 21 major refurbishments?
 22 A. That would sit — in a sense — so Janice's role is that
 23 she would give advice to teams when asked, or as she
 24 needed to, but within capital teams, that was the
 25 responsibility of the people employed to manage it, also

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1 in terms of to recruit contractors who actually met with
 2 all health and safety legislation.
 3 Q. Now, Janice Wray wasn't on the executive team, was she?
 4 A. No.
 5 Q. Why was she not on the executive team at any stage?
 6 A. So I had an exec team, senior management team, and
 7 Janice ... well, you don't just put people on the
 8 executive team. So in terms of Janice, she was managed
 9 by the executive director. She came to executive, she
 10 came to board, she went to senior management teams. She
 11 was someone in terms of — had a wider role.
 12 Q. But she didn't attend senior management team meetings.
 13 A. She did, when she was required.
 14 Q. You say she did.
 15 Do you know why she wasn't part of the senior
 16 management team level, though?
 17 A. Before I — while I was preparing for this, I thought
 18 she was, but I think, when I remember back to
 19 discussions about the scope of her role, it was in terms
 20 of she managed one person, it grew to two, whereas most
 21 of the senior managers had a wider portfolio. I don't
 22 think — it didn't downgrade her role in my eyes or
 23 anybody that I spoke to.
 24 Q. Well, do you accept that, had she been part of senior
 25 management, as opposed to reporting to senior

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1 management, she might have been able to influence the
 2 decisions that senior management was taking and the way
 3 they reported to the board, and, indeed, at joint
 4 management meetings with RBKC, influence the direction
 5 of travel there?
 6 A. Janice — I don't agree with that. I think Janice was
 7 influential within the organisation and could influence.
 8 I think a senior management team would be stupid to
 9 ignore the advice of your health and safety manager.
 10 Q. Well, that may be, but there's a difference between
 11 advice and reporting, on the one hand, and being in the
 12 room, as it were, isn't there, making the actual
 13 decisions?
 14 A. Again, I would have to see the context.
 15 Q. Now, let's look at the interaction between TMO and RBKC
 16 in terms of health and safety.
 17 I would like to show you {TMO10037442/38}.
 18 This is an excerpt from a TMO health and safety
 19 annual report for 2009 to 2010, and it's dated
 20 July 2010. Page 38 is rather in middle of it, or rather
 21 at the beginning of it but the middle of the document.
 22 I'll just show you page 52 {TMO10037442/52}, so we
 23 can be clear together that it's signed by Janice Wray.
 24 There is her name at the foot of that page, as you can
 25 see.

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1 If we go back to page 38 {TMO10037442/38}, you'll
 2 see under part 2, section 2, it is headed "Health &
 3 safety relationship between TMO and RBKC":
 4 "2.1 The TMO is the managing agent for Kensington &
 5 Chelsea Council's housing stock. The Council retains
 6 ownership of the stock and, as such, retains some
 7 responsibilities for the Health & Safety of the
 8 residents and their homes. Therefore, for the purposes
 9 of the enforcing body, the Health & Safety Executive,
 10 the responsibilities would be considered to be joint.
 11 "2.2 For example, compliance with the Regulatory
 12 Reform (Fire Safety) Order 2005 is operationally
 13 delegated to the TMO. However, in the event of a breach
 14 of these Regulations the London Fire Brigade would
 15 consider the TMO and the Council to be jointly liable
 16 for the breach and would serve Enforcement Notices on or
 17 pursue prosecution against both.
 18 "2.3 The Council monitors the TMO's Health & Safety
 19 performance in order to satisfy itself that we are
 20 complying with our statutory responsibilities, adhering
 21 to best practice and ensuring the best possible
 22 environment for the residents to live in and for our
 23 employees and contractors to work in. Specifically, the
 24 Council's Corporate Health & Safety Adviser and the
 25 Health & Safety Adviser from Housing, Health & Adult

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1 Social Care receive copies of the minutes from the
2 regular H&S Committee meetings and also this annual
3 report. Additionally, the TMO Health & Safety Advisor
4 attends the Council's 6-weekly Health & Safety Main
5 Coordinating Committee. Finally, the Council is
6 notified promptly of any major incidents, accidents or
7 significant near-misses and is informed of progress on
8 ongoing investigations."

9 Then it goes on about meetings.

10 Now, to be clear — and I've read that to you at
11 some length to refresh your memory of the document —
12 compliance with the RRO, the 2005 legislation, was
13 operationally delegated to the TMO; yes? That's what it
14 says.

15 A. Operationally.

16 Q. Does that mean that, operationally, the TMO was
17 responsible for health and safety in the housing stock?

18 A. Yes.

19 Q. Yes. But RBKC could still be liable to prosecution
20 under the RRO; is that how you understood it?

21 A. Yes.

22 Q. Yes, so, so far as you understood it, is it right that
23 RBKC shared the TMO's view that it was jointly
24 responsible under the RRO and at risk of prosecution for
25 its contravention?

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1 A. Yes.

2 Q. Yes.

3 Now, when you became chief executive officer at the
4 TMO, can you remember whether you had an understanding
5 of the role and the ambit of the role of the responsible
6 person under Article 3 of the RRO?

7 A. Yes.

8 Q. What was that understanding?

9 A. As a responsible person, I was responsible to appoint
10 competent people to carry out my health and safety,
11 which is Janice, and to ensure safety. Sorry, it's not
12 a great answer.

13 Q. Did you ever discuss with Janice Wray, as the competent
14 person appointed, you say, what the role of competent
15 person was under the RRO itself?

16 A. I can't recall specifically that.

17 Q. Right. You see, when you use the words "competent
18 person", are you meaning it in the context of that
19 expression as used in the legislation or are you using
20 it in a general sense?

21 A. I was using it in terms of the way it's expressed
22 between the responsible person and competent person.

23 Q. You had an understanding at the time of the distinction
24 between the two, did you?

25 A. Yeah.

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1 Q. Did you ever discuss with Janice Wray, coming back to
2 the question, about what her role as competent person
3 involved?

4 A. I can't recall specifically, sorry.

5 Q. No.

6 Do you accept that the TMO, as the responsible
7 person, was required by the RRO — and in particular
8 Article 11 — to make arrangements and give effect to
9 arrangements for effective planning, organisation,
10 control, monitoring and review?

11 A. Yeah.

12 Q. Yes, and also protective and preventative measures; yes?

13 A. Yes.

14 Q. Does that mean, to your way of understanding it at the
15 time, that the TMO had to put in place an arrangement,
16 protocol, procedures, processes, to manage the risk of
17 fire in its stock?

18 A. Yes.

19 Q. Do you agree that that arrangement needed to set out in
20 writing how it would be that the TMO would plan,
21 organise, control, monitor and review preventative and
22 protective fire safety measures; yes?

23 A. Yes, I think so.

24 Q. Yes.

25 Who was it in the TMO who was responsible for

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1 deciding that arrangement, designing that arrangement?

2 A. I would depend on Janice to do that, and I know from
3 2009 she worked on the fire risk strategy for the
4 company, which covered a wide range of areas.

5 Q. From 2009, do you say?

6 A. When she started working. It came into place in 2013,
7 I think, and it's been reviewed in 2016.

8 Q. So you say she started working on the fire safety
9 strategy or fire risk strategy, as you call it, in 2009?

10 A. Yeah.

11 Q. It took four years to come to fruition?

12 A. Yeah. At the same time, we'd also addressed the whole
13 things round fire risk assessments. So in those
14 four years, we had agreed with the Fire Brigade —
15 because I think previously, before I came, she was the
16 one, like a lot of other organisations, carrying out the
17 fire risk assessment, since the regulation had changed
18 in 2006. I think the Fire Brigade hadn't been happy
19 with that and, therefore, in 2009/10 we employed
20 Carl Stokes to carry out the high risk.

21 So between that there was quite a lot of
22 conversation between RBKC and the TMO to make
23 the council and board aware of all these issues, and
24 ultimately that's how we moved to having
25 a fire consultant and carrying out the fire risk

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1 assessments across the high, medium and low blocks over
2 the three years.
3 Q. Specifically, I think, do you agree, that the
4 arrangement that we've just discussed as required by the
5 RRO, to cover all those aspects of it, was the fire risk
6 strategy or fire safety strategy?
7 A. Yeah.
8 Q. And that was Janice Wray's role, was it?
9 A. Yeah.
10 Q. Right.
11 Do you accept that you were ultimately responsible
12 for ensuring that such a document which covered those
13 matters was in place?
14 A. Yes.
15 Q. Yes.
16 Do you know or did you require Janice Wray —
17 I think that's the person — to use any particular
18 sources of guidance when developing the fire safety
19 strategy?
20 A. Well, I think she would have, as far as I recall,
21 because everybody was in the same position across the
22 whole of England when it changed, trying to be —
23 understand what was required. So I think there was
24 quite a lot of consultation with the Fire Brigade on the
25 format. I think there is a best practice format which

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1 I believe she used. Is it PAS, sorry?
2 Q. Well, there is PAS 2007, and then after 2012, PAS —
3 A. So I think she —
4 Q. PAS 79 of 2007 and then PAS 79 of 2012.
5 A. So in terms of — she developed that. I think she would
6 have also gone to forums and in policy forums where
7 people were doing the same thing, and then we used
8 Carl Stokes, who — to check and sign off with the
9 Fire Brigade.
10 Q. Just to be a little bit more specific, did you require
11 or check, perhaps, that Janice Wray, when developing the
12 fire safety strategy to cover the obligations of the
13 responsible person under Article 11, was using PAS 79 in
14 either the 2007 or 2012 editions? Did you check?
15 A. I'm not sure if I specifically checked that, but I'm
16 sure we included it in our health and safety statement
17 in that year — not health and safety — health and
18 safety report that year.
19 Q. Really my question is: did you leave it to her to
20 discover for herself what the guidance should be when
21 developing that strategy —
22 A. Yes.
23 Q. — or did you give her any help?
24 A. I think she did it and I was there if she required help.
25 Q. And did she come to you and ask for help?

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1 A. She didn't come and ask me.
2 Q. No.
3 A. We'd probably discussed it over the time.
4 Q. Let's look at PAS 7, which is 2013. It's at
5 {BSI00000071}, please, and this is entitled "Fire risk
6 management system — specification".
7 Is this a document that you asked Janice Wray to use
8 when developing the fire safety strategy, or guided her
9 in the direction of?
10 A. No.
11 Q. No. Are you familiar with this document at all?
12 A. No.
13 Q. Right. Well, let's see how we go with it.
14 Page 20 {BSI00000071/20}, please, paragraph 6.2.2.1
15 under "Fire safety competence". It says this:
16 "The organization shall employ, or contract with,
17 people who are competent on the basis of education,
18 training, skills and experience for the tasks assigned
19 to them."
20 Then if you cast your eye down to 6.3, "Awareness":
21 "Persons doing work under the organization's control
22 shall be aware of:
23 "a) the fire safety policy;
24 "b) their contribution to the effectiveness of the
25 FRMS, including the benefits of improved fire safety

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1 performance;
2 "c) the implications of not conforming with the FRMS
3 requirements;
4 "d) any risks to them arising from or in connection
5 with the work they are intended to do."
6 Were you aware at any time between 2009 and 2017 of
7 any of the principles I've read to you from this page?
8 A. No.
9 Q. No.
10 Can we look at section 8 of PAS 7 2013 at page 25
11 {BSI00000071/25}, please.
12 I'm going to read a chunk of this to you. This is
13 8.3, "Management review":
14 "8.3.1 Top management shall review the
15 organization's FRMS [fire risk management strategy] at
16 planned intervals, to ensure its continuing suitability,
17 adequacy and effectiveness."
18 Then there are two notes underneath that:
19 "NOTE 1 Reviews should include assessing
20 opportunities for improvement and the need for changes
21 to the management system, including the policy and
22 objectives.
23 "NOTE 2 A model pro-forma for a management review
24 procedure is provided in Annex J.
25 "8.3.2 The management review shall include

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1 consideration of:
 2 "a) the status of actions from previous management
 3 reviews;
 4 "b) changes in external and internal issues that are
 5 relevant to the FRMS;
 6 "c) information on the fire safety performance,
 7 including trends in:
 8 "1) nonconformities and corrective actions;
 9 "2) monitoring and measurement results;
 10 "3) audit results;
 11 "4) interested party feedback;
 12 "5) evaluation of compliance with legal and other
 13 requirements;
 14 "d) opportunities and recommendations for continual
 15 improvement.
 16 "8.3.3 The outputs of the management review shall
 17 include decisions related to:
 18 "a) continual improvement opportunities;
 19 "b) improvement related to interested party
 20 requirements;
 21 "c) resource needs to enable improvement to the FRMS
 22 and its processes; and
 23 "d) any need for changes to the FRMS."
 24 Then there is another note, and then 8.3.4 relates
 25 to the maintenance of records for management reviews.

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1 Now, I've read that at length, I'm afraid, because
 2 I don't know whether you're familiar with it, but I'm
 3 assuming you're not familiar with this?
 4 A. Not that detail, no.
 5 Q. What about the principles contained in that?
 6 A. I understand some of the principles.
 7 Q. Right.
 8 Now, according to this guidance, the TMO should have
 9 had, do you agree, a system in place at all times, and
 10 certainly from 2013 when PAS 7 was published, which
 11 allowed for a management review, as opposed to
 12 an external review or audit, of its fire risk management
 13 systems at planned intervals? Do you agree?
 14 A. Yes.
 15 Q. Yes. Did the TMO have such a system in place?
 16 A. I would say we did have a system in parts, probably not
 17 as laid out as that.
 18 Q. Right.
 19 A. So in terms of fire risk assessments were carried out
 20 across the stock over the three years. The results were
 21 fed into the health and safety committee, who reviewed
 22 them. If there were changes or improvements in terms of
 23 how we worked, that was built into our operational
 24 areas. And they were checked through audits, management
 25 checks, et cetera.

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1 Q. Well, yes, we'll come to that later.
 2 My question is: looking at 8.3.2, did you have
 3 a review by top management, including you, of the TMO's
 4 FRMS at planned intervals?
 5 A. No.
 6 Q. No. So therefore it would follow, wouldn't it, that
 7 none of the considerations required by a management
 8 review at 8.3.2 were ever undertaken?
 9 A. No, I think there were. I mean, we had improvements.
 10 So, again, we brought in fire risk assessments across
 11 the three areas between 2009 and 2012, which met the
 12 target we'd agreed with the Fire Brigade and RBKC. The
 13 outcome of those works were fed into the health and
 14 safety, and ...
 15 Q. Well, if there was no top management review of the
 16 organisation's FRMS at planned intervals, then it would
 17 follow, wouldn't it, that the management review which is
 18 identified at 8.3.2 never occurred?
 19 A. Agreed.
 20 Q. Yes. And therefore, under 8.3.2(c), there was never
 21 a management review by top management at planned
 22 intervals of any of the matters in (a) through to (d) in
 23 that subsection.
 24 A. I think there would have been reviews but not as
 25 specifically laid out as that.

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1 Q. Right.
 2 There was no internal audit of fire safety
 3 performance or fire safety management itself, was there?
 4 A. There was internal audit of health and safety, which
 5 included fire safety, but I don't think specifically
 6 over time it was pulled out as an individual one.
 7 Q. Right. The internal audit I'm asking you about is the
 8 TMO's internal audit by TMO's own management. Did that
 9 occur? I don't think we see any evidence of that.
 10 A. Right.
 11 Q. We know that there were a number of external audits, but
 12 only one of those specifically addressed the TMO's fire
 13 risk management system, and that was the Salvus audit in
 14 2009. Do you agree with that?
 15 A. Yes.
 16 Q. Yes. We'll come back to that shortly.
 17 Can I go, then, to the topic of corporate risk.
 18 Is it right that the TMO as an organisation was
 19 familiar with the concept of risk or corporate risk?
 20 A. Yes.
 21 Q. It's a broad question, but you agree.
 22 And it had a corporate risk map, didn't it?
 23 A. Yes.
 24 Q. I think we can look at an example of this from
 25 February 2017, so quite late on, and this is at

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1 {TMO10049906}. It's not a particularly easy document to
2 see. We'll need to blow it up.

3 If we look at risk number 1 — and if you can't read
4 it, Mr Black, I apologise, and I'll do my best to read
5 it to you.

6 A. I think I can, it's all right.

7 Q. Risk number 1 is:

8 "Failure to comply with statute & regulations:

9 "procurement legislation.

10 "data protection.

11 "equality and diversity.

12 "financial & internal controls.

13 "safeguarding.

14 "probity.

15 "bribery & fraud."

16 Now, do you agree that it isn't any surprise that
17 the TMO recognised failure to comply with statute and
18 regulation as a risk?

19 A. Yes.

20 Q. If we look at the "Risk Identified & Explanation"
21 column, which is the fourth one along, it's in the grey
22 band, it says:

23 "Poor organisational governance leads to failings in
24 the areas of:

25 "— substantial or sustained breach of statutory or

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1 regulatory obligations.

2 "— failure to appoint the right contractors.

3 "— limits ability to deliver programmes;

4 "— risk of contractor challenge with financial

5 penalties;

6 "— risk of under recovery of leaseholder service

7 charges.

8 "— legal challenges can result from poor financial

9 controls and poor safeguarding issues.

10 "— reputational damage can arise from mismanagement
11 of any of these issues."

12 The first point there, poor organisational
13 governance leads to substantial or sustained breach of
14 statutory or regulatory obligations, you would accept
15 that that was a risk?

16 A. Yes.

17 Q. And the reverse could be true too; breach of statutory
18 or regulatory obligations may arise through poor
19 organisational governance?

20 A. Yes.

21 Q. Yes, the second point there, failure to appoint the
22 right contractors, presumably you were aware of the need
23 to control that as a risk; yes?

24 A. Yes.

25 Q. How did the TMO ensure that it did appoint the right

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1 contractors when it came to fire safety specifically?

2 A. Sorry, you mean individual parts that cover fire safety?

3 Because — or — so, in principle, contractors were
4 recruited through formal processes, usually supported by
5 consultants, to make sure they're meeting their legal
6 obligations. So in terms of like a repairs company or
7 a capital investment company. So when we did those
8 procurements, they would go through a process where
9 those aspects should be picked up by the process and the
10 consultants managing it to make sure they're the
11 appropriate company for the company.

12 Q. Did that process include specifically any examination of
13 the contractor's experience, skill, expertise or any
14 training in areas of fire safety?

15 A. I would have thought so.

16 Q. But you don't know?

17 A. Not off the top of my head.

18 Q. No. Looking at risk number 5, if we can just scroll
19 down, please:

20 "Failure of health and safety in relation to
21 services that we deliver to residents, staff in the work
22 environment and contractors in the delivery of works."

23 Would you agree that that includes fire safety as
24 a subset?

25 A. Yes.

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1 Q. Yes.

2 Under the column "Risk Identified & Explanation",
3 the fourth one along, if we can just go to that, you can
4 see that it says:

5 "Serious injury or death of a resident, staff
6 member, contractor, customer or member of the public.
7 Potential prosecution by Health & Safety Executive
8 (including terrorist activity)."

9 To put it bluntly, the consequences of a failure to
10 manage health and safety could be death.

11 A. Yes.

12 Q. Yes.

13 If you look under the column headed "Existing
14 control measures (mitigation or elimination)", across
15 the screen, it says:

16 "Health & Safety committee meetings every 2 months
17 involving ET & SMT members where Fire Risk Assessments
18 (FRAs) and associated actions, water quality and
19 asbestos reviews are monitored. Resulting actions are
20 monitored and audited. Internal audit also monitor and
21 report. Emergency planning tested in real event and has
22 been reviewed as a consequence."

23 So monitoring of FRAs — is this right? — and
24 associated actions was considered to be the existing
25 control measure for fire safety?

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1 A. Yes.
 2 Q. And the resulting actions to be monitored, presumably
 3 monitored by the executive team, the senior management
 4 team and the health and safety committee?
 5 A. Yeah.
 6 Q. And audited, who was to carry out that auditing?
 7 A. Well, there was the health — our internal auditors who
 8 carried out health and safety audits.
 9 Q. And —
 10 A. And there would also be the management team checking
 11 that they're doing what they're required to do.
 12 Q. When it says internal audit, who was intended to conduct
 13 that as part of your mitigation measures?
 14 A. Well, I think that would be our internal audit, which
 15 was RBKC who carried out internal audits for us.
 16 Q. I see. So you're saying that the RBKC audits were
 17 internal for the purposes of this document?
 18 A. Yes, they were internal audits.
 19 Q. Well, they weren't internal to TMO as an arm's length
 20 organisation, were they?
 21 A. I don't — we employed RBKC audit to carry out internal
 22 audits on our company.
 23 Q. Right. There may be a play on the word "internal" here,
 24 but you regarded RBKC as your internal auditor for this
 25 purpose; is that right?

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1 A. Yes. They were our appoint — so we had a management
 2 agreement with RBKC, so we paid RBKC a yearly fee from
 3 our management fee for RBKC to carry out all our
 4 internal audits and some audits that crossed over into
 5 the HRA, because that was still with — responsibility
 6 sat with RBKC.
 7 Q. Yes. Do I take it from that that there was no TMO
 8 internal audit of this risk, in other words control
 9 measures for fire safety?
 10 A. That would be the managers' job in the teams, because
 11 they're managing that risk. So they would be managing
 12 their responsibility with the contractors to make sure
 13 they're doing it.
 14 Q. But within the TMO, there was no audit or even
 15 peer review of that activity?
 16 A. Well, there would probably be review, but we didn't have
 17 another audit team sitting within the company.
 18 Q. Now, under the "Residual Risk" column, you can see —
 19 it's the next column but one along, after the word
 20 "medium" — it says:
 21 "Actions arising out of assessments and inspections
 22 not done in a timely manner."
 23 Do we take it from that that one of the residual
 24 risks was timing?
 25 A. Yes.

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1 Q. In other words, minimising delay?
 2 A. Yes, as fast as possible.
 3 Q. Now, the person with responsibility for this risk — if
 4 you look across beyond the colours, green, red, green —
 5 is DFS. Now, that's the director of — is this
 6 right? — financial services?
 7 A. Yeah, that would be Barbara Matthews.
 8 Q. Yes, because this is 2017, this document. That was
 9 Barbara Matthews.
 10 Was there an earlier corporate risk map like this
 11 document, earlier than February 2017?
 12 A. I'm not sure. I think we had risk maps before.
 13 Q. Right.
 14 Can we assume, just going back to some earlier
 15 topics, that neither you nor any TMO managers were ever
 16 trained in risk management, or is that wrong?
 17 A. That's wrong.
 18 Q. Were you trained in risk management?
 19 A. Yeah, we had a board, exec and SMT training on risk
 20 management by external consultants. It started off with
 21 the board, at the highest level. So there was an away
 22 day or it might have been part of a workshop. So we had
 23 external consultants come in and design it, because it
 24 was looking at what sort of company we were. I can't
 25 remember the name of the company. It was led by

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1 Janet Seward.
 2 Q. I see, yes, and she has given us a witness statement on
 3 that subject, and there was a workshop, I think as she
 4 says, run by the TMO's insurers, Zurich, in March 2017.
 5 A. Yeah.
 6 Q. Very well. We can look at her statement for that,
 7 that's {TMO00000896}.
 8 Now, looking at how the TMO board was briefed about
 9 health and safety, and particularly fire safety, you
 10 provided reports to the board, didn't you, at each
 11 meeting, where significant fire safety issues would be
 12 included?
 13 A. Yeah.
 14 Q. How would you determine whether a fire safety issue
 15 should be reported up to the board?
 16 A. My chief exec report was a bit like a catch—all. If
 17 there was — so in terms of the board, when the company
 18 secretary agreed the agenda with the board, they were
 19 formal papers. In a sense, the chief exec report almost
 20 was to encourage other things to come up as well, and
 21 staff were encouraged across the business to contribute
 22 to it to keep the board informed. So in terms of if
 23 there was any health and safety issue, it would be
 24 Barbara and Janice to let us know and we would include
 25 those aspects in the report. If it was a bigger thing

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1 then it would become a formal report.
 2 Q. Right. So when you say, "if there was any health and
 3 safety issue, it would be Barbara and Janice to let us
 4 know", does that mean that you, as chief executive
 5 officer, were entirely reliant on their judgement as to
 6 whether a fire safety or fire safety management question
 7 should be presented to the board or not?
 8 A. Yes.
 9 Q. I see.
 10 We know that there was an annual health and safety
 11 report which went to the board. Am I right in thinking
 12 that the contents of that report were left entirely to
 13 Janice Wray and Anthony Parkes and then later
 14 Barbara Matthews?
 15 A. Yes, unless there was other — I mean, because that
 16 covered a whole load of things across the company, so
 17 other people would contribute to it, but Barbara and
 18 Janice would be the ones who would pull it together to
 19 try to ensure that we covered everything.
 20 Q. Would it be right that board members could raise
 21 questions about fire safety under any other business at
 22 board meetings —
 23 A. Yes.
 24 Q. — if they thought it was necessary?
 25 A. Yes.

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1 MR MILLETT: Yes.
 2 Mr Chairman, with some regret, I've come to a new
 3 topic and it's shortly before 11.15. I'm happy to spend
 4 a couple of minutes getting into it or we could break
 5 now.
 6 SIR MARTIN MOORE—BICK: Is this going to be a lengthy topic?
 7 MR MILLETT: Yes, it is. It's not a topic I can finish
 8 before a break.
 9 SIR MARTIN MOORE—BICK: All right. Well, perhaps we will
 10 take the break slightly early in that case, to save
 11 disrupting your line of questioning.
 12 MR MILLETT: If we took a break, it would.
 13 SIR MARTIN MOORE—BICK: Well, Mr Black, we have a break
 14 during each session. We normally don't have it quite as
 15 early as this, but we'll take it now.
 16 We'll stop now and return at 11.30, please. I'm
 17 going to ask you on this occasion and every other
 18 occasion when you leave the room: please don't talk to
 19 anyone about your evidence or anything relating to it
 20 while you're away from the room.
 21 THE WITNESS: Okay.
 22 SIR MARTIN MOORE—BICK: All right? Thank you very much.
 23 Would you like to go with the usher, then, please.
 24 (Pause)
 25 All right, 11.30, then, please. Thank you.

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1 (11.13 am)
 2 (A short break)
 3 (11.30 am)
 4 SIR MARTIN MOORE—BICK: All right, Mr Black?
 5 THE WITNESS: Yes, I'll just pour some water, if that's all
 6 right.
 7 SIR MARTIN MOORE—BICK: Yes, of course, no rush.
 8 (Pause)
 9 THE WITNESS: Thank you.
 10 SIR MARTIN MOORE—BICK: All right, ready to carry on?
 11 THE WITNESS: Yeah.
 12 SIR MARTIN MOORE—BICK: Yes, Mr Millett.
 13 MR MILLETT: Yes.
 14 Mr Black, arising out of the exchanges we had just
 15 before the break, was there, at any time during your
 16 tenure as CEO, a process in place for approval of
 17 documents such as the fire safety strategy by the board?
 18 A. Yes, I think so.
 19 Q. What was that process?
 20 A. The policy would have been developed by the policy
 21 development team, or in the case of the fire safety one
 22 it would have been Janice, and she would have also run
 23 it by them. It would have then gone through probably
 24 the senior management team, executive, and to the board.
 25 Q. As part of that process, did the board bring independent

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1 consideration to the document?
 2 A. Yes, I mean —
 3 Q. How did it go about doing that?
 4 A. So is it useful if I tell you a little bit about the
 5 board, because we haven't discussed that?
 6 Q. We will come to it in due course, but please do tell us.
 7 A. So the board was made up of 15. There were eight
 8 residents who were board members and elected, the TMO
 9 board itself appointed three independents, and before
 10 I arrived the council appointed four council appointees,
 11 but they changed that quite quickly after I joined to
 12 two independents and two councillors, a Labour — the
 13 political deal was a Labour and a Conservative. So
 14 basically I had five independents on the board.
 15 15 on a board is quite big in terms of good
 16 practice. Good practice was, on average, 12, but in
 17 general over the years it's got down to 9. But because
 18 it's a TMO, that's its constitution. So therefore you
 19 had independent voices both from the residents and the
 20 independents, but the independents would challenge you,
 21 as is their role, if they required.
 22 Q. Now, I want to ask you about the TMO fire safety
 23 strategy.
 24 Before I do that, I want to look at a document which
 25 was prepared by Salvus for the TMO in September 2009.

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1 Now, you'll remember, I think, that Salvus were the
 2 fire risk assessors instructed by the TMO in that year.
 3 A. Yes.
 4 Q. The document itself is at {SAL00000013}, please. This
 5 is a document called the fire risk assessment for
 6 fire safety policy and procedures conducted on behalf of
 7 the TMO by Salvus.
 8 The date is — let's go to it, page 5
 9 {SAL00000013/5}, please, top right-hand corner —
 10 22 September 2009. Do you see that?
 11 A. Yes.
 12 Q. Now, were you aware at the time that this document was
 13 produced that it had been produced?
 14 A. Can you confirm the date of it again, sorry?
 15 Q. 22 September 2009, so about four months after your
 16 arrival.
 17 A. I think it was commissioned by Liam, who was the
 18 property services director at that time.
 19 Q. Liam who, please?
 20 A. Sorry, I can't remember his surname, but he was the
 21 property services director, I apologise.
 22 Q. Right.
 23 A. I don't know if it was commissioned before I joined, and
 24 as I've been preparing for this I've been trying to
 25 understand what kicked it off, something —

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1 Q. Right. You don't know?
 2 A. I think it was probably around the fire risk assessment
 3 issues that I think the TMO was having with the
 4 Fire Brigade before I came, because I think up until
 5 then Janice was doing the fire risk assessments with her
 6 team, and I think the Fire Brigade were pushing that,
 7 actually, it wasn't going fast enough and they needed to
 8 do it with a consultant, in a sense, and I think that
 9 was an issue happening across the country or certainly
 10 in London, trying to get someone to help you do it in
 11 terms of the skills.
 12 Q. Did you see this document at the time it was produced,
 13 or later?
 14 A. I have really tried to think, I just can't remember at
 15 the time when it came to me, so ... and I've been trying
 16 to find it when we were looking through where it went
 17 to, but I can't recall it directly, sorry.
 18 Q. Do you recall seeing this document at any time during
 19 your tenure as CEO of the TMO?
 20 A. I must have done.
 21 Q. You can't remember when?
 22 A. The trouble is I've really racked — again, within the
 23 context, although I'm four months into my job, there has
 24 been a — and I don't know whether you'll speak about it
 25 later, so I don't know if this is an appropriate time,

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1 as a new chief exec I faced quite a challenge in terms
 2 of, yes, I'm the responsible person, but I was also
 3 responsible for a board and a company that wasn't
 4 actually operating properly, and my whole exec team left
 5 probably within that four-month period as well.
 6 Q. Let's look at the first two paragraphs of the
 7 introduction on page 2 of this document {SAL00000013/2}.
 8 It says:
 9 "This Fire Risk Assessment Management report has
 10 been completed at the request of Russell Thompson Head
 11 of Asset Strategy and Investment of Tenant Management
 12 Organisation (TMO) of the Royal Borough of Kensington
 13 and Chelsea."
 14 Just pausing there, did you know Russell Thompson?
 15 A. Yes, that clarifies — I thought it was — Russell —
 16 the previous person left and Russell was a consultant
 17 that we had to bring in at short notice.
 18 Q. And it goes on to say:
 19 "This Management Report reflects information
 20 gathered on the fire safety management systems of the
 21 TMO in respect of its property portfolio as per contract
 22 Agreement dated 2nd September 2009."
 23 Now, we'll come back to this document in due course,
 24 but I just want to ask you about one of the issues
 25 highlighted by Salvus within it.

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1 If you go to page 5 {SAL00000013/5}, please, and we
 2 go to the "Hazard" column on that page under
 3 section 1.1, that says:
 4 "Lack of a TMO fire safety policy statement."
 5 Do you see that?
 6 Then if you go across to the fourth column, in
 7 italics it says:
 8 "There does not appear to be an overall TMO
 9 fire safety policy statement, setting out the
 10 organisations strategic fire safety objectives,
 11 including reference to achieving full compliance with
 12 the requirements of the Regulatory Reform (Fire Safety)
 13 Order 2005 wherever it applies to premises managed
 14 and/or occupied by the TMO; and which is formally
 15 endorsed by the Chief Executive on behalf of the TMO."
 16 Then if you look in the "Hazard" column under 1.2:
 17 "Lack or inadequate TMO policy and arrangements."
 18 Then in the fourth column in italics it says:
 19 "There does not appear to be adequate policy and
 20 supporting arrangements to explain how the TMO will meet
 21 the objectives set out in any future strategic policy
 22 statement, to ensure suitable and sufficient fire safety
 23 is maintained at all times throughout the TMO's property
 24 portfolio.
 25 "There was no specific policy and arrangements for

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1 fire risk assessment, appointing fire safety assistance,
 2 fire prevention, general fire precautions, use of
 3 dangerous substances, maintenance, training and
 4 co-operation and co-ordination (all of which are
 5 required by law)."
 6 Did you know when you arrived or shortly after you
 7 arrived that there was no TMO fire safety policy
 8 statement in existence?
 9 A. No.
 10 Q. You didn't know that? Did you know that as at
 11 September 2009, four months on?
 12 A. Probably not.
 13 Q. Did you know that at any time?
 14 A. As we worked to develop one, yes.
 15 Q. When did you first discover that there was no TMO
 16 fire safety policy statement and inadequate TMO policy
 17 and arrangements as described in this report?
 18 A. I'm trying to remember, I'm sorry.
 19 (Pause)
 20 I can't bring it down to a specific date.
 21 Q. Do I take it that not only can you not recall the time
 22 when you saw this document, but you also can't recall
 23 any impression that you would have gained from reading
 24 it; is that right?
 25 A. I think the impression I got — because in a sense, this

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1 was the catalyst for moving — sorry, so this is the
 2 catalyst for creating quite a lot of work in terms of
 3 actually moving the structure forward, so in terms of
 4 bringing in Carl Stokes — no, bringing in Salvus from
 5 this, they did our high-risk properties and carried out
 6 the fire risk assessments, and then Carl Stokes was
 7 employed to carry that on. So it set off a huge piece
 8 of work, I think it was around 650 we had to produce
 9 over the three years, so that was in a sense the key
 10 piece of work that we took away from this.
 11 Q. I understand that. That's FRAs, but this is directing
 12 you to something higher, isn't it, which is a TMO
 13 fire safety policy statement and adequate TMO policy and
 14 arrangements?
 15 My question, just to repeat it, is: do you remember
 16 a time when you gained an impression that those two
 17 facets of fire safety policy and fire safety
 18 arrangements were not in place?
 19 A. I can't remember, in the sense of it sort of sat with
 20 Lornette in terms of helping me understand and take it
 21 forward.
 22 Q. You say you must have seen this document at some point;
 23 do you actually recall ever reading it?
 24 A. As I say, as I've looked through all these documents,
 25 I've recognised that if you can't remember it, then

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1 I can't say I can. If I'd seen it, I'm sure I would,
 2 because I understand how important it is and what it set
 3 off for the company in terms of compliance with RRO, but
 4 I can't remember it because at that time I was under
 5 gigantic pressure on other aspects of the company. It's
 6 not diluting health and safety or fire safety, but in
 7 a sense, as chief exec, I was recruited on a basis to do
 8 something, and then most of the promises that were made
 9 evaporated. So I had to prioritise and depend on my
 10 team who were in place, which was Lornette and
 11 Janice Wray.
 12 Q. Did either of them, to the best of your recollection,
 13 ever put this on your desk in front of you and say,
 14 "Read this"?
 15 A. I can't remember that.
 16 Q. Can we look and see what you say about a fire safety
 17 strategy in your witness statement, please, page 17
 18 {TMO00000888/17}, paragraph 87. You say there:
 19 "TMO had a specific fire strategy in place which was
 20 reviewed and updated during its existence."
 21 You say reviewed and updated during its existence;
 22 when were you first aware that a fire safety strategy
 23 for the TMO existed?
 24 A. When — it was 2013 — well, it was before 2013, because
 25 Janice had — we'd had chats about it and she was

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1 working on it as well as doing all the FRA stuff, and
 2 then we got it signed off, and then I think it was
 3 coming up for a review in 2016.
 4 Q. You say that it was reviewed and updated during its
 5 existence; how often was it reviewed and updated?
 6 A. I can't recall, sorry.
 7 Q. Let's look and see how we go with the documents.
 8 {TMO00870171}. This is a copy of a document headed
 9 "TMO Fire Safety Policy".
 10 If you go down to page 4 {TMO00870171/4}, please, at
 11 the bottom of the page, you will see your name and the
 12 date, December 2009.
 13 Do you remember what the circumstances were in which
 14 you put your name to this document?
 15 A. Can you just show me the top of the document again,
 16 sorry?
 17 Q. Yes, of course. Page 1 {TMO00870171/1}, please.
 18 A. Right. So in terms of — I put my name to it because,
 19 in a sense, it was being developed in process and, as
 20 the responsible person, I would be signing it.
 21 Q. Yes, but can you give us a bit more? Why was this
 22 document produced for you in or by December 2009?
 23 A. Because it would be part of the work that we'd probably
 24 done with Salvus.
 25 Sorry, again, just to confirm, I just need to check

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1 if I'm understanding it's the ...
 2 Q. Take your time. Have a look at the first three
 3 subparagraphs under the introduction —
 4 A. Can you confirm how many pages it is, just for my —
 5 Q. Yes, it's five pages in all, but ends at the bottom of
 6 page 4 and then there is a further page.
 7 (Pause)
 8 A. Okay.
 9 Q. Do you know why this document was produced for you in or
 10 before December 2009?
 11 A. Well, I think it was part of a position statement
 12 probably flowing out from the Salvus report that could
 13 be — organisationally, the organisation could start
 14 sort of putting these bits of paper and policies in
 15 place and take it to the board.
 16 I suppose from my perspective, I wasn't sure what my
 17 board knew about these issues as well when I came,
 18 because I was dealing with so many things, so there was
 19 a backlog of policy and procedures that hadn't been
 20 developed over the previous years, so in the sense of
 21 there was a — probably why some things took so long,
 22 but as we got better, we developed them and reviewed
 23 them more often.
 24 Q. What you say is logical, but do you actually remember
 25 that?

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1 A. Yes, I remember this, I just couldn't — I thought I was
 2 looking at another paper, sorry.
 3 Q. Right. Do you remember reading this strategy before you
 4 signed it?
 5 A. Yes.
 6 Q. You did.
 7 Let's go back to the Salvus management report, then,
 8 please, {SAL00000013/5} again, and I've shown you this,
 9 paragraph 1.2, second italicised paragraph. "There does
 10 not appear to be adequate policy", and then if you look
 11 at the second italicised paragraph, "There was no
 12 specific policy and arrangements for fire risk
 13 assessment", et cetera. I've read that out to you
 14 already.
 15 Take it from me that the December 2009 fire safety
 16 strategy that you signed at that time does not address
 17 any of those specific policies or arrangements that you
 18 see in the second italicised paragraph under section 1.2
 19 of the Salvus report. Can you account for why it
 20 doesn't?
 21 A. No.
 22 Q. Do you know why you signed off on such a document when
 23 it did not comply in those respects?
 24 A. I signed off on it probably because it was presented to
 25 me by my health and safety person, who went through it

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1 with me, and therefore I thought I had.
 2 Q. Who was that?
 3 A. It would have been Janice Wray.
 4 Q. Did Janice Wray not sit down with you and the Salvus
 5 report and make sure that you understood or make sure
 6 that you looked across to check that what you were
 7 signing complied with or carried into effect the
 8 recommendations in the Salvus report?
 9 A. I take that point. Again, trying to remember the
 10 context, there was a lot of things going on, and in
 11 a sense I was relying on Janice to do that, so that
 12 I could actually sign it off and have it in place.
 13 I think there was an urgency, and I can't ... I can't
 14 sort of feel comfortable with it, but it's partly just
 15 what I found myself in, the situation.
 16 Q. I understand.
 17 Does it come to this: you relied on Janice Wray to
 18 make sure that the document she put in front of you
 19 corresponded with and took into effect the
 20 recommendations contained in the Salvus report?
 21 A. Yes.
 22 Q. Yes.
 23 Now, can we turn to the TMO fire safety strategy of
 24 November 2013, signed by Janice Wray, {TMO00830598},
 25 please.

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1 Now, this document is headed "TMO Fire Safety
 2 Strategy". Do you remember seeing this document at the
 3 time —
 4 A. Yes.
 5 Q. — November 2013?
 6 A. Yes.
 7 Q. You do.
 8 Do you agree that the intention behind this fire
 9 safety strategy was for it to apply to all buildings, at
 10 least those buildings to which the RRO applied, in the
 11 TMO's stock?
 12 A. Yes.
 13 Q. Yes.
 14 Can we look at a document which describes that
 15 stock. This is {TMO00873596}. This is the TMO's asset
 16 management strategy for the years 2014 to 2019.
 17 Are you familiar with this document?
 18 A. Yes.
 19 Q. You are. It looks from various parts of it that it's
 20 a draft.
 21 A. Oh, sorry, I thought it was another one, I just
 22 recognised the dates there. It would have been
 23 produced, as I say, before the — no, sorry.
 24 Yes, I am aware of it. Apologies.
 25 Q. It looks as if it's a draft because there are various

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1 square brackets in it. Do you know whether it was ever
2 finalised?

3 A. It would have been, yes, because it informed quite a lot
4 of other work that was done by the team.

5 Q. Very well.

6 Let's go to page 5 {TMO00873596/5} in it, please,
7 and look at the third paragraph down from the top,
8 middle of your screen:

9 "This strategy covers the Council's rented housing
10 stock (general needs and sheltered) of just under 7,000
11 homes, more than 2,500 leasehold properties (where the
12 Council's repairing liabilities are more limited and
13 costs recharged to owners) and more than 500 garages.
14 It also supports the management of more than 250
15 commercial sites."

16 Now, the fire safety strategy had to be sufficiently
17 robust, didn't it, to enable compliance with the RRO
18 across that whole portfolio?

19 A. Yes.

20 Q. Yes.

21 Let's then look back at the fire safety strategy
22 from November 2013 at {TMO00830598}, and let's look
23 together at section 1.4 under the introduction. It says
24 there:

25 "This strategy document enables us to outline the

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1 measures we have put in place not just to comply with
2 fire safety legislation but, more importantly, to
3 minimise the risk of fire throughout the housing stock.
4 Specifically, we are committed to reducing the risk of
5 an outbreak of fire and also the risk of a fire
6 spreading within a building but also spreading from one
7 building to another."

8 Is it right that the intention behind this document
9 was that it would be the overarching strategy which
10 would outline how the TMO approached fire safety across
11 its stock?

12 A. Yes.

13 Q. Yes, and Janice Wray, as we can see — well, we know,
14 because she has told us — was responsible for writing
15 it.

16 A. Yes.

17 Q. Was that overseen by anybody, such as Anthony Parkes or
18 perhaps —

19 A. Yes.

20 Q. It was?

21 A. It should have been.

22 Q. Were you supposed to check it and sign it off?

23 A. In a sense I expected Anthony would work with Janice and
24 then, when it came to exec, it's agreed that, you know,
25 this is the final document, we'd review it and sign it

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1 off.

2 Q. Did you check it and sign it off, do you remember?

3 A. I'm sure I signed it off, yeah.

4 Q. Right. When you signed it off, were you given any
5 explanation of it by Janice Wray or Anthony Parkes?

6 A. I think so, yes.

7 Q. Do you remember that?

8 A. Yes.

9 Q. You do. What did they tell you?

10 A. They finished it after a very long time. They went —
11 the format, they would go through it at the meeting, and
12 people would look at it page by page.

13 Q. You say they finished it after a very long time; you are
14 right about that, if you are referring to the period
15 between September 2009 and November 2013, a period of
16 over four years. Can you account for why it took them
17 so long?

18 A. No. I've been trying to think of it. I mean, the
19 reality is we — so this is one part of a thing she was
20 doing, but at the same time we'd launched the whole fire
21 risk assessments across our 650 blocks, so there was —
22 the work she was doing with Carl Stokes had been —
23 well, Savills (sic), who were doing the first part of the
24 high-risk and the work on the go with them coming
25 through every now and then. So I think it's just one of

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1 those things that she felt personally she wanted to do
2 it. It covers a lot of area. She would have to work
3 with different teams within the TMO to pull it all
4 together.

5 Q. Do you remember whether the board signed off on this
6 document?

7 A. I would have — sorry, I don't remember specific board,
8 but I would have thought they would have, yes.

9 Q. Why would you think that they would have, or why do you
10 think —

11 A. Because generally the policies went to the board.

12 Q. Right.

13 A. As far as I recall.

14 Q. So there would be, would there, a minute of a board
15 meeting at which this document is approved?

16 A. You would — I would think so.

17 Q. Right. I'm not sure that we see one, but we will check.
18 Can you remember whether it was presented to the
19 board?

20 A. Again, I can't remember. There was — at that time,
21 there were so many papers going to board to try to do
22 catch-up, so I can't remember every one, apologies.

23 Q. Right.

24 Let's look at another aspect of fire risk
25 management, and that's the emergency plan.

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1 Now, before we look at the document itself, can we
 2 go back to the Salvus review of September 2009 at
 3 {SAL00000013/11}, heading number 9:
 4 "Emergency Procedures and Evacuation Plans."
 5 If you look at 9.1, it says:
 6 "Lack of/inadequate emergency plans."
 7 Then under "Existing control measures in place", it
 8 says:
 9 "It is noted from the Estates Staff Quick Reference
 10 Handbook that there is a generic documented emergency
 11 plan."
 12 This is in italics :
 13 "This was not available for review at the time of
 14 the assessment and therefore it could not be confirmed
 15 that it is in accord with recommendations as set out in
 16 the HM Government guidance Section 7.2."
 17 Pausing there, that's the Sleeping Guide.
 18 A. Right.
 19 Q. "TMO staff who receive fire safety training are trained
 20 to implement local fire fighting actions using portable
 21 fire extinguishers where they are present at the time
 22 and they consider it is safe to do so."
 23 Now, as far as you were aware, were there any
 24 building-specific emergency plans used by the TMO?
 25 A. Not off the top of my head in terms of specific

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1 buildings, because there were so many buildings.
 2 Q. Right. I mean either in September 2009 or at any time
 3 thereafter.
 4 A. I can't confirm, sorry.
 5 Q. Right.
 6 Now, if you look at the column headed "Risk category
 7 with controls", which is the second one from the right
 8 on the screen, it says, "High", doesn't it?
 9 A. Yes.
 10 Q. If we skip to the action plan at page 18
 11 {SAL00000013/18}, which is the document which sits
 12 behind the risk assessment within the same overall
 13 document, under this risk, 9.1, it says:
 14 "It is strongly recommended that TMO seek
 15 confirmation that all emergency plans are in accord with
 16 recommendations as set out in the HM Government guidance
 17 Section 7.2, and where found not to be so that
 18 adjustments are made as necessary to fully comply with
 19 this guidance."
 20 Now, leaving aside the slightly wonky grammar there,
 21 were you aware at any time of this recommendation?
 22 A. I can't recall it specifically.
 23 Q. Right.
 24 Do you agree with me, just looking at it, that
 25 Salvus at least at this time are expressing a clear

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1 concern that the TMO's plans might not comply with that
 2 guidance?
 3 A. Can —
 4 Q. Yes?
 5 A. In terms of emergency plan, can you confirm what —
 6 again, I'm just trying to remember the thing. Is it
 7 an emergency plan for each specific block they're
 8 talking about here?
 9 Q. Well, if you look back at the original recommendation on
 10 the first page, the answer to your question, which
 11 I will happily answer, is yes.
 12 A. So, again, we didn't — I don't believe we had an
 13 individual emergency plan for each block because, in
 14 principle, we adopted the stay-put strategy, therefore
 15 that's in principle people stay put, you don't have
 16 an emergency plan to get out because the Fire Brigade
 17 will come along, put the fire out or actually evacuate
 18 the building.
 19 Q. Let me see if I can get at this a slightly different
 20 way.
 21 You say you didn't have emergency plans for each
 22 block because you had a stay-put strategy.
 23 A. I believe so. That's what I think at this moment.
 24 Q. Right. Let's take this in stages.
 25 First, to be fair to you, I should show you

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1 section 7.2 —
 2 A. Thank you.
 3 Q. — of the Sleeping Guide. This is at {RBK00036722/112}.
 4 It's on the right-hand side of your screen under the
 5 heading in blue "Emergency plans":
 6 "Emergency plan and contingency plans.
 7 "Your emergency plan should be appropriate to your
 8 premises and could include ..."
 9 Then there is a long bullet-point list which goes on
 10 down to the bottom of the page. I won't read them all
 11 out to you.
 12 A. Yeah.
 13 Q. But you can see them there, if you cast your eye down
 14 them.
 15 A. Yeah, yeah, I can see that.
 16 Q. Were you familiar with this guidance? It dates from
 17 2006.
 18 A. I've heard about it. So I think there's a few pieces of
 19 the guidance. Again, when I look at this, most of our
 20 stock was general needs. There would be no — if it's
 21 during — most of the time there's no staff based there
 22 unless it's sheltered housing, and even that changed,
 23 because actually we had less residential caretakers
 24 or — caretakers or wardens in sheltered housing. And
 25 again, the principle again, from my perspective, was the

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1 overall stay-put policy, unless it's — you're dealing
 2 with people — a scheme that's got more high needs and
 3 support in it.
 4 Q. It doesn't say that, does it? Just looking at what's on
 5 your screen, it doesn't say, "You don't need emergency
 6 plans where you've got a stay-put policy".
 7 A. So I suppose from my experience of working in housing in
 8 30 years, the housing associations or the registered
 9 providers wouldn't have had emergency plans per block
 10 across their whole stock. So therefore —
 11 Q. Right, so —
 12 A. I think that's important to say that's my experience,
 13 it's not just the TMO's experience.
 14 Q. So your experience — is this right? — is that
 15 section 7.2 was, as a matter of practice in your
 16 business, never complied with?
 17 A. In terms of where I worked before and knowing other
 18 organisations that colleagues ... I would — unless it's
 19 a sheltered housing or a residential care home — so in
 20 Circle 33, I had care homes with people with severe
 21 disabilities and other support needs where we had
 22 24-hour staff. Those schemes would have specific
 23 emergency plans because, actually, the needs of the
 24 residents were completely fundamentally different from
 25 general needs.

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1 SIR MARTIN MOORE-BICK: I just wonder if we're confusing
 2 emergency plans and evacuation plans here, because
 3 I think you mentioned earlier the instructions in
 4 response to a fire were stay put.
 5 A. Yes.
 6 SIR MARTIN MOORE-BICK: So it might be said the emergency
 7 plan is stay put.
 8 A. Stay put. I think that's a very helpful clarification
 9 from you, Chair.
 10 MR MILLETT: Yes. I'm not sure, with great respect, it's
 11 entirely correct.
 12 Let's look at this, "Emergency plans", and we will
 13 have to read the bullet points:
 14 "Your emergency plan should be appropriate to your
 15 premises ..."
 16 First of all, do you agree that the text says it's
 17 building-specific?
 18 A. Yes.
 19 Q. "... and could include ..."
 20 And I note the word "could", as opposed to "must" or
 21 "should", and then there's a long list of bullet points:
 22 "How people will be warned if there is a fire."
 23 Well, that doesn't change regardless of if there is
 24 stay put, does it?
 25 A. How people are warned in a stay-put — well, as far as

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1 I can remember, the vast majority of general needs homes
 2 do not have an alarm system. Again, in the homes
 3 managed which had support issues, and that could vary
 4 from homelessness and hostels which I worked in up to
 5 high-risk resident care homes, they all had fire alarms
 6 built into them, strong links with the emergency
 7 services because of the needs of the people. Everywhere
 8 I've worked in terms of general needs, and that's across
 9 three or four, five organisations, they wouldn't have
 10 had the majority of this in place. It's about stay put,
 11 be rescued.
 12 Q. That was your experience, was it?
 13 A. That was my experience. Not just my own working
 14 experience, but across the sector.
 15 Q. But do you accept that, on its face, this is a long list
 16 of things that a building-specific emergency plan could
 17 include, including, if you look at the fourth bullet
 18 point down, "How the evacuation of the premises should
 19 be carried out". Now —
 20 A. Again, in stay put —
 21 Q. Let me just come to the question, please.
 22 A. Yeah.
 23 Q. First, were you aware that the general guidance under
 24 7.2 was as we see?
 25 A. I don't think I would be aware specifically.

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1 Q. Thank you.
 2 Secondly, were you aware, in September 2009 or
 3 thereafter, that Salvus had picked up non-compliance by
 4 the TMO with section 7.2 as a criticism and
 5 a recommendation that compliance should be achieved?
 6 A. So what I would say about that is there should have been
 7 a challenge back to Salvus whether that's appropriate
 8 for the housing stock that we were managing.
 9 Q. Well, there wasn't, was there?
 10 A. Well, that's why I'm saying.
 11 Q. No.
 12 Thirdly, do you agree that there is nothing in
 13 either the heading or this long list which says that
 14 none of these apply where you have a stay-put policy, in
 15 other words a blanket exclusion for the application of
 16 this provision of this guidance to a building where
 17 stay put is the policy?
 18 A. I think that's partly the confusion in some of the
 19 legislation, it's not always clear of what it's
 20 covering, in terms of what's intended and how it
 21 conflicts with other parts. So there's a lot here about
 22 stay put where — in terms of general needs where it
 23 wouldn't be appropriate.
 24 Q. As a matter of fact, do you recall whether the TMO took
 25 a decision not to carry Salvus' recommendation to comply

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1 with section 7.2 into effect because you regarded it as
 2 inappropriate for your building stock?
 3 A. So I obviously — well, not obviously — I can't recall
 4 specifically that point. What I'd say, though, is that
 5 having worked through this with you, it would seem that
 6 it would be inappropriate for the vast majority of
 7 general needs property.
 8 Q. As a general proposition that is what you say. My
 9 question is: as a matter of fact, was any decision made
 10 in or after September 2009 that, given the profile of
 11 TMO's stock, section 7.2 didn't apply and Salvus'
 12 recommendation need not be carried into effect?
 13 A. I —
 14 Q. Was a decision made?
 15 A. I think there would have been a decision made in terms
 16 of, actually, if you stick with the stay—put policy, in
 17 a sense you don't do the vast majority of this. But
 18 I can't — sorry, I'm afraid I can't confirm round about
 19 that time there was a specific discussion or decision.
 20 Q. My question is: was there a decision taken on the basis
 21 that you have identified or was the recommendation
 22 simply ignored? That's what I'm trying to get at.
 23 A. I suppose it's a recommendation. If it was ignored
 24 because it wasn't appropriate for our stock, then
 25 I wouldn't say ignored, it just wasn't —

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1 Q. At any event, do you agree that no plan was put in place
 2 to comply or attempt to comply with paragraph 7.2 of the
 3 Sleeping Guide?
 4 A. I think so, unless Janice Wray has said something
 5 contrary to me.
 6 Q. Let's go back to the management report at
 7 {SAL00000013/11}. If we go back to that, you can see
 8 that under 9.2, "Lack of/inadequate liaison with Fire
 9 and Rescue Service":
 10 "It does not appear that there is adequate liaison
 11 with the Fire and Rescue Service in regard to
 12 pre—planning for potential fire scenarios or in agreeing
 13 appropriate fire safety standards for adoption by TMO
 14 from the findings of fire risk assessments."
 15 If you look at the action for 9.2 on page 18
 16 {SAL00000013/18}, this is in the action plan part of the
 17 document, under 9.2 it says there:
 18 "It is recommended that the TMO seek adequate
 19 liaison with the Fire and Rescue Service in regard to
 20 pre—planning for potential fire scenarios in TMO managed
 21 properties and agree how relevant information may be
 22 provided between parties in an effective manner in
 23 an emergency.
 24 "See Also BS 9999 Annex M for additional advice.
 25 "TMO should determine a set of fire safety standards

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1 for the organisation to move towards in the future as
 2 part of a programme of improvements. Such standards
 3 should be in accord with priorities based upon the
 4 findings of the fire risk assessments and current best
 5 guidance.
 6 "Ideally approval of the Fire and Rescue Service
 7 should be sought for these internal TMO standards."
 8 Now, it's clear from that, do you agree, that
 9 a recommendation for liaison with fire and rescue
 10 services to plan for fire emergencies was made?
 11 A. Yes.
 12 Q. And that was with the aim of agreeing how relevant
 13 information would be provided to the LFB, in this case,
 14 in the event of an emergency?
 15 A. Yes.
 16 Q. Was that ever done?
 17 A. Yeah, I think Janice had — again, from when I came in,
 18 my recollection with Janice is she had regular meetings
 19 with the LFB, certainly when we were starting to do
 20 these fire risk assessments for the first time, because
 21 there's lots of consultation to make sure they're right,
 22 which I think is normal within these procedures, and
 23 hopefully — so I've always felt that Janice has had
 24 appropriate relationships with the Fire Brigade in terms
 25 of timing, sharing information when required.

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1 Q. Did you ever monitor that or supervise that in your role
 2 as CEO?
 3 A. She kept me informed verbally and updated. There was
 4 a consistent thing when I'd ask that she had regular
 5 meetings, bi—monthly, I think it was, if I can recall,
 6 with the Fire Brigade.
 7 Q. Looking at the bottom of page 18, you can see 9.3:
 8 "It is strongly recommended that TMO consider
 9 development of formal procedures to deal effectively
 10 with fire safety issues associated with disabled or
 11 vulnerable tenants and leaseholders, and also any
 12 employees.
 13 "This should include a range of options from
 14 relocation in severe cases with or without potential
 15 property adaptations and fixed fire suppression systems
 16 to the provision of specific personal emergency
 17 evacuation plans in those less serious cases.
 18 "See also recommendations in HM Government guidance
 19 and Building Regulations Approved Document M."
 20 Now, we can see from that that that's a red item,
 21 isn't it, so that's high—risk; yes?
 22 A. Yes.
 23 Q. And you can see the part that says "formal procedures to
 24 deal effectively with fire safety issues associated with
 25 disabled or vulnerable tenants, leaseholders and

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1 employees". Was that done in the context of
 2 an emergency plan?
 3 A. No, not for — as far as I can recall, as I said,
 4 I don't think there was individual emergency plans per
 5 block. We would have information on our systems, but
 6 again, I think in general, throughout this, it is
 7 about — if it wasn't within a specific scheme that was
 8 supporting people with those needs, it was deemed it was
 9 stay put.
 10 Q. Now, let's look at a document called "Emergency plan" at
 11 {TMO10013898}. We think that this was the last known
 12 version of this document before the fire on
 13 14 June 2017, but please correct us if we're wrong about
 14 that.
 15 If we go to the third page {TMO10013898/3}, we can
 16 see that this is an updated version as at
 17 February 2016 —
 18 A. Yeah.
 19 Q. — which was the revision or further revision of
 20 a document which began its life in August 2004.
 21 Now, you may recall, Mr Black, that you and I looked
 22 at this document together when you gave evidence in
 23 Phase 1 of this Inquiry in September 2018.
 24 A. I do.
 25 Q. Day 74, page 146.

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1 This document obviously is headed the TMO's
 2 emergency plan. I'm assuming from your evidence that
 3 you have just given us about section 7.2 of the
 4 Sleeping Guide that this was not a document intended to
 5 satisfy the guidance in that document?
 6 A. I'm afraid I'd need to see a little bit of it.
 7 Q. Yes, of course. Let's continue down to look at perhaps
 8 the index, it might help you?
 9 A. That would be helpful, thank you.
 10 Q. Okay, page 5 {TMO10013898/5}.
 11 The way this document is laid out is that it has
 12 essentially two parts: pages 1 to 26, and then the
 13 property details under part 2 from page 27 onwards.
 14 A. Yes.
 15 Q. You see that?
 16 A. I recognise it now, thank you.
 17 Q. Yes. Just on that, and we could take a bit more time
 18 and go through it to refresh your memory, if you like,
 19 but do I take it from the evidence you have given
 20 already this morning that this document was not
 21 a document intended to satisfy the guidance under
 22 section 7.2 of the Sleeping Guide?
 23 A. I would say based on what I've said so far, but I can't
 24 remember the details at the moment, sorry.
 25 Q. Do you know whether this plan was ever intended to

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1 satisfy TMO's regulatory obligations under the RRO more
 2 broadly?
 3 A. Yes, I think it would have been.
 4 Q. You think it would have been, but do you remember
 5 whether it was designed for that purpose?
 6 A. Yes.
 7 Q. You do.
 8 The date of origin may be a clue, 2004, whereas the
 9 RRO is dated 2005.
 10 A. Well, I wasn't there in 2004 and it hadn't been reviewed
 11 for nine years, or five years by the time I came, so ...
 12 Q. Let's look at the wording on page 1, internal numbering,
 13 page 13 of the document on your screen {TMO10013898/13},
 14 and it says this:
 15 "Part 1 — KCTMO emergency planning.
 16 "Introduction."
 17 Then if you look under the heading "KCTMO Emergency
 18 Plan", the third paragraph down after the quotations
 19 relating to the responsibility of the TMO in a major
 20 incident, and we've got definitions of "major incident"
 21 there, it says:
 22 "The plan is primarily for managing local KCTMO
 23 emergencies on, within, or surrounding our properties
 24 and estates, one which can be managed within the
 25 resources available to the KCTMO. However this plan can

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1 also be used for large scale major events which would
 2 overwhelm the KCTMO's ability to manage on its own, and
 3 which would involve the RBKC council resources. The
 4 difference being the scale of the emergency and the
 5 number of people affected by it."
 6 You see that?
 7 A. Yes.
 8 Q. On page 14 {TMO10013898/14} we can see that it deals
 9 with vulnerable residents there, and it says:
 10 "Information on numbers of known vulnerable
 11 residents are included on the block/property details
 12 which form part of this plan."
 13 Now, we'll look at the block details shortly, but
 14 before I get there, it's clear that this document
 15 recognises the need for information on the numbers of
 16 known vulnerable residents at the very least, if not
 17 necessarily the detail of their individual
 18 vulnerabilities; yes?
 19 A. So I think yes, and in a sense that would be collected
 20 with — so before 2008, the Audit Commission required us
 21 to collect information which was sometimes not so much,
 22 and then we've carried on, and we — the idea was to
 23 have it on the system to do this.
 24 Q. Now, if you go to page 34 {TMO10013898/34}, there is
 25 a specific checklist for fire there, do you see that?

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1 "Checklist — fire", and there is a question and action
 2 there, and there are 12 questions if you look down your
 3 screen —
 4 A. Yeah.
 5 Q. — with potential answers; yes?
 6 A. Yeah.
 7 Q. If we look at the block—specific page for Grenfell,
 8 page 133 internal, 145 in the document
 9 {TMO10013898/145}, you can see "Grenfell Tower —
 10 Lancaster West". Do you see that?
 11 A. Yeah.
 12 Q. Number of dwellings: 120, and vulnerable residents are
 13 numbered at 8 to 12 there. Do you see that?
 14 A. Yes.
 15 Q. Now, you will recall — perhaps you won't — but in the
 16 Phase 1 report at paragraph 30.93, the Chairman
 17 concluded that the emergency plan was obsolete and had
 18 been so for many years, so that's a conclusion of this
 19 Inquiry.
 20 My question today for you, after all the disclosure
 21 that you have seen at Phase 2, is: how come?
 22 A. How come it's obsolete?
 23 Q. Yes. How come it had become so obsolete, 15 years out
 24 of date?
 25 A. Well, again — I think we've been through this. The

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1 reality is that information should have been updated by
 2 staff, and the whole thing I've suffered throughout my
 3 career working with people is the ability to forget to
 4 fill in the paperwork. So I think those three —
 5 I think we discussed this. There's a lot of appendices
 6 behind here for each block, and in a sense, when you put
 7 it in paper, filling out — getting people to do that
 8 job, to update it, is difficult.
 9 We were working through the process with a new CRM
 10 system, which we were — had brought in, so that, as
 11 I say, something like this wouldn't be sitting with
 12 a pile of paper, it would actually be updated
 13 automatically, there would be warnings for the
 14 appropriate management and staff. So, in a sense, this
 15 is about bringing our technology up to date to address
 16 this.
 17 So, again, whether I apologised previously,
 18 you know, it didn't make me happy that it was out of
 19 date, I don't know why people didn't do, because
 20 actually this was escalated down to lower management to
 21 do it as part of their roles and should have been
 22 keeping it up to date. So in a sense, you know, I can't
 23 get away from it, it's out of date, it's — I don't
 24 think the — I think there was more up-to-date
 25 information available, but it wasn't there, so I just

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1 have to accept that responsibility.
 2 Q. Well, that's noted.
 3 Let's just look at page 146 {TMO10013898/146}. You
 4 can see that the date for this section dealing with
 5 Grenfell Tower specifically was completed on
 6 25 February 2002, but, as we can see from the first page
 7 I took you to, there were three reviews after 2004, so
 8 this document seems to pre-date the emergency plan, or
 9 this part of it. There were further reviews, including
 10 reviews during your time, the last of which being at
 11 February 2016.
 12 My first question is: did you yourself play any part
 13 in the review of this document in 2016?
 14 A. I would have played a part in terms of the top part of
 15 the document, the overall strategy, what we're saying
 16 there. What I didn't have was all the information
 17 below, because that didn't come to exec, because in
 18 a sense that was seen very much at the exec level that
 19 that was locally held information that needed to be
 20 updated locally. I can obviously see from this that
 21 local staff didn't update it. But I think that goes
 22 back to my point: I think we did have more up-to-date
 23 information on different systems, but not here, and
 24 that's my honest answer.
 25 Q. Do you know what prompted the review in February 2016?

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1 A. I think, if you look at the dates, what we were trying
 2 to do as a company is get to the stage where the
 3 information or the policy or the strategy was more
 4 regularly reviewed than previously. So when I came in,
 5 there was huge amounts of policy and procedures that
 6 hadn't been updated for years, and what we were trying
 7 to do was get through this whole area so we could have
 8 an up-to-date list which was mostly — I think we listed
 9 in our health and safety report once a year which showed
 10 policies being updated, in a sense ...
 11 Q. Was the fire at Adair Tower not a prompt for this
 12 review, do you remember?
 13 A. I think if you look at the dates, the reviews are every
 14 two years. So I think with this one we were updating
 15 the strategy every two years because it was important.
 16 Q. As part of the review, did nobody bring to your
 17 attention the fact that vast swathes — and it is vast
 18 swathes — of part 2 were out of date?
 19 A. No.
 20 Q. Can you account for that?
 21 A. I think I've tried — I can't account it, why — we were
 22 very clear, and I was very clear at exec and senior
 23 management team, that this type of detail had to be
 24 reviewed locally, because actually they had the
 25 information locally. So we had three local offices with

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1 local teams supporting our tenants, and they held the
 2 information there, and therefore it was their
 3 responsibility to fill these out. Partly what I —
 4 while I accept it hasn't, partly the way we were moving
 5 towards the CRM system, because that's an audit system
 6 that prompts people to do it, and then actually if they
 7 don't do it, management can see it.
 8 So I always worry about big piles of paper sitting
 9 somewhere where they're not being updated. So, again,
 10 I can only apologise.
 11 Q. At any rate, you haven't been able to tell us from the
 12 disclosure of documents at Phase 2 that you've seen why
 13 it was that large parts of part 2 of this document were
 14 left obsolete for so long?
 15 A. Well, again, what I have to — what I said is it's been
 16 left obsolete because the management team or the staff
 17 who had responsibility, because there'd be individual
 18 neighbourhood officers that should know about it and
 19 should do it, and what we were trying to do over the
 20 years was introduce systems that were less passive in
 21 terms of management, that we could audit, follow and
 22 challenge, so ...
 23 Q. Those systems failed, didn't they, because —
 24 A. Well, not the CRM system, because that wasn't completely
 25 in place by then.

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1 Q. Given that Salvus had specifically advised the TMO in
 2 September 2009 that you needed to have an emergency plan
 3 and, indeed, a building-specific emergency plan in
 4 accordance with the guidance, can you account for why
 5 you failed to have up-to-date plans for each building,
 6 including for Grenfell Tower?
 7 A. So I think I've said three or four times that the
 8 emergency plan was the emergency plan; the detail behind
 9 should have been filled in by staff and updated, and —
 10 so that's my answer.
 11 Q. I think, as CEO, you accept responsibility for that
 12 failure?
 13 A. I accept responsibility that my staff obviously haven't
 14 carried out the instructions by their managers to do it.
 15 Q. Yes. And, as CEO, the buck stopped with you, didn't it?
 16 A. As a CEO, my job isn't to fill in 400 or 500 or 650
 17 individual sheets or check them individually. That's
 18 why I have a staff team, management structure. So if
 19 they failed to do it, yes, the buck stopped with me, but
 20 I can show a trail where actually this was not my
 21 responsibility to fill in. I accept my responsibility
 22 as chief exec, but not to fill in the details like this,
 23 because that sits with my local teams who are employed
 24 to do it.
 25 Q. No, but the point I'm putting to you, Mr Black, in

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1 reality, is that as the chief executive, you were
 2 ultimately responsible for a failure to keep these
 3 documents up to date lower down in your organisation.
 4 A. Pass.
 5 Q. Pass?
 6 A. Well, what I'm saying — I think I've answered once,
 7 twice, three, four times, and that's it, really. It
 8 should have been updated. I am not shying away from
 9 that, and I recognise —
 10 Q. You —
 11 A. So that's my situation.
 12 Q. Just to be absolutely clear, you're not shying away from
 13 the fact that it wasn't done, but are you shying away
 14 from the fact that it was your ultimate responsibility
 15 to ensure that it was done?
 16 A. So, again, my responsibility is to be responsible for
 17 everything, but then to have a structure in place,
 18 management teams to actually do the work and follow the
 19 instructions of their managers.
 20 SIR MARTIN MOORE-BICK: I think we probably understand what
 21 you're saying, Mr Black: it wasn't your job to fill in
 22 the individual sheets, and I don't think anyone is
 23 suggesting it was.
 24 A. Sorry, it did feel like that, Chair, it did feel that,
 25 apologies.

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1 SIR MARTIN MOORE-BICK: Well, I understand.
 2 I think you're also accepting that, as with
 3 everything else within an organisation where there's
 4 devolved duties, you ultimately have to take
 5 responsibility for the way the system works or doesn't
 6 work.
 7 A. I accept that.
 8 SIR MARTIN MOORE-BICK: Yes, thank you.
 9 MR MILLETT: Now, let's look at some minutes from
 10 an executive team meeting in November 2015,
 11 {TMO00840450}. This is dated 11 November 2015, as you
 12 can see from the date at the top. I'll just show you
 13 that you are listed as present there. Do you see that?
 14 A. Yes.
 15 Q. If we go to page 2 {TMO00840450/2} you can see there was
 16 discussion about emergency plans under "Adair Tower —
 17 Responses".
 18 A. Yeah.
 19 Q. Just to help you with the chronology, you may be
 20 familiar with this, but 11 November 2015 was 11 days or
 21 so after a fire at Adair Tower on 31 October 2015, and
 22 this is what this discussion is about, "Adair Tower —
 23 Responses".
 24 If you go down the screen to the fourth paragraph
 25 down, it says:

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1 "The TMO's Emergency Plan was discussed and it was
2 agreed that it would be good for ET to have a session
3 with Janice Wray and Hash Chamchoun to get a greater
4 understanding of who owns and updates it and lessons
5 learnt from the fire at Adair Tower. Gill to arrange."
6 Gill I think is Gill Petford?
7 A. Yeah.
8 Q. You were at the meeting, as I've shown you.
9 Do you recall the detail of this discussion at all?
10 A. Yes, I think so.
11 Q. Do you remember why there was any question over who
12 owned the emergency plan or who was responsible for
13 updating it?
14 A. Can you confirm which paragraph, sorry? I just got —
15 Q. Yes, it's the fourth one down I read to you?
16 A. Yeah, yeah.
17 Q. "The TMO's Emergency Plan was discussed ..."
18 A. I think it was a general thing, in terms of after
19 a fire, we as an executive should meet together to find
20 out what worked, what didn't, and take it from there.
21 It was also about that link with RBKC.
22 Q. Yes. The specific question I'm asking you is based on
23 the words "to get a greater understanding of who owns
24 and updates [the emergency plan]".
25 My question is: why was there any doubt or any

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1 question mark over who owned and was responsible for
2 updating the emergency plan?
3 A. I think it was a refreshing the memory, who owns it. It
4 sat with policy, it sat with different people.
5 Q. Was there an answer to that question that you ever got?
6 A. I can't recall at the moment, thank you.
7 Q. Right. You don't remember one way or the other?
8 A. I can't recall that at the moment.
9 Q. Do you remember whether you and the rest of the
10 executive team had a session on the emergency plan to
11 get a greater understanding of these matters?
12 A. I think Janice did one to exec ...
13 Q. You say Janice did one to exec; do you mean she made
14 a presentation to you about it?
15 A. I can't remember if it was a presentation or she just
16 came along and spoke to us. I know she went round and
17 chatted to people who were involved and tried to get
18 feedback so we could get —
19 Q. Yes. I'm assuming that — I'm so sorry.
20 A. Sorry, it's all right.
21 Q. I'm assuming that the emergency plan referred to there
22 is the two-part document we looked at earlier?
23 A. Yeah.
24 Q. Do you remember her taking the executive team, including
25 you, through that document?

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1 A. Yes, but not the details at the back.
2 Q. Right. Does that tell us that, as part of that process,
3 you only had in front of you part 1, or did you have the
4 whole document but just didn't get as far as part 2?
5 A. No, we only had part 1 in terms of that, we wouldn't
6 have had all of the schedules behind.
7 Q. Would you agree that a critical aspect of any emergency
8 plan is the arrangements for communication of that plan
9 to residents?
10 (Pause)
11 A. I'm trying to think of that one.
12 Q. Well —
13 A. Sorry.
14 Q. — I'm putting a proposition to you.
15 A. Yeah.
16 Q. Would you agree with this proposition: it is a critical
17 aspect of any emergency plan —
18 A. So again, sorry, this is the company's emergency plan,
19 how it should operate in an emergency. In terms —
20 I think what you're trying to say or wanting to say is
21 in terms of for the residents, the plan was always
22 stay put and be rescued by the Fire Brigade, or who
23 would take control.
24 Q. Well, I'm just putting a general proposition to you,
25 Mr Black, and you don't have to agree with it. But do

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1 you agree that a critical, important aspect of any
2 emergency plan would include communication of the
3 contents of that plan to residents so far as it affects
4 them?
5 A. I'm not sure if I agree with that.
6 Q. Okay.
7 Let's look at some concerns raised by residents
8 about the lack of information relating to an emergency
9 plan.
10 Can we go first, please, to {TMO10037439}.
11 This is a letter from the Grenfell Tower
12 Leaseholders' Association of 3 September 2010, and it's
13 addressed to you personally, "Dear Mr Robert Black", and
14 it's copied to others, including Anthony Parkes and
15 Sacha Jevans, as you can see.
16 If we go to page 5 in this document {TMO10037439/5},
17 there is a heading, "Fire Alarm and Health and Safety",
18 towards the bottom of your screen.
19 Just to help you with the context for this document,
20 do you remember that there had been a fire at
21 Grenfell Tower on 30 April 2010?
22 A. I think I did after selecting the documents.
23 Q. Yes. Do you remember that one of the defects in
24 Grenfell Tower's active fire safety measures revealed by
25 that fire was that the smoke vent system did not operate

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1 correctly?
 2 A. I — yes.
 3 Q. And also that there was a problem, or said perhaps to be
 4 a problem, with the lift not responding when called by
 5 firefighters?
 6 A. I don't know that one.
 7 Q. You don't know that one.
 8 Now, if you look at page 5, you can see that the
 9 author says:
 10 "We are very shocked to learn from you that you
 11 considered the defects in the building exposed by the
 12 fire as a minor fault when it had potentially fatal
 13 consequences. The minor fault caused so much damage to
 14 individuals living in Grenfell Tower it is difficult to
 15 [imagine] how serious an event has to be for you to
 16 consider it a major fault. If the fire alarm system is
 17 not functioning and the vents are not working then it
 18 should be considered no doubt as a major fault. They
 19 are used as measures to save lives; so if they are not
 20 working then obviously you are endangering the lives of
 21 residents of the building. What's more, we are certain
 22 that out of 120 families living in the block, no-one is
 23 aware of the evacuation procedure. We have never had an
 24 evacuation procedure booklet sent to us for the past
 25 36 years. Is it not necessary by law, to test the Fire

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1 Alarm and associated equipment on a regular basis to
 2 check whether the system is fully functional?"
 3 Now, bearing in mind, as we now know, and you now
 4 know, I think, that this is almost a year after the
 5 September 2009 Salvus fire safety management report that
 6 we've looked at, did that letter cause you to check what
 7 arrangements were in fact in place for communicating
 8 evacuation procedure to residents?
 9 A. Well, I don't think there was a fire alarm system in
 10 this block.
 11 Q. Sorry, my question —
 12 A. Sorry, I'm just reading it. People saying they did not
 13 hear the fire alarm, just from my knowledge, and I may
 14 be wrong, I don't think there was a fire alarm system in
 15 the block.
 16 Q. My question is —
 17 A. Would that be true? You know all the stuff.
 18 Q. My question to you is: at the time when you received
 19 this letter, did it cause you to check what arrangements
 20 were in place for communicating any evacuation
 21 procedures to residents?
 22 A. So, again, as far as I'm aware, the procedure was: in
 23 case of a fire, stay put, be rescued by the
 24 Fire Brigade — or for the Fire Brigade to come, make
 25 an assessment of the fire and then to make a decision

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1 about what they're going to do. That decision could be
 2 to evacuate the building or it could be just to put the
 3 fire out.
 4 Q. Yes.
 5 A. From my knowledge.
 6 Q. Did you check, having received this letter, what
 7 arrangements were in place for communicating —
 8 communicating — to residents the relevant procedure in
 9 the event of a fire?
 10 A. So we wouldn't — so in terms it's stay put.
 11 Q. Perhaps you're not understanding my question. I'll try
 12 once more. The question is about communication to
 13 residents.
 14 Did you, having received this letter, check what the
 15 arrangements were at Grenfell Tower for communicating
 16 what residents should do in the event of a fire to them?
 17 A. No.
 18 Q. Why is that?
 19 A. I suppose from, you know, looking back or reflecting
 20 here, is that if there's — again, I think the stay-put
 21 policy is so ingrained in the system that if there's
 22 a fire, it will — the Fire Brigade will be there and
 23 put it out.
 24 If it's during the day — I mean, I think this is
 25 difficult sometimes. If you have a fire during the day

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1 and we know about it, then we have staff there, but
 2 generally we're waiting for the Fire Brigade to come and
 3 take control, and there is no evacuation policy unless
 4 the Fire Brigade decide to evacuate the building.
 5 Q. Yes.
 6 Did the receipt of this message lead you to
 7 instigate a process for this building whereby all the
 8 residents were reminded, whether by notice or by
 9 a communication of some other kind, of what the
 10 arrangements for their safety would be in the event of
 11 a fire?
 12 A. I can't confirm that now, I'd have to ask Janice.
 13 Q. Now, the issue of advice to residents came up again in
 14 2016. You may remember this. Can we go to
 15 {TMO10011798/4}, please.
 16 This is an email run where, on page 4,
 17 8 January 2016, Councillor Mason writes to
 18 Councillor Marshall, and he says:
 19 "Adair Tower Fire.
 20 "At the last CCSC meeting [that's cabinet and
 21 corporate scrutiny committee meeting], I was asked to
 22 request if you could tell us what advice the TMO gives
 23 to its tenants in the case of a fire. This question
 24 came up because the Borough Fire Commander told the
 25 Committee, the last time he visited, that although

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1 Adair Tower flats were fitted with smoke—proof doors,
 2 people opened them during the fire letting in the smoke,
 3 when they may have been safer staying indoors, and then
 4 started walking down 13 storey's of smoke—filled stairs.
 5 Perhaps it's not possible to stop people leaving
 6 a building in panic during a fire!"

7 If we go to page 3 of this email run
 8 {TMO10011798/3}, at the bottom you can see that, on
 9 9 January 2016, Councillor Marshall writes to
 10 Councillor Mason in response, and you're copied in to
 11 it.

12 A. Yeah.

13 Q. As is Laura Johnson:
 14 "Pat
 15 "I am not sure there is standard advice across the
 16 estate.
 17 "Mr Black — could you let us know what is normally
 18 advised, especially in towers? Also, could you give
 19 some thought to Cllr Mason's questions about weekends
 20 etc?"

21 You then respond to that, if you go up page 3 and
 22 over to page 2, and indeed page 1 {TMO10011798/1},
 23 I think, at the bottom of page 1 is where it starts —
 24 it's a long email — and you write to Barbara Matthews
 25 and Janice Wray, as you can see there, on 11 January:

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1 "Hi Barbara and Janice
 2 "Could you review both Cllr Mason and
 3 Cllr Marshall's points in the e—mail below and draft me
 4 something I can send back please. In reviewing it,
 5 I have added in the bit in red, see what you think,
 6 happy for you to edit and change!
 7 "Robert."

8 You can see that.
 9 So is it right that you needed them to provide the
 10 answer because you yourself didn't know it?

11 A. Yeah, I mean, with a question like that, I'd always copy
 12 in Janice and Barbara because, in a sense, they managed
 13 the fire health and safety and are more up to date than
 14 myself. So as chief exec, that's what I did generally,
 15 and then they would send it back to me, or we'd say —

16 Q. You can see, just to finish the email run off, at page 1
 17 Janice Wray writes back to you the next day:
 18 "Robert & Barbara [she is copied in]
 19 "I have added some info in purple to your draft
 20 response.
 21 "Please advise if you need anything further from
 22 me."

23 If you go down to the foot of page 1 again, you can
 24 see what she says there, over to page 2, in relation to
 25 what the normal advice is, especially in towers, and the

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1 thrust of it is stay put. You see that.
 2 Now, if you go then to {RBK00058101}, please, I'm
 3 going to show you the minutes of an RBKC cabinet and
 4 corporate services scrutiny committee, CCSC, a little
 5 bit after this, on 8 February 2016, so the following
 6 month, and you can see who is in attendance there. You
 7 are not there, perhaps unsurprisingly.

8 On page 3 {RBK00058101/3}, there is something I want
 9 to ask you about there. In second paragraph it says:
 10 "Cllr Campbell drew attention to the statement on
 11 page 1 that fire safety information is provided to
 12 residents on the TMO website. She considered this
 13 inadequate as not all residents would have access to the
 14 website. Referring to page 2 she drew attention to the
 15 comment that some dwellings were provided with LFB
 16 leaflets and asked which ones were not. The Chairman
 17 undertook to take this up with the TMO."

18 Now, do you accept that it's clear from this
 19 sequence of events, including the email run, that RBKC
 20 councillors had concerns about the provision or lack of
 21 provision of fire safety information to residents in
 22 early 2016?

23 A. It would — I can't — I mean, Pat wrote to me, I know
 24 Pat and his situation, he was responding, and
 25 Councillor Campbell, I don't know what happened after

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1 this.
 2 Q. Do you remember that these questions, as is clear from
 3 the 8 January email, resulted or arose as a result of
 4 an actual fire?

5 A. Yeah.

6 Q. Adair Tower.

7 A. Yes.

8 Q. Did that fact suggest to you that whatever the TMO was
 9 doing about informing residents of emergency plans in
 10 their building, it wasn't working?

11 A. I think ... I would say that it would seem like we could
 12 have done better.

13 Q. Now, going forward in the year 2016, {TMO00863733}, this
 14 is an email run between Councillor Mason, who was
 15 the chair of the CCSC, I believe — correct me if I'm
 16 wrong about that — to you.

17 If we go to page 3 {TMO00863733/3}, we can see
 18 an email from Councillor Mason to you on 14 April, as
 19 you can see there, and it says:
 20 "Dear Robert,
 21 "Fire Safety Information to residents.
 22 "At the last meeting of the Cabinet and Corporate
 23 Services Scrutiny Committee, where there was an update
 24 on the Adair Tower Fire, it was noted that fire safety
 25 information is provided to residents on the TMO website.

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1 "One Committee Member wondered if this was adequate
 2 given that not all residents would have access to the
 3 internet for various reasons.
 4 "Is this information provided to residents in other
 5 ways?"
 6 You copied Janice Wray in and Barbara Matthews, if
 7 you go up to the bottom of page 2 {TMO00863733/2}, above
 8 that. In response to Councillor Mason, you say:
 9 "I will ask my team to review and come back to you."
 10 Then if you scroll up a little bit, please, to the
 11 bottom of page 1 {TMO00863733/1}, second half of page 1,
 12 Janice Wray responds to Councillor Mason, copying you
 13 and Barbara Matthews in, on 15 April 2016. She says:
 14 "Further to your enquiry regarding provision of fire
 15 safety information to residents, I can confirm that this
 16 is provided in a number of ways. As per the update
 17 presented to Scrutiny Committee, fire safety information
 18 is available on the KCTMO website. In addition, new
 19 tenants receive a letter outlining their fire procedure,
 20 providing some fire safety advice and enclosing a copy
 21 of the referral leaflet for anyone wishing to arrange
 22 a free London Fire Brigade (LFB) Home Fire Safety
 23 Visit — copies of letter and leaflet attached. Fire
 24 Safety articles are regularly included in our KCTMO
 25 publications: 'The Link' and the 'Home Ownership

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1 Newsletter'.
 2 "Specifically, in relation to Adair and Hazlewood
 3 Towers we will shortly be installing Fire Action Notices
 4 setting out the action to be taken in the event of
 5 a fire in the flat and also elsewhere in the building.
 6 "Further, I would advise that we liaise closely with
 7 the LFB to facilitate their familiarisation visits to
 8 our blocks — particularly the high rise and potentially
 9 higher risk blocks. Where possible, we produce joint
 10 publicity in advance of their visit and as part of the
 11 exercise we encourage the LFB to offer a free Home Fire
 12 Safety Visit to any resident who wishes to have one."
 13 And it goes on like that, and then over the page at
 14 page 2 {TMO00863733/2} after a reference to the
 15 roadshow:
 16 "Our Fire Risk Assessor regularly posts LFB leaflets
 17 through residents' doors as part of his assessment.
 18 "Finally, I would advise that we are currently
 19 reviewing our Fire Strategy to ensure that our approach
 20 continues to effectively control fire risks. The issue
 21 of publicising/communicating the fire safety message is
 22 one of the areas to which we will be paying particular
 23 attention."
 24 Now, that's a lengthy response which I've read most
 25 of to you.

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1 Was that response a comprehensive explanation of the
 2 TMO's communication of an emergency plan to residents as
 3 you understood it at the time?
 4 A. Yes.
 5 Q. It was.
 6 Now, then, if we go forward in the year 2016 to
 7 November, {TMO10047662 }, this is a notice of deficiency
 8 from the LFB on 17 November 2016 in relation to
 9 Grenfell Tower.
 10 Were you aware at the time that this had been
 11 issued?
 12 (Pause)
 13 A. I'm sure I would have done, but I can't recall. So what
 14 I can say is, having gone through the paperwork
 15 preparing for this, I have come across this. I'm just
 16 trying to remember actually at the time if I knew it.
 17 Q. Yes, and we've had difficulties pinning down precisely
 18 when you did see it. Are you able to help?
 19 To help you in your recollection, it looks as if you
 20 had seen it by your CEO report of March 2017. Did you
 21 see it in November 2016 when it was issued or shortly
 22 thereafter, do you remember?
 23 A. I can't remember, I'm afraid. If it's in my report —
 24 if it's in the report that came later, then I would have
 25 seen it somewhere or it would have been reported to me,

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1 but I can't remember at that specific time.
 2 Q. Right.
 3 Now, let's look at page 6 of this document
 4 {TMO10047662/6}. This is one of the deficiencies
 5 identified by the LFB in the deficiency notice.
 6 If you look at the bottom of your screen, it says:
 7 "Article 15(1).
 8 "At the time of the audit your procedures to be
 9 followed in the event of serious and imminent danger
 10 were inadequate. It was found that Fire Action Notices
 11 were not displayed in your common parts."
 12 If you go to "Steps considered necessary to remedy
 13 the failures" on the right—hand side of your screen in
 14 the lower box there:
 15 "Adequate procedures for serious and imminent danger
 16 and for danger areas should be established and followed.
 17 This can be achieved by displaying Fire Action Notices
 18 in the common parts of your building."
 19 Did you yourself, when you did see this document,
 20 investigate what procedures existed for Grenfell Tower
 21 for serious and imminent danger?
 22 A. No.
 23 Q. Why is that?
 24 A. I'm looking at this, this is about fire notices.
 25 I suppose my question would be: were fire notices put up

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1 across all the estates, not just Grenfell Tower?
 2 I don't know that at this moment.
 3 Q. Let me try it a different way: did you investigate how
 4 it had come about, notwithstanding what you had been
 5 told earlier in the year and notwithstanding the
 6 exchanges between the councillors earlier in the year
 7 we've seen, that later on that year, fire action notices
 8 were not displayed in the common parts of
 9 Grenfell Tower?
 10 A. I can't recall, I apologise.
 11 Q. Did you look into that?
 12 A. I can't recall at that time.
 13 Q. Right. Did it not come as a surprise to you to discover
 14 that, notwithstanding what Janice Wray had told you and
 15 the councillors at the time, in the spring of 2016, the
 16 LFB had picked this up as a deficiency later that year?
 17 A. In reflection, I would have to accept that.
 18 Q. Now, let's look at {TMO10015249/3} at the bottom.
 19 This is an email to you from Councillor
 20 Judith Blakeman on 24 November 2016. At the very bottom
 21 of page 3 you can just see Judith Blakeman,
 22 23 November 2016, and then if we go over to page 4
 23 {TMO10015249/4}, you can see that it's addressed to you
 24 at the very top of your screen:
 25 "Subject: Grenfell Tower (again!)"

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1 "Dear Robert
 2 "While Mr Daffarn engages in hyperbole in his
 3 Grenfell Action Group blog, it is read by most residents
 4 of the Tower and the most recent article causes me
 5 concern."
 6 Now, you may recall the blog.
 7 A. Not off the top of my head, no.
 8 Q. Let's just look down at the quotation from it in this
 9 email, and it says this:
 10 "'In the last twenty years and despite the
 11 terrifying power surge incident in 2013 and recent fire
 12 at Adair Tower, the residents of Grenfell Tower have
 13 received no proper fire safety instructions from the
 14 KCTMO. Residents were informed by a temporary notice
 15 stuck in the lift and one announcement in a recent
 16 regeneration newsletter that they should remain in their
 17 flats in the event of fire. There are not and never
 18 have been any instructions posted in the Grenfell Tower
 19 noticeboard or on individual floor as to how residents
 20 should act in event of a fire. Anyone who witnessed the
 21 recent tower block fire at Shepherds Court, in nearby
 22 Shepherd's Bush, will know that the advice to remain in
 23 our properties would have led to certain fatalities and
 24 we are calling on our landlord to re-consider the advice
 25 that they have so badly circulated.'"

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1 Now, whether or not you read the blog at the time,
 2 which was a few days before this, do you agree, looking
 3 at that, that Mr Daffarn was clearly concerned at the
 4 lack of information about what to do in the event of
 5 a fire at Grenfell Tower?
 6 A. Yes.
 7 Q. And his blog, as quoted there by Judith Blakeman,
 8 suggests, at least, that the communication of
 9 fire safety instructions within that building was not
 10 succeeding; yes?
 11 A. Yes.
 12 Q. Yes.
 13 Now, let's go back to the first paragraph of her
 14 email. I've read you the first sentence. She goes on:
 15 "Mr Daffarn discussed the fire safety issue with me
 16 at a recent meeting and I did point out that the
 17 instructions in the event of fire had been included in
 18 one of the refurbishment newsletters. However, I do
 19 take his point that instructions are not permanently
 20 available on noticeboards nor in a discrete letter to
 21 all residents (and in appropriate languages where
 22 required) and I am asking whether this can be
 23 rectified?"
 24 Now, we now see what you did with this.
 25 If we go to page 2 {TMO10015249/2}, you ask Janice

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1 to respond, and we can see that response on page 2,
 2 towards the bottom of the screen:
 3 "Dear Councillor Blakeman,
 4 "Robert has asked me to respond to your e-mail
 5 highlighting fire safety issues raised by Mr Daffarn in
 6 his blog."
 7 Do you see that?
 8 A. Yeah.
 9 Q. Then she says this:
 10 "With regard to fire procedures in Grenfell Tower,
 11 I can confirm that these were included in newsletters to
 12 the block and they are also documented on our website.
 13 Further, we do publish regular fire safety articles in
 14 'The Link' magazine to all residents and we write to all
 15 new tenants to outline the fire strategy for their
 16 block, the procedure to follow in the event of a fire in
 17 their flat and also a fire elsewhere in their block and
 18 advise them of the London Fire Brigade's (LFB) free Home
 19 Fire Safety Visit and how to access this. Additionally,
 20 I can advise that we are currently considering
 21 a programme of installation of Fire Action Notices –
 22 similar to those now installed at Adair and Hazlewood
 23 Towers – across all blocks. There has been a difference
 24 of opinion amongst London Fire Brigade officers on the
 25 value of fitting these notices within a block with a

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1 'stay put' fire strategy, however, we are keen to be
 2 proactive about this and I can confirm that we will be
 3 proceeding with the fitting of these notices at Grenfell
 4 Tower. It is likely that this will be completed within
 5 the next two weeks."

6 So would you agree with this: as per the response to
 7 Councillor Mason that had come from Janice Wray early in
 8 2016, the instructions in the event of a fire were
 9 disseminated in a number of ways: refurbishment letters;
 10 yes?

11 A. Yes.

12 Q. Yes. Website?

13 A. Yes.

14 Q. Regular fire safety articles, although not necessarily
 15 about evacuation, in the Link magazine?

16 A. Yeah.

17 Q. And writing to all new tenants to outline the fire
 18 safety strategy; yes?

19 A. Yes.

20 Q. Did you think that that was enough?

21 A. I think ... I think the problem we face — I mean, I'm
 22 not — it should have — on reflection, should do more,
 23 whatever. The trouble is actually how to give
 24 information to people, and I think one of the things
 25 now, if you look now, is there is so much more

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1 technological ways to actually get — if you have the
 2 information to get directly to tenants. We found
 3 I think generally letters not to be very effective,
 4 because actually people don't open their mail, and we
 5 did do quite a lot of lettering, but the feedback —
 6 you know, you would go along and it's there.

7 So I think fire notices are visible, and that's the
 8 key thing, but I think it's probably something I would
 9 have to accept we struggled with, how do you actually
 10 get people to take the information in, unless you meet
 11 them individually, and that would come down to doing the
 12 housing management — I think that's also why we tried
 13 to have the resident engagement events because,
 14 actually, with those events, you can have all my staff
 15 on the site at the same time and you can have stalls
 16 everywhere where we give out that information. So there
 17 was one at Lancaster West, I think, not long after this
 18 where I think the Fire Brigade attended. Well, that's
 19 me thinking rather than knowing.

20 So we did try, I think, to do other things, because
 21 actually probably that's — you just need to keep on
 22 trying.

23 Q. If we go back to the bottom of page 1 of this email run,
 24 Judith Blakeman responds to Janice Wray, also on
 25 24 November 2016, and at the very top of page 2 she

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1 says:
 2 "Many thanks for this. I think the TMO often puts
 3 too much faith in The Link and generic newsletters.
 4 Even when read they are then discarded, so residents do
 5 not have a permanent record of information unless they
 6 have the nature of an archivist. This is why
 7 personalised letters are sometimes of more value.
 8 However I think in this instance that Fire Action
 9 Notices on each floor will meet the problem."

10 Didn't Councillor Blakeman here actually hit the
 11 nail on the head: the residents needed a permanent
 12 record of information on what to do in the event of
 13 a fire?

14 A. Well, I don't think most — I mean, if you're meaning
 15 that you give someone a letter, they file it, put it in
 16 a drawer and forget it, they're not archivists, I think
 17 you probably have to do things — in retrospect, you
 18 probably have to do things more frequently, so there's
 19 a constant thing, and I think that's what Janice was
 20 suggesting, that you don't just do one thing, fire
 21 notices, we do visits, we have the Fire Brigade —
 22 you know, it's just, like, to keep it going.

23 But her point, I think, can be fair that we put
 24 a lot of faith in the Link and generic newsletters, but
 25 actually feedback historically is that those are better

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1 than letters, because actually you don't have to open
 2 the letter, there's actually something goes through your
 3 door and people read it, and if you've got something
 4 interesting, people do.

5 So the Link and the newsletter developed over — or
 6 certainly Link changed quite a lot to try to bring
 7 information in from — that makes it interesting for
 8 people to want to read it, and if you have your fire or
 9 health and safety articles in there, research has shown
 10 that's much more effective than a letter through the
 11 door, which again, you know, some people open, some
 12 people don't. It's a difficult thing about how to
 13 communicate.

14 I suppose nowadays what you do, you would do a text,
 15 you'd have, like, text alerts that everybody — you
 16 know, because you'll have people's information, so you
 17 might just do a textburst, you know, "In the event of
 18 a fire, stay put". I think at the time that wasn't one
 19 of the options sort of thing, but obviously nowadays I'm
 20 sure people are thinking that, because actually most
 21 people have a phone.

22 Q. Your response we can see on page 1 {TMO10015249/1}, same
 23 day, 24 November 2016, to Judith Blakeman, copied to
 24 Janice Wray and Barbara Matthews:
 25 "I will ask Janice to have a look at the area you

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1 mention and get an update for you.
 2 "On the other subject, our experience and others is
 3 individual letters are not effective either, as they are
 4 not opened or read or filed. This is an area where the
 5 company has to do certain things to protect itself and
 6 its [sic] starts with all new tenants and then reminding
 7 residents on a regular basis. We also do fire checks
 8 and our fire consultants will speak to people when he is
 9 doing his checks. I agree the fire notices on each
 10 floor will address the problem as well."
 11 Now, does that statement there represent your
 12 understanding at the time of how an emergency plan was
 13 to be communicated to residents?
 14 A. Yes.
 15 Q. Yes. So just to summarise, letters to new tenants,
 16 regular reminders, presumably through the Link magazine,
 17 Mr Stokes doing his rounds, and now fire action notices?
 18 A. Yes. And again, I think there was a lot of debate about
 19 how effective is it. So we had lots of noticeboards
 20 across the organisation. One of my great opportunities
 21 was doing estate checks on noticeboards on a regular
 22 basis, which gave Teresa Brown huge amounts of
 23 difficulties because actually the noticeboards were
 24 supposed to be updated, they were sort of designed to —
 25 again, people take things down if you don't have the

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1 glass in front of them. So I think there was a concern
 2 about how — this constant thing of trying to put up
 3 notices, I — but, yes, in principle, how do you get
 4 people to accept information is a challenge.
 5 Q. Do you accept that the message you're giving here does
 6 not appear to have got through to at least one of
 7 Grenfell Tower's longstanding residents, namely
 8 Mr Daffarn?
 9 A. I accept.
 10 MR MILLETT: Let's turn to a completely new topic, which is
 11 the oversight or review of maintenance arrangements.
 12 Mr Chairman, I'm loath to give up four minutes
 13 unless we sit four minutes earlier.
 14 SIR MARTIN MOORE—BICK: Three, I think, but still, keep
 15 going.
 16 MR MILLETT: Yes. Then I think I'm in your hands as to
 17 whether we start this new topic or not.
 18 SIR MARTIN MOORE—BICK: Is this a substantial topic?
 19 MR MILLETT: It is a substantial enough topic not to finish
 20 it in three or four minutes.
 21 SIR MARTIN MOORE—BICK: Wouldn't it be sensible to give
 22 yourself a clear run at 2 o'clock?
 23 MR MILLETT: It would.
 24 SIR MARTIN MOORE—BICK: I think it would.
 25 Mr Black, I think it's time we stopped for lunch,

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1 notwithstanding the fact we still have three minutes to
 2 go this morning.
 3 We will break now until 2 o'clock, please, and
 4 please remember not to speak to anyone about your
 5 evidence or anything relating to it over the break.
 6 THE WITNESS: Okay, thank you very much.
 7 SIR MARTIN MOORE—BICK: Thank you very much. If you would
 8 like to go with the usher.
 9 (Pause)
 10 Thank you very much. 2 o'clock, then, please.
 11 Thank you.
 12 (12.57 pm)
 13 (The short adjournment)
 14 (2.00 pm)
 15 SIR MARTIN MOORE—BICK: All right, Mr Black?
 16 THE WITNESS: Yes, thank you.
 17 SIR MARTIN MOORE—BICK: Ready to carry on?
 18 THE WITNESS: Yes.
 19 SIR MARTIN MOORE—BICK: Yes, Mr Millett, when you're ready.
 20 MR MILLETT: Thank you, Mr Chairman, yes.
 21 I would like to ask you now about another aspect of
 22 oversight required by the RRO, and that is the
 23 maintenance of fire safety systems.
 24 Can we start, please, by looking again at the Salvus
 25 assessment of the TMO's fire safety procedures in

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1 September 2009 at {SAL00000013/5}.
 2 We have looked already at paragraph 1.2, "Lack or
 3 inadequate TMO policy and arrangements", and you can see
 4 from the criticism in the second italicised paragraph
 5 I read to you earlier that it refers to maintenance, "no
 6 specific policy and arrangements for ... maintenance".
 7 Do you see that? It recommends, underneath that, that
 8 there be a specific policy developed for maintenance of
 9 all fire safety measures, including those provided to
 10 assist firefighters.
 11 Now, was a policy developed in accordance with that
 12 recommendation?
 13 A. I can't recall at this moment, I'm sorry.
 14 Q. Right.
 15 Then at page 11 {SAL00000013/11}, action point at
 16 point 8.1, the hazard is:
 17 "Lack of/inadequate co-operation and co-operation
 18 with other responsible persons sharing same buildings."
 19 And it says:
 20 "There does not appear to be any formal procedures
 21 in place to co-operate with any other responsible
 22 persons sharing the same building with TMO properties,
 23 to ensure that fire safety arrangements are effectively
 24 co-ordinated and that appropriate fire safety measures
 25 are in place and maintained in good order."

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1 Then if we go to page 18 {SAL00000013/18}, in the
 2 action part of this document, at point 9.3, you can see
 3 that it says there:
 4 "It is strongly recommended ..."
 5 Note the word "strongly", do you see?
 6 A. Yes.
 7 Q. "... strongly recommended that TMO consider development
 8 of formal procedures to deal effectively with fire
 9 safety issues associated with disabled or vulnerable
 10 tenants and leaseholders, and also any employees."
 11 Then it goes on to deal with that.
 12 Now, do you know whether the recommendation that the
 13 TMO introduce formal procedures to secure effective
 14 co-operation with any other responsible persons sharing
 15 the same building with TMO properties was ever carried
 16 into effect?
 17 A. I'm trying to remember which building would be where we
 18 had someone else into it, in terms. So ... most of
 19 the — in terms of the properties, they were RBKC's.
 20 Q. Do you remember whether such a policy was ever
 21 introduced?
 22 A. Again, I can't recall.
 23 Q. Let's look back, then, at the TMO fire safety strategy
 24 of November 2013 at {TMO00830598}, which is the document
 25 we looked at together before this morning.

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1 If you just have that on the screen in front of you
 2 there, would you agree, just before we look at it in
 3 detail, that one would expect to see this document
 4 define the processes that the TMO would have in place to
 5 provide a system of maintenance for fire safety
 6 measures; yes?
 7 A. In terms of management of contracts, to manage them,
 8 yes.
 9 Q. Just in general terms, do you agree that you would
 10 expect this document to define the processes that the
 11 TMO either had in place or ought to have in place to
 12 provide a system of maintenance for all fire safety
 13 measures?
 14 A. So we'd have a system in place for all equipment within
 15 the TMO. Again, I'm not sure whether there was
 16 an overall policy.
 17 Q. Right. Well, let's see how we go.
 18 Have you seen any trace of any attempt to develop
 19 a fire safety strategy for the TMO between
 20 September 2009 and the Salvus fire safety management
 21 report of that month and Janice Wray's first attempt in
 22 January 2013 which led to this document in
 23 November 2013?
 24 A. I haven't seen another document.
 25 Q. No.

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1 A. I know that in terms of asset management and contract
 2 management, which managed the stock — so outside the
 3 housing management, you'd have — we have a team or had
 4 a team of engineers and people who'd manage contracts,
 5 which included fire safety equipment.
 6 Q. Do you agree that, in a nutshell, despite the Salvus
 7 recommendation in September 2009, the TMO never
 8 developed a maintenance strategy for maintaining all of
 9 its active and passive fire safety measures between 2009
 10 and 2013?
 11 A. I think asset management had a strategy for managing
 12 their responsibility for managing the stock through
 13 their asset management and contract work.
 14 Q. Yes, but I'm talking about an overall fire safety
 15 strategy. Do you accept what I'm putting to you?
 16 A. I accept that.
 17 Q. Yes, thank you.
 18 Now, can we go to paragraph 1.1 in this document.
 19 It says:
 20 "As acknowledged in the TMO Health & Safety Policy
 21 Statement the company is fully committed to providing
 22 a safe and healthy environment for residents, employees
 23 and contractors. The area of fire safety in particular
 24 is highlighted as being of significant importance in
 25 a residential setting and as such is an area which is

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1 subject to intensive inspection, maintenance and
 2 assessment activity."
 3 Do you accept that the clear intention here, as
 4 expressed by the TMO, is to have an intensive
 5 maintenance regime?
 6 A. Yes.
 7 Q. Yes.
 8 Now, if you look at the second bullet point on
 9 page 2 {TMO00830598/2}, at the bottom of this document,
 10 this is "Management Arrangements for Fire Safety":
 11 "5.1 This includes but is not confined to the
 12 following ..."
 13 The first bullet point is "Programme of regular
 14 estate inspection", and then over to the top of page 3
 15 {TMO00830598/3}, second bullet point:
 16 "Inspection, testing and maintenance of all
 17 fire safety systems/plant/equipment as per the
 18 requirements of the relevant British Standard by
 19 competent contractors under a planned preventative
 20 maintenance regime. In the case of emergency lighting
 21 the maintenance contractors regular checks are
 22 supplemented by monthly inspection and testing by the
 23 estate staff. Records are maintained of these checks."
 24 Would you agree that that reads as a policy
 25 objective as opposed to processes governing how those

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1 objectives would be achieved?
 2 A. Yes.
 3 Q. For example, there is no description here of what the
 4 planned preventative maintenance regime would actually
 5 entail, is there?
 6 A. No.
 7 Q. And there is no comprehensive list, is there, of the
 8 fire safety measures that would be subject to
 9 a preventative maintenance regime?
 10 A. No.
 11 Q. No. So therefore there's no mention of smoke control
 12 system needing planned preventative maintenance or
 13 anything of that nature, is there? We don't see that?
 14 A. Not there, no.
 15 Q. No. Nor I think do we see any list of the
 16 British Standards to which the systems would be
 17 maintained; is that right?
 18 A. Well, I can't see it there, but that doesn't mean it
 19 wouldn't be in the contract.
 20 Q. No. There is no reference to any procedure documents
 21 which would set out the fire safety measures governing
 22 maintenance, we don't see that detail either here; no?
 23 A. I can't see the detail, no.
 24 Q. Or how maintenance records would be stored, there is
 25 nothing about that?

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1 A. No.
 2 Q. No. Can you explain why this fire safety strategy
 3 didn't mention those things?
 4 A. I think, in a sense, when we look at contract management
 5 and maintenance — so this is an overall strategy, so if
 6 you follow the line through to asset management,
 7 investment and contract management, that's where the
 8 details would be, in terms of actually how they let
 9 contracts, how they manage the contracts, to what detail
 10 in — the contracts were doing in terms of inspection.
 11 I think that's where the detail would be.
 12 Q. So you'd find the detail of the processes in individual
 13 contracts with individual contractors, but not as part
 14 of the fire safety strategy itself; is that right?
 15 A. I think so.
 16 Q. Now —
 17 A. It's slightly changed, because this is 2000—and —
 18 Q. 13.
 19 A. 2013. So I think the issue we had is a lot of the time
 20 between 2009 and 2013, a lot of the information was held
 21 in spreadsheets and not in sort of one area, and
 22 development of — sorry.
 23 Q. Would you agree that if any provisions, directions,
 24 guidance relating to planned preventative maintenance
 25 were set out in the individual contracts between the TMO

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1 and individual contractors, that wouldn't amount to
 2 an overall policy, would it?
 3 A. No.
 4 Q. No, and if somebody wanted to know the answer to the
 5 question: what is the TMO's policy on routine and
 6 regular maintenance of, for example, all of its AOV
 7 systems, what would the TMO point to?
 8 A. I imagine that would be at the local level, not
 9 an overall strategy, as you say.
 10 Q. Can we then look at {TMO00873398}. I'm going to show
 11 you here a report by Matthew Hodgson entitled "Safety
 12 management review", dated September 2013, marked for
 13 your attention.
 14 A. Yeah.
 15 Q. What I'm showing you here is the final draft of
 16 September 2013. We'll look at it in a little bit of
 17 detail in a moment. It's a review by Matt Hodgson,
 18 a health and safety professional, done in that year.
 19 Did you commission that report?
 20 A. Anthony Parkes did.
 21 Q. Why did he do that?
 22 A. So what we had is a TMO audit of health and safety. The
 23 auditors — we had three levels of audit:
 24 unsatisfactory, satisfactory and substantial. The audit
 25 covered health and safety. The audit came back as —

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1 sorry, I've forgotten my wording again.
 2 Q. I think "limited assurance".
 3 A. "Limited assurance", thank you. And because of that —
 4 so within our processes, limited assurance would mean
 5 that we have to have a substantial action plan, and
 6 after discussion with Anthony, we decided to — Anthony
 7 decided to bring in this individual to carry out
 8 a review to help us improve the outcome of the next
 9 audit of that area which were planned.
 10 Q. I see. So, in a nutshell, Mr Parkes commissioned this
 11 review in response to a recommendation made by RBKC's
 12 audit in the April of that year?
 13 A. Yeah.
 14 Q. Which resulted in the limited assurance?
 15 A. Yes.
 16 Q. Yes? Okay.
 17 As I say, this is the final version of
 18 September 2013. If we can go to page 1, we can see it's
 19 marked for your attention. Can we assume from that that
 20 you read it when you received it?
 21 A. Yes.
 22 Q. Can we look, please, at page 19 {TMO00873398/19},
 23 "Health and Safety Procedures", and it starts by saying:
 24 "There is a policy arrangements section in the KCTMO
 25 policy however it does not adequately detail what risks

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1 the business is exposed to and lacks the finer detail to
 2 explain exactly what processes (risk assessments,
 3 British Standard checks and tests, best practice
 4 inspections etc) should be implemented in order to fully
 5 meet the statutory and mandatory obligations in relation
 6 to the plant and equipment under KCTMO control across
 7 the estate. The following issues require attention:
 8 "There are only a handful of arrangements in the
 9 policy, many are missing e.g. pressure vessels, working
 10 at height, contractor management etc and many of the
 11 fire arrangements have been bunched together and by
 12 doing so lack the detail in relation to what the planned
 13 preventative maintenance process should look like e.g.
 14 all fire protection systems recorded together."
 15 Now, as you can see, Mr Hodgson makes the same point
 16 about lack of adequate detail regarding plant and
 17 equipment that Salvus had made in 2009. That's right,
 18 isn't it?
 19 A. Yes.
 20 Q. Yes, and certainly a lack of any detail about what
 21 planned preventative maintenance should look like; do
 22 you agree?
 23 A. Yes.
 24 Q. So when you read this, were you not surprised to see
 25 that the Salvus recommendations from 2009 had still not

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1 been implemented almost four years on?
 2 A. Yes.
 3 Q. Did you investigate the reasons for why that had
 4 happened or not happened?
 5 A. I spoke to Sacha Jevans who — this sat within her area,
 6 and it would have been under Mark Anderson, who was the
 7 asset manager at that time.
 8 Q. Well, you say you spoke to them; did you challenge them,
 9 did you say, "Now, look here, I want to know why this
 10 hasn't been sorted out in four years"?
 11 A. Yes.
 12 Q. You did?
 13 A. Yes.
 14 Q. And what did they tell you?
 15 A. They said, in a sense, that a lot of the contracts were
 16 having to be renewed or we had failing contractors, so
 17 it wasn't a positive message, which is why we got
 18 a limited assurance.
 19 Q. Was this exchange in writing at all or was it
 20 face-to-face?
 21 A. Face-to-face.
 22 Q. Right. Do you remember when that exchange took place?
 23 A. Probably when this came out. So, again, all these
 24 reports would go to board, so in a sense they're not
 25 staying and sitting with me, they'd be — they go

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1 through a formal process to the finance, audit and risk
 2 committee, part of the board, and this would go to the
 3 board as well.
 4 Q. Did it, do you remember? We'll come back to that then
 5 later.
 6 If you continue with this page of this document
 7 {TMO00873398/19} and look at the fifth paragraph down
 8 under the heading "Health and Safety Procedures", it
 9 says this:
 10 "The policy arrangements refer to 'the purpose of
 11 this procedure is to identify the action to be taken by
 12 the TMO following a report of a breakdown or
 13 malfunction'. This is a reactive approach to H&S when
 14 the real purpose of effective policy arrangements is to
 15 clearly define the planned preventative maintenance
 16 regime that should be followed to cover statutory and
 17 mandatory processes to keep the TMO stock operating
 18 effectively and safely i.e. about compliance and not
 19 breakdown."
 20 Do you agree that Mr Hodgson is making it clear here
 21 that the TMO have a reactive approach to maintenance?
 22 A. I wouldn't accept that wholly. We accepted the report.
 23 There were contracts in place within the contracts team
 24 to manage the stock. If it's reactive, then ... you
 25 see, the trouble is I think we had a mixture of

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1 contracts at different ages here as well. So it's hard,
 2 I just have to accept it.
 3 Q. Right. And you accept, no doubt, his recommendation or
 4 statement that the TMO needs to move to a system of
 5 compliance rather than breakdown by breakdown?
 6 A. Yeah.
 7 Q. Yes.
 8 Now, let's look at page 20 {TMO00873398/20}, his
 9 recommendations. Under item 4 on that page, in the box,
 10 you see that he says:
 11 "Carry out a full review of the property policy
 12 arrangements to ensure that there is a section for each
 13 property risk, and for each subject the following is
 14 covered;
 15 "Legislative requirements.
 16 "Statutory and mandatory requirements to fulfil the
 17 Planned Preventative Maintenance process to achieve
 18 fundamental compliance.
 19 "What records must be maintained and where."
 20 You see that?
 21 A. Yeah.
 22 Q. Now, was a full review of the property policy
 23 arrangements actually carried out?
 24 A. It would have been carried out in terms of the asset
 25 management team under Peter Maddison. Peter sort of in

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1 a sense had to — I think he just joined — I'm trying
 2 to remember the date.
 3 Q. January 2013.
 4 A. Yeah, so he'd only been in post a couple of months,
 5 I think. So he then put in train a series of actions to
 6 address this, by changing his team for one, so he
 7 brought in Alex Bosman, who then took on a key role in
 8 putting into place, certainly around the — making sure
 9 that all the records were in one place, because that was
 10 a big weakness of the audit, that a lot of the records,
 11 they were held in different places. So using Keystone,
 12 to develop Keystone fully for our contracts.
 13 Q. Yes. Were any new policies introduced?
 14 A. Sorry, I can't remember. I —
 15 Q. Do you know whether any existing policies were changed?
 16 A. I can't remember, (inaudible).
 17 Q. You can see his next recommendation, number 5:
 18 "Ensure only qualified individuals are involved in
 19 the creation, and updating of policy arrangements."
 20 Do you know whether that was done?
 21 A. I can't recall.
 22 Q. Do you know how the TMO would take any steps to ensure
 23 that only qualified individuals were involved in the
 24 creation or updating of policy arrangements?
 25 A. That — in a sense, Peter would have had to have

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1 reviewed his team and ensured that happened.
 2 Q. Do you know whether any new, qualified individuals
 3 became involved?
 4 A. I know Alex Bosman came in as a key person within his
 5 team to oversee changes.
 6 Q. Was that as a response to this recommendation?
 7 A. Yes.
 8 Q. Can we then look at a notice of deficiency issued by the
 9 LFB in respect of Grenfell Tower itself in March 2014 at
 10 {LFB00000068}.
 11 Now, the date is 24 March 2014, as you can see.
 12 It's addressed to the company secretary at the TMO.
 13 As a matter of chronology, I think you're bound to
 14 accept that this is within a few months of the final
 15 version of the Hodgson report in September 2013.
 16 A. Yeah.
 17 Q. If we go to page 3 {LFB00000068/3}, please, we can see
 18 the schedule, and look at Article 11(1) in the box in
 19 the schedule, please, it's the first item, and the area
 20 of concern is expressed to be as follows:
 21 "Failure in the effective monitoring of preventive
 22 and protective measures. For Example. A significant
 23 number (approx. 25%) of automatically opening vents
 24 within the common parts of the premises were found not
 25 to be in working order. No suitable system of

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1 monitoring was in evidence to identify deficiencies with
 2 the smoke ventilation system."
 3 Then "Steps Considered necessary to remedy the
 4 contravention":
 5 "Implement effective monitoring of preventive and
 6 protective measures."
 7 You see that?
 8 A. Yes.
 9 Q. So we can see from that that in March 2014, nearly
 10 a year after the Hodgson recommendations from July that
 11 year and then in final form in September 2013, there are
 12 still serious problems with the TMO's preventive
 13 maintenance, aren't there?
 14 A. There appears so, yes.
 15 Q. Why was that?
 16 A. I don't have the detail here. I mean, this would have
 17 been sitting with contracts, within the asset
 18 management, and in the sense their contractors should be
 19 addressing this.
 20 Q. Yes. I mean, you see, we've had a limited assurance
 21 result of an audit in April 2013, we've got the Hodgson
 22 review as a response to that —
 23 A. Yeah.
 24 Q. — which reports in July in draft and in final form in
 25 September 2013, and yet here we are in March 2014 with

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1 the LFB issuing you with a deficiency notice in respect
 2 of Grenfell Tower saying that there has been a failure
 3 in the effective monitoring of preventive and protective
 4 measures. How come?
 5 A. Well, obviously we've failed to implement the
 6 recommendations.
 7 Q. Did you look into that at the time?
 8 A. At this time?
 9 Q. Yes.
 10 A. I would have spoken to Janice and Sacha to find out what
 11 was happening.
 12 Q. And if you look at the next box down, "Area of Concern":
 13 "Failure to ensure that the premises and any
 14 facilities, equipment and devices are maintained in
 15 an efficient state, in effective working order and in
 16 good repair."
 17 Then there is a passage about emergency lighting
 18 luminaires, and then underneath that:
 19 "Approximately 25% AOV ventilation units within the
 20 common residential lobbies were not held in the closed
 21 position indicating the system has not been maintained
 22 in effective working condition."
 23 Recommendation:
 24 "Ensure that adequate maintenance systems are in
 25 place to ensure that the premises and any facilities,

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1 equipment and devices are maintained in an efficient
 2 state, in effective working order and in good repair."
 3 So you can see again that there were serious
 4 problems with the AOV and emergency lighting so far as
 5 maintenance regime was concerned; yes?
 6 A. Yes, I accept that.
 7 Q. Again, that would demonstrate, wouldn't it, that there
 8 had been a substantial or significant failure, even in
 9 March 2014, to carry into effect the recommendations of
 10 Salvus from 2009, and again from Hodgson in mid-2013?
 11 A. Yes.
 12 Q. Yes.
 13 There are others. Article 21, which is about
 14 employees receiving adequate training, at the bottom of
 15 that page, and then over on to the next page.
 16 I think you accept that the TMO had heard all this
 17 before at least twice; do you accept that had the TMO
 18 taken the advice it had been given in 2009 and again in
 19 2013, it would have prevented this notice of deficiency
 20 being served?
 21 A. Yes, if we'd done our job properly.
 22 Q. Yes.
 23 Do you accept that this notice of deficiency is
 24 serious because it's the LFB, as enforcing authority,
 25 telling the TMO, as responsible person, that the TMO's

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1 systems at Grenfell Tower put it in breach of its
 2 statutory obligations?
 3 A. Yes.
 4 Q. And that could result in a criminal prosecution of the
 5 TMO, couldn't it?
 6 A. Yes.
 7 Q. And, more importantly, have fatal consequences for the
 8 residents?
 9 A. Yes.
 10 Q. Do you accept that your role as chief executive officer
 11 was to make sure that TMO's management and maintenance
 12 procedures, first of all, were adequate; yes?
 13 A. Yes.
 14 Q. And, second, implemented effectively?
 15 A. Yes.
 16 Q. And do you accept that you failed to fulfil your role in
 17 those respects?
 18 A. In terms of my role, yes.
 19 Q. Yes.
 20 Let's turn to a different topic: vulnerable
 21 residents.
 22 Now, do you recall that the question of persons
 23 especially at risk was brought to your attention in
 24 June 2009, only about a month after you arrived?
 25 A. Yes.

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1 Q. Let's look at a document, {RBK00052528}.
 2 Now, this is an email chain from June 2009. I'd
 3 like to start with page 3 {RBK00052528/3}, please, with
 4 an email from Janice Wray to you on 17 June 2009, which
 5 you can see now fully on your screen, and to
 6 Liam Good — he may have been the Liam you were reaching
 7 for before —
 8 A. Ah, thank you.
 9 Q. — copied to Lornette Pemberton and Adrian Bowman, and
 10 she is advising you about an enforcement notice from the
 11 LFB. Do you see that?
 12 A. Yeah.
 13 Q. And she says:
 14 "This is to advise you that the Fire Brigade
 15 informed us this morning that they intend to serve an
 16 Enforcement Notice jointly on us & the Council. I'm not
 17 sure exactly how this will be worded but it will relate
 18 to our lack of progress with fire risk assessments in
 19 the communal areas of our blocks as required by the
 20 Regulatory Reform (Fire Safety) Order 2005. The
 21 background to this is as follow[sic] ..."
 22 And then you see paragraph 2:
 23 "Last year we were contacted by the local fire
 24 safety team who requested a copy of our fire risk
 25 assessment for Gillray House. We submitted this and

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1 then received a letter advising us that 'conditions
 2 [specified] in and required by the Regulatory Reform
 3 (Fire Safety) Order 2005 were being contravened'. The
 4 specific area of concern was noted as 'fire risk
 5 assessment not suitable and sufficient — procedures to
 6 be put in place in relation to occupants of the building
 7 with reduced mobility'. This opened up a protracted
 8 discussion with Brigade on a whole range of fire safety
 9 issues and I met with the Fire Safety Officers in order
 10 to try to clarify their requirements."
 11 Then she continues on topic.
 12 My first question is: do you recall this email?
 13 A. I — yes, I must have got it. Sorry.
 14 Q. Yes. You may not recall it specifically, but showing it
 15 to you now, does it refresh your recollection?
 16 A. Yes.
 17 Q. Do you accept that, looking at this document, you had
 18 been alerted to the need through the fire risk
 19 assessment process to put in place procedures relating
 20 to the occupants of TMO buildings who had reduced
 21 mobility?
 22 A. So ... this is — so again, I started in 2009, if you
 23 think this goes back to 2006. The key thing is that the
 24 Fire Brigade are challenging us about our fire risk
 25 assessments, I think that's one thing which I was just

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1 finding out when I joined.
 2 The issue of — Gillray House I think was
 3 a sheltered housing scheme, as far as I — maybe not.
 4 Q. I don't think it was, to be fair.
 5 A. All right. My apologies.
 6 (Pause)
 7 Can you repeat the question, sorry?
 8 Q. Yes. On this document, do you accept that you had been
 9 alerted to the need through the fire risk assessment
 10 process for the TMO to have procedures in place relating
 11 to the occupants of TMO buildings who had mobility
 12 issues?
 13 A. I think it's alerting us to there's an issue and
 14 I suppose how we deal with it.
 15 Q. Yes, alerting you to that issue?
 16 A. Yes.
 17 Q. Yes, can we then look at the bottom of page 1
 18 {RBK00052528/1} and the response from Claire Wise.
 19 This is an email that Claire Wise sends to
 20 Janice Wray on 18 June, which makes its way up to you
 21 a little bit later in the email string the same day,
 22 18 June 2009. I'll show you that, but let's just look
 23 at this one.
 24 Now, Claire Wise was an occupational therapist at
 25 RBKC, and if you look at the second paragraph of this

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1 email, which starts at the foot of page 1, at the top of
 2 page 2 {RBK00052528/2} she says in the first main
 3 paragraph:
 4 "Having said that, there may be duties under the
 5 Disability Discrimination Act which states that disabled
 6 people are not [to] be treated any less favourably than
 7 a person without a disability. That would therefore
 8 mean that, if an evacuation plan is in place that would
 9 not be suitable for a person with disabilities, then an
 10 alternative provision for disabled people needs to be in
 11 place. I would also argue that the Council should
 12 address this under duties in the Disability Equality
 13 Scheme."
 14 Then she also cites from other British Standards,
 15 and then in the last paragraph says:
 16 "This would appear to be an opportunity for
 17 collaborative working with the fire brigade to develop
 18 a model that can be applied across the remaining TMO
 19 buildings. I would like to stress that I am not an
 20 expert in this field. I would however have an interest
 21 in assisting with resolving this matter. Can I suggest
 22 that we meet to discuss the progress so far and consider
 23 a plan of action?"
 24 Now, would you accept that Ms Wise's clear advice
 25 here is that an evacuation plan needed to be suitable

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1 for a person with disabilities?
 2 A. That's her view, yes.
 3 Q. Yes. Well, did you disagree with that view?
 4 A. As I say, at 2009 the position was stay put and wait to
 5 be rescued by the Fire Brigade. She's raised this issue
 6 around — I think has been raised before about
 7 vulnerability and disabled, and the question I still
 8 think is within general needs, the position had and
 9 still was for quite a long time that basically you
 10 stay put in your home and be rescued by the
 11 Fire Brigade.
 12 Q. Now, what you have just told us, is that your generally
 13 held or permanently held principal view, namely that
 14 where stay put is in place for a building, you don't
 15 have to worry about disabled residents?
 16 A. I think that's where — so I know there's a few more
 17 emails.
 18 Q. There are. We're going to look at them.
 19 A. Yeah.
 20 Q. I just want to understand your answer, because —
 21 A. Mostly because I'm looking at the emails that go
 22 forward, because I reviewed this, so I've just been
 23 trying to remember 2009 and these conversations, so
 24 I apologise.
 25 Q. All right. Well, maybe I'll come back to my question

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1 I've just asked when I've shown you a bit more of the
 2 documentation, but let's not forget about it.
 3 A. No.
 4 Q. Let's go on, then.
 5 Factual question: was the offer of collaborative
 6 working taken up?
 7 A. I think we had — I can't remember. There was obviously
 8 correspondence when we went through things and I brought
 9 Janice Wray into it.
 10 Q. Yes, but can you remember whether Claire Wise's offer of
 11 collaborative working was taken up?
 12 A. I can't recall at the moment.
 13 Q. Right.
 14 Then let's look at the top of the chain
 15 {RBK00052528/1}, which does come to you, same day,
 16 18 June 2009 at 16.23:
 17 "Derek and Robert
 18 "Two updates:
 19 "My H&S Manager, Alexis Correa, has spoken with
 20 Building Control who have today confirmed that the Fire
 21 Risk Assessments are not robust enough and that
 22 a specialist should be engaged to carry out RAs on all
 23 the relevant blocks (at some cost). The Council will
 24 need to be satisfied that the specialist (consultants)
 25 carry out this work to a good enough standard. Alexis

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1 is in contact with Janice Wray and also he will be
2 drafting a note to Fire Service, advising that we will
3 take action to move forward quickly and progress what is
4 required."

5 Just pausing there and linking back with what you
6 said earlier on in your evidence, is that what triggered
7 the instruction of Salvus and the eventual production by
8 them --

9 A. Yes.

10 Q. -- of their report?

11 A. Yes.

12 Q. Yes.

13 Then she goes on:

14 "Secondly, below you will see an email note on
15 emergency egress for disabled people from flats in tall
16 buildings. The writer, Claire Wise, works for me but is
17 undertaking research for her MA on this issue and is
18 helping re-write the British Standard on dwellings as
19 the BS does not mention provisions for disabled people."

20 Now, you accept, I think, that Jean Daintith first
21 makes clear the need for a specialist consultant on this
22 subject, doesn't she?

23 A. In terms of fire risk assessment, yes.

24 Q. Yes, indeed, and somebody who will carry the work out to
25 a good enough standard.

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1 A. Yes.

2 Q. And she says RBKC has got internal resources, namely
3 Claire Wise. Do you agree that that would have been
4 an excellent resource for the TMO to use, essentially
5 a free resource?

6 A. Well, it depends, because the first bit's about the fire
7 risk assessments and that was through Savills.

8 Q. Salvus?

9 A. Salvus, sorry. So I can't remember, I'm sure there was
10 a conversation here where we got down -- which is
11 probably coming up, where we get down to PEEPs, which
12 I believe ...

13 Q. You think there was a conversation about using
14 Claire Wise's services?

15 A. I can't remember at this moment, sorry.

16 Q. Right. We don't see any documentary evidence to show
17 that the offer of collaborative working or use of
18 Claire Wise by the TMO was ever discussed further than
19 this or taken up.

20 A. I can't remember. If you haven't seen it, it probably
21 didn't happen.

22 Q. Right. Do you know why that might be?

23 A. I think there's ... so, again, I have to just look at
24 the date, June, so it's a month after I joined, where
25 I'm submerged in quite substantial issues that I took on

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1 when I took on the role as chief exec. So I had a huge
2 amount of issues to deal with. My board, as a tenant
3 management organisation, and the membership, because
4 actually that had fallen away. I was dealing with
5 people who were leaving, so I was having to recruit
6 either temporary or long-term people. So as chief exec,
7 I think my mind and focus wasn't here, and I would
8 probably have asked Janice to have a look at it to see
9 what we do.

10 Q. Do you remember whether you did?

11 A. I think I did.

12 Q. Right.

13 A. Because I think there's an email later where we talk
14 about it.

15 Q. Let's look on, then.

16 The next thing we need to look at is back to the
17 Salvus management report from 22 September 2009 at
18 {SAL00000013}.

19 We have looked now, I think probably twice, at
20 hazard 9.3 on page 11 {SAL00000013/11}, and the
21 criticism and the existing control measures. I've read
22 these to you before, I'm not going to read them again.
23 But it goes on to say in the italicised text on page 11:

24 "It does not appear that there is adequate liaison
25 with the Fire and Rescue Services in regard to

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1 pre-planning for potential fire scenarios or in agreeing
2 appropriate fire safety standards for adoption by TMO
3 from the findings of the fire risk assessments."

4 9.3, it goes on to say, against "Lack of/inadequate
5 procedure for disabled and/or vulnerable persons":

6 "Information as to the location of vulnerable
7 persons appears to be calculated by TMO."

8 And then in italics:

9 "It could not be confirmed if the information
10 relating to the location of vulnerable persons is up to
11 date.

12 "There does not appear to be any formal procedures
13 in place to deal effectively with fire safety issues
14 associated with disabled or vulnerable people."

15 You see that, so that's a criticism that's made.

16 If we go to the action required to reduce that risk,
17 it's at page 18 {SAL00000013/18}, against 9.3, and if we
18 look at that, it says:

19 "It is strongly recommended that TMO consider
20 development of formal procedures to deal effectively
21 with fire safety issues associated with disabled or
22 vulnerable tenants and leaseholders, and also any
23 employees. This should include a range of options from
24 relocation ..."

25 And I've read that to you I think before, as I say.

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1 Now, do you accept it was clear from this that
 2 Salvus' opinion was that the TMO was in breach of the
 3 RRO for that failure?
 4 A. In their view, yes.
 5 Q. Well, what about your view? You didn't think it was in
 6 breach?
 7 A. What I'm trying to remember is in terms of general
 8 needs, in terms of actually managing 10,000 homes with
 9 a range of people in it who's — most of the time you
 10 don't have much information, as how you would actually
 11 take this forward. I think there was a huge debate in
 12 the sector at the — over these issues in terms of
 13 actually can you create that infrastructure to do that
 14 when a lot of times you don't have the information? And
 15 I think that's probably where I was struggling with
 16 this, in terms of actually how do you get the
 17 information.
 18 Q. Let's just take this in stages.
 19 As you told us, the LFB — this is at the time of
 20 your arrival or before — were unhappy with the fire
 21 risk assessments being produced by the TMO.
 22 A. Yeah.
 23 Q. The result of which was the instruction of Salvus.
 24 A. Yeah, so Salvus came in —
 25 Q. They come in. Salvus' opinion, as we can see here, is

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1 that the TMO were in breach of the RRO at least in
 2 respect of the failure to develop formal procedures to
 3 deal with fire safety issues affecting vulnerable
 4 residents. That was their view. You could see that.
 5 A. Yes.
 6 Q. Yes. Did you not think at the time that it was
 7 important to ensure that that breach that they were
 8 identifying would be cured?
 9 A. Again, I think there was a process I went through here
 10 in terms of actually how do we do this in terms of —
 11 because, again, my experience in managing general needs
 12 is overall this wasn't done. You collected information,
 13 but actually you didn't have an active spreadsheet or
 14 a computer program that showed the position of every
 15 tenant in general needs because you didn't know. And
 16 how would you find that? And it's almost in a sense
 17 of — the process is self-referral.
 18 So, again, if someone referred us — so people would
 19 refer themselves to us, or we would have social services
 20 referring stuff to us, or a housing officer might
 21 notice, and we had a substantial aids and adaptation
 22 budget which we then focus on, so once someone is
 23 identified as needing that, they would have a visit,
 24 probably, and if it's through social services,
 25 an assessment of their property would be done, and the

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1 TMO then would be giving a range of options for that
 2 tenant — not for leaseholders, I don't think — to
 3 actually have adaptations made to their home to allow them
 4 to stay there.
 5 If — and I didn't see that very often — it was
 6 that they couldn't stay there because of their health,
 7 then you would have to look, as I said there, to
 8 resettle someone either to sheltered housing, if that
 9 was more appropriate, or registered care.
 10 That was the sort of process that was in place about
 11 how the TMO would actually deal with people with
 12 vulnerability and disability. It wasn't ... I was going
 13 to say not a proactive position in terms of trying to
 14 find it, although we did collect information. We tried
 15 to put it on the system so that actually if someone had
 16 issues, the contractors or staff would know and be able
 17 to go there.
 18 Q. You can see that under 9.3 the recommendation, strong
 19 recommendation, is to develop or consider development of
 20 formal procedures to deal effectively with fire safety
 21 issues associated with the disabled or vulnerable
 22 tenants and leaseholders.
 23 A. So —
 24 Q. There is a question.
 25 A. Sorry.

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1 Q. Did the TMO consider development of such procedures?
 2 A. I think they considered the development of an aids and
 3 adaptation policy which we worked out with the council
 4 to try and support people in their homes as long as they
 5 could, which was sort of standard in general needs
 6 property across the sector. We were quite lucky because
 7 we had more of a budget on aids and adaptations than I'd
 8 had before, so it meant we could actually do it, and
 9 those were recorded on the system, so we knew about
 10 that, and if people needed further help, we'd refer
 11 them — signpost them to RBKC, because it may be some
 12 people need more social services or social care support,
 13 which we wouldn't be able to do.
 14 Q. Yes, I understand, but an aids and adaptation policy to
 15 support residents in their homes who needed it is one
 16 thing, but did that policy include formal procedures to
 17 deal with what would happen to those residents in the
 18 event of a fire either in their flat or in the building?
 19 A. I don't think so, no.
 20 Q. No. Why not?
 21 A. Because I think again the general perception in general
 22 needs — if you're in general needs, you stay put, or if
 23 you have a fire in your flat, you should be able to get
 24 out and shut the door and contain the fire.
 25 Q. How would you get out if you were disabled, Mr Black?

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1 A. Well, I suppose it depends on your disability and what
2 aids and adaptations there are.
3 Q. Well, are you saying that where a person was disabled,
4 there was a policy in place to cater for what that
5 person should do in the event of having to leave their
6 flat if there was a fire there?
7 A. What I'm saying is if we were notified that a person was
8 having difficulty living in their home, and we were
9 referred those individuals either by themselves, their
10 family or social services, we would then look at their
11 flat with social services to see what we could do to
12 maintain them in their home.
13 Q. Maintaining someone in their home is one thing.
14 Developing a plan for assisting them to evacuate their
15 home in the event of a fire in their home is another,
16 isn't it?
17 A. Yeah, and what I'd say is we probably didn't have that
18 in place.
19 Q. Thank you.
20 Let's look at {TMO10031078}.
21 This is the main TMO health and safety policy, which
22 we looked at before, dated July 2010, and we've seen
23 before that it bears your name and date.
24 A. Yeah.
25 Q. If we look at your responsibility on page 2

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1 {TMO10031078/2}, in the third paragraph, "Chief
2 executive":
3 "The Chief Executive is the person who is ultimately
4 responsible for the TMO's health and safety work
5 activities and business. He is responsible for the
6 implementation and review of all company arrangements
7 for health and safety."
8 You see that?
9 A. Yeah.
10 Q. And the chief executive was obviously you at this time
11 and thereafter; yes?
12 A. Yes.
13 Q. Then below that, under "Executive team", there are five
14 bullet points there, and you can see there what they
15 are, for example ensuring that a senior manager
16 continues to chair the health and safety committee.
17 Do you accept that you were responsible for ensuring
18 that the executive team did each of these five things?
19 A. Yes.
20 Q. Yes.
21 A. And themselves as responsible individuals who worked
22 within the company.
23 Q. What do you mean by that?
24 A. So it's my responsibility. This is saying if you're
25 doing this role, this is your responsibility as it

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1 cascades down. Health and safety, while sitting with
2 the chief exec, ultimately this is saying it sits with
3 everybody, in the sense of if you're out on estate and
4 you see something blocking a passageway, you should do
5 something about it. If you see something that causes
6 a danger, you have to do something about it
7 individually. You don't call the chief exec and say,
8 "This is there". So, in a sense, this is saying for my
9 managers, "You need to take responsibility".
10 Q. Yes. It's a pyramid, isn't it? You're at the top, the
11 executive team is next down, and below that they have
12 people answerable to them. That's how delegated
13 management works. All I'm suggesting to you is that at
14 the top of the pyramid, you were the top, and the
15 executive team was immediately below you.
16 A. Yeah.
17 Q. Yes.
18 Can we go to page 6 {TMO10031078/6}, please, third
19 paragraph under "Fire safety & emergency procedures",
20 because we're on the topic of disability, and in the
21 last paragraph in that section you see it says this:
22 "Employees with disabilities have their own
23 individual personal evacuation plan which is regularly
24 reviewed and where necessary their colleagues are
25 trained in the safe use of the evacuation chair."

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1 Now, as you can see, there is no mention there of
2 any fire safety procedures for disabled or vulnerable
3 tenants or leaseholders, is there?
4 A. No.
5 Q. Even though that had been advised as necessary by Salvus
6 in September 2009.
7 A. I think they said — yes, I accept that. I think when
8 I look at this, this is talking about as an employer,
9 not just a landlord, which offices are slightly
10 different from people's homes, so you have different
11 situations. So my responsibility to my staff, running
12 an office, I have to comply with — it might not be
13 different, but it's a different sort of situation where
14 you have different resources, different situations
15 compared to a general needs flat, which people live in
16 and — they live there, they're not ...
17 Q. Yes. I mean, this document — correct me if I'm
18 wrong — is not solely directed at employees.
19 A. No.
20 Q. It also covers residents.
21 A. I agree.
22 Q. Yes. So are you able to explain why, despite Salvus'
23 advice and recommendations in September 2009, there is
24 no mention of any fire safety procedure for disabled or
25 vulnerable tenants or leaseholders in this document?

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1 A. Because I think — the same position as I've said
 2 before, that the TMO's policy was stay put, stay safe
 3 and be rescued by the Fire Brigade.
 4 Q. Even though, in fact, where you did have disabled
 5 residents and an aids and adaptation policy, that policy
 6 didn't cater for what should happen in the event of
 7 a fire in that person's flat?
 8 A. I think the policy in that flat — in that particular
 9 flat, sorry, rather than outside?
 10 Q. Yes, where stay put wouldn't apply.
 11 A. Well, then the strategy is get out and shut the door.
 12 Q. How does a disabled person do that?
 13 A. Again, like I said, it depends what their disability —
 14 a person with a stick —
 15 Q. Does that mean that you would actually have to do some
 16 kind of review, active, proactive or responsive, to make
 17 sure that where you knew about people with mobility
 18 difficulties or any other vulnerability, you had to make
 19 sure that at least you had some kind of plan so that
 20 they could evacuate their own flat in the event of
 21 a fire?
 22 A. I think generally in the sector, within general needs,
 23 it was still: you stay put, stay safe and be rescued,
 24 and ... sorry, that's —
 25 Q. You see, I'm struggling with the logic, Mr Black,

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1 forgive me.
 2 A. I accept that.
 3 Q. You can stay put and stay safe if there's a fire
 4 somewhere else in the block; yes?
 5 A. Yeah.
 6 Q. You can't stay put and stay safe if there is a fire in
 7 your flat, can you?
 8 A. So, again, if we didn't know that person — so if we
 9 didn't know that person had such a disability they
 10 couldn't get out, we wouldn't know that.
 11 Q. That's the problem, isn't it?
 12 A. Yeah.
 13 Q. So —
 14 A. So unless someone — so, again, I think the principle
 15 was still that if we're told and we can do things —
 16 right. So if someone — I'm trying to think of
 17 an example. We had a fire at a property, it was
 18 a leasehold one, where the person was not able to move,
 19 but she had a day — she had a carer, sleep—in carer.
 20 In that case, even with the carer, they had difficulty
 21 getting out. And it's one of those things. Again,
 22 I would say in that case it's a real challenge about
 23 whether that person should have been in general needs,
 24 because there should be some exception that they can get
 25 themselves out.

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1 Q. Are you making the point that general needs housing
 2 should have no vulnerable or disabled people —
 3 A. No, not at all, that's —
 4 Q. No, I didn't think you were.
 5 A. But there's a range of vulnerability and disability as
 6 well, and what I'm saying is overwhelmingly in the
 7 sector the position was: stay put, stay safe. Unless
 8 it's in a scheme which is designed to have that level of
 9 support to be able to support those individuals —
 10 because, again, if it happens during the day, that might
 11 be different, because you might have the staff on the
 12 ground. If it happens in the evening, there is no staff
 13 there to actually implement the plan.
 14 Q. Either way, I think you accept that this document, at
 15 the very least, contains no indication of how the TMO
 16 would manage fire risk in respect of disabled or
 17 vulnerable residents or relevant persons, their
 18 visitors, for example?
 19 A. Yes.
 20 Q. Yes.
 21 Now, can we look at another document. This is the
 22 November 2013 fire safety strategy authored by Ms Wray,
 23 {TMO00830598/14}.
 24 We can see reference to PEEPs at paragraph 24, and
 25 under paragraph 24.1 it says:

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1 "Staff who are not fully able-bodied and who may
 2 need assistance to be alerted to the fire alarm ... are
 3 required to have a Personal Emergency Evacuation Plan
 4 (PEEP)."
 5 And it goes on.
 6 But, again, you can see that there is no mention
 7 there of any disabled or vulnerable resident, is there?
 8 A. No, because I think this is specifically aimed at staff
 9 who are in my offices, usually during 9 to 5 when
 10 there's other staff about to be able to provide the
 11 support to evacuate that person. Again, the offices
 12 weren't open late in the evening. If a person like that
 13 had been in the office with no other staff, then you
 14 wouldn't have been able to do that action.
 15 So this is very much about a work environment, which
 16 we also have responsibility for, and not about actually
 17 in a home environment.
 18 Q. But you agree, I think, that this fire safety strategy
 19 covers residents, doesn't it, as we've seen already from
 20 section 1.1 on page 1?
 21 A. Apart from it says "Staff who are not able-bodied", it
 22 doesn't say "Staff and residents who are not
 23 able-bodied".
 24 Q. No, indeed, it doesn't. My point is that the fire
 25 safety strategy which Ms Wray authored in November 2013

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1 it directed both at staff and residents, isn't it?

2 A. Yeah, and I think if it said, "Staff and residents who

3 are not fully able", then that would be fair. It says

4 staff specifically, and the paragraph explains a work

5 environment where staff are working in an office.

6 Q. Yes, I think we're agreeing with each other vigorously,

7 Mr Black. You accept that there's no mention in this

8 document of any policy or plan or procedure for dealing

9 with disabled or vulnerable residents?

10 A. Yes.

11 Q. Yes. And that was, do you accept, contrary to Salvus'

12 advice in September 2009?

13 A. Yes, it's advice, and I think again advice within

14 a sector where that is not normal policy and procedure

15 to have that at that time.

16 Q. Well, let me ask you —

17 A. And again — sorry.

18 Q. Yes.

19 A. So in the sense of self-referral, you know, if people

20 come forward in the sense of that — sorry. I've

21 finished my mumble, apologies.

22 Q. Yes, we can talk about gathering data as a separate

23 question. I'm really just interested in why there is no

24 policy.

25 You say it's only advice, and advice in a sector

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1 where that is not normal policy at the time. Was there

2 any conscious decision taken by the TMO not to carry

3 into effect Salvus' September 2009 advice about having

4 specific policies in place to deal with vulnerable

5 residents?

6 A. I think, looking at it, it's — we probably looked at it

7 and then haven't developed that advice to take it into

8 general needs.

9 Q. I'm sorry, forgive me, I'm not sure I understand your

10 answer.

11 Do you remember whether a positive decision was

12 taken not to follow the Salvus advice about vulnerable

13 residents?

14 A. I can't remember, but I think we probably did.

15 Q. Right.

16 A. So yes.

17 Q. So do we take it, then, on your evidence, that the

18 absence of any reference in this document to PEEPs for

19 vulnerable residents was as a result of a conscious

20 decision by the TMO?

21 A. I think PEEPs comes up in another document in terms of

22 health and safety, and I think because we had sheltered

23 housing, we might have had some PEEPs there. So I think

24 depending on the environment the resident was living in,

25 our action would be different.

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1 Q. I just wonder whether I might get an answer to my

2 question.

3 A. Sorry.

4 Q. Is it your evidence that the absence of any reference in

5 this document to PEEPs, personal emergency evacuation

6 plans, was as a result of a conscious decision by the

7 TMO?

8 A. I would say yes.

9 Q. You would say yes, thank you.

10 Now, we've also got the communications with the

11 board on this subject, which I'd like now to examine

12 with you.

13 Can we pick this up at {TMO10037442}.

14 This is part of the health and safety annual report

15 for 2009/10, and page 1 is agenda item 2 for the TMO

16 board on 22 July 2010.

17 If we go to page 38 {TMO10037442/38}, we can see the

18 health and safety annual report for 2009/10.

19 If we skip briefly to pages 52 to 53

20 {TMO10037442/52–53}, at the very bottom of 52, over to

21 53, we can see at 52 it's Janice Wray who has signed it,

22 and over to the top of 53, just to finish that, you can

23 see she has done so as TMO health and safety adviser.

24 If we go back to page 38 {TMO10037442/38}, we can

25 see the start of this report. This is July 2010, and

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1 it's at the same time as the health and safety policy we

2 looked at earlier.

3 We can see at page 38 the introduction, and under

4 section 2, "Health & safety relationship between TMO &

5 RBKC".

6 If we move to page 50 {TMO10037442/50}, we pick up

7 the point about fire safety here, and if you look at the

8 title, "Ongoing health & safety risks faced by the TMO",

9 17.2.1, there are three bullet points on that page.

10 Let's look at the second one, "Fire safety", and it

11 says this:

12 "Fire safety — despite the measures (outlined at 7.

13 above) that we are taking to improve the fire safety of

14 people and property, this will continue to be an area of

15 potential risk for the TMO. It is essential that we

16 continue to give priority to the communal fire risk

17 assessments and specifically to progressing the high

18 priority recommendations as a matter of urgency.

19 Additionally, however, it is important that we maintain

20 a high level of inspections etc. to maintain our blocks

21 as hazard-free as possible, that we review our smoke

22 alarm policy to ensure that we maximise the installation

23 of these units across the stock and that we continue to

24 publicise fire procedures and identify residents with

25 special needs and work with them to establish a specific

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1 Personal Emergency Evacuation Plan (PEEP) to ensure
2 their safety is protected."
3 Now, the position there is being made clear to the
4 board, isn't it, namely that the TMO is actively engaged
5 in a process of identifying residents with special needs
6 for the purposes of providing them with a PEEP; yes?
7 A. Yes, I mean — yes.
8 Q. Yes. Does that not suggest or did that not suggest to
9 the board, the conscientious board member perhaps
10 reading this report, that the TMO was active as opposed
11 to reactive?
12 A. I think we were active in trying to collect information
13 to give us a better picture of our residents, and if we
14 came across someone who required this — because I think
15 it's still that if we came across someone that required
16 a PEEP, if it was beyond what — then we would do that.
17 But, again, we just have to look at it in the context of
18 how you could carry it out.
19 Q. Right. It says "and identify residents", it doesn't say
20 "depend upon residents to identify themselves", does it?
21 A. Yeah, I mean — yeah, but the reality — okay, yes.
22 Q. I mean —
23 A. Yes.
24 Q. — you say the reality is as you described it earlier?
25 A. Yeah.

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1 Q. At this point, July 2010, are we to take it, because of
2 what Janice Wray is telling the board here, that the
3 decision not to develop PEEPs for vulnerable residents
4 in the TMO stock had not yet been taken?
5 A. Sorry, can you repeat that? Sorry.
6 Q. Yes. Are we to take it that at this point, July 2010,
7 because we see here what Janice Wray is telling the
8 board about the development of PEEPs for residents with
9 special needs, the decision had not yet been taken not
10 to develop a strategy or plan for such residents?
11 A. Reading that, yes.
12 Q. Yes. So the decision was taken, was it, sometime
13 between July 2010 and November 2013?
14 A. Yes, because I think —
15 Q. Yes.
16 A. I think the context for this is at the time there was
17 quite a lot of discussion in the sector around how does
18 general needs manage vulnerable people in its stock,
19 because we've already heard about the different
20 legislation around this, and I think the LGA was doing
21 a big piece of work round this, which sort of when it —
22 which we contributed, not me but the policy groups
23 within the sector, and what came out really was that
24 PEEPs really don't work in general needs, in a sense,
25 and then that was adopted by most people across the

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1 sector. And it listed all the reasons why: because of
2 the lack of staffing, nobody there during the evening,
3 trying to make it sort of work during that context where
4 you've got no staff on duty.
5 Q. Now, we can continue on in the story with this.
6 If we go, please, to an email chain from
7 September 2010, {RBK00026862/2}.
8 A. Yes, I've seen that, thanks.
9 Q. Yes, and this is from Jean Daintith to you:
10 "Brian and Robert,
11 "Claire Wise works for my Business Group. The
12 attached article was published in the journal of the
13 Fire Protection Association and outlines her research
14 into provision within existing fire safety and housing
15 legislation to meet the needs of people living in flats
16 in tall buildings. The research was part of Claire's
17 MSc in Accessibility and Design for which was [sic]
18 awarded a distinction. I thought you'd both find it
19 interesting and might want to share it too. I thought
20 Robert could perhaps respond to me regarding where we
21 might learn from Claire's findings."
22 It looks as if Jean Daintith wanted an answer from
23 you, didn't she?
24 A. Yes, and I think I responded.
25 Q. And you did, and we can go up.

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1 Before we do, do you remember reading the article by
2 Claire Wise?
3 A. I — yes, probably.
4 Q. Yes?
5 A. Yes, rather than probably, sorry.
6 Q. You do. Just for our reference purposes it's
7 {RBK00030073}.
8 Did you think it was relevant, particularly in light
9 of Salvus' recommendations and the inadequacy of the
10 TMO's procedures as picked up in its report?
11 A. I think I read it and I thought: how does it fit within
12 the context of general needs housing in London and how
13 to make it work?
14 Q. So you had your doubts?
15 A. Yeah, I —
16 Q. Let's look at your response.
17 We see your response on page 1 {RBK00026862/1},
18 Robert Black to Jean Daintith and Brian Deans,
19 30 September, "Jean and Brian", you have put. I think
20 that's Brian.
21 "Thank you for sending me the attached article
22 outlining the potential conflict for disabled people
23 between fire safety and high rise living.
24 "I feel it is worth reiterating that as we have now
25 completed the fire risk assessments on all of our

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1 potentially high risk — which includes all of our
2 high-rise — blocks and in each case the evacuation
3 strategy has been confirmed as being 'stay put — defend
4 in place'. Specifically, the assessments have confirmed
5 that because these blocks consist of purpose-built,
6 self-contained dwellings and the compartmentation is
7 good, if a fire were to break out elsewhere in the block
8 the residents would be safe to stay put. Obviously if
9 the fire was within their flat they should evacuate
10 immediately.

11 "However, with regard to emergency procedures for
12 disabled residents we are aiming to produce Personal
13 Emergency Evacuation Plans (PEEPs). Specifically, as
14 and when people's disabilities are brought to our
15 attention there is a need to produce a PEEP to clearly
16 identify what their emergency procedures would be and if
17 necessary to fit devices to help give them early warning
18 of fire.

19 "In truth to date we have only done this in a small
20 number of cases — most notably where residents had no
21 hearing and impaired speech and/or were blind — and we
22 liaised with the LFB to fit the most appropriate
23 detector. However, the fire risk assessments have
24 clearly identified the need for us to extend this work
25 in relation to residents known by us to have

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1 disabilities.

2 "The FRAs themselves have sometimes identified
3 individual residents who we should target and the
4 TP Tracker and 'Big Wow' work will clearly identify
5 others. We were planning to work with the new FRA
6 consultant to produce generic PEEP's for larger blocks
7 that could then be personalised to individuals' needs.

8 "I hope this is helpful in addressing the issues
9 raised in the article.

10 "Robert."

11 Now, what you say there, basically, is that
12 high-rise blocks have a stay-put strategy; yes?

13 A. Yes.

14 Q. But if a fire is within a flat, then the occupant should
15 evacuate; yes?

16 A. Yes.

17 Q. But your aim, I think — is this right? — for disabled
18 people, vulnerable people, was to introduce PEEP's?

19 A. I think at that time I, being new to the job, hearing —
20 I mean, again, I suppose there's an aspirational aspect
21 to me that would quite like to have done this or
22 responding positively to it. I think what — so that's
23 my — yeah, before I ramble on.

24 Q. Yes, but you would only do that as and when people's
25 disabilities were brought to your attention?

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1 A. Yes.

2 Q. In other words, reactively?

3 A. Yes.

4 Q. Yes.

5 And the PEEP's — is this right? — would be — this
6 was the idea — individually tailored to advise them and
7 assess any additional measures?

8 A. I think in principle that's what you try to do.

9 Q. But the TMO was recognising the need, I think, to
10 broaden this initiative through the fire risk
11 assessments to extend PEEP's to all residents with
12 disabilities.

13 A. That was my aspirational ...

14 Q. You say it was an aspiration at that time. So this is
15 September 2010.

16 You refer there to the TP tracker, as I've just
17 shown you in that last paragraph.

18 A. Yeah.

19 Q. Did you know what that was?

20 A. Yeah, it's tenant profile tracking. We had a — there
21 was a company, if I remember rightly, gave us a trial
22 period with it. But in a sense it didn't — the trouble
23 we had is it had to sit on our system, and I think over
24 the time we used it, it didn't really work. I don't
25 remember the details, apologies.

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1 I can't remember what "Big Wow" was, I must accept.

2 Q. Was it used by the TMO?

3 A. There was a trial and then it didn't work, so we stopped
4 doing it.

5 Q. Right. That was I think in 2013, wasn't it?

6 A. Yeah.

7 Q. Do you remember that? Do you remember the licence for
8 the TP tracker was not renewed in July 2013?

9 A. I do now you've told me.

10 Q. Right. But does that ring a bell with you?

11 A. No. But it — yes.

12 Q. I see.

13 What was the "Big Wow"?

14 A. I don't know, to be honest.

15 Q. You wrote it, so I thought you —

16 A. I know. The trouble with — sorry, apologies. The
17 trouble with writing anything — I don't know. I tried
18 to look it up the other day but I didn't get anything.

19 Q. No one seems to know what that was.

20 A. No. I probably lost myself somewhere.

21 Q. Right.

22 Now, what you say in your email here of

23 30 September 2010 is not what is stated in the TMO
24 health and safety policy of July 2010, only a few months
25 before, which bore your name. Why is that?

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1 A. Sorry, can you —
 2 Q. Yes. Can you account for the fact that your, as you
 3 call it, aspiration to have PEEPs for all of the
 4 residents in general needs housing was not reflected in
 5 the general health and safety policy that you signed in
 6 July 2010?
 7 A. Because I think this was an — partly this was
 8 an emerging thing that was being brought to my notice by
 9 the executive director at RBKC. So, in a sense, having
 10 said this, I was settling into my role and hoping maybe
 11 you could do this and it didn't happen.
 12 Q. This email doesn't set out how people were to make
 13 themselves known to TMO in order to obtain a PEEP, does
 14 it?
 15 A. Well, I mean, usually how people make themselves known
 16 to us is either phone us up, send us an email, pop into
 17 one of our offices, because actually as a TMO we
 18 developed three offices — well, eventually three
 19 offices, but they were open during office hours, they
 20 were accommodating, so — they were based on estates, so
 21 in terms of easy access, you didn't have to send
 22 an email. So there were many ways that residents could
 23 let us know if they wanted or had issues or concerns
 24 that we could address.
 25 Q. It's ad hoc, isn't it? It's not really a strategy or

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1 policy or procedure or protocol which would be of
 2 general application?
 3 A. I suppose the difficulty we've got — so this is
 4 a period where I'm trying and thinking we do something
 5 new. What you'll probably show me later is that we
 6 didn't do it, and the reality, we then adopted the
 7 ALG(sic) guidance, which basically says PEEPs don't work
 8 unless it's a special situation.
 9 And I think we're still struggling with PEEPs today.
 10 I don't think it's seen as — it would be great to do.
 11 There's current consultation with the Home Office on
 12 PEEPs, I don't know if the panel know, and I still know
 13 policy people in the business —
 14 Q. Forgive me, Mr Black, I fear we're getting into —
 15 A. I know, but I think I was trying to just express to you
 16 the issues of trying to actually take this forward
 17 become more and more difficult the more you're in
 18 general needs, and I can recognise the whole issues
 19 about vulnerability and how people get out, but there is
 20 just evidence and evidence and evidence that in general,
 21 it doesn't work for all of general needs. There may be
 22 specific cases — and the point I was trying to link,
 23 which might not be relevant but I just think from my
 24 personal point of view, having gone through this, is the
 25 Government is still struggling to move it from

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1 a reactive service to a proactive service. So it's not
 2 just the TMO.
 3 So I know people might say it should be proactive,
 4 but in reality they have changed their position from
 5 proactive to reactive again because of pressure from the
 6 industry, the private sector, the social housing and
 7 local authority, because they struggle with how you can
 8 do this with the resources they have, and I don't even
 9 mean our — but in terms of even private companies, how
 10 do they do it? Leaseholders, you know, all the private
 11 companies, they've all fought back at the Government
 12 that it's really difficult to do and actually changes
 13 the whole nature, probably, of general needs housing.
 14 That's the only reason I wanted to link it in,
 15 because obviously I struggled with it at this time and
 16 the sector is still struggling with it now.
 17 Q. Had you seen any PEEPs at that stage, late September —
 18 A. No, but I'd seen them before in my previous role, when
 19 I managed a support and care company with Circle 33 and
 20 Circle Anglia, because we had them specifically there
 21 for the customer base that we had.
 22 Q. Do you know whether any had in fact been carried out by
 23 the TMO as at the end of September 2010?
 24 A. I was only — in terms of the ones I was told was
 25 Janice, because she would know where they were, so in

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1 terms — I took her guidance on that.
 2 Q. Now, let's look on at what the board was told in the
 3 next health and safety annual report for the following
 4 year, 2010/2011, {TMO00854890/15}, item 2,
 5 "Fire Safety".
 6 Under item 2, "Fire Safety" — this is part of the
 7 objectives for that year — you can see in the third
 8 line it says:
 9 "It is essential that we continue to give priority
 10 to the communal fire risk assessments, that we complete
 11 the low-risk FRA programme in the next reporting period
 12 and continue to progress the high priority
 13 recommendations as a matter of urgency. Specifically,
 14 we aim to progress the flat entrance door replacement
 15 within available budgets and to seek further resources
 16 should these be necessary."
 17 Then towards the bottom of the paragraph, you say:
 18 "... we continue to publicise fire procedures (on
 19 the website, in the Residents Handbook, articles in
 20 The Link etc) and identify residents with special needs
 21 and work with them to establish a specific Personal
 22 Emergency Evacuation Plan (PEEP) where necessary to
 23 ensure their safety is protected."
 24 So that was part of the report that year to the
 25 board.

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1 So it looks as if nothing changed the following
 2 year, did it? It was still, you might call it,
 3 an aspiration. It was still an objective.
 4 A. I don't think we gave up that if we found someone that
 5 required it, if they came to us, we'd do it. There
 6 wasn't a general, "No, go away". I think individually
 7 we would have to look at each individual to see what we
 8 could do, and actually my team, if they found people in
 9 the circumstances, would actually look at a range of
 10 means with them. It may be again, as I've said, that we
 11 would refer them to RBKC in terms of their sort of
 12 social need, or it may be in the end that we would
 13 actually encourage them, if we had a place, to move them
 14 somewhere more appropriate for their needs.

15 So I think it was still there, because we still
 16 might find people who had — or came to us, but then
 17 you'd have to look at how you would do it.

18 Q. If you go to the bottom of page 14 {TMO00854890/14}, you
 19 can see that what I have just read to you was part of
 20 this report which covered health and safety objectives
 21 for 2011/12.

22 So I ask again, just with that in mind: it's right,
 23 isn't it, that the production of specific PEEPs for
 24 those residents who were identified — and leave aside
 25 how they were identified — remained part of the

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1 projected policy for that year, 2011/12?

2 A. Yeah.

3 Q. Yes.

4 Then if we look at the corresponding report for the
 5 next year, 2012/13, that's at {TMO00879747} — and,
 6 Mr Chairman, perhaps I'll just cover this one off before
 7 the break — if we can look at that, please, and look at
 8 page 18 {TMO00879747/18}, item 18, "Health & safety
 9 objectives for 12/13". You see that?

10 If you look at subparagraph 2 towards the foot of
 11 your screen, "Fire Safety", that's the topic there, and
 12 if you go to the following page, page 19
 13 {TMO00879747/19}, towards the end of that paragraph, you
 14 will see it says, about ten lines up from the bottom:

15 "Finally, it is important that we continue to
 16 provide residents with fire safety
 17 information/advice/guidance, publicise fire procedures
 18 (on the website, in the Residents Handbook, articles in
 19 The Link etc) and identify residents with special needs
 20 and where necessary work with them to draft a specific
 21 Personal Emergency Evacuation Plan (PEEP) to ensure
 22 their safety is protected."

23 So, again, it looks as if for that year projected,
 24 2012/13 —

25 A. So, again, within our stock we had sheltered housing, we

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1 had — we managed the scheme that was a higher care,
 2 managed by another — I think it was Octavia. We had
 3 a support service for people that Hash Chamchoun ran.
 4 So we had to have it there because, if those people
 5 required it, it's there.

6 Q. Yes.

7 A. And, again, like I say, if a general needs — outside
 8 those services, if a general needs person came and said
 9 or their family said there was issues, we'd look at it
 10 on an individual base.

11 When I first read this, because I hadn't seen this
 12 for ages, I think it was fine to be there because,
 13 aspirationally, we would still as a company try
 14 everything as possible to support people, but we didn't
 15 have a policy of going out because we just weren't able
 16 to do that.

17 Q. Well, do you accept that this — you call it
 18 an aspiration, but this plan, we've now seen in three
 19 successive health and safety annual reports —

20 A. And I think it's a — sorry.

21 Q. — projected to the next year the proposal to have those
 22 residents who are identified as special needs to be
 23 given a specific personal emergency evacuation plan?

24 A. Yes.

25 Q. Yes.

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1 If you look also at the end of this paragraph, it
 2 says:

3 "Additionally, it is proposed that this area of work
 4 will be subject to an audit in the coming business
 5 year."

6 Do you know why that sentence was added?

7 A. I — not at this moment, no.

8 Q. Do we take it from the decision to add that to this
 9 report to the board that not only was there going to be
 10 for the following year the policy pursued of drafting
 11 specific PEEPs for specific residents, but that that
 12 process would be subject to an audit?

13 A. I can read it, but I'm afraid I can't remember
 14 specifically why that would be added.

15 MR MILLETT: Mr Chairman, there are two or three more
 16 I think in this line, but I'm happy to take the break
 17 now.

18 SIR MARTIN MOORE-BICK: Yes. Well, I think probably
 19 Mr Black and indeed all of us would benefit from a short
 20 break.

21 Mr Black, we'll have a break now. We'll come back,
 22 please, at 3.35. And again, I must ask you not to talk
 23 to anyone about your evidence while you're out of the
 24 room.

25 THE WITNESS: Absolutely. Thank you.

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1 SIR MARTIN MOORE-BICK: Thank you.
 2 (Pause)
 3 Right, 3.35, then, please. Thank you.
 4 (3.18 pm)
 5 (A short break)
 6 (3.35 pm)
 7 SIR MARTIN MOORE-BICK: All right, Mr Black?
 8 THE WITNESS: Thank you.
 9 SIR MARTIN MOORE-BICK: Good, thank you.
 10 Yes, Mr Millett.
 11 MR MILLETT: Can we then look, please, at the next report
 12 for the next year at {TMO10031069/13}. This is the
 13 annual report for 2014/15.
 14 So we've now passed the time when the November 2013
 15 fire safety strategy had been drafted, you see, and if
 16 we look at section 14, "Health & safety objectives for
 17 15/16", underneath that you will see paragraph 14.2:
 18 "A substantial amount of is [sic] undertaken to
 19 ensure fire safety such as ..."
 20 Then if you go over the page to page 14
 21 {TMO10031069/14}, you will see after the bullet points
 22 there is discussion of continued liaison with the LFB,
 23 and then five lines up from the end it says:
 24 "Additionally, it is important that we continue to
 25 provide residents with fire safety

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1 information/advice/guidance, publicise fire procedures
 2 (on the website, in the Residents Handbook, articles in
 3 The Link etc) and identify residents with special needs
 4 and where necessary work with them to draft a specific
 5 Personal Emergency Evacuation Plan (PEEP) to ensure
 6 their safety is protected."
 7 You see that?
 8 A. Yes.
 9 Q. And the date of this report, as I can just show you,
 10 page 17 {TMO10031069/17}, is June 2015.
 11 Now, there is no substantive change in the wording,
 12 is there, as between the report we saw for earlier years
 13 in relation to PEEPs and this report?
 14 A. No.
 15 Q. Although the reference to having the audit has gone. Do
 16 you know why that was?
 17 A. No.
 18 Q. At all events, by this stage we're now, as I say, past
 19 the November 2013 fire safety strategy, but these
 20 reports to the board are still telling the board that
 21 your team is still, where necessary, working with
 22 residents with special needs to provide them with PEEPs.
 23 Why was that?
 24 A. Because I think it's what I said before. We had mostly
 25 general needs, but we did have a range of housing that

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1 supported other individuals. Therefore, actually, if in
 2 sheltered housing someone required a PEEP, you would do
 3 it. If you took it out — so it is — you know, we had
 4 a supported housing side, and those people might
 5 actually identify needs which they might need a PEEP.
 6 So it's there as a thing to ensure we're covering all
 7 our customer base or resident base.
 8 Q. But this doesn't draw the distinction between general
 9 needs housing and sheltered housing, does it?
 10 A. Accepted.
 11 Q. It looks as if, from this document, no decision in fact
 12 had been taken by the TMO's executive team, as you told
 13 us earlier, not to do PEEPs for residents in general
 14 housing.
 15 A. I'm not sure if I agree with that, because we also
 16 adopted the LGA guidance, which I think is in one of
 17 these as well, saying that actually, as the LGA guidance
 18 came out, what's the position with general needs.
 19 Q. Well, let's just break this down.
 20 Do you remember when the LGA guidance came out,
 21 Mr Black?
 22 A. Was it 2011? I can't remember off the top of my head.
 23 Q. Well, it was 2011, July 2011.
 24 Do you remember sitting down with Janice Wray and
 25 looking at it in relation to PEEPs?

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1 A. Not in relation to PEEPs, no. I probably sat down and
 2 talked about the general thing in general needs.
 3 Q. You told us earlier that a specific decision had been
 4 made by the TMO not to do PEEPs for residents in general
 5 housing. Was that decision taken after the LGA guidance
 6 had come out? Is that how you recall it?
 7 A. That's how I — I can't recall, I'm not going to
 8 speculate. Sorry, apologies.
 9 Q. If any such decision, whether or not based on the
 10 LGA guide from July 2011, had been taken, can you
 11 explain why, year after year after year, right up to
 12 this report in June 2015, looking ahead to the next
 13 year, 2016, the board is being told that your team is
 14 identifying residents with special needs and, where
 15 necessary, working with them to develop PEEPs?
 16 A. And again, if we identified people who required that, we
 17 would do it. I don't think — that's the point, if
 18 someone comes along and says they require a PEEP, we
 19 would have to have looked at it, or we may have looked
 20 at other options.
 21 Q. So what decision did you take on the basis of the
 22 LGA guidance then?
 23 A. The majority is that actually PEEPs are unsuitable for
 24 general needs, for all the — sorry, I can't remember
 25 the wording in the — how they say it.

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1 Q. Sorry, what decision, what did the TMO decide to do
 2 vis-à-vis PEEPs after the LGA guidance had come out, do
 3 you say?
 4 A. I'm afraid I can't give you a clarifying answer for
 5 that. I would say the reason it's probably still here
 6 is, as I said, if we identified someone that required it
 7 and we could do it, we would, but it would be
 8 self-referral in line with the guidance.
 9 SIR MARTIN MOORE-BICK: It sounds as me as though what may
 10 have happened is that instead of there being any formal
 11 and certainly any documented decision, it was allowed to
 12 drop on the basis that it was thought not to be
 13 appropriate.
 14 A. I would probably accept that.
 15 MR MILLETT: Well, let's jump ahead to the last health and
 16 safety annual report from 2016/17 at {TMO00880550}.
 17 This is, as you can see, the 2016/17 report.
 18 If we go to page 18 {TMO00880550/18}, item 14.2
 19 again, we can see again, in the last part of the last
 20 paragraph, the words:
 21 "Additionally, where vulnerable residents with
 22 special needs are identified we aim to work with them to
 23 clarify their specific emergency procedures and ensure
 24 their safety is protected."
 25 Now, the words or expression "PEEPs" doesn't appear

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1 there, so someone has clearly applied their mind to the
 2 language of that sentence.
 3 A. Can you confirm — sorry, I'm a bit blind where we are
 4 there, sorry.
 5 Q. I'm so sorry. We are at the foot of page 18, at the end
 6 of the section —
 7 A. All right.
 8 Q. — "Fire Safety", just above "Contractor Management",
 9 the last sentence there.
 10 A. Yeah.
 11 Q. "Additionally, where vulnerable residents with special
 12 needs are identified we aim to work with them to clarify
 13 their specific emergency procedures and ensure their
 14 safety is protected."
 15 That's different language, isn't it, from the
 16 previous years —
 17 A. Yes.
 18 Q. — which referred to PEEPs, the reference to PEEPs is
 19 dropped, but clarifying specific emergency procedures
 20 has been put in. That would indicate, wouldn't it, that
 21 somebody has actually applied their mind — it's not
 22 a cut and paste; somebody has actually thought about
 23 what to say here?
 24 A. I think it was a review and probably there was — that's
 25 where Barbara looked at it with her team and changed it,

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1 so I have to accept that.
 2 Q. Yes.
 3 At all events, there was still a plan, leaving aside
 4 how you identify the residents, to work with them to
 5 provide them with PEEPs, wasn't there?
 6 A. Well, that's not what it says now, as you've pointed
 7 out.
 8 Q. Well, you said —
 9 A. Yes.
 10 Q. I had understood your answer essentially to be saying
 11 the same thing, but taking it —
 12 A. Yes, I accept that, sorry.
 13 Q. Yes. And again, can we take it, then, that really up
 14 until the time of the fire, the TMO's policy, at least
 15 looking at what the board was being told, is that PEEPs
 16 were being produced with those residents whose special
 17 needs were identified for the purpose?
 18 A. It said we would produce PEEPs. It didn't give a list
 19 of PEEPs we had in the organisation of how we'd done.
 20 Q. Sorry, are you, by that answer, telling us that this was
 21 still only an aspiration looking forward, but you hadn't
 22 yet produced any PEEPs?
 23 A. I can't tell you off the top of my head how many PEEPs
 24 were produced. I'm looking at this and identifying, as
 25 you said, it's changed, so thank you.

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1 Q. Let me cut through this.
 2 Do you accept that the board is being told that, as
 3 at the date of this report and looking forward to
 4 2017/18, the TMO's policy was at that time to produce
 5 PEEPs for those with special needs?
 6 A. If identified, yes.
 7 Q. If identified. Right. And how did that tie in with the
 8 decision not to produce PEEPs as a result of reading the
 9 LGA guide some years before?
 10 A. I'm being tied up in knots here, sorry.
 11 I think the key thing is we'd work with them to see
 12 what's best. If there was a requirement or a need —
 13 you would have to do it on this individual basis.
 14 I think that's what this is trying to say, and I'm
 15 struggling a bit.
 16 Q. Right.
 17 Now, going on to the question of identification,
 18 there is no clarification here, or indeed in any of the
 19 earlier reports to the board, about how it would be that
 20 residents would be identified, is there?
 21 A. No.
 22 Q. Or of how many people had so far been given PEEPs or, in
 23 the language of this last report, specific emergency
 24 procedures?
 25 A. Yes.

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1 Q. Yes.
 2 How could you monitor the effectiveness of this
 3 aspect of fire safety management without that
 4 information?
 5 A. It would be difficult.
 6 Q. Is it right to say that you personally were assuming
 7 that the TMO was in some form or other collecting or
 8 collating the necessary information and then acting on
 9 it where necessary?
 10 A. We're collecting information and if we found information
 11 that was relevant for this, yes.
 12 Q. Did you yourself check to verify that assumption?
 13 A. No.
 14 Q. No, why is that?
 15 A. Because I would imagine that I had a management team
 16 managing that and they would be monitoring it, speaking
 17 to their staff.
 18 Q. Did you ever ask to see a PEEP?
 19 A. No.
 20 Q. Do you know how many were actually —
 21 A. No, I said no. I didn't — because I take your point
 22 they weren't recorded.
 23 Q. We've I think identified two in the many years of
 24 Carl Stokes' tenure as fire risk assessor.
 25 Would you accept, as a matter of common sense — and

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1 this may be wrong, but I doubt it — that there were
 2 rather more than two vulnerable people in the borough,
 3 in your housing who were vulnerable?
 4 A. Yes, I would have to accept that.
 5 Q. And in the end, do you accept that the ultimate effect
 6 of your failure, the TMO's failure, to set out any
 7 substantive policy or strategy in respect of disabled or
 8 vulnerable residents or a clear policy of collection of
 9 data about those individuals was that the TMO was unable
 10 to identify all of the relevant vulnerable people in
 11 Grenfell Tower on the night of the fire?
 12 A. I think we're probably clear we haven't — wouldn't have
 13 been able to identify all the people who lived in the
 14 10,000 properties, because again, it wasn't a proactive
 15 position we were in to do that. It was still a stay put
 16 and be rescued.
 17 Q. Let's look at a document, {TMO00866002}.
 18 This is a list of Grenfell Tower residents produced
 19 by David Noble of the TMO on the night or the morning of
 20 14 June 2017, early in the morning, while the fire was
 21 raging.
 22 There are, on this document, on our count, 10
 23 residents of Grenfell Tower who are identified with
 24 vulnerability. You can't see the vulnerabilities
 25 because they have been redacted.

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1 SIR MARTIN MOORE-BICK: To be honest, Mr Millett, unless
 2 you're very lucky, you can't see anything much on this
 3 document.
 4 MR MILLETT: No, you can't. It's a document that Mr Noble
 5 gave evidence about, and that's why I'm taking this
 6 slightly quickly. I don't know whether blowing this up
 7 is going to help at all.
 8 Let me put to you a proposition and see if you agree
 9 with it: none of the individuals on the Noble list,
 10 which is this document, had a PEEP prepared for them.
 11 None of the people identified on this list as having
 12 vulnerabilities had a PEEP prepared for them.
 13 A. I think that's probably true.
 14 Q. Yes. Can you explain why that is?
 15 A. I ... because, as I said, did they present themselves to
 16 the TMO? Was the information shared?
 17 Q. What system was put in place to ensure, as best you
 18 reasonably could, that all residents were aware that
 19 they ought to tell the TMO of their vulnerabilities,
 20 whether of a mobility or any other kind, so as to enable
 21 the TMO to prepare a PEEP for them?
 22 A. I don't think we had that in place.
 23 Q. Why is that?
 24 A. Because I think, again, the policy or the situation was
 25 if you're having difficulty living in your home and you

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1 tell us, then we would be able to do something about it.
 2 Q. Let's turn to a different topic, which is oversight of
 3 FRAs, fire risk assessments.
 4 Now, in general terms, Mr Black, would you agree
 5 with this proposition: it was part of the role of senior
 6 management or the executive team at the TMO to monitor
 7 the effectiveness of the arrangements made to comply
 8 with the Fire Safety Order, the RRO, and with the fire
 9 risk assessment process?
 10 A. Yes.
 11 Q. And periodically to review those arrangements; yes?
 12 A. Yes.
 13 Q. Yes.
 14 Let's then look in a bit more detail at the chain of
 15 command for health and safety and specifically
 16 fire safety.
 17 Is it right that at the bottom of the chain of
 18 command you have Cyril Morris and Adrian Bowman, who
 19 were line-managed by Janice Wray?
 20 A. Yes.
 21 Q. And until July 2015 Janice Wray reported to
 22 Anthony Parkes, and after July 2015 to Barbara Matthews?
 23 A. Yes.
 24 Q. And Barbara Matthews was part of the ET, the executive
 25 team?

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1 A. Yes.
 2 Q. You have explained before that Janice Wray was not part
 3 of the executive team. It's right that she wasn't part
 4 of the senior management team at all, was she?
 5 A. I can't remember. I think we — I think no, I think we
 6 discussed that earlier today.
 7 Q. Right.
 8 Is it right that there was no senior manager who, as
 9 it were, represented her or her information at senior
 10 management team meetings other than Anthony Parkes
 11 before July 2015 and Barbara Matthews thereafter?
 12 A. At senior management team meetings?
 13 Q. Yes.
 14 A. Yes.
 15 Q. Yes?
 16 A. I said yes.
 17 Q. Oh, you said "Yes". I'm sorry, I didn't hear you.
 18 I didn't read the transcript.
 19 Janice Wray's role description from 2012 — well,
 20 let's look at the document. It's {TMO10031076}, please.
 21 This is a statement of intent, health and safety
 22 policy, with your name at the bottom dated
 23 December 2012.
 24 If you go to page 3 of that health and safety policy
 25 document of that date {TMO10031076/3}, paragraph 2.7,

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1 you can see:
 2 "The Health, Safety and Facilities Manager [in bold]
 3 is responsible for ..."
 4 The health and safety facilities manager was
 5 Janice Wray at all times, wasn't it?
 6 A. Yes.
 7 Q. We can see a number of bullet points setting out her
 8 responsibilities, and the second of those is:
 9 "The formulation of all health & safety policy and
 10 strategy."
 11 Yes?
 12 A. Yes.
 13 Q. And:
 14 "Producing all health & safety policy, procedures,
 15 and guidelines and ensuring that these are regularly
 16 reviewed and kept up to date."
 17 Now, do you agree that she had a very significant
 18 and senior role in determining the health and safety
 19 policies of the TMO?
 20 A. Yes.
 21 Q. In fact — this is a matter of impression, I suppose —
 22 but do you agree that there was nobody at the TMO who
 23 had more knowledge about health and safety who could
 24 question or challenge what Janice Wray determined was
 25 appropriate policy other than herself?

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1 A. Sorry, can you say that again?
 2 Q. Well, let me try it a different way.
 3 Was there anybody who knew more and had greater
 4 experience of health and safety than Janice Wray?
 5 A. I agree.
 6 Q. Yes, and therefore there was nobody within the TMO who
 7 was appropriately equipped by experience or expertise to
 8 challenge or question what Janice Wray decided should be
 9 appropriate health and safety policy and strategy?
 10 A. I agree.
 11 Q. Yes. Would that include operating the fire risk
 12 assessment programme?
 13 A. Yes.
 14 Q. Yes. Indeed, I think it's the case that Janice Wray
 15 created the November 2013 fire safety strategy?
 16 A. Yes.
 17 Q. And the 2017 version of that same strategy?
 18 A. Yes.
 19 Q. Yes, and indeed Janice Wray who was recorded as being
 20 the responsible person — perhaps it means the competent
 21 person — for Grenfell Tower in the LFEPA inspection
 22 forms?
 23 A. Yes.
 24 Q. Yes.
 25 Now, do you agree with me that the fire risk

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1 assessment programme was the chief means by which the
 2 TMO could satisfy itself that it was complying with the
 3 RRO?
 4 A. Yes.
 5 Q. Can we look at PAS 7 again, please — we looked at part
 6 of this before — and go, please, to page 1
 7 {BSI00000071/1}, just to put the first page of the
 8 document in front of you. It's not, I think, a document
 9 that you were familiar with, as you told us.
 10 Let's go to page 23 {BSI00000071/23},
 11 paragraph 7.4.1, "Fire risk assessment":
 12 "The organization shall establish, implement and
 13 maintain a formal documented risk assessment programme
 14 that systematically identifies fire hazards and persons
 15 especially at risk, analyses fire prevention and fire
 16 protection measures, evaluates fire risk and formulates
 17 a suitable action plan.
 18 "NOTE This fire risk assessment process can be
 19 performed in accordance with PAS 79 (which includes
 20 a pro-forma ...), or any other risk assessment
 21 methodology that suits requirements and prohibitions
 22 imposed on top management by fire legislation.
 23 "7.4.2 The organization's fire risk assessment
 24 programme shall include:
 25 "a) a defined scope, including its limitations;

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1 "b) a procedure for assessment of competency of the
2 fire risk assessors;
3 "c) a strategy for risk treatment, risk acceptance
4 and risk communication.
5 "7.4.3 The organisation shall audit the fire risk
6 assessment programme after the delivery of the risk
7 assessments.
8 "7.4.4 The organisation shall conduct a review
9 meeting at planned intervals to discuss the results of
10 fire risk assessment audits, and efforts to address
11 findings."
12 Just remind me of this, because I think you gave
13 evidence on this earlier: were you personally aware of
14 this guidance at any time?
15 A. In terms of how to do fire risk assessments or in terms
16 of layout? I wasn't — I'm not familiar with the paper.
17 Q. No. Did you take any steps to ensure that the
18 principles in this guidance that I've read out to you
19 were followed?
20 A. I would have thought that the work with the company that
21 did the high-risk strategies would have created
22 a framework in line with this document because they were
23 the specialist company.
24 Q. Is that Salvus?
25 A. Yeah.

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1 Q. I see. So, so far as Salvus' work in 2009 and early
2 2010 is concerned on high-risk buildings, including
3 high-rise buildings in your stock —
4 A. Yeah.
5 Q. — you say that this was observed?
6 A. No, what I'm saying is since that company specialised in
7 this, I imagine they would have observed this, because
8 that's their key business. Sorry, it's just me
9 speculating.
10 Q. Yes, it's probably the same thing. Of course, Salvus
11 was operating in the high-risk part of your stock in
12 2009 and 2010 and this document was published in 2013,
13 but you say that Salvus observed it.
14 What about the TMO, because this is all about the
15 organisation, isn't it, establishing and implementing
16 and maintaining a formal documented risk assessment
17 programme? My question is: did you take any steps to
18 ensure that the TMO established such a programme?
19 A. No.
20 Q. Why not?
21 A. Again, I would — my understanding is the FRAs were
22 compliant with the area and they were seen alongside the
23 specialist risk management we employed and therefore it
24 would be acceptable.
25 Q. What do you mean by "seen alongside the specialist risk

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1 management we employed"?
2 A. I think the point you were making earlier is that
3 actually within the TMO, Janice had no equal in terms of
4 knowledge of health and safety for the role she played.
5 Therefore actually the fire risk assessor would be
6 a person she'd be able to check things with, make sure
7 that actually it's in line with legislation. That would
8 be my thinking.
9 Q. Right.
10 Do you remember whether a positive decision was
11 taken by the TMO not to establish, implement and
12 maintain a formal documented risk assessment programme
13 in the way that's identified here, with all the features
14 set out in —
15 A. I don't think they would have made a decision not to do
16 it.
17 Q. It just didn't happen?
18 A. Yes.
19 Q. Right.
20 So is it your evidence that, whatever Janice Wray
21 and Carl Stokes did from 2010 onwards, that either did
22 or didn't satisfy these provisions or this guidance,
23 there's nothing beyond that?
24 A. I suppose my assumption is that it would because that
25 was their role.

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1 SIR MARTIN MOORE-BICK: Can you just help me with this: the
2 way that paragraph 7.4 is worded suggests that the
3 organisation ought to have some sort of overarching plan
4 as to what it was going to do in relation to fire risk
5 assessment, within which the actual fire risk
6 assessments themselves would form part.
7 A. Yeah.
8 SIR MARTIN MOORE-BICK: Can you help us about what the TMO
9 did in relation to any form of overall plan as to what
10 they were going to do about fire risk assessments in
11 general, which then led to the appointment of Salvus?
12 A. If we go right back to Salvus? I mean —
13 SIR MARTIN MOORE-BICK: Was there any sort of consideration
14 of an overall plan which might be regarded as a fire
15 risk assessment programme, within which the individual
16 fire risk assessments and in this case the appointment
17 of Salvus sat as part of the implementation of that
18 programme? Do you understand what I'm —
19 A. Yeah, I suppose what I'm trying to say is I wasn't in
20 place for 2008, 2006, 2009, when they were doing all
21 those stuff. The Salvus stuff all started round about
22 when I came in, in terms of how to address the criticism
23 of the system that had been in place for a number of
24 years. So appointing them dealt with the issue that the
25 Fire Brigade was dealing with in terms of their — how

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1 they viewed it. It also gave us, you know, the
 2 framework to complete these FRAs within the three-year
 3 period which I think we agreed and splitting the stock
 4 into the high, medium and low.
 5 SIR MARTIN MOORE-BICK: Well, of course, if there were any
 6 attempt to formulate an overall plan, it would have
 7 pre-dated your appointment, for one thing.
 8 A. Yeah.
 9 SIR MARTIN MOORE-BICK: But it may be there wasn't any
 10 attempt to stand back and consider an overall scheme,
 11 and that the fire risk assessments simply carried on in
 12 a different form.
 13 A. Yeah.
 14 SIR MARTIN MOORE-BICK: All right. Yes.
 15 MR MILLETT: Just following up on the Chairman's questions,
 16 just looking at 7.4.1 and 7.4.2 here on the screen in
 17 front of you, we've seen no formal documented risk
 18 programme that does those things required by those
 19 paragraphs. Have you?
 20 A. No.
 21 Q. No.
 22 We've not seen any evidence of any audit under
 23 paragraph 7.4.3. Have you?
 24 A. No, I can't recall.
 25 Q. Nor any documents showing that there were review

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1 meetings under paragraph 7.4.4. Have you?
 2 A. I mean, in the sense of looking at that one, I mean,
 3 they were reviewed at the health and safety committee to
 4 look at the findings.
 5 Q. So you say the health and safety committee meeting
 6 minutes looked at the results of fire risk assessment
 7 audits as opposed to the fire risk assessments
 8 themselves?
 9 (Pause)
 10 That can't be right, can it?
 11 A. I just have to say no.
 12 Q. No.
 13 Can we look in this connection at {TMO00883568}.
 14 This is a meeting of the TMO board. This is the
 15 programme, in fact, for the meeting on 26 July 2012.
 16 This is I think the first page of a board pack of some
 17 123 pages.
 18 If we go, please, to page 41 {TMO00883568/41}, we
 19 will see the TMO's performance agreement for 2012/2013,
 20 and this is appendix 2, as you can see from the top
 21 left-hand corner, to the TMO performance update earlier
 22 on.
 23 If you go to page 42 {TMO00883568/42}, please, in
 24 that, you can see under "HR and Organisational
 25 Development" — can you see?

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1 A. Yeah.
 2 Q. Under "Audits", 3.4:
 3 "The draft audit programme for next year is set out
 4 below: ...
 5 "Other Audits.
 6 "HR and Organisational Development."
 7 And then two underneath that:
 8 "Fire Risk Assessments. Lornette Pemberton. Full
 9 Review."
 10 It looks from this — is this right? — that the
 11 TMO's intention at that stage was to carry out a full
 12 audit into FRAs in 2012/13?
 13 A. It looks like it, yes.
 14 Q. Yes. We don't see any evidence that that audit ever
 15 took place. Did it take place or would I be right that
 16 it didn't?
 17 A. I'm not sure. If it took place, you should be able to
 18 find the results from our auditors.
 19 Q. Yes, and we haven't been able to do that. That would
 20 rather suggest it didn't take place. Are you able to
 21 explain why it didn't take place?
 22 A. No.
 23 Q. Now, we know, because you helpfully told us, that Salvus
 24 was instructed as a result of concerns raised by the LFB
 25 in the summer of 2009 that the TMO was producing

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1 in-house FRAs that were inadequate. The result of that
 2 is that Salvus entered into a contract to conduct FRAs
 3 for all of the TMO's high-risk properties, didn't it?
 4 A. Yes.
 5 Q. Yes. We know from Carl Stokes' evidence that he was
 6 employed or potentially contracted in by Salvus to
 7 produce the fire risk assessments for some of those
 8 buildings, including Grenfell Tower.
 9 A. Yes.
 10 Q. Yes, and we've seen that.
 11 Now, can we look at an email that you received on
 12 4 July 2009, {RBK00053546}. Let's go to the foot of
 13 page 1 in that email run.
 14 It's an email from Judith Blakeman to you,
 15 4 July 2009, and also to Laura Johnson:
 16 "Dear Mr. Black and Ms. Johnson
 17 "In the light of the tragic fire yesterday in
 18 Camberwell, I would be grateful if we could have risk
 19 assessment and report on the means of escape in the
 20 event of fire covering all the tower blocks in the TMO's
 21 ownership within the Borough.
 22 "At Grenfell Tower, for example, because of the
 23 Council offices and EMB offices on the lower floors,
 24 getting out of this building by the stairs is extremely
 25 difficult — and one can end up at a dead end. I would

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1 like to invite you to accompany me up to the top floor
 2 to see how difficult it would be to get out of this
 3 block in the event of an emergency.
 4 "I look forward to an early response."
 5 Now, given what Councillor Blakeman says there, can
 6 we take it that you were aware of fire risk assessments
 7 as a concept in or by July 2009?
 8 A. Yes.
 9 Q. Yes, and also that Councillor Blakeman had specific
 10 fire safety concerns about Grenfell Tower itself from
 11 the summer of 2009, specifically in relation to the
 12 means of escape?
 13 A. Right.
 14 Q. Yes.
 15 Now, let's look at Laura Johnson's response higher
 16 up page 1, if we can, please. It's dated 5 July 2009,
 17 and you are copied. In fact, you're an addressee:
 18 "Cllr Blakeman,
 19 "The Royal Borough is at present in discussion with
 20 the TMO on commissioning consultants to undertake
 21 a review of the relevant fire risk assessments of the
 22 communal areas of the Council blocks as this is legally
 23 required by the Regulatory Reform (Fire Safety) Order.
 24 This process to date has been managed by the TMO, but it
 25 has been brought to our attention by the Fire Brigade

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1 that this will need to be more rigorous, therefore
 2 officers from the TMO and RBKC are in the process of
 3 setting up a working party to look at [various things]."
 4 And you can see the bullet points set out there:
 5 "▪ Comply with the proposed arrangements ...
 6 "▪ Review, challenge and support the consultants
 7 recommendations ...
 8 "▪ Review the considerable cost implications ...
 9 "▪ Agree how they will be funded.
 10 "I hope this answers your question in the short term
 11 and when we have more information as a result of the
 12 review work we will be able to brief Councillors more
 13 fully."
 14 Can we take it, then, that you were aware at this
 15 time, as a result of seeing this email on 5 July 2009,
 16 that the TMO needed to conduct more rigorous FRAs in
 17 order to meet its regulatory requirements?
 18 A. I mean, I think this follows from the letter we got from
 19 the Fire Brigade in June, and this follows on.
 20 Q. Yes.
 21 A. So being a new person who's just started the month
 22 before and walked into this, yes, it would seem that I'm
 23 being told, and therefore I'm agreeing with it because,
 24 as I say, before I have no history of what they were
 25 doing before.

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1 Q. In the second bullet point, you can see at the end of
 2 that sentence that it refers to sign-off with the
 3 Fire Brigade. What did you understand Laura Johnson to
 4 mean by that?
 5 A. I mean, I think what — I don't know, what I might
 6 imagine she's meaning is actually once we agreed the
 7 process of the FRAs.
 8 Q. Right.
 9 A. I think so.
 10 Q. Did you respond to Councillor Blakeman's invitation to
 11 go on a site visit at Grenfell Tower to look at the
 12 means of escape?
 13 A. I can't remember. I've been trying to find an email
 14 from anything when I was doing preparation for this. In
 15 terms of — it would be very unusual if I didn't,
 16 because actually usually I went — I've just started,
 17 you've got a councillor asking you. So I can't
 18 understand why I can't see any proof that I did. I'd
 19 been at previous Grenfell, old and new, numerous times.
 20 Q. Was there a fuller briefing as contemplated, do you
 21 think?
 22 A. A fuller briefing from Laura to Councillor Blakeman?
 23 Q. Yes.
 24 A. I can't recall.
 25 Q. You can't recall.

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1 Can we go to {RBK00018531}, please.
 2 This is an email from Angus Sangster at the LFB of
 3 10 July 2009 to Janice Wray, and you can see that it's
 4 copied to you, you're one of the last copyees in the
 5 list of copyees, subject "Fire Risk Assessments for TMO
 6 properties":
 7 "Dear Janice,
 8 "Thank you for your email. I must emphasise that
 9 time is against you bearing in mind that discussions
 10 regarding the provision of adequate fire safety measures
 11 in the TMO building stock have been taking place with
 12 members of my team for over a year now. Can I suggest
 13 that we have a meeting with Mr Robert Black and
 14 Jean Daintith some time over the next week to discuss
 15 the type of undertaking that the LFB would accept.
 16 While I accept that you have started on this work I am
 17 still not happy that what has been supplied is
 18 sufficient to justify my team not undertaking
 19 enforcement action. Can I suggest Monday the 13th
 20 July ... [or] Friday the 17th July ..."
 21 Do you remember that email?
 22 A. I — you're — not previously, no.
 23 Q. Do you remember whether there was a meeting as
 24 suggested?
 25 A. I imagine if it's been sent to ... I can't remember.

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1 We — I would imagine we would have done, but I can't
 2 recall personally.
 3 Q. Do you accept that right from the start of your time at
 4 the TMO, bearing in mind you started work there in the
 5 May of this same year, 2009, fire safety and adequate
 6 fire safety measures were on your radar with you?
 7 A. Yeah, they were on my radar, since joining in May, in
 8 June.
 9 Q. And Grenfell in particular in light of concerns arising
 10 from the Lakanal House fire?
 11 A. I'm not — why just specific to Grenfell, sorry?
 12 Q. Well, because of the email from Judith Blakeman.
 13 A. Oh, that — apologies.
 14 (Pause)
 15 What's the question again? Sorry.
 16 Q. That also on your radar was Grenfell Tower, particularly
 17 in light of concerns expressed by Judith Blakeman
 18 arising out of the fire at Lakanal House on 3 July 2009.
 19 A. I think this — I would have been concerned about
 20 everything as I was finding out, and not just specific
 21 about Grenfell.
 22 Q. Can we go to {TMO10037323}.
 23 This is a briefing note. It's entitled:
 24 "Executive Team Fire Safety Update — 29 July 2009.
 25 "1. Introduction.

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1 "1.1 [The] purpose of this briefing note is to:
 2 " ■ update you with the current position on communal
 3 area fire risks assessments (FRAs) and complying with
 4 the Regulatory Reform (Fire Safety) Order 2005 (RRO) and
 5 " ■ advise on what information is currently available
 6 on the cause of the recent serious residential fire at
 7 Lakanal House and how this relates to our stock."
 8 It goes on to give a history of the issues as raised
 9 by the LFB and their concern about the sufficiency of
 10 the FRAs carried out by the TMO at the time. I'm
 11 summarising very briefly what's in this document.
 12 Were you aware at that time that the TMO was
 13 conducting FRAs in—house?
 14 A. When I joined? So no one mentioned FRAs when I joined
 15 and went through a process. When I came in in May and
 16 then July, that is when I began to understand that
 17 that's what we'd be doing, and then this challenge from
 18 the Fire Brigade that they weren't up to task.
 19 Q. Right. Did you see this briefing note at the time?
 20 A. I must have.
 21 Q. Yes.
 22 If you go to paragraph 5.4, at the very bottom of
 23 page 3 {TMO10037323/3}, it identifies the completion of
 24 the consultants' brief, completed by 17 July and sent
 25 out to four consultants.

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1 Did you see that, do you think?
 2 A. I think I've said I've seen this.
 3 Q. Did you see the consultants' brief?
 4 A. I can't recall.
 5 Q. Let's go to page 4 {TMO10037323/4}, heading,
 6 "6. Lakanal House".
 7 You can see there there's a lengthy description of
 8 what happened in that fire, and particularly
 9 a description of the block itself. It says:
 10 "The serious fire at this block is still under
 11 investigation and it is likely to be several months
 12 before the causes are totally clear. However, we have
 13 received some information in relation to the layout of
 14 the block and factors which may have contributed to the
 15 seriousness of this fire and we are investigating if any
 16 of our blocks have these features. Specifically:—
 17 " ■ Block built around a single central staircase —
 18 Whilst we have many blocks which have only a single
 19 staircase, we have no high—rise blocks constructed
 20 around a central enclosed staircase. Grenfell Tower has
 21 an enclosed single staircase but this block has
 22 additional fire safety features which were not present
 23 in Lakanal House — automatic detection in the common
 24 parts which is linked to mechanical extraction both of
 25 which are maintained regularly as part of a planned

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1 preventative maintenance contract and would serve to
 2 give very early warning of fire and also extract smoke
 3 keeping lobbies free for safe evacuation."
 4 Do you know whether Grenfell Tower was mentioned in
 5 this document as a consequence of Councillor Blakeman's
 6 email of 4 July we looked at earlier?
 7 A. No, I wouldn't — I would think to say Janice — if it's
 8 from Janice, that she would have identified it herself.
 9 Q. Do you remember being conscious at the time that
 10 Grenfell Tower was a single—staircase construction
 11 tower?
 12 A. I would have only known through reading this.
 13 I wouldn't have known personally the construction.
 14 Q. Did the fact that it was mentioned specifically in this
 15 briefing note at the time and Councillor Blakeman had
 16 highlighted a similar issue with the staircase cause you
 17 any concern at the time?
 18 A. I can't recall.
 19 Q. Now, if you go to {RBK00018535}, you can see that there
 20 was a meeting on 6 August 2009 at 3 o'clock in the
 21 afternoon, attended by a number of people from RBKC,
 22 from the LFB and Keith Holloway from TMO Properties.
 23 You weren't there, or at least not listed as being
 24 there. Can you remember why you weren't there?
 25 A. I — not off the top of my head, not on that day

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1 specifically .
 2 Q. Early August, possibly on holiday. Would you otherwise
 3 have been there?
 4 A. I think so, yes.
 5 Q. Right.
 6 Now, we can see that in attendance were
 7 Jean Daintith, the executive director, and
 8 Laura Johnson, housing department, both from RBKC.
 9 Were they, as far as you understood it, the two
 10 people responsible at RBKC for oversight of the TMO?
 11 A. Yes.
 12 Q. And, by extension, oversight of the TMO's management of
 13 fire safety?
 14 A. Yes.
 15 Q. Do you remember being briefed on the outcome of this
 16 meeting?
 17 A. I can't recall, I'm afraid, it's 11 years.
 18 Q. Right.
 19 If you go to page 4 {RBK00018535/4}, under
 20 paragraph 10, you can see there:
 21 "General Discussion: (Timescales for Completion of
 22 Risk Assessments/Work(s) Completion)."
 23 In the last few paragraphs there you can see that
 24 there's discussion of TMO appointing an external FRA
 25 consultant, isn't there? If you look at the last part.

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1 A. Sorry, can you --
 2 Q. It says:
 3 "Keith Holloway (TMO) reiterated that TMO would
 4 complete their procurement programme by September 2009.
 5 The risk assessments would be completed over the
 6 following 12 months."
 7 Yes?
 8 A. Yes.
 9 Q. Were you briefed on that fact after this meeting?
 10 A. Probably. But, again, Keith was an interim, because
 11 like I say, everybody had left, so Keith was taking on
 12 a major role for me in attending these things while
 13 I was engaged in other aspects of the business. So we
 14 probably did discuss it.
 15 Q. It records that:
 16 "Angus Sangster (LFB) replied that he feels TMO need
 17 to develop the level of competence amongst their staff."
 18 Was that view communicated back to you after this
 19 meeting?
 20 A. I don't recall that.
 21 Q. Right.
 22 "He also suggested a member of staff from the
 23 council/TMO could be seconded into the LFB in order to
 24 gain experience of fire safety procedures."
 25 Do you remember being told about that proposal?

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1 A. Again, I can't remember. I might have been, but ...
 2 MR MILLETT: Mr Chairman, it's a little early, but it may be
 3 a convenient moment for a break. We're into the topic
 4 but there's a long way to go, and it's as good a moment
 5 as any to pause. It's also, I'm conscious, been a long
 6 day for the witness.
 7 SIR MARTIN MOORE-BICK: Yes.
 8 Well, Mr Black, I think it wouldn't hurt to finish
 9 slightly early today.
 10 THE WITNESS: Thank you.
 11 SIR MARTIN MOORE-BICK: So we'll call a halt there. I'm
 12 going to have to ask you to come back tomorrow,
 13 I'm afraid, at 10 o'clock to answer more questions, and
 14 in the meantime, please remember not to talk to anyone
 15 about your evidence or anything relating to it.
 16 THE WITNESS: Okay. Thank you.
 17 SIR MARTIN MOORE-BICK: All right?
 18 Fine, so we will see you tomorrow morning. If you
 19 would like to go with the usher now, it will be fine.
 20 Thank you very much.
 21 (Pause)
 22 Thank you very much. 10 o'clock tomorrow, then,
 23 please.
 24 MR MILLETT: Thank you, Mr Chairman.
 25 SIR MARTIN MOORE-BICK: Thank you.

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1 (4.22 pm)
 2 (The hearing adjourned until 10 am
 3 on Thursday, 24 June 2021)
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