



Grenfell Tower Inquiry

Day 150

June 24, 2021

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Thursday, 24 June 2021

(10.00 am)

SIR MARTIN MOORE—BICK: Good morning, everyone. Welcome to today's hearing. Today we're going to continue hearing evidence from Mr Robert Black.

Would you ask Mr Black to come in, please.

Thank you.

MR ROBERT BLACK (continued)

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

THE WITNESS: Good morning.

SIR MARTIN MOORE—BICK: All right to carry on?

THE WITNESS: Yes.

SIR MARTIN MOORE—BICK: I know this was said to you yesterday, but I am going to repeat it anyway.

Sometimes these days are rather long, and if you feel at any stage you would like to short break, would you just indicate?

THE WITNESS: Okay, thanks.

SIR MARTIN MOORE—BICK: Good, thank you.

Yes, Mr Millett.

Questions from COUNSEL TO THE INQUIRY (continued)

MR MILLETT: Yes, Mr Chairman, good morning to you, and good morning, members of the panel.

Mr Black, good morning to you.

We were on the topic yesterday afternoon when we

1

finished of FRA governance. I would like to return to that topic now, please, with {TMO10037375}.

This is an email from Janice Wray to you in which we can see that she flags up to you some of the questions that arise in the first FRAs from Salvus. It's dated 22 October 2009, and it's entitled "Fire Risk Assessments".

You can see in the third paragraph that she identifies a few areas which she says she needs to raise with you, and she goes on in the second line:

"Specifically, these are areas where recommendations go further than our existing policy and/or where significant resources would potentially be required to progress. To date there are four areas on which I am seeking your view and these are set out below. Three of these areas relate to flat entrance doors and these are listed together (points 1–3)."

Then she sets them out.

Summarising them, there is the need, as she highlights it, for a system to check fire compartmentation doors, that's 1; yes?

A. Yes.

Q. And then under 2, confirmation should be sought that each dwelling door is to FD30 standard —

A. Yes.

2

Q. — and also has a self-closer; yes?

A. Yes.

Q. Installation of intumescent strips and cold smoke seals, that's item 3. Do you see that?

A. Yeah.

Q. And then the fourth one appears on the second page of this email {TMO10037375/2}, which is about fire detection within private flats.

Now, do you recall receiving this email?

A. Yes, I think so.

Q. Yes. Did you do anything about it when you got it?

A. I can't recall that. I don't know if we then went to RBKC and when — with Jean Daintith and we took something.

Q. You don't have a specific recollection of how you took this matter forward?

A. Not at the moment, no.

Q. You were clear, though, were you not, by this point, October 2009, that in these three critical areas — fire compartmentation, doors, dwelling doors FD30, self-closers and intumescent strips and cold smoke seals — those were matters which had been picked up by the fire risk assessor and needed attention across the whole stock; yes?

A. Yes.

3

Q. Yes. Sorry, if you nod —

A. Oh, sorry, apologies.

Q. — we can't hear. Thanks.

Now, {TMO00873623} is the next document.

This is Janice Wray's report for the TMO board meeting on 10 December 2009 on the state of the FRAs following receipt of the Salvus report.

If we go to page 2 of this document {TMO00873623/2}, we can see the report itself is referred to at paragraph 4.5. She says:

"We have also received a 'Management Report' from the Consultant which sets out the fire safety framework within which we and our [contractors] should be working."

Can we take it that you yourself had seen the Salvus fire safety management report that we looked at yesterday together, the 22 September 2009 report, by this time?

A. I would say yes.

Q. Yes.

Now, Janice Wray doesn't say here that Salvus had highlighted a number of areas, in total 19, which Salvus considered put TMO in regulatory breach, does she?

A. Not that I can see, no.

Q. No. Do you know why she didn't?

4

1 A. No.
 2 Q. Did you discuss with her whether or not this short
 3 description of what the management report said was fully
 4 candid and helpful to the board so that the board would
 5 know what it said?
 6 A. I'm afraid I can't recall.
 7 Q. Right.
 8 Did you otherwise inform the board of that aspect of
 9 the Salvus report, the 19 areas in respect of which the
 10 TMO was in regulatory breach?
 11 A. I can't recall.
 12 Q. Right.
 13 Can you tell us how else your board would have known
 14 that the TMO was, in 19 respects, in regulatory breach
 15 unless you told them?
 16 A. I agree.
 17 Q. Did you tell them?
 18 A. I can't recall, but I'm just reading this, thanks.
 19 Q. Did you put the management report before the board and
 20 ask them to read it? We don't see any evidence that you
 21 did, but might you have done that?
 22 A. Well, I would have thought I would have done.
 23 Q. But you don't recall doing that?
 24 A. But I don't recall that.
 25 Q. And we don't see a document.

5

1 A. No. That would have been normal practice, I would have
 2 said.
 3 SIR MARTIN MOORE-BICK: When a report of this kind was put
 4 to the board, did you introduce it orally?
 5 A. Yes, usual — I mean, it depends who it was presented
 6 by, because if it was me or one of my officers, you
 7 would have presented it with a report and then taken
 8 questions on it. That would have been my normal
 9 standard.
 10 SIR MARTIN MOORE-BICK: Thank you. Yes.
 11 MR MILLETT: We have seen no document at all in all the
 12 disclosure from RBKC or TMO that shows that this report
 13 was ever presented to the board, and certainly not at
 14 this stage.
 15 A. Okay. I have to accept that.
 16 Q. Right.
 17 Now, let's go to {TMO10037390/4}.
 18 This is an email chain which begins on page 4,
 19 please, with an email of 11 February 2010 from
 20 fire2@lga.gov. It's the LGA fire policy team.
 21 If you look up to the bottom of page 3
 22 {TMO10037390/3}, you can see that it is sent by
 23 Jean Daintith on 12 February 2010 to you and
 24 Laura Johnson, forwarding the LGA report "Extinguishing
 25 the risk: A councillor's guide to fire safety":

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1 "Robert and Laura
 2 "This guide needs to be given to the Cabinet Member
 3 and Scrutiny [Committee] but I thought it needed an
 4 introduction outlining the good work we have done
 5 already in RBKC and the TMO. We could ask Cllr Weale if
 6 she would like that at her next SC (though timescales
 7 are tight now) or whether it should wait till the next
 8 one. I just think that it's always helpful to reassure
 9 councillors about how we are ahead of the ball..."
 10 If you go to page 3 a little higher up, we can see
 11 that you respond to her:
 12 "Dear Jean
 13 "I would agree with you. If you need it turned
 14 around I am sure we can meet the deadline for this one
 15 or the next. I have copied Janice in as she has all the
 16 info."
 17 Do you see that?
 18 A. Yes.
 19 Q. Laura Johnson responds on page 2 {TMO10037390/2}, the
 20 lower email on that page, 12 February, to you and
 21 Jean Daintith:
 22 "I think we should take it to the next one, the
 23 agenda is light and it would be helpful to let Cllrs
 24 know what we are doing, it also helps to actively
 25 prevent questions when poorly researched media stories

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1 are broadcast about fire safety in Council properties."
 2 Now, we can see, at {RBK00030060}, the report that
 3 was prepared.
 4 Just help me with this. It's a report by the TMO
 5 chief executive and chief housing officer for
 6 a scrutiny committee meeting on 15 March 2010.
 7 If we go to page 4 in that document {RBK00030060/4},
 8 you can see that it's said to be a joint report from
 9 you, TMO chief executive, Laura Johnson, chief housing
 10 officer, and Jean Daintith there. Do you see?
 11 A. Yeah.
 12 Q. Do you remember preparing that report?
 13 A. I would have done, yes.
 14 Q. You would have prepared it or —
 15 A. Well.
 16 Q. — do you remember —
 17 A. That's what I'm trying to remember, because it's so long
 18 ago.
 19 Q. I understand. Let's see some detail.
 20 Page 2 in it {RBK00030060/2}, please, you say there,
 21 under 3, "Approach to fire risk assessments in RBKC
 22 housing stock":
 23 "3.1 Initially, fire risk assessments were carried
 24 out by KCTMO staff. However, the Fire Brigade's
 25 requirements became increasingly stringent —

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1 particularly in the immediate aftermath of the serious
2 fire at Lakanal House in Southwark where six people
3 died. Therefore, KCTMO and RBKC negotiated with the
4 London Fire Brigade to agree our new approach, programme
5 and timescales for carrying out these fire risk
6 assessments and any necessary works that they identify
7 across the Council's housing stock."

8 Now, just focusing on that sentence, do you agree
9 that that paragraph makes no mention at all that the LFB
10 were so concerned about the state and adequacy of TMO's
11 in-house FRAs that they considered issuing
12 an enforcement notice?

13 A. It doesn't say it there, but obviously RBKC would have
14 known it because I'm sure we discussed it with him.

15 Q. Well, do you know why this report to the RBKC
16 scrutiny committee made no mention of that fact?

17 A. I can't recall, sorry.

18 Q. Was it not an important fact to mention in a formal
19 document such as this?

20 A. You'd have thought so.

21 Q. Yes. Can you account for why it wasn't?

22 A. I can't at the moment.

23 Q. No.

24 Had you reported to the HPSC the recommendations
25 made in the Salvus fire safety management report and

9

1 what, if anything, the TMO was doing about it?

2 A. I can't recall. Apologies.

3 Q. Again, we see no mention here, so can we take it that
4 you didn't?

5 A. I think you'd have to.

6 Q. Can we go to page 3 {RBK00030060/3}, please,
7 paragraph 4.3.

8 In the first sentence you can see there's reference
9 to the fire risk assessment action plans, and then in
10 the fourth line it says:

11 "However, there are a number of potentially more
12 costly items such as an inspection programme to ensure
13 that all flat entrance doors in enclosed blocks are
14 sufficiently fire resisting, self-closing and
15 smoke-sealed and where this is not the case upgrading or
16 replacing these. Capital funding has been ear-marked to
17 progress these items and RBKC and the KCTMO are working
18 closely to ensure all significant risks are addressed
19 with the urgency they require."

20 Now, where the report here mentions "Capital funding
21 has been ear-marked", did that mean that capital funds
22 were to be provided by RBKC to the TMO to carry out that
23 work?

24 A. Yes.

25 Q. Right. So that's not, just to be clear, capital funds

10

1 within the TMO's own budget?

2 A. No.

3 Q. It's new money?

4 A. It would all — capital work comes from the HRA, not the
5 TMO, so in terms — when you mention capital work or
6 funding like that, it comes from the HRA.

7 Q. Yes, thank you. So that's new money?

8 A. Yes.

9 Q. Yes.

10 Now, apart from that specific measure across the
11 stock, did the TMO have a budget for addressing the
12 close-out of other FRA items?

13 A. I'm not sure. The ... we would have a capital budget,
14 which was round about £7 million at that time, and
15 depending on what had been committed already through
16 works — but I can't remember, so I would think probably
17 this would all have to be extra money.

18 Q. Right. I mean, the reason I asked the question is that
19 it looks from this document as if capital funding had
20 been earmarked to progress the items specifically
21 referred to. Where did the money come from for all
22 other items that are picked up in FRAs?

23 A. Well, it — FRAs would be picked up either through, if
24 it's sort of the lower ones, probably the repairs
25 programme. It might be through contract works that we

11

1 already have people with contracts. And if it was
2 larger ones that needed more time, that would come out
3 of the capital budget. So, in a sense, it would
4 probably reshape as things came up in the housing stock
5 what you'd spend your money on.

6 Q. Right. So can we take it that other than instances
7 where you could get the contractors to do the work
8 within the scope of their contracts, (1), or, (2) this
9 earmarked fund, you had to fund the repairs or actions
10 resulting from FRA actions as advised in action plans
11 from a fixed pool of money?

12 A. Yeah.

13 Q. Yes.

14 Can you give us a vague idea or even an exact idea
15 of what that fixed pool of money was in 2010?

16 A. I couldn't tell you at the moment. I mean, as far as
17 I recall, on average the capital budget was round about
18 £6/7 million, and within that you had a series of lines
19 split into different areas, which I don't have that
20 detail.

21 Q. What was that figure by 2016/2017?

22 A. So, let me just ... so on average, up until 2012, it was
23 7 million, because actually the HRA was still run by the
24 Government. After — where you only got one year
25 funding, as I said yesterday. After 2012, the

12

1 Government gave HRA freedom to each local authority,
2 which meant that the rent pool in RBKC would stay within
3 RBKC, but part of the freedom of HRA is you got some of
4 the debt allocated to each local authority as well, so
5 you had to then service that debt.

6 But because there was more freedom and you knew what
7 you were going to get each year, we began to see the
8 capital programme rise. So we did that piece of work
9 with Savills, when they looked at our housing stock,
10 which they said, in principle, with those 10,000 homes,
11 you should be spending roughly about £17 million a year,
12 and as we looked over the business plan, the principle
13 was you were going to sort of increase the investment
14 from 7 to 10, 12, 14, 16, as far as I recall.

15 Q. Right.

16 Did the budget, in whatever numbers they were as at
17 2010, extend to analysing or extend to covering staff
18 reading FRAs and processing and supervising close-out of
19 FRA actions?

20 A. It suppose it depends what FRA actions. If they were
21 resulting in big capital programmes then they would have
22 to be built into that programme. So I think it was
23 round about then we were doing the first asset
24 management survey. Basically we were surveying our
25 stock for the first time in a number of years to try to

13

1 shape that, and that should really then shape your
2 spending plans as well.

3 Q. Let me try the question slightly differently.

4 Other than the two sources of money, which is, as
5 you see here or as you told us, contractors doing what
6 they were supposed to do and this capital funding
7 earmarked to progress these specific items, did the
8 otherwise fixed pool of money extend to ensuring that
9 you had adequate resourcing, in other words staff, to
10 read FRAs, think about them properly, action FRA items
11 and supervise their completion?

12 A. It didn't increase the resources within the TMO in terms
13 of people, because the capital budget wasn't a people
14 budget, so it wasn't employing staff, apart from in the
15 capital side. So as a capital programme would increase,
16 you would have probably seen some increase in your
17 staff.

18 Q. Is it right that there was no specific budget or
19 sub-budget line—item, if you like, for health and
20 safety?

21 A. I can't recall.

22 Q. That was Janice Wray's evidence.

23 A. Okay. Well, I would have to accept that.

24 Q. Would it also apply to FRAs, there was no line—item
25 within your general budget for FRAs?

14

1 A. Probably not.

2 Q. Whether resourcing them internally or carrying them out?

3 A. Yeah.

4 Q. Right.

5 Now, Carl Stokes, as we know, was in due course
6 engaged to undertake fire risk assessments for the whole
7 of the TMO stock.

8 A. Yeah.

9 Q. Do you remember what competence checks you carried out
10 or caused to be carried out on Mr Stokes?

11 A. I didn't carry any out. The recruitment was done —
12 I think it was, as far as I recall, a joint recruitment
13 with the TMO and RBKC. I wasn't involved in that at
14 that time.

15 Q. You weren't involved.

16 Can we look at the consultants' brief of July 2010
17 at {CST00000005}, please.

18 Now, this is dated, as I say, July 2010, as you can
19 see, and it's entitled "Consultants' brief, fire risk
20 assessments — medium risk programme", prepared by TMO —
21 I summarise — for the client, and then your name
22 appears underneath that, above the words "chief
23 executive".

24 So can we take it that you were the person who
25 caused this brief to be created?

15

1 A. I would have to accept that, yeah.

2 Q. Did you read it when it came?

3 A. I can't recall at the time.

4 Q. Did you have any input into its drafting?

5 A. I don't think I would have, no.

6 Q. Right. Who drafted it, do you know?

7 A. No.

8 Q. Right.

9 Let's look at the title. As I've shown you, it's
10 fire risk assessments, medium—risk programme.

11 Now, as we know, Grenfell Tower was not included in
12 the medium—risk programme because it was a high—risk
13 building and had been assessed as part of that programme
14 by Salvus in September 2009, hadn't it?

15 A. Yeah.

16 Q. And in fact by Mr Stokes; yes?

17 A. Yes.

18 Q. Yes. But in due course, as we know, Mr Stokes began
19 completing fire risk assessments for high—risk buildings
20 within the TMO housing stock, including Grenfell, didn't
21 he?

22 A. Yeah.

23 Q. And he did so — do you remember when from? We have
24 a date of August 2011, but —

25 A. I'd just have to agree that.

16

1 Q. Right.
 2 Do you know yourself how it came about that
 3 Mr Stokes took on the role of low-risk buildings and
 4 then high-risk buildings without, as we've heard, any
 5 form of procurement or quality assessment process?
 6 A. I mean, I — well, so I can only — not speculate, but
 7 in terms that since he did the work for us, we were
 8 pleased to keep him on, but I hadn't been informed he
 9 hadn't been recruited in a way, I think he was just kept
 10 on as a consultant.
 11 Q. Right. So do I take it from that answer that you
 12 assumed that he had been the subject of a further
 13 procurement process or processes both for the low-risk
 14 and the high-risk buildings?
 15 A. Yes.
 16 Q. Right. And that assumption was wrong?
 17 A. Yes.
 18 Q. Can you explain how you, as the chief executive, were
 19 labouring under that misassumption?
 20 A. I wasn't — I didn't do all the recruitment, I had other
 21 responsibilities, and the people who were working with
 22 him, I presume, did that.
 23 Q. Did no one report to you, for example, that because
 24 Carl Stokes was providing a service with which
 25 Janice Wray was content, therefore they weren't going to

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1 bother to do a further procurement programme or process
 2 for him?
 3 A. No one came to me and said something like this, but
 4 I just, having heard all this since the evidence came
 5 out, assume that's what's happened.
 6 Q. Are you surprised to have been labouring under that
 7 misassumption?
 8 A. I'm surprised.
 9 Q. Can you explain how it came about that you, as the chief
 10 executive, did not know that your organisation had taken
 11 on Carl Stokes to do two further programmes of fire risk
 12 assessment without any due procurement process?
 13 A. I obviously wasn't told about it.
 14 Q. That would indicate some kind of defect in the reporting
 15 processes and governance structures, wouldn't it?
 16 A. It could do.
 17 Q. What other explanation would there be for it?
 18 A. I'll just accept that, yeah.
 19 Q. Now, just standing back, did you yourself ever stop and
 20 ask yourself, or indeed anybody within your
 21 organisation, how a one-man band could possibly perform
 22 the job of fire risk assessor for 650 buildings?
 23 A. I believe the programme was over three years, and
 24 therefore probably the assumption — or not the
 25 assumption, the thinking that in that three years he

18

1 said he could do it, and I think they achieved it.
 2 Q. Yes. There's achieving it and achieving it, isn't
 3 there? One could run around 650 buildings and knock out
 4 a 30-page report by dint of a lot of cutting and pasting
 5 and producing the paperwork, but my question was really
 6 more aimed at identifying an FRA of quality, one which
 7 effectively complied with all the guidance and the RRO
 8 itself.
 9 So my question: did you ever stop to ask how
 10 a one-man band could possibly perform the job of fire
 11 risk assessor for 650 buildings properly?
 12 A. No.
 13 Q. No, or how Janice Wray was going to be able to read and
 14 digest all these reports and then direct and supervise
 15 the progress of recommended actions as well as do the
 16 rest of her job?
 17 A. It was her job.
 18 Q. Indeed, as she told us, but did you ever ask yourself
 19 whether she was overstretched in that job because of the
 20 sheer scale of the task of getting in the FRAs, reading
 21 them, digesting them, directing and supervising the
 22 process of getting FRA actions started, and then
 23 supervising their completion?
 24 A. I'd expect her manager to do that, and then, if there
 25 was an issue, to inform us so that we could actually

19

1 look at resources and if extra resources were required.
 2 As I say, as chief exec, while this is important,
 3 I had other important issues as well which I was having
 4 to deal with. So, yes, I was stretched as well. So
 5 therefore how you stretch yourself in terms of to
 6 address all the issues I had, I therefore relied on my
 7 management team to provide support to make sure it
 8 happened.
 9 Q. Do I take it from that that nobody ever came to you and
 10 told you that Janice Wray, despite her courage in the
 11 face of the odds, was actually overstretched, needed
 12 help, but was too polite to ask?
 13 A. Well, actually, each year there was a budget process
 14 where managers could make bids for budgets, and then
 15 they would come to — through the senior management
 16 team, through the executive, to see if we could fit all
 17 those in. So there was a process to be able to do it.
 18 Q. Was that process ever used in order to ensure that
 19 Janice Wray had adequate resourcing and support for this
 20 job?
 21 A. I don't remember —
 22 Q. When I say "this job", I mean the FRA exercise.
 23 A. Yeah, yeah. I mean, I don't remember because it's so
 24 long ago.
 25 Q. Do you agree with me that it is the line manager's job

20

1 to make sure that the person who is reporting to them is
 2 adequately resourced so that they can do their job to
 3 the best of their ability?
 4 A. Yes.
 5 Q. And did it never occur to you, and you were never told
 6 I assume, that no one had actually ever even considered
 7 whether Janice Wray was under-resourced in this respect?
 8 A. I think we had resource issues all the time, so, I mean,
 9 I think that's a supposition. So it's not a perfect
 10 world, we only had so many resources. We'd had budget
 11 cuts, changes, so it's a difficult situation, and
 12 I think that's reflected in lots of other organisations.
 13 Q. Let me just ask you about the culture. It's not a word
 14 I would use lightly, but was there an atmosphere,
 15 perhaps, in the TMO of encouraging people to get on with
 16 the job as best they could and don't ask for any more
 17 money?
 18 A. I think there was an atmosphere of people knew how much
 19 money there was in a time of austerity, where across the
 20 country everything's been cut, including the
 21 Fire Brigade, the police and local authorities. So
 22 I think the culture is you recognise that actually
 23 there's no magic pot of money to actually sort of make
 24 everything perfect, and that's — in a sense, within
 25 social housing, local authority, that tends to be what

21

1 happens.
 2 Q. We're talking about safety, though, aren't we?
 3 A. Well —
 4 Q. Let me ask the question a slightly different way.
 5 Did you ever encourage those staff in your
 6 organisation who were managing safety, and particularly
 7 fire safety, to approach you for more money if they
 8 thought they needed it, at least to ask the question?
 9 A. Yeah, I mean, I was encouraging — I encouraged people,
 10 if there was an issue, trying to resolve issues, that
 11 was what I tried to encourage staff to do, and then you
 12 have to work out how to do it. So I wasn't against
 13 people thinking how to do things differently. I think
 14 Janice did a fantastic job. I think she was over — she
 15 was stretched, I accept that, but it never got to
 16 a stretch where people were saying to me, "We've got
 17 a problem".
 18 Q. When you say you think she did a fantastic job, I'm
 19 going to assume that you're not commenting on the
 20 totality of the facts as revealed by her evidence, but
 21 your impression of her work and her work ethic at the
 22 time.
 23 A. Impression of her and her work ethic.
 24 Q. At the time?
 25 A. At the time.

22

1 Q. Let's look at {RBK00053588}, please.
 2 Now, this is a chain of emails from February 2010,
 3 and if we go to page 3 in this run {RBK00053588/3}, we
 4 can see an email of 11 February from Janice Wray to
 5 Ann Muchmore at RBKC, copied to Lornette Pemberton and
 6 Russell Thompson, a name we mentioned yesterday, as well
 7 as you, Mr Black. You see that. The subject is "Fire
 8 Risk Assessments — progressing programmes of medium-risk
 9 and low-risk blocks".
 10 "Ann
 11 "Further to our brief conversation following the
 12 last progress meeting with Salvus, as the high-risk
 13 programme is on schedule to complete as agreed by late
 14 March/early April it is now timely to consider how the
 15 medium-risk and low-risk FRA programmes will be funded,
 16 resourced and progressed. I anticipate that we have
 17 a few options ... "
 18 Then they're set out under three paragraphs.
 19 If we go down to the third paragraph, you can see in
 20 the second paragraph of that paragraph she says this:
 21 "I can confirm that Salvus are currently on schedule
 22 to complete the high-risk programme within the agreed
 23 6 month timespan. Additionally, it is fair to say that
 24 the programme has progressed relatively smoothly and
 25 generally with the approval of the LFB. However, I have

23

1 some concerns that Salvus are very rule-bound and
 2 despite what they say about being prepared to challenge
 3 the LFB and acting on our behalf as we are their client,
 4 I believe they have shown some reluctance to challenge
 5 the LFB on thorny issues. For example, I haven't found
 6 them to be hugely helpful or proactive on our behalf on
 7 the issue of whether or not we need to do as the LFB
 8 insist and install dry risers at Gillray House etc."
 9 Now, just focusing on her description of Salvus'
 10 attitude there in the middle of that paragraph, when you
 11 read this email, were you not concerned that Janice Wray
 12 was critical of Salvus for being rule-bound, as she put
 13 it?
 14 A. This is so long ago, I'm afraid. I mean, the way I read
 15 it is that I think what she's looking for is a company
 16 that's helping her with the Fire Brigade to come to
 17 a conclusion. That's the way I read it. I can't
 18 remember this specific email, my apologies.
 19 Q. When you say "the way I read it", is that reading it now
 20 or the way you read it at the time?
 21 A. Reading it now.
 22 Q. Right. Do you remember reading it at the time and
 23 having a view about it?
 24 A. I'm afraid I can't.
 25 Q. Right.

24

1 Let me ask you, looking back, can you tell us what
 2 was wrong with a fire risk assessor who paid close
 3 attention to the rules about fire safety?
 4 A. I don't think that's what she's saying there.
 5 Q. Well, I'm not going to quarrel with you about the
 6 language.
 7 A. Okay.
 8 Q. She says Salvus are very rule-bound. What's wrong with
 9 that? She's criticising them for it. What is wrong
 10 with it?
 11 A. Well, I think — I don't know if you asked Janice that
 12 when she was — I didn't see —
 13 Q. Well, I'm asking you because you received the email, and
 14 I'm asking you to give us your evidence of your
 15 impression at the time. If you can't remember, you
 16 can't remember, but I'm just —
 17 A. I can't remember, apologies.
 18 Q. Let me try and prod your recollection.
 19 Were you not concerned at the time that Janice Wray
 20 was looking for a fire risk assessor who would take on
 21 the LFB, challenge them, as opposed to doing what the
 22 LFB insisted, given that they are or were the
 23 enforcement authority?
 24 A. I think, from knowing Janice, I don't think she means
 25 challenge them. So what it is is having a conversation

25

1 with LFB about what they want, because sometimes when
 2 they changed the role, they gave different guidance
 3 or — you know, you've got one fireman, they said this,
 4 another one that.
 5 I think, in a sense, that's what she was trying to
 6 get, and using the consultants to tie down the
 7 Fire Brigade one way or another. That's the way I read
 8 it, rather than trying to skip round the rules.
 9 Q. I don't understand "tie down the London Fire Brigade";
 10 were the Fire Brigade being unclear about things so that
 11 they needed to be pinned down to something?
 12 A. Well, in a sense, that's the way I read it, that she's
 13 trying to get clarification about if you really need to
 14 do it or if you don't need to do it.
 15 Q. Did you ask her about what the "thorny issues" that she
 16 referred to were?
 17 A. I can't recall all this time ago, apologies.
 18 Q. One way of reading this email, do you accept, is that
 19 the TMO wanted a fire risk assessor who would take the
 20 TMO's side against the LFB, as opposed to working
 21 collaboratively with the LFB to ensure that the TMO
 22 complied?
 23 A. No, I don't think the TMO or Janice ever wanted to work
 24 against the LFB. I think it was — we always wanted to
 25 work with them.

26

1 Q. That's not quite what the paragraph says, though, is it,
 2 or the impression that it gives, is it?
 3 A. I can't say anything more.
 4 Q. From your general recollection at the time, do you
 5 remember that the aim of getting Carl Stokes in instead
 6 of Salvus was that you wanted someone who would be more
 7 defensive of the TMO against the LFB?
 8 A. I can't recall that as my thoughts at that time.
 9 Q. Right.
 10 Now, Carl Stokes, as we know, was invited to tender
 11 for the medium-risk FRA programme, and in due course he
 12 was the successful tenderer. Do you remember yourself
 13 considering the tenders?
 14 A. No, I don't think I would have, no.
 15 Q. Did you ask any questions yourself about his
 16 appointment?
 17 A. I can't recall from that time.
 18 Q. Did you ask or ask anybody within the TMO to ask whether
 19 CS Stokes & Associates Limited had any quality assurance
 20 provisions or competence checks?
 21 A. I can't recall that detail.
 22 Q. Right.
 23 A. In terms of I can't recall who — because, in a sense,
 24 I think this — RBKC was involved with this. I don't
 25 know if we used — HR would have been involved, they

27

1 would have checked that. I'm afraid I just don't know
 2 the details from this long ago.
 3 Q. Did you ever wonder to yourself what would happen, given
 4 that Carl Stokes was a one-man band, if Carl Stokes was
 5 indisposed for a couple of weeks, what would happen to
 6 his programme?
 7 A. I didn't have that thought.
 8 Q. It never occurred to you that depending on Carl Stokes
 9 as a one-man band was a rather slender reed on which to
 10 hang such a momentous role?
 11 A. I can't recall.
 12 SIR MARTIN MOORE-BICK: Can you just confirm, was it
 13 ultimately your decision whom to appoint as fire risk
 14 assessor?
 15 A. No. It could have been, but in a sense, I don't think
 16 I was involved in the recruitment. So the recruitment
 17 panel would have done the recruitment and assessed the
 18 candidates and made the appointment.
 19 SIR MARTIN MOORE-BICK: All right. Thank you.
 20 MR MILLETT: I want to turn now to a fire that occurred at
 21 Grenfell Tower in April 2010, 30 April 2010.
 22 Now, can we go to {TMO10048221/4}, please.
 23 This is an email from Janice Wray, 5 May, to
 24 Collette O'Hara of the LFB, copied to you. Do you see
 25 that?

28

1 A. Yeah.
 2 Q. "Collette
 3 "Further to our telephone conversations yesterday
 4 about this fire I would advise as follows ..."
 5 If we go to paragraph 2, she says this:
 6 "The communal fire detection system is linked to
 7 an extraction system and this did operate removing the
 8 smoke from the lift lobby. Unfortunately, it appears
 9 that there was spillage/leakage of smoke from the
 10 extraction system into the lobbies of floors 7, 12, 13,
 11 15, 17, 18, 19 and 20 and this led a number of residents
 12 to believe that their lift lobby was smoke logged and
 13 they were trapped in their home and as such they
 14 telephoned the FB raising their concern."
 15 Now, do you remember seeing this email at the time?
 16 A. I can't remember at the time, but obviously I've seen
 17 it —
 18 Q. Right.
 19 Now, Janice Wray told the Inquiry — {Day144/5},
 20 there is no need to go to it — that this was her report
 21 to the LFB on that fire.
 22 Did you ask her for any other report or a more
 23 formal document?
 24 A. I can't recall.
 25 Q. Let's go to {TMO10037437}.

29

1 This is the board pack for the TMO board meeting of
 2 22 July 2010, and if we go to page 94 {TMO10037437/94},
 3 we can see Janice Wray's report to the board of
 4 17 June 2010.
 5 If you look at page 96 in that document
 6 {TMO10037437/96}, you can see paragraph 8, and at
 7 paragraph 8, which is headed "Fire at Grenfell Tower —
 8 30th April 2010", she says at 8.2:
 9 "Grenfell Tower has an automatic fire detection
 10 system in the communal areas which is linked to
 11 a ventilation and extraction system. The fire alarm was
 12 activated by the smoke, rang throughout the block and
 13 the extraction system opened as it should, expelling the
 14 smoke from the building."
 15 You can cast your eye down to the bottom of that
 16 page and then over to page 97 {TMO10037437/97},
 17 paragraph 8.3. It says:
 18 "However, when the Fire Brigade attended they
 19 inspected the block and subsequently raised a number of
 20 concerns with us. Specifically —
 21 "■ it appears that although the vents opened and the
 22 smoke was expelled from the building, there was some
 23 'leakage' of this smoke onto some lift lobbies at
 24 a number of the floors above the sixth. Why did this
 25 happen? What arrangements are in place for maintaining

30

1 the fire alarm and smoke extraction system?
 2 "■ why were there recycling bags on the 6th floor
 3 lift lobby?
 4 "■ there was some confusion over whether the lifts
 5 responded to the override request from the LFB?"
 6 Just pausing there, did you read this report at the
 7 time, namely June 2010 or at any time before the TMO
 8 board meeting on 22 July —
 9 A. I would have done, yes.
 10 Q. You would have done, yes.
 11 Now, we can see that this report doesn't describe
 12 leakage on to eight floors, as set out in Janice Wray's
 13 email of 5 May to Collette O'Hara, does it?
 14 A. No.
 15 Q. Nor does it mention the fact that residents believed
 16 they were trapped in their flats and called the LFB,
 17 does it?
 18 A. No.
 19 Q. Nor does it mention the fact that — well, let me ask
 20 you: the report suggests, doesn't it, that AOV operated
 21 as it should, with a bit of leakage?
 22 A. It appears to say that.
 23 Q. Yes.
 24 Did you ask Janice Wray why this report to the board
 25 was, in the respects I've pointed out to you,

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1 inconsistent with her email to Collette O'Hara of 5 May?
 2 A. I'm afraid I can't recall.
 3 Q. Not really giving the board the full picture, is it?
 4 A. It would appear to be that, yeah.
 5 Q. At 8.4(b) on page 97 {TMO10037437/97}, it says this:
 6 "TMO engineers and the planned maintenance
 7 contractors inspected the entire extraction system
 8 following the fire to identify any damage caused by the
 9 fire and none was found. Additionally, the planned
 10 remedial works referred to at (a) above were
 11 successfully completed and the system was fully
 12 operational on Friday 7th May. Smoke tests were
 13 successfully completed at conclusion of these planned
 14 works to ensure the integrity of the system."
 15 Then if you just skip over to page 98
 16 {TMO10037437/98}, please, and let's look together at
 17 paragraph (e):
 18 "As there was some confusion as to whether there had
 19 been a problem with the lifts at the time of the fire
 20 (specifically they may not have returned to ground level
 21 when called by the FB) the lift maintenance contractors
 22 were instructed to test the fire fighters override
 23 switches etc. on both lifts. They confirmed that both
 24 were operating perfectly and lifts had both returned to
 25 ground when called as required. Further discussions

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1 with the LFB in this matter have raised the possibility
 2 of the lifts being overloaded — Station Commander
 3 advised there could have been as many as six
 4 firefighters plus all their very heavy equipment in the
 5 lift car and this could well have been enough to
 6 overload the lift."

7 Now, what I've read to you just now, was that the
 8 extent of the information that you were given about the
 9 2010 fire at Grenfell at the time?

10 A. Yes.

11 Q. Now, let's go to {IWS00001463}, please.

12 This is a formal document from the LFB entitled
 13 "Report of attendance of London Fire Brigade to
 14 a primary fire* incident."

15 "Primary fire" is defined by the asterisk at the
 16 foot of the page as:

17 "A primary fire is one that involves 'property' such
 18 as a building or ..."

19 I don't know what the "or" is supposed to indicate.
 20 It's dated 22 September 2010, and it relates to
 21 Grenfell Tower, as you can see. So this is at the end
 22 of that year.

23 But if you go to page 3 {IWS00001463/3}, there is
 24 a reference to the AOV system, and it says a third of
 25 the way down your screen:

33

1 "Were active fire fighting systems present: Yes.
 2 "Type of active system: Smoke ventilation.
 3 "Location of system in relation to the fire: On same
 4 floor as fire.
 5 "Did the system operate?: No."
 6 Then "No" beneath that.
 7 "Impact of system on fire: Did not contain/control.
 8 "Reason the system did not function as intended:
 9 Fault in system."

10 Then if you go back to page 2 {IWS00001463/2}, it
 11 also says in relation to the lifts, at the very bottom
 12 of your screen:

13 "Reason facility did not work (if applicable): Poor
 14 maintenance."

15 Were you aware, first, that the LFB produced reports
 16 such as this after a fire in one of the buildings on
 17 their ground?

18 A. I'm aware they produced reports.

19 Q. Did you ask or cause anybody to ask LFB for their formal
 20 report of the April 2010 Grenfell Tower fire?

21 A. Yes, I asked Janice several times if we'd received the
 22 report.

23 Q. What did she tell you?

24 A. She said we hadn't.

25 Q. Did you ask her to press?

34

1 A. Yes, I think I did.

2 Q. Did she press?

3 A. Well, I'm still not sure if I've ever seen this report.

4 Q. No, indeed, that's the point. Can you explain why,
 5 despite asking Janice for the report such as this, you
 6 never saw it?

7 A. I don't know.

8 Q. Did it slip off your radar?

9 A. It wouldn't — I believe I hadn't been told that we
 10 received this report. That's why sometimes the —
 11 because I've never seen this — sorry, did Janice have
 12 this, or did the Inquiry get this from the Fire Brigade?

13 Q. Well, you're asking me a question of the source of the
 14 material. Janice did not get this report, because
 15 I asked her about it.

16 A. Okay. So ...

17 Q. She did not get this report. My question to you is:
 18 given that you told us that you asked her to get it, did
 19 it slip off your radar at some point?

20 A. I ... it must have done, but it's never been confirmed
 21 that she gave us ...

22 Q. Now, let's go to {TMO00846312}, please.

23 This is a letter which I think we've seen before
 24 together from GTLA to you of 3 September.

25 If you look in the first paragraph, there is

35

1 a reference to a response from Daniel Wood. They go on
 2 in the third sentence, third line, to say:

3 "We have chosen to respond to you directly instead
 4 of Mr. Wood for the simple fact you originally made the
 5 commitment to look into our issues and concerns."

6 They then list a number of concerns, including, on
 7 page 1 at the bottom, the last paragraph there:

8 "Secondly, we will argue that the recent fire at
 9 Grenfell Tower has raised so many Health and Safety
 10 issues with the building that it demands an independent
 11 investigation and enquiry into the safety of the
 12 building."

13 They then explain a little more their concerns about
 14 the fire on page 5 {TMO00846312/5}, if you go to that,
 15 second half of that page. "Fire Alarm and Health and
 16 Safety" is the heading, and if you look at that, in the
 17 second—last paragraph on page 6 {TMO00846312/6}, if we
 18 move over to that, it says in the penultimate paragraph:

19 "The TMO issued a tender in relation to maintenance
 20 & repair of the fire safety equipment to RGE services
 21 for £52,372.50 and date of the notice of proposal was
 22 28th April 2009. We need to see what sort of
 23 maintenance work was carried out from 28th April 2009
 24 towards the repair of fire safety equipment and the
 25 invoices with corresponding tangible evidences."

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1 Now, would you agree with me that that is quite
 2 a granular request for hard data, isn't it?
 3 A. Yeah.
 4 Q. Yes. What commitment did you originally make to GTLA to
 5 investigate their issues and concerns?
 6 A. I think it was my — part of my — when I joined, there
 7 was quite a lot of issues across leaseholders generally,
 8 across the thousands of them they had, and that
 9 commitment was to try to work through the detail. A lot
 10 of it was around where work had been done, in terms of
 11 the contracts, and they weren't either happy with the
 12 quality or the cost, or they hadn't had the final bill.
 13 So there was a sort of range of issues that we took on
 14 board through Dan Wood and the home ownership team to
 15 address.
 16 Q. It sounds from that answer that your commitment was
 17 a generic one given to all leaseholders in the stock?
 18 A. Yes.
 19 Q. Not specifically to the Grenfell Tower Leaseholders'
 20 Association?
 21 A. Not specifically, because we had —
 22 Q. So, just to be clear, when they refer to the commitment
 23 you gave, as I read to you at the beginning of this
 24 letter, they're not referring, are they, to the best of
 25 your understanding, to a specific commitment given to

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1 that specific group of individuals?
 2 A. No, it was a specific — across — to try to resolve
 3 some of the historic issues that leaseholders had faced
 4 in RBKC and having the home ownership team address that.
 5 Q. Did you consider, as they were inviting you to, having
 6 an independent investigation into the fire safety of
 7 Grenfell Tower at that time?
 8 A. No.
 9 Q. Why is that?
 10 A. I can't recall.
 11 Q. I mean, the question was clear, wasn't it?
 12 A. Yeah.
 13 Q. Did you take the question and consider it with anybody
 14 internally?
 15 A. I think I would have sent this — sorry, there must have
 16 been a response here, to understand how — because in
 17 a sense, I get — usually what I would do, if I got
 18 something like this, I would send it to my team to
 19 say — because it cuts across a few issues. So it's
 20 a home ownership issue, but it's also an asset
 21 management issue, so we'd have to actually find the
 22 costs and the work to break that down, so teams need to
 23 pull that information together for me.
 24 Q. There is a response, you're quite right, and we're going
 25 to look at that in a moment.

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1 A. Yeah.
 2 Q. Now, as I say, you can see here that the GTLA had
 3 requested evidence of repair of the fire safety
 4 equipment, and you agreed with me that that was a pretty
 5 granular and empirical request for data.
 6 A. Yeah.
 7 Q. Let's go to {RBK00013637}.
 8 What I'm showing you here is the RGE maintenance
 9 report dated 12 May 2010, so four months or so before
 10 this correspondence, and it relates to the
 11 Grenfell Tower smoke vent system, as you can see on the
 12 screen.
 13 Did you provide this document to GTLA?
 14 A. I wouldn't know or I can't recall.
 15 Q. Right.
 16 Was this document put on your desk so that you could
 17 consider responding or asking somebody, Anthony Parkes
 18 I think in the end, to respond with it to GTLA?
 19 A. I can't recall this report, I apologise.
 20 Q. Right.
 21 Let's look at page 7 {RBK00013637/7} and see if that
 22 rings a bell with you.
 23 Under "Comments & recommendations", section 4 of
 24 this report, in the middle of the text you can see that
 25 they say this:

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1 "Due to the spring force on the inlet dampers the
 2 actuators are not reliable and may not operate on every
 3 activation.
 4 "The outlet damper have very little force and are
 5 reliable.
 6 "Apart for the above, and its age, the system is
 7 generally in good operational order and is capable of
 8 being maintained for the next 5 years [and then in bold]
 9 apart from the inlet dampers."
 10 So we can see what it says.
 11 Were GTLA not entitled to know that the AOV system
 12 in their building had inlet dampers which were
 13 unreliable?
 14 A. Yes, I would say yes.
 15 Q. So why was this document not provided to them?
 16 A. I've never seen this document.
 17 Q. No, I appreciate that, but I'm now showing it to you,
 18 and are you able, as you sit there today, to give us
 19 an explanation as to why this document was not provided
 20 to the people who lived in the building?
 21 A. Not at all.
 22 Q. Is it the case that this wasn't provided to them because
 23 it would have confirmed exactly what it was that the
 24 GTLA suspected, namely that the AOV system was not
 25 working properly?

40

1 A. I would never agree to that. If it's not working, it's
 2 not working.
 3 Q. Now, let's go to {TMO00846320}.
 4 This is Anthony Parkes' response to GTLA's letter of
 5 3 September, and it's dated 21 September 2010, addressed
 6 to the GTLA:
 7 "Dear Sirs,
 8 "Further to your letter of 3rd September 2010,
 9 I have noted your general comments and after detailed
 10 discussion with senior officers I can advise the
 11 following in respect of the specific points raised."
 12 Just there, were you one of the senior officers with
 13 whom Mr Parkes had had a detailed discussion before
 14 sending this letter?
 15 A. I would think so.
 16 Q. Yes.
 17 Let's look at page 4 {TMO00846320/4}. This is under
 18 the heading "Fire Alarm and Health & Safety" at the top
 19 of your screen, and he says:
 20 "Whilst I understand your concerns I can confirm
 21 that the fire alarm was functioning and that the vents
 22 were working at the time of the fire. The smoke vent
 23 opened on a specific floor, but the seal to the smoke
 24 vents on other floors leaked. This would not have been
 25 so serious if the fire brigade turned on the manual

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1 smoke vent fan which would have drawn smoke away.
 2 Regrettably, this did not happen as officers who
 3 attended did not know how it worked. We have discussed
 4 this with LFB and clarified how to operate the vent
 5 fans, the controls are well labelled on the ground
 6 floor. To prevent this confusion happening again we are
 7 presently looking to upgrade the smoke vent system to
 8 work automatically when the alarm sounds.
 9 "Please rest assured that the system is checked
 10 regularly and inspection reports are completed.
 11 "After further investigation, the only issue
 12 identified was the loose seals to the smoke vents on
 13 other floors."
 14 I don't think I need the rest of that.
 15 A. No.
 16 Q. First, can you tell us why Anthony Parkes responded to
 17 the letter which was addressed to you instead of bearing
 18 your name?
 19 A. Because Anthony was the head of home ownerships — well,
 20 not the head, he managed the head of home ownership, who
 21 managed the relationship with leaseholders, so Anthony
 22 would have been working with that team and got the
 23 information from Janice, because he managed Janice as
 24 well, and would have linked in with asset management.
 25 So I take it the response is based from the feedback

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1 from those three teams.
 2 Q. Did you check this letter or approve it before it was
 3 sent?
 4 A. I would have read it and — because, in a sense, this is
 5 what I'm being told.
 6 Q. Now, Anthony Parkes makes no mention here, does he, of
 7 the RGE maintenance report of May 2010 or its
 8 conclusions that the actuators may not always work, does
 9 he?
 10 A. He doesn't, no.
 11 Q. And, indeed, would you agree that the three paragraphs
 12 of this letter under "Fire Alarm and Health & Safety"
 13 are really an exercise in concealment and half truth?
 14 A. I'm not sure. I mean, as I said, I don't — I hadn't
 15 seen the report you showed me, it's never been presented
 16 to me. I don't know if Anthony saw it, so therefore if
 17 he read it. It looks like he didn't get it, so I'm
 18 confused, and —
 19 Q. It looks like an attempt to blame the Fire Brigade
 20 rather than the state of the AOV, doesn't it?
 21 A. Again, we'd have to ask Janice more about if that was
 22 an issue, because that's why it got put in there,
 23 I wouldn't say ...
 24 Q. Well, I'm asking you, because you were the person to
 25 whom the letter was written —

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1 A. Yeah.
 2 Q. — and you read this letter before it was sent by
 3 Anthony Parkes. What I'm putting to you, and inviting
 4 you to accept, is that these three paragraphs are
 5 an attempt to blame the Fire Brigade and pin any error
 6 on human error on their part, rather than on the
 7 defective condition of the AOV at the time?
 8 A. I'm sort of upset reading this and can't explain it.
 9 Apologies.
 10 Q. Were you aware that a year later — this is August 2011,
 11 9 August 2011 — RGE wrote a further report saying they
 12 could not guarantee conformity of the AOV with fire
 13 regulations, and that the actuation system was not fit
 14 for purpose and needed to be replaced in order to make
 15 the system compliant?
 16 A. No.
 17 Q. Do you know why the GTLA was not told about that, and
 18 we've seen no evidence that they were?
 19 A. Well, I'm completely ... I haven't seen it, I hadn't
 20 been told that, and obviously they hadn't, so ...
 21 Q. We know that you knew that a deficiency notice for
 22 Grenfell Tower was issued by the LFB on 24 March 2014,
 23 among other things, identifying the failure to maintain
 24 the smoke ventilation system.
 25 A. And I'm sure I was told it was fixed and working.

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1 Q. We know that the smoke extraction system was only
2 replaced in 2016 as part of the refurbishment programme,
3 wasn't it?
4 A. Yes.
5 Q. Do you agree with me that that meant that Grenfell Tower
6 did not have a fully functioning AOV system between 2010
7 and 2016?
8 A. Based on what you're telling me, yes.
9 Q. Despite the fact that the GTLA had raised this very
10 problem after the April 2010 fire?
11 A. I accept that.
12 Q. Now, in fact, taking a step back a year from 2016 to
13 2015, let's go to {TMO00857924}.
14 We can stay on page 1. This is an email, in the
15 second half of the page, from the GTLA of 2 January 2015
16 to Councillor Dent Coad and Judith Blakeman, copied to
17 a long, rather forbidding list of other people, and you
18 will need to go to the second page {TMO00857924/2} to
19 see the text.
20 It's signed, I should just tell you, by
21 Tunde Awoderu of the GTLA.
22 If you go to the fourth paragraph down, he says
23 this:
24 "In a letter to me ..."
25 Do you see that?

45

1 A. Oh, yeah.
2 Q. Yes:
3 "In a letter to me from the KCTMO Ltd dated
4 30th January 2013 on page two it states, 'We can confirm
5 that improvements will be made to the existing smoke
6 extraction and ventilation, system which links to the
7 fire alarm, under the Grenfell Regeneration Project'.
8 "Rydon has been on site since June 2014 and so far
9 there is no tangible evidence whatsoever Rydon and KCTMO
10 intend to carry out replacement of the smoke vent and
11 extraction and ventilation system which links to the
12 fire alarm. We need confirmation that Rydon will carry
13 out the work as part of the regeneration project as
14 promised by the KCTMO."
15 Then they go on to cite the FRA from November 2012.
16 Now, if we go up to page 1 {TMO00857924/1}, we can
17 see that you forwarded that email to Peter Maddison and
18 Sacha Jevans on 5 January 2015, and you say this:
19 "Happy New Year ...
20 "Not sure if you were copied in to this, can you
21 review and let me know if it's the same old thing or
22 something else."
23 Now, when you said "same old thing", what did you
24 mean?
25 A. Oh, inappropriate language.

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1 Q. Yes, but what did you mean?
2 A. What I wasn't sure is if it's — in terms of if there
3 was anything new here that we hadn't responded to. So
4 I accept it's inappropriate language, it wasn't right,
5 but I just — sometimes you're getting so many of these
6 things, not just from here, that I wasn't clear if it
7 was new or old.
8 Q. Well, you say you weren't clear if it was new or old;
9 you rather assumed that it was old, otherwise you
10 wouldn't have used the word.
11 A. Yeah.
12 Q. Did the fact that it was old not indicate to you that
13 there was a problem which had not yet been fixed?
14 A. I've had to accept that.
15 Q. Was it not a matter of concern to you that no works had
16 been carried out to the smoke ventilation system between
17 2010 and the date on which you saw this complaint, early
18 January 2015?
19 A. I have to say that, yes.
20 Q. Yes. So it was a matter of concern to you, was it? It
21 doesn't appear to have been. You dismissed it as "same
22 old thing".
23 (Pause)
24 A. I have to accept that.
25 Q. Can you see why, looking at that, the GTLA might have

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1 had a reason to lose their trust in the TMO's management
2 of their building?
3 A. Yes, now you've taken me through this, yes.
4 Q. Now, let's turn to updates to RBKC's scrutiny committee.
5 Now, you previously reported to RBKC's
6 scrutiny committee in 2010, and you were asked to
7 prepare an updating report, and we can see that at
8 {RBK00030083}. Page 1 is there, 20 January 2011.
9 Page 5 {RBK00030083/5} is where I want to go to. We
10 can see on that page that, again, this report comes from
11 you as CEO of the TMO, Laura Johnson and Jean Daintith,
12 prepared by Janice Wray, as we can see from the contact
13 officer details at the foot of that page.
14 If we go to page 3 {RBK00030083/3}, let's look
15 together at paragraph 4.4, and it says:
16 "However, there have also been a number of
17 potentially more costly items. In particular, the
18 following recommendations were made in relation to flat
19 entrance doors of all of the enclosed blocks —
20 " ■ Confirm that each dwelling door is to FR30
21 standard and is provided with a self-closing device.
22 " ■ Consider, where not fitted, the installation of
23 intumescent strips and cold smoke seals to each flat
24 access door."
25 Now, this was the genesis, wasn't it, of the flat

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1 door replacement programme?
 2 A. Yes.
 3 Q. Yes.
 4 Let's then go a little forward in time to the TMO's
 5 health and safety annual report for 2011/2012. This is
 6 at {TMO00863411}, please. I'll show you the first page
 7 of that, and there it is, identifying the year.
 8 If we go to page 9 {TMO00863411/9}, please, you can
 9 see under paragraph 8.1.1, in the second sentence there:
 10 "In our case, as highlighted above at 3.1, the
 11 'responsible persons' are considered to be RBKC and
 12 KCTMO."
 13 Was that your understanding?
 14 A. Yes.
 15 Q. Do you know how that understanding arose, that there was
 16 this joint responsible person role?
 17 A. I think it's because, when I joined, that's what
 18 Jean Daintith said, because in a sense they owned the
 19 building still, we just managed it, they were the name
 20 on the leasehold and the tenancy, and they managed the
 21 HRA. So in terms of while we had responsibility, we
 22 wouldn't have — we didn't have all the responsibility.
 23 Q. Let's go to page 10 {TMO00863411/10} and look at 8.1.11
 24 at the foot of the page. It says this:
 25 "Whilst progress to date has been worthy of note and

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1 the LFEPA's timescale for completion of the high and
 2 medium risk Action Plan items by July 2014 is still
 3 a long way off, a significant amount of work remains if
 4 we are to ensure that all actions are completed.
 5 Additionally, any further actions identified by
 6 subsequent FRA reviews must also be resolved swiftly.
 7 The continued commitment of staff and contractors will,
 8 therefore, be required."
 9 How did you yourself ensure that actions identified
 10 by FRAs were being carried out within the timeframe for
 11 completion set by Mr Stokes?
 12 A. They went through the health and safety committee and
 13 they monitored them to make sure they were allocated to
 14 the right teams.
 15 Q. Did you yourself take any steps to monitor what it was
 16 that the health and safety committee was doing by way of
 17 supervision?
 18 A. Not all the time, no.
 19 Q. At any time?
 20 A. Sometimes I would ask because I'd get reports, so I'd
 21 then speak to the people involved.
 22 Q. Did you get regular reports, do you remember?
 23 A. Maybe not always regular, no.
 24 Q. Now, let's go to {TMO10001767}.
 25 These are the minutes of an RBKC housing and

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1 property scrutiny committee of 8 November 2012, and you
 2 can see from the list of those in attendance that you
 3 were there. Do you see that?
 4 A. Yes.
 5 Q. If we go to page 3 {TMO10001767/3}, and look at the
 6 second paragraph on that page, it says this:
 7 "The Committee expressed continued concern over
 8 flat entrance doors in the TMO stock that were
 9 non compliant with fire safety standards. Mr Black
 10 responded by emphasising the vast majority of flats were
 11 designed to contain fire. He also confirmed the TMO was
 12 working with the Fire Brigade at the highest level and
 13 the 68 leaseholders with non-compliant doors had been
 14 informed by letter that it was their responsibility to
 15 meet the standard and were responding.
 16 Councillor Pascall said he appreciated the work already
 17 carried out on this issue but urged all parties to make
 18 as much progress as quickly as possible."
 19 It looks as if, and do you agree, that the concern
 20 over leaseholder flat entrance doors extended to the
 21 scrutiny committee?
 22 A. Yes.
 23 Q. Did you consider the committee's concern to be valid?
 24 A. Yes, I think we all — I mean, the issue here is the
 25 doors were the responsibility of the leaseholders, so

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1 while we could replace tenancy doors by giving notice
 2 and doing it, we didn't have that authority with the
 3 leaseholders.
 4 Q. You then, I think, reported to the TMO board in
 5 November 2012, and let's go to the board pack for that,
 6 that's at {TMO10001766}. You can see that the date of
 7 the board meeting is 15 November 2012 there.
 8 If we look within the board pack at page 12
 9 {TMO10001766/12}, we find your report, chief executive's
 10 report, as agenda item 3. If we look within that to
 11 page 15 {TMO10001766/15}, we can see that here is where
 12 you deal with fire risk assessments under section 5.
 13 You say:
 14 "All relevant Fire Risk Assessments for common parts
 15 have been completed and the identified works have been
 16 categorised from 1 to 5 by risk.
 17 "Categories 1 to 3 are deemed to be mandatory and
 18 have been actioned. These are primarily related to the
 19 installation of fire doors to tenanted properties.
 20 "A number of door installations remain to be
 21 completed as part of these works, and we are working
 22 with internal teams, London Fire and Emergency Planning
 23 Authority (LFEPA) and RBKC to progress these.
 24 "Where necessary, we shall assist RBKC in taking
 25 legal action to ensure that these works are completed.

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1 "An assessment of the works identified as category 4
2 and 5 (recommendations only) is being undertaken to
3 establish what action is to be taken, and over what
4 timescale."
5 Now, just reading that back to you, is it right
6 that, as you understood it, the FRAs for all properties
7 had been carried out?
8 A. Sorry, can you say that again?
9 Q. Yes. Did you understand it at the time that all FRAs,
10 fire risk assessments, had been carried out for all of
11 your stock?
12 A. Yes, because this would have been drafted by Janice for
13 my report.
14 Q. From your report?
15 A. No, she would have drafted this for my report.
16 Q. Oh, for it, yes.
17 Let's just go through the process, then.
18 Janice Wray would have provided you with some text for
19 you to insert into your report for the board?
20 A. Yeah.
21 Q. Right. When you did that, did you discuss it with her,
22 did you go through it, did you verify it in any way?
23 A. I'd discuss it with her and then just accept that that's
24 what she's telling me as ...
25 Q. Right.

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1 As you understood it, as I'm putting to you, all
2 fire risk assessments had been done for the entirety of
3 the stock by then, this is November 2012; yes?
4 A. Yes.
5 Q. Yes.
6 Is it also right that at the time you understood
7 that the actions arising from those FRAs had been
8 divided up into categories and given a risk category of
9 1 to 5 on a range?
10 A. Yes.
11 Q. Did you know what those risk categories meant, each one?
12 A. I can't recall at the moment, sorry.
13 Q. Right.
14 Can we look at an example FRA action plan where
15 works are identified and categorised by risk.
16 I'm going to show you the FRA action plan for
17 Grenfell Tower of 20 November 2012, so the very same
18 month, a few days after this meeting, and it's at
19 {CST00003083}.
20 This is the first page of a document called "Record
21 of significant findings and action plan", and you can
22 see that it relates to Grenfell Tower and is dated
23 20 November 2012.
24 Just pausing there, had you seen this document at
25 the time?

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1 A. I'm not sure if I've seen this specific one. I'd seen
2 other ones before.
3 Q. Right.
4 Would these documents generally have come across
5 your desk?
6 A. Not across my desk, they'd have gone to the health and
7 safety committee.
8 Q. Right.
9 As at November 2012, were you broadly familiar with
10 what an FRA done by Mr Stokes looked like?
11 A. Broadly.
12 Q. Were you broadly familiar with what a record of
13 significant findings and action plan looked like?
14 A. I'd have to — I can't recall.
15 Q. Right.
16 Now, let's just look a little bit more closely at
17 it.
18 You can see above the box that it refers to:
19 "Priority time scales: High: 2 to 3 Weeks. Medium:
20 2 to 3 Months. Low: 6 to 12 Months."
21 And you can see that the first item in the list on
22 that page is "Advise Only", and is white, it's not
23 coloured.
24 If you scroll down to page 2 {CST00003083/2}, you
25 can see that a number of items are given a high priority

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1 and are coloured red; yes?
2 A. Yes.
3 Q. Those are priority items and, therefore, must be
4 completed within two to three weeks; yes?
5 A. Yeah.
6 Q. Was that as you understood it at the time?
7 A. Yes.
8 Q. Now, if we go to page 3 {CST00003083/3}, we can see
9 a medium-risk priority as an example, item 8c which has
10 an amber colour.
11 A. Yes.
12 Q. And that means it had a timescale for completion of two
13 to three months; yes?
14 A. Yes.
15 Q. And you would have understood that fact at the time?
16 A. Yes.
17 Q. That scheme; yes?
18 Did you expect the items identified in the action
19 plan to be addressed within those set timescales?
20 A. Yes.
21 Q. Did you understand that, in the end, you were ultimately
22 responsible for ensuring that they were addressed within
23 those timescales?
24 A. Yes.
25 Q. And how did you go about ensuring that they were

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1 addressed within those timescales?
 2 A. By them being managed through the health and safety
 3 committee.
 4 Q. Right. Did you spot check or verify what it was health
 5 and safety was doing by way of managing that question or
 6 managing that task?
 7 A. I wouldn't have been so hands-on in that, no.
 8 Q. Right. So you left it to them?
 9 A. Yes.
 10 Q. I mean, did you understand that meeting or not meeting
 11 those timescales might mean the difference between being
 12 compliant with the RRO and exposing your organisation to
 13 prosecution for a regulatory offence —
 14 A. Yes.
 15 Q. — or not?
 16 SIR MARTIN MOORE-BICK: I think you said yes?
 17 A. Yes.
 18 MR MILLETT: Yes, you did.
 19 Given that that was a major risk as identified much
 20 later indeed by the corporate risk map, why was this not
 21 something that you kept tabs on, at least in some way?
 22 A. I suppose it goes back to in terms of I had a wide brief
 23 doing other things and it's about trying to find this
 24 balance.
 25 MR MILLETT: Mr Chairman, is that a convenient moment for

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1 the break?
 2 SIR MARTIN MOORE-BICK: Yes, I think it probably would be,
 3 thank you.
 4 Well, we'll have a break now, Mr Black. We will
 5 come back at 11.30, please. And again, please don't
 6 talk to anyone about your evidence while you're out of
 7 the room.
 8 THE WITNESS: Okay.
 9 SIR MARTIN MOORE-BICK: Thank you.
 10 (Pause)
 11 Thank you. 11.30, please.
 12 (11.13 am)
 13 (A short break)
 14 (11.30 am)
 15 SIR MARTIN MOORE-BICK: All right, Mr Black, ready to carry
 16 on?
 17 THE WITNESS: Yes, thanks.
 18 SIR MARTIN MOORE-BICK: Good.
 19 Yes, Mr Millett.
 20 MR MILLETT: Thank you, Mr Chairman.
 21 Mr Black, I want to ask you some questions next
 22 about RBKC's 2013 audit.
 23 You recall, I think, that the TMO's health and
 24 safety system was audited by RBKC in the spring of 2013,
 25 wasn't it?

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1 A. Yes.
 2 Q. The final internal audit report of April 2013 is at
 3 {RBK00000313}, if we can just turn that up.
 4 We can see that the final audit report, April 2013,
 5 was circulated initially in draft to those individuals
 6 you see listed there — Janice Wray, Anthony Parkes,
 7 Sacha Jevans and Peter Maddison — and then final
 8 additionally circulated to you and Laura Johnson; yes?
 9 A. Yes.
 10 Q. Can we take it that you saw and read this document in
 11 April 2013?
 12 A. Yes.
 13 Q. If we go to page 4 {RBK00000313/4}, please,
 14 paragraph 11, you can see the result. It's something we
 15 discussed yesterday in your evidence.
 16 It says:
 17 "As a result of the audit review, Internal Audit can
 18 give [in bold] Limited Assurance that adequate controls
 19 and processes are in place for Health and Safety at the
 20 TMO."
 21 And it identifies weaknesses in it.
 22 If we go to paragraph 10, page 4, it says:
 23 "Five medium priority recommendations were also made
 24 as follows:
 25 "■ All high priority remedial work identified as

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1 part of the annual health and safety inspection checks
 2 should be followed up by the Health and Safety Team to
 3 ensure it is undertaken on a prompt basis."
 4 Then the final bullet point there I'll specifically
 5 read to you says this:
 6 "Appropriate performance indicators relating to
 7 health and safety inspections should be developed by
 8 management."
 9 Now, I take it that you understood and read those
 10 recommendations at the time?
 11 A. Yes.
 12 Q. If we go on in this report to page 21 {RBK00000313/21},
 13 let's look and see what's said about performance
 14 indicators.
 15 If we go first to paragraph 9.3:
 16 "Audit noted that only a limited number of health
 17 and safety performance indicators are reported and there
 18 is an absence of meaningful indicators for areas such as
 19 electrical inspections, water quality inspections and
 20 treatment of asbestos."
 21 Then 9.4:
 22 "In the absence of a full range of performance
 23 indicators for health and safety specific areas, there
 24 is a risk that management cannot monitor performance
 25 levels for these areas and take appropriate corrective

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1 action where poor or inadequate performance levels are
2 identified."

3 Then you can see the recommendation, and then below
4 that the management response. The recommendation is:

5 "Appropriate performance indicators relating to
6 health and safety inspections should be developed by
7 management. This ensures that inspections can be
8 monitored and any performance issues identified for
9 appropriate corrective action to be taken where
10 performance does not meet expectations."

11 Then the management response underneath that:

12 "The Annual Report summarises all health & safety
13 activity in the preceding twelve months. However, it
14 had been acknowledged that it would be beneficial for
15 the TMO to supplement this with meaningful health and
16 safety key performance indicators which could be
17 monitored regularly throughout the year. A range of
18 such indicators have now been identified covering
19 a range of areas including Health and Safety
20 Inspections, Fire Risk Assessments/Reviews,
21 Enforcement/Deficiency Notices Received, Number of
22 Accidents, Fires, Violent Incidents ..."

23 Then at the end, after legionella:

24 "... Percentage Compliance on Maintenance of Fire
25 Equipment (wet & dry risers, fire extinguishers,

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1 fire alarms sprinklers etc)."

2 Can I assume you read both the recommendation and
3 the management response?

4 A. Yes.

5 Q. The management response itself was something obviously
6 coming from management; did you contribute to it?

7 A. No.

8 Q. Who wrote that?

9 A. It would have been — if you — it would have gone to
10 the people who are covered by the audit, so in terms of
11 the first draft audits would have gone to those
12 individuals. They would have then been asked to make
13 their comments, which is them, and that's when it's
14 circulated to myself and Laura.

15 Q. So was this management response drafted by those four
16 individuals to whom the draft was circulated?

17 A. Yes.

18 Q. So that would have included Peter Maddison and
19 Janice Wray?

20 A. Yeah.

21 Q. And when you read that, you were satisfied, were you,
22 that that was an adequate response to the
23 recommendation?

24 A. Yes.

25 Q. Now, we've seen the KPIs which one can pick out here

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1 which relate to fire, so health and safety inspections,
2 fire risk assessments, et cetera.

3 Having identified those as KPIs, do you remember
4 whether a system was set up for monitoring each of them?

5 A. I have to say that I can't remember, and I haven't seen
6 it.

7 Q. No. I see. So you say there was no system.

8 Do you know why no system was set up for monitoring
9 each of these KPIs?

10 A. In terms of round fire and health and safety? Because
11 there were some other ones. I mean, I've just ...
12 I can't recall.

13 Q. In fact it's right, isn't it — correct me if you think
14 this is wrong — that a suite of performance indicators
15 relating specifically to fire safety were not introduced
16 by the TMO until January 2016?

17 A. Yes.

18 Q. Yes. Do you know why there was a delay of almost
19 three years between April 2013 and January 2016?

20 A. I can't — I'm not going to say I can't recall, I just
21 can't give you an answer or an explanation, I just have
22 to accept that.

23 Q. I mean, that's a serious and long delay, given the fact
24 that RBKC audit had accorded a limited assurance partly
25 for this reason.

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1 A. Yes, I mean, as part of refreshing my memory, I looked
2 at this before coming. I suppose ... we worked on this
3 and our next two audits increased and changed, so it
4 changed from limited to satisfactory, to the last one
5 was substantial. But I accept the points about the
6 fire safety KPIs weren't developed. They might have
7 been in another sort of form, but they weren't in our
8 standard KPI format.

9 Q. And you can't explain why that is?

10 A. Well, I can't — I'm not going to come up with — I just
11 can't explain, so many years.

12 Q. You mention the development of this from limited to
13 satisfactory.

14 Can we go to the December 2013 follow-up from this
15 audit at {RBK00000320}, please.

16 This is dated December 2013, and it is the follow-up
17 audit report. You can see that it's circulated to
18 Peter Maddison, Janice Wray and Alex Bosman, and the
19 final circulated to Sacha Jevans and Anthony Parkes.

20 We don't see you marked on the circulation list.

21 Are you able to explain why you weren't?

22 A. No, I would have got it though.

23 Q. But you would have seen it; yes?

24 A. Yes.

25 Q. Do you remember seeing it and reading it at the time?

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1 A. Yes.
 2 Q. Yes.
 3 Now, let's go to page 2 {RBK00000320/2},
 4 paragraph 5. You can see there that the assurance level
 5 has moved from limited to satisfactory; yes?
 6 A. Yes.
 7 Q. With a medium risk.
 8 Let's look at what action was stated to have taken
 9 place with respect to the KPIs that we looked at
 10 a moment ago in the April version of the audit report.
 11 We need to go to page 9 {RBK00000320/9}, please, and
 12 on page 9, let's look at item 8.14:
 13 "Appropriate performance indicators relating to
 14 health and safety inspections should be developed by
 15 management. This ensures that inspections can be
 16 monitored and any performance issues identified for
 17 appropriate corrective action to be taken where
 18 performance does not meet expectations."
 19 Over the page, "Medium Priority". Just look at
 20 that.
 21 Again, if you go back to page 9, under "Agreed
 22 Action", it says:
 23 "Agreed.
 24 "A range of performance indicators which can be
 25 monitored on a regular basis have now been identified to

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1 supplement the information in the Annual Report and the
 2 existing KPIs."
 3 Implementation date: September 2013, if you look
 4 across the page. Responsible officer :
 5 "Health Safety and facilities Manager and Policy
 6 Compliance Manager."
 7 Then "Action Taken/to be Taken":
 8 "Implemented [it is said in bold].
 9 "Evidence Provided:
 10 "The KCTMO Compliancy Live dashboard provides real
 11 time data on compliance levels for ..."
 12 Then there is a list of bullet points, and at the
 13 bottom it says:
 14 "Fire Protection ..."
 15 Then over the page:
 16 "... Equipment Checks."
 17 "Fire protection Equipment Checks", that's a single
 18 item, isn't it?
 19 A. I think so, yeah.
 20 Q. Yes. So on that, is it right, therefore, that if you
 21 compare this with the list of KPIs identified in the
 22 April 2013 report as the management response, it would
 23 appear that the only fire related KPI that was actually
 24 implemented was fire protection equipment checks,
 25 nothing else?

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1 A. Yes.
 2 Q. Why is that?
 3 A. I can't recall.
 4 Q. I mean, for example, why were no KPIs set up for health
 5 and safety inspections, FRAs, reviews,
 6 enforcement/deficiency notices and fires?
 7 A. I can't recall, apologies.
 8 Q. You can't recall, no.
 9 A. No, I mean, that's what I'm saying. So in terms of the
 10 checks, I recognise there was improvement.
 11 Alex Bosman — so let me start again.
 12 There was a fundamental change when Peter came in.
 13 He changed his team. Alex Bosman joined the
 14 organisation. I think a big bit behind this — the
 15 previous report was actually we collect a lot of our
 16 information in different pockets of the organisation,
 17 spreadsheets, and actually that was seen as a risk.
 18 Keystone was seen as a key operation to improve
 19 that, and I think what may have happened is in terms
 20 of Alex focused on the indicators he was responsible
 21 for, and that's how we moved to the live action, and
 22 I can't understand how we didn't develop the other ones.
 23 Q. Well, I'm not sure that answer really grapples with my
 24 point.
 25 You see, on the document in front of you, if we can

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1 go back to page 9 {RBK00000320/9}, it says the agreed
 2 action is agreed, a range of the performance indicators,
 3 and then under "Action Taken/to be Taken", it says
 4 "Implemented". But the truth is it wasn't implemented;
 5 the only part that was implemented relating to fire was
 6 fire protection equipment checks. So it was only very
 7 partly implemented, wasn't it?
 8 A. This is the auditors' view, and they checked this. So
 9 this is — so what I'm accepting is that the things that
 10 weren't developed, weren't developed, and I just have to
 11 accept that.
 12 Q. Yes, and really I'm just asking whether there's a reason
 13 why that was the case.
 14 A. I just don't know.
 15 Q. Was it overlooked or was there a resourcing problem or
 16 was there a decision taken that, notwithstanding the
 17 management response, it wouldn't be carried into —
 18 A. I don't think it would have been decision-making,
 19 I think it either got — it just didn't get done.
 20 Q. Right.
 21 There is a reference to a dashboard, a compliancy
 22 live dashboard. Were you aware of that dashboard?
 23 A. Yes.
 24 Q. Did you have access to it?
 25 A. Yes, it was in all of the offices. So in terms of —

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1 it's part of Alex's process that he introduced so we
 2 actually use live information. So Keystone had been
 3 developed quite fast, and so that actually, instead of
 4 waiting for a certificate to come through, they were put
 5 on automatically so you could check that, and I think
 6 the system with the contractors had audit checks as
 7 well.
 8 Q. So there could have been no doubt that anybody in the
 9 TMO, including you, could have looked at the dashboard
 10 at any time and compared it with the management's
 11 response to the April 2013 audit and seen what the
 12 shortfall was?
 13 A. Yes.
 14 Q. Did you?
 15 A. I can't answer it.
 16 Q. Let's go to {TMO00873392}, please.
 17 This is a report prepared by Anthony Parkes
 18 following the audit in July 2013, it's between the two
 19 audits, and you explained who Anthony Parkes was.
 20 If you go, please, to the first main paragraph of
 21 this report, "Background", under 2.1, it says:
 22 "In October 2012 the responsibility for the Health &
 23 Safety (H&S) section was transferred to the Director of
 24 Financial Services."
 25 What was the reason for the transfer?

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1 A. One of my team left, who had managed Janice, and we
 2 didn't replace that role, we replaced it with a sort of
 3 a change, and we put health and safety and Janice under
 4 the management of Anthony Parkes.
 5 Q. Right. Who was responsible for health and safety before
 6 that transfer?
 7 A. Lornette, in terms of managing Janice Wray.
 8 Q. That's Lornette Pemberton, is it?
 9 A. Yes.
 10 Q. Right, I see. But she was HR?
 11 A. She was organisational development, so it was a sort of
 12 wide role that took in other things.
 13 Q. I see.
 14 Was there any discussion about whether health and
 15 safety should be moved to operations?
 16 A. I think — I mean, I know there were in some — within
 17 operations, and so there were discussions that —
 18 Q. Right.
 19 Let's then go to operations and look at
 20 Janice Wray's 2 May 2013 report to the TMO operations
 21 committee, {TMO10031056}.
 22 This is two months earlier than the July document
 23 we've just been looking at, and you can see that it's
 24 prepared by Janice Wray, dated 2 May 2013, "Current TMO
 25 position on fire risk assessments".

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1 Do you remember whether you saw this report?
 2 A. I can't recall specifically.
 3 Q. Let's see how we go, then.
 4 Page 3 {TMO10031056/3}, please, paragraph 5.3, under
 5 the heading "Progress with FRA Action Plan Items". 5.3
 6 says:
 7 "Whilst many actions have been progressed it is fair
 8 to say that a significant number of items remain
 9 outstanding and have not been progressed as swiftly as
 10 required. Therefore, all outstanding items have now
 11 been collated and presented to the relevant team for
 12 urgent completion. The requirement to give this work
 13 priority has now been reiterated to the entire
 14 organisation and completion of these it being monitored
 15 on a weekly basis and the Executive Team regularly
 16 provided with detailed breakdown on progress."
 17 Then at 5.4 she says:
 18 "The need to implement a process to facilitate
 19 better monitoring of FRA actions and in particular to
 20 identify where these remain outstanding has been
 21 highlighted. Therefore, the possibility of a workflow
 22 system on the Electronic Document & Record Management
 23 System has been investigated and trialled and it is
 24 anticipated that following stakeholder training this can
 25 be implemented from late May/early June 2013. This will

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1 ensure a demonstrable audit trail is in place and should
 2 ensure that these are treated with priority."
 3 Now, why had the actions not progressed as swiftly
 4 as required, do you know?
 5 A. Not off the top of my head. I mean, I would think
 6 probably because either teams aren't performing or
 7 contractors aren't performing, but I can't recall
 8 specifically at this stage.
 9 Q. Were you in particular or the executive team in general
 10 provided with detailed breakdowns of progress?
 11 A. Sometimes.
 12 Q. When you say sometimes, how regularly?
 13 A. Not every week, so obviously — sometimes. I don't have
 14 a particular memory of how often.
 15 Q. Was it periodically according to a fixed timetable or
 16 was it just ad hoc?
 17 A. Probably ad hoc.
 18 Q. Right. Why ad hoc?
 19 A. I can't recall.
 20 Q. Was it not important to have a fixed system in place
 21 whereby the facilitation and monitoring of FRA actions
 22 was monitored in turn by the executive team on a regular
 23 basis?
 24 A. They were, because there were members of the executive
 25 on the health and safety committee who were monitoring

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1 it .
 2 Q. So people within the executive team knew more than the
 3 executive team as a whole?
 4 A. There was only four of us.
 5 Q. But you weren't —
 6 A. So they —
 7 Q. — on the health and safety committee.
 8 A. I wasn't on the committee. So they would feed back.
 9 Q. Of the four, you might have been in a minority.
 10 A. They would feed back.
 11 Q. They may be feeding back, but did they feed back to you
 12 specifically ? If there were only four of you on the
 13 executive team and most of them knew what was happening
 14 and you didn't, why didn't you insist on being kept up
 15 to the same speed they were?
 16 A. I've got no specific answer to that.
 17 Q. Did you agree, when you — well, you may or may not have
 18 seen this document. I think this document was in fact
 19 included in a board report, board pack. Would that be
 20 right?
 21 A. It might have been. I can't ...
 22 Q. Right. If it were, can we assume that you would have
 23 read it?
 24 A. Yeah, probably.
 25 Q. Yes, because you would have read every board pack that

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1 went to the board, wouldn't you?
 2 A. Yes.
 3 Q. I'm going to assume that that is the case.
 4 A. Yes.
 5 Q. Do you remember whether at the time you agreed that
 6 there was a need to implement better monitoring of FRA
 7 actions?
 8 A. Yes. I mean, I think that partly here what they're
 9 talking about is — I think, part of the discussion is
 10 how they do this workflow to make sure it's accessible ,
 11 and part of this system that Janice and others were
 12 working on is actually to make it easier , because there
 13 were discussions all the time about things that had been
 14 knocked off, not knocked off but completed or partially
 15 completed, and I think partly this was how we were
 16 striving to get better at record collecting , monitoring
 17 and being able to show it.
 18 Q. Right. Was an audit trail put in place?
 19 A. I think eventually there was.
 20 Q. I should be clear with you, Janice Wray told us that the
 21 workflow, the W2 system, was operational as of
 22 August 2013, so a little bit later —
 23 A. Yeah.
 24 Q. — the same year. Was that the audit trail, or was
 25 there some other wider process?

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1 A. I can't confirm that.
 2 Q. Right.
 3 I mean, was a system put in place where, rather than
 4 just , as it were, crunching the numbers, somebody could
 5 look holistically at the position with outstanding
 6 items, not only building by building but across the
 7 whole stock, look at the health and safety risks
 8 presented by what is outstanding, and form a view?
 9 A. I can't recall .
 10 Q. Can we look at paragraph 11 of the same document, which
 11 is on page 6 {TMO10031056/6}. "Legal Issues":
 12 "As outlined above, to comply with fire safety
 13 legislation — specifically the Regulatory Reform (Fire
 14 Safety) Order 2005 — 'responsible persons' must not just
 15 ensure that suitable and sufficient FRAs are carried out
 16 in the communal areas of all residential blocks but also
 17 that significant findings highlighted in the FRA action
 18 plan are progressed with the necessary degree of
 19 priority ."
 20 Then over the page at 11.2 {TMO10031056/7}:
 21 "Failure to comply could result in residents being
 22 exposed to an elevated fire risk . Additionally, the TMO
 23 and RBKC would leave themselves exposed to enforcement
 24 action being taken by the LFB, bad publicity etc."
 25 Do you agree that that made it clear, if it wasn't

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1 already clear , that insufficient action by the TMO in
 2 dealing with FRA items or fire safety in general could
 3 lead to an elevated fire safety risk for its residents?
 4 A. Yes.
 5 Q. Yes, and it was therefore critical , do you agree, that
 6 the TMO acted as swiftly as reasonably possible in
 7 respect of FRA actions and fire safety generally?
 8 A. Yes.
 9 Q. And there could be no doubt about that from this
 10 document?
 11 A. No.
 12 Q. No.
 13 Now, let's go to {TMO10003124}, please.
 14 This is a draft of a document we discussed
 15 yesterday, namely the safety management review carried
 16 out by Matt Hodgson at your request. It's dated
 17 July 2013 and marked for your attention.
 18 If we go to page 4 {TMO10003124/4}, you will see the
 19 objectives. The objectives there are stated under 1.1
 20 "Objectives". First paragraph:
 21 "The objective of this Safety Management Review is
 22 to contribute to the success and continuing development
 23 of KCTMO by improving management control of health and
 24 safety. It is not the intention to identify failings in
 25 individuals , but to identify those parts of the safety

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1 management system (SMS) that require attention in order
 2 to bring about improvements in performance.
 3 "The overall aim of the Review is provide an
 4 independent and objective assessment of the degree of
 5 implementation of the KCTMO Health and Safety Policy and
 6 supporting arrangements."
 7 If we go to page 8 {TMO10003124/8} and look at
 8 paragraph 2.1 under "Summary", the first paragraph says
 9 this:
 10 "This H&S audit has uncovered a number of concerns
 11 in relation to risk and compliance management at KCTMO.
 12 The concerns predominantly relate to risk control
 13 shortcomings that if left unresolved could potentially
 14 expose the business and those in H&S management
 15 positions to corporate and personal liabilities .
 16 "There is plenty of good work going on in relation
 17 to H&S management, as evidenced when reviewing projects
 18 associated with and controlled by the H&S dept,
 19 Neighbourhood Management and Housing Support services,
 20 however there is no 'joined up' approach to risk
 21 management across all departments, and a lack of
 22 leadership from the executive level . In other areas,
 23 such as Assets and Regeneration, the business
 24 understands the areas of weakness and is going through
 25 a complete department overhaul to tighten the control."

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1 Now, it's clear, isn't it, from what I've just read
 2 to you, that the concerns Mr Hodgson has highlighted
 3 here are very serious?
 4 A. Yes.
 5 Q. And they're serious — is this right? — because they
 6 could lead to corporate and personal liabilities .
 7 A. Yes, that's what he's saying.
 8 Q. Yes. And in relation to the good work but no joined-up
 9 approach, did you agree with that statement?
 10 A. Not all of it, no. In —
 11 Q. What did you not agree with?
 12 A. No, actually, I had to agree with it because I accepted
 13 it.
 14 Q. Well, sorry —
 15 A. Sorry.
 16 Q. Let me put it to you: he says "there is no 'joined up'
 17 approach to risk management across all departments, and
 18 a lack of leadership from the executive level"; did you
 19 agree with that statement?
 20 A. Yes.
 21 Q. Now, we can see his recommendations on page 9
 22 {TMO10003124/9}, if we turn the page. Mr Hodgson has
 23 identified , as he says, 39 issues which need addressing.
 24 If we look at the fourth recommendation down — we
 25 looked at this yesterday in the final version, but if we

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1 look at this list at item 4, it says:
 2 "Review the Roles & Responsibilities section of the
 3 corporate policy to ensure that the Governance of H&S is
 4 appropriate to the business in relation to advisory and
 5 strategic roles . Ensure that appropriate consultation
 6 is established to agree any new responsibilities ."
 7 Was that recommendation carried out?
 8 A. I don't think it was.
 9 Q. Why is that?
 10 A. Sorry, I can't recall .
 11 Q. Fire risk assessment specifically is covered at page 33
 12 {TMO10003124/33}.
 13 You can see the heading, "Fire Risk Assessment", and
 14 it starts as follows:
 15 "Some time ago the H&S department procured
 16 Salvus Consulting to carry out the annual fire risk
 17 assessments (FRA) across the estate. Over time the
 18 business became dissatisfied with Salvus and changed
 19 providers to Carl Stokes & Associates. The business has
 20 a good working relation with Carl Stokes and similarly
 21 with the local fire authority who Janice Wray regularly
 22 meets with."
 23 Now, it goes on, after identifying the numbers
 24 within the estate, as follows:
 25 "Keystone is not up to date with FRA reports so it

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1 is not possible to assess how compliant the business is
 2 with regards current FRA reports. One issue that is
 3 known and can be measured is the volume of outstanding
 4 FRA actions created in the reports held. The FRA report
 5 actions get pushed out to one of three locations —
 6 Assets and Regeneration, Neighbourhood and Repairs.
 7 There are currently somewhere between 900–1000
 8 outstanding FRA actions. Janice Wray has established
 9 a spreadsheet showing departmental progress and hosts
 10 meetings to discuss progress."
 11 Were you aware of that volume of outstanding FRA
 12 actions at that time?
 13 A. Yes.
 14 Q. Did it not set alarm bells ringing with you?
 15 A. Yes.
 16 Q. Can you explain how such a number had been allowed to
 17 accrue?
 18 A. I can't remember specifically, but it would be through
 19 assets and regeneration mostly, rather than
 20 neighbourhood, I think. I'm just trying to — I don't
 21 have the numbers in front of me.
 22 Q. I wasn't asking you in which area or subarea of the
 23 business it was accruing, I was asking you why such
 24 a number had been allowed to accrue.
 25 A. Well, there's always reasons, but I can't recall them.

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1 Q. I mean, if alarm bells were set ringing by you, what did
 2 you do to investigate the reason for why there were
 3 currently somewhere between 900 and 1,000 outstanding
 4 FRA actions?
 5 A. So I think here there was a whole issue of how we were
 6 holding it, and the work undertaken here was to try to
 7 make it easier to sign them off, as far as I recall, and
 8 stop using spreadsheets.
 9 Q. Yes.
 10 Did you look into why it was that 900 to 1,000
 11 outstanding FRA actions had been allowed to accrue?
 12 A. Not in detail, no.
 13 Q. Why is that?
 14 A. Because I'd have expected that to be looked into and
 15 broken down by Anthony Parkes.
 16 Q. Well, you say it set alarm bells ringing when I asked
 17 you that question. You said it did. Given that the
 18 alarm bells were ringing, what did you do about it?
 19 A. I can't recall, sorry.
 20 Q. Were you part of any meetings, did you go to any
 21 discussions about what to do about this backlog?
 22 A. I can't recall the discussions we had after this, sorry.
 23 Q. Right. Do you remember anything about what you did
 24 after receipt of this draft in July 2013 to resolve the
 25 issue of outstanding FRAs?

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1 A. I certainly raised it with Sacha Jevans who was
 2 responsible for the majority of them.
 3 Q. What did you tell her to do?
 4 A. To sort it out and —
 5 Q. Right.
 6 A. Sorry, I'm just trying to remember. I'm not sure if
 7 it's at this stage we were having considerable problems
 8 with a contractor, is it RGE, who I think actually, I'm
 9 not sure now or later, we were in dispute with them in
 10 terms of contract, and that was causing us problems in
 11 terms of, actually, they weren't picking up that work.
 12 But I can't remember, sorry.
 13 Q. No. You see, this is a report which you'd commissioned
 14 and which comes to you. Admittedly it's a draft. It
 15 gives you an up-to-date position in relation to
 16 outstanding FRA items in relation to fire risk
 17 assessments which set alarm bells ringing.
 18 What I'm interested to know is why you didn't
 19 personally take steps and involve yourself even to the
 20 extent of making sure that you put in place
 21 a satisfactory system of getting that volume down and
 22 monitoring it regularly?
 23 A. So I think there was a — following this, there was
 24 a sort of a management plan put in place, but I can't
 25 recall, sorry.

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1 Q. Now, the final paragraph on this page says this:
 2 "The fire legislation requires the business to
 3 appoint a responsible person (can be a number of people)
 4 who have taken the responsibility to manage the fire
 5 risk process end to end [note those words: end to end].
 6 This person should be competent to fulfil this role and
 7 have the resources to achieve the objectives. According
 8 to the FRA reports this role has been given to the
 9 Chief Exec of the Royal Borough. It is the opinion of
 10 the auditor that this appointment is inappropriate and
 11 probably not a formal designation."
 12 Did you agree with the conclusion that the chief
 13 executive of the Royal Borough, who I believe was
 14 Nick Holgate —
 15 A. Yeah.
 16 Q. — was not an appropriate person to manage the fire risk
 17 process end to end?
 18 A. No. Oh, yeah, sorry.
 19 Q. You did agree with this conclusion?
 20 A. Apologies, yeah.
 21 Q. Do you know how it had come about that he was the
 22 responsible person?
 23 A. No. I don't quite understand it.
 24 Q. Did Mr Holgate even know that he was the responsible
 25 person under the RRO, do you know?

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1 A. No, I don't know if this goes back to where we had joint
 2 responsibility, if that's where this came up, I'm just
 3 trying to remember. But it wouldn't — I mean, it
 4 obviously wasn't him specifically, no.
 5 Q. From your own knowledge at the time, can you tell us
 6 whether Mr Holgate even knew that he was the responsible
 7 person?
 8 A. No, I don't think Mr Holgate knew he would be the
 9 responsible person.
 10 Q. No.
 11 Then if we go to the next page, page 34
 12 {TMO10003124/34}, please, we can see the suggested
 13 action. Item 30 is the last item in that box:
 14 "Reassign the FRA Responsible Person role with the
 15 TMO, and provide any required training and additional
 16 resource to allow for the role to be effective."
 17 Was that done?
 18 A. I can't recall.
 19 Q. Right. We don't see any particular evidence that it
 20 was. Can you explain why that is?
 21 A. No.
 22 Q. Was the consequence that no one was in fact given the
 23 responsibility to manage the fire risk process end to
 24 end, as Mr Hodgson recommends?
 25 A. No. It stayed with Janice Wray, who would oversee it

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1 through the teams.
 2 Q. You say it would stay with Janice Wray —
 3 A. Sorry, I'm just looking at this again for the first time
 4 in ages.
 5 Q. Yes. I mean, this is a recommendation, and I accept
 6 it's in a draft, but was a decision made to make
 7 Janice Wray the person with end-to-end responsibility
 8 for managing the fire risk process under the RRO?
 9 A. No, because Janice had responsibility for bringing them
 10 together and assessing them to the different teams who
 11 had the responsibility.
 12 Q. To the best of your knowledge, was Janice Wray ever told
 13 that she had the responsibility to manage the fire risk
 14 end to end?
 15 A. I can't recall.
 16 Q. Let's go to {TMO10003399}.
 17 We looked at this yesterday. This is your report to
 18 the TMO board in the board pack for the TMO board
 19 meeting of 5 September 2013. In fact, what we're
 20 looking at is agenda item 2, which is I think the
 21 minutes of the previous meeting.
 22 If we go to page 24 {TMO10003399/24}, we can see
 23 this is part of your chief executive's update report,
 24 which starts at page 21. If we just flip up to page 21,
 25 we will see where it begins. There it is.

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1 A. Yeah.
 2 Q. It's your report to the board for that board meeting.
 3 A. Yeah.
 4 Q. If we go back to page 24, we will see paragraph 4.0,
 5 "Health & Safety". You see that there?
 6 A. Yeah.
 7 Q. It says:
 8 "The Health and Safety consultant, Matt Hodgson, has
 9 completed an initial report on Health & Safety (H&S)
 10 within the organisation using an industry standard HSG65
 11 format. An action plan is being prepared and will be
 12 incorporated in the final report. This will be brought
 13 to the next Board meeting."
 14 Then in the third paragraph you say:
 15 "Work has been continuing on the Action Plan items
 16 arising from the Internal Audit report. The actions to
 17 be implemented by June were all completed on time, and
 18 the W2 workflow introduced a month early on the
 19 1st August. The remaining two action points to be
 20 completed in September are on track."
 21 Now, we see no mention here of any of the issues
 22 raised in the July draft Hodgson report, do we?
 23 A. Not specifically. I don't know if it went to the board,
 24 the actual ... I can't recall. Because usually that —
 25 it would have — I would have thought the whole report

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1 would have gone to the board.
 2 Q. Right. This is 5 September. I think the final version
 3 was a few days or perhaps a week or two later than this,
 4 so it's the July draft of the Matt Hodgson report that
 5 is still in its form I've just shown you.
 6 Do you accept that no mention is made here by you of
 7 any of the problems identified by Matt Hodgson in his
 8 draft July report?
 9 A. Yes.
 10 Q. Why is that?
 11 A. Because I think it's in — we were waiting for the final
 12 one, and then an action plan would be prepared.
 13 Q. Why did you not mention any of the issues, particularly
 14 about potential exposure of the business to corporate
 15 and personal liabilities?
 16 A. I can't recall.
 17 Q. Or the absence of a joined-up approach and a lack of
 18 leadership from the executive?
 19 A. I can't recall.
 20 Q. Or the fact that an inappropriate person had been
 21 appointed as the responsible person under the applicable
 22 legislation?
 23 A. I can't recall.
 24 Q. I mean, were those matters not important for your board
 25 to know, even though —

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1 A. Yes.
 2 Q. — this was a draft?
 3 A. Yes.
 4 Q. I see.
 5 A. What I don't know is if there's — because you've shown
 6 me one paper, I don't know if there's a further paper
 7 with it, so that in a sense it's an update. What
 8 I don't know is if there's a further paper that comes
 9 along and goes into more detail.
 10 Q. Well, do you remember?
 11 A. I can't recall at the moment.
 12 Q. No, I don't blame you for not being able to remember,
 13 it's eight years ago.
 14 A. Yeah.
 15 Q. But as a matter of the document, you've reported to the
 16 board that Mr Hodgson has completed an initial report,
 17 that's the draft we've seen.
 18 A. Yeah.
 19 Q. And that there will be a final report, you say that.
 20 A. Yes.
 21 Q. We see no shred of any hint of any of the difficulties
 22 he has identified in your organisation, and I'm just
 23 asking you why that is.
 24 A. Probably because I was waiting for the final report.
 25 Q. But was it not important for the board to be kept up to

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1 speed, even though it's a draft?
 2 A. I must have made that decision at the time.
 3 Q. But why did you make that decision at the time?
 4 A. I can't recall at that time.
 5 Q. Did you not realise that the board was reliant on you to
 6 be candid and open with them?
 7 A. Yes.
 8 Q. And that meant being told facts which had a bearing on
 9 whether the TMO as a company, for which the board was
 10 its steward, was at risk of breaching its health and
 11 safety obligations to its residents and its employees?
 12 A. Yes.
 13 Q. And you realised that at the time, I've got to ask you?
 14 A. Not at the time, no.
 15 Q. Right. I mean, can you --
 16 A. Sorry, I'm struggling in terms of the timing and the
 17 paper.
 18 Q. No, I understand that.
 19 A. I apologise. So it's quite difficult, eight years --
 20 Q. No, I understand. I understand.
 21 A. -- to remember your thinking and what you did at that
 22 time, and I suppose, you know, that's all I'm being
 23 honest about. So ...
 24 Q. Well, you see --
 25 A. To follow through a process from so long ago, and I've

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1 not been in work or engaged with this type of thing for
 2 four years, it's quite hard to get your brain back in
 3 and to have that memory. I'm afraid I don't have --
 4 you're showing me documents I don't have a memory of and
 5 I'm having to recreate that memory through re-reading.
 6 It doesn't always give me the sort of reason of why
 7 I did it, and I just have to accept that for whatever
 8 reasons.
 9 Q. Now, if we go to {TMO00849798}, this is the minute of
 10 an executive team meeting of 18 September 2013, and we
 11 can see that you are present and in attendance are two
 12 other people.
 13 If you go to item 2 on the next page
 14 {TMO00849798/2}, "Assets and Regeneration", you can see
 15 that Peter Maddison attends for that item and makes
 16 a presentation. It says:
 17 "An overview was given on the work that was
 18 required, health and safety compliance, and the project
 19 plan for each area."
 20 You see that?
 21 A. Yeah.
 22 Q. Then the minutes on that item continue over the next few
 23 pages to page 5 {TMO00849798/5}.
 24 If we scroll down to page 5, you can see "Timescale
 25 for compliance" as a heading, and there are seven bullet

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1 points there, the second of which is "Fire risk
 2 Q1 2014"; yes?
 3 A. Yes.
 4 Q. And then just above that:
 5 "Health & safety report to be discussed with
 6 Matt Hodgson at a meeting that afternoon."
 7 Now, does that mean that the A&R team, the assets
 8 and regeneration team, was going to meet Matt Hodgson
 9 that day?
 10 A. It looks like it.
 11 Q. It looks like it; you can't help further than the
 12 document?
 13 A. No.
 14 Q. No.
 15 Can we assume, unless you tell us otherwise, that
 16 this was to implement Mr Hodgson's changes within the
 17 assets and regeneration department so far as his
 18 recommendations affected that department?
 19 A. I think so.
 20 Q. Under the timescale for compliance, "Fire risk Q1 2014",
 21 compliance with what?
 22 A. I can't remember what this aspect is.
 23 Q. Right. Do you know what was going to be completed in
 24 the first quarter of 2014?
 25 A. No.

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1 Q. If you look a little bit lower down, there's a second
 2 bullet--point piece of text which says, "However", can
 3 you see that?
 4 A. Yes.
 5 Q. It says:
 6 "However, we could be at risk if something went
 7 wrong i.e. at Grenfell Tower we had carried out a fire
 8 risk assessment, but one year later, another inspection
 9 discovered that none of the actions had been carried
 10 out. Unfortunately this information had been conveyed
 11 to the Grenfell Tower action group."
 12 Now, you're singling out Grenfell Tower here. Is
 13 that because the GTLA had requested sight of the
 14 November 2012 FRA for Grenfell Tower?
 15 A. No. I think these must be Peter's words, not mine.
 16 Q. Yes, but you were at the meeting.
 17 A. Yeah.
 18 Q. Yes. Did you see and approve these minutes after the
 19 meeting?
 20 A. Probably, yeah.
 21 Q. We've got no reason to think that these are inaccurate
 22 or incomplete.
 23 A. No.
 24 Q. So proceeding on the basis that this is a faithful
 25 record of the discussion, my question is: was this

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1 a reference here to the November 2012 FRA?
 2 A. I would think so.
 3 Q. Right.
 4 Now, what's being done is an example being given of
 5 inaction on FRA assessments specifically in relation to
 6 Grenfell Tower. Are you able to explain that?
 7 A. No, not at this stage, no.
 8 Q. Do you agree that that failure was of very significant
 9 concern?
 10 A. If it hadn't happened, yes, but I can't remember.
 11 Q. Right.
 12 Now, the note says, "Unfortunately this information
 13 had been conveyed to the Grenfell Tower action group".
 14 What was unfortunate about telling the residents that
 15 their building wasn't compliant with statutory fire
 16 safety standards?
 17 A. I agree. I think it's not a great minute.
 18 Q. Well, it's not a great minute because it reveals
 19 an attitude, doesn't it, of not wanting to be candid
 20 with the people living in your buildings?
 21 A. No, I don't think so. I mean, I think I picked up
 22 sometimes that Peter was uncomfortable with this
 23 information being released, which I just think reflected
 24 on that actually sometimes his department hadn't
 25 completed the work. This is not my opinion and

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1 actually ... so ...
 2 Q. Well, why was it unfortunate?
 3 A. Well, I think Peter thought it was unfortunate because
 4 it exposed that some work hadn't been done, and I think,
 5 in a sense — I think there's some other information
 6 later that Peter accepts that actually it showed that
 7 some of his team hadn't been doing their job properly,
 8 which led him to fundamentally change his team to get
 9 things done properly.
 10 Q. And it was unfortunate, wasn't it, because in an ideal
 11 world, the TMO would not have wanted to convey that
 12 information to those living in the building?
 13 A. I don't accept that. I can understand where you're
 14 coming from, reading this, but that is not what or how
 15 I wanted to behave, or to lead to that situation.
 16 Q. Now, if we go down to page 6 {TMO00849798/6}, please, we
 17 can see the penultimate bullet point in that list:
 18 "Consideration also to be given to what would be
 19 taken back to Board in November as we had made
 20 a commitment to bring back Matt Hodgson's report, and
 21 an action plan."
 22 A. Yes.
 23 Q. What consideration was being discussed there?
 24 A. Well, I think it's what goes into the action plan to
 25 take forward, what ... and given to the board.

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1 Q. Right.
 2 "Consideration also to be given to what would be
 3 taken back to Board ..."
 4 A. Well, I think in a sense of what — I think that — I'm
 5 just trying to understand the minutes from so long ago.
 6 It's about what work needs to be done to produce that
 7 paper, to bring it back to the report — to the board,
 8 based on Matt Hodgson's report.
 9 Q. Right. I'm just trying to understand what this means.
 10 A. So am I, sorry.
 11 Q. Was this a consideration of how much of Matt Hodgson's
 12 report you would tell the board about?
 13 A. No, I wouldn't say that.
 14 Q. So what was it?
 15 A. I don't — I apologise again, I'm looking at a minute
 16 from a number of years ago, and I'm struggling to
 17 understand the context or what it's saying. So again,
 18 not great.
 19 Q. Let me try it a different way.
 20 What consideration would be necessary? If you had
 21 made a commitment to bring back Matt Hodgson's report
 22 and an action plan, why not just fix a date for giving
 23 the board the report —
 24 A. Well, yeah.
 25 Q. — which you already had?

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1 A. Yeah. I think that's —
 2 Q. So what consideration was necessary?
 3 A. I don't know, you're picking on one word, which is fine.
 4 I don't — I just think it's consideration, you're
 5 thinking: what are we going to take back to the board.
 6 I don't see it as concealment or what, it's just a word.
 7 Q. Now, if we look at the final bullet point.
 8 A. I don't —
 9 Q. "Clienting of fire risk assessments had been taken over
 10 by A&R, which were due to be completed by mid-October."
 11 What did that mean?
 12 A. I don't know.
 13 Q. No.
 14 A. Because it doesn't mean that he's — they're taking over
 15 the role of health and safety.
 16 Q. Well, that's rather what I was asking you.
 17 A. Well, that's what I'm saying, that's — I don't — it's
 18 a — it's not what happened or was going to happen.
 19 Q. To be fair, was the proposal — and one possibility,
 20 help me here, was that A&R, assets and regeneration,
 21 would take over completion of actions from FRAs.
 22 A. Yes, I think it could be that.
 23 Q. I mean, I'm suggesting that to you, but is that correct
 24 factually? Was that the proposal?
 25 A. What I would think — yes.

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1 Q. Because, as you say, overall responsibility for FRAs
 2 rested with Janice Wray.
 3 A. Yes.
 4 Q. Now, can we turn to a different topic, which is the
 5 Grenfell deficiency notice of March 2014 we discussed
 6 earlier. It's at {TMO10023343}. We looked at this
 7 yesterday, so I'm going to take this quite quickly.
 8 We saw that this notice specified a number of
 9 breaches of the Fire Safety Order, RRO, in the schedule
 10 attached at page 3 {TMO10023343/3}, and I showed you
 11 these, 11(1), 17(1), Article 21. The first two are in
 12 part, at least, about the AOV, and 21 about fire safety
 13 training.
 14 Do you remember when you were first made aware of
 15 this notice of deficiency? We touched on this yesterday
 16 and I don't think you could help us, but ...
 17 A. No, I couldn't, I'm sorry.
 18 Q. You see, we've seen no email or communication by which
 19 this document was sent to you. Are you able to tell us
 20 how it did come to you?
 21 A. I can't recall.
 22 Q. Were you concerned that, despite two separate audits in
 23 the previous year, RBKC and Matt Hodgson, and the
 24 consequent actions taken or said to be taken by the TMO
 25 in response to them and the fact of the FRA programme,

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1 that such a notice had been issued?
 2 A. Yes.
 3 Q. Did it make you think that the fire risk assessment
 4 system wasn't working well, working properly?
 5 A. No, it made me — looking at it now, it made me think
 6 that actually the contractors who were supposed to be
 7 providing the service aren't performing well, and
 8 therefore actually that was the key problem.
 9 Q. What made you think that?
 10 A. Because if things aren't working, they should be fixed,
 11 they should be sorted, in line with their contract.
 12 Q. Yes, but do you accept that the thrust of the criticism
 13 is that the TMO is not ensuring that its contractors
 14 perform their obligations?
 15 A. So our team whose role, whole role, was to manage the
 16 contractors to cover all the mechanical engineering,
 17 which included the fire stuff, that was their role to
 18 manage the contracts. So it was raising concern with me
 19 about contractor performance and the performance of that
 20 team, which I think Peter took — again, the timing of
 21 this, I can't remember whether that then led Peter to
 22 change his team.
 23 Q. Despite the findings of RBKC and the recommendations and
 24 the management response to that and the Hodgson review,
 25 it appeared from this document, would you accept, that

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1 the TMO had not yet, at least, found a way in which it
 2 could ensure compliance at all times with its
 3 obligations under the RRO?
 4 A. It would seem to be.
 5 Q. Yes. Did that cause you to think that oversight,
 6 supervision of FRAs and the resultant actions, needed
 7 much closer scrutiny by top management?
 8 A. I think it made me realise that, again, the contractors
 9 who are supposedly providing the service to do it aren't
 10 doing it and it's creating problems for us.
 11 Q. Yes. You keep referring to contractors. That may be
 12 a fair observation in relation to 11(1) and 17(1), but
 13 Article 21 at the foot of your screen —
 14 A. Yes, I see that.
 15 Q. — refers to employees not receiving adequate safety
 16 training. You can't blame contractors for that, can
 17 you?
 18 A. No, and I suppose what I don't — I don't know which
 19 staff they're talking about here, sorry, so in terms of
 20 its quite generic. If it's the staff at Lancaster West
 21 then, in a sense, that would — I'm trying to remember
 22 which staff it is, whether it's the housing management,
 23 and therefore actually training would be given to them
 24 or should be given to them to make sure they know what
 25 they're doing.

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1 Q. Your instinct is to say that it's the contractors
 2 creating problems for you, but doesn't this reveal that
 3 the TMO should have realised before receiving this
 4 notice of deficiency that the contractors were not
 5 performing their contractual obligations so as to keep
 6 the TMO in compliance with the RRO?
 7 A. Could you say that again?
 8 Q. Yes. Doesn't this document, in all of its points I'm
 9 showing you on the screen, reveal that the TMO ought to
 10 have realised before they saw this document that its
 11 contractors were not performing their contractual
 12 obligations so as to keep the TMO compliant with the
 13 RRO?
 14 A. Yes.
 15 Q. Yes, and that meant, didn't it, surely, that oversight
 16 of FRAs needed far closer scrutiny within the TMO by top
 17 management?
 18 A. Yes.
 19 Q. Yes.
 20 Now, let's go to the next TMO board meeting after
 21 the receipt of this deficiency notice, {RBK00051017}.
 22 This is for the board meeting of 22 May 2014, so that's
 23 beyond Q1 2014 that we saw in the earlier document.
 24 If we go to page 27 {RBK00051017/27}, we can see,
 25 within this board pack for that meeting, your report

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1 which starts on that page there.
 2 If we go to page 28, we can see the rest of the
 3 start of it, and then 29 {RBK00051017/29} is where it
 4 starts in earnest.
 5 Now, we've looked through this document. We can see
 6 reference to the Grenfell Tower refurbishment on
 7 page 29, but we don't see anything about the
 8 Grenfell Tower deficiency notice.
 9 Can you explain why there was no mention in your
 10 report about the Grenfell Tower deficiency notice?
 11 A. No, I can't explain that.
 12 Q. It should have been there, shouldn't it?
 13 A. I would have thought so, if I knew about it and had been
 14 told about it.
 15 Q. Yes, and obviously it was essential, wasn't it, for the
 16 TMO board to be told about a deficiency notice from the
 17 LFB?
 18 A. Yes.
 19 Q. But we don't see that you did so here?
 20 A. I accept that.
 21 Q. Were you deliberately keeping that fact from the board?
 22 A. No.
 23 Q. So what's the explanation?
 24 A. I've no answer to that.
 25 Q. The next document I'd like to show you is the TMO health

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1 and safety annual report 2014/15. We will find this at
 2 {TMO10031069/17}. I'll just help you with the date of
 3 this document. June 2015, signed by Janice Wray and
 4 Barbara Matthews, who is in post by then, I think just
 5 in post by then.
 6 A. Yeah.
 7 Q. Now, if we go back in the document to page 5
 8 {TMO10031069/5}, and look, please, at paragraph 6.9,
 9 "Fire Risk Assessments", you can see that there is, in
 10 the middle of the screen, a box with the title "Overall
 11 Breakdown of FRA Actions as at 1st April 2015".
 12 If you look at the overall breakdown, in total there
 13 are 1,421, of which 762 were fully completed as at that
 14 date, 71 were partially completed as at that date, and
 15 588 were outstanding as at that date; yes?
 16 A. Yes.
 17 Q. Do you agree that that was a significant proportion of
 18 outstanding FRA actions, 659 in total out of 1,421?
 19 A. I mean, I can see the number. I don't know in terms of
 20 what's delaying the partially completed ones in terms
 21 of — because there may be reasons behind that.
 22 Q. Yes, there may be reasons —
 23 A. I can see the outstanding ones at 588, yes, so they'd
 24 come down from the previous ones we'd been looking at.
 25 Q. Yes. Was that number a significant concern to you,

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1 particularly given that Matt Hodgson had identified
 2 a significant outstanding total backlog of 900 to 1,000
 3 in July 2013?
 4 A. Well, I was pleased that it wasn't 900 or 1,000, so
 5 there has been improvement. I think the other thing is,
 6 whereas before I think you'd said to me it wasn't
 7 visible in the organisation, I think one of the things
 8 Barbara brought was a sort of a change in working and
 9 has made this completely visible to the organisation and
 10 to ... so there is improvement and more needs to be
 11 done.
 12 Q. Well, yes, my question was: were you not concerned by
 13 the number of outstandings, 588 wholly outstanding out
 14 of 1,421, given that Matt Hodgson had identified
 15 a significant outstanding back in July 2013?
 16 A. So, again, we're seeing an improvement. I don't know if
 17 in a perfect world you'll have no outstanding, because
 18 you've got 650 reports coming in, there will always be
 19 some. It's about: are they being managed, are they in
 20 process or whatever, that's ...
 21 Q. Right. You say there is an improvement. You have gone
 22 down from 900 to 1,000 to 588 in two years. Was that
 23 an improvement to you?
 24 A. Well, I don't know, I don't know what the swing is over
 25 those two years, it may have gone down, it may have gone

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1 up, because you're getting FRAs coming in all the time.
 2 Q. I mean, we can debate this, Mr Black, but what I'm
 3 really after is your impression, your thoughts at the
 4 time. Were you concerned by these numbers?
 5 A. I think I've been concerned throughout about trying to
 6 find a process to get the FRAs through and completed in
 7 a reasonable time, so I would still have some concerns,
 8 but what I saw was things improving.
 9 Q. Did you take any steps to ensure that further work to
 10 improve completion rates was carried out?
 11 A. That's the work that sort of Barbara was doing in terms
 12 of the health and safety.
 13 Q. Right.
 14 Now, you mentioned a moment ago that, in a perfect
 15 world, you'd never have any outstandings. I just want
 16 to understand that answer.
 17 Does that mean that a zero tolerance approach to
 18 non-compliance with the RRO was never going to be
 19 practicable?
 20 A. So I think in terms of sector-wide, because I sat on
 21 different forums, chief exec forums, not just in the
 22 ALMO but in the housing association sector, this was
 23 an issue that everybody was grappling with, and
 24 depending on the size of the organisation, I know that
 25 these are quite small numbers compared to other

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1 organisations, because it's the complexity, how you
2 sort of break them down, how you can get the work down,
3 so it was an ongoing challenge, and I think it still is
4 in the sector. So it's not underestimating the problem,
5 it's not saying it doesn't matter, it's just a complex,
6 difficult and challenging — ongoing, challenging
7 process to deal with.

8 Q. So does that tell us that the TMO in general and you in
9 particular had come to the view that some level of
10 breach of the RRO was inevitable?

11 A. No, it was about how could we get better to get to
12 a stage so that the FRAs are dealt with in the timely
13 matter(sic) agreed. That's the way we were working
14 towards.

15 SIR MARTIN MOORE—BICK: Mr Millett, the fact that you've got
16 some fire risk assessment actions outstanding isn't
17 necessarily of itself a breach of the regulations, is
18 it? Because there's always going to be some lapse
19 between identifying and reporting some shortcoming and
20 putting it right.

21 MR MILLETT: Well, that may be. That's going to be
22 a question we may have to explore with our expert on
23 this topic.

24 SIR MARTIN MOORE—BICK: That may be as well, but I'm just
25 wondering, the way it's put to Mr Black —

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1 MR MILLETT: Yes, I was simply exploring the breadth of the
2 concept of perfect world.

3 A. I think it might be useful for the Inquiry and the panel
4 to ask the regulator, who regulates this, about —
5 you know, because did they — I don't know if — we
6 weren't regulated then, but do they collect information
7 that they have to put into their regulatory forum, so
8 housing associations have to do sort of quite a lot of
9 feedback to the regulator, so you might be able to get
10 information from there that gives you a bigger
11 impression of how the whole sector is doing, rather than
12 my 588.

13 Q. Of course, looking at the figures as we've got in front
14 of you, you had no means of understanding whether the
15 outstandings were low—risk, medium—risk or high—risk,
16 just on that page, did you?

17 A. Not on that page, no.

18 Q. For all you know, they could all have been red?

19 A. They could have been.

20 Q. Or green.

21 A. Or green. So I think that's a fair point, I think
22 that's my presentation. So, again, if you look in the
23 past, you wouldn't have had this information here, so
24 I think although not always brilliantly fast, here you
25 begin to see us actually raise it. So, you know,

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1 I agree that if it developed, it would have been also
2 better to have sort of the breakdown so you could see
3 it, and it would have been great if it was green, but
4 I accept actually you might have amber and red, and then
5 to explain it.

6 Q. Yes.

7 Now, can we look at another document which takes us
8 deeper into 2015, {TMO10009628}.

9 These are the executive team minutes from the
10 22 July 2015, as you can see, and you were present at
11 that meeting, together with others, including
12 Barbara Matthews.

13 If you go to item 2, "Matters Arising", at the foot
14 of page 1, you can see the first one:

15 "Finance, Audit & Risk — Sacha Jevans to invite
16 Barbara Matthews and the interim Health & Safety manager
17 to attend an Operations Meeting to discuss outstanding
18 Health & Safety issues including FRAs."

19 First, who was the interim health and safety manager
20 referred to there, do you know?

21 A. I can't help you. They must —

22 Q. What — I'm so sorry.

23 A. Sorry, I don't know their —

24 Q. You don't know.

25 What were the outstanding FRA issues that needed to

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1 be discussed at an operations meeting?

2 A. Again, I can't tell from that, in terms of detail.

3 Q. Let's look at the minutes for the next executive
4 committee meeting at {TMO00843593}. We can see that
5 again you were present, as was Barbara Matthews.

6 If we go to item 3 on page 2 {TMO00843593/2}, top of
7 the page, you can see that there is a response
8 Adair Tower.

9 A. Yeah.

10 Q. And you will recall, because we discussed it yesterday,
11 not least, that this relates to the fire at Adair Tower
12 on 31 October 2015.

13 A. Yeah.

14 Q. We're going to come back again in due course to that
15 incident, but if I can ask you to look at the
16 penultimate paragraph on page 2 there at the bottom, it
17 says this:

18 "Sacha noted that she has asked Gillian Kennedy to
19 put together a spreadsheet detailing all outstanding FRA
20 actions. There is a Health & Safety Audit in early
21 December and Sacha and Barbara are working together to
22 clear the backlog of actions so we can be compliant."

23 Now, there is a reference there to backlog of
24 actions; clearly there was still a backlog of actions at
25 that point, yes?

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1 A. It seems to say that, yes.
 2 Q. Yes, and that the executive team were concerned that
 3 that backlog might be picked up in the forthcoming
 4 audit.
 5 A. Or it's in Sacha's department, she knows an audit's
 6 coming up, and she's focusing her staff's mind on what
 7 the auditor will look at, so in terms of its
 8 preparation. Audit — these are planned audits, so she
 9 would know it's happening, so in terms of actually, as
 10 an executive director, it's my expectation, if you knew
 11 you were having an audit, you should be having a look at
 12 what they're going to audit and make sure you're
 13 prepared for it.
 14 Q. Well, that was really my next question. Was it not
 15 essential to clear the backlog in and of itself to
 16 comply with the law —
 17 A. Yes, yes.
 18 Q. — rather than just to tidy up your house before
 19 an audit?
 20 A. No, I don't think it's that, I think it's about what we
 21 agreed before, that we're focusing on trying to do it.
 22 I think this is Sacha putting together some extra push
 23 to try to get it — not just for the audit, we're trying
 24 to get people to see the seriousness and importance of
 25 it. I saw it as a positive part.

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1 Q. Right. You recall that, do you?
 2 A. What, the —
 3 Q. You say you saw it as positive.
 4 A. I wanted to see Sacha taking action because it sat
 5 within — if these sat within her area, what's she doing
 6 to address it?
 7 Q. I'm just asking you about the wording of the note, you
 8 see, because it suggests that Sacha and Barbara were
 9 working together to clear the backlog of actions for the
 10 purposes of the audit.
 11 A. I think you could look at it that way and I could look
 12 at it the way I've said to you.
 13 Q. Let's look at the audit and what it says. This is at
 14 {RBK00000531}.
 15 That's the first page, March 2016, and it's the
 16 final internal audit report for the TMO.
 17 Can I take it that you saw this document at the
 18 time?
 19 A. I would have, yes, assumed.
 20 Q. Let's go to page 6 in it {RBK00000531/6}, please.
 21 On page 6, at the very bottom of that page, in the
 22 last bullet point it says:
 23 "The Fire Risk Assessments (FRA) are carried out by
 24 a third party specialist consultant and the FRA reviews
 25 are undertaken by the TMO Assistant Safety Advisor

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1 during routine inspections of properties to ensure that
 2 any significant findings and action plan items
 3 identified by the FRA are progressed in a timely manner
 4 as per their stated priority. Checks on Keystone for
 5 ten estates confirmed these were up to date and all fire
 6 equipment had been inspected within the past
 7 twelve month period."
 8 No reference there to backlog.
 9 A. This is an audit report. It wasn't prepared by the TMO.
 10 Q. No, but do you agree with me, as a matter of
 11 observation, that there is no reference in there to
 12 a backlog?
 13 A. There is no reference to a backlog in the report, no.
 14 Q. No, and as I've shown you, the auditor appears to have
 15 formed the view that any significant findings and action
 16 plan items identified by the FRA are progressed in
 17 a timely manner as per their stated priority. I've
 18 shown you that.
 19 A. Yeah.
 20 Q. Did you consider at the time when you read that that
 21 that was a true statement?
 22 A. I mean, I think that — I don't know. I mean, this is
 23 produced by the auditors, not myself or any of my teams.
 24 Q. Well, okay, let's take it in stages.
 25 You read this, as you confirmed, this document.

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1 A. Yes.
 2 Q. Did you read that sentence?
 3 A. I imagine I did when I read it.
 4 Q. And when you read it, did it not occur to you that that
 5 was not a true statement?
 6 A. No.
 7 Q. Why not?
 8 A. I don't know.
 9 Q. I mean, did you seek to correct the impression that the
 10 auditor had that FRAs were being progressed in a timely
 11 manner as per their stated priority?
 12 A. I think these are our auditors who have audited us on
 13 a number of occasions and they know our business, and
 14 I don't think — if you're trying to say that we cheated
 15 the auditors, I don't accept that.
 16 Q. No, I'm not suggesting that, I'm simply asking you
 17 whether, as a matter of fact, you sought to correct the
 18 impression that the auditor has expressed in the
 19 sentence I've identified?
 20 A. No, I didn't.
 21 Q. And my question is: why not?
 22 A. I don't know.
 23 Q. Can we then go next, please, to {TMO00852776}, executive
 24 team minutes —
 25 A. Sorry, before we move on, because you show a lot of

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1 documents here, can you just confirm this document, what
2 the outcome was?
3 Q. No. I mean, we can spend some time, if you want —
4 A. No, I don't mean that. Just for the panel — obviously,
5 quite rightly, you're focusing on certain things, but it
6 was just to say I think this was the substantial audit
7 that the TMO got for health and safety.
8 Q. Well, you see, I'm —
9 A. If you want to move on, I recognise that. It's just so
10 the panel can see there was progression. There may
11 still be weaknesses, but in terms of actually there was
12 progression by our internal audit in terms of health and
13 safety, about what we did.
14 Q. Well, Mr Black, the way this was supposed to work is
15 that —
16 A. Okay, sorry.
17 Q. — you give evidence about matters in which you were
18 involved at the time —
19 A. Okay, I apologise.
20 Q. — based on what I hope is a fair line of questions. My
21 question was a very narrow one based on a single line of
22 text in —
23 A. Okay, I apologise.
24 Q. No, not at all, I understand the position you're in, and
25 I just picked out the point, but I think I have your

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1 answer. Obviously if it's an unfair question based
2 on —
3 A. No.
4 Q. — further material, we can —
5 A. No, it's — sorry, just sometimes it's getting tiring,
6 and just following one-line sort of questions, you
7 forget —
8 Q. I understand. We can take a break.
9 A. No, no, I think I'd rather finish at lunchtime, but it
10 was just a sort of moment.
11 Q. I understand.
12 Let's look at the next document, which is
13 {TMO00852776}.
14 This is the minute of an executive team meeting of
15 27 January 2016, at which you were present, as was
16 Barbara Matthews and others. Gill Petford is taking the
17 notes.
18 If we go to item 3, please, which you will find on
19 page 2 {TMO00852776/2}. It starts on page 1, it's under
20 "Adair Tower Enforcement Notice" on page 1, but the
21 passage I want is on page 2.
22 If you look at the final paragraph on that page, it
23 says:
24 "Barbara advised that we are now getting up to date
25 on FRA outstanding actions."

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1 Do you see that?
2 A. Yes.
3 Q. Now, did you ask, do you remember, for any more detail
4 from Barbara Matthews on the outstanding FRA actions?
5 A. Not at that moment. I don't recall, sorry.
6 Q. You don't recall. For example, did you ask how many
7 actions are out of time, how long they have been out of
8 time for, questions of that nature?
9 A. I can't recall, yeah.
10 Q. You don't recall.
11 At all events, can we take it that you were given to
12 believe by Barbara Matthews that her team was now making
13 progress with outstanding FRA actions?
14 A. Yes.
15 Q. Yes, but you didn't press her as to how?
16 A. Well, there might have been a discussion, but that's all
17 there was that was noted.
18 Q. Right.
19 This is January 2016. At that stage, were you not
20 concerned that, despite the fact that two and a half
21 years had passed since the Hodgson review and reports,
22 there was still a backlog of uncleared FRA items?
23 A. I think we'd discussed that there's a process going
24 through and actions are coming through all the time, so
25 if there is a backlog, is it the same backlog it was

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1 two years ago? I don't know.
2 Q. Right.
3 I mean, I understand what you're saying, but were
4 you not concerned that you had this stubborn rump, as it
5 were, of slowly retreating outstanding FRA actions?
6 A. Yes, I mean — and I think, working with Barbara, I kept
7 on mentioning this and pressuring this for us to
8 actually work on it. So they were stubborn and they
9 kept on coming through.
10 Q. Yes, and did you understand that that meant that there
11 were residents in your stock who were potentially at the
12 risk of death or injury from fire?
13 A. I would need to see the details.
14 Q. Well, indeed, but given that there was this block of
15 outstanding —
16 A. Sorry, I don't know how many there were at this stage,
17 sorry.
18 Q. Well, did you not ask her?
19 A. I might have done, but I ... this is five years later.
20 Q. Let's go then to the next TMO health and safety
21 committee meeting, 12 April 2016, {TMO10013060}.
22 We can see that these are the minutes of that
23 meeting, health and safety committee meeting. We can
24 see that Barbara Matthews was present. You I think were
25 not. That wouldn't be unusual, would it?

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1 A. No.
 2 Q. No.
 3 Go to page 3 {TMO10013060/3}, paragraph 4.1. Under
 4 the heading "Fire Safety and Fire Risk Assessments
 5 (FRAs)", there is a subheading, "W2 Workflow FRA
 6 Actions", and then it records:
 7 "JW [Janice Wray] welcomed the significant drop in
 8 the number of outstanding actions for both FRAs and H&S
 9 Actions. BM acknowledged the progress made and advised
 10 that the Chief Executive remained anxious that all
 11 actions older than six months should be completed as
 12 a matter of urgency. ABos [I think that's Alex Bosman]
 13 added that his team currently has a further 50+ actions
 14 which have been confirmed as complete and will be fully
 15 completed on W2 asap."
 16 Just focusing on the third line I read to you there,
 17 "Chief Executive remained anxious that all actions older
 18 than six months should be completed as a matter of
 19 urgency", was anxiety a fair description of your
 20 attitude at the time?
 21 A. I'd say that yes, it could be.
 22 Q. Yes. So given that —
 23 A. Although it's not my word.
 24 Q. No, I understand, and anxiety means what it means there,
 25 but did you actually ask, given that, what was actually

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1 being done in order to get actions over six months old
 2 completed?
 3 A. I probably had a discussion with Barbara.
 4 Q. Do you remember it?
 5 A. Since she seems to see me as anxious, I'm sure I did.
 6 Q. Yes.
 7 A. I can't remember specifically, again.
 8 Q. Yes. I mean, clearly, according to this note, you have
 9 given her the benefit of your thoughts about actions
 10 older than six months: they need to be completed as
 11 a matter of urgency; did you actually ask that anything
 12 specific be done, or did you just leave it to her to
 13 work out?
 14 A. I can't recall that conversation, sorry.
 15 Q. Right.
 16 Did she tell you what she was going to do in order
 17 to quell your anxiety about that matter?
 18 A. She might have done, but I don't remember the detail.
 19 Q. The next relevant executive team meeting took place on
 20 7 July 2016. We're going to look at the minutes of that
 21 meeting in a moment.
 22 Before we do that, we need to look at a TMO health
 23 and safety committee meeting on 14 June 2016, and the
 24 minutes are at {TMO10013952}. We can see there who was
 25 there, and the date of that meeting.

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1 If we go, please, to page 3 {TMO10013952/3},
 2 paragraph 4.1 again — they're usually in 4.1 — "FRA
 3 Actions":
 4 "BM noted the good progress being made with these,
 5 however, the Chief Executive is anxious to have all
 6 older actions completed as a matter of priority."
 7 So again we see your noted anxiety on having older
 8 actions completed. This is two months after the first
 9 indication of this we've seen in the minutes of the
 10 health and safety committee meetings.
 11 Do you know why nothing had been done to soothe your
 12 anxiety about uncompleted FRA actions even two months
 13 later?
 14 A. I can't answer it in that — that's a difficult one to
 15 do, I'm afraid. I mean, what I'm seeing is Barbara is
 16 continuing to put pressure on the people in the health
 17 and safety committee to address these things. Whether
 18 she used — whether I was still anxious continuously for
 19 two months, I'm not quite sure, or whether I had
 20 a conversation about it, she's obviously — or whoever
 21 takes the minutes has noted that.
 22 Q. Did you —
 23 A. I think what's good is that actually progress has
 24 continued to be made, so ...
 25 Q. Right. But you're still anxious; yes?

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1 A. I'd been anxious for quite a while.
 2 Q. Did you consider whether there were sufficient resources
 3 being allocated to bring all FRA actions up to date far
 4 sooner, and in particular the older ones?
 5 A. Well, again, if Barbara had come to me and said, "You
 6 need some money to do a quick clean-up of things", then
 7 I'm sure we would have been able to do it. But also
 8 Barbara was my finance director as well, she knew where
 9 all the money was, so she could have actually suggested
 10 it as well.
 11 Q. Right. Did anybody indicate what the nature of the
 12 problem was?
 13 A. I think we have gone through — I think there's a range
 14 of problems and I don't know them all individually
 15 consistently from five years ago.
 16 Q. Did anybody tell you that it was a problem with
 17 contractors or a problem with —
 18 A. I can't recall at this moment in time.
 19 Q. Right. Did anybody suggest to you that this was
 20 a problem of resourcing? Did Barbara Matthews say to
 21 you —
 22 A. No, I don't think Barbara mentioned resourcing. I mean,
 23 in a sense, resource — so there's always scarce
 24 resources, but if this was the — if there was a request
 25 for resources, then I would have looked at it.

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1 What I pick up from a very short note is actually
 2 improvements are being put in place, things are
 3 improving, and it's therefore, you know, a mix of
 4 things, either my teams doing their job or the
 5 contractors actually doing better, so are we seeing
 6 a change, which I think in terms of when Peter brought
 7 in his new structure, that we had new contractors, Alex
 8 was doing quite a lot of things with new contracts, and
 9 actually that was seeing the improvement.
 10 Q. Yes.
 11 A. That's all I can think of at the moment, I'm afraid.
 12 Q. No, I understand that, but what I'm keen to examine is
 13 the other side of the coin, which is that
 14 notwithstanding the progress being made in the ways
 15 you've identified, you remain anxious to have all the
 16 older actions completed as a matter of priority. So it
 17 looks from this document that you're telling
 18 Barbara Matthews that she needs to prioritise the older
 19 actions. So even though there are improvements, there
 20 remains this stubborn rump, as I call it, of these older
 21 outstandings.
 22 A. I'm not sure if you asked Barbara Matthews about this
 23 when she was here. I suppose she might just be using my
 24 anxiety to keep pressure on people to focus on these,
 25 that's ...

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1 Q. Right. Was it not true that you were anxious to —
 2 A. I was anxious.
 3 Q. Right. So given that this is a perpetual problem, what
 4 I'm really just seeking to understand is whether you
 5 took any steps to get to the real root of it?
 6 A. I think — sorry, I think we were getting to the root of
 7 it, that's all I've got to say.
 8 Q. Let's look at one more document before the break. This
 9 is the 7 July 2016 executive team minutes,
 10 {TMO10015934}.
 11 This is the meeting of 7 July 2016, and if you look
 12 down, please, at page — well, you could look at all of
 13 it. The point I want to put to you is that there is no
 14 mention in here of FRA actions in this set of minutes.
 15 We can scroll down, but take it from me that there
 16 isn't.
 17 There is also a meeting on 13 July, the following
 18 week, and the minutes for that are at {TMO00894334}. If
 19 we have that up, please. Again, take it from me that
 20 there is no mention of any FRA actions in this minute.
 21 Are you able to explain what happened to FRA actions
 22 as an item of interest to the executive team at that
 23 point, July —
 24 A. No.
 25 Q. — 2016?

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1 A. No.
 2 Q. No. In fact, we find no further mention in any of the
 3 executive team meeting minutes about the number of
 4 outstanding FRA items after 17 May 2016. Are you able
 5 to explain why that is?
 6 A. No.
 7 Q. Can we take it from that that it was of insufficient
 8 interest to the executive team to be a matter for
 9 regular discussion?
 10 A. No, I don't think you can take it.
 11 Q. So what is the explanation?
 12 A. I've got no explanation at the moment. I can't recall
 13 from five years ago why they wouldn't have come up.
 14 MR MILLETT: Mr Chairman, I hesitate to identify that it
 15 might be becoming a habit, but it is only three minutes,
 16 perhaps, according to one of the clocks, but I'm turning
 17 to a different, rather lengthy topic, and it would be
 18 a sensible moment to break now.
 19 SIR MARTIN MOORE—BICK: Should I suggest that it would be
 20 a good time to have a break?
 21 MR MILLETT: That would be a good suggestion.
 22 SIR MARTIN MOORE—BICK: Mr Black, we will break at this
 23 point so we can all get some lunch. We will resume at
 24 2 o'clock, please, and again, I have to ask you not to
 25 talk to anyone about your evidence or anything relating

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1 to it.
 2 THE WITNESS: Of course.
 3 SIR MARTIN MOORE—BICK: Thank you.
 4 (Pause)
 5 Thank you.
 6 2 o'clock, then, please. Thank you.
 7 (12.57 pm)
 8 (The short adjournment)
 9 (2.00 pm)
 10 SIR MARTIN MOORE—BICK: Right, Mr Black, ready to carry on?
 11 THE WITNESS: I am, yeah.
 12 SIR MARTIN MOORE—BICK: Good, thank you.
 13 Yes, Mr Millett.
 14 MR MILLETT: Mr Chairman, thank you.
 15 Mr Black, I want to ask you some questions now about
 16 TMO's fire safety strategy in April 2016.
 17 Do you remember that in April 2016, Janice Wray
 18 circulated a note about potential fire safety strategy
 19 review? Do you remember that?
 20 A. I can't recall at the moment.
 21 Q. {TMO10024351}, we can see that note. It's paper 4, so
 22 it appears to have been presented to a meeting. It's
 23 entitled "Review of Fire Safety Strategy", do you see
 24 that?
 25 A. Yes.

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1 Q. Did you play any part in that review?
 2 A. I can't recall at the moment, thank you.
 3 Q. Did you see this document at the moment?
 4 A. Again, I can't recall. I imagine if it's been
 5 circulated I would have.
 6 Q. Right. Janice Wray told us that she had assumed that it
 7 went to the executive team at the time. Do you know
 8 whether it did?
 9 A. I can't recall at this stage now.
 10 Q. Now, take it from me — and if I'm wrong, I will be
 11 corrected, I'm sure — that there is no mention in this
 12 review paper of any issue regarding the closing out of
 13 FRA actions. Can you comment?
 14 A. No.
 15 Q. Do you know why there is no mention in this document of
 16 any issue relating to the closing out of FRA actions?
 17 A. No.
 18 Q. Do you remember — maybe you don't — thinking to
 19 yourself at the time that it's surprising that there was
 20 no mention of any closing out of FRA actions in this
 21 document?
 22 A. No, apologies.
 23 Q. Can we look at {TMO00842211}, please.
 24 This is an email sent by Janice Wray on 7 June 2017
 25 to Barbara Matthews attaching papers for a health and

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1 safety team meeting to take place on 13 June 2017.
 2 If you just take a moment to look at the header of
 3 the email there, you will note that you are not, it
 4 appears, cc'd on this or an addressee of it, but do you
 5 think you received this email or saw it in some other
 6 way?
 7 A. I can't recall at the moment.
 8 Q. The subject is, "Papers for [Health and Safety]
 9 Committee on 13th June at 10 am".
 10 Now, you weren't on the health and safety committee,
 11 so can you tell us whether, as a matter of normal
 12 procedure, you would have received this set of
 13 documents?
 14 A. Sorry, I can't recall.
 15 Q. You can't recall. No.
 16 Help me, if you look down the screen, you can see
 17 a list of 14 papers for the following week's health and
 18 safety committee meeting. In the ordinary course of
 19 things, would you have received these documents, even
 20 though you were not to attend at that meeting?
 21 A. I don't recall receiving these.
 22 Q. No, but in the ordinary course of things, would you?
 23 A. I'm not sure, really.
 24 Q. Right.
 25 A. I'm not copied in, so it's —

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1 SIR MARTIN MOORE-BICK: I think the question, Mr Black, is:
 2 did you normally receive copies of papers produced for
 3 the health and safety committee?
 4 A. Yes, I think I usually would.
 5 SIR MARTIN MOORE-BICK: Right, thank you.
 6 MR MILLETT: Right.
 7 Now, we can see, as you see, that there was
 8 an executive team meeting scheduled for 13 June, and
 9 attached to that email was paper 4, you can see that,
 10 FRAs. In fact it's paper 4 but it's item 5:
 11 "5. FRA Action Stats ...
 12 "6. Fire Safety Update — PAPER 4A."
 13 As you can see from that email.
 14 A. Yeah.
 15 Q. Let's look at paper 4. This is {TMO00842218}.
 16 Now, this was the last in a series of statistics
 17 provided periodically by Janice Wray to the executive
 18 team from 2016, and I say it's the last in a series
 19 before the Grenfell Tower fire on 14 June 2017.
 20 Looking at the numbers, the total outstanding
 21 actions was 142. Do you see that, under "Totals" in the
 22 "Outstanding" column?
 23 A. Yeah, sorry.
 24 Q. Can you see that?
 25 A. I can, sorry, yeah, I was just reading the table.

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1 Q. That's at 7 June 2017. The figures in brackets are
 2 expressed to be as at 10 March 2017.
 3 The total figure for partially complete was 165. Do
 4 you see that?
 5 A. Yes.
 6 Q. So a combined total of incomplete actions was 307 as at
 7 7 June 2017; yes?
 8 A. Yes.
 9 Q. Yes. If we look at page 2 {TMO00842218/2}, we have the
 10 age profile of outstanding actions. If you turn to
 11 that, you can see that, across the page, you've got
 12 total outstanding actions that are four months or older
 13 is 250, and you get that by adding 50 and 72 and 128.
 14 A. Yeah.
 15 Q. Do you see that?
 16 A. Yes. Sorry, I was just looking at it.
 17 Q. Yes. Indeed, most of the incomplete ones are 12 months
 18 plus, aren't they?
 19 A. Yeah.
 20 Q. Yes. Of the 250, 128 are 12 months plus.
 21 Were you made aware of these figures at the time?
 22 A. I can't recall, I'm afraid.
 23 Q. Would you agree that those figures were a cause for
 24 serious concern?
 25 A. Yes.

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1 Q. And that's because, isn't it — I'm inviting you —
 2 A. Yeah.
 3 Q. — to agree with me — they show the reverse of what
 4 ought to be the case, which is that most outstanding
 5 ought to be the youngest, not the oldest?
 6 A. I agree.
 7 Q. Do you know why the trend was rising and not falling?
 8 A. No.
 9 Q. If you look at it closely, you can see that the core of
 10 the problem is responsive repair, where the figure goes
 11 up exponentially the older you get; do you see that?
 12 A. Yes.
 13 Q. Do you know why that was?
 14 A. Not at this stage, no.
 15 Q. At that stage?
 16 A. Not — looking at this, I don't.
 17 Q. Do you remember — and this is only a week or so before
 18 the fire — any discussion about why it might be that
 19 within responsive repairs, you were experiencing
 20 an exponential rise in outstanding actions the older
 21 they became?
 22 A. I can't recall, sorry.
 23 Q. Would that not have indicated to you at the time that
 24 there was a fundamental problem in the TMO's management
 25 of outstanding actions and in particular responsive

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1 repairs?
 2 A. Unless I saw the detail, I don't know what they are,
 3 sorry.
 4 Q. Right. I'm getting the impression, Mr Black, that you
 5 don't remember anything about it, but also didn't do
 6 anything about it, maybe because you didn't know
 7 anything about it.
 8 A. Yeah, I think that's not a bad assessment.
 9 Q. Right.
 10 Are you able to explain to us how it came about that
 11 you weren't made aware of this profile?
 12 A. What I'm saying is that — so maybe I was, I don't know,
 13 it's five — four/five years ago. I'm just trying to
 14 remember. It's that thing about did I see it or did
 15 I not see it? It's quite hard to remember.
 16 Q. All right.
 17 Now, we can't see from this document whether these
 18 outstandings are red or amber or green, do we?
 19 A. No.
 20 Q. Again, I'm assuming from your evidence just now that you
 21 have no recollection of having any impression of whether
 22 the age profile of these and in particular the
 23 responsive repairs was in respect of mainly reds or
 24 mainly greens or —
 25 A. I couldn't tell from this.

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1 Q. — any balance between them. Right.
 2 Standing back, do you agree that the evidence
 3 collated by the TMO on FRA actions at this stage — this
 4 is a week before the fire — in light of the long
 5 history we've been examining today, shows that the TMO
 6 had a long-term and systemic problem in assessing FRA
 7 actions in a timely manner?
 8 A. I'm not sure if I'd say that, but I recognise that the
 9 12 months aren't looking great.
 10 Q. There was no review mechanism, as I think we established
 11 yesterday, at senior management level of fire risk
 12 overall, was there?
 13 A. Apart from at the health and safety committee.
 14 Q. Yes.
 15 A. And I don't know if Repairs Direct had something in
 16 place in their organisation.
 17 Q. Do you accept that you, as CEO, had ultimate
 18 responsibility to ensure that the TMO carried out its
 19 fire safety obligations adequately?
 20 A. Yes.
 21 Q. And responsibility to review and make changes where
 22 necessary to ensure that the TMO was meeting its
 23 statutory fire safety obligations?
 24 A. Yes.
 25 Q. And do you agree that you didn't do so?

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1 A. No, I agree that we've actually improved the situation
 2 and continued to try to do that.
 3 Q. So you don't agree that you failed in your
 4 responsibility?
 5 A. I have to accept responsibility.
 6 Q. Do you agree that you failed to discharge it?
 7 A. I accept responsibility.
 8 Q. Do you agree that you failed to discharge it, Mr Black?
 9 A. I discharged my duty through other people. So when I'm
 10 looking here, the sort of repairs — day-to-day repairs
 11 sat with Repairs Direct, so that duty would have sat
 12 with the managing director.
 13 Q. Will you agree with me that the TMO, of which you were
 14 the CEO and therefore for this purpose its embodiment,
 15 did not make suitable and sufficient assessment of the
 16 risks to which the relevant persons and, in particular,
 17 your residents were exposed at Grenfell Tower?
 18 A. I'll have to accept that.
 19 Q. Let's go to your witness statement, please, at
 20 {TMO00000888/17}, and go, please, to paragraph 88.
 21 You say here, under the heading, "The fire and
 22 safety measures within the building at the time of the
 23 fire":
 24 "TMO sought to comply with its health and safety and
 25 fire safety duties by adopting safety management systems

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1 involving policies and strategies, monitoring its safety
 2 performance, conducting audits and reporting its safety
 3 performance.”
 4 If that is true, how come there were so many
 5 outstanding FRA actions as at the date of the fire?
 6 A. So we had reduced the number of outstanding actions over
 7 a piece of time, that's in the sense of what we've been
 8 talking about earlier today. I can't understand,
 9 because I don't know details, what are the ones that
 10 have caused us such problems to clear in the older
 11 12 months. I think it's a problem, as I said, that
 12 trying to clear these fire actions are not easy, and we
 13 focused on it and didn't try to not take it seriously.
 14 Q. Is your evidence that the legislative requirements were
 15 not reasonably achievable?
 16 A. I think the fire risk assessment actions are challenging
 17 to achieve constant getting rid of them, I think it's
 18 a struggle.
 19 Q. Yes. That wasn't my question.
 20 A. Sorry.
 21 Q. My question, I'll try it once more: is your evidence
 22 that the requirements of the RRO, the legislative
 23 requirements, on the TMO as the responsible person were
 24 not reasonably achievable?
 25 (Pause)

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1 A. We sought to achieve it.
 2 Q. Is the truth, Mr Black, that the TMO never really faced
 3 up to the degree of failure to comply with its
 4 obligations under the RRO, and recognised that there was
 5 a fundamental, systemic problem with closing out RRO
 6 actions in accordance with your own fire risk assessor's
 7 timescales as understood by Janice Wray?
 8 A. We found it challenging.
 9 Q. Standing back, why were you in that position?
 10 Let me suggest three possibilities, and if you can
 11 think of another, please tell us.
 12 Was it the ageing condition of your social housing
 13 stock and its size which meant that keeping residents
 14 reasonably safe from fire was impracticable?
 15 A. I think the shape of the stock could be an issue in
 16 terms of actually — we had specific issues because —
 17 I mean, you had the stuff after the pre-war, but the
 18 stuff in 1960s, 1970s, 1980s created problems in terms
 19 of the design, so I think that sort of contributes
 20 sometimes to the problem to try to resolve these issues.
 21 Certainly leaks, you know, are completely different
 22 things.
 23 I think historically — I don't think the stock, in
 24 terms of if you look at investment in stock — because
 25 the way Government finance local authority, actually

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1 long-term investment had only started really in 2012,
 2 when HRA freedom was given. Up until then, the
 3 Government controlled the finances which went into —
 4 yes, there was an uplift in terms of Decent Homes, which
 5 was a programme, but a lot of times that dealt with the
 6 interior, the kitchens, the bathrooms, rather than the
 7 actual sort of structure of the buildings which decay
 8 over time sort of thing.
 9 Q. Given that answer, that takes us to another possibility:
 10 your inability or unwillingness to resource proper
 11 fire safety measures appropriate to the age and size of
 12 your stock?
 13 A. I wouldn't accept that.
 14 Q. Or was it just a blind spot about how serious it all
 15 was?
 16 A. I don't think it was a blind spot, I think we tried with
 17 the resources we had to meet our obligations.
 18 Q. And you knew you weren't meeting them but you never
 19 asked for any more money?
 20 A. Well ... no.
 21 Q. No, you agree, or no, you disagree?
 22 A. We — it's — can you say the question again? Sorry.
 23 Q. Yes. I asked you whether it was a blind spot and you
 24 didn't think it was. I'm suggesting that you knew you
 25 were not meeting the legislative requirements but never

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1 asked for any more money.
 2 A. I'm not sure of that one.
 3 Q. Let's turn to a totally different topic, which is
 4 Adair Tower.
 5 First, can we look at the deficiency notice for that
 6 building, and the date, so that you've got it firmly in
 7 your mind, is 12 October 2015.
 8 {TMO00842271}. This is the deficiency notice itself
 9 of that date, addressed to Janice Wray in respect of
 10 Adair Tower.
 11 Did you ever see this document?
 12 A. I can't recall, apologies.
 13 Q. I think we've found documents that suggest that you
 14 might have done, and I just want to try and pin down
 15 whether you actually did or not.
 16 A. I think if you've found documents, I'll accept that I've
 17 seen it, that's helpful.
 18 Q. Right. But you can't recall?
 19 A. I can't recall at the moment, no.
 20 Q. No. I take it that you have read it before coming into
 21 the witness box?
 22 A. This? Yes.
 23 Q. Yes. Do you agree with me that it highlights
 24 significant failings with carrying out works identified
 25 in fire risk assessments relevant to Adair Tower?

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1 A. So this — sorry, the — I'm just trying to remember
 2 what the action — can you — is this before the fire,
 3 sorry?
 4 Q. It is, and that's the point. If we go to page 3
 5 {TMO00842271/3} —
 6 A. Yeah.
 7 Q. — you can see the schedule.
 8 Article 11:
 9 "At the time of the audit your preventative and
 10 protective measures had not been planned, organised,
 11 controlled, monitored or reviewed where required. It
 12 was found that the significant findings had not been
 13 monitored and reviewed to ensure works had been
 14 completed."
 15 And it goes on to page 4 {TMO00842271/4},
 16 Article 17(1) and Article 8, if you just look at those.
 17 Do you agree that those highlighted significant
 18 failings with carrying out works identified in fire risk
 19 assessments?
 20 (Pause)
 21 A. I have to accept that.
 22 Q. Yes. I mean, being specific — I accept that it might
 23 have been a bit of a general question — look at
 24 Article 8:
 25 "At the time of the audit the general fire

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1 precaution as identified in the significant findings of
 2 your fire risk assessment had not been implemented. It
 3 was found that you were unable to confirm if the
 4 significant findings in your fire risk assessment had
 5 been addressed."
 6 Just on the face of it, that's quite a serious
 7 concern, isn't it?
 8 A. Yes.
 9 Q. So given that it was a serious concern which
 10 potentially, at least, exposed the TMO to criminal
 11 prosecution for a regulatory offence, that's something
 12 that really should have been brought to your attention
 13 at the first opportunity, shouldn't it?
 14 A. Yes.
 15 Q. Yes.
 16 Now, the fire itself took place on the 31st of the
 17 same month, October 2015.
 18 Let's look at a chain of emails that were exchanged
 19 on the morning of that fire. {TMO00869159/2}, please.
 20 If we start with page 2 and your email to Janice Wray at
 21 10.57, you can see that, copied to Sacha Jevans,
 22 Teresa Brown and Pete Griffiths, "Fire Adair Tower":
 23 "Hi Janice and Sacha."
 24 Just before I show you the text, the fire occurred
 25 that morning, and it looks from this email chain that

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1 you had a discussion mid-morning with Janice Wray and
 2 Sacha Jevans, and you're now following up with some
 3 questions.
 4 A. Yeah.
 5 Q. You say:
 6 "As discussed it's attracting attention of the press
 7 and three areas emerging in terms of speculation."
 8 Then you have 1, 2, 3, and then underneath that you
 9 say:
 10 "Janice you say overall it's stay and be rescued and
 11 fb do not require fire extinguishers. You said you had
 12 recent audit with fb and we got some notice — small risk
 13 but of concern to me so I need to understand the risk."
 14 The reference to "some notice", what was that?
 15 A. Well, I think that might be the deficiency notice.
 16 Q. Yes, it might be, I agree that that is a possibility
 17 sitting here, but do you remember whether it was?
 18 A. I can't remember, but reading this, that's what I would
 19 imagine I was saying.
 20 Q. Right.
 21 Looking at that, then, do we take it that you hadn't
 22 received the notice because you say "some notice", and
 23 are just recording back to Janice what she had told you?
 24 A. Yes.
 25 Q. Would that mean that Janice Wray had not brought the

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1 deficiency notice to your attention until there was
 2 a fire at the end of that month?
 3 A. It would appear so.
 4 Q. Can you explain why she didn't do that?
 5 A. No.
 6 Q. I mean, would you agree with me that that is a serious
 7 failing on her part?
 8 A. Yes.
 9 Q. Do you know why you wrote the words "small risk"? Did
 10 she say it's a small risk and you were recording it, or
 11 was it your assessment that there was a small risk?
 12 A. Well, I think it would have been what I was told in
 13 terms of otherwise I'd have said big risk, I think.
 14 Q. Right.
 15 Now, we can see your draft announcement to all the
 16 staff at {TMO00866477}.
 17 This is an email, at the top of the page, from
 18 Pete Griffiths to you, tweaking the announcement below
 19 for forwarding purposes.
 20 So is this right: Pete Griffiths had drafted the
 21 text of an announcement to go to all the TMO staff and
 22 was giving it to you for approval?
 23 A. Yes.
 24 Q. Or he'd tweaked it and was giving it to you for
 25 approval.

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1 If we go to page 1 lower down, please, and look at
 2 the last paragraph in the draft message, it says:
 3 "The effective response we have provided reflects
 4 our strengths as a locally based tenant-led organisation
 5 and the professional skills of teams in the TMO and
 6 Repairs Direct, as well as those of our contractors
 7 PDERS and R&MA Stewart."
 8 Do you see that?
 9 A. Yes.
 10 Q. Now, just pause there.
 11 Let's also look at your email to the TMO board,
 12 {TMO00866480}, "Dear Board members". This is, I should
 13 just show you, from you, because it says:
 14 "On 2 Nov 2015, at 15:38, Robert Black ...
 15 wrote ..."
 16 It's about a fifth of the way down your screen. Do
 17 you see that?
 18 A. Yes.
 19 Q. Yes:
 20 "Dear Board members
 21 "This is to update you on the situation at
 22 Adair Tower."
 23 And then if you cast your eye through your message
 24 down to the bottom, you say at the bottom of page 1:
 25 "Overall our response to the fire was very rapid, so

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1 thank you again to Mary, Fay and Cllr Mason who alerted
 2 me this allowed me to start our emergency process.
 3 I will provide details of all the staff who took part
 4 later."
 5 Then over the page {TMO00866480/2}, you say very
 6 good response from the contractors and thanks to the
 7 local Catholic church.
 8 Would you agree with me that, in general, both of
 9 the messages that I've just shown you — your
 10 announcement at least in draft form to the staff and
 11 your note to the board — presented TMO's reaction to
 12 the Adair Tower fire as successful?
 13 A. In principle, yes.
 14 Q. The message to the TMO board members doesn't mention the
 15 deficiency notice that the TMO had received on
 16 12 October, does it?
 17 A. No.
 18 Q. Why is that?
 19 A. I don't know. I mean, that's why I need to confirm if
 20 I knew about it.
 21 Q. Yes. You are chief executive and head of the executive
 22 team.
 23 A. Yeah.
 24 Q. And your responsibility was to keep the board fully
 25 informed and up to date with anything that might affect

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1 the TMO's legal position.
 2 A. Yes.
 3 Q. Yes. So are you able to explain why the board wasn't
 4 told in your own message or at all about the deficiency
 5 notice received only two and a half weeks before the
 6 fire?
 7 A. No.
 8 Q. Do you know when the board was first informed about the
 9 pre-fire deficiency notice for Adair Tower?
 10 A. I can't recall, sorry.
 11 Q. From our records — please correct me if this is
 12 wrong — it wasn't until March 2016, so five months
 13 later.
 14 A. Right.
 15 Q. Are you in a position to correct that?
 16 A. I'll just have to believe you.
 17 Q. Can you explain it?
 18 A. No.
 19 Q. Can we please look at {TMO00880329/101}. This is
 20 Barbara Matthews' notebook.
 21 Now, this is my reading her handwriting, but if you
 22 look at it, it says:
 23 "Fire [meeting]. 3/11/15. Hub. Flat 15 — fire.
 24 "People in temporary accommodation.
 25 "Want to get as many back as possible.

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1 "OGS [or OCS] to do cleaning.
 2 "Fire Brigade have visited — assessed as
 3 structurally safe."
 4 Then a little bit lower down you can see in the
 5 penultimate entry on that page it says:
 6 "Discussion about Fire Brigade need to have doors
 7 having self closers.
 8 "Fire consultant — visit to make assessment and take
 9 photos."
 10 Now, you can see that it's a meeting on 3 November.
 11 Were you at that meeting?
 12 A. I can't recall.
 13 Q. Would it be usual that you would attend a meeting with
 14 Barbara Matthews on a matter such as this?
 15 A. I imagine so, yes.
 16 Q. Even if you weren't there, can we take it that you were
 17 nonetheless made aware, either at this meeting or around
 18 this time, of the LFB's concern about self-closers?
 19 A. I can't recall.
 20 Q. Can we then look at the next document at {TMO00869184}.
 21 Just to be clear, Barbara Matthews' evidence was
 22 that you were at this meeting. That's {Day148/54:18} to
 23 {Day148/55:20}. That was her recollection. Are you in
 24 a position to dispute that?
 25 A. Sorry, dispute what, sorry?

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1 Q. That you were at the meeting of 3 November 2015.
 2 A. Well, I'm not going to dispute it if she said I was
 3 there.
 4 Q. So can we therefore take it that you were aware from
 5 this time of the LFB's concern about self-closers?
 6 A. I'll have to accept that, yeah.
 7 Q. If we look at this chain of correspondence, I'd like to
 8 go to page 6 {TMO00869184/6}, please, with an email from
 9 Janice Wray to Rebecca Burton.
 10 Now, Rebecca Burton was the local LFB fire safety
 11 team leader, and this email is dated 22 October 2015.
 12 So just in date terms, this sits between the date of the
 13 deficiency notice on 12 October 2015 and the date of the
 14 fire on 31 October 2015.
 15 She says:
 16 "Hi Rebecca
 17 "Could we urgently arrange a meeting please to
 18 discuss the issues that you put on the agenda for our
 19 meeting on Tuesday that you were then unfortunately
 20 unable to attend. I am concerned to hear from Julie
 21 that she is about to issue 5 Deficiency Notices (one
 22 each for 5 separate staircases at Balfour House) — at
 23 least in part due to the fact that nominally fire rated
 24 flat doors do not have self-closers fitted.
 25 "Our approach to self-closers has been dictated by

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1 our fire risk assessor following clarification he
 2 received from a discussion the LFB Head of Policy & the
 3 Head of Enforcement and we have provided many FRAs to
 4 the LFB over the years but not been challenged about
 5 this approach. Therefore, in good faith, we considered
 6 we were applying the appropriate standard. If that is
 7 not the case or if the LFB standard has changed it's
 8 position on this I need to understand this — not least
 9 because of the potential impact on our organisation."
 10 Now, that's her email.
 11 We can see, if you go up a little to page 3
 12 {TMO00869184/3}, over to page 4, Rebecca Burton responds
 13 to Janice Wray on 4 November and explains, in the first
 14 two paragraphs, that she wants to touch base, she's been
 15 on leave and has some questions. Do you see that?
 16 And then Janice Wray, on page 2 {TMO00869184/2},
 17 writes to Alex Bosman and David Gibson, but copies in
 18 Peter Maddison, Barbara Matthews, and you. Do you see
 19 that?
 20 A. Yes.
 21 Q. "Hi Alex & David
 22 "Please see below list of queries from the LFB
 23 Inspecting Team Leader — are you both able to advise on
 24 the points in green? Would we have original plans
 25 anywhere?

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1 "David ..."
 2 Something about scaffold:
 3 "I will draft response to the FRA queries."
 4 Do you see that?
 5 A. Yeah.
 6 Q. Did you read that email when you got it, do you think?
 7 A. Yes.
 8 Q. Did you look down the chain?
 9 A. I can't recall.
 10 Q. Do you remember being made aware that there were
 11 potentially five more deficiency notices in the
 12 pipeline, in part, at least, to do with door-closers,
 13 self-closers?
 14 A. I can't recall, sorry.
 15 Q. On the face of the documents, it's a fair assumption,
 16 isn't it, that you were; yes?
 17 A. Well, I'll have to accept that, yeah.
 18 Q. Yes.
 19 Now, you then attend a scrutiny meeting with RBKC on
 20 5 November 2015, so the day after this document that you
 21 get from Janice Wray, this email, and two days after the
 22 meeting you attended with Barbara Matthews. It's at
 23 {RBK00048049}. These are the minutes of the RBKC
 24 scrutiny committee. We can see you're in attendance
 25 from page 1.

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1 On page 6 {RBK00048049/6}:
 2 "A7. Live issues report by the director of housing.
 3 "Mr Black provided an update on the major fire at
 4 Adair Tower which had occurred on Saturday 31 October on
 5 the third floor. He reported that the investigation was
 6 ongoing but the emergency planning in place had worked
 7 and the fire doors had also worked well. He explained
 8 the timelines for tenants re-gaining access to their
 9 flats and the re-housing of those unable to return.
 10 "The Chairman stressed the severity of smoke damage
 11 and how that can effect one's possessions. Mr Black
 12 said that the TMO was working with tenants to ascertain
 13 what they could still use and he said that it was
 14 compulsory for all tenants to have their own home
 15 insurance.
 16 "Cllr Blakeman asked why tenants were led out of
 17 smoke-filled stairways and consequently had to be
 18 treated for smoke inhalation. Mr Black explained that
 19 the policy was to stay in your flat and wait to be
 20 rescued by[sic] the natural reaction of people was to
 21 flee. He said that there was no main alarm system but
 22 the fire brigade had arrived within 2–3 minutes."
 23 Then there is a discussion about temporary
 24 accommodation and the local church providing teas and
 25 coffees.

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1 Now, just focusing on your report I've just read to
 2 you, what was the basis for your statement to the
 3 scrutiny committee that the fire doors had also worked
 4 well?
 5 A. I was talking about the fire doors on the floor where
 6 the fire was, so it's — I think there were six flats
 7 per floor, and five of the doors had been kept closed
 8 and the residents had stayed there. One person came out
 9 and used the wrong stairwell, and I think that's the one
 10 that got the smoke inhalation. That's the fire doors
 11 I was talking about there.
 12 Q. Right.
 13 Now, in response to Councillor Blakeman's question
 14 about tenants being led out of smoke-filled stairways,
 15 you say that the natural reaction of people was to flee;
 16 were you meaning to say that people had fled through
 17 smoke-filled stairways instead of being led?
 18 A. I'm slightly confused by the minute, because a lot of
 19 people had left the property — it was quite early in
 20 the day, so a lot of people, when the Fire Brigade came,
 21 had left. So I don't understand it. Because when
 22 the Fire Brigade evacuated the building, it was later,
 23 so I don't know if they led people out, but I thought
 24 the building was mostly empty.
 25 Q. On a different aspect, we can see here no mention at all

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1 by you of the pre-fire deficiency notice for
 2 Adair Tower, do we?
 3 A. No.
 4 Q. Why is that?
 5 A. I can't recall.
 6 Q. By this time, as we've seen from the email, you had been
 7 told by Janice Wray that there had been a notice. Why
 8 did you not pass that information, so far as you knew
 9 it, to the scrutiny committee?
 10 A. I can't recall, sorry.
 11 Q. Now, of course, we know that there were problems with
 12 the doors and the smoke ventilation system. Do you
 13 agree that that fact was material for the HPSC to know?
 14 A. I should have probably mentioned it, yes.
 15 Q. Yes.
 16 In fact, isn't it the case that, given the problems
 17 with door-closers, as reflected in the notice of
 18 deficiency for Adair Tower, you materially
 19 misrepresented the facts by saying that the fire doors
 20 worked well?
 21 A. Well, what I was talking about was the fire doors on the
 22 floor of the fire operated.
 23 Q. Yes.
 24 A. They held back the fire and the smoke and the people
 25 inside were safe, who stayed.

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1 Q. That would have no doubt drawn the eye to a successful
 2 part of the operation, but drawn the eye away from other
 3 inherent defects in the building that by then you knew
 4 about.
 5 A. I can't remember, apologies.
 6 Q. Do you accept that you presented the HPSC with
 7 a misleadingly rose-tinted view of the fire safety
 8 measures in that building?
 9 A. No, I don't accept that.
 10 Q. Both Councillor Marshall and Councillor Mackover told
 11 the Inquiry that they regarded the notice of deficiency
 12 as a material matter to be brought to their attention.
 13 Are you able to explain why they were not told about it?
 14 A. No, I can't.
 15 Q. Can we then move to Carl Stokes' FRA and action plan for
 16 Adair Tower of 11 November 2015.
 17 Can we start with {TMO00840415}.
 18 Now, this is an email from Janice Wray of
 19 13 November 2015 to you, Barbara Matthews and
 20 Sacha Jevans, subject "Adair Tower — meeting with the
 21 LFB Fire Safety Team Leader", and it appears to follow
 22 Janice Wray's meeting with Rebecca Burton. It says:
 23 "Robert, Barbara & Sacha,
 24 "As you know, I met with Rebecca Burton this morning
 25 to seek clarification on the LFB's response to the fire.

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1 She advised that there are certain 'trigger' events that
 2 cause the LFB to undertake a 'review' following a fire.
 3 In the case of Adair there were two 'trigger' factors:
 4 "1. Fire survival calls ...
 5 "2. People rescued from balconies ...
 6 "This LFB 'review' was undertaken by Rebecca who
 7 confirms this has now been completed and presented to
 8 the Deputy Assistant Commissioner. Part of the review
 9 required an audit of the block (and also of
 10 Hazlewood Tower as design identical) to be undertaken
 11 within 24 hours of the fire. This was undertaken by
 12 Inspecting Officer Matthew Ramsey on Monday 2nd November
 13 and his audit resulted in both blocks being assessed as
 14 a 'level 5' — the highest level — which would generally
 15 result in Enforcement Action/Prosecution."
 16 Now, if we go to page 2 {TMO00840415/2}, at the
 17 bottom of the email, last-but-one paragraph, Janice Wray
 18 says this:
 19 "However, it seems that specifically they are
 20 focusing on self closers on flat entrance doors and
 21 ventilation. Her stated preference would be to have
 22 both staircases closed as opposed to one un-enclosed,
 23 however, she is keen to see the reviewed risk
 24 assessment. I asked if she needed to see action on both
 25 of these points — if we fitted self-closers could she

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1 accept the ventilation — and she re-iterated that she
 2 needed to see the revised FRA. I had the impression
 3 that if the FRA recognised the need to fit self-closers
 4 and this was programmed swiftly (for both blocks) this
 5 might be acceptable.”
 6 Was this email the first occasion on which you
 7 became aware that these, as set out here, were the LFB’s
 8 principal concerns?
 9 A. Yes.
 10 Q. Right. Notwithstanding the fact that you’d seen
 11 a deficiency notice by this time?
 12 A. Sorry, yes.
 13 Q. Then let’s look at {TMO00866489}.
 14 This is an email chain a little bit later the same
 15 month, November 2015.
 16 If we go to page 2 {TMO00866489/2}, at the bottom
 17 email on the chain, we can see that on 18 November,
 18 Janice Wray sends you and Barbara Matthews the revised
 19 FRA for Adair Tower, and she says:
 20 “Just received the reviewed FRA and Action Plan.”
 21 Now, I’m sorry, I put this to you on the basis that
 22 she sent it to you; that’s not actually clear from the
 23 email.
 24 Did she send it to you or did she just tell you
 25 she’d received it?

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1 A. I can’t tell, sorry.
 2 Q. Right.
 3 If we go up the email chain to page 1
 4 {TMO00866489/1}, we can see that Sacha Jevans writes to
 5 Peter Maddison, and it looks as if this comes to
 6 everybody because at the top of the email chain it comes
 7 to you —
 8 A. Yeah.
 9 Q. — as a cc, and she says there:
 10 “Dear All
 11 “Following our review of Carl Stokes’ ‘Record of
 12 Significant Findings and Action Plan’ yesterday
 13 afternoon, I have reflected on what Carl said.”
 14 Pausing there, that rather suggests that Janice Wray
 15 had sent the FRA and action plan; do you remember that?
 16 A. I can’t recall.
 17 Q. Do you remember seeing it?
 18 A. It looks like it.
 19 Q. She says:
 20 “... I have reflected on what Carl said.
 21 “I do not think that the recommendation to install
 22 door closers throughout the building is appropriately
 23 prioritised (currently ‘high’) for the following
 24 reasons:
 25 “A. It is not a statutory requirement to install

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1 self closers retrospectively, therefore should not
 2 automatically default to ‘High’ priority.
 3 “B. I assume that the leasehold flat entrance doors
 4 are demised to the leaseholder (Daniel — can you please
 5 confirm?). We do not have any enforcement power to
 6 install self closers on these doors. The way this is
 7 currently drafted would [compel] us to carry out work
 8 that we don’t have the power to enforce.
 9 “I don’t have a problem with us setting out to
 10 install door closers following the learning from the
 11 fire, and completing the work promptly. However, we
 12 would be leaving ourselves exposed if we commit to
 13 completing work that we don’t have the power to enforce.
 14 “I suggest that the priority is reduced to ‘Low’, or
 15 ‘advice’ and that we make reference to the fact that we
 16 can’t enforce this in leasehold properties.
 17 “Peter.”
 18 Now, it’s not clear to us who actually drafted this,
 19 but this was intended, I think, to come from
 20 Peter Maddison, even though it had come from
 21 Sacha Jevans’ email account.
 22 Do you remember whether it was Peter Maddison who
 23 had made these suggestions?
 24 A. It looks like Peter. I’m not sure.
 25 Q. Yes.

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1 Now, looking at what he said, it appears to be the
 2 case that Carl Stokes’ original view was that
 3 self-closers should be a high-priority action; yes?
 4 A. Yes.
 5 Q. But Peter Maddison doesn’t agree with that and thinks
 6 that the action should be either low or advice.
 7 A. Yes.
 8 Q. Did you ask on what basis Peter Maddison was qualified,
 9 so to speak, to correct the fire risk assessor’s risk
 10 rating?
 11 A. I think — sorry, I don’t ... I think I have some memory
 12 that there’s something about the doors in Adair, where
 13 they’ve got these risers, so they’re — whether they
 14 were acceptable. I — sort of quite sketchy about that.
 15 Q. That is the case, in fact, as a point of minor detail.
 16 Rising butt hinges were disapproved of by the
 17 LGA guidance, as I’m sure you know. But I’m not sure
 18 why that’s an answer to my question.
 19 A. Well, I was just trying to remember.
 20 Q. Well, we’ve got the text of the document here.
 21 A. I think I remember this, yeah.
 22 Q. My question is: did you ask Peter Maddison what his
 23 basis was for correcting your apparently independent
 24 fire risk assessor’s risk rating?
 25 A. I can’t recall, apologies.

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1 Q. No. Did you know why Mr Stokes' risk rating was up for
2 debate at all?
3 A. I think there was something about the timescale, in
4 terms of if it was high they all had to be done in
5 three weeks, and I think the issue was if we sign up to
6 a three-week and can't get it all in, then you have to
7 ask for an extension, so it's all then about could you
8 have changed the timescale to more that's actually
9 achievable. If you've got leaseholders, you may have to
10 go through the whole process. That's the way I saw
11 that. So I didn't get the sense it was really saying,
12 you know, you don't want to do it, but in the sense of
13 actually, if we're going to sign up to do this, we need
14 to have a timescale we can actually achieve.
15 Q. Yes, but your route to doing so was to try to lean on
16 him to get him to reduce the risk, rather than to advise
17 you specifically that a longer timeframe for doing this
18 high-risk item was acceptable.
19 A. I'm not sure if I like the word "lean". I think there
20 was a discussion, and I think the point was it went back
21 to Carl Stokes for those discussion points to be taken
22 on board. And he's our fire expert so, you know, in the
23 end it's up to him to decide. I don't see this as
24 bullying or leaning; it's more clarification and having
25 a discussion.

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1 Q. Right.
2 At the end of the email, it is Mr Maddison's
3 suggestion that the priority is reduced to low. So was
4 the route to getting more time the reduction of the risk
5 level as opposed simply to asking Mr Stokes for his
6 professional, independent advice about whether you might
7 be able to take a bit longer in curing the problem?
8 A. Yes, that's what I would have expected him to say.
9 Q. But that wasn't the way it was presented, was it?
10 A. Well, that's how it was presented by Peter, who then --
11 I think Barbara and Janice took it to Carl Stokes for
12 that discussion.
13 Q. Would you agree with this: Peter Maddison's input here
14 isn't to do with the fire safety need for self-closers
15 as a risk level, but to do with the TMO's ability to
16 meet that need?
17 A. Er ... I think it's Peter sort of suggesting something
18 and then we wait to see what Carl Stokes says.
19 Q. Yes. The suggestion, leaving aside what Mr Stokes might
20 say, is that he changes his view about the risk level,
21 isn't it, not because he'd misassessed it, but in order
22 to allow the TMO more capably to meet it?
23 A. I'm not sure.
24 Q. You're not sure?
25 A. I'm just ... I ...

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1 Q. Maybe you misunderstood my question. Let me try it
2 a different way.
3 A. Okay.
4 Q. Mr Maddison's suggestion isn't anything to do with the
5 fact, is it, that the TMO thought he had misunderstood
6 the level of risk; it was to do with enabling the TMO
7 more readily to carry out the suggested action?
8 A. Yeah, that's the way I would read it, yeah.
9 Q. In which case, why not simply ask Mr Stokes, as opposed
10 to changing his risk level, whether he could advise you
11 as to the maximum time it would be safe to take to cure
12 the defect?
13 A. I wasn't at the meeting with Mr Stokes and I didn't see
14 this part of the evidence of Barbara or Janice about how
15 the conversation went.
16 Q. Let's look and see what Mr Stokes says about it. This
17 is his impression of this exercise.
18 Can we please have the transcript for
19 {Day138/201:10}. He is being asked about a different
20 document, and he's asked:
21 "Question: Leave aside who filled in that box under
22 'TMO action'. We can see that you downgraded this to
23 strong advice. Did you do that because you were under
24 pressure to do so from the TMO?
25 "Answer: That's what it looks like, yes.

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1 "Question: Yes. Did you think it was appropriate
2 at the time that the TMO should be challenging your
3 professional judgement on what priority should be given
4 to an item in your FRA?
5 "Answer: I'm going to say probably, yes.
6 "Question: Why didn't you stand up robustly and
7 independently to the TMO on a matter of what was your
8 professional judgement?
9 "Answer: Some battles you fight. The work is being
10 undertaken, whether I put high in there on a priority --
11 a red, but the work is still being undertaken."
12 Do you accept that Mr Stokes was placed under
13 pressure to downgrade the FRA action by the TMO?
14 A. I don't accept that. I mean, that's his perception of
15 the conversation I wasn't at.
16 Q. As we can see from this exchange, what in fact
17 eventuated was that Mr Stokes did change his high
18 priority to strong advice.
19 Did you ever think that that exercise rather
20 undermined the point of seeking the advice and input of
21 an independent FRA in the first place?
22 A. No, I ... as an independent professional, it's down to
23 him. If he changed it and he doesn't agree with it,
24 I don't quite understand it. Like I say, I wasn't there
25 at this meeting when they had this meeting about it, so

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1 I don't know if Barbara and Janice strong-armed or it's
 2 his perception. I don't know what those two said when
 3 you took evidence from them.
 4 Q. Let me leave it with you this way: was it your
 5 impression from this exercise that Mr Stokes had
 6 revisited his opinion about the relevant risk level for
 7 this item and revised it in accordance with his own
 8 professional view —
 9 A. Yes.
 10 Q. — or simply given in?
 11 A. No, I would say the first.
 12 Q. What's the basis of that?
 13 A. Because he's a professional and that's how he should
 14 make his decision.
 15 Q. Well, maybe that is how he should make his decision on
 16 that, I think I agree with you, but what leads you to
 17 think he did so on this occasion, given his evidence to
 18 the Inquiry?
 19 A. I think, you know, he needs to — this is his narrative,
 20 not mine. That would seem strange as a professional he
 21 hasn't followed his own rules, and I think ... so I just
 22 find it very weird.
 23 Q. Can we then go to December 2015 and what the board gets
 24 told, {TMO00902919}.

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1 is 2 December 2015.
 2 A. Yeah.
 3 Q. "Dear Board members."
 4 Now, it looks as if this is a draft, because it
 5 passes between you and Sacha Jevans. Would that be
 6 right?
 7 A. I can't recall.
 8 Q. "Dear Board members
 9 "We updated you at Board about the fire and have
 10 been having conversations with the FB since the fire.
 11 They have been reviewing the fire and have a matrix
 12 which identifies a number of issues which results in
 13 a response which is split into three and they are
 14 Deficiency notice, Enforcement and Prosecution. The
 15 level of response from the FB comes from a matrix they
 16 do following a fire. In discussions with them they have
 17 said they received 15–20 calls saying residents could
 18 not get out of their flats because of smoke or/and smoke
 19 in the stairways and they rescued two people from
 20 balconies. Because of these two issues they have deemed
 21 both Adair and Hazlewood to be high risk and therefore
 22 the actions are enforceable. We have been told we will
 23 get these enforcement notices next week with we think
 24 a six month timescale to complete works."
 25 Now, it appears that this is your suggested text for

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1 Sacha Jevans to send to the board; is that right?
 2 A. Or to check it.
 3 Q. Your suggested text gives an explanation of the three
 4 potential responses to the fire, doesn't it?
 5 A. Yes, so probably I'd have spoken to Janice in drafting
 6 this.
 7 Q. Right. I see.
 8 A. Or Barbara, sorry, Barbara and Janice.
 9 Q. Yes. At all events, you can see that there is no trace
 10 of any reference in that paragraph to the
 11 12 October 2015 deficiency notice, is there?
 12 A. No.
 13 Q. Why is that?
 14 A. I can't recall, apologies.
 15 Q. Was this not the perfect opportunity to tell your board
 16 that two and a half weeks before the fire, you had
 17 received a notice of deficiency about the very building
 18 that caught fire?
 19 A. Yes.
 20 Q. And not least that you were actually explaining the
 21 three-stage process?
 22 A. Yes.
 23 Q. Now, in due course, Barbara Matthews sends this email to
 24 the board. Let's look at that. {TMO00902920}:
 25 "Dear Board Members

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1 "In Robert's absence I have been asked to provide
 2 you with the following update ..."
 3 This is dated now 4 December, and you can see from
 4 the copy list that you are copied in to it; yes?
 5 A. Yeah.
 6 Q. Again, Barbara Matthews makes no reference to the three
 7 potential responses that you had set out. In fact,
 8 I say "again"; let me rephrase the question.
 9 You see that Barbara Matthews makes no reference
 10 even to the three potential responses that you had set
 11 out, does she?
 12 A. No.
 13 Q. Do you know why the text of this message was changed in
 14 that way?
 15 A. No.
 16 Q. Did you take it up with Barbara Matthews?
 17 A. I can't recall, apologies.
 18 Q. Now, we can also see that she makes no mention of the
 19 12 October 2015 deficiency notice, does she?
 20 A. No.
 21 Q. Did you not ask her to do that?
 22 A. You would have thought so.
 23 Q. Did you ask her not to do that?
 24 A. No. I wouldn't do that.
 25 Q. If we go to {TMO00902921}, we can see that on the same

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1 day, 4 December 2015, you sent an email to
 2 Barbara Matthews and Sacha Jevans, which has underneath
 3 it the very email I've just been showing you —
 4 A. Yeah.
 5 Q. — sent to the board:
 6 "Barbara and Sacha
 7 "Thank you great note.
 8 "Robert."
 9 So you read it, approved it, approved the rather
 10 reduced version of events, even from your own draft.
 11 A. Yeah.
 12 Q. Why?
 13 A. I ...
 14 Q. Can you explain why you were giving the board a version
 15 of events that was so potted that it even omitted the
 16 vitally important reference to the deficiency notice of
 17 12 October?
 18 A. I can't explain it, no.
 19 Q. You were keeping the board in the dark.
 20 A. No, I didn't — wouldn't do that.
 21 Q. Well, you did.
 22 A. I accept that.
 23 Q. In due course, the enforcement notice was served by the
 24 LFB, wasn't it?
 25 A. Yes.

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1 Q. {TMO00840703}. There it is. 23 December 2015,
 2 addressed to the company secretary of the TMO.
 3 If we look at {TMO00902933}, please, we can see that
 4 this was sent to you on 4 January 2016.
 5 What appears to have happened, if we look at that
 6 email run, at the very bottom of the page,
 7 Rebecca Burton writes to Janice Wray on 3 January, and
 8 apart from the rather welcoming tone of the first
 9 sentence, the second paragraph says:
 10 "Please find attached a copy of the Enforcement
 11 Notice ..."
 12 That email is copied to Barbara Matthews, and at the
 13 top of the chain you can see that Barbara Matthews sends
 14 that on to you on 4 January, "Sent last night!"
 15 A. Yeah.
 16 Q. So it appears that what's happened is that although
 17 formally the notice was dated 23 December 2015 and sent,
 18 a copy is sent in by Rebecca Burton early in January to
 19 Janice Wray and she sends it on to you, through
 20 Barbara Matthews.
 21 A. Yeah.
 22 Q. Yes. Did you read it when you saw it?
 23 A. Yes.
 24 Q. Yes.
 25 Now, if we go then to {TMO00902938/2}, you get this

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1 document through a different route as well on
 2 4 January 2016, this time from Nicholas Holgate. You
 3 can see that it comes to you.
 4 A. Yeah.
 5 Q. Which he's received from Rob Davies.
 6 You respond to that at the top of page 2, bottom of
 7 page 1, if we can just look at that, and there's
 8 discussion about having a meeting. That's the effect of
 9 it.
 10 A. Yeah.
 11 Q. In the end, in fact, there was a meeting set up for
 12 6 January 2016 at your suggestion; yes?
 13 A. Well, I think so.
 14 Q. Yes. That was the date, but the meeting was at your
 15 suggestion; yes?
 16 A. Right.
 17 Q. Now, before that meeting, do you remember that — well,
 18 perhaps you don't, you weren't there.
 19 Let me show you a document, {TMO00841891}, meeting
 20 between Janice Wray and Rebecca Burton on
 21 5 January 2016, so the day before the meeting that you
 22 were setting up here, and let's just look at the minutes
 23 of that. It's a bi-monthly meeting that customarily
 24 took place between Janice Wray and representatives of
 25 the LFB, sometimes with Claire Williams in attendance,

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1 as she was on this occasion:
 2 "Adair Tower — Enforcement Notice" is item 3, which
 3 you need to scroll down on your screen for. Do you see
 4 that:
 5 "Janice confirmed receipt of Rebecca's e-mail
 6 attaching this Enforcement Notice. She expressed
 7 concern that the timescale the Notice gives for
 8 completing the necessary steps is the 23rd June 2016.
 9 Janice requested that this deadline be extended to
 10 reflect the fact that the TMO only just received the
 11 electronic copy of the Notice on 4th January and that as
 12 yet no hard copy has been received. Rebecca confirmed
 13 that the paper copy of the Notice had been posted on the
 14 23rd December and as per LFB procedures the 6 month
 15 period to undertake the necessary work starts from the
 16 date the Notice is posted. Therefore the 23rd June
 17 deadline will stand. However, she did advise that
 18 a request for an extension of time could be submitted
 19 and would be likely to be looked upon favourably
 20 providing the TMO could clearly demonstrate sufficient
 21 progress with meeting the requirements of the Schedule."
 22 Then it goes on to say {TMO00841891/2}:
 23 "Janice asked for confirmation that this Notice
 24 refers exclusively to this block and that the TMO is not
 25 required to apply this to the rest of the blocks.

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1 Rebecca agreed that this does relate directly to
 2 Adair Tower, however, the LFB could expect that
 3 standards required in one block are also required in
 4 other block."

5 Now, do you remember having any discussion about
 6 this time with Janice Wray as a result of this meeting?

7 A. No, I ... what, after this meeting?

8 Q. After this meeting.

9 A. I can't recall.

10 Q. Let's go to page 3 of this document {TMO00841891/3},
 11 item 8 "Risk Assessments":
 12 "Rebecca raised her concern that our Fire Risk
 13 Assessor sometimes makes statements which are not
 14 justified or supported and that FRA reports need to
 15 include justification for statements made. In
 16 particular, reference to discussion with senior LFB
 17 officers must provide names, dates and confirmation of
 18 outcome of discussions etc. Also, in relation to
 19 Balfour the FRA needs to be reviewed to clearly
 20 demonstrate that the impact of the missing doors in
 21 front of the hopper head area in the event of a fire has
 22 been assessed and documented. Janice agreed to raise
 23 these issues with our assessor but did comment that we
 24 have frequently provided copies of FRAs to the LFB in
 25 recent years and until now these have been well

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1 received, considered to be comprehensive and no
 2 criticism had been fed back."

3 Did Janice Wray raise with you at any point, but
 4 particularly after this meeting, 5 January 2016, LFB's
 5 concerns about Carl Stokes' work?

6 A. No, I can't recall.

7 Q. Did you yourself have any concerns about the quality of
 8 his work by this point?

9 A. No.

10 Q. Did the fact that the TMO was receiving deficiency
 11 notices and enforcement notices not lead you to think
 12 that Mr Stokes might be missing something?

13 A. Well, I think we received the enforcement notices
 14 because of the fires, and that's I think the first time
 15 in our history we'd received one, or ones, because there
 16 are two blocks. In terms of deficiency notices, I think
 17 over nine years we got, if you — was it seven or
 18 something like that? So ... you know, I think it's —
 19 the Fire Brigade are doing their job and we're having to
 20 respond to it.

21 Q. Well, breaking that answer up, it's wrong to say, isn't
 22 it, that the enforcement notice was because of the fire;
 23 it was because of non-compliances.

24 A. No, the enforcement notice was because there was a fire,
 25 and as far as I remember the narrative, the Fire Brigade

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1 says after a fire they re-assess the buildings, and,
 2 because of that, they've provided two enforcement
 3 notices based on that. So their assessment changed
 4 before the — from before the fire to after the fire.
 5 That's the way I read it.

6 Q. Are you saying, going back to your answer, that really
 7 the number of enforcement notices and deficiency notices
 8 received by the TMO in all these years was negligible?

9 A. So I think, again, to break — I think these were the
 10 only enforcement notices we'd ever had, as far from
 11 memory.

12 Q. Yes.

13 A. That's what I'm saying. You're saying you've got lots
 14 of them. We've got two that came emitted from a fire,
 15 and we'd got two because we got two buildings that are
 16 very similar. So if we'd only had one of them, we'd
 17 only have one. So it's just how that fire then changed
 18 the way the Fire Brigade looked at those buildings.

19 Q. Is that the way you saw it at the time?

20 A. Yes.

21 Q. And was it that thinking that led you to think that
 22 despite these regular FRAs and despite these deficiency
 23 notices and the enforcement notices, there was nothing
 24 wrong with Carl Stokes' work?

25 A. Yes.

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1 Q. Did Janice Wray ever bring to your attention the fact
 2 that she and Carl Stokes had had a longstanding
 3 disagreement of almost doctrinal importance about
 4 whether the TMO's lifts were firefighting lifts or not?

5 A. I have become aware of this.

6 Q. You have, but that's because presumably you followed the
 7 evidence, but did she tell you about that disagreement
 8 at the time?

9 A. I can't — I don't recall her telling me that.

10 Q. Did she never tell you that he was unshakably of the
 11 view that they were firefighting lifts, and she equally
 12 implacably of the view that they were not?

13 A. Having followed the evidence, that's what I've heard.

14 Q. Did she ever tell you that he often cut and pasted
 15 inapposite passages from one FRA into another?

16 A. No.

17 Q. For example, repeated observations about the excellence
 18 of the pigeon netting at Grenfell Tower when there was
 19 none? She never brought that to your attention?

20 A. No. I would have thought she would have brought that to
 21 his attention.

22 Q. I'm not sure she did.

23 Now, Janice Wray sent an email summary of the
 24 meeting we've just been looking at later the same day,
 25 5 January 2016, to you and Barbara Matthews. We see

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1 that at {TMO00840451}. Can we go to that, please.
 2 Now, it's a pretty lengthy document. I'm just going
 3 to select a number of parts of it.
 4 Can we please go to the third and the fourth bullet
 5 points on the first page. The third one starts "I asked
 6 for confirmation", do you see that?
 7 A. Yeah.
 8 Q. "I asked for confirmation that this Notice related
 9 exclusively to this block and I was advised that
 10 although this was technically the case the LFB view is
 11 that standards that we are applying to one block should
 12 generally be applied across all blocks."
 13 Then the next one:
 14 "I sought clarification that when the notice refers
 15 to 'fitting of doors that do not provide 30 minutes fire
 16 protection ..' that this relates exclusively to absence
 17 of self-closing devices and is not a comment on the
 18 fire-ratedness of the doors. Rebecca confirmed that
 19 Matthew Ramsey has inspected a considerable number of
 20 the flat doors and had only raised concern about the
 21 absence of self-closers. Therefore, the requirement of
 22 the Notice is to fit self-closing devices to all flat
 23 doors in the block."
 24 Now, just pausing there, the effect of the
 25 requirement was, wasn't it, that the TMO should ensure

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1 that self-closing devices were fixed to every door
 2 across all the TMO blocks in the estate?
 3 A. That would have been the recommendation, if you read
 4 that, yes.
 5 Q. It was the effect of the TMO's requirement, wasn't it?
 6 A. Yes.
 7 Q. Yes. Now, the timescale for doing that, at least in
 8 relation to Adair Tower, was six months, according to
 9 the enforcement notice; yes?
 10 A. Yes.
 11 Q. Do you agree that it was clearly urgent, particularly
 12 since a deficiency notice had been issued for the same
 13 reason before the Adair Tower fire, to undertake that
 14 work?
 15 A. On the towers or across all the stock?
 16 Q. Across all the stock.
 17 A. I think that we focus on doing the towers rather than
 18 focusing on doing all the stock.
 19 Q. What, because you got an enforcement notice?
 20 A. Say that again, sorry?
 21 Q. Because you got an enforcement notice?
 22 A. I think I ...
 23 (Pause)
 24 I can't answer that.
 25 Q. Let's go to page 2 {TMO00840451/2}, and look at the

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1 penultimate paragraph:
 2 "Rebecca had asked for an agenda item on Flat
 3 entrance doors and at that point she stressed that the
 4 LFB require that ALL flat entrance doors throughout our
 5 stock are required to be self-closing. I re-iterated
 6 that our policy is to replace doors to current standard
 7 as and when required and to retro-fit self-closers when
 8 required by the Assessor, when properties are void etc.
 9 However, she did not accept that this went far enough.
 10 I asked what the LFB's position was in relation to
 11 residents who remove/disengage these self-closers once
 12 we have installed them and Rebecca advised that we would
 13 need to have a procedure in place for regular checking
 14 of these and this would need to be documented — as would
 15 all attempts at access. I explained that this would be
 16 virtually impossible to achieve and could she confirm if
 17 this is what other landlords are doing at which point
 18 she admitted that this is what the LFB require.
 19 I specifically asked if H&F [Hammersmith and Fulham]
 20 were achieving this as this is also her area of
 21 responsibility — but she did not confirm. I also asked
 22 about lessee flat doors and her view was that, as these
 23 form part of the means of escape, we have ongoing
 24 responsibility for ensuring that they are self-closing —
 25 again more regular checking and record-keeping

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1 required."
 2 So from this document, from this email, which comes
 3 to you on 5 January, immediately after her meeting with
 4 Rebecca Burton, you could see that Rebecca Burton was
 5 making it crystal clear that all doors across the estate
 6 had to have self-closers, and also they had to be
 7 subject to a regular checking regime.
 8 A. But she couldn't confirm that she's applying the same
 9 standards across the tri-borough.
 10 Q. Indeed, but I'm just asking you to — well, perhaps I'll
 11 just put a question: could you understand from this
 12 email that Rebecca Burton's position was that she wanted
 13 the TMO not only to ensure that all flats in the estate
 14 had self-closers, but there should also be a regular
 15 checking regime? That was her requirement; do you agree
 16 with that?
 17 A. Yes, I can see that.
 18 Q. You can see that.
 19 Now, leaving aside whether this was right on
 20 a comparative basis or not, was this the first time that
 21 you were aware of that LFB requirement?
 22 A. Yes.
 23 Q. Right. And does that include the regular checking of
 24 self-closers post-installation?
 25 A. Yes, because I think that's what they're expecting.

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1 Q. Yes.
 2 Now, Janice Wray notes that she told Rebecca Burton
 3 that this would — and I'm paraphrasing — be virtually
 4 impossible.
 5 Did you agree with Janice Wray that it would be
 6 virtually impossible?
 7 A. I think it would be incredibly challenging.
 8 Q. Yes.
 9 A. They've suddenly changed their position that has been
 10 held to suddenly saying, "You need to do all this within
 11 this time", and so it's a fundamental change in terms of
 12 actually the way we were looking after our properties.
 13 Q. Yes, and —
 14 A. And that we knew of no other local authority that was
 15 being asked to do this.
 16 Q. You respond to Janice Wray the same day, I think —
 17 A. You think?
 18 Q. — along the same lines as you have just explained.
 19 If you go to {TMO00902943}, this is your email back
 20 to Janice Wray on the 5th, the same day:
 21 "Janice
 22 "Thanks for the note. I think we need to discuss
 23 the implications of this at ET and speak to Laura about
 24 how best to respond to these issues, as it is a major
 25 shift."

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1 Can you explain why you thought it was a major
 2 shift?
 3 A. Because, like I say, we hadn't done it before. There
 4 was no programme for a borough-wide inspection of all
 5 doors for door-closures and then to have a regular
 6 inspection situation once a year or four times a year or
 7 whatever the requirement would be. So that's a huge
 8 change coming from this fire, and it's something that
 9 our — the reason I sent it to or spoke to Laura is
 10 because fundamentally we'd need to let them know and see
 11 how we take this forward.
 12 Q. You say a major shift; a major shift by the LFB? Do you
 13 mean a shift by the LFB?
 14 A. Yes, because, actually, like I say, we've never had
 15 a programme, unlike gas and other things, where you
 16 would actually enter a tenant or leaseholder's property
 17 to check a door-closer and check it once a year or twice
 18 a year. And actually I knew of no other organisation
 19 that I'd worked with or worked alongside that had
 20 a programme in place either.
 21 Q. What was the LFB's position about having regular
 22 checking of self-closers on all doors in your stock
 23 before early January 2015?
 24 A. I can't recall that, sorry.
 25 Q. Well, was it a position —

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1 A. Well, I don't think there was a position that you had to
 2 check door-closures. We did check — if we knew
 3 a door-closure wasn't working, if someone reported it,
 4 those would be fixed. If someone saw them come off, we
 5 would report it and get them fixed. That was our
 6 sort of programme, or checking them when we did voids
 7 that the properties met those standards.
 8 Q. I'm just trying to get to the bottom of what you mean by
 9 shift or change. Change from what? So the key question
 10 is: what was the LFB's previous position from which you
 11 were now saying it was shifting?
 12 A. Well, the previous position I think was that we weren't
 13 required to have a borough-wide programme to check all
 14 the doors, closures not the doors, and an annual system.
 15 Q. Did the LFB ever tell the TMO, to your knowledge, that
 16 you were not required to have a borough-wide programme
 17 to check all the door-closers?
 18 A. No, the Fire Brigade would never say that.
 19 MR MILLETT: No.
 20 Now, Janice Wray responds — Mr Chairman, perhaps
 21 I'll just look at this one more document before the
 22 break.
 23 SIR MARTIN MOORE-BICK: Yes.
 24 MR MILLETT: Janice Wray responds to you and you respond
 25 again. Let's look at the exchange at {TMO00902945}.

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1 She says:
 2 "I am concerned that even if we managed to install
 3 self-closers across the stock the LFB expectations of
 4 how much checking we would be required to do would be
 5 impossible for us to achieve.
 6 "It is therefore likely that in the event of a fire
 7 where a flat door did not self-close we are potentially
 8 always going to be held liable."
 9 And your response to that at the top of page 1, same
 10 day, 5 January 2016:
 11 "I agree and that is the risk we need to raise with
 12 both our Board and RBKC."
 13 Why did you agree with Janice Wray that checking
 14 would be impossible to achieve?
 15 A. So the whole thing is people take door-closures off, and
 16 therefore actually we could do a whole programme of
 17 taking — putting door-closures on and then they could
 18 all be taken off, and then if there was a fire, the
 19 Fire Brigade could come along and say, "You haven't
 20 checked the doors".
 21 So I think it's just trying to get your head
 22 round — I mean, so in terms of a sector, we have had
 23 gas checking for a number of years, in terms of actually
 24 annual gas checks, which has taken years and years to
 25 ensure that you have the legal courts in line that

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1 actually support you to be able to do that. The reality
 2 with that is the court backlogs results actually —
 3 I don't know where it is now, but when I left, basically
 4 most organisations were doing gas checks over
 5 a nine-month period rather than a year period, because
 6 actually if you do it in a nine-month period, that gives
 7 you three months to actually chase people through the
 8 system to ensure you can actually get that gas check in
 9 place if they don't give you access. So that is —
 10 you know, that's in place. It can still get
 11 organisations into serious trouble if you don't do your
 12 gas checks and have all your certificates.

13 And here was another sort of process which is in
 14 a sense more complex than easier, because actually
 15 people can take them off, and how would you do it?
 16 So — and actually would the court support us if people
 17 don't give us access to their property? What do we do
 18 with leaseholders? We've already seen how long it took
 19 to sort out the issue with leasehold doors because
 20 they're assigned to the leaseholder.

21 So I think it created this sort of thinking about:
 22 how do you do it? I mean, it's a — I'm not saying it's
 23 a bad thinking, I think it's a thinking about then you
 24 have to actually process, and there is a cost to that
 25 that you then need to build in.

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1 I think it's also about — this is a tri-borough
 2 local authority, so are they happening in the other
 3 boroughs as well, because actually why would it happen
 4 just in Kensington and Chelsea? I mean, what's the
 5 thinking of the Fire Brigade? So we just do one but you
 6 can allow the other one? So, you know, I think there's
 7 lots of questions there that actually, through that
 8 decision or that advice, you actually started thinking
 9 about.
 10 Q. Go back to what it was the LFB was asking for. We can
 11 do it on this document, page 3 {TMO00902945/3}.
 12 You will see the penultimate paragraph of the email
 13 I read out to you at length, and the nub of it is in the
 14 middle of that paragraph, read with me:
 15 " ... she did not accept that this went far enough.
 16 I asked what the LFB's position was in relation to
 17 residents who remove/disengage these self-closers once
 18 we have installed them and Rebecca advised that we would
 19 need to have a procedure in place for regular checking
 20 of these and this would need to be documented — as would
 21 all attempts at access."
 22 That's what she asked for.
 23 Why did you agree with Janice Wray that it would be
 24 impossible to have a procedure in place for regular
 25 checking and documentation?

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1 A. I mean, I think generally I agree in terms of the whole
 2 thing that Janice is raising, I didn't say specifically
 3 it'd be impossible to set up a procedure. You can set
 4 up a procedure, but then you have to deliver that
 5 procedure. I think that's the bit that Janice and
 6 I were saying, you know, yes, impossible, but you would
 7 eventually do it, but it's without(sic) huge challenges.

8 Q. Why was it impossible to set up a procedure?

9 A. I'm not saying — I think you're mishearing me, so I'll
 10 repeat: you can set up a procedure to go to someone's
 11 door, knock on it, open it, check the door-closure, if
 12 it's not there, fix it back on, or say it's all right,
 13 you tick a box and you put it in the system. It's more
 14 about how you actually get to that door, how you get
 15 that door open, how you then check it, how many times
 16 a year. I mean, you're not even — I think here she's
 17 sort of saying more — so you might be doing it
 18 quarterly, you know, it's a huge job.

19 Q. We don't see any discussion in this email exchange of
 20 how often Rebecca Burton required the TMO to make
 21 checks, do we?

22 A. Regular checking, so —

23 Q. Regular.

24 A. So that could be a year, that could be more.

25 Q. Exactly.

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1 A. Yeah, but that's still — even if it's just once a year,
 2 that is quite regular in terms of actually gaining
 3 access to a general needs property, never mind
 4 a leasehold property.

5 Q. I wonder whether the problem here is the way you
 6 understood this.

7 Did you understand that the LFB was asking you to
 8 put in place a position whereby you could essentially
 9 guarantee that all self-closers in your stock would
 10 always be working, or simply that all you had to do was
 11 to take reasonable steps by means of a procedure of
 12 regular checking to do your best to make sure that that
 13 was so?

14 A. I would think if you follow it down, they would go for
 15 the first rather than the second.

16 Q. That was your impression, was it?

17 A. Yeah.

18 MR MILLETT: Mr Chairman, is that a convenient moment?

19 SIR MARTIN MOORE-BICK: Yes, I think it is, thank you.

20 I think it's time we had a short break, Mr Black.

21 So we will stop now and we will resume, please, at 3.35.

22 Again, please don't talk to anyone about your
 23 evidence while you're out of the room.

24 THE WITNESS: Thank you.

25 SIR MARTIN MOORE-BICK: Thank you.

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1 (Pause)
 2 Thank you, 3.35. Thank you.
 3 (3.20 pm)
 4 (A short break)
 5 (3.38 pm)
 6 SIR MARTIN MOORE—BICK: All right, Mr Black?
 7 THE WITNESS: Thank you very much.
 8 SIR MARTIN MOORE—BICK: All right.
 9 When you're ready, Mr Millett.
 10 MR MILLETT: Thank you, Mr Chairman.
 11 Mr Black, you told us yesterday during the
 12 discussion I think about PEEPs that you had some
 13 familiarity with the LGA guide published in the summer
 14 of 2011?
 15 A. A bit, yes.
 16 Q. Yes. Did you ever read that document?
 17 A. I read it when it first came out. I haven't read it
 18 since then, because it was done at a sort of policy
 19 group I went to.
 20 Q. Can we look at it?
 21 A. Yeah.
 22 Q. It's at {HOM00045964/125}:
 23 "82. Inspections and repairs of other fire safety
 24 measures.
 25 "82.1 Other fire safety measures such as

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1 fire—resisting doors need also to be maintained. The
 2 following details the basic requirements for routine
 3 attention in relation to these measures.
 4 "Fire—resisting doors.
 5 "82.3 Good practice is to inspect timber
 6 fire—resisting doorsets on a six monthly basis as part
 7 of a programme of planned preventative maintenance.
 8 These inspections are aimed at identifying defects such
 9 as:
 10 " ■ missing or ineffective self—closing devices."
 11 Then under 82.4:
 12 "Flat entrance doors should be included within this
 13 programme. Where leasehold flats are involved, this
 14 will only be possible if there is a legal right of
 15 access, by means of a condition within the lease to
 16 carry this out. It is important that any new leases
 17 include such a condition."
 18 Were you familiar with those provisions? I'm
 19 assuming you were, given that you read this document.
 20 A. Yeah. I mean, it's some time ago.
 21 Q. Given that that is the guidance, and the guidance is to
 22 have six—monthly inspections of planned preventative
 23 maintenance, particularly in relation to missing or
 24 ineffective self—closing devices, what was so extreme
 25 about the LFB's insisting that the TMO have a procedure

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1 for such inspection?
 2 A. What I'm saying is that while its guidance, the
 3 organisations I know didn't do this. That's sort of —
 4 in a sense, it's guidance, so I'm saying in
 5 the sector — because you're asking me for my knowledge,
 6 in the sector it wasn't sort of done by everybody.
 7 Q. Well, you described the LFB's attitude expressed at the
 8 5 January 2016 to Janice Wray as a "major shift", and
 9 you did so again in your evidence, a "major change".
 10 I'm interested to know why it was such a major shift
 11 given what I've just read to you from the guidance,
 12 which was by then some four years old.
 13 A. So I think it's guidance, and what I'm saying is our
 14 practice in RBKC with the LFB hadn't been doing it, just
 15 like they hadn't been doing it in Hammersmith and Fulham
 16 and Westminster.
 17 Q. But, with respect, so what, that you hadn't been doing
 18 it? The LFB was now asking you to comply with the
 19 guidance. Why was that such a problem?
 20 A. I think I explained it in my previous answers.
 21 Q. So is your evidence in fact that this LGA guide was
 22 a counsel of perfection that, in your experience, it was
 23 perfectly reasonable for the TMO to ignore?
 24 A. I wouldn't put it like that.
 25 Q. How would you put it, Mr Black?

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1 A. I'd put it that it was a major change for the
 2 organisation, therefore we'd have to understand it, and,
 3 as I say, go to the council to make them understand it,
 4 and if we're going to do it, then actually make sure we
 5 do it properly.
 6 Q. You can't blame the LFB, though, can you, for asking you
 7 to do that which the LGA guidance, of national
 8 application, suggested you should?
 9 A. I'm not blaming the LFB.
 10 Q. Well, you did suggest earlier that you thought the LFB
 11 might be singling out the TMO for special treatment.
 12 Given what I've read to you from the LGA guide, that
 13 can't be right, can it?
 14 A. I can't comment any further.
 15 Q. Well, do you agree with me that it would be wrong to
 16 suggest that the LFB were singling you out for special
 17 treatment when the national guidance suggested, in fact
 18 required, a six—monthly planned preventative maintenance
 19 relating to self—closers?
 20 A. So the only thing I'd say again, from my experience,
 21 I knew of no organisation that actually had that sort of
 22 regime in place. Unless it was a very sort of
 23 specialist one which was small, but ...
 24 Q. Let's go to {TMO00840465}, please. This is the minute
 25 of a TMO executive team and SMT meeting on

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1 7 January 2016, as you can see, and you were there.
 2 A. Yeah.
 3 Q. Dan Wood in the chair, Barbara Matthews also there.
 4 Can we go to page 4 in that document
 5 {TMO00840465/4}, please. Under the heading
 6 "Adair Tower" at the top of your screen, you see it says
 7 this:
 8 "Robert Black noted that he and Barbara Matthews met
 9 with the London Borough Fire Brigade Commander,
 10 Rob Davies on 6th January 2016. They were handed the
 11 hard copy of the enforcement order for Adair Tower. The
 12 key issues are:
 13 "■ All flat entry doors to be fitted with
 14 self-closing devices."
 15 Then there are other matters as well.
 16 "We now need to go through and this look at the
 17 implications. A joint press release with RBKC will go
 18 out next month. The enforcement notice for
 19 Hazelwood Tower is still to be received."
 20 Do you remember what was discussed at that meeting,
 21 the meeting with Rob Davies on 6 January?
 22 A. I can't recall straightaway.
 23 Q. No. Were minutes taken? We haven't seen any.
 24 A. I can't remember.
 25 Q. Do you remember whether you raised the concerns

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1 expressed by Janice Wray and indeed Barbara Matthews
 2 relating to the feasibility of a procedure for checking
 3 and maintaining self-closers, namely that meeting the
 4 LFB's requirements would be impossible?
 5 A. I can't remember, sorry.
 6 Q. Do you remember standing up to Mr Davies and telling him
 7 in no uncertain terms that he was asking the TMO to do
 8 which no council had done in your knowledge and that it
 9 was quite unreasonable of him to make that suggestion?
 10 Do you remember saying anything like that to him?
 11 A. Is that what Mr Davies said in his evidence?
 12 Q. No, I'm putting it to you as one way of expressing the
 13 TMO's approach.
 14 A. So just confirm, there is no record that I said that?
 15 Q. No, you have confirmed —
 16 A. I apologise, I —
 17 Q. Well, I asked you whether there were any minutes taken.
 18 A. Yeah, I can't remember.
 19 Q. We haven't seen any, you can't help us.
 20 Let me try again: to the best of your recollection
 21 of this meeting, and the only note of it we've got is
 22 this document, did you tell Mr Davies that the LFB's
 23 requirement for a regular inspection regime of
 24 self-closing doors was impossible and therefore
 25 unreasonable?

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1 A. I don't know if I'd have said that, because if I read
 2 it, we probably just talked about the issues they
 3 raised, and I might have raised it in terms of actually
 4 what a challenge that would be and that, because that's
 5 what the minute is saying.
 6 Q. Do you remember whether you told Mr Davies that the TMO
 7 thought that the LFB was singling it out for special
 8 treatment —
 9 A. No, I don't remember that.
 10 Q. — and asking it to do things which no other authority
 11 had done?
 12 A. No, I don't remember saying that.
 13 Q. Let's go to {TMO00840461}.
 14 This is an email from Barbara Matthews to members of
 15 the TMO board on 12 January 2016, and it relates to the
 16 Adair Tower fire enforcement notice, as you can see from
 17 the subject line. You are copied in on it:
 18 "Dear Board Members
 19 "On 6th January we were formally served with an
 20 Enforcement Notice in respect of Adair Tower. The
 21 notice is dated 23rd December 2015 and was hand
 22 delivered by the London Fire Brigade Borough Commander,
 23 Rob Davies at a meeting with Robert Black.
 24 "The key requirements of the Notice (steps
 25 considered necessary) are as follows:

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1 "1. All flat entry doors must be fitted with self
 2 closing devices."
 3 Do you see that?
 4 A. Yes.
 5 Q. If you look down, she then talks about, under
 6 paragraph 2, windows.
 7 Under paragraph 3:
 8 "The corridors, lobbies and stairs used for access
 9 ... are intended for use as a protected route ...
 10 compromised by flat entry doors without self closers and
 11 where remedial work may be required to ensure walls have
 12 a minimum 60 minute fire resistance and openings (doors,
 13 entrance ways, service openings, holes around trunking
 14 and pipework) have a minimum of 30 minutes fire
 15 resistance."
 16 4 is about signage, 5 is about obstructions to the
 17 dry rising main inlet, and 6 is about storage handling
 18 and use of LPG cylinders found on the roof.
 19 If you go to the bottom of the screen:
 20 "The Notice requires that all steps must be taken by
 21 23rd June 2016."
 22 Then over the page {TMO00840461/2}:
 23 "It should be noted that points 1 to 4 are a change
 24 in policy by the London Fire Brigade as a direct result
 25 of the fire, and none of these points have been noted in

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1 any previous audits undertaken."
 2 Now, the one thing that's missing, would you agree
 3 with me, from this email to the board is that the LFB
 4 require all flat entry doors across the entire TMO stock
 5 to be fitted with self-closing devices?
 6 A. It depends whether that first sentence at the top covers
 7 that.
 8 Q. Yes, that's a fair point. It's ambiguous, isn't it?
 9 A. Yeah.
 10 Q. There is no reference in here either to the requirement
 11 by the LFB that there be a regular maintenance and
 12 inspection regime, is there?
 13 A. No.
 14 Q. Do you know why that is?
 15 A. No.
 16 Q. Did you enquire?
 17 A. I can't recall.
 18 Q. No.
 19 Page 2, if we just stick with it, where there is
 20 a reference to a change in policy, was the purpose of
 21 that sentence, so far as you understood it at the time,
 22 to try to shift responsibility on to the LFB?
 23 A. No.
 24 Q. It looks like it's an attempt to blame the LFB for why
 25 it was that the TMO had suddenly found itself in

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1 contravention of the RRO?
 2 A. I think that's your interpretation, not mine.
 3 Q. It's not yours, right.
 4 Let's go to {TMO00852776}.
 5 TMO executive team meeting, 27 January 2016. These
 6 are the minutes. There they are. There you are.
 7 Could we go to item 3 on page 1, please,
 8 "Adair Tower Enforcement Notice":
 9 "Robert noted that we will continue to update the
 10 Board through the CEO report.
 11 "Barbara played a video clip of the fire that was
 12 found on YouTube. Barbara noted that we have got
 13 a genuine case to appeal the notice on Hazelwood Tower.
 14 The clip showed that the ventilation in the building
 15 worked well and the smoke escaped as it was supposed to.
 16 The enforcement notice says to re-instate the protected
 17 route, stairs lobby and lift area. Everything changed
 18 when the Fire Brigade fought the fire from the ground
 19 below and from a neighbouring balcony as the video clip
 20 demonstrated causing the fire to go in the ventilation
 21 route. In theory if everyone had stayed in their flats
 22 with the doors shut it would have been better.
 23 "We have got 21 days to appeal. Barbara will speak
 24 to Laura about doing this and will show her the video
 25 clip. We could commission a fire engineer to look into

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1 this further. If the Fire Brigade agreed with the
 2 findings for Hazelwood they may possibly look again at
 3 Adair Tower."
 4 Over the page, please {TMO00852776/2}:
 5 "Robert asked where we are with the door closures.
 6 The enforcement notices state that these have to comply
 7 with building regulations but some of the door frames
 8 are old and wouldn't comply. Sacha noted that Alex has
 9 read the notice and researched building regulations and
 10 has advised it needs to be checked. Robert noted that
 11 if we have to replace all the doors and frames it could
 12 cost up to quarter of a million for both blocks, and we
 13 would have to go to RBKC for this amount. Sacha and
 14 Barbara will be speaking to RBKC about getting one of
 15 their qualified surveyors out to offer us this urgent
 16 advice. We also need to think about whether we charge
 17 Leaseholders or not."
 18 Now, the minute records there that Barbara Matthews
 19 raised an issue with how the LFB fought the fire.
 20 Would you agree that the basic thrust of this is
 21 that the smoke questions or problems were caused by the
 22 LFB as opposed to any deficiency in the building?
 23 A. I mean, I think Barbara had watched the video and got
 24 quite entrained (sic) in it, in terms of what's reflected
 25 in the minute. London Fire Brigade fight a fire the way

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1 they do and we just had to accept it, which is why
 2 I went on about door-closures.
 3 Q. Yes. I mean, her point is, I think — is this right? —
 4 she had spotted from the video that you might have
 5 a case to blame the LFB for the spread of smoke at the
 6 fire, and therefore it wasn't any deficiency on the part
 7 of the TMO that was to blame?
 8 A. That might have been Barbara's view. I mean,
 9 I wouldn't ... I can't imagine taking legal action
 10 against the Fire Brigade. That would be my position.
 11 Q. Right. So you didn't think this was worth pursuing; is
 12 that right?
 13 A. Yeah.
 14 Q. Right. But did her attitude not tell you something
 15 worrying about the culture, namely that
 16 Barbara Matthews, who was head of health and safety,
 17 supervising Janice Wray, thought it appropriate to seek
 18 to defend and possibly appeal the enforcement notice by
 19 seeking to blame the LFB for their own firefighting
 20 actions, rather than addressing the problems, the
 21 deficiencies, which were set out in the enforcement
 22 notice?
 23 A. I don't think — I think Barbara has shown that she's
 24 completely committed to supporting health and safety and
 25 fire safety, and I think it's just a ... she had

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1 a hobbyhorse about the firefighting thing, that was —
 2 we never considered seriously to challenge the
 3 Fire Brigade.
 4 Q. No, Mr Black, it shows not that Barbara has shown that
 5 she is completely committed to supporting health and
 6 safety; on the contrary, she is completely committed to
 7 the TMO. That's a different matter, isn't it?
 8 A. I disagree.
 9 Q. Let's go to a different topic altogether.
 10 Do you remember, just casting your mind back, that
 11 there was a fire in Lewisham, where the ALMO in Lewisham
 12 had been fined £40,000 as a result of the absence of
 13 door—closers?
 14 A. Erm ...
 15 Q. If you can't remember, you can't remember. I'll show
 16 you a document.
 17 A. Yeah.
 18 Q. So it doesn't stick in your mind.
 19 Let's go to {TMO10012170/2}.
 20 At the very bottom of page 2, you will see that
 21 there is an email from you of 1 February 2016 to
 22 Sacha Jevans and Barbara Matthews, subject, "Fire and
 23 Risk":
 24 "Can you review and check we are ok on this. It's
 25 a reminder that we still need to manage the process

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1 going forward with our Board and ensure we are
 2 completing the FRA, I need that bit of assurance please.
 3 "Robert."
 4 Then I think what you're doing here — and help me
 5 with this — is you're cutting and pasting into your
 6 email the text of an article in a publication:
 7 "ALMO fined £40,000 for fire safety failures.
 8 "29 January 2016 ... By Sophie Barnes."
 9 I don't think it's easy to see what the publication
 10 was, but the text says:
 11 "Lewisham Homes has been fined £40,000 for failing
 12 to install secure fire doors and carry out regular risk
 13 assessments before a fire that caused the deaths of two
 14 women."
 15 Then it goes on over the page {TMO10012170/3}, third
 16 paragraph down:
 17 "At a previous hearing, Lewisham Homes pleaded
 18 guilty to two charges relating to a failure to maintain
 19 fire doors at some of the flats and failure to carry out
 20 regular risk assessments, in breach of the Fire Safety
 21 Order 2005.
 22 "At the time of the fire in 2011, it had been over
 23 two years since a fire risk assessment had been carried
 24 out. Assessments are meant to be conducted annually."
 25 Then there's discussion about what the Crown Court

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1 judge said.
 2 Four paragraphs below that, it quotes him as
 3 follows:
 4 "Justice Hehir said the failure to ensure all flats
 5 had functioning self—closing fire doors was a
 6 'thoroughly dangerous situation ... which had in fact
 7 existed for some time'.
 8 "He said high—risk blocks of flats 'can quickly
 9 become a death trap' when a fire breaks out."
 10 Then there is an acceptance at the end by Lewisham.
 11 Now, you then, as we see, forward this to
 12 Sacha Jevans, and we can see what you have asked them
 13 for, which is a bit of assurance.
 14 Were you concerned that the TMO itself might find
 15 itself in the same position as the Lewisham ALMO?
 16 A. So I now can remember it, thanks for showing me the
 17 thing. So I knew the chief exec at this ALMO at the
 18 time in Lewisham.
 19 Yes, I think it's one of the things that came up, so
 20 I sent it on to them to seek assurance.
 21 Q. And you were concerned, were you, at the part that the
 22 FRA process might play in such a scenario?
 23 A. Yes.
 24 Q. Yes. Would that not have been the perfect time to
 25 undertake a thorough review or internal audit of what

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1 was going on with FRAs, particularly in respect of
 2 door—closers, and especially in light of the issues
 3 identified by the LFB in the enforcement notice and the
 4 earlier deficiency notice for Adair Tower?
 5 A. I can't comment.
 6 Q. Well, you can, I think.
 7 Let me try it differently: would you accept that now
 8 was the perfect time to undertake a thorough internal
 9 review or audit of the effectiveness of your FRA
 10 close—out processes, particularly with regard to
 11 door—closers and the wisdom of having a regular check
 12 regime?
 13 A. It could have been, yes.
 14 Q. Well, it was, surely? Surely now was the moment to have
 15 a good look; no?
 16 A. Can you scroll it up so I can see what the answer is?
 17 Q. Absolutely, we can certainly do that.
 18 Barbara Matthews writes to Janice Wray
 19 {TMO10012170/2}:
 20 "Janice
 21 "I would appreciate your views on how we differ from
 22 Lewisham to reassure Robert."
 23 Janice Wray, bottom of page 1, top of page 2, to
 24 Carl Stokes:
 25 "What do you know about this fire? The chief

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1 executive is panicking.”
 2 Let’s look. It is actually educational.
 3 At the bottom of page 1 {TMO10012170/1}, from
 4 Carl Stokes to Janice Wray, 1 February:
 5 “In short.
 6 “Two persons died in this fire ...
 7 “She was [something] ...
 8 “Your fire no one died.”
 9 Janice Wray back:
 10 “I know I read that — and they got an enforcement
 11 notice too! But they are now carrying out annual FRAs!
 12 “I am anxious that because Adrian had been out of
 13 action we are behind with the low level reviews — not
 14 sure how I can turn them around quickly unless I can use
 15 the estate staff.”
 16 Then response at the very top of page 1 from
 17 Carl Stokes:
 18 “This was a high rise so an annual review,
 19 undertaken in house is ok, use the estate staff ok.
 20 “Meeting them Thursday at 2 pm, rearranged Grenfell
 21 to the morning at 10 00 am.”
 22 That’s what Janice Wray and Carl Stokes were
 23 discussing?
 24 A. Yeah, I can see that.
 25 Q. Not very impressive, is it, really? I mean, to be

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1 frank.
 2 A. It’s their discussion. I’ve not seen this before.
 3 Q. No. I mean, here we’ve got your fire risk assessor
 4 essentially saying, “Don’t worry, no one died at
 5 Adair Tower and therefore it’s a different case”.
 6 A. Again, I haven’t seen this correspondence before.
 7 Q. No. It’s pretty shocking, isn’t it, when you think
 8 about it?
 9 A. It’s not brilliant .
 10 Q. No.
 11 Do you agree with Janice Wray’s characterisation of
 12 your attitude that you were panicking?
 13 A. I’m anxious one moment, panicking the other. I wouldn’t
 14 describe myself — I mean, I’m trying to remember.
 15 I don’t imagine I was panicking. I’m sure it was just
 16 because I had picked something up through discussion and
 17 I wanted some advice and clarity. It’s her word again,
 18 not mine.
 19 Q. Yes. Well, I put it to you as something I’m sure you’ll
 20 accept: far from panicking, you were asking her
 21 a perfectly reasonable question about a very worrying
 22 event.
 23 A. Yes.
 24 Q. Now, let’s look and see what’s discussed at the TMO
 25 executive team meeting on 11 February 2016 at

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1 {TMO00840502}. You are present.
 2 A. Yeah.
 3 Q. As is Barbara Matthews.
 4 If we go to page 2 {TMO00840502/2}, please, second
 5 paragraph, item 3, under the heading “Adair Tower &
 6 Enforcement Notice Update”, it says this:
 7 “Fola saying that the Board will want reassurance
 8 from RBKC. Seen by Laura & Nicholas Holgate and the
 9 Fire Brigade. Happy with everything. Protected roof is
 10 the smoke test. Robert and Barbara want clarity from
 11 the strategic part of the Fire Brigade. RBKC don’t want
 12 to do this work if not required. Fola reputation of
 13 RBKC & TMO.
 14 “Everything to be addressed. Board may say a lot in
 15 the press about fires. Our fire risk assessments are
 16 all ok.
 17 “RBKC a key partner and we do what they want. Paper
 18 at the next board meeting will be in the open section.”
 19 Now, just looking at the sentence that says:
 20 “Robert and Barbara want clarity from the strategic
 21 part of the Fire Brigade. RBKC don’t want to do this
 22 work if not required.”
 23 Can you just help us, on what matter did you want
 24 clarity from the LFB?
 25 A. I’m afraid I can’t recall.

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1 Q. Why didn’t RBKC want to do the work?
 2 A. I can’t recall, sorry.
 3 Q. The sentence, “Our fire risk assessments are all ok”, do
 4 you know who said that?
 5 A. Where is that again, sorry?
 6 Q. It’s in the penultimate paragraph, last sentence.
 7 A. I can’t remember who said that now.
 8 Q. Well, was it you?
 9 A. I don’t think it was me, no.
 10 Q. Do you know the basis for that statement?
 11 A. No.
 12 Q. The sentence, “RBKC a key partner and we do what they
 13 want”, was that record correct?
 14 A. Well, they were a key partner, and if they wanted us to
 15 do something, we’d try to do it, in terms of — but I’d
 16 see that as a positive, you know, they sort of worked
 17 with us very positively.
 18 Q. Yes. I can understand that pleasing one’s client is
 19 obviously a goal if one can achieve it, but did you
 20 appreciate that the TMO was a separate corporate entity
 21 from RBKC with its own fire safety —
 22 A. Certainly.
 23 Q. Yes. So this wasn’t a question simply of you dancing to
 24 RBKC’s tune, or was it?
 25 A. No, I think — because, in the end, we would be —

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1 again, as this goes forward, it's about in the end that
 2 RBKC will have to find the funds to do it, because
 3 actually it isn't in the — it wasn't in the capital
 4 programme and it would be a substantial budget, which
 5 therefore had to come from the HRA business plan.
 6 Q. Now, the next document we need to look at I think on
 7 this topic is at {RBK00001865}.
 8 Now, it's a document called "Adair Tower
 9 Enforcement — update on LFB position as at
 10 6th July 2016", and it was emailed to you by Janice Wray
 11 at {RBK00001863}.
 12 Just let me show you the email, first of all,
 13 because it's where I can make good the fact that you saw
 14 it.
 15 Janice Wray to Laura Johnson, copied to
 16 Robert Black:
 17 "Subject: Adair Tower — update on LFB action
 18 "Attachments: ADAIR TOWER — Article 27 Letter to TMO
 19 for Residents.dat.
 20 "Laura
 21 "In advance of your meeting today Robert has
 22 requested that I send you a briefing note on a telephone
 23 conversation I had with an LFB Inspecting Officer
 24 yesterday.
 25 "I also attach a copy of the letter I subsequently

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1 received from the LFB."
 2 Going back to the previous document, namely the note
 3 {RBK00001865}, it appears to be a note of a telephone
 4 call between Ben Dewis of the LFB and Janice Wray.
 5 Do you remember seeing this document and reading it
 6 at the time?
 7 A. I must have seen it and I must have read it.
 8 Q. Yes.
 9 Now, in the third paragraph, it says:
 10 "Ben confirmed that he needed this information
 11 [which is contact details for residents] because the LFB
 12 are still investigating the fire and in particular it is
 13 his intention to interview the three residents who were
 14 evacuated from their homes by the Fire Brigade."
 15 Then if you look halfway down the page to the
 16 paragraph that starts "Further", it says:
 17 "Further, I challenged Ben on the 'ongoing
 18 investigation' and advised him of my initial discussions
 19 with his manager, Rebecca Burton. Specifically, she had
 20 indicated that the LFB would be collating all the
 21 information from their post-fire audit (undertaken on
 22 the Monday 2nd November), their investigations
 23 (confirmation that these would be undertaken by
 24 Ben Dewis), all the planned maintenance information
 25 provided by us at their request etc. and would discuss

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1 with their legal team what if any action to take. At
 2 that time Rebecca confirmed that the options were
 3 Deficiency Notice, Enforcement Notice or prosecution."
 4 Then in the last paragraph on that page:
 5 "I was concerned to hear that investigations were
 6 ongoing and that we had not been made aware of this but
 7 Ben was anxious to emphasise that he was obliged to
 8 investigate all avenues ..."
 9 Now, when you looked at this, or when you received
 10 it, did you understand from this note that the LFB were
 11 still considering a prosecution of the TMO for failures
 12 at Adair Tower?
 13 A. I think it confirms they were looking at a number of
 14 actions and prosecution might be one of them.
 15 Q. Yes, and you could be in no doubt about that at latest
 16 after seeing this document on 7 July 2016; do you agree?
 17 A. Yeah.
 18 Q. Do you know when you first became aware that the LFB was
 19 considering prosecution of the TMO over Adair Tower?
 20 A. I'm not sure if it is here or ...
 21 Q. Right.
 22 Now, let's go to {TMO10015934}, please.
 23 This is the minute of a TMO executive team meeting
 24 on 7 July. We don't see the time of that.
 25 But if we go to page 2 {TMO10015934/2}, we can see

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1 under item 3 Adair Tower is dealt with, and we can see
 2 there that Barbara Matthews says:
 3 "Barbara noted that Janice received a phone call
 4 from Ben to say that we would be receiving a statutory
 5 information request asking for a list of residents and
 6 their contact details of residents that were living at
 7 Adair Tower on the 3rd, 4th & 5th floors on 31st October
 8 2015. Barbara noted that we were surprised to receive
 9 this as we have fully cooperated and kept nothing hidden
 10 from the Fire Brigade during their investigation.
 11 "Robert has spoken to Laura & Rock and their view is
 12 that we need to pass this to Legal. Robert asked
 13 Barbara to speak to Laura and update her."
 14 Was the conversation between you, Laura Johnson and
 15 Rock Feilding—Mellen — I'm assuming it's him —
 16 A. Yeah.
 17 Q. — minuted? Was it minuted or recorded in any way?
 18 A. I can't remember, if there is not a note. It was
 19 probably just a conversation.
 20 Q. You say just a conversation.
 21 A. Well —
 22 Q. Did you have casual conversations with Laura Johnson and
 23 Rock Feilding—Mellen which you didn't minute?
 24 A. Yeah, because you saw Laura and Rock Feilding—Mellen in
 25 councils all the time. They were sort of about the

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1 borough.
 2 Q. Right. Did you speak to them together? Was it
 3 a three-way call, or did you speak to them separately?
 4 A. I can't recall, it might have been together. I'm not
 5 sure if it would have been at the town hall.
 6 Q. Right.
 7 Do you remember what Laura and Rock advised, other
 8 than it needed to be passed to legal?
 9 A. No, I think that was their — the situation.
 10 Q. Do you know whether Barbara Matthews spoke to
 11 Laura Johnson and updated her after the phone call?
 12 A. I don't know.
 13 Q. Now, we know that you then reported to the board on
 14 20 July, a few days later.
 15 Let's go to the board pack, please, at
 16 {TMO10014037}. This is page 1 of the board pack.
 17 If we go in it, please, to page 68 {TMO10014037/68},
 18 we can see your report.
 19 Now, if we go to 69 {TMO10014037/69} we will see the
 20 start of your report. We can scroll slowly through it,
 21 but we have looked in vain through this document for any
 22 mention of Adair Tower at all, and if we're wrong about
 23 that, I will stand corrected. But can you explain why
 24 you didn't bring the Adair Tower threat of prosecution
 25 to the attention of the board on that occasion?

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1 A. I can't recall, sorry.
 2 Q. Do you know why you kept the pending threat of
 3 prosecution by LFB over Adair Tower from the board?
 4 A. No.
 5 Q. How did you think at the time that the directors of TMO
 6 could comply or enable the TMO to comply with its
 7 obligations, and indeed comply with their own
 8 obligations to protect and promote the TMO, if you had
 9 kept them in the dark about the fact that the TMO stood
 10 to be prosecuted for breaches of the RRO?
 11 A. I can't explain that. I wouldn't want to keep the board
 12 in the dark about this, so I don't understand.
 13 Q. No. Did you make a positive decision just to keep quiet
 14 about it and not tell the board?
 15 A. No, no.
 16 Q. What other explanation is there?
 17 A. I can't — I don't know if we tell them later or
 18 whatever. I — yeah, I can't confirm anything.
 19 Q. Now, there is then a TMO executive team meeting on
 20 5 October 2016, we're now in the autumn of that year,
 21 {TMO00843861}.
 22 We can see you were there. 5 October 2016 executive
 23 team meeting. You are there, Barbara Matthews also
 24 there.
 25 If we go to page 2 {TMO00843861/2}, please, item 3,

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1 under "Adair Tower", item 3.2:
 2 "LFB are putting pressure on us to fit door closers
 3 on all our stock across the business. Laura Johnson has
 4 said no to this but Sacha feels that there should be
 5 a discussion at ET. The fire strategy is being updated
 6 with the recommendation that this work is done over
 7 a five-year period (although it is likely that the LFB
 8 will expect a shorter period). Sacha will speak to her
 9 team about doing some profiling on this as with 9,000
 10 properties we would need to know the estimated cost for
 11 this and also what others are doing. RBKC would need to
 12 be spoken to about this and given options."
 13 Now, looking at the second sentence there,
 14 "Laura Johnson has said no to this", why was
 15 Laura Johnson able to control whether the TMO did or did
 16 not take steps to comply with the RRO?
 17 A. Because in a sense, it would have to come out of the HRA
 18 budget. In a sense, the TMO couldn't commit itself to
 19 do that unless RBKC agreed, which has started that whole
 20 discussion, which ...
 21 Q. Does that mean that whether or not the TMO complied with
 22 its obligations under the RRO was a commercial decision
 23 for RBKC?
 24 A. I don't know, you would need to ask Laura. I don't know
 25 if you asked Laura.

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1 Q. No, I'm asking you, because you're the chief executive.
 2 Laura Johnson has said no to this, and my question
 3 was: why was Laura Johnson able to control whether the
 4 TMO complied with the RRO? And you responded, "Because
 5 in a sense, it would have to come out of the HRA
 6 budget".
 7 Does that tell us — I'll repeat the question —
 8 that whether or not the TMO complied with its
 9 obligations under the RRO was a commercial decision and,
 10 what is more, a commercial decision for RBKC?
 11 A. I think you'd need to ask Laura if that's what she said.
 12 Q. I don't understand.
 13 A. All right, sorry.
 14 Q. The note records —
 15 A. Apologies, sorry, let me —
 16 Q. All right.
 17 A. I think this is the beginning of a conversation with
 18 RBKC in which eventually they recognised, actually, they
 19 were going to have to do it, and actually the decision
 20 was then about how to do it in terms of, you know,
 21 a one to five — I think we suggested three years and
 22 then it changed to five. So I think it was
 23 a conversation we kept on going back to RBKC that
 24 actually, you know, in terms of actually where we are,
 25 it's something we're going to have to do, and we worked

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1 with Laura to actually get her to understand that.
 2 SIR MARTIN MOORE—BICK: Would it be right to understand
 3 that, if you made a formal request to RBKC for
 4 additional funds, that would be a decision for
 5 the council, not for Laura Johnson?
 6 A. Yeah, because they had very low approval ratings in
 7 the council. I think officers were only able to commit
 8 up to 250,000, so anything over that would go to the
 9 full cabinet.
 10 SIR MARTIN MOORE—BICK: Yes. Thank you.
 11 MR MILLETT: In reality, doesn't this tell us that whether
 12 or not the TMO complied with the RRO was ultimately
 13 a commercial decision for RBKC?
 14 A. I think it was a — it's about us convincing RBKC
 15 through a process, because again, I can't remember all
 16 the conversations about this in terms of actually how —
 17 why we were being — why RBKC was being required to do
 18 it when the tri or the double borough weren't able to do
 19 it. So I think there's questions about the
 20 Fire Brigade, what's their strategy, you know. So,
 21 again, this is a bit confused for me, sorry.
 22 Q. With great respect, Mr Black, I'm not surprised. What
 23 I'm really struggling to get to is to understand how
 24 this was set up.
 25 It sounds as if, because Laura Johnson controlled

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1 the purse strings over taking steps to put the TMO into
 2 a position of compliance, the decision as to whether or
 3 not the TMO should be permitted to comply with the RRO
 4 was one not only lying in RBKC's hands, but was
 5 a commercial one.
 6 A. I think you would need to ask them, in terms of we went
 7 back to them, developed the argument, and got to the
 8 stage where they were agreeing to fund it.
 9 SIR MARTIN MOORE—BICK: If you had made a formal request to
 10 the council for funding required for this sort of work,
 11 presumably the council would either have had to grant
 12 you the funding —
 13 A. Yes.
 14 SIR MARTIN MOORE—BICK: — or given you a formal response
 15 declining to grant you the funding, and you would then
 16 have it on your records that you had asked and been
 17 rejected; is that how it would work?
 18 A. Yeah, and, what we — as I say, we started with Laura
 19 because she was executive director of housing, in
 20 a sense, and —
 21 SIR MARTIN MOORE—BICK: But it wasn't ultimately her
 22 decision, was it?
 23 A. No, it would be Rock Feilding—Mellen taking it to the
 24 cabinet.
 25 SIR MARTIN MOORE—BICK: Yes, and if the cabinet said no,

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1 presumably he or someone on behalf of the council would
 2 write you a formal letter —
 3 A. Yeah.
 4 SIR MARTIN MOORE—BICK: — saying, "We've had this
 5 application and we've turned it down"?
 6 A. Yeah.
 7 SIR MARTIN MOORE—BICK: Okay. Thank you.
 8 MR MILLETT: So, as a result of that, just one more question
 9 flowing from that: does that mean that in the end, the
 10 question of whether you took steps to comply, to put
 11 yourself in compliance with the RRO, was a matter out of
 12 your hands?
 13 A. It's out the — it was out of our hands in terms — but
 14 we continued to press to get agreement to have it done.
 15 (Pause)
 16 I wonder, Chair, since sitting here, I've developed
 17 a headache, and I just wonder, is it — just from my
 18 memory, is it 4.30 we finish?
 19 SIR MARTIN MOORE—BICK: It would normally be 4.30. Let me
 20 just see how we're doing.
 21 How are we doing, Mr Millett?
 22 MR MILLETT: Mr Chairman, we're doing well in terms of page
 23 numbers and progress. I would be perfectly content to
 24 stop now. We've pretty well covered most of this
 25 document. It may be that I need to come back to it, but

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1 I'm perfectly happy to.
 2 THE WITNESS: I wouldn't want to finish early if it means
 3 I go over onto Tuesday, so that's the only matter.
 4 SIR MARTIN MOORE—BICK: That's really what I was going to
 5 find out.
 6 Mr Millett, you've obviously got more questions you
 7 want to put to Mr Black —
 8 MR MILLETT: Yes.
 9 SIR MARTIN MOORE—BICK: — so we're going to have to ask him
 10 to come back on Monday.
 11 THE WITNESS: Yes, I knew that anyway.
 12 SIR MARTIN MOORE—BICK: But is there any danger that he
 13 won't finish on Monday?
 14 MR MILLETT: None.
 15 SIR MARTIN MOORE—BICK: Well, on that unequivocal
 16 assurance —
 17 THE WITNESS: Thank you.
 18 SIR MARTIN MOORE—BICK: — I'm inclined to say we could
 19 afford to stop early, couldn't we?
 20 MR MILLETT: Yes.
 21 SIR MARTIN MOORE—BICK: That might be the better course.
 22 THE WITNESS: That would help me, thank you very much.
 23 SIR MARTIN MOORE—BICK: Yes. Right, well, we will do that.
 24 We'll stop now, then. As I've already said, we're
 25 going to have to ask you to come back again on Monday —

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1 THE WITNESS: Yes.
2 SIR MARTIN MOORE—BICK: — but you were expecting that
3 anyway.
4 THE WITNESS: Absolutely.
5 SIR MARTIN MOORE—BICK: So we will resume at 10 o'clock on
6 Monday.
7 We're now going into the weekend, so to speak, and
8 so it's particularly important that I ask you not to
9 talk to anyone else about your evidence or anything
10 relating to it over the weekend.
11 THE WITNESS: Okay.
12 SIR MARTIN MOORE—BICK: And we will see you again on Monday
13 morning at 10 o'clock.
14 THE WITNESS: Thank you. And thank you for allowing it to
15 finish a bit early.
16 SIR MARTIN MOORE—BICK: No, no, it's good to be of help if
17 we can. Thank you very much.
18 (Pause)
19 All right, Mr Millett. Well, this is becoming
20 a habit on your part.
21 MR MILLETT: I know, it's regrettable and out of character.
22 SIR MARTIN MOORE—BICK: I'm not sure I'd say that, but
23 still. Thank you very much.
24 Well, then, it's 10 o'clock on Monday morning,
25 please. Thank you.

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1 (4.20 pm)
2 (The hearing adjourned until 10 am
3 on Monday, 28 June 2021)
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