

# OPUS 2

## INTERNATIONAL

Grenfell Tower Inquiry

Day 78

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1 (10.03 am)  
 2 SIR MARTIN MOORE-BICK: Good morning, everyone. Welcome to  
 3 today's hearing. We're going to begin today by hearing  
 4 evidence from, I think, the last of the witnesses who,  
 5 at the time we're interested in, was employed by  
 6 Celotex.  
 7 MR MILLETT: Yes.  
 8 SIR MARTIN MOORE-BICK: Yes, Mr Millett?  
 9 MR MILLETT: Good morning, Mr Chairman. Good morning,  
 10 members of the panel. Yes, that's quite right.  
 11 So I now call Ms Deborah Berger, please.  
 12 MS DEBORAH BERGER (sworn)  
 13 SIR MARTIN MOORE-BICK: Thank you very much. Do sit down,  
 14 Ms Berger, and make yourself comfortable.  
 15 THE WITNESS: Thank you.  
 16 SIR MARTIN MOORE-BICK: All right? There's some water there  
 17 if you would like it, and I leave it to you to take it  
 18 when you're ready.  
 19 Yes, Mr Millett.  
 20 MR MILLETT: Yes, Mr Chairman, thank you.  
 21 Questions from COUNSEL TO THE INQUIRY  
 22 MR MILLETT: Ms Berger, first of all, can I start by  
 23 thanking you very much for coming today to the Inquiry  
 24 and helping us with our investigations. We're extremely

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1 grateful to you.  
 2 If you have any difficulty understanding any of the  
 3 questions that I'm asking you, or you want me to repeat  
 4 them, I'm very happy either to repeat or to formulate  
 5 the question in a different way.  
 6 If you need a break at any time, please let us know.  
 7 We intend to take a break mid-morning for you and for  
 8 the shorthand writer.  
 9 The shorthand writer is sitting to your immediate  
 10 right, so please do try and keep your voice up so that  
 11 she can get down what you're saying. Can I just also  
 12 add to that that if you nod or shake your head, that  
 13 doesn't come out on the transcript.  
 14 THE WITNESS: Okay.  
 15 MR MILLETT: So if you say "yes" or "no", as the case may  
 16 be, that will be very helpful.  
 17 Now, you've made a statement to the Inquiry dated  
 18 25 October 2018 {CEL00010055/1}. Can I show you that.  
 19 A. Yes.  
 20 Q. It will be on the screen in front of you, but it will  
 21 also be in the file on the desk in front of you as well,  
 22 if you want to look at the hard copy. But we'll be  
 23 working together from the screen in front of you,  
 24 looking at the documents as they come up.  
 25 A. Thank you.

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1 Q. Is that your statement, looking at the first page?  
 2 A. Yes, it is.  
 3 Q. The reference is {CEL00010055/1}, for everybody's  
 4 benefit.  
 5 Now, if you go to page 70 {CEL00010055/70} in that  
 6 document, you can see a signature just above the date of  
 7 25 October 2018. Is that your signature?  
 8 A. Yes, it is.  
 9 Q. Have you read this witness statement recently?  
 10 A. Yes, I have.  
 11 Q. Subject to some corrections that I know you've told us  
 12 that you would like to make to it, are the contents  
 13 true?  
 14 A. Yes, they are.  
 15 Q. Now, so far as those corrections are concerned, can  
 16 I take you, please, first of all, to paragraph 93 at  
 17 page 29 {CEL00010055/29}. You'll see there that you are  
 18 talking about the report in the second line, the BRE  
 19 report, and you say there that:  
 20 "... [it] was sent to me by Jamie Hayes shortly  
 21 before our conversation ..."  
 22 A. Yes.  
 23 Q. Would you wish to make a correction to that?  
 24 A. Yes, please.  
 25 Q. What is the correction?

3

1 A. On listening to -- on reviewing Jamie's evidence, I just  
 2 wondered if maybe he did send me the report. So we  
 3 queried it, and Jon Roper sent me the report.  
 4 Q. So the correction you want to make, is this right, is to  
 5 swap the name of Jamie Hayes out and put Jon Roper in?  
 6 A. Yes, please.  
 7 Q. Right. We will come to a document in due course which  
 8 shows that.  
 9 Similarly, if you go to paragraph 189, which you'll  
 10 find on pages 50 and 51, and I think we actually pick up  
 11 the passage on page 51 {CEL00010055/51}.  
 12 A. Yes.  
 13 Q. You say there, in the third line, by reference to  
 14 Jamie Hayes:  
 15 "... after he had sent me the 32-page BRE report.  
 16 I believe he sent me that report on 27 October ..."  
 17 You go on to say that's because you've seen an email  
 18 chain. Again, is there a correction you wish to make to  
 19 that paragraph?  
 20 A. Yes, I believe Jon Roper sent me the email with the test  
 21 report attached to it.  
 22 Q. So again, is the correction from the identification of  
 23 Jamie Hayes to the identification of Jon Roper  
 24 instead --  
 25 A. Correct.

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1 Q. -- as the person who sent you that report?  
 2 A. Yes.  
 3 Q. Right, thank you.  
 4 Finally, paragraph 190, if you look at that, just  
 5 below that, you can see that in that paragraph, three  
 6 lines up from the end of that paragraph, you refer to  
 7 Jamie Hayes there, and then in the last sentence you  
 8 say:  
 9 "I had a more detailed conversation with Jamie Hayes  
 10 after the 32-page report was sent to me on 27 October."  
 11 Just to be clear, again, is that a reference to the  
 12 32-page report sent to you in fact by Jon Roper, as you  
 13 told us?  
 14 A. Yes, it is.  
 15 Q. So that sentence needs to be read in that light; is that  
 16 correct?  
 17 A. Yes, please.  
 18 Q. Yes, thank you very much.  
 19 Now, subject to those corrections, are the contents  
 20 of this statement true?  
 21 A. To the best of my knowledge.  
 22 Q. Thank you.  
 23 Have you discussed the evidence that you're going to  
 24 give today with anybody before coming here?  
 25 A. Only with my legal team.

5

1 Q. Right.  
 2 Now, you joined Celotex in January 2010, didn't you?  
 3 A. Yes.  
 4 Q. Your background was in customer services; am I right?  
 5 A. Correct.  
 6 Q. Is it right that initially you were employed as  
 7 a technical services officer?  
 8 A. Yes.  
 9 Q. I don't think you had any technical background though,  
 10 did you?  
 11 A. No.  
 12 Q. So you learnt technical services, as it were, on the  
 13 job?  
 14 A. Yes.  
 15 Q. Is it right that you then took over from Jonathan Roper  
 16 as product manager on 1 October 2014?  
 17 A. Yes.  
 18 Q. Before you did that, before 1 October 2014, who was your  
 19 line manager?  
 20 A. Mr Rob Warren.  
 21 Q. Rob Warren. And after you took over the role of product  
 22 manager, who was your line manager?  
 23 A. Mr Paul Evans.  
 24 Q. Paul Evans. From October 2014 until you left Celotex in  
 25 2018, I think it is, you were a product manager; is that

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1 right?  
 2 A. From 2014?  
 3 Q. Yes.  
 4 A. Yes, to -- yes.  
 5 Q. To the time you left?  
 6 A. Yes.  
 7 Q. Yes. In that role, is it right that you were  
 8 responsible for RS5000 as a product?  
 9 A. Yes.  
 10 Q. Yes.  
 11 Now, I want to ask you one or two questions about  
 12 your familiarity with Approved Document B. If you go to  
 13 your witness statement, which is on the screen at the  
 14 moment, and go to page 20 {CEL00010055/20}, let's look  
 15 together at paragraph 56, underneath the heading  
 16 "Regulations in the above 18m market".  
 17 In that paragraph, you see that you say that your  
 18 understanding of the applicable regulations was "fairly  
 19 limited and standard". Then you go on to say, in the  
 20 second line:  
 21 "... and was derived mainly from training given by  
 22 Jamie Hayes in around October 2010 ..."  
 23 Then you refer to a document. Let's look at that  
 24 document: it's {CEL00008500/1}, please. This is the  
 25 document DB/9 which you exhibit. You can see from the

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1 first page that it's a draft and is internal, and is  
 2 entitled "Incorporates buildings above 18m --  
 3 requirements of compliance with fire regulations",  
 4 "Technical briefing".  
 5 If you go to page 2 {CEL00008500/2} of that  
 6 document, you can see at the top right-hand corner, this  
 7 is "Version 2 (draft) 26.10.2010", and there are the  
 8 contents there.  
 9 Do you remember whether this is a document that was  
 10 given to all TSOs, technical services officers, at the  
 11 time?  
 12 A. I think so.  
 13 Q. Right. Was it used as part of a -- like a seminar or  
 14 oral presentation exercise?  
 15 A. I think ... what do you mean "presentation" --  
 16 Q. Was it handed out and then somebody spoke about its  
 17 contents?  
 18 A. I believe so, yes.  
 19 Q. Right.  
 20 A. I think so.  
 21 Q. Let's look at page 4 {CEL00008500/4}. I just want to  
 22 ask you one or two questions about class 0 and limited  
 23 combustibility there.  
 24 If you look halfway down, you can see that there's  
 25 a heading "Class 0", which has been highlighted, and

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1 there's manuscript on that page. Can you identify that  
 2 manuscript?  
 3 A. The writing is mine.  
 4 Q. Is yours?  
 5 A. Yes.  
 6 Q. If we look at "Class 0", it says:  
 7 "This means that the product has been tested to  
 8 BS476 Part 7 (surface spread of flame) and BS476 Part 6  
 9 (fire propagation) and achieves a suitable result. The  
 10 insulation board is therefore defined as Class 0 for the  
 11 purposes of building regulations."  
 12 Then it goes on after that, "Non combustible", it  
 13 has a heading there, and if you go a little bit further  
 14 down, you can see that there is a list of tests which  
 15 are tests for non-combustibility.  
 16 A. Yes.  
 17 Q. Do you see that?  
 18 Then at the very bottom of the page, if we can  
 19 scroll down to that, please, underneath those bullet  
 20 point test lists, it says:  
 21 "Rigid PIR insulations such as Celotex would not be  
 22 suitable to be classed as non combustible materials."  
 23 If you look a little bit up the page, you can see  
 24 that there's "Class 0" set up above that, as we've seen.  
 25 Did you understand that there was a difference

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1 between class 0 on the one hand and the concept of  
 2 "non-combustible" on the other?  
 3 A. No.  
 4 Q. You didn't understand that?  
 5 A. I accepted they were different.  
 6 Q. You accepted they were different?  
 7 A. Yes.  
 8 Q. Right. That's what I wanted to ask you.  
 9 A. Yes.  
 10 Q. Now, if you look at the handwriting, which you say is  
 11 yours, you can see, looking back at "Class 0", there's  
 12 a reference there to "fire propagation" with a ring  
 13 round it, with a line out to the left-hand margin, which  
 14 says "Thru the product". Do you see that?  
 15 A. Yes.  
 16 Q. Then underneath it you've written, "ev fire growth  
 17 eg heat release and ability to accelerate fire growth"?  
 18 A. Yes.  
 19 Q. Now, what do you mean there by "Thru the product"? Do  
 20 you remember?  
 21 A. No, I don't.  
 22 Q. You don't remember?  
 23 A. I really don't, no.  
 24 Q. Let's see how far we go with your recollection.  
 25 Were you told, do you think, that this was the basis

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1 on which Celotex marketed its products, namely as  
 2 class 0 throughout?  
 3 A. Are you referring specifically to RS5000 or ...?  
 4 Q. I'm referring to RS5000 or FR5000, as it then was.  
 5 A. I can only recall us talking about the product RS5000 is  
 6 classified to class 0. I'm not sure if I understand  
 7 that to -- referring all through the product.  
 8 Q. Right.  
 9 A. I don't -- I don't know.  
 10 Q. Now, you can see from the text that there's a reference  
 11 to "surface spread of flame".  
 12 A. Yes.  
 13 Q. "... BS476 Part 7 (surface spread of flame) ..."  
 14 Do you remember at the time whether you had any  
 15 doubts about what the phrase "Class 0" throughout  
 16 actually meant --  
 17 A. No.  
 18 Q. -- whether it had any meaning?  
 19 A. No, I didn't. That's -- "Thru the product", I -- no,  
 20 I just -- I understood that RS5000 was a composite  
 21 product, whereas it has a foil facer and a foam core.  
 22 And as far as I was concerned, the surface spread of  
 23 flame was on the foil facer and the fire propagation was  
 24 the product, was just ... just ... I didn't under --  
 25 I didn't separate the core from the facer. I don't

11

1 think I did.  
 2 Q. I see. I'm just trying to get to understand the origin  
 3 of why it was that you wrote "Thru the product". Did  
 4 anyone tell you that part 6 of BS 476, fire propagation,  
 5 meant that the foam itself was class 0?  
 6 A. I don't recall.  
 7 Q. Right.  
 8 A. Sorry.  
 9 Q. Now, Jamie Hayes said in his evidence, and I can show  
 10 you the transcript -- I perhaps ought to. It's  
 11 {Day74/35:13-17}, if we can just look at that. The  
 12 basic point he made in his evidence was that class 0 on  
 13 Celotex's marketing literature was just a marketing  
 14 proposition and had no technical relevance. I just want  
 15 to put that to you.  
 16 If you look at lines 13 to 17 on that page --  
 17 A. Yes.  
 18 Q. -- the question is at line 10:  
 19 "What would class 0 signify to a buyer? What would  
 20 it allow the buyer to do which, without class 0, it  
 21 couldn't?"  
 22 And his answer was:  
 23 "Nothing, I don't believe. I'm not aware of any  
 24 application that Celotex was offering products into  
 25 where class 0, or in fact fire performance in general,

12

1 had any relevancy. So I believe that the -- that giving  
 2 the product class 0 was solely a marketing proposition."  
 3 Do you agree with that?  
 4 A. Yes.  
 5 Q. Thank you.  
 6 Mr Hayes also told us, a little bit later in his  
 7 transcript, at page 36 and at lines 22 to 25  
 8 {Day74/36:22-25} -- it's perhaps easier just to show you  
 9 that. At line 22, the question was:  
 10 "... technically speaking, did the concept of  
 11 class 0 throughout the entire product actually have any  
 12 real meaning?"  
 13 Answer, line 25:  
 14 "No, I don't -- I mean, I can only assume that if  
 15 you tested something to class 0, you would submit your  
 16 samples to the test body, they would do whatever tests  
 17 were correct to do, and so, actually, to say it's  
 18 throughout the product is -- again, is just a marketing  
 19 proposition, I think."  
 20 Again, Ms Berger, do you agree with that?  
 21 A. I do.  
 22 Q. Thank you.  
 23 Now, with that background, can I then take you to  
 24 an email in 2017, February 2017, at {CEL00002064/1},  
 25 please. I'd like to show you the bottom of page 2

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1 {CEL00002064/2}, in that email run, which is an email to  
 2 you from Joe Mahoney on 7 February 2017. He asks the  
 3 question, or states:  
 4 "In the product datasheet we state 'Has Class 0 fire  
 5 performance throughout the entire product in accordance  
 6 with BS 476'"  
 7 And if we turn the page {CEL00002064/3}, he says:  
 8 "I am sure the wording was chosen carefully and  
 9 I know what we are trying to say, but to me [it] risks  
 10 being misleading since the core is not class 0. What do  
 11 you think?"  
 12 If we then look up, we can see that you answer. You  
 13 say to him on page 2 {CEL00002064/2}, next day:  
 14 "I thought it was Class 0 Joe.  
 15 "Isn't it FR?"  
 16 First of all, do you remember what the context was  
 17 in which he was asking you that question and you were  
 18 giving him the answer?  
 19 A. I do not.  
 20 Q. Do you know why he was raising this question with you?  
 21 A. No.  
 22 Q. Can we just go back to his email. He says at the top of  
 23 the next page {CEL00002064/3}:  
 24 "... [it] risks being misleading since the core is  
 25 not Class 0."

14

1 Did that concern you at the time? Did you begin to  
 2 be worried that the marketing literature --  
 3 A. No, not at all.  
 4 Q. Why's that?  
 5 A. I'm aware that -- after June 14, 2017, I was aware there  
 6 was lots of different information coming out of Celotex  
 7 and one of them was about class 0, and that was really  
 8 the first time that I realised there was a problem with  
 9 the class 0 test. I -- I literally -- I didn't have --  
 10 I didn't read anything into this email, I didn't think  
 11 anything about it.  
 12 Q. Right.  
 13 A. I really didn't. I just assumed it was something to do  
 14 with something technical with the product, something to  
 15 do with -- I don't know, lots of different things  
 16 happened with the product in the development team.  
 17 I thought it was just something else. I'd no idea what  
 18 he was referring to.  
 19 Q. Right. Did it not concern you, as product manager at  
 20 the time, that Celotex's marketing literature was at  
 21 risk of being misleading in this respect? (Pause).  
 22 A. I'm not sure. I'm not sure at the time -- I'm not sure  
 23 at the time I understood it to be misleading.  
 24 Q. No, but he did: he thought there was a risk of it being  
 25 misleading. I wanted to know whether, given that

15

1 Joe Mahoney, who was a senior executive, or certainly  
 2 senior to you -- is that right?  
 3 A. Yes, yes.  
 4 Q. Given that he thought that the marketing literature  
 5 "risk[ed] being misleading since the core is not  
 6 class 0", I just wondered whether you had any reaction  
 7 to that and thought that it might be necessary to change  
 8 the marketing literature so as not to mislead customers?  
 9 A. The -- the classification of the products being class 0  
 10 is something I ... I wouldn't know how to change.  
 11 I wouldn't know how to approach that subject with  
 12 people. I mean, Joe has sent me this email and I've  
 13 reviewed it in my evidence leading up to this Inquiry,  
 14 but I didn't -- I'm sorry, I didn't see it as --  
 15 I either missed the detail in my time reading this email  
 16 or it doesn't -- it just doesn't register with me as  
 17 anything --  
 18 Q. Right.  
 19 A. It just doesn't register with me.  
 20 Q. Right.  
 21 A. I may have -- I may have just misled -- I'm reading  
 22 that, sorry. I may have just not -- I don't know,  
 23 I just haven't seen the detail.  
 24 Q. Right.  
 25 A. I don't know what happened.

16

1 Q. You don't know what happened. Do we take it from that  
 2 that although you'd seen this email, you weren't  
 3 concerned about it at the time sufficiently to raise the  
 4 matter with your immediate line manager?  
 5 A. I think I should have been, absolutely, 100%. I'm  
 6 not -- I -- looking at this detail now, I absolutely --  
 7 yes, perhaps I should have been, like, raising it with  
 8 my line manager, Mr Paul Evans. But at the time it  
 9 seems that I may have missed this detail or I didn't  
 10 feel it was my -- something that I could cope with or  
 11 something I could deal with or something -- perhaps  
 12 I didn't know how to go about it, I don't know.  
 13 Q. Just on that, it sounds as if you're saying that there  
 14 was some sort of culture or system in Celotex whereby if  
 15 an employee in your position had discovered that  
 16 something was wrong and that marketing literature was  
 17 misleading customers, there wasn't really anywhere you  
 18 could go with that. Now, that's my reading of what  
 19 you've just told us. Is that fair or is that not fair?  
 20 A. I think it's -- I think there have been -- I've had two  
 21 different experiences within Celotex where I've been  
 22 able to escalate and talk about things which aren't  
 23 right. And the first time didn't go very well at all.  
 24 But the second time, there was a product -- after the  
 25 Grenfell, there was a product and I was able to -- I was

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1 asked to talk to someone about a complaint on one of the  
 2 products, and when I saw the complaint, I knew instantly  
 3 what was wrong with the projects and what had happened.  
 4 And when I shared what I knew with the director, I think  
 5 the following day, the product was taken off the market.  
 6 Q. Right.  
 7 A. So that was ... that was an experience of where, if --  
 8 when I was doing my job and reporting things in, it was  
 9 being noticed. But previously, when I have done my job  
 10 and reported things in, I don't think -- I don't know,  
 11 it was just -- it was very busy, it was very ... it was  
 12 very difficult to -- I don't know, it's very difficult  
 13 to articulate right now.  
 14 Q. No, I understand.  
 15 A. Thank you.  
 16 Q. Let me unpick that a little bit. So this is after the  
 17 fire?  
 18 A. Yes.  
 19 Q. The complaint had come in about a particular product?  
 20 A. Yes.  
 21 Q. What was the product?  
 22 A. It was a flat roofing product.  
 23 Q. Was it FR5000 or FR4000?  
 24 A. I don't know. It's not -- wasn't to do with the fire  
 25 performance of the product. It was another technical

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1 detail to do with the product.  
 2 Q. What was the nature of the complaint?  
 3 A. Well, can I -- I'm not -- can I say? I mean, like ...  
 4 Q. Well, yes.  
 5 A. Yeah, basically the roof blew off, in Anglesey.  
 6 Q. Right.  
 7 A. And my memory of it today -- because it was three years  
 8 ago -- as I recollect it today, there was a problem with  
 9 how the facer was adhered to the foam on the product,  
 10 and it wasn't failing -- it was failing the tests. It  
 11 was something I was involved with because we were  
 12 working towards a BBA certificate and it was one of the  
 13 criteria that the facer was attached firmly to the foam.  
 14 Otherwise, if it was glued down, it could blow off, and  
 15 that's exactly what happened on this particular project.  
 16 So when I was asked to view it, and I think this was  
 17 probably early 2017 -- sorry -- yeah, early ... early  
 18 2018, sorry. When I was asked to view it, I thought,  
 19 "Well, I know what's happened there, I think I know  
 20 what's happened there". And then when I shared it, and  
 21 then when I shared the story, I actually got a little  
 22 bit upset because I said, "It's like RS all over again".  
 23 And they said, "What do you mean?" And I said, "Well,  
 24 who would I tell? Who do I tell when these things go  
 25 wrong?" And the director at the time said, "Well, you

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1 can tell me".  
 2 Q. Who was the director?  
 3 A. It was the finance director. It was a female finance  
 4 director at the time.  
 5 Q. Who was that?  
 6 A. Oh, I can't remember.  
 7 Q. Right.  
 8 A. I think ... I really can't recall her name, I'm sorry.  
 9 Q. Okay.  
 10 A. But anyway, the point --  
 11 Q. You said it was "like RS all over again". What do you  
 12 mean by that?  
 13 A. It was just that there were times when I had tried to  
 14 talk to -- I had found things out, things had been  
 15 shared with me after my post into product management,  
 16 when I looked after RS5000. In the first sort of three  
 17 or four weeks really, things were shared with me about  
 18 the testing of the product. And then when I tried to be  
 19 honest and open about it and talk to people about it, it  
 20 didn't really go very -- it didn't go very far.  
 21 Q. We'll come to the detail of that later on, I think, this  
 22 morning.  
 23 You said there were, I think, two instances, and the  
 24 first one didn't go very well?  
 25 A. That's the one I'm talking about, yeah.

20

1 Q. Right. We will come to the detail. But did you try to  
 2 escalate your concerns at the time? This is late 2014,  
 3 I think.  
 4 A. No, I didn't, because -- I didn't try and escalate my  
 5 concerns because I didn't know how to, if I'm honest  
 6 with you. I didn't know -- I was very new to the job,  
 7 I was new to -- I'd never been involved with testing  
 8 before, I'd never viewed a test certificate before.  
 9 I was very, very new to the job. And I relied on people  
 10 around me to really help me with that.  
 11 Q. What was it that didn't go well? You said the first  
 12 time it didn't go --  
 13 A. Well, I thought I was doing the right thing by reporting  
 14 the tweaks I found on the design of the 8414-2 test.  
 15 Q. Right.  
 16 A. I thought I was doing my job by reporting those tweaks,  
 17 by telling Mr Evans about those, as I remembered them at  
 18 the time. Yeah. I thought -- I thought that was --  
 19 I thought that was news.  
 20 Q. Right.  
 21 A. I really did.  
 22 Q. What did he say; do you remember?  
 23 A. I can't remember, if I'm honest. I think the emails --  
 24 I can only -- it's the emails that have -- that I've  
 25 used to really jog my memory and bring this all to --

21

1 you know, into my statement.  
 2 Q. You say "tweaks", you referred the tweaks to him.  
 3 What's that a reference to?  
 4 A. The things that -- some of the things that Mr Roper  
 5 revealed to me in the handover and also some of the  
 6 things Mr Hayes revealed to me in the handover.  
 7 Q. Okay. Well, we'll come to those very shortly.  
 8 Just coming back to where we were, I think we can  
 9 just go to the head of this email run. There is one  
 10 further question, I think, or set of questions, I've got  
 11 for you on this.  
 12 He responds to you on 8 February, on page 1  
 13 {CEL00002064/1} by saying:  
 14 "Yes, but not 'throughout' the product"  
 15 And you then say at the top:  
 16 "Ok, we can discuss later when we meet."  
 17 Do you remember whether you did have a discussion  
 18 with Joe Mahoney --  
 19 A. No, I really don't.  
 20 Q. You don't?  
 21 A. I don't remember.  
 22 Q. Now, you can see that the topic or subject matter of  
 23 this email run is "RS Fire claims". What was that  
 24 about; do you know?  
 25 A. I know in early 2017 -- I don't know, I don't recall

22

1 this email specifically. But as I look at this now and  
 2 I speak to you now about this, I think I do remember in  
 3 early 2017 we were doing -- there was some call from the  
 4 market for a European fire class. So at that time the  
 5 products had only a class 0 fire performance, but  
 6 I think for fire engineers they wanted -- if I remember  
 7 this correctly, I think fire engineers wanted more  
 8 information. And as such, the Euroclass, we needed to  
 9 test the product to --  
 10 Q. I see.  
 11 A. And I think fire claims -- I don't know. I'm trying,  
 12 but I don't know.  
 13 Q. I follow.  
 14 A. I think maybe it's to do with that.  
 15 Q. Right. But you don't know --  
 16 A. I don't know for sure, no. It's not concrete in my  
 17 mind.  
 18 Q. Now, I just want to ask you about the corporate culture  
 19 at Celotex. We've covered a little bit of that.  
 20 Can we go to your statement, please, at page 12  
 21 {CEL00010055/12}, and let's look together at  
 22 paragraph 25. You say there:  
 23 "Saint-Gobain acquired Celotex while I was working  
 24 there. I felt there were different working cultures as  
 25 between Celotex and Saint-Gobain and I think it took

23

1 a while for the two cultures to bed in together, and  
 2 that this spanned the build-up to the launch of RS5000  
 3 and continued for some time after that as well."  
 4 In the next paragraph, paragraph 26, you say this:  
 5 "I felt that the approach to product development was  
 6 very different. My understanding of the Celotex  
 7 approach was along the lines of 'test; get a pass;  
 8 launch'. In contrast my understanding was that the  
 9 Saint-Gobain approach was along the lines of 'test;  
 10 pass/fail; learn; retest; pass/fail; learn some more and  
 11 launch when 150 per cent certain' -- in other words,  
 12 testing to understand its point of failure."  
 13 A. Yes.  
 14 Q. Then you say:  
 15 "I found the Celotex culture under which I worked  
 16 influenced the way I approached my job pre-June 2017."  
 17 Then you go on to explain what happens after  
 18 June 2017, with the appointment of the new technical  
 19 director.  
 20 A. Yes.  
 21 Q. And you learnt more about the way Saint-Gobain did  
 22 things.  
 23 A. Another way of doing things, yes.  
 24 Q. Yes, another way of doing things.  
 25 To be clear, do you mean here that the Celotex

24

1 culture of "test, get a pass, launch" really continued  
 2 for you during your whole time as product manager?  
 3 A. Yes.  
 4 Q. Thank you.  
 5 Now, you told us before that you took over as  
 6 product manager for RS5000 on Mr Roper on  
 7 1 October 2014, but you had a handover from him --  
 8 A. Yes.  
 9 Q. -- in September of that year.  
 10 A. Yes.  
 11 Q. You deal with that at paragraph 61 and following of your  
 12 statement at page 49 (sic) {CEL00010055/21}. Let's just  
 13 look at paragraph 61, just to remind you of what you say  
 14 in that paragraph. Page 49 (sic).  
 15 You say there:  
 16 "I inherited RS5000, as Product Manager, on  
 17 1 October 2014."  
 18 Then in the third line you refer to Mr Roper  
 19 planning:  
 20 "... a handover meeting during September 2014, while  
 21 I was still working as a Technical Services Officer."  
 22 Then you've got an email there, and then a "written  
 23 summary" is what you refer to in paragraph 62.  
 24 Let's just look at the written summary then. This  
 25 is at {CEL00001024/1}. That's the email he sends to

25

1 you, which is blank, but that's the one you refer to in  
 2 your statement. The handover document itself is at  
 3 {CEL00001025/1}. So that gives you the date, the email  
 4 gives you the date; this gives you the document.  
 5 Do you remember seeing this document at the time?  
 6 A. Yes, yes.  
 7 Q. You do. It's entitled "Celotex RS5000". Just on that,  
 8 did you have any handover specifically in relation to  
 9 any other product or just Celotex RS5000?  
 10 A. I had a handover on the -- yes, there was another  
 11 product that was handed over to me.  
 12 Q. Which was that?  
 13 A. It was a -- it was in development. It was a full fill  
 14 cavity wall solution.  
 15 Q. Right. Was there a similar document like this that  
 16 Jon Roper prepared for that product?  
 17 A. Maybe. I -- I can't recall it, but I'm sure there was.  
 18 Q. Right, I see.  
 19 A. Yeah.  
 20 Q. Under "Overview", it says:  
 21 "Celotex RS5000 was launched on 5th August, 2014  
 22 following successful testing to BS 8414-2:2005 as  
 23 Celotex' premium solution for rainscreen cladding  
 24 applications below and above 18 metres. The exclusion  
 25 of Celotex solutions in buildings above 18 metres in

26

1 height has historically been one of the main product  
 2 gaps against phenolic and accounts for circa £15M of  
 3 Kingspan's Kooltherm annual turnover. Celotex RS5000  
 4 passed on the second attempt of testing after a slight  
 5 variation to the construction was made second time  
 6 round."  
 7 Now, you say in your statement that Mr Roper talked  
 8 you through the changes. At that meeting, did he tell  
 9 you about the addition of a 6-millimetre magnesium oxide  
 10 panel at the level 2 thermocouples and also at the top  
 11 of the rig?  
 12 A. No, he didn't.  
 13 Q. He didn't.  
 14 Now, let's look at the handwritten notes I think you  
 15 did from that meeting. This is {CEL00002555/1}, please.  
 16 Are those those notes? Are those your notes of the  
 17 meeting?  
 18 A. Yes, they are.  
 19 Q. You can see the date in the top left-hand corner:  
 20 26 September 2014. Is that correct? That's the date  
 21 you refer to at paragraph 63 of your statement  
 22 {CEL00010055/22}.  
 23 A. Yes.  
 24 Q. You can see at the top of the page that it refers to:  
 25 "BS 8414-2:2005 -- Defines Test Parameters

27

1 "BR135 -- Assesses the results of fire test and  
 2 gives the pass or fail."  
 3 A. Yes.  
 4 Q. Is that something that Mr Roper explained to you?  
 5 A. Yes, I think he would have -- I think he -- well, by my  
 6 notes there, I've written down that there was a test and  
 7 then there was a document which had the pass/fail  
 8 criteria.  
 9 Q. Was this news to you, this technical detail, or was it  
 10 something you had some training on in the past?  
 11 A. I was aware -- as a technical officer, I was aware that  
 12 these two documents -- but, yes.  
 13 Q. Yes. He then goes on, a third of the way down the page,  
 14 to cover Kingspan's K15 product. Do you see it says:  
 15 "Kingspan 2006 -- Tested to part 1.  
 16 "Re-tested to part 2 -- recently -- in last  
 17 three months.  
 18 "-- Kooltherm £60m per year ..."  
 19 And then it says something, "same ..." Can you read  
 20 that? Can you read the word?  
 21 A. "Source", "Source Comet". It's the source of the  
 22 information where Jonathan has -- Jon Roper has found  
 23 that information.  
 24 Q. What does it say, "Source" what?  
 25 A. "Source Comet intel". It could be a --

28



1 Q. Or could it be "confidential"?

2 A. No, it's C-O-M-E-T, "Comet", "intel".

3 Q. "Comet intel"?

4 A. Yes.

5 Q. What is "Comet intel"? Is it a database,

6 an intelligence database?

7 A. Yeah, I --

8 Q. It might be?

9 A. I don't know for now.

10 Q. Right. Then:

11 "K15 £15m biggest contributor to [something]

12 "Created a market and no one challenged it."

13 When you say "Created a market and no one challenged

14 it", what did that mean?

15 A. That's -- that -- I've written it down as he said it to

16 me.

17 Q. Right. Did you understand him -- let me just take this

18 slowly.

19 A. Yeah.

20 Q. Did you think that Jon Roper meant that K15 had no

21 commercial competitors above 18 metres, or did you think

22 that he meant that no one had challenged the genuineness

23 of the basis on which K15 had acquired and maintained

24 its market dominance, do you think?

25 A. I think it was the first one you said.

29

1 Q. The first?

2 A. Yeah.

3 Q. Right.

4 Underneath that, on the right-hand side of the page,

5 it reads:

6 "NHBC -- Historically

7 "Yes. 2014 not sure"

8 Do you remember what that was about?

9 A. Ah, yeah, I think NHBC historically have always

10 accepted, but after sort of 2014 they perhaps weren't --

11 weren't so sure about K15.

12 Q. Well, you're in September 2014, and you say in your

13 answer just now, "but after sort of 2014 perhaps weren't

14 ... so sure".

15 A. Yeah.

16 Q. Do you remember what Jon Roper was telling you on

17 26 September about --

18 A. Yeah --

19 Q. -- what was happening in 2014 with the NHBC?

20 A. Yes, I think he was -- I think he was -- I think the --

21 I think the 2014 is -- references now.

22 Q. Right.

23 A. So at that time, now, currently, they weren't sure.

24 Q. What were they not sure about; do you remember?

25 A. Well, as I -- as I wrote that down, I don't know. But

30

1 I later went on to learn, in my time working with the

2 products and engaging with the NHBC, I later learnt

3 that, you know, they had questions about the test.

4 So ...

5 Q. Questions about whose test?

6 A. Sorry, I've got confused. So they had questions -- they

7 had reason to question the market, the K15.

8 Q. Right. So ... I see. I see.

9 Underneath that, it says:

10 "Lobbying: 8414 -- set criteria and set a [standard]

11 (pass/fail)."

12 What was that a reference to?

13 A. Again, I've written it down as he said it to me. I'm

14 sure he's -- I'm sure he's put a set of words around

15 that, which is what I -- which is why I've written it

16 down. But whether I've understood that or -- I don't

17 remember today. I don't remember. But I'm sure if I've

18 written it down, he must have explained something to me.

19 Q. Right. Just above that -- I should have shown you this

20 first -- it says:

21 "Tested masonry

22 "External K15

23 "Cement particle board cladding"

24 A. Mm.

25 Q. Do you remember what that was about?

31

1 A. Yeah, that's the build-up of the -- that's the build-up

2 of the 8414 test that Kingspan did.

3 Q. Right.

4 A. As I understood it from his --

5 Q. Was it in that context that you wrote down or he said to

6 you, "Lobbying: 8414"?

7 A. Sorry, yes.

8 Q. Right.

9 A. Yes, that is.

10 Q. So who did you think was lobbying?

11 A. Again, I don't know. The honest answer is -- it's not

12 that I don't know, I'm sure he would have said

13 something; it's whether it stuck, it's whether I've been

14 aware of it or whether I've taken it in. I don't know.

15 Q. I know it's difficult to recall precisely a meeting

16 six years ago. But was it your impression at the time

17 that the lobbying was being done by Kingspan in relation

18 to K15 or whether it was -- whether Celotex had to go

19 out and lobby?

20 A. No. No. I don't understand why he means there by

21 "lobbying", I really don't, and it certainly wasn't

22 anything to do with Celotex lobbying.

23 Q. All right. Well, let's pick this up a little bit later

24 in the document. If you go to page 5 {CEL00002555/5},

25 please, you can see two-thirds of the way down the page

32

1 on page 5 that there is a box --  
 2 A. Yeah.  
 3 Q. -- which says:  
 4 "8414 provisions -- Revisions ..."  
 5 There is an arrow:  
 6 "... lobby with KS"  
 7 What's "KS"?  
 8 A. Kingspan.  
 9 Q. And what was the reference to "lobby with KS"; do you  
 10 remember?  
 11 A. No. No. When I had this handover, I was still working  
 12 in the technical services team and there was a lot of  
 13 new information, a lot of technical information which  
 14 was coming my way. Some of it I wrote down, and I was  
 15 present when Jonathan -- Jon Roper was talking to me  
 16 about this, but I can't be sure that I took it all in  
 17 and I can't be sure that I understood it. And as I've  
 18 written it down, I can't be sure I fully understand what  
 19 he said to me.  
 20 Q. Right.  
 21 Well, let's see the next line down. There's  
 22 a little heading that says "Benefits":  
 23 "-- PIR/phenolic accepted outside of a system test  
 24 "-- All competition on a level playing field"  
 25 A. Yeah, I don't --

33

1 Q. Do you remember what that was about?  
 2 A. No, I do -- as I spent time working with RS5000 and  
 3 understanding exactly the reality of what -- how -- the  
 4 reality of how it was used on projects and on the  
 5 commercial side of things, you know, I can put some  
 6 meaning to these -- to these two lines. But when  
 7 I wrote this, I don't recall what he means by that. I'm  
 8 sure he was telling me something, but I -- it didn't  
 9 register with me.  
 10 Q. What did you then come to learn later at Celotex which  
 11 would enable you to explain these entries now?  
 12 A. Well, I think the biggest -- the challenge, the biggest  
 13 challenge I experienced working with RS5000 was: how do  
 14 people use it outside of its tested system?  
 15 So I can only -- I can only -- as I've reviewed  
 16 these documents -- because I think once I've written  
 17 this, there's very few times I would have revisited what  
 18 I've written here in my time as product manager. But in  
 19 reviewing the documents, I've seen this, and my  
 20 understanding, you know, is probably along the lines  
 21 of -- I don't know. You know ... it could be that  
 22 Kingspan were trying to, you know, find a way to get the  
 23 systems all accepted.  
 24 I am struggling to put some meaning behind that.  
 25 Q. Now, let's go back to page 2 {CEL00002555/2}. That sets

34

1 out RS5000 --  
 2 A. Yes.  
 3 Q. -- there, and you can see that it says:  
 4 "£50,000 sales in 2 months  
 5 "RS5000"  
 6 On what you knew at the time, was that a lot,  
 7 £50,000 worth of sales in two months?  
 8 A. No. I didn't know that.  
 9 Q. You didn't know one way or the other?  
 10 A. No, I didn't know.  
 11 Q. I follow.  
 12 A. I just wrote that down.  
 13 Q. Then you can see that the whole page -- you can't see  
 14 the whole page, but it's got "TEST 1" at the top of the  
 15 page -- thank you -- and "TEST: 2" at the bottom of the  
 16 page. Test 1 failed, and you can see the build-up  
 17 underneath that, and test 2 passed, and you can see the  
 18 build-up under that.  
 19 If we look at the diagram of the second test, you  
 20 can see there that the build-up is listed, but there's  
 21 no reference there to magnesium oxide or to the use of  
 22 8-millimetre Eternit panels. Is that because Mr Roper  
 23 didn't mention that to you at this meeting?  
 24 A. That's exactly right.  
 25 Q. Did he tell you about any discussions that he'd had with

35

1 the BRE about the test rig used for the successful  
 2 second test?  
 3 A. No.  
 4 Q. Did he tell you anything of Celotex's involvement in the  
 5 BRE test report and how it came to be finalised?  
 6 A. No.  
 7 Q. Did he tell you about any plan to make sure that the BRE  
 8 test report didn't refer to the presence of a layer of  
 9 magnesium oxide or the presence of 8-millimetre Eternit  
 10 panels?  
 11 A. No, it wasn't a topic at all in this handover.  
 12 Q. Not discussed at all?  
 13 A. No.  
 14 Q. Now, if we look at your witness statement at page 23  
 15 {CEL00010055/23}, paragraph 68, please. I just want to  
 16 pop back into that. You say there:  
 17 "Jon Roper highlighted NHBC concerns with the test:  
 18 the cladding thickness, orientation and sheathing board.  
 19 The cladding thickness concern was because the boards  
 20 tested were thicker and were therefore not  
 21 representative of what is commonly used. The  
 22 orientation concern was because when installed there  
 23 were fewer joints i.e. fewer gaps between the cladding  
 24 boards and therefore it was understood there would be  
 25 less air flow within the cavity to fan a fire."

36

1 Did you take from that that the NHBC's concerns in  
 2 particular were whether the rig as tested, or at least  
 3 as they understood that it had been tested, was properly  
 4 representative, was a properly representative system?  
 5 A. Yes.  
 6 Q. Yes.  
 7 If we can then go back to your note, please, at  
 8 page 2 {CEL00002555/2}, we can see at the bottom  
 9 right-hand corner:  
 10 "NHBC concerns -- 3 points.  
 11 "Cladding  
 12 "Orientation  
 13 "Sheathing board."  
 14 So that picks up that point.  
 15 Then at page 5 {CEL00002555/5}, we can see "NHBC  
 16 outcome", at the top of the page:  
 17 "Agreed temp test.  
 18 "Build-up engineered to get a pass."  
 19 A. Mm-hm.  
 20 Q. What did you understand that was a reference to,  
 21 "Build-up engineered to get a pass"?  
 22 A. That the lack of ventilation gaps between the cladding  
 23 boards was -- the lack of ventilation gaps may -- may  
 24 mean that the fire didn't have a chance to -- or the  
 25 test, the fire within the test didn't really get

37

1 a chance -- there wasn't the correct air flow going into  
 2 the cavity in order to feed the fire.  
 3 Q. Right. What about the thickness of the panels?  
 4 A. Yeah, the 12 millimetres, they were thicker than -- so  
 5 the orientation of the board, so they were installed in  
 6 a way which limited the amount of air gaps, and the  
 7 thickness of the board as well I believe was  
 8 questionable.  
 9 Q. Now, you say in your statement at paragraph 84  
 10 {CEL00010055/27} -- and there's no need to go to it,  
 11 I don't think -- that after this meeting you then sought  
 12 further meetings with Jamie Hayes in order to get a more  
 13 detailed technical picture?  
 14 A. Yeah.  
 15 Q. Was the purpose of your wanting a deeper technical  
 16 understanding so that you could equip yourself  
 17 adequately to be able to deal with fire engineers and  
 18 specialists who might ring up and ask about the tests?  
 19 A. It was -- yes. I think I'd been asked to comment on  
 20 a Knauf drawing, which I knew nothing -- I wouldn't have  
 21 known anything about the technical side of the 8414-2  
 22 test. And I spoke -- I asked Jamie to -- I showed Jamie  
 23 the drawing and I asked him his thoughts, because  
 24 I wasn't involved with the -- with either of the two  
 25 Celotex tests. And it just came from there.

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1 And I thought: well, I really ought to know about --  
 2 a little bit more about 8414-2 and the BR 3. So I asked  
 3 Jamie to -- I arranged some time to sit down with Jamie  
 4 and he talked me through it.  
 5 Q. Yes. If we go to page 50 {CEL00010055/50} of your  
 6 witness statement, please, paragraph 189, I think you  
 7 set out there the background in a little bit more  
 8 detail.  
 9 A. Yes.  
 10 Q. Then at the foot of the page, you say in paragraph 189:  
 11 "For clarity, I believe it was on 24 October that  
 12 Jamie Hayes had first told me about his concerns about  
 13 the Celotex test -- this happened because I had raised  
 14 the Knauf test with him."  
 15 Then we go into the sequence, and we'll look at that  
 16 in a moment. And then you spoke a couple of days later.  
 17 You say that your impression was that he was  
 18 concerned about the test. What gave you that  
 19 impression; do you remember?  
 20 A. Yeah, his whole -- his just demeanour, his body  
 21 language, the fact ... Jamie and I have worked together  
 22 for four/five -- I can't remember how many years now --  
 23 four years, and we were very comfortable talking. So he  
 24 didn't really hesitate in telling me what he knew about  
 25 the test, but he did approach it in a way which made me

39

1 think: what's happened then? You know, what's going on?  
 2 Q. Where were you sitting physically in the office? He  
 3 told us he was downstairs --  
 4 A. Yeah, so I --  
 5 Q. -- and Mr Roper was upstairs.  
 6 A. Yeah, exactly. The Knauf drawing I would have spoken to  
 7 him informally about, so I would have either emailed him  
 8 or printed it off and gone down to speak to him  
 9 informally about it, just for his comments. And then  
 10 he -- and then -- and then we arranged one of the  
 11 meeting rooms, we were in one of the meeting rooms when  
 12 we had the test report, the method he had, I think he  
 13 had the 8414 methodology and the BR 135 report as well.  
 14 And we were in -- we were actually in a meeting room.  
 15 Q. Right. When you say "methodology", what are you  
 16 referring to?  
 17 A. Well, just like the 8414 BS document, the  
 18 British Standard, the 8414 method.  
 19 Q. Right. What about BR 135, the publication?  
 20 A. Yes, I think he probably would have had that with him as  
 21 well.  
 22 Q. Now, if we go to paragraph 87 of your statement  
 23 {CEL00010055/28}, you say there:  
 24 "In the build-up to the preparation of this  
 25 statement I have re-read and re-considered some of the

40

1 documents from this period, including documents relating  
2 to the cavity ... barriers ( specifically [DB/14 and  
3 DB/15]), both of which date to this meeting with  
4 Jamie Hayes. He drew document C ... (DB/14) ... and  
5 I annotated document C ... (DB/15)."

6 Those have numbers for the Inquiry and we'll come to  
7 them in a moment.

8 "On reviewing these documents I now recall that  
9 something had happened to do with the cavity fire  
10 barrier detail and that this was mentioned by  
11 Jamie Hayes in my meeting with him. My recollection is  
12 that he told me the only sign of it in the test report  
13 is in the photographs at the back of the test report.  
14 I am pretty sure in hindsight that he mentioned 6mm  
15 oxide board. While at the time I recognised he was  
16 concerned about this, in amongst all the new learning  
17 for me at that time, its significance genuinely didn't  
18 sink in properly with me. From my handover with  
19 Jon Roper the separate issue of the NHBC concerns (such  
20 as gaps between the cladding) is the main thing which  
21 stuck out in my mind."

22 That's what you say there.

23 Let's look at the diagram. Can we go to  
24 {CEL00002686/1}. Is this the diagram --

25 A. Yes.

41

1 Q. -- DB/14 that Mr Hayes drew during --

2 A. Yes.

3 Q. -- the conversation?

4 A. Yes, it is.

5 Q. Was it on 24 October 2014, at the meeting that you have  
6 referred to?

7 A. I don't know, if I'm honest, I don't know when he drew  
8 this. I don't -- I think on the 24th it was informal,  
9 and we sat down more seriously when I had the -- when we  
10 had the 32-page test report. I genuinely can't recall.

11 Q. Right.

12 A. I genuinely don't know if that was then or -- he  
13 wouldn't have done that informally. This was, I think,  
14 when we sat down.

15 Q. How long after 24 October -- which is, I think, the  
16 meeting you refer to -- did you sit down with  
17 Jamie Hayes?

18 A. It would -- it would have been shortly after, I would  
19 have thought.

20 Q. Shortly after you got the full report?

21 A. Yes, yeah.

22 Q. Which was on 27 October?

23 A. I would have thought so, yes.

24 Q. Yes, I see. So these two meetings were only a few days  
25 apart; is that right?

42

1 A. I think there was something to talk about, so, yeah, we  
2 sat down.

3 Q. Yes, I see. Okay.

4 Now, just looking at this document here on the  
5 screen, do you remember if the hatched section with the  
6 thick black line is where he told you the 6 millimetres  
7 magnesium oxide was?

8 A. When you say "hatched", what do you mean?

9 Q. Cross-hatch, so it means crosses.

10 A. Cross-hatch, yeah.

11 Q. A third of the way down the drawing.

12 A. Yes, I think that -- I think that piece of the drawing  
13 refers to where the cavity fire barrier is.

14 Q. And what about --

15 A. I think all -- I think all of the hard lines are  
16 referring to areas -- are referring to the same areas.

17 Q. Right.

18 Now, you said in your statement that Mr Hayes told  
19 you something about a cavity barrier visible only at the  
20 back of the test report, and you're pretty sure in  
21 hindsight that he mentioned 6 millimetres magnesium  
22 oxide.

23 Do you remember, was that the first time that anyone  
24 had told you about the presence of 6 millimetres of  
25 magnesium oxide on the rig?

43

1 A. Yes.

2 Q. Right. What was your reaction to that?

3 A. I was shocked.

4 Q. Right.

5 A. I was a little bit ... (a) I didn't think Celotex would  
6 do that, to start with. I didn't think Celotex --  
7 I didn't believe -- I didn't believe Celotex and the  
8 company I was working for would -- would do what we,  
9 you know, would -- would do that.

10 Q. Right.

11 A. I trusted.

12 Q. Just to go back, we'll come back into the detail in  
13 a moment, but just on that answer, did you seek to take  
14 your concerns -- your shock, as you've described it --  
15 to Mr Evans?

16 A. I did. I took it to him in -- well, I don't know if --  
17 I don't know I took it to him verbally, because Jamie  
18 shared this information with me and I didn't know what  
19 to do with it, if I'm honest with you. But the whole of  
20 me learning about this came into the context of the  
21 Knauf system.

22 So when I was asked to comment on the Knauf system,  
23 I shared what I'd learnt, I shared what I'd learnt about  
24 the test to the management of Celotex. And I shared  
25 it -- there was an email I think I've written, which

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1 I've seen in evidence, but I wrote that email with  
 2 Jamie's support. Jamie would have helped me write that  
 3 email.  
 4 Q. Right. Do you remember when that was?  
 5 A. No --  
 6 Q. Right.  
 7 A. -- I don't, not without looking at the evidence.  
 8 I couldn't ...  
 9 Q. We may come to that. But did you go back to Jon Roper  
 10 and ask him why hadn't told you about the 6 millimetres  
 11 magnesium oxide at your handover meeting?  
 12 A. No, I didn't. No, I didn't.  
 13 Q. Did you seek to go to Paul Evans and have a meeting with  
 14 him or a discussion with him?  
 15 A. No, I didn't.  
 16 Q. Why's that?  
 17 A. Because at the time when I learnt this information, it  
 18 was -- I think when I learnt this information I was  
 19 about three or four weeks into my new post. I just --  
 20 I didn't know what to do with it, if I'm honest with  
 21 you. I -- I wish -- it is a regret of mine now. There  
 22 are many regrets that I've had, you know, in reviewing  
 23 this evidence.  
 24 And there's lots of opportunities, I think, where  
 25 I wish I had taken Paul Evans to one side and sat him

45

1 down and said, "Look ..." Not just a ten-minute -- not  
 2 just a section of ten minutes at the end of our monthly  
 3 catch-up meeting, but actually in those -- perhaps in  
 4 that time I could have said to him, "Look, with RS, we  
 5 need more time than ten minutes. Please can we sit down  
 6 and put an hour to it?"  
 7 And I wish I had invited Jamie. And I wish I --  
 8 Jamie and I -- because we didn't really talk about it  
 9 much, Jamie and I; it was like a secret. I don't know,  
 10 it was just something that we didn't talk about. But  
 11 I wish -- I wish we had, I really do.  
 12 Q. Did you get the impression from anything Jamie Hayes  
 13 said to you at the time that Paul Evans didn't know  
 14 about the presence of the 6-millimetre --  
 15 A. I don't -- I don't recall. I don't recall Jamie telling  
 16 me about who knew and who didn't know, I really don't.  
 17 Q. Okay.  
 18 Now, going back to the documents, can we go to  
 19 {CEL00009742/1}. We need, I think, page 2  
 20 {CEL00009742/2}, please, of that. This is an email from  
 21 you, on 27 October 2014, to Jon Roper, "Subject: Full  
 22 32 page fire report":  
 23 "Hi Jon  
 24 "Will you please email the full 32 page fire report  
 25 for RS5000."

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1 Then if we just scroll up page 2 a little bit, to  
 2 the bottom of page 1 {CEL00009742/1}, you can see that  
 3 he responds the same day to you, attaching the full  
 4 32-page fire report.  
 5 A. Yes.  
 6 Q. So that's the date when you received it from Jon Roper.  
 7 And that's the basis of the correction you made to your  
 8 witness statement, I think --  
 9 A. Yes, yes.  
 10 Q. -- to your evidence?  
 11 A. Yeah.  
 12 Q. Now, if we go to {CEL00008507/1}, this is the report  
 13 itself. In fact I think it's 33 pages. It's number  
 14 295369, dated 1 August 2014.  
 15 If you go to page 13 {CEL00008507/13} on that, we  
 16 can see that there's a photograph captioned "Figure 3.  
 17 The system prior to testing". Now, this is, I'm afraid,  
 18 a black and white version, but that I think is what you  
 19 received.  
 20 Did you receive this in black and white?  
 21 A. I think I did.  
 22 Q. Right.  
 23 A. Yes.  
 24 Q. You can see, just looking at the rig, that there are two  
 25 colours of panel: there's a series of white sections of

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1 panel, and then darker sections towards the top of the  
 2 rig and at the very top of the rig. Did you notice that  
 3 at the time?  
 4 A. I must have done.  
 5 Q. Right. On the right-hand side of the page -- well, let  
 6 me just tell you: we know from Mr Roper's evidence that  
 7 that was where the 8-millimetre Marley Eternit panels  
 8 were, and they were orange as opposed to white.  
 9 You can see on the right-hand side, although it's  
 10 not entirely clear what order it's to be read in, you've  
 11 put:  
 12 "WTF? MgO 6mm + 8mm marley eternit panel"  
 13 A. Yes.  
 14 Q. Now, just dealing with the measurements first, in your  
 15 statement -- and I don't think it's necessary to go to  
 16 it; it's paragraphs 89 and 90 on page 28  
 17 {CEL00010055/28} -- you say that your understanding of  
 18 the tested system now is that a 12-millimetre cladding  
 19 board was used throughout the rig, and you say that your  
 20 annotations suggests that you didn't fully understand  
 21 that at the time.  
 22 A. Yes.  
 23 Q. In fact, I think you did know, didn't you -- because  
 24 Mr Hayes had told you -- that there was an 8-millimetre  
 25 Marley Eternit rig at those two points?

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1 A. Yes.  
 2 Q. Right. Did he tell you that before or after you  
 3 received the report?  
 4 A. I -- I think ... it's difficult, it's difficult to know.  
 5 I think he told me about -- he told me ... it's  
 6 difficult to recall. I think he must have said to me --  
 7 I don't think he told me in that specific detail.  
 8 I think he probably listed some things, including the  
 9 orientation of the board, the lack of gaps and some  
 10 reinforcements to ... yeah, some reinforcements.  
 11 I don't think he went into that specific detail.  
 12 I don't -- if he did, I don't remember it.  
 13 Q. When you sat down with Jamie Hayes the second time, did  
 14 you discuss this report?  
 15 A. Yes.  
 16 Q. You did. Can you recall the context or occasion on  
 17 which you wrote these words on this --  
 18 A. Yes, we were going through -- he was -- we were going  
 19 through the report, he was, you know, going through, and  
 20 then we got -- we got to the photographs and stuff, and  
 21 that's when he showed me. Because obviously this  
 22 picture, you can see.  
 23 Q. Right. So can we take it that Mr Hayes explained to  
 24 you, and you recorded, that there was a 6-millimetre  
 25 magnesium oxide board at that point on the rig, behind

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1 an 8-millimetre panel of Marley Eternit?  
 2 A. Yes.  
 3 Q. So with that in mind, can I just ask you to look at  
 4 paragraph 90 of your statement, 89 and 90, on page 28  
 5 {CEL00010055/28}. We probably need both. You say  
 6 there:  
 7 "On thinking back, and putting all of this together,  
 8 it is my understanding today that in the re-test, a 12mm  
 9 cladding board was used throughout the fire test rig,  
 10 and at separating floors where a cavity fire barrier was  
 11 installed this was reinforced with 6mm magnesium oxide  
 12 board at those junctions -- however, I wasn't present at  
 13 the tests and so I don't actually have direct knowledge  
 14 of what happened.  
 15 "I note that at document C ..."  
 16 Which is what we've been looking at.  
 17 "... I have written 6mm + 8mm (see notes at p.12 of  
 18 the document). This suggests to me that I did not fully  
 19 understand this at the time since (based on my  
 20 understanding in the preceding paragraph) it seems I got  
 21 the figures wrong."  
 22 A. Mm.  
 23 Q. In fact, isn't it correct, given what you've told us  
 24 today, looking at the test report and your notes on it  
 25 and looking at the sequence again, actually your

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1 statement is incorrect and that you did understand what  
 2 Mr Hayes had told you, which you then wrote down  
 3 correctly on the report?  
 4 A. No, I think the -- my statement says "12mm cladding  
 5 board" because when I reviewed these documents, that  
 6 is -- that is how I understood it. When it says --  
 7 I didn't know, I honestly, honestly did not know how  
 8 that, that detail was put together. And I wrote "8mm"  
 9 and "6mm", I did, but once I -- I probably never  
 10 revisited -- I probably put that -- I probably put that  
 11 document into a drawer and I never looked at it again.  
 12 And there was lots of things going on at that time  
 13 when I learnt about these details, and I think the  
 14 detail itself, as Jamie explained it to me, over time it  
 15 receded from my mind. It didn't -- it didn't stick in  
 16 my mind, for whatever reason. And it's only when  
 17 I reviewed these documents to assist the Inquiry that  
 18 I was shown these documents, I was shown a few  
 19 documents, and then bells started ringing and I was:  
 20 yeah, something happened at the cavity fire barrier.  
 21 For me, the thing -- the thing what I took away from  
 22 that period of time, and moving forward, were the NHBC  
 23 concerns.  
 24 Q. We may come to that later. Just on this point though,  
 25 you say in paragraph 90 {CEL00010055/28} that where

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1 you've written "6mm + 8mm", you say:  
 2 "... it seems I got the figures wrong."  
 3 In fact what I'm asking you is whether that's really  
 4 right, because --  
 5 A. Yes, I think -- I've written 8 and 6 millimetres down,  
 6 and I think at that time, when I was sitting with Jamie,  
 7 he would have said to me 8 and 6 millimetres, and I've  
 8 written it down.  
 9 Q. Exactly. So you wrote them down correctly?  
 10 A. I wrote them down correctly, yeah.  
 11 Q. Right. So what figures have you got wrong?  
 12 A. I've got my 12-millimetre figure wrong.  
 13 Q. Right, thank you. That clarifies it.  
 14 Going back, if we can, to the report, at  
 15 {CEL00008507/13}, we've covered the figures, but you've  
 16 also marked it up "WTF". Is that a shorthand for  
 17 surprise and alarm?  
 18 A. It's shock. Shorthand for shock that --  
 19 Q. Yes.  
 20 A. -- this could have happened, yeah.  
 21 Q. Yes.  
 22 Now, at paragraph 92 of your statement  
 23 {CEL00010055/29}, if we can just dot back to that, you  
 24 say:  
 25 "The reinforcement is not mentioned in the test

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1 report or the marketing literature ."

2 Did that occur to you, did that observation occur to

3 you at the time?

4 A. No. No, it didn't.

5 Q. You say at paragraph 93, by reference to the annotation

6 "WTF" on the BRE report, you say, a quarter of the way

7 down:

8 "My writing 'WTF' clearly shows that I recognised

9 there was a concern about this area. I assume I do not

10 need to expand on what 'WTF' stands for. As I have

11 said, while at the time I recognised Jamie Hayes was

12 expressing concern about this, and my annotation

13 reflects that, in amongst all the new learning for me at

14 the time its true significance genuinely didn't sink in

15 with me."

16 But in fact you were shocked because Jamie's concern

17 reflected your "WTF" reaction, didn't it?

18 A. Sorry, could you say that again?

19 Q. Well, is it right that in fact Jamie Hayes' concerns, as

20 you could observe them, were consistent with your own

21 reaction, "WTF"? So you were both concerned about the

22 same thing?

23 A. I think -- well, I think -- yes, I mean, I can only ...

24 we were shocked. I was shocked that ... I was just --

25 I was shocked that it had happened.

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1 Q. When you took over from Jon Roper, did you have

2 an opportunity to review the launch presentation

3 material that all the sales executives had been given in

4 early August?

5 A. No, I did not.

6 Q. Right. Did you look at any of the marketing literature

7 which had been designed by Celotex and was then being

8 used to sell RS5000 into the market?

9 A. Yes, I was first introduced to the marketing -- the --

10 sorry, yeah, the literature for RS5000 when I was

11 a technical service officer .

12 Q. Right. When you discovered the presence of

13 6 millimetres of magnesium oxide and 8 millimetres of

14 Marley Eternit panels on the test rig, did you compare

15 that knowledge, what you'd learnt, with what was

16 actually stated about the build-up of the components of

17 the test rig in the marketing literature?

18 A. Is ... I did not. I didn't. It didn't occur to me to

19 not -- do that.

20 Q. Did there come a time after this period, after

21 October 2014, when it occurred to you that in fact the

22 marketing literature being used by Celotex made no

23 mention at all of the presence of the 6 millimetres of

24 magnesium oxide or the 8 millimetres of Marley Eternit?

25 A. The -- the whole -- the whole topic of the 6 and

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1 8-millimetre Marley Eternit around the cavity receded

2 from my mind. It really didn't imprint itself .

3 I didn't -- there was a lot of technical information

4 that I was being shown at the time and, you know,

5 I remember Jamie -- well, I've -- I remember talking

6 about this, and there was a lot of technical

7 information; some of it stuck, some of it didn't.

8 I thought to myself: is Jamie being -- the detail ,

9 I didn't understand it. We didn't -- I didn't deal with

10 cavity fire barriers as a technical service officer .

11 And I suppose somewhere in the back of my mind,

12 you know, I thought: well, it's passed -- it's passed

13 a test. So I didn't honestly -- I -- it just -- it

14 genuinely receded.

15 I -- I could better understand and take on board and

16 absorb the NHBC concerns that were raised in terms of

17 the orientation of the board, the gapping, the

18 ventilation . That, as I say -- I think I say it in my

19 statement -- that's -- I took that on more easily

20 because that's something that I was -- the amount of

21 ventilation is something that I would have considered in

22 a U-value calculation , which --

23 Q. Well, also those facts weren't a secret, were they?

24 A. No. No, that's -- no, they weren't a -- they weren't

25 really a secret. They were talked about, they were

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1 talked about, that's exactly right.

2 Q. Can you just explain for us why or how come something

3 that was so shocking when you discovered it could recede

4 from your mind?

5 A. I don't know. I don't know, other than I haven't --

6 it's not something that I deliberately wanted to hide.

7 It's something -- because I think I would have -- if

8 I had recalled it and known about it, I would have

9 shared it with -- with the management of Celotex,

10 because I shared other details , some which, you know,

11 weren't talked about; I still was open about those.

12 So I think -- I honestly think that if I had -- if

13 I had have understood that and logged it , I would have

14 shared that as well. I wasn't -- I wasn't afraid to

15 share difficult information.

16 Q. So why didn't you share this?

17 A. Because it didn't register with me, it just didn't.

18 Even though the "WTF" is there, and I have explained my

19 shock, I wonder if -- you know, I think my shock was

20 more to do with the fact that: my God, the test , it's

21 been like -- you know, how did they do that?

22 Q. How did they do that. Why did they do that, did that

23 occur to you? Did you ask yourself the question: what

24 was the point of the 6 millimetres of magnesium?

25 A. It's really difficult , because I've obviously -- I've

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1 been able to -- so much more has been revealed to me as  
 2 I've been reviewing other Celotex people's witness  
 3 statements and things, and evidence. And at the time  
 4 it's ...  
 5 I can just -- I can honestly say that that detail  
 6 did not stick with me. I didn't understand it. It was  
 7 another layer of technical information I was taking in.  
 8 I was taking in about 8414-2 test methodology, the  
 9 positioning of thermocouples and other things that go on  
 10 in that, and this was another detail. And it -- and  
 11 some of -- other details of the fire test have stuck  
 12 with me more easily, but this one didn't.  
 13 Q. What was it, can you remember, that was so shocking  
 14 about the presence of 6 millimetres --  
 15 A. I didn't think Celotex would -- would do this. I didn't  
 16 think Celotex would -- I thought Celotex was a good  
 17 company. I thought Celotex was -- prided itself on  
 18 doing the right thing, being honest, and I was really  
 19 shocked by this.  
 20 Q. You say "do this": do what?  
 21 A. Well --  
 22 Q. What was the core of the reason for your shock?  
 23 A. Well, it appeared to me that Celotex had engineer -- had  
 24 taken some materials and installed them to pass the  
 25 test.

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1 Q. That occurred to you at the time, did it?  
 2 A. Yes.  
 3 Q. Did that occur to you at the time as a particularly  
 4 serious and misleading act?  
 5 A. There were -- there were -- in my mind at the time there  
 6 were a handful of things about the test which had been  
 7 used to engineer a pass, so to speak. And in my  
 8 opinion, you know, at the time, I thought the  
 9 12-millimetre thickness of the board, the orientation of  
 10 the board, the lack of cladding, I remember Jamie  
 11 talking to me about how there were some reinforcements  
 12 around the actual fire chamber, and all of these -- all  
 13 of these details I have been very open about and in  
 14 my -- they were part of -- they were part of this story,  
 15 this part of the story.  
 16 But the detail about the cavity fire barrier, I did  
 17 not -- it did not register with me.  
 18 Q. Right.  
 19 Now, if we go to paragraph 96 of your statement  
 20 {CEL00010055/30}, please. It's a long paragraph, on  
 21 page 30 there. But if we just look, please, at the  
 22 first quarter of it, you say in the second line:  
 23 "... I am also able to recall Jamie Hayes saying (at  
 24 the meeting I describe above at paragraphs 84 and  
 25 85) ..."

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1 That's the second meeting, I think:  
 2 "... that there had been a request that the  
 3 photographs showing the reinforced cladding should not  
 4 be included in the report."  
 5 Did Mr Hayes explain why?  
 6 A. No, he just -- he -- it was -- it was a -- he didn't  
 7 explain why, he -- it was just -- he was just telling  
 8 that part of the story to me, I think. He was just  
 9 saying they tried to hide it. Maybe that's -- maybe  
 10 that's why.  
 11 Q. Who's the "they"? Who tried to hide it?  
 12 A. I don't ... well, the people that did the testing.  
 13 Q. Oh, was that what you understood?  
 14 A. The people from Celotex that did the testing.  
 15 Q. Right.  
 16 A. Sorry.  
 17 Q. You go on to say:  
 18 "The reinforcements around the cavity fire barrier  
 19 were not described in writing or diagrams within the  
 20 report and since I was not involved in the test, I am  
 21 unable to assist as to how or why this is so, but  
 22 Jamie Hayes told me that because of this, the BRE  
 23 representative said he couldn't leave the photographs  
 24 out, hence they remained in the report."  
 25 It's a long sentence, but what is the "this" that

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1 you're referring to that Jamie Hayes said?  
 2 "... Jamie Hayes told me that because of this the  
 3 BRE representative said he couldn't leave the  
 4 photographs out ..."  
 5 What is the "this"? (Pause).  
 6 A. I don't know. It's hard to explain. I don't know.  
 7 Q. Just leaving aside the text of the statement, casting  
 8 your eye away from it, do you remember what reason  
 9 Jamie Hayes gave you for the BRE representative saying  
 10 that the photographs couldn't be left out? (Pause).  
 11 A. I mean, I can ... I mean, yes, I can look at it,  
 12 obviously, I can -- when I look at it today, it seems  
 13 obvious to me why the BRE would say that: because they  
 14 wanted to, you know, show evidence of the tested system  
 15 as such.  
 16 Q. But at the time?  
 17 A. But at the time, but at the time how Jamie explained it  
 18 to me, and this, it's very -- I honestly can't recall.  
 19 I genuinely cannot recall exactly that.  
 20 Q. Did you read the report, or rather that part of the  
 21 report that spelt out what the components of the test  
 22 rig were?  
 23 A. We must have done. We must have looked at it.  
 24 Q. Did it strike you as -- well, did you notice that in  
 25 that description, there was no reference there to the

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1 6 millimetres of magnesium oxide or the 8 millimetres of  
 2 Marley Eternit panels?  
 3 A. I think ... I'm ... I don't know is the honest answer.  
 4 I honestly don't recall whether we looked at that and  
 5 Jamie said, "Look, this is where it should have been".  
 6 I think it's -- you know, from what -- how I've  
 7 learnt about things moving on, you know, the cavity  
 8 fire -- the cavity fire barrier detail would have  
 9 a separate -- wouldn't be included in the main drawing  
 10 of the 8414, wouldn't be a cross-section through it.  
 11 I don't -- yeah.  
 12 Q. So you can't remember? You can't remember comparing the  
 13 list of the details of the components with what you then  
 14 learnt about the actual, true components of the rig?  
 15 A. I think if I'd -- if I had ... I don't know. I would  
 16 have -- I think I would have put it in my statement,  
 17 I don't know, if I had remembered it.  
 18 Q. Right.  
 19 Do we take it from your evidence thus far that you  
 20 took no steps to alert any of your colleagues, or  
 21 anybody else, that the test report incompletely  
 22 described the May 2014 test rig build-up?  
 23 A. That's correct.  
 24 Q. Again, why is that?  
 25 A. Because I'm not sure I knew how to talk about it at that

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1 time. In -- as I said, I wish I had taken -- had  
 2 organised a separate meeting and taken people into  
 3 a meeting room and talked about it more formally. But  
 4 this -- the whole -- the whole knowledge of me coming up  
 5 with this understanding the test as such is to do with  
 6 the Knauf drawing. So ...  
 7 Q. Right.  
 8 Now, from this time onwards you're clearly aware, as  
 9 you've told us, of the presence of the magnesium oxide  
 10 and the 8 millimetres of Marley Eternit. Can we take it  
 11 from what you're saying that from that time onwards you  
 12 knew that the marketing literature was misleading, in  
 13 that it didn't refer to either of those elements of the  
 14 build-up either?  
 15 A. As I sit here now, and having reviewed all the evidence,  
 16 then yes.  
 17 Q. Right. And similarly the test report itself?  
 18 A. Yes, as I sit here now and having reviewed all the  
 19 evidence and discussed this with other people, then yes.  
 20 MR MILLETT: Yes.  
 21 Now, Mr Chairman, that's probably a convenient  
 22 moment. I'm going to turn to a different topic.  
 23 SIR MARTIN MOORE-BICK: Yes, well, it probably is in that  
 24 case, isn't it? Good, thank you.  
 25 Ms Berger, we're going to have a short break now.

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1 We'll come back and continue at 11.35, please. I'll  
 2 have to ask you, while you're out of the room, not to  
 3 talk to anyone about your evidence or anything to do  
 4 with it. All right?  
 5 THE WITNESS: Yeah.  
 6 SIR MARTIN MOORE-BICK: Right, would you like to go with the  
 7 usher then.  
 8 THE WITNESS: Thank you.  
 9 (Pause)  
 10 SIR MARTIN MOORE-BICK: Thank you. 11.35, please.  
 11 (11.20 am)  
 12 (A short break)  
 13 (11.37 am)  
 14 SIR MARTIN MOORE-BICK: Right, are you ready to carry on,  
 15 Ms Berger?  
 16 THE WITNESS: Thank you.  
 17 SIR MARTIN MOORE-BICK: Thank you.  
 18 Yes, Mr Millett.  
 19 MR MILLETT: Ms Berger, can I ask you to be shown that,  
 20 please, the full report, the full test report,  
 21 {CEL00008507/1}.  
 22 A. Yes.  
 23 Q. I want to go back, please to page 13 in that  
 24 {CEL00008507/13} and your manuscript on the right-hand  
 25 side. We can see that you've written down the

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1 6 millimetres and the 8 millimetres, and then the "WTF"  
 2 just above that.  
 3 The "WTF", was that a reaction to the picture, the  
 4 photograph that's on the page there, or was it  
 5 a reaction to what Mr Hayes was saying; do you remember?  
 6 A. I don't think it was the picture. I think it's to what  
 7 Mr Hayes was telling me.  
 8 Q. Right. Your reaction of surprise or shock, was that  
 9 a reaction to the substance of what he was saying,  
 10 namely the very presence of yet another feature of the  
 11 rig that would assist it to pass the test, or was it the  
 12 fact that it was a secret?  
 13 A. I think the first.  
 14 Q. Right, thank you.  
 15 Can I then turn to your involvement with the LABC,  
 16 as the next topic.  
 17 A. Yes.  
 18 Q. If you go to paragraph 35 of your witness statement,  
 19 please. You can see there, at the top of page 15  
 20 {CEL00010055/15}, you can see that you say:  
 21 "Regarding 'compliance with safety standards' ...  
 22 the LABC 2016 certificate ..."  
 23 Which you exhibit as DB/2.  
 24 "... referred to compliance. This was created by  
 25 a third-party independent of Celotex."

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1 And you say in the next sentence that it was  
 2 signed off by Jon Roper.  
 3 Now, if it was signed off by Jon Roper, that was  
 4 obviously before you took over in 2014. Or is that  
 5 wrong?  
 6 A. That's how I understand it, yeah.  
 7 Q. Right. Now, let's take it in stages.  
 8 Let's go to {CEL0000009/1}, please. This is  
 9 an "LABC Registered Details Drawing and Document List"  
 10 which was issued in August 2014, when Mr Roper was  
 11 product manager, and which was current, I think, when  
 12 you took over.  
 13 Are you familiar with that document?  
 14 A. Not overly, no.  
 15 Q. No. You're not saying, are you -- or are you? Maybe  
 16 you are -- that he signed off the 2016-version? Or are  
 17 you talking about this document?  
 18 A. I don't know which document Mr Roper signed off.  
 19 Q. Right.  
 20 Did Mr Roper ever discuss Kingspan's LABC  
 21 certificate with you during your handover?  
 22 A. Not that I can recall.  
 23 Q. Right. Did you remember whether you ever looked up  
 24 Kingspan's own LABC certificate at any stage?  
 25 A. I don't think so, no.

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1 Q. Right. Let me just show it to you and see if it's  
 2 familiar: {NHB00000798/1}. This is the LABC certificate  
 3 for Kingspan K15, which they issued on 20 August 2014,  
 4 so only a few weeks before you took over as product  
 5 manager at Celotex.  
 6 Just looking at it now on the screen and looking at  
 7 the dates, is this a document you think you've seen  
 8 before?  
 9 A. I may have done, but I don't recall it.  
 10 Q. Right. Did you never seek to find out how the LABC were  
 11 describing K15 when working out how you would think that  
 12 the LABC should describe Celotex RS5000?  
 13 A. Sorry, can you repeat that?  
 14 Q. Yes. Did you ever seek to find out how the LABC were  
 15 describing K15 when looking at the question of how the  
 16 LABC should describe Celotex RS5000?  
 17 A. I don't recall doing so.  
 18 Q. Right.  
 19 Now, I want to ask you about your involvement with  
 20 the LABC between the August 2014 certificate we've just  
 21 looked at and the issue of the 2016 certificate that  
 22 you've referred to in your statement.  
 23 Can we go to {CEL0002021/1}, please, and look at  
 24 page 2 {CEL0002021/2}. This is an email run in early  
 25 November 2014 between Celotex and Sam Li of the LABC.

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1 On page 2, halfway down that page, you can see that  
 2 there's an email from Sam Li on 3 November 2014 to  
 3 Jon Roper, and the subject is "Important Changes to Your  
 4 LABC Registration - EW491 Celotex ... Celotex RS5000 PIR  
 5 insulation board". And if you look at the heading,  
 6 there's the reference "Registered Details ... for  
 7 Celotex RS5000". Then the text of the email says this:  
 8 "As part of the recent improvements LABC has made to  
 9 the Registered Details scheme and website, there have  
 10 been several important changes made to your  
 11 registration ..."  
 12 Then the reference to the new certificates.  
 13 If we look at the new certificate that was sent:  
 14 this is at {LABC0000312/1}, if we can have that up.  
 15 You can see that this is certificate number EW491  
 16 for RS5000. At the very bottom of the page, you can see  
 17 that under the heading "Validity", it says:  
 18 "This certificate was first issued on  
 19 21st August 2014 and is valid until 21st August 2015.  
 20 "Issue Dated 13th August 2014"  
 21 Are you familiar with this document?  
 22 A. Yes.  
 23 Q. Yes. In the main box at the top of the page, towards  
 24 the top of the page, just opposite the image, it says  
 25 "Description of product", and it says:

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1 "This is an assessment of a PIR insulation board by  
 2 Celotex designed for use within rain screen  
 3 construction. RS5000 is a textured aluminium foil faced  
 4 PIR board that comes in thicknesses of between 50mm and  
 5 150mm and goes through the same manufacturing process as  
 6 the Celotex FR5000 product, the difference being it has  
 7 been assessed by the BRE and complies with BR135:2013  
 8 for use in rainscreen applications above 18 metres in  
 9 height \*see conditions of certificate for more  
 10 information."  
 11 If you go to "Key Factors Assessed", it identifies  
 12 the second one of those as "Safety in case of Fire".  
 13 If we go to page 2 of that document {LABC0000312/2},  
 14 you can see the "Scope of Registration":  
 15 "Celotex has provided test reports undertaken by BRE  
 16 and BBA to verify the product from both performance in  
 17 fire and thermal properties."  
 18 It goes on:  
 19 "The product is much the same as their FR5000 board  
 20 but is specifically tested to be used with rainscreen  
 21 constructions above 18 metres. The board comes in  
 22 various thicknesses and can be used with a variety of  
 23 cladding systems (including masonry or rain screen  
 24 systems) and can be fixed back to a structural steel  
 25 frame with a sheathing board or direct back to masonry.

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1 "Celotex RS5000 has been successfully tested to  
2 BS 8414:2 2005, meets the criteria set out in  
3 BR135: 2013 and therefore is acceptable for use in  
4 buildings with storeys above 18m in height (subject to  
5 matching the specification criteria of the BRE fire test  
6 report 295255 carried out) as alternative compliance to  
7 AD B."

8 Were you familiar with that text at the time? When  
9 I say "at the time", from the time that it arrived with  
10 you in November 2014.

11 A. Not overly familiar with it, no.

12 Q. Right.

13 There are "Conditions of Certificate" which are at  
14 the bottom, and I'll just pick out one or two parts of  
15 that. It says:

16 "For use in rainscreen wall construction including  
17 above 18 metres height."

18 Then three lines down, it says:

19 "Celotex RS5000 can be used with a variety of  
20 cladding systems (including masonry or rainscreen  
21 systems) and can be fixed back to a structural steel  
22 frame with a sheathing board or direct back to masonry."

23 Then halfway down that block of text, four lines up  
24 from the bottom, it says:

25 "This classification is only valid for the system

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1 specification and detailing outlined in section 2 of the  
2 BRE fire test report 295255 including the associated  
3 details found in section 4 test reports as  
4 an alternative compliance to AD B. A full copy of the  
5 report should be made available by Celotex ..."

6 Again, were you familiar with that, those  
7 conditions, that wording, at the time?

8 A. Not overly.

9 Q. Not that, okay.

10 Now, going back to the email run -- and I've read  
11 that in detail to you, Ms Berger, because we're going to  
12 look at it in a bit more detail.

13 A. Mm-hm.

14 Q. Looking at how this got to you, if we go back to the  
15 email run at {CEL00002021/1}, please, if we go to  
16 page 1, we can see that Jon Roper, at the bottom of  
17 page 1, sends that to you on 3 November, he forwards it  
18 to you, and he says:

19 "Debs,

20 "For you."

21 Then he says:

22 "Please go back to LABC and ask to take out any  
23 references that RS5000 is the same product as FR5000."

24 Do you know why he asked you that question?

25 A. Why he asked me that question?

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1 Q. Yes. Why did he ask you to ask the LABC to remove the  
2 reference to the fact that RS5000 was the same product  
3 as FR5000?

4 A. No, he just -- something -- no, I thought they'd made  
5 a mistake by putting FR5000 in. I thought: oh, they've  
6 put FR5000 in; it's RS that's been tested to above  
7 18 metres.

8 Q. Did you know at the time that in fact RS5000 was FR5000?

9 A. Yes. Yes, I knew that.

10 Q. You did?

11 A. Yes.

12 Q. So given that you knew that, did you not ask yourself  
13 why it was that Jon Roper wanted the LABC to remove the  
14 references to the fact that RS5000 was the same product  
15 as FR5000?

16 A. I thought it was completely normal. I thought it was  
17 completely -- completely normal that, you know, FR5000  
18 had been used in a number -- you know, other  
19 applications as well: the product had been used for  
20 cavity wall, and it was being used for RS. So  
21 I didn't -- I didn't know -- I didn't know anything  
22 different. That -- that was how it was. I just  
23 accepted this -- this is what he wanted me to do.

24 Q. When you say it was "completely normal", I'm not sure  
25 I follow that. Let me just see if I can take it in

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1 stages.

2 You say you knew that RS5000 was the same as FR5000.  
3 Did you know that in fact the marketing launch slides  
4 shown to the marketing teams in early August had  
5 described RS5000 as an additional product --

6 A. Yes.

7 Q. -- to the existing range?

8 A. Yes, and it could be my lack of experience or my  
9 naivety, I don't know. But this is the first time I'd  
10 been a product manager and this is what -- this is what  
11 happened, and I accepted that.

12 Q. Did you know, or perhaps come to understand, that the  
13 marketing teams had not been told that RS5000 was the  
14 same as FR5000 but just re-branded?

15 A. The marketing teams?

16 Q. The marketing teams, sales teams.

17 A. I thought -- I thought it was common knowledge.  
18 I thought they knew.

19 Q. Right, okay.

20 What was the point of asking the LABC to take out  
21 the references to the fact -- which was true -- that  
22 RS5000 was the same product as FR5000?

23 A. Just because this was the product that was being  
24 marketed for the above-18-metre -- the above-18-metre  
25 market.

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1 Q. Right. But did it not occur to you that by asking the  
2 LABC to remove those references, readers of the LABC  
3 certificate might think that RS5000 was a new product?  
4 A. I ... I've heard this -- I've heard this being discussed  
5 in evidence --  
6 Q. Well, never mind the evidence. I'd like to know whether  
7 at the time you understood Mr Roper to be asking you to  
8 tell the LABC to remove the references to FR5000 and the  
9 fact that it was the same product as RS5000 at the time  
10 because that might lead a reader otherwise of the  
11 certificate to think that it was the same product, which  
12 was in fact the case.  
13 A. I didn't understand -- I didn't -- I didn't see  
14 anything -- I honestly didn't -- I just did not see  
15 anything underhand in it. I just saw: oh, FR5000 is  
16 a multipurpose board used in lots of different  
17 applications, RS5000 is specifically for the above  
18 18 metres, so ... and that's what they'd asked me to do,  
19 so that's exactly what I did.  
20 Q. Right. Did it occur to you that by doing that, if the  
21 LABC had complied with the instructions that Mr Roper  
22 was giving to you, the LABC certificate would be  
23 misleading?  
24 A. Sorry, could you repeat that?  
25 Q. The LABC certificate would be misleading if they removed

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1 those references because it would then give the  
2 impression that RS5000 was a new product, as opposed to  
3 the truth, which is that it was the same product as  
4 FR5000?  
5 A. I was not aware of that at the time.  
6 Q. Right. You were not aware of what?  
7 A. What you -- of what you just said: that FR -- that it  
8 could be misleading that RS was a new product.  
9 Q. Right.  
10 Now, at the top of page 1 {CEL00002021/1} is your  
11 email to Sam Li of 6 November 2014, and you say:  
12 "Hi Sam  
13 "Please find attached some paragraphs of text as  
14 suggestions for use in your LABC certificates and fact  
15 sheets for RS5000"  
16 And you have three of them there summarised.  
17 Let's look at the document you attached: it's  
18 {CEL00002022/1}.  
19 Looking at this, these are some detailed changes,  
20 aren't they? Looking at point 1, where you say -- under  
21 "Description", there's quite a long text there. In the  
22 last sentence, you're proposing the following language:  
23 "It has been assessed by the BRE and complies with  
24 BR135 for use in rainscreen applications above 18 metres  
25 in height subject to the board being fixed to

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1 a non-combustible substrate."  
2 Now, do you accept that that was misleading --  
3 A. Yes.  
4 Q. Thank you. Is that because it suggests that it can be  
5 used in any rainscreen system --  
6 A. Yeah.  
7 Q. -- and not solely the system tested?  
8 A. Yes.  
9 Q. And you knew that at the time?  
10 A. I -- I wasn't -- I was uncomfortable with the wording.  
11 Yeah, I was uncomfortable with the wording. It  
12 didn't -- it didn't match what I had -- what I -- the  
13 skillset that I brought to the role of product  
14 management was from the technical team and I understood  
15 the importance of a tested system, I understood the  
16 importance of 8414-2 and its entirety -- not --  
17 obviously not the methodology, but I understood that the  
18 materials used on the test should be replicated, if  
19 not ... so I understood the importance of a tested  
20 system. And when I read that back then, yes, I did --  
21 was uncomfortable with that wording.  
22 Q. Did you draft the wording?  
23 A. I -- I don't know is the honest answer. I don't  
24 remember doing this on my own. I feel -- I don't feel  
25 I would have had the knowledge to have done that on my

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1 own. I can't see myself having written those words  
2 myself.  
3 Q. Do you know who did, if it wasn't you?  
4 A. I don't. I don't. There's a -- I don't know whether  
5 I have created this document but I've copied and pasted  
6 something and put it in, while I was being asked to  
7 remove the word "FR". For clarity, I don't know whether  
8 I've copied and pasted these paragraphs, put them on  
9 a document and then sent them.  
10 Q. Right. You say you were uncomfortable. You were  
11 uncomfortable, I would suggest, because you knew it was  
12 misleading. Is that right?  
13 A. Yes, I think you're -- I think that's correct.  
14 Q. Right. Were you also uncomfortable because you would  
15 have known by this stage that the test as described in  
16 the test report was not as in fact described? Sorry,  
17 let me put that question again.  
18 A. No, I understand --  
19 Q. The actual test --  
20 A. I understand what you said.  
21 Q. -- the actual build-up of the rig was not as described  
22 in the -- as it was in the BRE report?  
23 A. Yeah, I mean ... in my time working -- in my time  
24 working as a product manager, I ... the test -- I don't  
25 know. I don't know. It wasn't ... my ... it just

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1 wasn't -- it just wasn't forefront of my mind. It just  
 2 really wasn't.  
 3 Q. Looking at point 2, you see that it says, in the first  
 4 sentence:  
 5 "Celotex has provided test reports undertaken by BRE  
 6 and BBA to verify the product from both performance in  
 7 fire and thermal properties."  
 8 Was there a BBA certificate?  
 9 A. That's not true of RS5000, but the BBA is true of  
 10 FR5000.  
 11 Q. Right. But if you'd removed the reference to FR5000 and  
 12 only referred to RS5000, the reader of the certificate  
 13 would think that a BBA certification applied to RS5000,  
 14 wouldn't they?  
 15 A. I -- yes, I agree. And I ... I have not ... I have not  
 16 done this very well.  
 17 Q. Well, do you agree that when it refers to BBA  
 18 "verify [ing] the product from both performance in fire  
 19 and thermal properties", that was untrue?  
 20 A. Yes, I agree it's untrue.  
 21 Q. So why did you put this text forward, both under  
 22 paragraph 1, last sentence, and paragraph 2, reference  
 23 to the BBA, if you knew it was untrue? Sorry, to the  
 24 LABC --  
 25 A. Yeah.

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1 Q. -- if you knew it was untrue.  
 2 A. The ... I think -- I mean, I don't want to make excuses  
 3 for myself, but I was -- there was a lot going on.  
 4 I was very early on in my role as a product manager.  
 5 I'm not sure I've attended to the detail as -- as  
 6 I should have done.  
 7 It's -- it's -- it's uncomfortable for me to say,  
 8 but I probably -- I don't think I've -- I don't think  
 9 I have -- I've been asked to do something, I've copied  
 10 and pasted. I wouldn't have done this on my own.  
 11 I would have massively -- I would -- I would have sought  
 12 support from somebody within the business to talk to  
 13 about this. And I felt uncomfortable about it, and  
 14 it's ... it's gone off. I haven't felt very --  
 15 I haven't felt great about this.  
 16 Q. You see the second paragraph goes on to say:  
 17 "Celotex RS5000 is a premium performance PIR  
 18 solution for use in rainscreen cladding applications and  
 19 suitable for use in building above 18 metres in height."  
 20 Then it continues:  
 21 "The board comes in various thicknesses and can be  
 22 used with a variety of cladding systems (including  
 23 masonry and rainscreen systems) and can be fixe [d]  
 24 back ..."  
 25 Or "fixes", there's an error there:

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1 "... back to a structural steel frame with  
 2 a sheathing board or direct back to masonry."  
 3 Did it occur to you that, coming after the sentence  
 4 about suitability for use above 18 metres, those two  
 5 sentences there ran the risk of creating the impression  
 6 that RS5000 could be used in a variety of cladding  
 7 systems above 18 metres?  
 8 A. Yes, I was uncomfortable with the wording.  
 9 Q. And you were uncomfortable, I'm bound to suggest to you,  
 10 because you knew it was misleading?  
 11 A. I think, yes.  
 12 Q. And you knew that at the time?  
 13 A. I think ... I think I had a conversation with some --  
 14 with Jamie about this, and we -- we talked about it, but  
 15 I ... I'm not sure. I wouldn't know how to challenge --  
 16 I don't think I knew at the time how to challenge it.  
 17 But yes, I agree, I do agree with you that at the  
 18 time I discussed it with Jamie and we felt uncomfortable  
 19 about it, and it is misleading.  
 20 Q. Right. Was it in fact the impression that you wanted to  
 21 create deliberately, namely that --  
 22 A. No.  
 23 Q. -- this was a system --  
 24 A. No.  
 25 Q. -- this was a product that could be used in a variety of

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1 system, and not only that tested?  
 2 A. No. I think -- I think this was -- this was already --  
 3 the product was already in the market, it was launched.  
 4 It's not something -- it's something I inherited. This  
 5 is something that I probably didn't feel I could change  
 6 the direction of the product. It was in the market and  
 7 it was launched.  
 8 I would not -- I would not -- if I -- if I had -- if  
 9 I had been developing this product, if I had been the  
 10 product manager that was given the idea, then I would  
 11 have done -- I would like to think I would have done  
 12 things differently. And I would not intentionally have  
 13 done that.  
 14 Q. So you say, "this was ... something I inherited". Do  
 15 you mean that what Jonathan Roper described as the  
 16 "fraud on the market" was something you inherited?  
 17 A. Yes.  
 18 Q. Then are you accepting that by continuing with that with  
 19 the LABC, you're furthering it?  
 20 A. No. I -- I was not aware -- I was not aware of the  
 21 marketing strategy, which I've obviously learnt a lot  
 22 more about recently. I was not aware of the marketing  
 23 strategy, that it was deliberate. I -- I just -- I just  
 24 thought: it's not great, it's a really poor set of  
 25 words, it's misleading. At that time I was unaware that

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1 it was all -- it was all misleading. That detail has  
 2 only been revealed to me recently.  
 3 Q. If you didn't draft these words yourself but they were  
 4 provided to you -- and you can't be clear about that --  
 5 do you not remember going to the person who had provided  
 6 you with these words and saying to them, "I can't put  
 7 this out to the LABC, it's all downright misleading"?  
 8 A. I didn't feel I could do that.  
 9 Q. Why didn't you feel you could do that?  
 10 A. I just -- I didn't -- I didn't feel that -- the product  
 11 was on the market. I was very new to my role, I didn't  
 12 have a lot of experience. I actually -- I saw the LABC  
 13 as an authority. I just didn't feel that I could --  
 14 I was in the process of working to try and understand  
 15 how the product could be used with different cladding  
 16 materials.  
 17 Q. But you understood the importance of the LABC,  
 18 didn't you?  
 19 A. I'm not entirely -- I'm not -- I'm not sure I did at  
 20 that stage.  
 21 Q. Right.  
 22 A. I'm not entirely sure I understood it.  
 23 I had -- when I -- when I came to post of product  
 24 manager, I had -- I didn't have a lot of commercial  
 25 experience. I didn't -- I really didn't understand the

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1 commercial side of things. I had -- I could get to  
 2 grips with the technical side of things and the tested  
 3 system and the fact that it was only tested to one  
 4 cladding. And I don't know how on earth they were  
 5 supposed -- that was the problem for me. But then the  
 6 commercial value and the commercial side of things,  
 7 I didn't -- I was very poor, I was very weak in that  
 8 knowledge.  
 9 Q. What I'm really seeking to get to the bottom of,  
 10 Ms Berger, is why, despite the fact that you knew that  
 11 these words you were putting forward to the LABC,  
 12 an authority, were misleading, why you just didn't  
 13 follow through with that and go to the people who'd  
 14 asked you to put these words forward and say, "I'm  
 15 sorry, I can't do that".  
 16 A. I think I was going -- I was -- I was going along with  
 17 things. I was going along with what was -- had been  
 18 launched, and created, without perhaps fully  
 19 understanding, to the level of detail that I do now.  
 20 You know, as I've said -- and that's -- I didn't feel  
 21 I could challenge the way the product had been launched.  
 22 I didn't feel I could challenge this.  
 23 Q. Right. Is that because of something in you or because  
 24 of something in Celotex?  
 25 A. I think something within me.

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1 Q. Okay.  
 2 Now, can we look back at the email run, please --  
 3 this is {CEL00002021/1} -- and go further up the email  
 4 chain, page 1. We can see that you send this wording to  
 5 Sam Li at the LABC on 6 November, but we see who is  
 6 copied in on this: as well as Jon Roper, we can see that  
 7 Paul Evans is copied in on this.  
 8 So far as you were concerned, did you have any  
 9 doubts in your mind at the time that Paul Evans had seen  
 10 the suggested text?  
 11 A. Did I have any doubts that he had seen it?  
 12 Q. Yes. You'd copied him in on this email chain.  
 13 A. I assume so. I -- I don't know, I don't recall.  
 14 I don't recall.  
 15 Q. Did you have a discussion with Paul Evans about the  
 16 wording that you were sending to the LABC?  
 17 A. I don't recall so.  
 18 Q. Right.  
 19 A. I think -- I think the only people I spoke to about this  
 20 would have been Jamie.  
 21 Q. Do we take it that Paul Evans never came back to you and  
 22 told you that you should withdraw these suggested  
 23 amendments?  
 24 A. No.  
 25 Q. You seem -- you answer "no" in that way --

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1 A. No, it was --  
 2 Q. -- sort of quite dismissive. Is it because that was  
 3 unthinkable?  
 4 A. Well, it's -- having -- a lot further down the track,  
 5 and having seen a bit more of the story, which I was not  
 6 aware of at the time, you know, for me in hindsight,  
 7 I can look back on all of this now and see that there  
 8 was a very strong divide between what was a system and  
 9 what was technically correct and what was commercial and  
 10 what was for sales. And that's why I went, "No",  
 11 because I think -- you know, I think predominantly  
 12 perhaps this product was treated as a product and set up  
 13 commercially so it could be sold easily to certain  
 14 projects.  
 15 Q. Regardless of the risks to public safety?  
 16 A. Absolutely.  
 17 Q. Right.  
 18 Now, if we go to {CEL00008691/1}, please. This is  
 19 an email chain the same day, and I'd like to look at  
 20 page 2 {CEL00008691/2}, please, the top of page 2.  
 21 I think we need the bottom of page 1, in fact, for  
 22 the date and the identities of the recipients. This is  
 23 you, Debbie Berger, to Sam Li, copied to Jon Roper,  
 24 Paul Evans, et cetera.  
 25 If we go to the top of page 2, you can see that you

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1 say to her:  
 2 "Hi Sam  
 3 "I've just noticed the website is live with the  
 4 certificate and fact sheet.  
 5 "Is ... it possible to limit visibility or better  
 6 remove these until we have sorted out the wording?"  
 7 Why did you go back to her with that?  
 8 A. Because somebody had asked me to, I would have thought.  
 9 Q. Do you know who?  
 10 A. No, I can't remember.  
 11 Q. Then on the page above, if we can go back to page 1  
 12 {CEL00008691/1}, we can see Sam Li's response the same  
 13 day at 13.13:  
 14 "Hi Debbie,  
 15 "Sorry for the delay in getting round to your  
 16 emails. No problem at all. I will check with my  
 17 colleague who deals with the website if we can make your  
 18 landing page not visible to members of the public.  
 19 "I will check with my Manager to see if we can make  
 20 the suggested changes in your attachment on the  
 21 certificates and website."  
 22 Was it your understanding that although new form  
 23 certificates had been issued to you and you'd gone back  
 24 with these suggested revisions, those were not generally  
 25 available until the wording was sorted out?

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1 A. I think -- I think, if I've understood your -- if I've  
 2 understood your question correctly, the product was  
 3 live, the certification was live, and I'd been asked to  
 4 change the wording from RS to FR, so I simply -- and  
 5 I -- I wouldn't have thought to have -- I don't think  
 6 in -- I don't think I would have thought -- I don't  
 7 think I would have thought to have emailed Sam to take  
 8 it down; I think it was just something I was asked to  
 9 do.  
 10 Q. Right.  
 11 The next contact from the LABC seems to have been on  
 12 12 May 2015, so six months later. Let's look at  
 13 an email to that effect: {CEL00001286/1}, please. This  
 14 is an email from David Ewing of the LABC to you on  
 15 12 May. It's quite a long email. It goes also to  
 16 Jon Roper and Paul Evans.  
 17 Before we look at the text of it, can I just ask  
 18 you: do you remember whether anything happened as  
 19 between Celotex on the one hand and the LABC on the  
 20 other between November 2014 and May 2015?  
 21 A. I don't -- I don't -- I don't remember. And I've relied  
 22 on documents that have been given to me to prompt my  
 23 memory, and I genuinely -- I don't recall without  
 24 seeing ...  
 25 Q. Right. We'll come to this in a moment. But in the

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1 meantime, do you remember what the LABC certificate  
 2 was, during that six-month period, on the basis of which  
 3 Celotex was trading RS5000?  
 4 A. Yes, I think I became -- I became aware of -- I think  
 5 there were some -- I became aware of the importance of  
 6 the LABC certificate in my time, gradually over that  
 7 period of time.  
 8 Q. Okay. Let's just see if we can identify the LABC  
 9 certificate concerned. It's {CEL00000009/1}. We looked  
 10 at this at the start of this topic. This is the LABC  
 11 certificate dated 21 August 2014.  
 12 Is that the certificate on the basis of which RS5000  
 13 was being sold?  
 14 A. I didn't -- I'm not as familiar with this certificate as  
 15 I am the previous certificate.  
 16 Q. Right. No. Did you, during that period, become  
 17 familiar with it?  
 18 A. No.  
 19 Q. You didn't?  
 20 A. I don't think so.  
 21 Q. Did you have occasion to look at it at all?  
 22 A. I don't remember doing so.  
 23 Q. When you were revising or engaging with the LABC in  
 24 November 2014 about revising the LABC certificate, did  
 25 you not chance to look at this one to see what it was

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1 that was already out there?  
 2 A. No, I didn't. I don't remember -- I don't remember  
 3 doing that.  
 4 Q. Right. You don't remember doing that?  
 5 A. No.  
 6 Q. Let's go back to Mr Ewing's email, then,  
 7 {CEL00001286/1}. He says, in the second paragraph:  
 8 "LABC were contacted in connection with the wording  
 9 used in earlier [Registration] Detail certificates.  
 10 There was concern that the certificates implied a global  
 11 approval to the use of thermosets above 18m. This had  
 12 never been the intention but as a result of this and  
 13 also proposed amended national guidance, wording within  
 14 certificates has been altered to clarify the  
 15 acceptability of the use of thermoset insulating  
 16 products when a classification report demonstrating  
 17 compliance with BR135 through testing to either BS8414:1  
 18 and/or BS8414:2 has been undertaken."  
 19 Just pausing there, in fact it's right, isn't it,  
 20 that the impression that he is talking about is  
 21 precisely what Celotex had been seeking to achieve  
 22 through its registration and indeed in your amendments  
 23 the previous November?  
 24 A. I ... I ... there was a lot of detail that I have missed  
 25 in my time working on RS5000. There is a lot -- there

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1 is a lot of detail that I've missed. And the time I had  
 2 to work on RS5000, I'm not -- I don't want to make  
 3 excuses again, but the time I had available to work on  
 4 RS5000 was 15/20% of my time. The majority of my time  
 5 was spent working on ... So there was so much I was not  
 6 aware of, and I think I relied on others to help me with  
 7 the detail at times.

8 Q. When you received this statement from Mr Ewing, did you  
 9 not think to go back to the certificates then in  
 10 circulation and see whether he was right or wrong in his  
 11 "concern that the certificates implied a global approval  
 12 to the use of thermosets above 18m"?

13 A. I ... no, I didn't.

14 Q. When he says, "This had never been the intention",  
 15 in fact that's not true, is it? That had exactly been  
 16 the intention of Celotex: to lead people reading the  
 17 certificates to think that there was a global approval  
 18 to the use of RS5000 above 18 metres.

19 A. I think I inherited that intention --

20 Q. Maybe. But that was the intention --

21 A. Yeah --

22 Q. -- when you were there at the time?

23 A. Yes, I -- yes.

24 Q. He's now saying, I think -- well, let's look on,  
 25 actually. He goes on to say that:

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1 "The question of the adequacy of the thermosetting  
 2 materials was raised at [a] National Building Control  
 3 Alliance meeting [in] December."

4 And then goes on to say, in the next paragraph:  
 5 "As such I attach a revised certificate  
 6 incorporating your requests together with additional  
 7 inserts clarifying the method taken to demonstrate  
 8 compliance ie Approved Document B 12.5 or Option 2 on  
 9 the attached BCA guide. Apologies that this has not  
 10 been achieved sooner but the proposed amendments to the  
 11 guidance have taken much longer than anticipated."

12 And then goes on to draw your attention to the  
 13 notation on the certificate .

14 Then at the end he says:  
 15 "I trust that you will find this acceptable, the  
 16 wording used is the same as that contained in the  
 17 Kingspan K15 Registered Detail and would be included  
 18 with any future thermoset product seeking RD status ..."

19 That's "registered detail":  
 20 "... and intended to be used above 18m. If you  
 21 could confirm this, I can post the new certificate onto  
 22 the website for you."

23 So he says that, and let's see what he attaches.  
 24 It's {CEL00003741/1}, please. So this is what he's  
 25 sending back to you now, mid-May 2015. It's stamped

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1 "DRAFT" on the first page and the rest of the pages  
 2 throughout the document.

3 If we look at page 1, in the block of text to the  
 4 left of the image, in the last sentence under  
 5 "Description of Product" there it says:  
 6 "It has been assessed by the BRE and complies with  
 7 BR135 for use in rainscreen applications above 18 metres  
 8 in height subject to the board being fixed to  
 9 a non-combustible substrate \*see conditions of  
 10 certificate for more information."

11 So that's the same caveat, isn't it, that we saw  
 12 before?

13 It also refers to the BRE test. Is it right that by  
 14 this time -- this is now May 2015 -- you knew that the  
 15 BRE test had involved the magnesium oxide panels at the  
 16 places identified to you by Mr Hayes on the test report  
 17 in the meeting that you'd had with him in late  
 18 October 2014?

19 A. Yes.

20 Q. So you knew that the BRE assessment was incomplete, to  
 21 put it at its lowest, because it didn't refer to the  
 22 6 millimetres of magnesium oxide or the 8 millimetres of  
 23 Marley?

24 A. Yes, I did. I did know that.

25 Q. Right. Therefore, is it right that just looking at

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1 that, anybody picking up this certificate and reading it  
 2 would think that the BRE assessment could be taken at  
 3 face value, whereas that was not in fact true?

4 A. No, I -- yes.

5 Q. Yes.

6 Now, let's look at the conditions referred to,  
 7 because it is right to say that there is an asterisk and  
 8 it says:  
 9 "... see conditions of certificate for more  
 10 information."

11 If we turn to those, please, if we go to the next  
 12 page, we can pick those up at the bottom of page 2  
 13 {CEL00003741/2}. We can see the conditions that are  
 14 referred to. In the second half of that block of text,  
 15 it says:  
 16 "For use on buildings ..."

17 Do you see that?

18 A. Yes.

19 Q. It's difficult to pick it up:  
 20 "For use on buildings with a floor more than 18m  
 21 above ground level, Celotex RS5000 has been successfully  
 22 tested to BS 8414 part 2:2005 and meets the criteria set  
 23 out in Annex B of BR 135: 2013. This classification is  
 24 only valid for the system specification and detailing  
 25 outlined in section 2 of the BRE Classification report

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1 295255 including the associated details found in  
 2 section 4 test reports as an alternative compliance to  
 3 AD B. A full copy of the report should be made  
 4 available by Celotex ...  
 5 "The tested system comprised: ..."  
 6 And then there's the list :  
 7 "... 2 layers of 10mm wallboard on Simco EFS 100mm  
 8 light steel frame system, 12mm magnesium oxide sheathing  
 9 board with Aluminium helping hand brackets, Land Trails ,  
 10 Lamatherm CW RHS horizontal intumescent and CW RSV  
 11 vertical non expanding fire breaks, 100mm Celotex RS5000  
 12 insulation board and 12mm Marley Eternit Natura  
 13 decorative rainscreen board."  
 14 No reference to the magnesium oxide, no reference to  
 15 the 8 millimetres of Marley Eternit .  
 16 So you could see, couldn't you, when you got this ,  
 17 that the tested system described there was misleadingly  
 18 incomplete?  
 19 A. Yes, as I look at it now, I -- I accept that, yes.  
 20 Q. And as you looked at it then?  
 21 A. As I looked at it then, as ... I knew about the details  
 22 of the cavity fire barrier and the use of the  
 23 8-millimetre and the 6-millimetre board but, as I've  
 24 said, it just didn't stick with me. It just didn't. It  
 25 just didn't come with me.

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1 Q. Let's see how far we go. If you look at page 4  
 2 {CEL00003741/4} of this document, this draft document,  
 3 we can see that the BRE classification report, under  
 4 "Supporting Documentation", you can see that it's the  
 5 last item in that list :  
 6 "BRE Classification Report in accordance with  
 7 requirements of BR 135:2013 Ref 295255 Issue 2"  
 8 Now, this certificate was presenting that  
 9 classification report as reliable support for the  
 10 certificate --  
 11 A. Mm-hm.  
 12 Q. -- wasn't it?  
 13 A. Yes.  
 14 Q. You knew at the time that that classification report,  
 15 which is a separate document from the test report, was  
 16 similarly materially misleading because it also made no  
 17 reference to the 6 millimetres magnesium oxide board or  
 18 the 8 millimetres of Marley Eternit?  
 19 A. Yes.  
 20 Q. We can look at the classification report if you want,  
 21 but take it from me that there is no reference in there.  
 22 A. No.  
 23 Q. No. And you knew that at the time, I assume?  
 24 A. I knew what at the time? There was no reference to the  
 25 8-millimetre --

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1 Q. Yes.  
 2 A. No, there was no reference, no.  
 3 Q. Then if we go back to page 2 {CEL00003741/2}, please.  
 4 I read this to you a minute ago. But you will see that  
 5 in the last-but-one paragraph at the very end, and it is  
 6 block text, but about five lines up from the very bottom  
 7 of the page, it says:  
 8 "A full copy of the report should be made available  
 9 by Celotex ..."  
 10 Do you see that?  
 11 A. Yes.  
 12 Q. Did you understand that to be a reference to the full  
 13 test report?  
 14 A. I didn't even know that was -- I -- I hadn't even  
 15 noticed that detail .  
 16 Q. Right. Did you know that at the time Celotex's policy  
 17 was to refuse any requests for sight of the full BRE  
 18 classification report?  
 19 A. Yes.  
 20 Q. Do you know why the LABC was allowed to say that a full  
 21 copy of the report should be made available when in fact  
 22 Celotex would refuse when asked?  
 23 A. I think this detail got missed. It just -- it just got  
 24 missed.  
 25 Q. In fact, it gives a thoroughly misleading impression

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1 because it gives the impression that Celotex were  
 2 prepared to disclose the report when in fact the  
 3 opposite was the case?  
 4 A. Yes.  
 5 Q. Were you aware of whether that was ever issued, this  
 6 document, before Celotex renewed its registration in  
 7 September 2015?  
 8 A. Sorry, say that again?  
 9 Q. What happened to this draft; do you know?  
 10 A. I don't know.  
 11 Q. Right.  
 12 A. I honestly don't know.  
 13 Q. And again, if you stay on page 2 {CEL00003741/2} but  
 14 scroll up to the top, you can see under "Scope of  
 15 Registration", it still says, or says in there:  
 16 "Celotex has provided test reports undertaken by BRE  
 17 and BBA to verify the product ..."  
 18 Now, just pausing there, we looked at the draft  
 19 wording that had gone to them on 6 November 2014 and  
 20 I showed you the reference to the BBA in there, and we  
 21 have your evidence about that. But it looks as if that  
 22 reference has gone into this scope of registration .  
 23 A. Mm. Yes.  
 24 Q. So it looks as if the LABC had simply taken what you'd  
 25 told them at face value about the BBA verifying the

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1 product.  
 2 A. Yes.  
 3 Q. Did you notice that --  
 4 A. No, not really.  
 5 Q. -- when you received this document from Mr Ewing in  
 6 mid-May?  
 7 A. The biggest -- when we received this document in  
 8 mid-May, the biggest thing for us, it's like:  
 9 "An appropriate classification report and/or  
 10 supplementary report MUST evidence suitability of the  
 11 proposed makeup."  
 12 That was -- as I said, I -- I didn't -- I'm not sure  
 13 I was able to deal with this certificate in its detail  
 14 in the time up until those amendments were put through.  
 15 I'm not sure I was qualified to deal with those. I'm  
 16 not sure I could have -- if I was -- I'm not sure who  
 17 I would have spoken to about my concerns other than  
 18 someone -- my peer.  
 19 It's -- it's a very ... you know, this is not --  
 20 this is -- it's -- excuse me -- it's almost -- it's  
 21 almost -- I feel -- I feel quite embarrassed that  
 22 this -- this was not done properly and I have not paid  
 23 enough attention to the detail of this. I'm not sure  
 24 I had the time, I'm not sure I had the qualification,  
 25 I'm not sure I was capable, I'm not sure -- I'm not

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1 sure -- I was, you know, without support.  
 2 I'm not -- you know, I just ... it's an important  
 3 document, I understand that.  
 4 Q. Did you actually read this document when it came to you  
 5 from the LABC?  
 6 A. I don't think I -- yes, we would have -- I would have  
 7 taken it, printed it and shared it and I would have  
 8 discussed it, not -- I doubt I would have looked at that  
 9 on my own. I would have -- I recognised that, you know,  
 10 by that ... God, I was so overwhelmed with RS5000 at  
 11 that stage, I'm not entirely sure I could have --  
 12 I would have printed it and shared it with someone. But  
 13 as I said to you, whether I had paid attention to all of  
 14 the detail would be ... I can't be sure I did. I can't  
 15 be sure I did. And that's -- and that is -- that's  
 16 a fault of mine.  
 17 Q. Did you have a discussion with Jon Roper or Paul Evans  
 18 about this draft?  
 19 A. I must have had a discussion with Jon Roper -- it's not  
 20 something that I remember -- because Jon Roper is copied  
 21 on all of the emails. So I may have had a discussion  
 22 with him, but I genuinely can't remember. My go-to for  
 23 technical support was something that I carried over from  
 24 my time, which I learnt with everything, was with Jamie.  
 25 Q. Right.

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1 Now, let's move on to the next set of correspondence  
 2 in July 2015, {CEL00003739/1}, please. If we start on  
 3 page 4 {CEL00003739/4}. I'm afraid we're going to have  
 4 to roll up this document a bit. But here we see  
 5 an email from Sam Li, who has now become Sam Li Muller,  
 6 on 6 July 2015 to Jon Roper and nobody else, which is  
 7 about the registration renewal quotation for EW491,  
 8 Celotex RS5000. It says:  
 9 "The above Registered Details registration expires  
 10 on the 21st August whereupon it will become due for  
 11 renewal."  
 12 Then if we go to page 3 {CEL00003739/3}, we can see  
 13 what happens. Sam Li then gives Jon Roper a prod, about  
 14 a week later:  
 15 "Hi Jon,  
 16 "This is a reminder that your LABC registration will  
 17 be expiring next month on the 21st.  
 18 "... [would you] like to renew ..."  
 19 That's page 3.  
 20 Then at page 2 {CEL00003739/2} we see an email of  
 21 22 July from Sam Li to Jon Roper, this time it's copying  
 22 you in:  
 23 "Hi Jon,  
 24 "Your LABC registration will expire on the  
 25 21st August.

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1 "Can you please confirm if you would like to renew  
 2 your registration with us and for how long?"  
 3 Then if we go to page 1 {CEL00003739/1}, we can see  
 4 your reply at the bottom of that email chain on that  
 5 page -- sorry, bottom of that page in that email chain.  
 6 On 5 August you go back to Sam Li and you say:  
 7 "Hi Sam  
 8 "Yes we would like to renew LABC registered details  
 9 for RS5000 for 1 year to start."  
 10 Let's just turn back to the top of page 2  
 11 {CEL00003739/2} to show you:  
 12 "Kind regards  
 13 "Debbie Berger"  
 14 That's how it ends.  
 15 Then if we go back to page 1 {CEL00003739/1},  
 16 a little bit higher up, we can see Sam Li's response:  
 17 "Hi Debbie,  
 18 "Thanks for confirming.  
 19 "I will prepare the invoice now for you.  
 20 "I've attached the email David originally sent with  
 21 the amended certificate for your reference. Please let  
 22 me know if this is fine."  
 23 Do you see that?  
 24 A. Yes.  
 25 Q. Now, that's -- well, let me ask you: was that

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1 a reference to David Ewing's email of 12 May 2015 that  
 2 we saw earlier at {CELO0001286/1}?

3 A. I can't be sure.

4 Q. Right.

5 Do we take it that there would have been no further  
 6 correspondence about the amended certificate between  
 7 May 2015 and late July/early August 2015?

8 A. I --

9 Q. We can't find -- we haven't got any record of that.

10 A. No, and I can't remember, I can't be sure.

11 Q. Right.

12 Now, there was a slight delay re-issuing due to  
 13 payment issues, I think. We don't need to go to that,  
 14 but do you recall that in general terms?

15 A. What, with the delay --

16 Q. Yes.

17 A. -- because of payment? Not really, no.

18 Q. Right. But in the event, do you recall the  
 19 certificates, new certificates, were issued in  
 20 September 2015?

21 A. I would have -- I would be relying on documents from  
 22 that time to jog my memory.

23 Q. Right.

24 Let's go to {CELO0000389/1} and look at a document  
 25 to jog your memory. This is the September 2015 re-issue

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1 of the LABC certificate EW491, and you can see again --  
 2 now, we could spend time going through this. Let me  
 3 show this to you.

4 Again, you see in the text on the left-hand side,  
 5 opposite the image, last sentence:

6 "It has been assessed by the BRE and complies with  
 7 BR13S for use in rainscreen applications above 18 metres  
 8 in height subject to the board being fixed to  
 9 a non-combustible substrate \*see conditions of  
 10 certificate for more information."

11 Then if you go over the page {CELO0000389/2}, you  
 12 see the "Scope of Registration", and yet again we see in  
 13 the first line:

14 "Celotex has provided test reports undertaken by BRE  
 15 and BBA ..."

16 So again that error --

17 A. Yeah.

18 Q. -- has found its way into this version, the final  
 19 version.

20 Then the "Conditions of Certificate" are identical  
 21 to the draft sent by David Ewing on 12 May, other than  
 22 the fact that bold has not been used on part of the text  
 23 in the middle of that.

24 A. Mm.

25 Q. At the time when you received this document, did you

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1 read it?

2 A. I can't be sure.

3 Q. At the time when you received this document, did you not  
 4 seek to check it against the draft that David Ewing had  
 5 sent you in mid-May, to which Sam Li specifically  
 6 refers?

7 A. This is the first time I've seen -- I honestly can't be  
 8 sure.

9 Q. What was the purpose, do you think, of you receiving  
 10 these emails and these documents from LABC if you  
 11 weren't going to read them and verify them?

12 A. Well, I ... I understand what you're saying. Again ...  
 13 (Pause). I just ... I would like to think that I opened  
 14 the email, printed them off, read them and showed them  
 15 to someone else for confirmation or for clarification.  
 16 But as I sit here today, it was -- I can't be sure I did  
 17 that. I can't -- it doesn't jump out in my mind as  
 18 something that -- you know, at the time perhaps there  
 19 were some ... I don't know. I don't have an answer,  
 20 unfortunately.

21 Q. Now, you can see at the foot of the "Conditions of  
 22 Certificate", to which the reader's eye is expressly  
 23 drawn on the first page by reference to the asterisk --  
 24 by reference by the asterisk -- that there's exactly the  
 25 same text as we saw in the draft, including exactly the

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1 same text in relation to the tested system. You see at  
 2 the bottom of the "Conditions of Certificate"?

3 A. Yeah.

4 Q. And again the omission of any reference to the  
 5 6 millimetres magnesium oxide --

6 A. Yes, yeah.

7 Q. -- and the 8 millimetres of Marley.

8 So can we take it that you, at least, and indeed  
 9 nobody else at Celotex, had thought fit to correct the  
 10 inaccuracies in that respect, at the very least --

11 A. No.

12 Q. -- from the draft that had been sent in May?

13 A. That's correct.

14 Q. Why's that? (Pause).

15 A. It's -- I just -- I just -- I don't know. I can't  
 16 recall. I'm sorry.

17 Q. I mean, is it because actually Celotex was embarked on  
 18 a scheme to mislead the LABC as best it could into the  
 19 nature of the test which RS5000 had passed?

20 A. I think by -- by not being very open about those details  
 21 from the start, yes, I -- yes, I think -- yes.

22 Q. And where the LABC were making errors, knowingly and  
 23 deliberately not correcting them, such as the reference  
 24 to the BBA verification?

25 A. Yes. I think there are ... I think, yes, there are

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1 people that knew about what was going on, myself  
 2 included, although how much I understood of that is ,  
 3 you know ... but I did -- it's black and white: I did  
 4 know about that, I was told it .  
 5 Q. Now let's go to your statement at page 45  
 6 {CEL00010055/45}, paragraph 163. You say that -- this  
 7 is by reference to the email at DB/41:  
 8 "... includes a proposed set of words."  
 9 Then you go on to say:  
 10 "From the documents provided I cannot be confident  
 11 that this was the final version as sent to the LABC but  
 12 I believe I was involved in adapting the LABC wording  
 13 from an earlier version."  
 14 Then you say:  
 15 I remember feeling uncomfortable with this text and  
 16 I said this to both Jamie Hayes and Jon Roper, pointing  
 17 out that it was different to our literature ."  
 18 Did you point that out to them in a conversation or  
 19 in an email or a document; do you remember?  
 20 A. Probably a conversation, I would have thought.  
 21 Q. Right. And you're describing here the text of those  
 22 suggested revisions we looked at earlier .  
 23 Do you know what they said to you in response, what  
 24 Jamie Hayes or Jon Roper said to you in response, when  
 25 you raised the inaccuracies in the proposed set of

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1 words?  
 2 A. These -- this is all -- I don't remember talking to  
 3 Jon Roper about it at all , I really don't. I don't  
 4 recall talking to Jon Roper. But I do remember --  
 5 I remember speaking to Jamie and I remember us saying  
 6 that we were uncomfortable with this. But when -- the  
 7 paragraphs in my statement that you can see are from  
 8 an email that was dated sort of November 2014, so ...  
 9 yeah.  
 10 Q. You say you don't remember talking to Jon Roper. In  
 11 your statement at paragraph 163 you say you did tell  
 12 Jon Roper that you were uncomfortable with it. Is that  
 13 not right?  
 14 A. I just ... possibly, yes. I don't remember speaking to  
 15 Jon Roper about it. As I sit here today, I can't recall  
 16 that conversation.  
 17 Q. But you did when you wrote your statement.  
 18 A. Mm.  
 19 Q. Can you account for that? Can you account for why it's  
 20 in your statement, but now you can't recall it?  
 21 A. No.  
 22 Q. Right.  
 23 Did you yourself realise that the possible effect of  
 24 not correcting the draft LABC certificate that you  
 25 received in May 2015 or indeed the final version sent to

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1 you, as we've seen, in August 2015, was that anyone who  
 2 read the LABC certificate , like a building control  
 3 officer , would be misled into thinking that the system  
 4 within which RS5000 had been tested so as to produce the  
 5 BS 8414 report was as it was stated, when in fact that  
 6 wasn't true?  
 7 A. Did I -- did I -- had I considered that?  
 8 Q. Yes. Did you realise that the possible effect of the  
 9 LABC certificate remaining uncorrected in relation to  
 10 the description of the test would be that anybody  
 11 reading it, like a building control officer , would be  
 12 misled as to the true nature of the test build-up?  
 13 A. I think, as I sit here today now and I speak to you,  
 14 then yes, I can see that.  
 15 Q. But it didn't occur to you at the time that that might  
 16 be a consequence?  
 17 A. No, it didn't.  
 18 Q. Was it not obvious?  
 19 A. It wasn't. I was -- it wasn't. I was completely  
 20 overwhelmed with RS5000 and working on RS5000. The  
 21 immense pressure there was from the sales team to --  
 22 you know, that was put on sort of product management, if  
 23 you like , on how to use the product, the amount of time  
 24 I had available , I ... I ...  
 25 The RS5000 needed its own resource, it needed its

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1 own product manager. If I'd had all the time -- if all  
 2 my time was only for RS5000, then perhaps -- perhaps  
 3 some of this detail would not have gone missed. Perhaps  
 4 I would have become more aware of certain things which  
 5 I'm now fully aware of having, you know, come this far  
 6 down the track with the Inquiry.  
 7 Q. Let's look at the 2016 version, which is, I think, what  
 8 you're referring to at paragraph 35 of your statement  
 9 {CEL00010055/15}.  
 10 There are two documents here. There is first of all  
 11 {CEL00002061/1}, which is a fact sheet. That's the  
 12 document you refer to in your statement. That's right,  
 13 isn't it: that's what you're exhibiting?  
 14 A. Erm ...  
 15 Q. This is the fact sheet.  
 16 A. Okay.  
 17 Q. You can see the issue date is 19 August 2016? If you go  
 18 down to the second pink box, you can see there's  
 19 an issue date there?  
 20 A. Yes.  
 21 Q. Again, the description on the left-hand side, opposite  
 22 the image, it's exactly the same as the draft May 2015  
 23 and final version from 2015:  
 24 "... assessed by the BRE and complies with BR135 for  
 25 use in rain screen applications above 18 metres in

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1 height subject to the board being fixed to  
 2 a non-combustible substrate "see conditions of  
 3 certificate for more information."  
 4 Then if we go to the certificate itself, which  
 5 I think is a separate document: that's at  
 6 {CEL00002062/1}. There again is the certificate.  
 7 This time, if you look at the "Validity", at the  
 8 bottom of the page under "Validity":  
 9 "This certificate was first issued on  
 10 21st August 2014 ..."  
 11 And that was the first one I showed you, which you  
 12 said you had not seen:  
 13 "... and is valid until 21st August 2017.  
 14 "Issue Dated 19th August 2016"  
 15 Now, these are documents that I take it you would  
 16 have seen when they were issued?  
 17 A. Mm.  
 18 Q. Yes.  
 19 If we look at page 1 {CEL00002062/1}, we can see  
 20 that again it's identical to the 2015 draft and final  
 21 versions; yes?  
 22 A. Yes.  
 23 Q. And if we go to page 2 {CEL00002062/2}, we can see the  
 24 conditions -- well, actually we can see both "Scope of  
 25 Registration" and "Conditions".

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1 On "Scope of Registration", yet again, in the first  
 2 line:  
 3 "Celotex has provided test reports undertaken by BRE  
 4 and BBA to verify the product from both performance in  
 5 fire and thermal properties."  
 6 So yet again that erroneous reference to the BBA has  
 7 found its way now into this version, 2016. It's come  
 8 from Celotex, in the draft we saw you sent, went into  
 9 the draft in May 2015 and the final version in 2015, and  
 10 here it is again in August 2016.  
 11 So this is a perpetuating or self-perpetuating  
 12 error, isn't it?  
 13 A. It is.  
 14 Q. Can you explain how that error was repeatedly made on  
 15 the face of this certificate?  
 16 A. No, I -- I don't know why this -- other than perhaps  
 17 this set of words, as it evolved, has been -- it just  
 18 went unchallenged. It went unchallenged, very much like  
 19 lots of things went unchallenged. It just went  
 20 unchallenged.  
 21 Q. What else went unchallenged?  
 22 A. The -- well, the -- the test report went unchallenged,  
 23 you know, the marketing strategy, the proposition behind  
 24 RS5000, you know, that -- that's gone unchallenged as  
 25 well. And this is stuff -- this is things that I can --

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1 this is only now. Then it was like you couldn't see the  
 2 wood for the trees, there was so much going on and --  
 3 yeah.  
 4 Q. But this isn't trees; this is wood, isn't it, actually?  
 5 The fact that there is a statement that the BBA have  
 6 done test reports on RS5000 isn't a minor detail which  
 7 might get lost; that is an important representation  
 8 which was completely false?  
 9 A. Yes.  
 10 Q. Yes.  
 11 Underneath "Conditions of Certificate":  
 12 "The tested system comprised: ..."  
 13 And it's the same question again, Ms Berger:  
 14 a detailed list there of what the tested system  
 15 comprised, but no mention there of the 6 millimetres of  
 16 magnesium oxide or the 8 millimetres of Marley?  
 17 A. Yes.  
 18 Q. So again, the same misleading omissions; yes?  
 19 A. Yes.  
 20 Q. So we've seen now that the LABC have put out, with  
 21 Celotex's not just knowledge but encouragement, I would  
 22 suggest, a thoroughly misleading certificate; do you  
 23 accept that?  
 24 A. With encouragement from Celotex?  
 25 Q. Yes. Well, let's take it in stages. I think you do

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1 accept that the LABC certificate --  
 2 A. Yes.  
 3 Q. -- both in 2015 and 2016, was thoroughly misleading in  
 4 the respects we've covered?  
 5 A. Yes.  
 6 Q. And I'm suggesting to you that the LABC did so with the  
 7 knowledge and, as we've seen, the encouragement of  
 8 Celotex?  
 9 A. Yes.  
 10 Q. And that Celotex knew that it was misleading and  
 11 deliberately never took steps to tell the LABC or ask  
 12 the LABC to correct the misleading statements that we've  
 13 identified?  
 14 A. Erm ... yes. Yes, I agree.  
 15 Q. Can I then turn to a different topic, which is your  
 16 involvement with the BRE in the latter part of 2014. So  
 17 that's some months after the test.  
 18 Now, do you remember that just after your discussion  
 19 with Jamie Hayes, you had a meeting with Stephen Howard  
 20 of the BRE in early November 2014?  
 21 A. Yes.  
 22 Q. 4 November, to be precise.  
 23 A. Yes.  
 24 Q. And I think Jonathan Roome also attended --  
 25 A. He did.

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1 Q. -- because he had set up the meeting, hadn't he?  
 2 Can we look at an email run, {CEL00002131/1},  
 3 please. This is Stephen Howard's email to you and  
 4 I want to look at the foot of page 1 -- it's there on  
 5 the page -- his email to you of 17 October 2014, copied  
 6 to Jon Roper, "Classification report for the cladding".  
 7 He says:  
 8 "We had a conversation a while ago regarding the  
 9 content of the classification reports and the level of  
 10 technical detail they contained (we need to put a lot of  
 11 info in, but you don't want your competitors to see it).  
 12 "We have come up with a way of doing it."  
 13 Do you remember when that conversation was that;  
 14 he's referring to there?  
 15 A. No, I don't.  
 16 Q. You don't remember what you discussed with him?  
 17 (Pause).  
 18 A. No, I don't.  
 19 Q. Do you remember ever having a discussion with the BRE  
 20 about the presence of the 6-millimetre magnesium oxide  
 21 panels?  
 22 A. No. I've never had a conversation with the BRE about  
 23 the presence of the 6-millimetre or the 8-millimetre.  
 24 Q. He says in that little, perhaps rather cryptic second  
 25 paragraph:

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1 "We have come up with a way of doing it."  
 2 Did Mr Howard explain to you at the meeting on  
 3 4 November 2014 what the way of doing it was?  
 4 A. So:  
 5 "We had a conversation a while ago ..."  
 6 My -- my objective to speaking with Stephen Howard  
 7 was to take our 32-page test report down and ask him:  
 8 how -- how can we use this? How can RS5000 be used with  
 9 other cladding materials? Is there any way of taking  
 10 the data from within this report to -- to validate how  
 11 other cladding materials might perform in the system?  
 12 Q. Right, that was your objective in speaking to him.  
 13 A. Yes.  
 14 Q. Did he explain to you what his "way of doing it" was  
 15 that he's referred to here?  
 16 A. No, he --  
 17 Q. Right.  
 18 A. No.  
 19 Q. Did you ask him at the meeting?  
 20 A. No. I'm not even sure I understood that at the time.  
 21 Q. Well, I understand why that might be. So did you ask  
 22 him to clarify what he meant there?  
 23 A. It says:  
 24 "We had a conversation a while ago regarding the  
 25 content of the classification ..."

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1 I mean, I'm -- no, I don't -- I don't recall. I --  
 2 I don't recall that, I really don't.  
 3 Q. We can see your response to him -- or rather, I'm sorry,  
 4 your response internally, which is, "I'm going to set up  
 5 a meeting", at the top of the page. If we go to the top  
 6 of page 1 {CEL00002131/1}, we can see you deal with that  
 7 on 20 October:  
 8 "Hi  
 9 "I'm going to set up a meeting with Steve Howard  
 10 early next week to talk about how to detail our BRE  
 11 RS5000 fire report so as it gives [us] the relevant  
 12 commercial info without the sensitive stuff. He's got  
 13 some ideas that could help us."  
 14 What was the "sensitive stuff"?  
 15 A. I think the "sensitive stuff" I would have referred to  
 16 there would have been thermocouple details, the  
 17 pictures, you know, taking out -- sort of trying --  
 18 trying to make it perhaps more easily understood. So  
 19 the fire report -- taking out all of the stuff which was  
 20 complicated and technical, and trying to find something  
 21 which was, you know, more useful.  
 22 Q. Well, you didn't say "without the complicated stuff" or  
 23 "the technical stuff"; you said "the sensitive stuff".  
 24 What was sensitive about this report that you wanted to  
 25 remove?

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1 A. I mean, this ... this email, I didn't know about the  
 2 stuff -- to my knowledge, I did not know about the  
 3 tweaks or the use of different materials on -- within  
 4 the BR 135 test at this stage. So my -- when I look --  
 5 you know, I would have thought ...  
 6 When I read that, and I've reviewed these documents,  
 7 you know, my idea there is to try and make the report  
 8 something that can be used with other cladding systems.  
 9 Q. Now, in your statement you say -- and you don't need to  
 10 go to it; it's paragraph 174 on page 47  
 11 {CEL00010055/47} -- you say that that was a reference to  
 12 "areas [which were] thought to be commercially  
 13 sensitive". That's how you've explained it in your  
 14 statement.  
 15 What were those? What did you think was  
 16 "commercially sensitive"?  
 17 A. I think what I've said there, to give -- it gives the  
 18 relevant commercial info without the sensitive stuff,  
 19 I think what I'm referring there is, like, the details  
 20 of the test and how it can be used with other cladding  
 21 materials.  
 22 Q. I see. Did you ever ask Mr Howard what he meant with  
 23 his "way of doing it" that he'd referred to you in the  
 24 email to which you were --  
 25 A. No.

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1 Q. -- which you were circulating?  
 2 A. Not to my knowledge, no.  
 3 Q. Right.  
 4 Now, there's a note of the meeting, I think, or  
 5 after the meeting: {CEL00001260/1}. This is a note that  
 6 you prepared after the meeting, incorporating comments,  
 7 I think, from Mr Roome that he'd sent you; is that  
 8 right?  
 9 A. After the BRE meeting?  
 10 Q. After the BRE meeting --  
 11 A. We'd been down to see Mr Howard, yes.  
 12 Q. -- on 4 November, yes.  
 13 A. Yes.  
 14 Q. Right.  
 15 Let's just pick up the email, I'll just show it to  
 16 you: it's {CEL00001259/1}. Just to be clear that  
 17 Mr Roome had incorporated his own comments into this.  
 18 A. Yes.  
 19 Q. And then -- or rather he'd sent you a message at the  
 20 bottom of that page. Then at the top of that page, you  
 21 send a short summary:  
 22 "Feel free to add or amend."  
 23 If we go back to the note, {CEL00001260/1}, we can  
 24 see under the first block of text:  
 25 "Market: Growing uncertainty -- Technical

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1 application  
 2 "Emotional"  
 3 What was that about?  
 4 A. Yeah, there was a lot of feeling around the -- this is  
 5 feedback I was getting from Mr Howard and he was telling  
 6 me there was a lot of ... there was some ... you know  
 7 there was quite a lot of strong feelings about the --  
 8 the 8414, the K15 market, as I was -- as I call it.  
 9 Q. Strong feelings about the 8414 K15 market? Can you just  
 10 elaborate? What do you mean? What did he tell you, do  
 11 you remember, about strong feelings?  
 12 A. I think ... it's -- I can only go by what my notes here  
 13 say. But I -- these bullet points are an overall --  
 14 overall impression that I -- that I got that, you know,  
 15 people were getting a little bit -- there were:  
 16 "... approvals [were] sensitive to insulation being  
 17 about sales."  
 18 Q. Well, I was going to ask you about that. But before  
 19 I do, I just want to get a sense of what "Emotional"  
 20 means and, when you say there were strong feelings out  
 21 there, what that really was about. What did people feel  
 22 strongly about?  
 23 A. I think ... I mean, as I ... it was just emotional.  
 24 There was just like -- there was some concern, I think,  
 25 about the market. There was concern that, you know,

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1 product were being used where they shouldn't be.  
 2 Q. Concern by the BRE or concern in the market? (Pause).  
 3 A. I'm trying to think -- I'm trying to remember what  
 4 I meant by that. (Pause).  
 5 I think it -- I think it was a -- yeah, I think it  
 6 could be just a combination of the two. I don't know.  
 7 I honestly can't remember. This could be something  
 8 that's coming from -- this is -- this level of -- this  
 9 report here is -- it's come from that meeting on  
 10 4 November. So I would -- I can say that this has come  
 11 from that meeting.  
 12 Q. Yes, I know. I'm just trying to work out what the  
 13 source of the strong feelings is: whether it's the BRE  
 14 expressing their own concerns about how they see the  
 15 market or concerns from the market that Mr Howard is  
 16 relaying to you. I'm just trying to work out what the  
 17 source is. (Pause).  
 18 A. I can't -- I don't know. It's an impression -- it's  
 19 an impression that I got from that meeting, and I can't  
 20 pinpoint it into if it's come from the BRE or -- or  
 21 what. I can't pinpoint it.  
 22 Q. All right.  
 23 Third bullet point down, you refer to:  
 24 "BRE/BBA/NHBC approvals sensitive to insulation  
 25 being about sales."

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1 A. Yes.  
 2 Q. What did that mean? What was that about?  
 3 A. That's exactly -- that was -- it was:  
 4 "BRE/BBA/NHBC approvals sensitive to insulation  
 5 being about sales."  
 6 It's like -- it was as if they were learning or  
 7 becoming more aware that perhaps, you know, things  
 8 weren't as honest as they should be.  
 9 Q. Right. Is that something that Mr Howard said?  
 10 A. I would have thought so, because I wouldn't have known  
 11 that.  
 12 Q. Right.  
 13 Underneath that, the last bullet point, it says:  
 14 "Burnt by K15 approvals in the past"  
 15 What was that about?  
 16 A. Just that K15 had -- the Kingspan test and the BBA  
 17 certificate had -- was being used quite freely really,  
 18 outside of its tested system.  
 19 Q. Well, "Burnt by K15 approvals in the past": who had been  
 20 burnt, as it were?  
 21 A. I think the NHBC, BBA.  
 22 Q. Had been burnt by whose approvals? Their approvals?  
 23 A. Yes.  
 24 Q. Right. In what sense had they been burnt, did you  
 25 understand, by giving approval to K15?

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1 A. I think that perhaps ... I think that perhaps, you know,  
 2 K15 had been used incorrectly, and the bodies like NHBC  
 3 had accepted it while it had been used incorrectly.  
 4 Q. Right. Right. Was it your impression that these  
 5 concerns that Mr Howard was expressing had come from,  
 6 perhaps, confusion caused by Kingspan's wide acceptance  
 7 in the market?  
 8 A. I think -- yeah, I think "confusion" is a good word.  
 9 But whether this is my impression or whether this is  
 10 something that Mr Howard has said, I don't know, I can't  
 11 be sure.  
 12 Q. Can we then just look on a bit to a different topic:  
 13 scope of the use of RS5000. Can we look at an email  
 14 run: {CEL00003366/1}, please. Just at the bottom of  
 15 page 1 for the time stamp, please, and then over to the  
 16 top of page 2 {CEL00003366/2}.  
 17 This is an email sent by Nigel Waring within Celotex  
 18 to you and Jon Roper, 7 November, 12.57. Over at the  
 19 top of page 2, he says:  
 20 "Debbie, as discussed."  
 21 Do you see that?  
 22 A. Yeah.  
 23 Q. "If the BRE tested solution is as per the attached  
 24 document ...", et cetera.  
 25 Then he goes on to say:

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1 "If the BRE tested solution is as per the attached  
 2 document and that Jonathan Roomes email stating that  
 3 many RS companies are reluctant to use the product of  
 4 the test since ADB states that 'the product used must be  
 5 in accordance with the tested application' ..."  
 6 Then he goes on to say:  
 7 "If this is the case, this is not the smokescreen  
 8 that many would make it out to be. Accepted that  
 9 blanket approvals for this are rare, since the  
 10 components differ widely. Therefore it makes sense  
 11 either to have BRE apply certification and therefore  
 12 acceptance to the test provided that all components  
 13 adhere to a certain Eurocode or fire performance  
 14 themselves, in the same way that the Steel Frame  
 15 construction and also the methods to secure and fasten  
 16 these elements have to conform to EN numbers. Or could  
 17 we not have the product accepted as part of the LPCB  
 18 approval?"  
 19 Et cetera.  
 20 When he says, "this is not the smokescreen that many  
 21 make it out to be", what did you understand by that?  
 22 A. I don't know.  
 23 Q. Can we then look at your reply, page 1 {CEL00003366/1},  
 24 22.31 on 10 November 2014. You say in your second  
 25 paragraph -- and this is copied to Paul Evans and

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1 Jon Roper, I should say:  
 2 "We have spoken to the BRE about writing us a field  
 3 of application report demonstrating acceptance of  
 4 materials with the same fire class as part of our tested  
 5 system. But they are asking for more test data not just  
 6 from us but from the industry as a whole before they  
 7 confidently give the OK to different types of cladding  
 8 to be used even though they have the same fire class."  
 9 When did you have that conversation with the BRE  
 10 about writing a field of application report?  
 11 A. I could only -- I must have had that with them at the  
 12 meeting that we -- that we went to --  
 13 Q. I see.  
 14 A. -- on the 4th.  
 15 Q. I see. That's not reflected in the note that we've seen  
 16 anywhere.  
 17 A. Sorry, which note?  
 18 Q. The note of the meeting, the 4 November 2014 meeting  
 19 with Stephen Howard. That fact, it's not in the note.  
 20 A. Can I go back to the note, please?  
 21 Q. Yes, we can. It's {CEL00001260/1}. That's the first  
 22 part of it. The second part of it is lower down.  
 23 Do you see anything in the note there which could be  
 24 a reference to you asking the BRE for a field of  
 25 application report?

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1 A. That was the objective of the meeting and this is the  
 2 response we got. It wasn't -- we didn't get an answer  
 3 about --  
 4 Q. Right, I follow. I see.  
 5 Now, if we go to page 38 {CEL00010055/38} of your  
 6 statement and look at paragraph 136, please, you say  
 7 there, at the bottom of the page, in the first sentence,  
 8 that:  
 9 "After a few months as a Product Manager and working  
 10 more closely with the Sales Team, I really felt the  
 11 product needed to go back into development."  
 12 A. Yeah, I did.  
 13 Q. Let's just pick that up. At {CEL00001273/1} is an email  
 14 on 20 January 2015, which I think you refer to in the  
 15 second sentence of paragraph 136, as you can see there.  
 16 A. Yes.  
 17 Q. {CEL00001273/1} is that email. There it is:  
 18 "Hi Richard  
 19 "To summarise our conversation earlier ..."  
 20 Then you can see that you say "Short term" and  
 21 there's three bullet points. And under that you say:  
 22 "One of the challenges RS5000 has is its field of  
 23 application. The market is changing as is more  
 24 knowledgeable about the technical requirements of  
 25 insulation in ventilated facades above 18m. The

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1 build-up tested or its current field of application  
 2 doesn't represent what is commonly specified in the  
 3 field and limits specification and sales opportunities."  
 4 Is that why you felt the product needed to go back  
 5 into development?  
 6 A. Oh, I think so, yes.  
 7 Q. Right.  
 8 Now, you say that the field of application was  
 9 a challenge because the market was becoming more  
 10 knowledgeable about technical requirements. Was it your  
 11 view at the time that previously the product had been  
 12 accepted more readily because of a lack of such  
 13 knowledge?  
 14 A. No, I think the -- I think the -- it's something --  
 15 I had very little commercial knowledge, I had very  
 16 little commercial experience when I started work as  
 17 a product manager, and I didn't honestly ... I learnt  
 18 from the sales team.  
 19 I mean, there was -- it was difficult because I was  
 20 trying to engage with experts to try and understand how  
 21 the product could be used, and I appreciate that we now  
 22 know the test was not correct, I appreciate that. But  
 23 at the time we were trying to engage with engineers,  
 24 experts, to try and understand how the product could be  
 25 used with different cladding materials, and that was

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1 kind of my -- that was my focus, that was what I wanted  
 2 to do.  
 3 But on the other side, there was the sales team that  
 4 wanted to use the product, and they were a force, they  
 5 were the -- the amount of enquiries I had from the  
 6 sales team about, "Well, this is" -- so I was learning  
 7 a lot about what the market was saying from the people  
 8 that I was visiting, such as the BRE, and also from the  
 9 sales team. And it was ... it was -- it was -- well,  
 10 it's difficult.  
 11 Q. Yes, I think what you're telling us is that actually you  
 12 were observing a process whereby the market was going  
 13 from the dark into the light: they were coming -- they  
 14 were starting from a position of relative ignorance --  
 15 A. Yes.  
 16 Q. -- and moving to a position of enlightenment?  
 17 A. Absolutely. The product was launched with a certain  
 18 strategy, which I became more aware of as I went along.  
 19 But obviously the market had changed and they were  
 20 looking for -- I don't know why -- I'm not entirely sure  
 21 why the market changed, but it did.  
 22 Q. Did you get the impression that when this product was  
 23 originally launched, it was relying to some extent on  
 24 the lack of knowledge about the above-18-metre  
 25 requirements?

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1 A. At the time I didn't know that, but now, 100%.  
 2 MR MILLETT: Right.  
 3 Mr Chairman, that's a convenient moment. I'm not  
 4 quite at the end of my questions, as you can probably  
 5 tell, but my estimate is that I am about 30 minutes,  
 6 perhaps a little less than that, from the end.  
 7 SIR MARTIN MOORE-BICK: Right.  
 8 MR MAXWELL-SCOTT: I'm afraid I've slightly overrun.  
 9 SIR MARTIN MOORE-BICK: I don't know whether you were hoping  
 10 to be released at this stage?  
 11 THE WITNESS: I would like to be. No, no, I would like to  
 12 carry on and finish it.  
 13 SIR MARTIN MOORE-BICK: Well, I think everybody needs  
 14 a break at this stage.  
 15 THE WITNESS: Okay.  
 16 SIR MARTIN MOORE-BICK: And if Mr Millett says he's got half  
 17 an hour of questions, it's likely to be a bit more than  
 18 that, at least in my experience.  
 19 So we're going to break now. We will all get some  
 20 lunch, including you. We will come back at 2 o'clock  
 21 and resume then, please.  
 22 While you're out, please don't talk to anyone about  
 23 your evidence or anything relating to it. All right?  
 24 Good. Thank you very much.  
 25 THE WITNESS: Thank you.

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1 SIR MARTIN MOORE-BICK: Right, would you like to go with the  
 2 usher.  
 3 (Pause)  
 4 Right, 2 o'clock then, please. Thank you.  
 5 (1.03 pm)  
 6  
 7 (The short adjournment)  
 8 (2.01 pm)  
 9 SIR MARTIN MOORE-BICK: Right, Ms Berger, are you ready to  
 10 carry on?  
 11 THE WITNESS: Yes, thank you.  
 12 SIR MARTIN MOORE-BICK: Thank you very much.  
 13 Yes, Mr Millett.  
 14 MR MILLETT: Thank you, Mr Chairman.  
 15 Ms Berger, you referred this morning, during the  
 16 course of your evidence, about communications within  
 17 Celotex about Knauf.  
 18 Can I take you to {CEL00011642/1}, please. I'd like  
 19 to go, please, to page 2 {CEL00011642/2} in that, which  
 20 is an email of 24 October 2014 from you to Paul Evans  
 21 about Knauf, foot of the page, page 1. Just go to the  
 22 foot of page 1. Well, let's start at page 2 actually.  
 23 Let's start at page 2. Sorry. Yes.  
 24 Paul Evans writes to you on that day, 24 October,  
 25 and bear in mind that you haven't seen at this stage the

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1 BRE test because you only get that from Jon Roper on  
 2 27 October. He, Paul Evans, says to you:  
 3 "Debbie,  
 4 "Thanks for coming back quickly on this. My  
 5 understanding is that Knauf will perform their own  
 6 BS8414 testing to include RS5000 but it was useful to  
 7 get sight of their planned system so we can provide  
 8 guidance on how this compares to how we tested.  
 9 "Have a good weekend."  
 10 You go back to him, at the bottom of page 1 over to  
 11 the top of page 2 {CEL00011642/1-2}, on 25 October:  
 12 "I understand Paul's question now."  
 13 Do you see, bottom of page 1 {CEL00011642/1)?  
 14 A. Mm.  
 15 Q. "There are other details which I've not fed back to Paul  
 16 regarding our Pass for RS5000. I wasn't sure how much  
 17 detail to go into but design considerations included  
 18 orientation of the board, the base board below the  
 19 cladding that separates the fire chamber from the  
 20 structure and also the thickness of the A2 cladding, we  
 21 used a 12mm board."  
 22 Then at the top of page 2 {CEL00011642/2):  
 23 "The idea behind these little design tweaks was to  
 24 delay the fire entering the cavity and contacting RS5000  
 25 for as [l]ong as possible. Its thought the design

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1 contributed to the flames taking 20mins of the 30 min  
 2 test to enter the cavity and contact Celotex thus  
 3 minimising fire propagation.  
 4 "Again your guidance ... [would be] much  
 5 appreciated."  
 6 Now, at that date, did you know, did you think,  
 7 looking back on the meeting that you'd had, we think,  
 8 that day with Jamie Hayes, about the 6 millimetres of  
 9 magnesium oxide?  
 10 A. Yes, I think I did know then.  
 11 Q. You think you did know by then, even you hadn't yet seen  
 12 the BRE test?  
 13 A. I think Jamie had -- I think Jamie and I had had  
 14 an informal chat based on the Knauf drawing and Jamie  
 15 had outlined some concerns.  
 16 Q. I see.  
 17 Now, when you referred to the "little design  
 18 tweaks", you didn't expressly pick up the 6-millimetre  
 19 magnesium --  
 20 A. No.  
 21 Q. Is there any reason for that?  
 22 A. I think I wrote this email with the things that  
 23 I remembered from our conversation.  
 24 Q. Right. But the 6 millimetres magnesium oxide didn't  
 25 ring a bell with you at that stage, when you were

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1 communicating this back to Paul Evans?  
 2 A. No.  
 3 Q. Right. Okay.  
 4 But you did recognise at that stage, didn't you,  
 5 that RS5000 would increase the propagation of flame?  
 6 That's what you effectively say.  
 7 A. Where do I say that?  
 8 Q. Well:  
 9 "... the design contributed to the flames taking  
 10 20mins of the 30 min test to enter the cavity ..."  
 11 A. I'm not sure I'd have understood it like that. But  
 12 I understood that the -- the tweaks that had been  
 13 implemented meant that the system was more robust.  
 14 Q. Right. Once you saw the test report and wrote "WTF" on  
 15 it --  
 16 A. Yeah.  
 17 Q. -- at that point you were already in communication,  
 18 weren't you, with Paul Evans about the design tweaks?  
 19 A. Yes.  
 20 Q. Was there any reason why you couldn't have gone back to  
 21 him at that stage, once you knew the full picture, had  
 22 been told in clear terms by reference to the photographs  
 23 in the test report, and go back to Paul Evans and say  
 24 "WTF" and ask him that question?  
 25 A. No, I didn't feel I could do that. I approached it

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1 with -- I think there was an email I sent to Paul, and  
 2 only Paul Evans, because obviously I had no idea;  
 3 I thought -- I thought this was news. And I think Jamie  
 4 assisted me in writing it because there was no way  
 5 I could have ... I could have written that.  
 6 Q. Did Saint-Gobain, who were now the owners of Celotex,  
 7 have a whistleblower policy?  
 8 A. They may have done, yeah. I ... back then, I wasn't  
 9 aware of it.  
 10 Q. Did you not think to find out whether there was one by  
 11 going to personnel and asking them?  
 12 A. No, I didn't.  
 13 Q. Why is that?  
 14 A. I don't know.  
 15 Q. Why did you prefer to continue to perpetrate this secret  
 16 along with others at Celotex, rather than blowing the  
 17 whistle on them and going to top management?  
 18 A. I was a little bit ... I don't know. I don't know why  
 19 I didn't. It was ... I could put it down -- as I sit  
 20 here now, I could put it down to a couple of things.  
 21 I honestly thought, you know, telling Paul would be  
 22 enough.  
 23 Q. Now, can we go to an email in February 2015,  
 24 {CEL00010151/1}, please. This is an email from you, at  
 25 the bottom of the page, to Craig Chambers, it seems.

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1 You say:  
 2 "I have some thoughts on the subject. I can't help  
 3 but feel concerned with Knauf replicating the system we  
 4 tested to [8414]"  
 5 You see that?  
 6 A. Mm-hm.  
 7 Q. You don't say there openly that there was 6 millimetres  
 8 of magnesium oxide and 8 millimetres of Marley that had  
 9 been concealed from the test report; you don't actually  
 10 identify those. Is there a reason for that, or was  
 11 there a reason for that?  
 12 A. No, there isn't a reason, other than what I've already  
 13 explained.  
 14 Q. Was your suspicion at the time that if Knauf had  
 15 replicated the system as described as having been tested  
 16 to BS 8414-2, they would have failed, or might well have  
 17 failed, because of the presence in the test, but not in  
 18 the replication, of the 6 millimetres of magnesium oxide  
 19 at the thermocouples?  
 20 A. I was -- I was -- I wasn't very confident about the  
 21 test, full stop, I think. There were a number of --  
 22 a number of design -- design tweaks that could have  
 23 contributed to, you know, making the system more robust.  
 24 Q. Yes, indeed. But you don't list the presence of  
 25 6 millimetres of magnesium oxide in the bullet points

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1 underneath that as one of the bases of your concern if  
 2 Knauf replicated the test. Why was that?  
 3 A. I can't explain why it's not in there.  
 4 Q. Right.  
 5 Then Craig Chambers comes back to you at the top and  
 6 says:  
 7 "Paul/Debbie  
 8 "Firstly we just need to be very careful how many  
 9 people circulated one mails on this topic - otherwise  
 10 a danger that things get miscommunicated/misconstrued.  
 11 "As I have said before I am not comfortable  
 12 progressing this with Knauf. I really feel that we need  
 13 to learn more ourselves before working with any others  
 14 and carry out the bench exercise with Warrington etc  
 15 first.  
 16 "We have to bear in mind that Knauf have  
 17 an insulation business ...", et cetera.  
 18 Just in relation to the first paragraph there, where  
 19 he says he's not comfortable -- sorry, need to be  
 20 careful about how many people are circulated on the  
 21 circulation, was it your impression that Mr Chambers  
 22 knew about the presence of the 6 millimetres magnesium  
 23 oxide, even though you hadn't referred to it?  
 24 A. No. I didn't -- I didn't know who knew. I wouldn't --  
 25 I didn't know.

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1 Q. Right. But you can't explain why you didn't refer to it  
 2 and you've got no confidence that he knew about it?  
 3 A. Only from what -- only from what I've said previously:  
 4 that when being explained the different details, it  
 5 didn't stick with me.  
 6 Q. Sitting here now, do you recall how many people within  
 7 the Celotex business knew about the presence of the  
 8 6 millimetres magnesium oxide?  
 9 A. Sitting here today --  
 10 Q. Yes.  
 11 A. -- knowing what I know now, then I would say: yes, I do  
 12 know. But at that time, no, I didn't.  
 13 Q. No, I understand that. Who is it?  
 14 A. What, today --  
 15 Q. Yes.  
 16 A. -- as I know now?  
 17 Q. Yes.  
 18 A. I would say -- I would say Paul Evans, Jamie Hayes,  
 19 Jon Roper and Craig Chambers, and Paul Reid.  
 20 Q. Right. What is the basis on which you can sit here and  
 21 say that Craig Chambers knew?  
 22 A. Based on evidence that I've heard through -- through  
 23 this Inquiry.  
 24 Q. Right, I see. But not on the basis of your recollection  
 25 of anything at the time?

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1 A. No.  
 2 Q. And the same question in relation to Paul Reid?  
 3 A. Yes. Yeah, I did not know.  
 4 SIR MARTIN MOORE-BICK: Well, I think what we'd actually  
 5 like to know is: thinking back to the time at which you  
 6 were there, did you see or hear anything to suggest that  
 7 these people knew?  
 8 A. No. I -- thinking back to then, I don't remember. I'm  
 9 not even sure I had a conversation with Jon Roper about  
 10 it openly.  
 11 SIR MARTIN MOORE-BICK: Yes.  
 12 A. I think the only person that I had an open conversation  
 13 with about it was Mr Hayes.  
 14 SIR MARTIN MOORE-BICK: All right, thank you.  
 15 MR MILLETT: I see. Thank you very much.  
 16 Just to be clear, I wasn't asking you for your  
 17 comment on what you see on the evidence. What I was  
 18 after was your present recollection today of --  
 19 A. Of back then.  
 20 Q. -- back then.  
 21 A. Yeah.  
 22 Q. And I think you've clarified that. Thank you very much.  
 23 Can I then go back to the 2016 LABC certificate and  
 24 just pick up a small point with you there. This is  
 25 {CEL00002062/1}, this is the 2016 certificate, and it's

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1 the point about the BBA.  
 2 If we go to page 5 {CEL00002062/5}, please, in that,  
 3 we can see that in the "Supporting Documentation" there  
 4 are two references to BBA documents:  
 5 "BBA letter FR5000 CG5000 21 Lambda classification  
 6 "BBA spreadsheet for lambda data"  
 7 To your knowledge, was there any other BBA  
 8 certificate or communication relating to RS5000?  
 9 A. Other than the BR 135 report, if I understand what  
 10 you're asking me, is that: was there any other formal  
 11 certification for RS5000 in the market?  
 12 Q. No, it's my fault. I'll put the question again.  
 13 I muddled it up.  
 14 You can see there are two BBA certificates or  
 15 documents there: a BBA letter and a BBA spreadsheet.  
 16 Was there any BBA certification for either FR5000 or  
 17 RS5000 in relation to fire?  
 18 A. BBA certification in relation to fire? Not to my  
 19 knowledge, no.  
 20 Q. No. Is there any BBA letter, spreadsheet,  
 21 certification, in relation to RS5000, that you knew  
 22 about at the time?  
 23 A. No, I don't think so.  
 24 Q. Thank you.  
 25 Now, can we then move to February 2015.

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1 {CEL00003544/1}, please. This is a slideshow called  
 2 "RS5000 Market Analysis" that I think in your witness  
 3 statement you say you asked Jonathan Roome to prepare --  
 4 A. Mm.  
 5 Q. -- for your mid-February SPINN meeting?  
 6 A. Mm.  
 7 Q. Yes, that's right.  
 8 He sent those to you on 11 February 2015, and we can  
 9 just pick that up at {CEL00003543/1}, if we can just  
 10 have that. Here is the email from him to you on that  
 11 day:  
 12 "Hi Debs/Paul,  
 13 "Please find slides that you can consider for use in  
 14 the SPIN meeting on Friday.  
 15 "I have tried to keep it as simplified as possible."  
 16 Did you present this slideshow at the SPINN meeting?  
 17 A. To the best of my recollection, yes.  
 18 Q. Right. Do you remember who was there?  
 19 A. No, no. I could not --  
 20 Q. Right. Who would customarily be at SPINN meetings at  
 21 that time?  
 22 A. The managing director, the sales director, the marketing  
 23 director, the head of marketing at the time.  
 24 Q. Right. That's Paul Evans?  
 25 A. Yeah.

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1 Q. Right. And the managing director was?  
 2 A. Craig Chambers.  
 3 Q. Craig Chambers. And --  
 4 A. Paul Reid.  
 5 Q. Sales director?  
 6 A. Paul Reid. And the head of development would be  
 7 Mr Joe Mahoney.  
 8 Q. Right.  
 9 Can we go back to the slideshow, {CEL00003544/2}  
 10 please:  
 11 "I see the market for RS5000 being split into three  
 12 defined potential customer tiers"  
 13 Then slide 3 {CEL00003544/3} is the first of those  
 14 tiers, "Tier 1 -- No Use", red. Are you familiar with  
 15 the text of that?  
 16 A. Yeah.  
 17 Q. Yes. You can see the "View", the "Reason" and the  
 18 "Influencer".  
 19 A. Yeah.  
 20 Q. You can see that on the right-hand side the influencer  
 21 would be "Client", "Insurer", "Building Control" and  
 22 "Specialist Consultant".  
 23 Then on the next page, page 4 {CEL00003544/4}, is  
 24 the amber, "Tier 2 -- Limited Use". The influencers  
 25 there, no insurer anymore, but still "Specialist

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1 Consultant".  
 2 Then page 5, or slide 5 {CEL00003544/5}, green. The  
 3 influencer: "Main Contractor", "Sub Contractor",  
 4 "Building Control", but no specialist consultant or  
 5 insurer at all.  
 6 Did you get the impression from this that this  
 7 traffic light system of analysing the market meant that  
 8 green, "Use", would be directed at those with the least  
 9 expertise?  
 10 A. I did understand that, yeah.  
 11 Q. You did. Do you think -- and I know it's hard to peer  
 12 into people's minds -- but was it your impression that  
 13 those at the meeting, the SPINN meeting, to which you  
 14 presented this slideshow understood the same?  
 15 A. I can't be sure they did.  
 16 Q. Right.  
 17 A. I'm not -- yeah, I can't be sure. I mean, the slide  
 18 shows -- the tiers are colour-coded and there's text in  
 19 them.  
 20 Q. Right. Did you have a concern at the time that at that  
 21 point, February 2015, RS5000 had for some months been  
 22 sold into a market for which it was not only unsuitable  
 23 but actually downright unsafe?  
 24 A. I know -- I knew that the market -- I knew that the  
 25 product was being sold, I knew that it was struggling

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1 with how -- to understand how the product could work  
 2 with other cladding materials. That's -- that's how  
 3 I understood it.  
 4 Q. Right. By this time, just taking it generally, did you  
 5 understand that the field of application was not going  
 6 to happen and you needed a desktop study?  
 7 A. I see those as the same things.  
 8 Q. I see. All right.  
 9 A. Today I see those as the same things.  
 10 Q. Do you remember that in February 2015 you started  
 11 talking to Exova about them doing you a desktop study?  
 12 A. Yes.  
 13 Q. Yes. I think I can shorten this a little bit. Was that  
 14 before the SPINN meeting or after the SPINN meeting?  
 15 A. Without looking at the dates, I don't --  
 16 Q. All right.  
 17 A. -- don't know.  
 18 Q. Well, I think we can look at the SPINN meeting note,  
 19 {CEL00003557/1}. You can see here that this is the note  
 20 of the SPINN meeting at which you presented Mr Roome's  
 21 slides. It's very short.  
 22 But if we go to page 2 {CEL00003557/2}, we can see  
 23 that on page 2 you were -- you can see "RS5000", the  
 24 first item there:  
 25 "Employer consultant for a desktop study"

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1 And that was an action list with your name  
 2 underneath it?  
 3 A. Yes.  
 4 Q. So can we take it, looking at that, that although  
 5 perhaps Exova weren't identified at that stage, there  
 6 was discussion about you employing a desktop --  
 7 A. Absolutely. It was -- it was seen as a way of  
 8 understanding how the product could be used with other  
 9 cladding materials.  
 10 Q. Right. It says underneath that:  
 11 "Arrange meetings -- with a preference for  
 12 Warrington"  
 13 That's Exova, isn't it?  
 14 A. Yes.  
 15 Q. Were you already in contact with them or was it just  
 16 a name that had been discussed at the meeting?  
 17 A. I don't -- I don't know. I can't be sure.  
 18 Q. I think in fact you may well have been in contact with  
 19 them already, because I think you'd made contact with  
 20 them on 11 February.  
 21 A. Okay.  
 22 Q. Do you remember that?  
 23 A. No.  
 24 Q. You don't.  
 25 Now, cutting a long story short, you then had

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1 a meeting with Frans Paap and Andrew Evans of Exova on  
 2 20 February?  
 3 A. Yes.  
 4 Q. I don't think you took any notes, but you say in your  
 5 statement that you think Rob Warren might have done so?  
 6 A. Yes.  
 7 Q. It's paragraph 213 at page 57 of your statement  
 8 {CEL00010055/57}.  
 9 A. Yes.  
 10 Q. Let's look at those: {CEL00002691/1}, please. We can  
 11 see there -- I'll just wait for those to come up.  
 12 We understand that these notes were made by  
 13 Rob Warren.  
 14 A. Mm.  
 15 Q. Do you think that's right?  
 16 A. Yeah.  
 17 Q. If you look at the middle entry, you can see they relate  
 18 to "Warrington Certification"; do you see that?  
 19 A. Yes.  
 20 Q. "20th Feb '15".  
 21 Do you think those are the notes of the meeting?  
 22 I know they're not your notes, and maybe you can't help  
 23 us. But are they the note of that meeting?  
 24 A. If I can just take a minute to read them.  
 25 Q. Yes. It says:

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1 "Frans Paap" --  
 2 A. Yes.  
 3 Q. -- "Certification Engineer  
 4 "Andrew Evans -- Key Accounts Manager.  
 5 "Find out about insulation performs -  
 6 Fire resistance test  
 7 "- Fire propagation test  
 8 "Class 0 Fire Data"  
 9 If we go down to just below halfway down the page  
 10 and then it talks about a "Housing Meeting", which  
 11 I don't think has got anything to do with what we want  
 12 to look at.  
 13 A. Yes, that could be -- it could be it doesn't ...  
 14 Q. It says on the left-hand side, just about halfway down:  
 15 "Need other test data. SBI ..."  
 16 That's I think -- do you know what that stands for?  
 17 A. Euroclass test, I think.  
 18 Q. Yes, single burning item Euroclass test.  
 19 A. Yes.  
 20 Q. "Case by case basis assessment."  
 21 So did you understand that Exova were saying at this  
 22 stage that a report would be project-specific?  
 23 A. No, I did not understand that.  
 24 Q. You didn't?  
 25 A. No.

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1 Q. Right. Did you discuss any particular cladding systems  
2 at this meeting?  
3 A. I don't know. I can't remember, if I'm honest.  
4 Q. All right.  
5 Moving on into March 2015, {CEL00003589/1}. This is  
6 an email run of that day. If we look at the email at  
7 the top of the chain, page 1, this is an email from you  
8 to Frans Paap on 18 March. "Hi Frans", it says there:  
9 "Please find attached a copy of our 32 page test  
10 report for BS8414: Part 2 using Celotex RS5000.  
11 "Please find also some examples of 4 build-ups ...  
12 we commonly see presented to us at design stage"  
13 This email is copied to Paul Evans and  
14 Craig Chambers, isn't it?  
15 A. Yes.  
16 Q. The four of them are slightly different, but only very  
17 slightly. Design 1 is an unventilated cavity, whereas  
18 2, 3 and 4 are all ventilated. That's one difference,  
19 isn't it?  
20 A. Yeah.  
21 Q. Then the other differences are principally the cladding  
22 material. So design 1 is "Brickwork"; design 2, which  
23 is the ventilated cavity system, is "Terracotta";  
24 design 3 is "Cladding Laminates -- A1"; and design 4 is  
25 "Cladding - Aluminium -- Class O".

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1 A. Mm-hm.  
2 Q. You say at the bottom:  
3 "I think these best represent what's commonly  
4 specified and in particular what NHBC commonly see."  
5 A. Mm-hm.  
6 Q. "The analysis will hopefully help us to better  
7 understand the risky parts of cladding systems.  
8 "It will also provide us with some insights on  
9 RS5000 fire behaviour and contribution to this risk."  
10 Was that the real reason for the report?  
11 A. Yes.  
12 Q. Wasn't the real reason that the build-up that had been  
13 tested didn't actually represent what was commonly  
14 specified, and that problem limited sales opportunities?  
15 A. At the time, where -- when this was all going -- when  
16 I was engaged with it, it was -- we were trying to  
17 understand: how can the product be used outside of its  
18 tested system? And I understand these cladding types  
19 are after a discussion with the NHBC, and I learnt a lot  
20 from talking to Dave White about the different cladding  
21 types.  
22 To answer your question, as I see it, you know,  
23 today -- if you can just remind me of your question,  
24 please.  
25 Q. Yes. Well, let's just get it another way.

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1 If you go to {CEL00001273/1}. This is back to  
2 an email we looked at before the lunch break of  
3 20 January 2015.  
4 A. Yeah.  
5 Q. Do you see?  
6 A. Yeah.  
7 Q. I took you through this. Do you remember I showed you  
8 the paragraph in the middle of that page -- it's  
9 actually at the foot of the screen -- which says:  
10 "One of the challenges RS5000 has is its field of  
11 application."  
12 Then in the last sentence, do you remember I showed  
13 you, it said this:  
14 "The build-up tested or its current field of  
15 application doesn't represent what is commonly specified  
16 in the field and limits specification and sales  
17 opportunities."  
18 A. Yeah.  
19 Q. So that being the background wasn't the real reason that  
20 you wanted this desktop study from Exova based on these  
21 four different designs; the problem was that the  
22 build-up that you'd had tested wasn't representative of  
23 what was being commonly used in the market, and that was  
24 limiting sales opportunities?  
25 A. The -- this -- this is -- this short-term summary, if

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1 you like, is exactly what was -- what was the challenge  
2 to the product. It was -- yes, it wasn't being  
3 addressed as a system, it was being addressed as  
4 a product.  
5 Q. Yes.  
6 A. And what we needed to understand was, you know: how can  
7 we use the product outside of the tested system? So it  
8 was initially an idea to try and gauge: how does the  
9 product work outside of its tested system? But --  
10 Q. The real reason you wanted to make -- sorry. I'm  
11 suggesting to you that the real reason, the real driver  
12 for this exercise, which was going to Celotex money, was  
13 to increase sales; not just for the scientific curiosity  
14 of finding out --  
15 A. Yeah, I think -- I think that's -- I think that's fair.  
16 We were trying to understand: how can the product be  
17 used outside of its tested system? And I think it's --  
18 once it was -- the idea was it was just to try and  
19 understand the product a bit better and how it can be  
20 used outside of its tested system.  
21 Q. Can we then look at the draft desktop assessment that  
22 comes as a result of the instructions that you gave  
23 Exova. This is {CEL00002040/1}, please. This is  
24 a draft, and you can see from the screen, Ms Berger,  
25 that it's dated 7 May 2015 and it comes to Celotex.

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1 Did you see this at the time, do you think?  
 2 A. Yes.  
 3 Q. If we go to page 5 {CEL00002040/5}, we can see the test  
 4 evidence that Exova set out --  
 5 A. Yeah.  
 6 Q. -- that they took from the BRE test report 295369, which  
 7 was 1 August 2014, full 33-page test.  
 8 A. Yes.  
 9 Q. They've set out the test rig:  
 10 "The test specimen was constructed as follows: ..."  
 11 And there is the now familiar list of ingredients or  
 12 components in the test specimen.  
 13 No reference there at all to the 6 millimetres of  
 14 magnesium oxide or the 8-millimetre panels at the  
 15 level 2 thermocouples or at the top of the rig,  
 16 is there?  
 17 A. No.  
 18 Q. So do we take it that you didn't tell Exova --  
 19 A. No, I didn't.  
 20 Q. -- about that --  
 21 A. No, I did not.  
 22 Q. You didn't. Why is that?  
 23 A. It's -- you know, I can't explain why I didn't, other  
 24 than it just was out of mind. And that's not a great  
 25 thing to say, I appreciate that, but it genuinely -- it

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1 was out of mind. I think --  
 2 Q. Do -- sorry.  
 3 A. No, that's fine.  
 4 I think now, looking back, knowing, yeah, it's --  
 5 and I think I do recognise that when I was reviewing  
 6 these documents, it became very, very clear that this  
 7 was not fair, this was not right.  
 8 Q. Did you not think at the time that if Exova were  
 9 instructed to proceed on the basis that the components  
 10 of the BRE test were as described in this list, that any  
 11 resulting desktop study that they produced would be  
 12 similarly incomplete, flawed, and therefore unreliable?  
 13 A. At the time, as I said, it just -- it really wasn't in  
 14 my mind and it -- I didn't put that together. Obviously  
 15 now I do, yeah.  
 16 Q. Right. So it didn't occur to you at the time: garbage  
 17 in, garbage out?  
 18 A. No, it -- no, I'm sorry. I know it doesn't -- it really  
 19 didn't.  
 20 Q. I mean, the idea here, of course, was to get a report  
 21 that would broaden the scope of application and make  
 22 sure that RS5000 went on to more buildings than simply  
 23 using the test report would allow.  
 24 A. I think a lot of the feedback I was -- we were getting  
 25 leading up to this report was based on further testing.

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1 So the BRE had said to us, you know, "We need more test  
 2 data", and it was understood that more test data -- and  
 3 in -- we were -- as I said, if I had been involved with  
 4 this product before launch, we should have got more test  
 5 data for it, we should have -- all this work should have  
 6 done (sic).

7 In my head, we got this to understand roughly:  
 8 how -- how can the product be used outside of its tested  
 9 system? What cladding materials, roughly, going from  
 10 worst -- very, very safe, which is brick, which is  
 11 highly cementitious and very thick, down to the  
 12 3-millimetre aluminium, which has the non-fire-rated  
 13 filling. So they were specifically chosen to gauge  
 14 which cladding materials were safe, depending on their  
 15 sort of build-up.

16 So as we go through it, one of them I think is --  
 17 I think it's terracotta, I can't quite remember, but  
 18 it's less cementitious -- it's still cementitious, but  
 19 thinner; and then the Alucobond I think is the  
 20 fire-rated -- is the fire-rated cladding.

21 So it was to try -- in my mind it was to try and  
 22 understand: how would Celotex fare against brickwork?  
 23 How would Celotex fare against the very worst, which is  
 24 ACM 3 millimetres without the fire-rated cladding?

25 Q. But, Ms Berger, this doesn't make any sense, with great

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1 respect. If you're telling Exova to proceed on the  
 2 basis of the BRE test report --  
 3 A. No, I -- yes, yeah.  
 4 Q. -- and that test report had a material omission, then  
 5 any desktop study which would broaden the application  
 6 would be misleading and fundamentally flawed.  
 7 A. Yeah, I accept that.  
 8 Q. But you must have known that at the time; no?  
 9 A. It didn't -- it didn't -- I did not put it together.  
 10 Q. How can that be?  
 11 A. I know. I'm sorry. I know.  
 12 Q. If we go down to page 9 {CEL00002040/9}, we can see what  
 13 Exova thought of the alternative designs. They all  
 14 passed, other than aluminium. I'm summarising. That's  
 15 right, isn't it?  
 16 A. Yes.  
 17 Q. If we look at the conclusions in relation to aluminium  
 18 on page 9 {CEL00002040/9}, just above general  
 19 conclusions:  
 20 "Based on the considerations outlined above, when  
 21 Alternative design 4, with an external aluminium sheet  
 22 cladding over a ventilated cavity, is tested in  
 23 accordance with BS 8414-2, it can't be judged with  
 24 certainty to meet the performance requirements as  
 25 outlined in BR 135"

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1 So at least you knew from that point that RS5000  
 2 should not be used with aluminium?  
 3 A. Yes.  
 4 Q. Even on the basis of the flawed --  
 5 A. Yes.  
 6 Q. -- test.  
 7 Now, I take it -- but all the others, of course, as  
 8 we can see from the conclusions, were passed, weren't  
 9 they, designs 1, 2 and 3?  
 10 A. Yes.  
 11 Q. Yes.  
 12 Now, do I take it -- I think we can take it -- that  
 13 you never went back to Exova and corrected the  
 14 misapprehension that they had about the list of  
 15 components --  
 16 A. No, I didn't.  
 17 Q. -- in the test?  
 18 The report was formally issued on 26 May 2015,  
 19 wasn't it? I can show you that: it's at  
 20 {CEL00001116/1}.  
 21 A. Okay.  
 22 Q. I've put the question to you before showing you the  
 23 document, but you can see the document. 26 May 2015, is  
 24 that the final version of that document? I think it's  
 25 the version we've seen.

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1 A. Yeah, I -- without -- yeah, I mean, I would imagine so,  
 2 yes, it's the final version.  
 3 Q. Right. We can see no changes from the draft version.  
 4 Do we take it that you never went back to Exova and  
 5 asked them to make any changes?  
 6 A. I would have -- I definitely discussed this report with  
 7 Jamie.  
 8 Q. Right.  
 9 A. Possibly --  
 10 Q. What was the upshot?  
 11 A. Possibly Rob Warren.  
 12 Q. Right. What was the upshot of those discussions?  
 13 A. It wasn't to change the -- it wasn't to change the --  
 14 not that I can recall, to change the 6 and the ...  
 15 Q. So this final report was as flawed --  
 16 A. Absolutely.  
 17 Q. -- as the draft?  
 18 A. Yeah.  
 19 Q. Do you know to what use this report was then put in the  
 20 business?  
 21 A. Well, we -- we thought it would give us an understanding  
 22 of how RS5000 could be used outside of its tested  
 23 system. However, when we went to see the NHBC, that we  
 24 were made -- you know, we were made aware of how little  
 25 we knew. And really, it really was not -- it was not

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1 something that they could take seriously.  
 2 Q. Indeed, and we'll come to that in just a second. Before  
 3 I do, do you know, to your knowledge, whether the Exova  
 4 report was ever used by Celotex to promote the use of  
 5 RS5000 in any of the rainscreen build-ups, design 1, 2  
 6 or 3, that passed in this test?  
 7 A. Yes, I think that -- I think there was some discussion  
 8 that the brick outer leaf -- I think I was asked --  
 9 I was asked to -- later on, I think, I was asked to  
 10 isolate the brick outer leaf.  
 11 Q. Right.  
 12 A. Yeah.  
 13 Q. But you didn't -- I mean, to your knowledge, was this  
 14 desktop study actually ever used --  
 15 A. This --  
 16 Q. -- in real life to sell RS5000?  
 17 A. With all the four, with all the four cladding, I don't  
 18 think it was, no.  
 19 Q. Right.  
 20 You mentioned the NHBC meeting in your statement at  
 21 page 61 {CEL00010055/61}, paragraph 230, and you date it  
 22 as 19 May. Page 61, paragraph 230.  
 23 A. Mm-hm.  
 24 Q. If we can just look at that. You say:  
 25 "I was invited to the meeting. I had been working

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1 on the Exova desktop study and so my role was going to  
 2 be to talk about the draft Exova report."  
 3 At that stage it was a draft.  
 4 "As I became more experienced working with desktop  
 5 studies I learnt the level of detail required for  
 6 a desktop study. I was not an expert in the details to  
 7 be able to explain them - I was just aware what was  
 8 required ..."  
 9 And you go on to say you didn't think it was really  
 10 a desktop study, looking back on it.  
 11 When you say that it wasn't really a desktop study,  
 12 do you mean that that's because it's not for a specific  
 13 project?  
 14 A. Yes.  
 15 Q. I see. But just outline designs, as we've seen in  
 16 the --  
 17 A. Yes, yeah.  
 18 Q. If you go over the page, please, to paragraph 231  
 19 {CEL00010055/62}, you say that at the meeting -- you say  
 20 it "did not go as outlined in the agenda". And you say  
 21 there, in the second line:  
 22 "We presented the draft report from Exova looking at  
 23 the four different cladding types. NHBC expressed their  
 24 concerns strongly about our lack of understanding about  
 25 desktop studies. Firstly, they said that any

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1 assessments should take into consideration the whole of  
 2 the project.”  
 3 Is that the point you’re making; that these were not  
 4 project-specific, they were too generic to be of any  
 5 use?  
 6 A. Yes.  
 7 Q. Right.  
 8 Then if we go to {CEL00001122/1}, we can see that  
 9 Paul Evans sends Rob Warren an email, copied to you, on  
 10 8 June:  
 11 “Response back from NHBC. I haven’t studied the  
 12 detail yet but probably need us to respond once we have  
 13 answers to the questions including feedback from Exova.  
 14 “Will try and find some time to discuss ...”  
 15 Below that, you can see that there’s an email -- if  
 16 you just go lower down the page on the screen -- from  
 17 Graham Perrior of 8 June 2015 to Paul Evans, copied to  
 18 Dave White and John Lewis:  
 19 “Hi Paul.  
 20 “This remains work in progress, but I can provide  
 21 you with a few observations:  
 22 “We have previously commented in careful detail on  
 23 BRE fire test report 295369 which appears to be the only  
 24 fire test report released? Please advise if there are  
 25 others. Furthermore, we have previously explained that

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1 this BRE test was not fully representative of a typical  
 2 rainscreen façade. However, we are still seeking to  
 3 review exactly what has been recently assessed by Exova  
 4 in their desk study.”  
 5 Then over the page {CEL00001122/2} there’s more:  
 6 “We are looking to provide a critical  
 7 breakdown ...”, et cetera.  
 8 Then in the penultimate paragraph:  
 9 “Therefore it appears that the basis for Exova’s  
 10 analysis does not reflect either a true model of  
 11 a ventilated rainscreen façade or take fully into  
 12 account the fact that a large part of the Marley  
 13 ‘rainscreen’ caught fire.”  
 14 Now, was there a discussion within Celotex with  
 15 Paul Evans, as indicated in Paul Evans’ email that comes  
 16 to you, about this response from the NHBC? Do you  
 17 remember?  
 18 A. I expect there was, yeah.  
 19 Q. How did this end with the NHBC?  
 20 A. Well, they were looking for more ... Well, we contacted  
 21 Frans Paap at Exova and we gave him the details about  
 22 the lack of ventilation, the lack of gaps between the  
 23 cladding façades, and we said to him that, you know,  
 24 “Could you review our -- review your analysis based on  
 25 there being reduced amount of ventilation going into the

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1 cavity.”  
 2 Q. And what did he say?  
 3 A. He said: yes, he would do that.  
 4 Q. Did they do that?  
 5 A. Yes.  
 6 Q. Did they produce a revised report?  
 7 A. No, they produced an email --  
 8 Q. Right.  
 9 A. -- and he listed his reasons.  
 10 Q. Right. Did you take that back to NHBC?  
 11 A. I think -- yes, I think both Rob did or Paul did, one of  
 12 the two.  
 13 Q. What was their reaction?  
 14 A. I can’t honestly -- I don’t -- I honestly don’t --  
 15 I can’t recall.  
 16 Q. Right.  
 17 Can I show you one more document.  
 18 A. Yeah.  
 19 Q. {CEL00002378/1}. This is a document published by the  
 20 NHBC in July 2016 entitled “Acceptability of common wall  
 21 constructions containing combustible materials in  
 22 high rise buildings”.  
 23 A. Mm-hm.  
 24 Q. When this was published, were you familiar with it?  
 25 A. Not overly, no.

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1 Q. Not overly?  
 2 A. I knew bits of it, and I relied on, you know, other  
 3 people to really help me with it.  
 4 Q. If you look at the bottom right-hand corner, it refers  
 5 to “Common wall and facade types accepted by NHBC” as  
 6 a title, and then says:  
 7 “The following common wall and facade constructions  
 8 are acceptable to NHBC without the need to provide  
 9 an Option 3 assessment ...”  
 10 That’s desktop study:  
 11 “... providing that the design specification and  
 12 installation meets the minimum specifications set [out]  
 13 in the following appendices:- ...”  
 14 Then appendix 3 is “Aluminium Composite Panels”.  
 15 A. Yes.  
 16 Q. At the time, were you surprised by this change in  
 17 approach?  
 18 A. Yes.  
 19 Q. Do you know what caused it?  
 20 A. No.  
 21 Q. Was your surprise shared by others within Celotex?  
 22 A. Probably.  
 23 Q. To the best of your --  
 24 A. Yes.  
 25 Q. -- knowledge.

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1 A. Yeah, yes. We were -- you know, at the end of the day  
 2 it was like all the sales queries -- I mean, from  
 3 handover from Jon Roper, the emphasis was on NHBC, on  
 4 NHBC, you know, projects. It was a big goal for the  
 5 company. And in my time working with RS5000, it was all  
 6 that was -- you know, NHBC product wasn't allowed --  
 7 couldn't be used on these projects because of how NHBC  
 8 viewed the Celotex test.  
 9 So when this came through, it was ... yeah, I didn't  
 10 really -- it was a surprise.  
 11 Q. Do you know, from your own knowledge at the time, of any  
 12 efforts made by Celotex by way of lobbying or  
 13 discussions with the NHBC that led them to publish this  
 14 guidance?  
 15 A. No.  
 16 MR MILLETT: Ms Berger, thank you very much. I've come to  
 17 the end of my questions.  
 18 Mr Chairman, I've come to the end of my questions  
 19 and I have not been true to my word, I'm afraid.  
 20 SIR MARTIN MOORE-BICK: Never mind.  
 21 MR MILLETT: But there it is. So might this be a moment for  
 22 the break?  
 23 SIR MARTIN MOORE-BICK: Yes.  
 24 Ms Berger, as you heard, counsel thinks he has come  
 25 to the end of the questions. But we will have a break

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1 at this point to give him time to just review everything  
 2 and also to give those who are not here, but may have  
 3 questions, to suggest, to put them to counsel.  
 4 So we will break off now for ten minutes or  
 5 thereabouts. We'll come back at 2.50 and see if there  
 6 are any more questions for you then.  
 7 THE WITNESS: Thank you.  
 8 SIR MARTIN MOORE-BICK: All right? Thank you very much.  
 9 Please go with the usher.  
 10 (Pause)  
 11 Right, Mr Millett, 2.50 then, please.  
 12 (2.41 pm)  
 13 (A short break)  
 14 (2.52 pm)  
 15 SIR MARTIN MOORE-BICK: Right, Ms Berger. Well, we'll see  
 16 if Mr Millett has found any more questions for you.  
 17 Yes, Mr Millett.  
 18 MR MILLETT: Mr Chairman, thank you. Just one.  
 19 Between May 2015 and July 2016, when we can see that  
 20 the NHBC published their guidance, between those  
 21 two points in time, a 14-month period or so, did Celotex  
 22 continue to sell RS5000?  
 23 A. Yes.  
 24 Q. What was the basis on which it was selling RS5000? Did  
 25 it continue to sell it on the basis of the marketing

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1 literature and the BRE test and classification reports?  
 2 A. Desktop studies. We were becoming more -- we were  
 3 working with projects, real-life projects now,  
 4 understanding how -- the reality of using RS in the  
 5 different elevations of a project, not just in one  
 6 sort of application, isolated from its -- from the  
 7 project.  
 8 Q. Right.  
 9 A. And I suppose there was a growing confidence that there  
 10 seemed to be a process -- I mean, this is how  
 11 I understand it -- there seems to be a growing  
 12 confidence that there was a process to understand how  
 13 the test could be used outside -- could be used with  
 14 other cladding materials, how this -- how RS could be  
 15 used with other cladding materials.  
 16 Q. Now, you were the product manager throughout that  
 17 period. Roughly, are you able to tell us into how many  
 18 projects above 18 metres RS5000 was sold?  
 19 A. I couldn't tell you. We didn't know.  
 20 Q. Right. Is it the case that the desktop studies were  
 21 done for above-18-metre buildings?  
 22 A. I think so, yes.  
 23 Q. Is it also the case -- I think it would follow from our  
 24 discussions earlier -- that in each of those cases, did  
 25 they rely on the BRE test that had been done in 2014?

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1 A. Sorry, what -- can you --  
 2 Q. Each of those desktop studies relied on the BRE test?  
 3 A. Yes, they relied on the -- yes, they did.  
 4 Q. So does it follow from that that in the case of each of  
 5 those projects where there was a desktop, those desktops  
 6 were flawed because they relied on an incomplete --  
 7 A. Yes. Yes, I accept that.  
 8 Q. -- and misleading BRE test?  
 9 A. I accept that today, yeah.  
 10 Q. Right. To your knowledge, did you, as the product  
 11 manager, ever write to any of the architects, designers,  
 12 contractors, building owners on those projects and tell  
 13 them that the desktop study they had used was based on  
 14 a misleadingly incomplete BRE test report and  
 15 classification?  
 16 A. No, I did not write to them myself.  
 17 Q. Why's that?  
 18 A. Because I didn't ... I -- when -- by -- when we were --  
 19 by the time we got down to working more fluently and  
 20 understanding the process of using the product with  
 21 these different projects, the NHBC concerns of the  
 22 ventilated façade and, you know, the orientation of the  
 23 board, in my mind, Frans Paap had addressed that. And  
 24 the idea of the other areas which were reinforced had --  
 25 wasn't in my mind.

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1 Q. You didn't think it appropriate to those who had relied  
2 on desktop studies and say your desktop study is fatally  
3 flawed?  
4 A. There are -- there are a number of -- in hindsight,  
5 there are a number of things I wish -- I wish I had done  
6 a lot differently, but -- and maybe if I had spoken more  
7 about this with Jamie, Jamie and I could have together  
8 confronted the management as such and said, "Look, we  
9 know this is what's going on". I don't know why we  
10 didn't support each other, but we just didn't, and we  
11 just didn't really talk about it very much after.  
12 Q. So I think the answer to my question is: you didn't  
13 think it necessary or appropriate to write to those  
14 who'd relied on desktop studies and warn them that the  
15 desktop study they were using was fatally flawed? You  
16 didn't?  
17 A. I didn't.  
18 MR MILLETT: Thank you.  
19 Well, Ms Berger, thank you very much for your  
20 evidence.  
21 THE WITNESS: Thank you.  
22 MR MILLETT: I'm extremely grateful to you for coming here  
23 today and helping the Inquiry with its investigations.  
24 So thank you very much.  
25 THE WITNESS: Thank you.

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1 SIR MARTIN MOORE-BICK: On behalf of the panel, may I also  
2 thank you for coming here. I'm sorry we kept you longer  
3 than we indicated we might need to --  
4 THE WITNESS: It's okay.  
5 SIR MARTIN MOORE-BICK: -- but that's just the way of it  
6 sometimes. It's been very helpful to hear your  
7 evidence --  
8 THE WITNESS: Thank you.  
9 SIR MARTIN MOORE-BICK: -- so thank you very much indeed.  
10 If you would like to go with the usher now, you're  
11 free to go. Thank you.  
12 (The witness withdrew)  
13 SIR MARTIN MOORE-BICK: At this point I think we have to  
14 break for a short time for some housekeeping.  
15 MR MILLETT: I'm sorry, yes, we do, yes.  
16 SIR MARTIN MOORE-BICK: That's all right. That's  
17 understood.  
18 MR MILLETT: The next witness will be taken by Ms Grange.  
19 SIR MARTIN MOORE-BICK: Yes. Thank you very much. Well,  
20 someone can come and tell us when we're ready to  
21 continue.  
22 MR MILLETT: Yes, very good.  
23 (2.57 pm)  
24 (A short break)  
25 (3.08 pm)

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1 SIR MARTIN MOORE-BICK: Now, Ms Grange, it's nearly 3.10.  
2 MS GRANGE: Yes, Mr Chairman.  
3 SIR MARTIN MOORE-BICK: It seems to us that, subject to the  
4 views of others in the room, it would be preferable not  
5 to have another break this afternoon.  
6 MS GRANGE: Yes, we've had the same thought.  
7 SIR MARTIN MOORE-BICK: Otherwise we will be going out again  
8 in about half an hour or 40 minutes, and that will  
9 disrupt things more than I think is sensible. So ...  
10 MS GRANGE: Yes. I've checked with people in the room and  
11 everyone is content with that.  
12 SIR MARTIN MOORE-BICK: Right.  
13 MS GRANGE: So thank you.  
14 SIR MARTIN MOORE-BICK: Is our shorthand writer content with  
15 that? Good. Thank you very much indeed. And I'll take  
16 it that those who support us from the room next door are  
17 also content.  
18 So, yes, what comes next?  
19 MS GRANGE: Yes, so our next Kingspan witness is  
20 Mr Philip Heath, please.  
21 SIR MARTIN MOORE-BICK: Thank you.  
22 MR PHILIP HEATH (sworn)  
23 SIR MARTIN MOORE-BICK: Thank you very much, Mr Heath.  
24 Would you like to sit down and make yourself  
25 comfortable, please.

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1 (Pause)  
2 Yes, Ms Grange, when you're ready.  
3 MS GRANGE: Yes, thank you.  
4 Questions from COUNSEL TO THE INQUIRY  
5 MS GRANGE: Could you give the Inquiry your full name,  
6 please?  
7 A. Philip John Heath.  
8 Q. Yes. Can I start by thanking you for attending this  
9 public inquiry to give your evidence. It is very much  
10 appreciated.  
11 If you have any difficulty understanding anything  
12 I'm asking you, please ask me to repeat the question or  
13 put the point in a different way. If you feel you need  
14 a break at any time, please do tell us.  
15 The other thing I'd ask you to do is to try and keep  
16 your voice up, because the lady sitting to your right  
17 there is taking a verbatim note of everything we say.  
18 So if you can try and keep your voice up to the  
19 microphones, that would be great.  
20 A. Will do.  
21 SIR MARTIN MOORE-BICK: Could I just interrupt. I should  
22 have said this when you came in, but I suspect you've  
23 been waiting a long time here to come and give your  
24 evidence, haven't you? Well, if you have, I'm sorry  
25 that we've kept you waiting, but I'm afraid these things

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1 happen.  
 2 THE WITNESS: No, that's fine.  
 3 SIR MARTIN MOORE-BICK: Thank you.  
 4 Yes, I'm sorry, Ms Grange.  
 5 MS GRANGE: No, that's okay.  
 6 You've provided a witness statement to the Inquiry,  
 7 it's in a folder on the desk in front of you and it will  
 8 also appear on the screen. If we can go to  
 9 {KIN00020709/1}, we have it there.  
 10 If we go over into page 82 {KIN00020709/82}, on to  
 11 the last page, we can see there it's dated  
 12 15 October 2019. Is that your signature?  
 13 A. It is.  
 14 Q. Thank you. Have you read your statement recently?  
 15 A. I have.  
 16 Q. Are the contents true?  
 17 A. They are.  
 18 Q. Have you discussed your statement or the evidence you're  
 19 going to give with anybody before coming here today?  
 20 A. I haven't.  
 21 Q. Thank you.  
 22 Now, just to start with some questions about your  
 23 background. You tell us in your witness statement that  
 24 you've worked for Kingspan Insulation since 1992; is  
 25 that right?

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1 A. That's correct. Continuous employment, yes.  
 2 Q. Yes. And that you're currently the divisional business  
 3 development director for Kingspan; is that right?  
 4 A. That's correct.  
 5 Q. Yes. Before joining Kingspan, you tell us that you  
 6 worked for Coolag, an insulation manufacturer which was  
 7 later acquired by the Kingspan Group; is that right?  
 8 A. That's correct, Coolag Purlboard Limited.  
 9 Q. Coolag Purlboard Limited, thank you.  
 10 If we look at paragraph 2.2 of your witness  
 11 statement on page 2 {KIN00020709/2}, going over to  
 12 page 3 {KIN00020709/3}, you tell us that before you  
 13 worked -- I think it was actually during the time you  
 14 worked at Coolag, you did a BTEC qualification in  
 15 building studies -- I think it goes over into the next  
 16 page -- as part of your employment with Coolag. Is that  
 17 right?  
 18 A. That's correct, yes.  
 19 Q. Thank you.  
 20 We understand from paragraph 2.4 of your witness  
 21 statement, which is also on that page {KIN00020709/3},  
 22 that your first role for Kingspan was as a technical  
 23 adviser; is that correct?  
 24 A. Yes.  
 25 Q. You were promoted to technical services manager in 1993;

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1 is that right?  
 2 A. Yes.  
 3 Q. At that point you reported directly to Peter Wilson, who  
 4 was the managing director of Kingspan; is that right?  
 5 A. Not at that time, no.  
 6 Q. Ah, okay. Was that when you were promoted, you then  
 7 reported to --  
 8 A. No, from 1992 I reported to the marketing director at  
 9 the time --  
 10 Q. Right.  
 11 A. -- a gentleman called Frank Fitzmaurice.  
 12 Q. Thank you.  
 13 Then at paragraph 2.8 of your witness statement on  
 14 page 4 {KIN00020709/4}, if we just bring that up, you  
 15 explain that in 2001 you were promoted to technical  
 16 manager, and at the same time Andrew Pack took over your  
 17 role as technical services manager. Is that correct?  
 18 A. Yes, that's correct.  
 19 Q. What you've helpfully done here below that paragraph is  
 20 give us an organigram showing the structure of the  
 21 technical department between 2001 and 2009. That's what  
 22 we see here, isn't it?  
 23 A. It is, yes.  
 24 Q. You're in the middle there, and you sit above  
 25 Andrew Pack, technical services manager, and also

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1 Ivor Meredith, project manager; do you see that on the  
 2 left?  
 3 A. Yes.  
 4 Q. Then above you is Malcolm Rochefort, the technical  
 5 director; is that correct?  
 6 A. That's correct, yes.  
 7 Q. Yes. At paragraph 2.14 of your witness statement on  
 8 page 6 {KIN00020709/6}, you tell us that you would send  
 9 "a composite monthly report to Malcolm [Rochefort]  
 10 outlining ... key activities"; that's right, yes?  
 11 A. Yes.  
 12 Q. Now, other than that report, how regularly would you  
 13 report to Mr Rochefort?  
 14 A. We'd have regular -- I think they were called technical  
 15 lamination meetings, where I'd meet him at those once  
 16 a month --  
 17 Q. Yes.  
 18 A. -- and have various -- numerous contact with him  
 19 throughout the month --  
 20 Q. Yes.  
 21 A. -- either through telephone or meeting him in the  
 22 office.  
 23 Q. Yes. So you were regularly updating him and reporting  
 24 to him?  
 25 A. Yes.

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1 Q. Yes.  
 2 Now, on page 5 {KIN00020709/5} of your witness  
 3 statement at paragraph 2.11, you explain that you set up  
 4 the technical projects team and you promoted  
 5 Ivor Meredith to be the leader of that team; is that  
 6 right?  
 7 A. That's correct, yes.  
 8 Q. Yes. You say you were "involved in setting up the  
 9 Technical Projects team", in the first line, and you  
 10 promoted Ivor Meredith to be the project manager then in  
 11 2005.  
 12 When was that team actually set up? Can you help us  
 13 on that? Was it set up before Mr Meredith was appointed  
 14 project manager for that team, or at that time?  
 15 A. No, I mean, I had been managing some projects prior to  
 16 that, then we established that as an official position  
 17 within the organisation. So it -- it would be around  
 18 2005 that he was officially given that title, I would  
 19 imagine.  
 20 Q. Yes.  
 21 A. But prior to that, he was undertaking some project work  
 22 for us.  
 23 Q. Yes, thank you.  
 24 You go on and you explain that:  
 25 "The Technical Projects team became responsible for

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1 fire testing and certification of products [both before  
 2 and after] they were placed on the market."  
 3 Is that correct?  
 4 A. Yes, that's correct.  
 5 Q. Yes. Then still looking in that paragraph, about eight  
 6 lines down, just on the right-hand side, can you see  
 7 a sentence beginning, "Together with other  
 8 Managers ..."? Do you see that there?  
 9 A. Yes.  
 10 Q. So you say there:  
 11 "Together with other Managers, I would often  
 12 initiate relevant projects, and often be present for any  
 13 initial meetings, but thereafter Ivor and the relevant  
 14 Senior Technical Advisor / Technical Projects Leader  
 15 would largely be responsible for them on a day to day  
 16 basis. Ivor Meredith produced monthly reports on the  
 17 work of the Technical Projects team so I was kept up to  
 18 speed with the main ongoing projects."  
 19 Do you see that there?  
 20 A. Yes.  
 21 Q. Those "other Managers" that you refer to at the  
 22 beginning -- you say, "Together with other Managers,  
 23 [you] would often initiate ... projects" -- who were  
 24 those "other Managers" that you're referring to there?  
 25 A. That would be business development managers --

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1 Q. Yes.  
 2 A. -- Malcolm Rochefort. So, yeah, sales managers,  
 3 business development managers and Malcolm Rochefort.  
 4 Q. Yes.  
 5 A. So it was seen as a business resource.  
 6 Q. I see, yes.  
 7 You tell us at paragraph 2.13 on page 6 of your  
 8 statement {KIN00020709/6} that you had a -- you describe  
 9 it as "a general supervisory role". You say that in the  
 10 end of there. And before that, you say:  
 11 "Although Ivor Meredith and Andrew Pack were given  
 12 a large degree of autonomy, they would naturally  
 13 approach me with any issues or queries, and I maintained  
 14 a general supervisory role."  
 15 Do you see that there?  
 16 A. I do, yes.  
 17 Q. When you say that they were "given a large degree of  
 18 autonomy", can you help us a little bit more with  
 19 exactly what you mean by that?  
 20 A. Well, I certainly didn't micromanage them, I think  
 21 that's what I meant to say. They were managing  
 22 a project, they would report back to me on at least  
 23 a monthly basis on how those projects were proceeding.  
 24 So from that point of view, you know, maintaining  
 25 a supervisory role was really offering advice and

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1 mentoring them when they came back with some questions  
 2 in relation to the project, if they had any.  
 3 Q. Yes, I see. Yes.  
 4 Then if we go over to page 7 of your statement  
 5 {KIN00020709/7}, paragraph 2.23, what you tell us there  
 6 is that the evidence you've provided in your statement  
 7 is focused on the period before early 2010, because at  
 8 that time you moved to Australia, and you weren't  
 9 closely involved, certainly with the K15 product, after  
 10 that time?  
 11 A. I wasn't, no.  
 12 Q. No.  
 13 A. No.  
 14 Q. So that's the period of time that you can assist us on  
 15 the K15 product; is that right?  
 16 A. Yes, December -- circa December 2009 I officially left  
 17 that position.  
 18 Q. Yes, I see.  
 19 A. And leading up to that, I was probably involved a lot in  
 20 the Australian acquisition and the business prior to  
 21 that. So there was a lead-in to my departure, so to  
 22 speak.  
 23 Q. Yes.  
 24 Your current position within Kingspan, is that  
 25 a UK-based position?

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1 A. No, it's a global-based position. I really have very  
2 little to do with the UK market now. It's mainly  
3 concentrated in the US, identifying business  
4 opportunities, key account potentials, and also looking  
5 at vertical integration of businesses into Kingspan and  
6 highlighting potential opportunities in that respect.

7 Q. Okay, yes. Thank you.

8 Now, I want to ask you some questions now about your  
9 knowledge and understanding of the relevant regulatory  
10 framework at the time that you were involved with the  
11 K15 product.

12 You explain to us in your witness statement -- for  
13 the transcript, this is on page 33 {KIN00020709/33} at  
14 paragraph 5.2 -- that you understood about functional  
15 requirement B4 of the Building Regulations. We can look  
16 at that if you like. So go to page 33, paragraph 5.2.

17 So you say:

18 "In preparation of this witness statement,  
19 statement, I have revisited the Building Regulations as  
20 they were during the period when I was Technical  
21 Manager. In this period, I understood that section B4  
22 of Schedule 1 ... required external cladding systems to  
23 comply with the functional requirement as regards  
24 external fire spread ..."

25 And then you set out that functional requirement

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1 there. Do you see that underneath that:

2 "... shall adequately resist the spread of fire  
3 over the walls and from one building to another ..."

4 Do you see that?

5 A. Yes, I do.

6 Q. I think you're telling us that in the time you were  
7 involved with K15, you did understand there to be that  
8 functional requirement; is that right?

9 A. Yes, I did.

10 Q. Yes.

11 Approved Document B on fire safety, what was your  
12 understanding at the time about what the purpose of  
13 Approved Document B was?

14 A. Approved Document B was related to fire, and obviously  
15 health and safety surrounding the fire, and the  
16 requirements of building components and assemblies to  
17 meet the guidance note of ADB.

18 Q. Yes. During the period 2001 to 2009, did you ever  
19 attend any training or receive any training, formal or  
20 informal, on the Building Regulations and the Approved  
21 Document B?

22 A. Not that I recall, but I may have attended something at  
23 the BRE. They occasionally ran courses on building  
24 regs. But I've no recollection of attending.

25 Q. No. Yes.

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1 During that period, do you recall actually reading  
2 yourself the guidance set out in Approved Document B on  
3 fire safety?

4 A. I would have done at the time.

5 Q. Yes. Would that have included section B4 on external  
6 fire spread?

7 A. I would imagine so, yes.

8 Q. Yes. Were you aware throughout your time as technical  
9 manager that there was particular guidance for buildings  
10 over 18 metres?

11 A. It would have been more -- it would have become more  
12 increasingly evident as we travelled through the decade,  
13 yes.

14 Q. Yes, yes. Did you attempt to keep up to date with any  
15 relevant changes to the regulatory regime, including  
16 that guidance?

17 A. During that period of time, yes.

18 Q. Yes.

19 Were you also aware of the publication BR 135 at  
20 that time?

21 A. I would have been aware of that then, yes.

22 Q. Yes. We'll come back to that.

23 If we could look at the 2007 version of Approved  
24 Document B. That's at {CLG10000007/1}, and I want to  
25 look on page 95 {CLG10000007/95}. If we look in the

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1 bottom right-hand part of that page, we can see at 12.5,  
2 we get there, in the first part of 12.5, a warning:

3 "The external envelope of a building should not  
4 provide a medium for fire spread ...", et cetera.

5 "The use of combustible materials in the cladding  
6 system and extensive cavities may present such a risk in  
7 tall buildings."

8 Then it says:

9 "External walls should either meet the guidance  
10 given in paragraphs 12.6 to 12.9 or meet the performance  
11 criteria given in the BRE Report ... (BR 135) ..."

12 Do you see that there?

13 A. Yes, I do.

14 Q. That would have been referring to the BR 135  
15 second edition, which came out in 2003.

16 Then if we go over -- sorry, and that paragraph, is  
17 that a paragraph that you would have read and that you  
18 remember being familiar with?

19 A. I would have done at the time, yeah.

20 Q. Then if we go over to page 96 {CLG100000007/96} and we  
21 look at paragraph 12.7, there "Insulation  
22 Materials/Products" is the heading. It makes clear  
23 there:

24 "In a building with a storey 18m or more above  
25 ground level any insulation product, filler material

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1 [et cetera] used in the external wall construction  
 2 should be of limited combustibility ..."  
 3 Do you see that?  
 4 A. Yes, I do.  
 5 Q. Do you remember reading that at the time?  
 6 A. At the time I would have done, yes.  
 7 Q. Yes. Just to be clear, you understood, didn't you, that  
 8 K15 was a combustible insulation material, at the time?  
 9 A. Yes, I did.  
 10 Q. It's not and has never been a material of limited  
 11 combustibility, has it?  
 12 A. No, it hasn't.  
 13 Q. Did you understand at the time that that phrase,  
 14 "limited combustibility", had a special meaning and  
 15 a special definition as defined in the later parts of  
 16 Approved Document B?  
 17 A. Yes, I did.  
 18 Q. And that you had to satisfy certain test requirements in  
 19 order to be a material of limited combustibility?  
 20 A. Yes, I did.  
 21 Q. Yes.  
 22 If we can go now within your statement to page 31  
 23 {KIN00020709/31} and paragraph 4.50. You tell us that:  
 24 "In the period after the 2005 ... 8414 Test ..."  
 25 We will come on to talk about that. You say this:

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1 "In the period after [that], we found ourselves  
 2 explaining to customers the alternative route to  
 3 compliance set out in paragraph 12.5 of ADB which  
 4 provided that the suitability of combustible materials  
 5 for use over 18 metres could be demonstrated by way of  
 6 BS 8414 testing where the BR 135 criteria had been met."  
 7 Do you see that there?  
 8 A. Yes, I do.  
 9 Q. So you're telling us that you often had to explain that  
 10 alternative route to your customers; is that right?  
 11 A. Yes.  
 12 Q. You used the word "alternative", if we look back at the  
 13 bottom of the previous page {KIN00020709/31}, in the  
 14 second line, you're using the word "alternative" there  
 15 as it being an "alternative route to compliance".  
 16 Did you understand that in order to be used in  
 17 a building with a storey over 18 metres, either all  
 18 insulation materials should be of limited combustibility  
 19 or the entire external wall system had to meet the  
 20 criteria in BR 135 when tested to BS 8414?  
 21 A. Yes, we did.  
 22 Q. Yes. And those are separate routes, aren't they,  
 23 separate routes to compliance?  
 24 A. Yes, they are.  
 25 Q. Prior to Kingspan's first test to BS 8414-1 in May 2005,

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1 do you remember actually ever reading through the test  
 2 standard itself?  
 3 A. I would have done, but I can't remember specifically  
 4 sitting down and reading it.  
 5 Q. Yes. You said you were familiar with BR 135, second  
 6 edition. Would you have read that document?  
 7 A. I would have done at the time, yes.  
 8 Q. Yes. If we can bring that up: {BRE00005554/1}. I think  
 9 we go to the next page {BRE00005554/2}. There we go.  
 10 That's the second edition. It came out in 2003,  
 11 this edition. The third edition came out later, in  
 12 2013, just to give you that context.  
 13 A. Right.  
 14 Q. I just want to take you to a couple of passages within  
 15 this.  
 16 If we go to page 20 of this {BRE00005554/20}, which  
 17 is annex A, "The performance criteria ... [for]  
 18 BS 8414-1". Do you see that there?  
 19 A. Yes.  
 20 Q. Then halfway down that page, there's a heading,  
 21 "Principle of test (BS 8414 ...)" Do you see that  
 22 there?  
 23 A. Yes.  
 24 Q. Then under that heading, it says immediately there:  
 25 "The test facility has been designed to allow the

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1 external fire performance of both applied and supported  
 2 non-loadbearing external cladding systems to be  
 3 determined ..."  
 4 Do you see that there?  
 5 A. Yes.  
 6 Q. You see that it's referring to "systems" there; do you  
 7 see that?  
 8 A. Yes.  
 9 Q. It goes on:  
 10 "The test facility allows external cladding systems  
 11 to be installed as close to typical end-use conditions  
 12 as possible."  
 13 Do you see that there? In the next line down from  
 14 that first paragraph.  
 15 A. Yes, I do, yes.  
 16 Q. So it says:  
 17 "The test facility allows external cladding systems  
 18 to be installed as close to typical end-use conditions  
 19 as possible."  
 20 Do you see that?  
 21 A. Yes.  
 22 Q. So did you understand that to mean that the test  
 23 facility in the 8414 test is allowing the system to be  
 24 installed as close as possible to how it's going to be  
 25 used in real life on a building? Do you see that there?

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1 A. Yes.  
 2 Q. Yes. And you understood that at the time?  
 3 A. Yes.  
 4 Q. If we can go to page 22 {BRE00005554/22}, here we have  
 5 the "Performance criteria and classification method", at  
 6 the top of the page. Do you see that there?  
 7 A. Yes.  
 8 Q. If we just read that first paragraph, it says:  
 9 "The performance criteria and classification method  
 10 set out here are based on the ... 8414-1[] test method.  
 11 The primary concern when setting the performance  
 12 criteria for these systems is that of fire spread away  
 13 from the initial fire source and the rate of fire  
 14 spread."  
 15 Then it says:  
 16 "If fire spread away from the initial fire source  
 17 occurs, the rate of progress of fire spread or tendency  
 18 for collapse should not unduly hinder intervention by  
 19 the emergency services."  
 20 Do you see that there?  
 21 A. Yes, I do.  
 22 Q. Then it says this:  
 23 "The performance of the system under  
 24 investigation ..."  
 25 So I just want to focus on the words "system under

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1 investigation ". Did you understand when you were  
 2 reading this that what this was testing was a particular  
 3 system that was being investigated in this test?  
 4 A. Yes, I did.  
 5 Q. Yes. And it's evaluated against three criteria:  
 6 external fire spread, internal fire spread and  
 7 mechanical performance. Did you understand at the time  
 8 that the first two predominantly relate to temperature  
 9 readings, but that third element, mechanical  
 10 performance, required a risk assessment of the  
 11 mechanical performance of the system? Do you see that  
 12 there?  
 13 A. Yes.  
 14 Q. Did you understand that at the time?  
 15 A. I would have done at the time, yes.  
 16 Q. I think if we go over to the next page in the guidance  
 17 {BRE00005554/23}, there, under "Mechanical Performance",  
 18 we can see we've got those three criteria there, and it  
 19 says this:  
 20 "No failure criteria have been set for mechanical  
 21 performance. However, details of any system collapse,  
 22 spalling, delamination or flaming debris should be  
 23 included in the test report. The nature of the  
 24 mechanical failure should be considered as part of the  
 25 overall risk assessment when specifying the system ..."

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1 Do you see that there?  
 2 A. Yes.  
 3 Q. So again, were you clear when you read this that it was  
 4 a particular system, and that what needed to happen as  
 5 part of this assessment was an overall risk assessment,  
 6 including how it had behaved mechanically?  
 7 A. At the time, yes, I would.  
 8 Q. Yes.  
 9 Now, if we go back to your witness statement on  
 10 page 34 {KIN00020709/34}, paragraph 5.5, you say this.  
 11 You say:  
 12 "I do not recall what my understanding of BR 135 was  
 13 historically, although I certainly would have had (at  
 14 the very least) a general understanding of the  
 15 requirements at the time I was dealing with K15."  
 16 Do you see that there?  
 17 A. Yes.  
 18 Q. Then you go on to say that you've now reminded  
 19 yourself -- you say this in the next paragraph:  
 20 "[You've] reminded [your]self now of the  
 21 requirements, and [you] set out your understanding  
 22 below."  
 23 Then you set out, particularly at paragraph 5.9  
 24 below that, your understanding of the system and how it  
 25 can be classified as having met the BR 135 criteria. Do

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1 you see that there?  
 2 So it's got to have been "tested to the full  
 3 duration ... without ... early termination of the test".  
 4 You're talking about the thermocouple temperatures at  
 5 (b). Then "the fire must not penetrate".  
 6 Then you've also got at 5.10 below that, you say:  
 7 "Separately, continued burning of the tested system  
 8 following extinguishment of the fire source will be  
 9 referenced both in the test and classification reports  
 10 as well as details of system collapse, detachment,  
 11 delamination, flames, dripping etc."  
 12 Then you say:  
 13 "Mechanical integrity is considered an integral part  
 14 of the general risk assessment ..."  
 15 So we've got that in your statement as well.  
 16 A. Yes.  
 17 Q. You see that there?  
 18 A. Yes, I do.  
 19 Q. You say that you've refreshed your understanding of that  
 20 what you were preparing your witness statement. Would  
 21 you have had that understanding at the time you were the  
 22 technical manager and carrying out these 8414 tests?  
 23 A. I would have had knowledge of that, yes.  
 24 Q. Yes.  
 25 Did you understand that 8414 and the BR 135

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1 classification criteria are not intended to guarantee  
 2 the fire performance of any individual component or  
 3 product used within that tested system? Did you  
 4 understand that: that it was a holistic assessment of  
 5 the entire system?  
 6 A. I would have understood that, yes.  
 7 Q. Yes. Did you also understand that you can't take  
 8 a successful tested system and pull out of that one  
 9 component or one product, and then in a different system  
 10 say, "Well, it's okay to use this product because you  
 11 can now call it a product of limited combustibility"?  
 12 A. That would have been correct. That -- within that  
 13 BR 135, I think there was some wording to say "as close  
 14 as possible".  
 15 Q. When you say "as close as possible", sorry, what do you  
 16 mean by that?  
 17 A. I think within BR 135 I think there Ofrom memory and  
 18 from preparing the statement, I think there is some  
 19 wording that said, "The construction should be as close  
 20 as possible".  
 21 Q. Yes. But I'm just on a slightly different point, which  
 22 is: do you agree that what you can't do is test a system  
 23 successfully to 8414 and BR 135, and then pick one  
 24 product out of that successful test and put it in  
 25 another system or another building, and say, "Well,

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1 because that was on a successfully tested system, we're  
 2 now going to treat that as a product of limited  
 3 combustibility, and so it can go without question onto  
 4 another building"? Did you understand that?  
 5 A. Yes, I did.  
 6 Q. Yes, thank you.  
 7 Given you say at the time that you were technical  
 8 manager that the whole system had to meet the  
 9 performance criteria in BR 135, can you just help us  
 10 about how you refer to this in your witness statement in  
 11 a number of places.  
 12 If we look at paragraph 3.11 of your statement on  
 13 page 11 {KIN00020709/11}, if we pick it up in the fourth  
 14 line, there's a sentence beginning, "I understood ..."  
 15 Can you see that there?  
 16 A. Yes.  
 17 Q. If we can just read that together. You say:  
 18 "I understood that the 2005 BS 8414 Test  
 19 demonstrated that K15 was suitable in principle to use  
 20 over 18 metres provided it was used in combination with  
 21 a non-combustible cladding and non-combustible backing  
 22 (sheathing) board."  
 23 Do you see that there?  
 24 A. Yes, I do.  
 25 Q. It was really the use of the words "in principle". Can

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1 you help us as to, if you understood the concept I was  
 2 just discussing with you, how you can say there that:  
 3 "... the ... BS 8414 Test demonstrated that K15 was  
 4 suitable in principle to use over 18 metres provided it  
 5 was used in combination with a non-combustible cladding  
 6 and a non-combustible backing ... board."  
 7 Do you see that there?  
 8 A. Yes.  
 9 I think at the time when we were trying to  
 10 commission this, we were one of the -- I think if not  
 11 the first, one of the earliest manufacturers who were  
 12 testing to that British Standard --  
 13 Q. Yes.  
 14 A. -- and I think there was a lot of interest from the  
 15 certification bodies on that test. And from memory,  
 16 I think it was the BRE who actually suggested we test  
 17 using that construction or system as the pilot test.  
 18 Q. I see. Yes, I was going to come to this. So are you  
 19 saying that it was suggested to you by the BRE that if  
 20 you tested that kind of simplified system, let's call it  
 21 that, then you would be able to extrapolate from that  
 22 and use it in other applications?  
 23 A. At the time that was -- that was the inference from the  
 24 BRE, yes.  
 25 Q. When you say "at the time", what time period are you

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1 referring to? Are you referring to before the 2005 test  
 2 was done in May 2005?  
 3 A. Yes, it would have been.  
 4 Q. Yes.  
 5 Did there come a time when you became aware that  
 6 that wasn't the case; that in fact, either because the  
 7 BRE told you it or because you'd worked it out  
 8 elsewhere, you couldn't test K15 in a representative  
 9 configuration and then extrapolate onto other  
 10 applications?  
 11 A. Well, obviously we -- we took the advice or the  
 12 suggestion from the BRE to go down that route of that  
 13 particular assembly. I think that was also probably to  
 14 give them -- or to give them some technical data as well  
 15 in relation to how that particular test performed.  
 16 With regards to when we realised, I think after the  
 17 test was completed, I'm not sure of the period of time,  
 18 but --  
 19 Q. Yes.  
 20 A. -- when the BRE, I believe, retracted their original  
 21 suggestion.  
 22 Q. Yes. Mr Meredith described it as "moved the goalposts"?  
 23 A. Right.  
 24 Q. Is that a fair characterisation of what had happened?  
 25 A. Well, that's -- that's certainly an analogy. They just

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1 changed their mind, yes.  
 2 Q. Yes. We'll come back to that. But that's very helpful,  
 3 thank you.  
 4 Just briefly on class 0, national class 0 --  
 5 SIR MARTIN MOORE-BICK: Sorry, before you move on --  
 6 MS GRANGE: Sorry.  
 7 SIR MARTIN MOORE-BICK: -- can I just ask for a little bit  
 8 more help on this expression "suitable in principle to  
 9 use over 18 metres". I mean, what exactly do you mean  
 10 by that?  
 11 Sorry, this is line 5 of paragraph 3.11.  
 12 MS GRANGE: Yes, five up from the bottom, I think.  
 13 A. Right, sorry. Yes, I've got that, yes.  
 14 SIR MARTIN MOORE-BICK: All right.  
 15 (Pause)  
 16 A. I think what I was trying to say there is -- perhaps  
 17 "suitable in principle" might be slightly the wrong  
 18 word. But I think it was -- it was probably  
 19 "representative" rather than "in principle": that it was  
 20 representative of a system to use over 18 metres.  
 21 SIR MARTIN MOORE-BICK: I mean, the position in reality was  
 22 that it would be suitable for use over 18 metres if  
 23 incorporated into a system exactly as tested; is that  
 24 not right?  
 25 A. That's correct. I mean, 8414 is -- obviously it is

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1 a system test. So I think by default that it's a system  
 2 test, that would be the inference, yes.  
 3 SIR MARTIN MOORE-BICK: Yes, all right. Thank you.  
 4 MS GRANGE: Yes, but when you use "in principle" there, were  
 5 you trying to express what your understanding had been  
 6 before the 2005 test?  
 7 A. I was probably trying to put in words what -- the  
 8 suggestion that the BRE was giving to us that it was --  
 9 Q. Yes.  
 10 A. -- you know, that would be a representative system of  
 11 a non-combustible cladded rainscreen.  
 12 Q. But you later understood that that wasn't right,  
 13 didn't you?  
 14 A. Well, it certainly retracted that comment, yes.  
 15 Q. Yes. But also if you've read 8414 and you've read  
 16 BR 135, it doesn't say that anywhere, does it?  
 17 A. It doesn't, no.  
 18 Q. No.  
 19 Now, national class 0. I just want to ask you  
 20 a little bit about class 0. You cover this at  
 21 paragraph 5.11 of your witness statement on page 35  
 22 {KIN00020709/35}. There you tell us:  
 23 "There are two routes by which a Class 0 rating may  
 24 be achieved. The first route applies to materials of  
 25 limited combustibility which [are] automatically ...

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1 'Class 0.'  
 2 Then you say later in that paragraph, in the final  
 3 sentence:  
 4 "The second route ... is via testing to BS 476,  
 5 Parts 6 and 7 ..."  
 6 Do you see that there? Again, was that something  
 7 you understood at the time that you were technical  
 8 manager, that there were these --  
 9 A. I would -- I would have done, yes, yes.  
 10 Q. Yes. And you understood what national class 0 meant?  
 11 A. Yes.  
 12 Q. Yes.  
 13 Was it your understanding that at all times between  
 14 2001 and when you departed in late 2009, test data  
 15 existed on the basis of which K15 could be said to have  
 16 a class 0 classification?  
 17 A. Sorry, can you -- sorry, could you just repeat that?  
 18 Q. Yes, sorry, it's a long question.  
 19 Was it your understanding that at all times between  
 20 2001 and, say, 2010, test data existed on the basis of  
 21 which K15 could be said to have a class 0  
 22 classification? So did you understand during that time,  
 23 and throughout that time, that there was test evidence  
 24 supporting K15 having a class 0 classification?  
 25 A. Yes.

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1 Q. You did.  
 2 Can you help us as to what relevance national  
 3 class 0 had to using a thermal installation material in  
 4 buildings over 18 metres? (Pause).  
 5 A. Yeah, I can't recall specifically.  
 6 Q. Because what I'd like some help with is why we see  
 7 national class 0 very prominently stated in K15's  
 8 marketing literature throughout that time --  
 9 A. Right, right.  
 10 Q. -- which I'll take you to later --  
 11 A. Right.  
 12 Q. -- why that was so relevant, and then why it would be  
 13 relevant for buildings over 18 metres.  
 14 A. From memory, I'm not sure how relevant it was for over  
 15 18 metres. But it was one of those -- and probably  
 16 still remains, though it's obsolete now, but it --  
 17 certainly at that time, you know, it used to be, say, in  
 18 the '80s, architects and specifiers, it was a peace of  
 19 mind accreditation or test. So originally, going back  
 20 to the '80s, it was a class 1; and then it moved to this  
 21 class 0, which was obviously part 6 and 7.  
 22 And it was just really a general classification that  
 23 architects and specifiers asked for. They might not  
 24 have realised why. But it was just one of those tests  
 25 that they said, "What's the surface spread of flame

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1 rating?" Whether it was required or not, we often got  
 2 that question.  
 3 Q. Yes.  
 4 A. So I think it was to satisfy some of the routing  
 5 questions we may have got that we put that in the  
 6 literature .  
 7 Q. I see. Yes.  
 8 Just moving on now, I want to ask you some questions  
 9 about the development and the launch of Kooltherm K15,  
 10 which you've covered in your witness statement. If we  
 11 can look at page 17 {KIN00020709/17}, paragraph 3.29,  
 12 you say this. You say:  
 13 "I believe that K15 was marketed as an option for  
 14 use in external cladding systems on buildings with  
 15 a floor over 18 metres in England, Wales and Scotland  
 16 following and on the basis of the 2005 BS 8414 Test."  
 17 Do you see that there?  
 18 A. Yes, I do.  
 19 Q. Are you basing that belief on the fact that the test  
 20 carried out in May 2005 was the first large-scale test  
 21 to 8414 carried out by Kingspan on a system which  
 22 incorporated the K15 product?  
 23 A. That would have been the case, yes.  
 24 Q. Yes. Is it your belief that prior to that test in 2005,  
 25 K15 would not have been a product which would be

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1 suitable to enter into the over-18-metre market?  
 2 A. Yes, that would have been my understanding.  
 3 Q. Now, I want to take you now to an activity report  
 4 produced by Ivor Meredith and dated January 2004. It's  
 5 at {KIN00005054/1}.  
 6 We can see at the top it's "Activity Report #1 by  
 7 Ivor Meredith", "January 26th 2004". Do you see that  
 8 there?  
 9 A. Yes, I do.  
 10 Q. Is this the kind of written report you would frequently  
 11 receive from Mr Meredith?  
 12 A. I would have received something similar from -- from  
 13 various members of the technical team at the time, yes.  
 14 Q. Yes.  
 15 Then if we look at the third bullet point down, it's  
 16 at the bottom of that page, under the heading "Phenolic  
 17 Development -- K15", we can see it says this. It says:  
 18 "Looking at the potential for a Class 'B' phenolic  
 19 product that will achieve acceptability for above 18m in  
 20 façade construction by Building Regulations. The  
 21 product has been made pentane blown with a heavier grade  
 22 foil facing (25 micron). I will be testing within the  
 23 SBI on 29/01/04 and if successful results are obtained  
 24 we will be moving towards a large scale testing scenario  
 25 (BS 8414) performed in conjunction with steel frame

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1 system market leaders Metsec."  
 2 Do you see that there?  
 3 A. I do, yes.  
 4 Q. Now, as far as you were aware, was K15 being marketed or  
 5 suggested for use over 18 metres at any stage prior to  
 6 the development of that pentane-blown, heavier-grade,  
 7 foil-facer version of K15?  
 8 A. I can't recall specifically .  
 9 Q. You can't help. Can you help us as to whether  
 10 Mr Meredith was talking about a pentane-blown foam with  
 11 a heavier-grade foil facer for general production at  
 12 that time?  
 13 A. Sorry, can you just repeat the question, please? I was  
 14 just reading the paragraph.  
 15 Q. Yes. What we're interested in is whether Mr Meredith  
 16 was talking about a pentane-blown foam with  
 17 a heavier-grade foil, which is what he's referring to  
 18 there --  
 19 A. Yes.  
 20 Q. -- whether you can help us as to whether the intention  
 21 was for that to be in general production by Kingspan.  
 22 A. I -- I would have thought so, yes.  
 23 Q. Yes.  
 24 A. Yes. And I'm assuming that class B relates to the  
 25 Euroclass that was -- I don't think it was in force

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1 then, but I presume that's what he is talking about.  
 2 Q. Yes, and I think that's reinforced by the reference to  
 3 SBI later in that paragraph, the single burning item,  
 4 which is one of the test methods under that European  
 5 classification system. Do you see that there?  
 6 A. I do, yes, yes.  
 7 Q. Now, I want to ask you now some questions about some of  
 8 the details of the 2005 test to BS 8414.  
 9 It was carried out at the BRE on 31 May 2005 to  
 10 BS 8414-1, yes, which is on a masonry structure; is that  
 11 correct?  
 12 A. Yes, it is, yes.  
 13 Q. Yes.  
 14 If we go to your witness statement again at page 22  
 15 {KIN00020709/22}, paragraph 4.11, you tell us at the end  
 16 of that first line that:  
 17 "... [you] also supervised the commissioning of the  
 18 2005 ... Test which was project managed by [Mr] Meredith  
 19 as Technical Project Manager."  
 20 Do you see that there? So you say you supervised  
 21 the commissioning of it?  
 22 A. Sorry, which paragraph?  
 23 Q. Sorry. 4.11, at the very top of that page. You tell us  
 24 you supervised the commissioning of the 2005 test?  
 25 A. Right, yes.

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1 Q. Can you just help us by what exactly you meant by that,  
 2 "supervised the commissioning of [it]"?  
 3 A. Erm --  
 4 Q. What was your involvement?  
 5 A. I'm assuming the commissioning of it meant signing it  
 6 off as a project and ensuring the funds were available  
 7 from the technical budget and approval from the -- the  
 8 directors of the business. Because it was quite  
 9 an investment at the time, probably one of the biggest  
 10 fire tests we'd done.  
 11 Q. Yes.  
 12 A. So I think commissioning it relates to, you know,  
 13 ensuring the funding was available from the budget.  
 14 Q. Yes. Can you remember who initiated the project to test  
 15 to 8414-1?  
 16 A. I believe that was probably initiated from the business  
 17 development team at the time.  
 18 Q. Yes. Can you help as to why they were initiating that  
 19 project?  
 20 A. They obviously saw opportunities in that particular  
 21 sector, above 18 metres.  
 22 Q. Yes.  
 23 You go on, in fact, in that -- sorry, it's  
 24 a different paragraph in your witness statement. If we  
 25 go to page 11 {KIN00020709/11} and look at

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1 paragraph 3.11, you tell us in the first lines of that  
 2 paragraph:  
 3 "As the demand for products suitable for use over  
 4 18 metres increased, we commissioned a test of a system  
 5 incorporating K15 to the test method BS 8414-1[] which  
 6 was conducted in May 2005 ..."  
 7 Do you see that there?  
 8 A. Yes.  
 9 Q. So you're saying there it's "As the demand for products  
 10 suitable for use over 18 metres increased". So that's  
 11 consistent with what you have just told us.  
 12 Now, what did Kingspan hope to get out of that test?  
 13 What were they hoping to achieve from it?  
 14 A. An opportunity to explore the opportunities for the  
 15 market above 18 metres.  
 16 Q. Yes. Now, Mr Meredith has told us in his evidence to  
 17 this Inquiry that this test in May 2005 was part of  
 18 a planned series of tests to explore the performance of  
 19 K15 in large-scale systems. Do you agree with that,  
 20 that that was what was going on here?  
 21 A. It was certainly ... yeah, sorry, can you repeat the  
 22 question?  
 23 Q. Yes. Mr Meredith told us that this test in May 2005 was  
 24 part of a planned series of tests to explore the  
 25 performance of K15 in large-scale systems.

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1 A. Yes, we weren't seeing this as the first test we were  
 2 going to do, you know; we were looking at other  
 3 opportunities with other component suppliers as well who  
 4 were -- who were in that marketplace.  
 5 Q. Yes, thank you.  
 6 It's right, isn't it, that you'd started in fact  
 7 with what's sometimes called the "naked test", a test  
 8 where all that was on the rig was just K15, with no  
 9 exterior? That was in December 2004. Do you remember  
 10 that?  
 11 A. I do remember that, yes.  
 12 Q. Yes. Mr Meredith's evidence was that this next step  
 13 with outer building boards was never intended to be  
 14 representative of a real-life external cladding system;  
 15 do you agree with that?  
 16 A. It was -- it was a -- well, under the advice of the BRE,  
 17 it was representative of a non-combustible cladding  
 18 system, yes.  
 19 Q. You're clear that was the advice of the BRE, are you,  
 20 that it was representative of a real-life cladding  
 21 system?  
 22 A. From a non-combustible cladding panel.  
 23 Q. Let's just look at what Mr Meredith says for a moment.  
 24 If we go to {Day75/59:15}. So if we look up line 15  
 25 there in the middle of that page, I ask him the

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1 question:  
 2 "You have said in your witness statement -- just for  
 3 the transcript ..."  
 4 Then I give the reference:  
 5 "... the decision to carry out this test was  
 6 a collective decision with all senior members of the  
 7 technical team to test the particular system that was  
 8 tested in 2005; that's right, isn't it?"  
 9 And then he says this. He says:  
 10 "I collated the materials together and would have  
 11 presented them to my line manager. This was the -- the  
 12 one in 2005 was our first step of potentially many  
 13 tests, so it was agreed that this was a good starting  
 14 point."  
 15 Do you see that there?  
 16 A. Yes, I do.  
 17 Q. Do you agree with that, what he's said there in that  
 18 answer?  
 19 A. It was certainly a collective decision to test to the --  
 20 to that standard, and a collective decision and  
 21 discussions with the BRE to test that particular  
 22 assembly.  
 23 Q. Yes. Do you also agree with him that it was your first  
 24 step of potentially many tests, so it was agreed it was  
 25 a good starting point? Do you agree with that?

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1 A. I do agree with that, yes.

2 Q. Yes.

3 If we can look at what he says at {Day75/71:3-8}.

4 I ask him the question:

5 "Who in Kingspan had been involved in those  
6 discussions about what outer layer to choose?"

7 Do you see that there?

8 A. Yes.

9 Q. Then he answers at line 5:

10 "It would have been myself and Philip Heath. We  
11 were solely, perhaps naively, looking for  
12 a non-combustible board just to go on the outside. This  
13 was our first real step into this testing --"

14 Do you see that there?

15 A. Yes, I do.

16 Q. Do you agree with that?

17 A. I believe there was more people involved with regards to  
18 the collective decision to test that, that  
19 non-combustible board.

20 Q. Yes.

21 A. So I think -- I think the -- it was -- the collective  
22 was greater than myself and Ivor, I believe.

23 Q. But would you agree that, even if there were more people  
24 involved in it, what he says there about you were  
25 "solely, perhaps naively, looking for a non-combustible

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1 board just to go on the outside?"

2 A. I wouldn't use the word "naively", because we were -- we  
3 were in discussions with the BBA -- BRE. So I wouldn't  
4 say "naively" we were looking for a non-combustible  
5 board.

6 Q. I see, yes.

7 I just want to show you one more passage from his  
8 evidence on this point. If we go to {Day76/64:2-6}.  
9 Perhaps we ought to pick up the question actually, just  
10 before this. If we go to the page before {Day76/63:21}.

11 I'm asking him about expanding the scope of the  
12 May 2005 test at line 21. Then at 25, at the bottom of  
13 that page, I say:

14 "Even though you knew that wasn't a truly  
15 representative test and you knew the K15 had been --"

16 And then he says this:

17 "Yeah, I knew it wasn't a truly representative test  
18 but it was to be taken, looked at, you know, it wasn't  
19 supposed to be a representative test, it was supposed to  
20 be evidence of performance of an insulation behind  
21 a combustible -- a non-combustible layer."

22 Do you see that there?

23 A. Yes, I do.

24 Q. Do you agree with what he says there: that it wasn't  
25 a truly representative test? Do you agree with that?

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1 A. We felt it was representative of a non-combustible  
2 cladding panel on the outside.

3 SIR MARTIN MOORE-BICK: I think maybe what Mr Meredith was  
4 saying was that the system as tested wasn't truly  
5 representative of a system that would actually be  
6 installed commercially because the form of the outside  
7 board was not one that would be used in that situation.  
8 Would you agree with that?

9 A. I would agree with that, yes. I think our feeling at  
10 the time, and from the BRE, that the board we used was  
11 representative of non-combustible cladding boards,  
12 panels, within the marketplace. So I agree that the  
13 panel we used was not typical of what was used in that  
14 end-use application, but was representative of  
15 non-combustible panels that could be.

16 SIR MARTIN MOORE-BICK: Thank you.

17 MS GRANGE: I see. Well, I think we'll come back to the  
18 cladding board in a moment.

19 Just moving on with that 2005 test, if we then look  
20 at Mr Meredith's witness statement now. It's  
21 {KIN00022312/5}. So if we could go to page 5. Under A,  
22 if we could blow that first top of the page up, I just  
23 want to read you what Mr Meredith put in his witness  
24 statement and ask you whether you agree with what he's  
25 put here.

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1 So he says this at A:

2 "Kingspan tried on numerous occasions to obtain  
3 a bigger scope of application for K15 to BS 8414  
4 parts 1 & 2. After performing indicative testing of K15  
5 to ... 8414-1 exposed to the full fire load without  
6 cladding we arranged to test behind a non-combustible  
7 building board."

8 Do you see that there?

9 A. Yes, I do.

10 Q. Do you agree with that: that you've gone from the test  
11 without cladding, the naked test, to the test behind  
12 a non-combustible building board?

13 A. Yes. That was the second -- that was the second test,  
14 yes.

15 Q. Yes, the one in May '05?

16 A. Yes.

17 Q. He says this:

18 "We did this as the BRE advised that if we tested  
19 behind a non-combustible building board they would give  
20 us scope to say that the system tested to could meet the  
21 BR 135 requirements when used behind all non-combustible  
22 cladding types."

23 Do you see that there?

24 A. Yes, I do.

25 Q. Now, pausing there, is that consistent with your

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1 recollection that the BRE did advise that: that if you  
 2 tested in that configuration, they would give you some  
 3 form of documentation which said that the system tested  
 4 could meet BR 135 when used behind all non-combustible  
 5 cladding types?  
 6 A. That was my understanding of the discussions that were  
 7 had, yes.  
 8 Q. Yes. Can you help us: who was it at the BRE you  
 9 remember saying that at the time?  
 10 A. I don't, I'm afraid, because those meetings would have  
 11 been with Ivor and his contacts at the BRE.  
 12 Q. I see.  
 13 A. I don't -- I don't believe I was present at those  
 14 initial meetings.  
 15 Q. Okay, yes.  
 16 Then he goes on:  
 17 "Unfortunately after testing successfully  
 18 i.e. meeting the BR 135 requirements the BRE moved the  
 19 goalposts and retracted this statement leaving us  
 20 a little in the lurch."  
 21 Do you see that there?  
 22 A. Yes, I do.  
 23 Q. I've already asked you about that. But you can see how  
 24 Ivor puts it, Mr Meredith puts it, in this statement.  
 25 A. Yes.

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1 Q. Would you agree with that?  
 2 A. The narrative I'd use would be different. But yes,  
 3 I agree with that, yes.  
 4 Q. Yes.  
 5 Then he says this, in the next paragraph:  
 6 "Shortly after this, myself, Philip Heath Technical  
 7 Manager and the Director of Kingspan Offsite went to the  
 8 BRE (Sarah Colwell and Tony Baker and the Director of  
 9 the BRE were in attendance I believe) to attempt to  
 10 obtain this when Kingspan launched the offsite division  
 11 that included about 5 different build ups ..."  
 12 Do you see that there?  
 13 A. Yes, I do.  
 14 Q. Do you recall that meeting: that you went, together with  
 15 Ivor Meredith and the director of Kingspan Offsite, to  
 16 the BRE to attempt to obtain that wider scope of  
 17 application? Do you remember that?  
 18 A. I don't remember that meeting particularly. I think  
 19 I met Sarah Colwell once. But I can't recall that  
 20 particular meeting.  
 21 Q. Okay. Mr Meredith says this:  
 22 "The meeting became very heated as the BRE could not  
 23 commit to a route to getting full and comprehensive  
 24 certification for the systems to BS 8414 parts 1 & 2."  
 25 Do you see that there?

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1 A. Yes, I do.  
 2 Q. Does that help with your recollection? He says it  
 3 "became very heated", as the BRE were not committing to  
 4 that route to full, comprehensive certification. Do you  
 5 remember that?  
 6 A. I don't recall that. What -- do we know what date this  
 7 meeting was?  
 8 Q. We'll check what Mr Meredith said. I don't think we  
 9 have an exact date. It was some time after the test in  
 10 May 2005.  
 11 A. Right.  
 12 Q. Possibly July 2005, but we wondered if you could help.  
 13 A. No. Like I say, I remember meeting Sarah Colwell once  
 14 with Ivor. I don't recall three people from Kingspan  
 15 attending. No, I've no recollection of that at all, I'm  
 16 afraid.  
 17 Q. Do you remember a meeting with Sarah Colwell where it  
 18 became heated?  
 19 A. No, I don't.  
 20 Q. It sounds like a memorable meeting.  
 21 A. Reading that, it does. But I have no recollection of  
 22 such a meeting.  
 23 Q. Okay.  
 24 A. I've ...  
 25 Q. But do you have any reason to believe that that wasn't

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1 the case? Mr Meredith appears to have a clear  
 2 recollection of that.  
 3 A. He seems to have a clear recollection. Whether I was  
 4 actually in attendance, I really cannot recall. And  
 5 if ...  
 6 Q. Then if we go to the next paragraph below that, he says:  
 7 "The meeting finished with the BRE stating that even  
 8 after 15 tests (at £8,000 test costs alone) they could  
 9 not commit to being able to give Kingspan scope of  
 10 application as they simply did not have the knowledge of  
 11 these systems."  
 12 Do you see that there?  
 13 A. Yes, I do.  
 14 Q. Again, does that provoke any form of recollection that  
 15 they were saying: even if you did lots of tests,  
 16 spending a lot of money, we can't commit to giving  
 17 Kingspan scope of application, as you wouldn't, even  
 18 then, have enough knowledge of the systems? Can you  
 19 recall that conversation?  
 20 A. I can't recall that conversation. I -- I just recall,  
 21 as I mentioned earlier, that the BRE retracted on their  
 22 initial comments to us.  
 23 Q. Yes. So you do recall being aware of the substance of  
 24 this, even though you can't recall the conversation; is  
 25 that what you're saying?

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1 A. I remember the two points I said: that the BRE suggested  
2 the assembly, and I recall the BRE retracting that  
3 suggestion or recommendation or idea.

4 Q. Yes.

5 He goes on, picking it up in the third line there,  
6 he said:

7 "This was very apparent as at a lot of the tests we  
8 conducted numerous BRE personnel would wish to witness  
9 the testing. All they could commit to was that after we  
10 conducted [£250,000] of test work they would hopefully  
11 be able to identify some extended application rules that  
12 would allow them to write something more comprehensive  
13 about the performance of the systems."

14 Do you see at that there?

15 A. Yes, I do.

16 Q. Yes.

17 Now, I've been reminded that according to  
18 Mr Meredith, he thinks this meeting was sometime after  
19 2006 and before Kingspan Offsite performed their own  
20 8414 testing. So it would be in around 2006 that this  
21 is likely to have happened, we believe.

22 A. Right, okay.

23 Q. Does that help at all?

24 A. Not particularly, no.

25 Q. Can you help us: you've said that you do recall the BRE

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1 retracting that statement about extended applications.  
2 Why is that not mentioned anywhere in your witness  
3 statement?

4 A. It only -- it didn't come to mind during the time. It's  
5 only through reading further documents that that comes  
6 to mind and it reminded me of the situation.

7 Q. Isn't that quite an important point that ought to have  
8 come to mind, when you're discussing -- and your  
9 statement is very long, it's 87 pages --

10 A. Indeed.

11 Q. -- and you go into a lot of detail about these tests and  
12 what was going on at the time within Kingspan. Wasn't  
13 it quite important to tell us that the BRE had retracted  
14 a statement to that effect?

15 A. It was. But you have to remember it was 14, 15 years  
16 ago, you know, it was ... yeah, I just couldn't recall  
17 at the time when I gave my statement.

18 Q. Is the reason you don't mention it in your statement  
19 because actually that shows that you, at the time, knew  
20 that you couldn't use that 8414 test and extrapolate out  
21 to other systems; you were fully aware that that was the  
22 BRE's position?

23 A. No, not at all.

24 Q. So, no, that's not the reason why you didn't include it  
25 in your statement?

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1 A. That's correct.

2 Q. And your evidence is just that simply it didn't come to  
3 mind, is that right, when you were preparing your  
4 statement?

5 A. During the course of giving my statement, yes, I hadn't  
6 recollected that.

7 Q. Do you accept that even if, at some earlier stage, you  
8 believed that the May 2005 8414 test data could be used  
9 in a representative way, once you were aware that the  
10 BRE weren't supporting that position, you knew that that  
11 couldn't happen, it couldn't be used in a representative  
12 way?

13 A. Sorry, it was a long -- sorry, could you repeat that,  
14 please?

15 Q. Yes.

16 So even if you believed at some earlier stage that  
17 the test data could be used in a representative way to  
18 support the application of K15 in other systems that  
19 were different from the one tested, once you were aware  
20 that the BRE were not prepared to do that, you knew,  
21 didn't you, that that representative position wasn't  
22 tenable? That's what I want to put to you.

23 A. At that particular time, yes.

24 Q. Yes. I want to put to you that the BRE, Tony Baker and  
25 Sarah Colwell, made that clear to you personally in

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1 a meeting.

2 A. I don't recall that particular meeting. I don't know --  
3 I've no record of my attendance at that meeting.

4 I don't know if the BRE have. But I cannot recollect  
5 that meeting with other people from Kingspan.

6 Q. But do you accept that if you had simply read the  
7 criteria in BR 135, you would have understood that the  
8 test could not be used in a representative way; it was  
9 system-specific?

10 A. I agree, at that time, yes, but we were working under  
11 obviously the recommendations of the BRE. Like I say,  
12 this was -- you know, we were the first or the second on  
13 that particular rig at the time and I think, you know,  
14 there was a huge learning curve for the -- both  
15 ourselves and the BRE and, yeah, I think, you know, in  
16 many ways they were probably holding our hand a little  
17 bit as well.

18 Q. Yes. I appreciate that, Mr Heath, and I appreciate that  
19 that's your evidence as to what you were told by the  
20 BRE. But once you knew they had retracted that  
21 statement, what I'm putting to you is then you knew it  
22 couldn't be used in a representative way?

23 A. Once we knew that they'd retracted it, that's correct,  
24 yes.

25 Q. Yes.

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1 Now if we go on to look at your witness statement at  
 2 page 74 {KIN00020709/74}, paragraph 11.20, you say this:  
 3 "I note that an email from Ivor to the BRE on 30 May  
 4 2005 records me as being in attendance at the 2005  
 5 BS 8414 Test (and this is also recorded in my outlook  
 6 calendar) but due to the time that has passed, I do not  
 7 now have any recollection of attending this test and  
 8 I am unable to comment on how many BRE employees  
 9 attended the test. To the best of my recollection,  
 10 I did not attend any other BS 8414 testing during my  
 11 time as Technical Manager."

12 Do you see that there?

13 A. I do see that, yes.

14 Q. Now, thinking about it now, can you help us, can you  
 15 recall whether or not you did attend that test, or does  
 16 that remain your evidence that you simply cannot  
 17 remember?

18 A. It was certainly in my Outlook calendar when I was  
 19 providing my evidence -- I think it was either on  
 20 a Monday or a Tuesday, I can't recall -- but I've no  
 21 recollection of attending that particular test at the  
 22 BRE.

23 I have -- I believe I have seen an 8414 test before  
 24 this or a similar test, I think it was at the BRE  
 25 Cardington, where they were testing an external wall

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1 insulation system. But I've no recollection of  
 2 attending this particular test on 30 May.

3 Q. If you had attended it, it would have been a memorable  
 4 event, wouldn't it? You would have had to have  
 5 travelled to the BRE facility in Watford, over from --

6 A. Absolutely, yeah. Yeah, it would have been  
 7 a significant journey.

8 Q. So does it follow from that that it's likely that you  
 9 didn't attend the test, do you think?

10 A. I don't believe I was in attendance, no.

11 Q. I see.

12 In terms of the particular materials used in the  
 13 test, and just starting with the K15 insulation, if we  
 14 go back to paragraph 3.11 on page 11 {KIN00020709/11},  
 15 of your statement, you say there -- just over halfway  
 16 down, about five lines up from the bottom, you say this:

17 "For the purpose of preparing this witness  
 18 statement, I have been unable to confirm what K15  
 19 product was used in the 2005 BS 8414 Test; however given  
 20 the date of the test and the chronology of the product  
 21 development described in paragraphs 3.17 to 3.18 below,  
 22 I understand that it cannot have been Pembridge-produced  
 23 new technology K15."

24 Do you see that there?

25 A. Yes, I do.

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1 Q. So you helpfully tell us that it can't have been the new  
 2 technology K15; that was not developed until  
 3 September 2006, is what you tell us elsewhere.

4 But going back to that previous sentence where you  
 5 say you have been unable to confirm what K15 product was  
 6 used in this test, can you just help us what you mean by  
 7 that? Did you know at the time what K15 product was  
 8 being tested?

9 A. At the time, I would have known which particular K15 or  
 10 technology was being adopted on that particular test,  
 11 yes.

12 Q. You talk there about, you said you would have known  
 13 which particular K15; how many versions of K15 was there  
 14 in 2005?

15 A. There was only one.

16 Q. So there was one, and that was the version being sold,  
 17 I assume; is that right?

18 A. That would have been the version that was being sold for  
 19 anything less than 18 metres at that time, yes.

20 Q. Are you able to confirm that the K15 product used in the  
 21 test was the same one actually being sold to market at  
 22 the time? Was that your understanding?

23 A. That would have been my understanding, yes.

24 Q. Now, we've already touched on the outermost layer of the  
 25 system tested in 2005. I want to show you just a couple

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1 more passages in Mr Meredith's evidence. If we go to  
 2 {Day75/67:15}, just over halfway down, I ask him:

3 "As far as you were aware, were those cement  
 4 particle boards non-combustible?"

5 Do you see that there? This is where I've taken him  
 6 to the test report, and that's where I've got the cement  
 7 particle board from. He answers this way. He says:

8 "It was a non-combustible cement particle board  
 9 manufactured by UAC Berhad, they were a Middle Eastern  
 10 manufacturer. But, yes, it was non-combustible, as far  
 11 as I was aware."

12 Do you see that there?

13 A. Yes, I do.

14 Q. Was that consistent with your understanding at the time  
 15 as to what those boards were?

16 A. I was aware it was a non-combustible board, yes.

17 Q. Yes, but did you leave it to Ivor to source the  
 18 particular type of board that was used in the test?

19 A. We did leave it to Ivor to procure all the components or  
 20 to work with other component suppliers to provide free  
 21 of material -- free of cost materials for the test.

22 Q. Yes.

23 Then at the very end of his evidence, {Day76/207:18}  
 24 he is being asked a final question about, "Is there  
 25 anything more you want to say?", and then he says:

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1 " Firstly , the non-combustible board was a UAC Berhad  
2 board which was known as -- I think it was marketed as  
3 Supalux in the UK, and it was a cellulose fibre cement  
4 board. So as opposed to -- although it had particles in  
5 it, it had cellulose fibres in it as well. So, yes, not  
6 traditionally suitable for the outside of a cladding,  
7 but it was a non-combustible board."

8 Do you see that there?

9 A. Yes, I do.

10 Q. Do you agree with what he says there, that it was not  
11 traditionally suitable for the outside of a cladding,  
12 but it was a non-combustible board?

13 A. Yes, I do.

14 Q. Given that Ivor ordered the materials and built the rig  
15 himself, there's no reason to doubt what he says on  
16 that, is there?

17 A. No, he procured the products, and if he requested  
18 a non-combustible building board I can only assume that  
19 was what was supplied. I don't believe he built the rig  
20 himself, by the way.

21 Q. No; he had help from Eurofox, didn't he?

22 A. Right, right.

23 Q. Well, sorry, that was his evidence to us, that he --

24 A. Right, okay. Well, no, he wouldn't. I'm just saying he  
25 wouldn't have been capable of building the rig itself.

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1 Q. Right, yes.

2 A. It's more than a one-man job.

3 Q. If we go to your witness statement and we look on  
4 page 79 {KIN00020709/79}, of your statement, there is  
5 a footnote right at the bottom, footnote 48. I just  
6 want to read that to you. You say:

7 "As part of my preparing this witness statement it  
8 has been brought to my attention that the 2005 BS 8414  
9 Test Report records the cladding panel used to have been  
10 a 'cement particle board'. I now understand from  
11 colleagues that the material used was likely in fact  
12 a non-combustible fibre cement board. I am not able to  
13 shed any light on this issue and it is not something  
14 I was aware of until very recently."

15 Do you see that there?

16 A. Yes, I do.

17 Q. When did you become aware of this, that it was  
18 a non-combustible fibre cement board as opposed to  
19 a cement particle board?

20 A. Obviously when I was preparing my witness statement.

21 Q. You say you became aware of it, you say from other  
22 colleagues. You say "I now understand from colleagues".  
23 Which other colleagues?

24 (Pause)

25 A. I think it was Adrian Brazier might have highlighted

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1 that, because I think they were doing some audit as to  
2 what had been provided for that particular test, because  
3 I don't think Ivor's records either were available or up  
4 to date or I don't think we could source it from the  
5 BRE.

6 Q. And Adrian Brazier just told you this out of the blue,  
7 or how did that come to happen, that you were told that?

8 A. I think it was all -- we were discussing the various  
9 tests that had been undertaken at the time, and I was  
10 trying to refresh my memory looking through the test  
11 report, and it was mentioned then that it was actually  
12 a different -- it was a non-combustible board that had  
13 been used, not necessarily what I think had been written  
14 in the report that was being brought to my attention.

15 Q. I see.

16 Are you aware that the 2005 test report has now been  
17 withdrawn by Kingspan?

18 A. I was made aware.

19 Q. When were you made aware of that?

20 A. Earlier this month, two weeks ago maybe.

21 Q. Right, yes.

22 Can we just go to a letter from Kingspan to the BRE  
23 dated 23 October 2020. This is at {KIN00024104/1}. We  
24 can see there it's dated 23 October 2020, it's to  
25 Debbie Smith and it's from Adrian Pargeter. We can see

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1 that at the end of the letter, if we look down at the  
2 end of it {KIN00024104/5}. There, "Adrian Pargeter for  
3 Kingspan". Do you see that there?

4 A. Yes, I do.

5 Q. Have you seen this letter before?

6 A. Could I just see the top of it again?

7 Q. Yes, sorry, yes {KIN00024104/1}. It's on Kingspan  
8 letter paper. Do you think you have seen that before  
9 coming here today?

10 A. I don't believe I have, no.

11 Q. No.

12 If we look in the second paragraph down in that  
13 letter, he says:

14 "As you may be aware, Kingspan is currently involved  
15 as a core participant in the Grenfell Tower Public  
16 Inquiry. As part of our co-operation with requests for  
17 information from the Inquiry we have undertaken  
18 a comprehensive review of all past and current test data  
19 which relates to K15, including BS 8414 tests."

20 Do you see that there? Then it says, underneath  
21 that:

22 "Through our review we have now concluded that tests  
23 carried out in 2005 and 2014 featured product that was  
24 not sufficiently representative of the product currently  
25 sold into the market place. We have listed these reports

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1 and a small summary of their construction build ups  
 2 below."  
 3 Do you see that there?  
 4 Then what we can see is the first construction  
 5 build-up listed in that table, which is test 220876, is  
 6 the one carried out in May 2005.  
 7 You can see on the "Tested Construction", it says:  
 8 "Masonry Substrate, 60mm K15 mechanically fixed,  
 9 aluminium support grid, 40mm Cavity, 6mm UAC cement  
 10 particle boards, cavity barriers", et cetera.  
 11 Do you see that there?  
 12 A. Yes, I do.  
 13 Q. Did that come as a surprise to you when you were made  
 14 aware of this letter, that that test report was being  
 15 withdrawn because the featured product, the K15 that was  
 16 tested, was not sufficiently representative of the  
 17 product sold into the marketplace?  
 18 A. I didn't realise we were still using that report in ...  
 19 Q. So you didn't realise that they were still --  
 20 A. No, I didn't realise that that was still -- that report  
 21 was still being referenced, because we've obviously done  
 22 a number of tests since then, and I think we've even  
 23 replicated that test. So I didn't realise it was still  
 24 being used.  
 25 Q. But the question I asked you was: did it come as

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1 a surprise to you, when you were made aware of this  
 2 letter, that the K15 tested was not representative of  
 3 what had then been sold to market?  
 4 A. I was surprised it was still being used, bearing in mind  
 5 they had replicated it with what we call new technology  
 6 product, so ...  
 7 Q. No, that's not an answer to my question. Did it come as  
 8 a surprise to you that it was being withdrawn because  
 9 the K15 tested was not what had been sold to market?  
 10 A. It wasn't a surprise, because I didn't realise they were  
 11 still using that test report in the marketplace.  
 12 Q. Why did you think they weren't still using that test  
 13 report in the marketplace?  
 14 A. I think -- well, from memory, I think test reports --  
 15 there is reference to five years. I don't know if those  
 16 can be extended, but I think there is some reference in  
 17 fire test reports about the longevity. Whether it's  
 18 reviewed in five years or lapses in five years I can't  
 19 recall, so ... yeah, and not being involved in the UK  
 20 market, yeah, to say a surprise ... yeah, I can't ...  
 21 I can't offer an opinion one way or another whether  
 22 I was surprised or not, really.  
 23 Q. Is the reason that you were not surprised because you  
 24 knew from 2006 onwards that Kingspan had started selling  
 25 K15 which was fundamentally different to that which was

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1 used in the 2005 test?  
 2 A. I don't believe the product was fundamentally different.  
 3 I presume you're referencing what we called old  
 4 technology versus new technology.  
 5 Q. Yes, and when I say fundamentally different, I mean on  
 6 fire performance. I should have clarified. Is the  
 7 reason you're not surprised because you knew from 2006  
 8 that Kingspan was selling K15 which performed very  
 9 differently in fire?  
 10 A. No, I don't -- I don't believe that's the case, no.  
 11 Q. Okay. And you don't believe you were aware of that in  
 12 2007, and 2008?  
 13 A. In relation to what?  
 14 Q. That you were selling a K15 product that performed very  
 15 differently in fire to the old technology K15; are you  
 16 saying you didn't know that?  
 17 A. I know that there was subsequent tests we did where the  
 18 product, and it was -- the product tested in the 8414,  
 19 if those are you're referring to 2008/7, it was  
 20 a completely different assembly to that we'd tested in  
 21 2005.  
 22 Q. Are you saying you didn't know at that time that the K15  
 23 itself -- not the assembly, the K15 itself -- was  
 24 performing very differently in fire in those tests? The  
 25 new technology K15 as compared to the old technology

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1 K15.  
 2 A. In those particular tests, it performed differently than  
 3 the large-scale test in 2005. Now, the question -- it  
 4 was completely different assemblies that were tested in  
 5 2007 and '08, which may have had an impact on the  
 6 performance of the board.  
 7 Q. Okay. We will come back to this point, because I'm  
 8 going to take you to some documents that you saw in  
 9 2007 --  
 10 A. Okay.  
 11 Q. -- and I'll ask you about this again.  
 12 If we could go to {KIN00005075/1}. This is an email  
 13 from Mr Meredith to various technical services generic  
 14 addresses within Kingspan, copying in Malcolm Rochefort.  
 15 Do you see that there? It's dated 26 May 2005, so it's  
 16 just a few days before the test was carried out.  
 17 A. This is the -- with the non-combustible cladding, is  
 18 this the one?  
 19 Q. Yes, sorry, this is the May 2005 test. I'm coming back  
 20 to that now.  
 21 A. Right, okay, sorry.  
 22 Q. So this is 26 May 2005, and Mr Meredith is saying in the  
 23 first line:  
 24 "Please find enclosed pictures of the BS 8414-1 test  
 25 rig I have been constructing at BRE Watford this and

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1 last week."

2 Do you see that there?

3 A. Yes.

4 Q. Is it likely that you would have been the recipient of  
5 this email because you would have been on one of those  
6 generic technical email lists?

7 A. I would have been, I would have received this, I was on  
8 one of those --

9 Q. Yes.

10 A. -- one of those email addresses, I believe, yes.

11 Q. Yes. And in this email, he says in the next paragraph:

12 "The construction utilises an aluminium bracket  
13 system, 60mm Kooltherm K15 a 40mm ventilated cladding  
14 zone which is fitted with ventilated cavity barriers at  
15 floor level. The outer face is clad with a sacrificial  
16 cement board which will be destroyed by the 3megawatt  
17 fire that will be breaking out of the aperture at the  
18 bottom of the façade."

19 Do you see that there?

20 A. Yes, I do.

21 Q. Would you agree that the use of "sacrificial" there is  
22 consistent with Mr Meredith saying this wasn't supposed  
23 to be a truly representative test of a real life  
24 cladding system; it was supposed to be a simplified  
25 test, if we can put it like that, with just a building

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1 board or a non-combustible particle board?

2 A. I'm not sure if it was a simplified test because it was  
3 still a large scale test, so it wasn't simplified from  
4 the requirements of the 8414. The sacrificial cement  
5 board, that was a representative cement board, and  
6 I think from what I've seen of this test that most of  
7 the cladding is destroyed at certain parts of the test,  
8 so ...

9 Q. I say "simplified" because isn't it right -- and  
10 wouldn't you have understood this at the time -- that  
11 you would never put those boards, whether they're fibre  
12 cement boards or cement particle boards, on a tall  
13 building, would you? You would never clad it in that,  
14 would you?

15 A. No, you'd use similar products to that which have  
16 a finish on them, when the performance might be the  
17 same. But that particular product, no, it was  
18 representative of a finished non-combustible panel.

19 Q. Well, you're right, it didn't have a finish on it. So  
20 a panel in the real world would either have a finish or  
21 would be made of a different substance, perhaps a metal  
22 panel, something like that. But isn't that entirely the  
23 point? These systems are very complicated and they're  
24 very complex to test in large scale fire systems, aren't  
25 they? You know that now?

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1 A. I knew it then. It's a very complicated and technical  
2 test, you know, I think that the interest from the BRE  
3 bears testimony to that and, you know, that -- to use  
4 his phrase -- sacrificial cement board was, as I said,  
5 following the recommendations that we received from the  
6 BRE at the time.

7 Q. Yes, but this was one stepping stone, wasn't it? And  
8 what you'd planned to do, isn't this right, was try and  
9 pass this test and then introduce, in partnership with  
10 someone like Metsec or Sotech, an actual real life  
11 cladding panel? That's right, isn't it?

12 A. That's correct. It was, as I said previously, it was,  
13 you know, the -- it was a stepping stone to other  
14 assemblies as well.

15 Q. Yes.

16 A. Whether it be Metsec, Sotech, Kingspan Offsite; there  
17 was a number of other component suppliers.

18 Q. Yes, and would you agree with me that the reason you  
19 wouldn't put that building board on the outside of  
20 a building is that it wouldn't act as any kind of  
21 rainscreen? It would soak up the water, the moisture,  
22 it would become soggy; do you agree with that?

23 A. I don't know about the physical properties of those  
24 cement particle boards and how they're affected by  
25 moisture and ... so I can't comment on that particular

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1 product.

2 Q. In your time as technical manager at Kingspan, did you  
3 ever come across a proposal by anybody -- and we will  
4 see you advised on lots of buildings -- to put those  
5 kind of boards on the outside of a building?

6 A. Not in the UK, but certainly similar boards from  
7 a cladding point of view, as I said, finished, finished  
8 boards of a similar composite. But not that particular  
9 board, no.

10 Q. When you say "not in the UK", where are you talking  
11 about?

12 A. We see that type of board in the US in rainscreen  
13 solutions.

14 Q. When have you become aware of that?

15 A. Probably in the last five years or so, I believe.

16 Q. So you weren't aware of that at the time?

17 A. No, no.

18 Q. No.

19 Now, at the end of that email {KIN00005075/1},  
20 I want to ask you now about the cavity barriers that  
21 were used in that test. Can you see what he does is he  
22 says in the very last sentence:

23 "A sample of the intumescent ventilated fire break  
24 is situated on my desk should you wish to have a closer  
25 look."

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1 Do you see that there?  
 2 A. Yes, I do.  
 3 Q. Now, is it right, did you share an office with  
 4 Mr Meredith at this time? He said in his evidence that  
 5 there was a period of time, although he couldn't give us  
 6 precise dates, when you shared an office. Is that  
 7 right?  
 8 A. There was a particular time where Ivor and I shared  
 9 an office, but it was some time before May 2005.  
 10 Q. I see. He says he's put a sample of that intumescent  
 11 firebreak on his desk. Did you go and see it? Did you  
 12 go and have a look at it?  
 13 A. I can't recall. I'd seen images of it previously, but  
 14 I can't recall going into his office to have a closer  
 15 look at it.  
 16 Q. Were you aware at the time that it was a very unusual  
 17 product, that cavity barrier?  
 18 A. I wasn't aware of it. I was aware that it was used for  
 19 rainscreen applications. I wasn't aware of that it was  
 20 unusual from that respect, no. I knew it was designed  
 21 for rainscreen applications.  
 22 Q. I see. What I want to put to you is that this was not  
 23 a commonly used product and it had a very high graphite  
 24 content, which was one of the reasons why it wasn't  
 25 commonly used. Would you agree with that?

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1 A. I wouldn't know. I've no expertise in cavity barriers,  
 2 so I can't really comment on that. But when you say  
 3 popular, I don't believe rainscreen was a popular  
 4 solution in 2005 particularly.  
 5 Q. If we just look at a photograph here of this, it's  
 6 {KIN00005079/1}, these are some photographs which  
 7 Mr Meredith took as he was putting the rig together,  
 8 that were sent back to Kingspan. Do you remember seeing  
 9 these kind of photographs at the time?  
 10 A. I would have seen them at the time.  
 11 Q. Yes. And it's right, isn't it, that that's the building  
 12 board that we see below the fibre cement board or cement  
 13 particle board? Do you see that, screwed into there?  
 14 A. Yes, I do.  
 15 Q. Then above that we can see the silver foil is the K15;  
 16 yes?  
 17 A. Yes.  
 18 Q. And then above that, the black line with holes in it,  
 19 did you understand that to be the cavity barrier?  
 20 A. Yes, I do.  
 21 Q. Can you remember forming a view at the time as to  
 22 whether that was a representative cavity barrier in  
 23 a system like this?  
 24 A. I can't remember, I'm afraid.  
 25 Q. Now, the BR 135 classification report for this test to

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1 8414-1 was in fact not issued until long after you had  
 2 stopped being involved with K15. It was issued on  
 3 28 September 2015, so over ten years later. So I'm not  
 4 going to be asking you about that, because it's after  
 5 you had finished your involvement. But what I want to  
 6 ask you is about BR 135 classification in the period  
 7 after that 2005 test when you were involved; yes?  
 8 A. Yes.  
 9 Q. Now, at the time that the 2005 was carried out, did you  
 10 understand there to be a requirement for a second  
 11 report, a classification report, to BR 135?  
 12 A. I wasn't aware at that time that it was a requirement,  
 13 no.  
 14 Q. If we look at paragraph 6.6 on page 38 {KIN00020709/38}  
 15 of your witness statement, you were asked the question:  
 16 "Were you aware that between 2005 and 2014, no  
 17 BR 135 Classification Report existed for a system  
 18 incorporating K15?"  
 19 You answer, you say:  
 20 "I would have been aware that we did not obtain  
 21 a BR 135 Classification Report for the 2005 BS 8414  
 22 Test. I think we probably assumed that although it was  
 23 an option to commission a Classification Report, it was  
 24 not necessary, as the 2005 BS 8414 Test Report contained  
 25 sufficient information in itself to demonstrate that the

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1 tested system had satisfied the requirements of BR 135."  
 2 Do you see that there?  
 3 A. Yes, I do.  
 4 Q. Just to be absolutely clear on your evidence, I think  
 5 before we looked at this you had told us that you  
 6 weren't aware at the time of the 2005 test that there  
 7 was a requirement for a second report, a classification  
 8 report; yes?  
 9 A. That's correct, yes.  
 10 Q. But here you're saying in your witness statement  
 11 "I would have been aware that we did not obtain that  
 12 report, I think we probably assumed that although it was  
 13 an option to commission, it was not necessary?"  
 14 A. Yes.  
 15 Q. So can you help us as to what is your evidence on this:  
 16 were you aware that there was a requirement for that  
 17 report, or were you aware but at the time you assumed  
 18 that although it was an option it wasn't necessary?  
 19 A. I was aware there was a classification report, and I was  
 20 aware we didn't obtain one, and I was under the  
 21 impression that the report on the BS 8414 test was  
 22 sufficient to determine the results under the BR 135.  
 23 It was quite -- it's quite unusual at this time,  
 24 because I think -- I stand to be corrected, but it would  
 25 be unusual to undertake a test to a British Standard and

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1 then have to have a classification report on top of  
 2 a test report. So it would have been very unusual at  
 3 the time.  
 4 So although we were probably aware of the BR 135,  
 5 I think it was felt and probably Ivor advised that,  
 6 looking at the test report that we'd received for that  
 7 particular test, the BRE extrapolated the data and  
 8 I think Ivor was capable of extrapolating the data to  
 9 determine that we had passed the requirements of that  
 10 BR 135, and therefore didn't require to have a published  
 11 copy.  
 12 Q. I see. You say it was quite unusual at this time to  
 13 have that British Standard and then have to get  
 14 a separate report, but we did look earlier at Approved  
 15 Document B --  
 16 A. Yes.  
 17 Q. -- which makes very clear, doesn't it, in 12.5 that it  
 18 has to be classified to BR 135?  
 19 A. Yes. No, I didn't, I wasn't -- bespoke to that 8414 --  
 20 I mean, British Standard tests in general, I don't know  
 21 of another British Standard test that you would  
 22 undertake, get a test report that you could determine  
 23 your pass from, and then get a subsequent report  
 24 analysing the results of the test you've already had  
 25 done.

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1 Q. So I think now you're telling us you were aware that  
 2 there was something called a classification report; yes?  
 3 A. I was aware of the BR 135 classification report.  
 4 Q. Yes.  
 5 A. But I was also under the impression, rightly or wrongly,  
 6 that you could extrapolate the results from the test  
 7 report, which is I believe what Ivor did, and what the  
 8 BRE did as well, advising Ivor that we had been  
 9 successful when you analyse it, if you'd analysed it to  
 10 BR 135. But we didn't formally request that  
 11 classification report, for whatever reason.  
 12 Q. When you said you didn't think it was necessary to get  
 13 one, were you aware in 2005 that 8414-1 itself doesn't  
 14 contain any pass/fail criteria; you have to go to BR 135  
 15 to get the pass/fail criteria and work out whether it's  
 16 passed?  
 17 A. I believe that's correct, but I also believe you can,  
 18 from the test report, you can extrapolate the data you  
 19 require for BR 135. So although the test report doesn't  
 20 say pass or fail, you can extrapolate the data from that  
 21 test report to determine if it has indeed met the  
 22 requirements of that classification report.  
 23 Q. But, as we looked at earlier, it's not simply  
 24 an extrapolation of test data, is it? It's not simply  
 25 reading the temperatures and looking at whether you have

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1 passed; there's the mechanical performance risk  
 2 assessment that has to be carried out, that holistic  
 3 risk assessment on how the system's performed. You  
 4 agreed with that earlier, and you said you understood  
 5 that; yes?  
 6 A. Absolutely, I do agree with that.  
 7 Q. Yes. So if that's right, and it's more than just  
 8 reading off temperatures and ticking yes/no whether  
 9 we've hit the 600 degrees or not, if you knew that, how  
 10 could you think that you could say that BR 135 was  
 11 satisfied without that specialist classification report?  
 12 A. Well, I believe that the data that's in the test report,  
 13 for a person who's got the experience of reading those  
 14 reports, can determine whether it meets those  
 15 requirements. And I think Ivor was informed by the BRE,  
 16 either after the test or a few days after the test, that  
 17 it had -- it would have met those requirements.  
 18 Q. When you're referring there to "for a person who's got  
 19 the experience of reading those reports", who are you  
 20 referring to there? A fire engineer; yes?  
 21 A. Well, people at the BRE.  
 22 Q. Yes.  
 23 A. I believe Ivor at the time would have had sufficient --  
 24 although he wasn't a fire engineer, he -- he had enough  
 25 experience to determine that it also met those

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1 requirements.  
 2 Q. Why do you say that? He wasn't a qualified  
 3 fire engineer, was he?  
 4 A. He wasn't. I think just, you know, his experience of  
 5 working closely with the BRE, I think he'd picked up  
 6 a reasonable degree of knowledge to -- to analyse the  
 7 test -- the data that's in the test report.  
 8 MS GRANGE: Mr Chairman, I'm halfway through this topic, but  
 9 I think if I --  
 10 SIR MARTIN MOORE-BICK: Well, I think we're not going to  
 11 finish it this evening, I'm afraid, are we?  
 12 MS GRANGE: No, we're not. I think we should stop there.  
 13 SIR MARTIN MOORE-BICK: So do I.  
 14 MS GRANGE: Thank you.  
 15 SIR MARTIN MOORE-BICK: Thank you very much. Yes.  
 16 There it is, Mr Heath: we've probably got as far as  
 17 we've got today.  
 18 THE WITNESS: Okay.  
 19 SIR MARTIN MOORE-BICK: That means I'm afraid I have to ask  
 20 you to come back again on Monday of next week to  
 21 continue your evidence, but I think you were expecting  
 22 that anyway, weren't you?  
 23 THE WITNESS: I was, yes.  
 24 SIR MARTIN MOORE-BICK: Good. I'm glad you've made  
 25 appropriate arrangements.

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1 Well, we'll break there. We'll resume at 10 o'clock 243  
2 on Monday morning.  
3 THE WITNESS: Okay.  
4 SIR MARTIN MOORE-BICK: I have to ask you, please, not to  
5 discuss your evidence or anything that relates to it  
6 while you're away from the hearing room.  
7 THE WITNESS: Right.  
8 SIR MARTIN MOORE-BICK: All right?  
9 THE WITNESS: Okay.  
10 SIR MARTIN MOORE-BICK: Thank you very much. Well, you're  
11 free to go now and the usher will look after you.  
12 THE WITNESS: Okay, thank you.  
13 SIR MARTIN MOORE-BICK: Thank you very much.  
14 THE WITNESS: I take this with me?  
15 SIR MARTIN MOORE-BICK: No, I should leave that there. That  
16 will be fine.  
17 THE WITNESS: Okay, thank you.  
18 (Pause)  
19 SIR MARTIN MOORE-BICK: Good. 10 o'clock on Monday then,  
20 please.  
21 MS GRANGE: Thank you.  
22 SIR MARTIN MOORE-BICK: Thank you very much.  
23 (4.45 pm)  
24 (The hearing adjourned until 10 am  
25 on Monday, 30 November 2020)

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**96 (2)** 58:19 180:20