



GRENFELL TOWER INQUIRY RT

Day 256

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(10.00 am)

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

So I'll ask Mr Martin to come into the room, please.

MR BRIAN MARTIN (continued)

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

THE WITNESS: Morning, sir.

SIR MARTIN MOORE—BICK: All ready to carry on, I hope?

THE WITNESS: Yes, sir.

SIR MARTIN MOORE—BICK: Thank you very much.

Yes, Mr Millett.

Questions from COUNSEL TO THE INQUIRY (continued)

MR MILLETT: Thank you, Mr Chairman, good morning to you.

Good morning, members of the panel.

Mr Martin, good morning.

A. Good morning.

Q. I just want to revisit for a few minutes, if we can, please, some of the evidence from yesterday on the question of the LGA guide and stay put.

Now, on the question of stay put, you said yesterday that you had had conversations with firefighters about an understanding that where fire was spreading beyond the compartment of origin, then evacuation was something

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that the incident commander at the incident would consider. You mentioned that a couple of times.

What conversations can you recall? Which particular incidents can you recall?

A. It's certainly something I'd discussed with

Sir Ken Knight at various points over the years, some of the firefighters that had worked with the Chief Fire and Rescue Adviser's team. I remember an incident — when I was working for BRE, there was a fire in a block of flats in York, I think it was, and the firefighters there — I'm trying to remember why the fire spread.

I think the fire got — caught in a roof, and ... sorry, this is probably more detail than you might want, but —

Q. No, your memory is excellent.

A. The roof of this particular building was a form of construction I hadn't seen before, where the top surface was a stainless steel sheet. It looked like the sort of lead roof that you'd often see in London, but it was in fact stainless steel, and so was — and the problem the firefighters had is that as they were putting water onto this roof — it was quite a tall block but low enough that, with a high-reach appliance, they could get water onto the roof. The roof, therefore, stayed intact and they couldn't get water to where the fire was, so the fire — they were unable to control the fire, and the

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commander there decided it was time to evacuate the building, because they weren't — and the adjacent blocks, quite — at some point during the incident he decided to evacuate the block, and so firefighters were sent to ensure that the building had been evacuated.

Q. Was that Andy Jack? Did you mention the word — or maybe I misheard you. You said Andy Jack?

A. I don't think I did.

Q. Oh, you didn't. All right, okay.

A. No, I wouldn't have thought I'd have discussed that with — I mean, I'd worked with Andy Jack at various points over the years. I first met him when he was the official that was leading on the introduction of the Fire Safety Order.

Q. Yes, indeed. That's why I thought you'd mentioned his name.

To what extent can you remember any reference to carrying out a full building evacuation, as opposed to a partial evacuation, in circumstances where stay put had no longer become tenable?

(Pause)

A. I'd certainly discussed — as I say, it's a subject that had come up, I think, when BS 9991, which provides design guidance on blocks of flats, when that was being revised, it was something we discussed with a number of

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firefighters there as well, so the represent — I can't remember who was the rep on the committee from the — it would have been the Chief Fire Officers Association then, I think.

Q. Right.

A. So it was — an understanding that that's part of the process was something which I'd come across from several firefighters from several different brigades. I don't think I could name all the names, because these are various conversations I'd had.

Q. The incident you remember, roughly when was that? You say you were working for the BRE at the time; can you remember a date, or even a year?

A. I could probably find out. But, as I say, it would have been when I was working at BRE, perhaps in the latter part of my time there.

Q. Right.

Now, you refer to BS 9991. We're going to come to that in just a moment.

Before I do, can I ask you this: before Colin Todd, as the designated agency for the purpose, started work on drafting the LGA guide, and particularly 79.9 to 79.11 that we studied together yesterday, do you remember whether there was any guidance in existence, whether statutory or government-approved guidance or any

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1 other sector guidance, which said that PEEPs or any
 2 other kind of emergency escape planning was not required
 3 for vulnerable persons because stay put would suffice?
 4 A. I don't think it was ever written down anywhere.
 5 I think it's one of these things which had emerged,
 6 possibly ... the whole question of PEEPs emerged -- I'm
 7 trying to think when that first became common practice.
 8 It probably became more entrenched in sort of the
 9 fire safety language probably around the time the
 10 Fire Safety Order was implemented.
 11 Q. Fire safety language used by whom, by fire and rescue
 12 services, building owners, government?
 13 A. I guess I'm thinking of the sector in general, so people
 14 that worked in fire safety and firefighters and so on.
 15 Q. Right.
 16 Was there any guidance anywhere of that kind which
 17 said that for vulnerable people it was unrealistic or
 18 impracticable to expect any more in general needs
 19 housing?
 20 A. No, I think that was -- I mean, as I said yesterday,
 21 that was one of the reasons why it was decided to
 22 commission the LGA guide, because ... again, I'm sorry,
 23 I have to go back in history to try and make this make
 24 sense.
 25 Before the Fire Safety Order, there was almost no

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1 legislation that covered fire safety in blocks of flats,
 2 certainly in terms of its management. The Fire
 3 Precautions Act, which essentially was the predecessor
 4 to the Fire Safety Order, didn't apply to blocks of
 5 flats, except insofar as the fire and rescue service had
 6 a power to require a block of flats to be closed, for
 7 want of a better term, if they felt it was unsafe, but
 8 there were no provisions for fire certificates and all
 9 the other rules that came about. So the Fire Safety
 10 Order essentially was the first time that there was
 11 certainly national legislation that set out any
 12 requirements for that kind of thing, and even in blocks
 13 of flats it was quite limited in its scope because of
 14 this question of parts used in common.
 15 So that's probably why there was no guidance on that
 16 issue prior to that time, because there was no
 17 legislation that addressed it.
 18 Q. Right. So the answer is no, I think?
 19 A. I think that -- yes, sorry. But yes, no is the correct
 20 answer.
 21 Q. No is the answer?
 22 A. Yeah.
 23 Q. Now, let's turn to BS 9991, then. Can we please have
 24 that up. It's {BSI00000059}. The panel may remember
 25 that the Inquiry examined this document quite closely

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1 with Colin Todd at the end of July last year when he
 2 came here to give his assistance, so it should be
 3 familiar to many.
 4 First, is it correct, just looking at the top
 5 right-hand corner and the date, 2015, that this document
 6 postdates the completion and publication of the
 7 LGA guide?
 8 A. This particular edition does, yes.
 9 Q. Yes.
 10 Is it right also that it's a standard applicable
 11 specifically to fire safety in the design, management
 12 and use of residential buildings, as it says?
 13 A. Yes.
 14 Q. Yes.
 15 Did you or the department have any role in
 16 formulating this standard?
 17 A. So I was a member of the committee responsible for this,
 18 and a number of other similar standards. I think at the
 19 time this edition was being drafted, I think I was busy
 20 on something else. I'm trying to think what it would
 21 have been.
 22 Q. When was it being drafted? That may help you.
 23 A. I guess it would have -- looking at the date, it
 24 probably would have been the two or three years
 25 preceding 2015.

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1 Q. Right.
 2 A. So that's probably the housing standards review, was
 3 probably -- but I remember I missed a lot of the
 4 meetings because I was double booked, essentially.
 5 Q. Now, let's look at some principles in it.
 6 Can we please go to page 15 {BSI00000059/15}, and if
 7 we look on page 15 at paragraph 0.2.1, "General
 8 principles", this is about means of escape, and a set of
 9 provisions based on some assumptions set out there, (a)
 10 to (d). The second one is "no reliance on external
 11 rescue", and (c) in the last part of that paragraph:
 12 "... in most fires simultaneous evacuation of the
 13 building is unlikely to be necessary ..."
 14 Then if you go on below that, underneath the note,
 15 it says:
 16 "Whilst a simultaneous evacuation is normally
 17 unnecessary (see A.1 regarding stay put strategy), there
 18 will be some occasions where operational conditions are
 19 such that the fire and rescue service decide to evacuate
 20 the building. In these situations the occupants of the
 21 building will need to use the common stair, sometimes
 22 whilst fire-fighting is in progress. As such, the
 23 measures in this British Standard for the protection of
 24 common stairs are designed to ensure that they remain
 25 available for use over an extended period."

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1 Now, was that principle there, or that articulation
2 of it, new in 2015 in this standard?
3 A. I remember discussing this, but — and to some extent,
4 I think it was ... following the Lakanal House fire,
5 there had been quite a lot of discussion about
6 everybody's understanding of the stay—put principle, and
7 it was felt that — everybody seemed to know, but it
8 wasn't written down anywhere, and it was felt that we
9 ought to — that the standard ought to explain itself,
10 and I think there were various iterations of this.
11 I remember discussing it. I can't remember —
12 Q. All right.
13 A. This is the first time I've looked at this text for
14 quite some time, but it rings bells with me. I remember
15 us talking about it and saying — it was important to
16 try and explain that whilst you design the building on
17 the basis of the stay—put principle, there were
18 definitely situations where evacuation might become
19 necessary, and that's why — as this paragraph is trying
20 to explain, that's why this standard, and for that
21 matter Approved Document B, has additional measures in
22 it to protect the stairway, because in most other
23 buildings you'd be using the stairway quite quickly
24 after a fire is discovered, whereas it was recognised
25 that the stairway would need to be used for a longer

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1 period of time. So that's why there are smoke control
2 systems and so on in that type of building.
3 Q. Just on the relationship, then, between Approved
4 Document B and this British Standard, looking at the
5 date of publication — which is in fact, I think, 2016,
6 but the standard is 2015, and the work would have been
7 done in the years leading up to that, as you've just
8 told us — was any thought given, during the process of
9 considering the revisions to ADB after the Lakanal
10 coroner's recommendation to that effect, to bring ADB
11 into line with this British Standard in any way?
12 A. In terms of explaining itself in this respect, do you
13 mean?
14 Q. I mean making it consistent, making it consistent so
15 that the Building Regulations and the associated
16 guidance, particularly Approved Document B, would
17 produce a building that would be consistent with and
18 facilitate the principles on this page.
19 A. I think we thought it already did.
20 Q. You thought it already did.
21 Was any exercise done to put the two pieces of paper
22 together — ADB and BS 9991 — and actually go through
23 the exercise critically and ask yourself: well, does ADB
24 facilitate simultaneous evacuation where it becomes
25 necessary?

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1 A. No, that exercise wasn't carried out.
2 Q. Why is that?
3 A. I don't think we considered that to be necessary at the
4 time.
5 Q. Why is that?
6 A. Essentially this standard was saying the same things as
7 Approved Document B, but with more detail, and with
8 more ... probably more options, is perhaps the way to
9 describe it. These standards — again, sorry, I have to
10 go — it's difficult not to go back into history with
11 these things. Prior to — certainly prior to 1985, it
12 was — most guidance, certainly on means of escape in
13 the design of buildings, had evolved through the
14 development of British Standards. So there wasn't
15 a government document that told people what to do, it
16 was a standard that had come from the British Standards
17 Institution. And when these issues were picked up by
18 national Building Regulations and found their way into
19 the approved documents, we ended up with a situation
20 where there was a — you had the approved document, but
21 the British Standards were still there, and they often
22 provided more depth of information. Certainly when
23 I first started as a building control officer, if you
24 weren't quite sure about something, you would read the
25 two documents and say, "Well, this is the issue that

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1 Approved Document B is telling me to think about, this
2 standard is actually giving me some background and
3 explaining itself, and that's helped me understand what
4 this provision is about, and now I can apply it more
5 effectively to the project I'm looking at".
6 So they tended to operate in parallel, but were
7 revised at different times, so that's why you would get
8 differences between the documents.
9 Q. Well, one can well understand that there are
10 British Standards which are woven into the fabric of
11 Approved Document B, for example BS 8414. Given the
12 principles articulated here in 9991, why wasn't any
13 thought given to weaving into ADB in its revised form as
14 promised to the Lakanal House coroner revisions which
15 would take account of and facilitate the principles on
16 this page?
17 A. I think if we had carried out those revisions as
18 promised then we definitely would have looked at the
19 text that had been generated for this standard, and
20 where we thought it was useful or better than what was
21 in the approved document, we would have adopted it.
22 Q. Now, I may be wrong about this, Mr Martin, but we've not
23 seen a scrap of evidence in any of the preparatory
24 documents between May 2013 and the date of the
25 Grenfell Tower fire generated by government in response

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1 to or in perpetuation of the Secretary of State's
 2 promise to the Lakanal House coroner that 9991 would be
 3 examined and ADB would be revised to take account of it.
 4 Why is that?
 5 A. I guess there was no point writing it down. It would
 6 only have been me that read it, so ...
 7 Q. Right.
 8 A. That doesn't mean to say we weren't going to do it, it's
 9 just we didn't — or I didn't see the need to produce
 10 a document that only I would have read at the time,
 11 because there wasn't anybody else working on the
 12 subject, certainly in the department. But definitely
 13 that would have been something we would have done.
 14 That's one of the advantages of being involved in the
 15 development of the standards, where I was able to do it,
 16 because you could talk through these issues with the
 17 other experts that were on the committees.
 18 Q. So that's prospective.
 19 Retrospectively, was any thought given, once this
 20 document was published, to revising the LGA guide to
 21 take account of the principles we see here?
 22 A. I think they align with the LGA guide. I must be
 23 missing something.
 24 Q. Right.
 25 Let's go to page 20 {BSI00000059/20}. Now, page 20

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1 is a rather long chunk of text which sits under 0.8,
 2 "Management of fire safety" on the previous page,
 3 page 19. Halfway down page 20, towards the bottom of
 4 your screen, it says:
 5 "Effective management of fire safety can contribute
 6 to the protection of the building occupants in many
 7 ways."
 8 Then if you look at (d):
 9 "By being aware of the types of people in the
 10 building (such as disabled people, elderly people,
 11 children, pregnant women, etc.) and any special risks or
 12 needs."
 13 Was any thought given to revising the LGA guide to
 14 take account of that principle or requirement?
 15 A. To some extent, this is outwith the area that I was
 16 specifically responsible for, but I don't think this was
 17 in conflict with the LGA guide. I mean, there's
 18 a difference between requiring or saying that there
 19 should be a PEEP prepared for each individual and being
 20 generally aware of the challenges associated with people
 21 with disabilities.
 22 Q. Well, where in the LGA guide is there the express
 23 allusion to or awareness of the types of people in the
 24 building of the categories listed —
 25 A. I don't know the LGA guide off by heart, I'm afraid.

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1 Q. No, but do you not know it sufficiently well to be able
 2 to at least identify in principle what —
 3 A. I'd be surprised if it doesn't mention the issue
 4 somewhere, and I think that's ... as a high-level
 5 observation, yes, you should — if you're — in managing
 6 a building, you ought to consider the nature of your
 7 residents, especially if you've got a building where
 8 they are predominantly a particular group, but for most
 9 general needs blocks, you've got a cross-section of
 10 society in there, and that's, you know, a universal
 11 thing.
 12 Q. Can we please go to page 33 {BSI00000059/33}, "Inclusive
 13 design". That says in the second paragraph:
 14 "Special management procedures might be required
 15 where it is reasonably foreseeable that the proportion
 16 of disabled persons in a building will be relatively
 17 high. Recommendations for building management are given
 18 in Section 9."
 19 Then there is a note:
 20 "Attention is drawn to the Equality Act 2010 which
 21 places a duty on all employers and service providers not
 22 to discriminate against disabled people. It is vital to
 23 ensure that when making plans for the fire safety and
 24 management of buildings, the requirements of disabled
 25 people are properly taken into account at all times. It

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1 is important to note that the recommendations given in
 2 this British Standard are for escape not access."
 3 Et cetera. It goes on in relation to other
 4 standards as well, which cover similar topics.
 5 Was any thought given to amending the LGA guide to
 6 reflect the attention drawn to the Equality Act here?
 7 A. Not that I'm aware of. I think the paragraph
 8 immediately above it is the point that I was just
 9 making, is that what they're saying here is if you've
 10 got a block which is — say it's a retirement block or
 11 something, so the majority of the population are
 12 elderly, then it's reasonable to assume that they'll
 13 have — you'll have more people with restricted mobility
 14 than you might expect in a general needs block, and
 15 that's something you ought to consider.
 16 The problem with this kind of text is it's all well
 17 and good saying you should consider something, but it's
 18 not much help unless you give them some clue about what
 19 they ought to be considering.
 20 Q. Well, Mr Martin, let me try this way of looking at
 21 things on you.
 22 We heard yesterday that after the LGA guide was
 23 published, a member of the public representing disabled
 24 persons wrote to you asking — well, challenging — the
 25 legality of 79.9 to 79.11, and we've heard your evidence

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1 about that.

2 When BS 9991 was being considered and then
3 published, was no thought given back to that letter and
4 the legislation, and consideration given to taking legal
5 advice on the Equality Act and examining the duty placed
6 on employers and service providers not to discriminate,
7 with a view to —

8 A. I think that would have been outwith my job, sorry,
9 that's not an area that I would have been directly
10 responsible for. But I think ... and the way
11 British Standards are drafted is they're drafted by
12 committees with the intention of setting out what they
13 considered to be best practice, which might be more than
14 what the law requires, and this note is alerting people
15 to statutory provisions, but it's not really setting out
16 exactly what they should do.

17 As I say, the challenge you have in practice with
18 real blocks of flats is if you've got somebody in a flat
19 with limited mobility, if they're unable to leave the
20 flat of their own volition and there are no — there's
21 no one there to help them, then the only people that are
22 left are the fire and rescue service. In practice, the
23 way that's addressed — and I'm kind of stepping outside
24 my area of responsibility, but I think it's an important
25 point, so I think if I can explain it, it is

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1 important — is you need to — it's recognising that
2 a particular individual has a higher risk of not being
3 able to self-rescue, for want of a better term. So
4 trying to help them live in a way where they're less
5 likely to have a fire becomes the best available option,
6 and that's something that fire and rescue services and
7 the sort of social care sector work together on to try
8 and help people do that, and I know that the fire policy
9 team — which by then may well have been in the
10 Home Office, I can't remember — did a lot of work on
11 sort of information requirements so that the social
12 sector could share information with the fire and rescue
13 service on people they'd identified as being vulnerable.
14 So that was what that team had done to try and help the
15 fire service know where vulnerable people were so that
16 they could help them avoid the sorts of fires that would
17 put them at risk.

18 The idea that you can, you know, have a requirement
19 that someone's going to — a procedure in the building
20 that's going to get them out of the building relies on
21 someone being there, and I think some practitioners have
22 argued that a PEEP could reference, you know,
23 an arrangement with a neighbour or a family member that
24 lives nearby. Most people in the sector don't think
25 that's a viable option, and think that, you know,

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1 there's a risk that that's just a lip service response
2 to the provision of a PEEP, and I think that's the
3 challenge with this area. It's very difficult.

4 Q. In that last answer you refer to work on information
5 requirements so the social sector could share
6 information with the fire and rescue services on people
7 they'd identified as being vulnerable.

8 What was the product of that work, do you know?

9 A. It was something that Louise Upton did a lot of work on,
10 and —

11 Q. Was there a result?

12 A. Yes, there was. Yes, there was a — I can't remember
13 the exact detail of it because it wasn't something I was
14 working on specifically, but I remember her team working
15 on that. It was either a protocol — it might even have
16 been a change to secondary legislation, I can't
17 remember. I can probably find out, if the Inquiry is
18 interested.

19 Q. Can I then take you further on into this document.

20 First, paragraph 54 at page 145 {BSI00000059/145},
21 "Evacuation of disabled occupants or occupants that
22 require assistance to escape", and then note 1:

23 "It is the responsibility of the premises management
24 to assess the needs of all people to make a safe
25 evacuation when formulating evacuation plans.

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1 "An evacuation ... should not rely on the assistance
2 of the fire and rescue service. This is an important
3 factor that should be taken into account in the building
4 design."

5 Now, again, when that was published, was any thought
6 given to looking back at 79.9 to 79.11 and asking
7 whether that was consistent with this provision?

8 A. I think I remember this being quite contentious at the
9 time, because it was — as I say, the standard in and of
10 itself has no statutory status, it's what the committee
11 at the time considered to be best practice, and I think
12 it probably — again, this is probably to some extent
13 outside my area of responsibility at the time.

14 Q. Well, on that, what was your area of responsibility so
15 far as this standard was concerned?

16 A. Well, essentially it's a code of good practice, so it
17 has no status, but because it was a document which was
18 often used in the sector, sometimes as an alternative
19 approach to compliance with Approved Document B, I guess
20 my main focus was ensuring that it didn't set out
21 standards that were lower than would have been imposed
22 through compliance following the approved document. But
23 also, where I was able to, just contributing to the
24 discussions to assist in the production of the code, and
25 learning from the conversations.

20

1 Q. Finally, can we please look at page 175 of this document
 2 {BSI00000059/175}, which is annex E, or within annex E,
 3 "Management of additional needs and disabilities", and
 4 this is informative, as it says there.
 5 In the second paragraph it says:
 6 "Information for disabled people needs to be noted
 7 in fire action notices and in the fire management plan.
 8 Assumptions cannot be made about the willingness of
 9 individuals to remain in their flats even where a stay
 10 put strategy is in place. It is also possible that some
 11 residents will not be inside their own dwelling at the
 12 time a fire occurs; they might for example be in the
 13 process of using lifts or stairs to reach their home,
 14 visiting a neighbour or in a common area such as
 15 a terrace or communal garden, in which case returning to
 16 their flat might not be appropriate or possible."
 17 Then in the final two paragraphs:
 18 "The UK has an ageing society, with increasing
 19 levels of independence into later years, and there are
 20 therefore many people living in standard residential
 21 accommodation who have a range of impairments which
 22 could affect their ability to evacuate or follow
 23 procedures.
 24 "Fire safety management needs to take into account
 25 the full range of people who might use the premises,

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1 paying particular attention to the needs of disabled
 2 people with permanent or temporary impairment."
 3 Then under E.2 it says this:
 4 "People with mobility impairments
 5 "Assumptions cannot be made about the abilities of
 6 wheelchair users. It can be helpful to produce
 7 a personal emergency evacuation plan (PEEP) to explore
 8 the level of need and what they are to do in the event
 9 of a fire in their own home or one nearby. If direct
 10 escape to a place of ultimate safety is not possible,
 11 horizontal escape to another fire compartment can be
 12 explored."
 13 Again, the same question, I'm afraid, Mr Martin:
 14 when that was published or considered for publication,
 15 was any thought given to looking back at the LGA guide,
 16 79.9 to 79.11, and revising it to make it consistent?
 17 A. Not that I'm aware of. As I say, that wouldn't have
 18 been something that I would have directly been involved
 19 me. This is an informative on what was considered to be
 20 best practice. I think quite a few local authorities
 21 try and take this approach. In this case here, I mean,
 22 this is perhaps a more pragmatic piece of —
 23 a recommendation here in the standard, in that it's
 24 recognising that what a building manager can do is talk
 25 to its residents and, where they identify somebody that

22

1 is vulnerable in some way, that they understand the fire
 2 precautions in the building and what would be the best
 3 option available to them.
 4 It's a bit like the general advice that the
 5 Fire Kills campaign pursues, which is to say to all of
 6 us in our homes to think about what you would do in the
 7 event of a fire, and consider your own home, whether you
 8 live in a single family dwelling house or a block of
 9 flats or whatever, ask yourself what plan you've got if
 10 a fire affects your home, and what would you do with
 11 yourself and your family, and that's good practice for
 12 a good landlord. It probably depends on the
 13 circumstances about whether you could reasonably argue
 14 that that's a requirement that should be applied to all
 15 blocks, and I think that's something that's being
 16 considered at the moment.
 17 Q. Now, you told us yesterday that it was a universally
 18 understood problem, or the prevailing view — two
 19 expressions you used — that PEEPs were impracticable.
 20 Have I got that right, the thrust of your evidence
 21 yesterday?
 22 A. A PEEP which relies on the landlord, for want of — the
 23 building manager, to provide a — assistance for
 24 somebody that might need it in the event of a fire
 25 I think is the thing that people considered to be

23

1 an unreasonable provision.
 2 Q. Right.
 3 A. You've also got the challenge that for most of these
 4 blocks it's extremely difficult, possibly impossible, to
 5 know the details of all of your residents. People come
 6 and go in these blocks, and people's level of
 7 vulnerability can change. So I think that's one of the
 8 problems that landlords face.
 9 But I'm probably stepping — this is more about
 10 fire safety management than it is about building design,
 11 and I'm probably less qualified to respond to that than
 12 probably somebody like Mr Todd, who's spent most of his
 13 life working in that area.
 14 Q. Well, he can speak — and has indeed done so — for
 15 himself. My question to you was: what was the
 16 empirical, evidential basis for the prevailing view or
 17 the universal view which you told us about yesterday?
 18 A. I think the process they went through to speak to quite
 19 a wide range of people, including a large number of fire
 20 and rescue services, who would be on the enforcement
 21 side of this.
 22 Q. But not, I think — is this right? — any groups
 23 representing vulnerable persons?
 24 A. So I understand, which I'm surprised about, but I ...
 25 that was probably an oversight, I guess.

24

1 Q. An oversight? What, the government forgot?
 2 A. Well, I'm guessing so. I mean, I had nothing to do with
 3 it, so I think I'm probably answering questions that I'm
 4 not really fit to answer.
 5 Q. Right. Well, you didn't have nothing to do with it,
 6 Mr Martin, as we know, we've seen some documents.
 7 A. Okay.
 8 Q. So that's not right, is it?
 9 Let's turn to a different topic: Lakanal. Now,
 10 I don't need to tell you that that was a fire which
 11 happened on 3 July 2009 in which six people lost their
 12 lives.
 13 At that time, I think it's right, isn't it, that you
 14 had left the BRE the previous year and you were now
 15 full time in post as the fire safety policy lead within
 16 the Building Regulations division in the department?
 17 A. That was my responsibility, amongst other things in the
 18 department, yes.
 19 Q. Yes.
 20 Is it right that it was decided within your division
 21 at a fairly early stage that the BRE should be asked to
 22 investigate the fire under the auspices, under the
 23 umbrella, of the Investigation of Real Fires project?
 24 A. Yes.
 25 Q. Was the basis for that decision, in very simple terms,

25

1 that this was a fire of special interest, a FOSI, if you
 2 like?
 3 A. Yes.
 4 Q. Yes.
 5 Let's look at Dr David Crowder's witness statement
 6 number 2, please, {BRE00043716/2}, paragraph 5a. If you
 7 look at the top of the screen there, Mr Martin, you can
 8 see what he says. After reference to the report of
 9 10 August 2009, which was the final version, what he
 10 says is this, five lines down:
 11 "The purpose of my work at this time in relation to
 12 Lakanal House was to establish whether the fire had
 13 resulted from:
 14 "i. a failure of the Building Regulations and the
 15 technical guidance in Approved Document B (i.e. the
 16 fire spread in the way that it did and claimed six lives
 17 in spite of the building or aspects of the building
 18 being compliant with the guidance in Approved Document B
 19 or the subject of a properly justified fire engineered
 20 alternative solution) and whether there were therefore
 21 any aspects of the Building Regulations and/or technical
 22 guidance for which recommendations might be made; or
 23 "ii. a failure to comply with the Regulations and
 24 the technical guidance in Approved Document B, in which
 25 case the matter would be for the relevant enforcing

26

1 authority to consider."
 2 Is that an accurate description of the department's
 3 purpose in instructing BRE to investigate the Lakanal
 4 fire?
 5 A. I think it's a reasonable summary of it, yes.
 6 Q. Right.
 7 What would need to be established or learned in
 8 order for the department to form a view about which of
 9 those two categories the fire fell into?
 10 (Pause)
 11 A. I guess you'd need to understand what building work had
 12 been ... if there had been building work for which the
 13 Building Regulations were relevant, and whether or not
 14 they met the guidance or there was some kind of
 15 deviation from that.
 16 Q. Right.
 17 Now, you say the Building Regulations; in relation
 18 to the approved documents applicable, the BRE would have
 19 to choose, wouldn't they, between the current or the
 20 then current 2006 edition or the previous edition, the
 21 2000 edition with the 2002 amendments? Have I got that
 22 right?
 23 A. Yes. I suppose the principal objective as far as my
 24 role would be: is there something here that we need to
 25 take into account as we develop our Building Regulations

27

1 guidance?
 2 Q. Right, okay, but which Building Regulations were you
 3 focusing on, the 2000 with 2002 amendments or the 2006
 4 edition?
 5 A. Probably all of them, but at the time — I mean, it
 6 would be: what do I need to change in the one that's
 7 extant?
 8 Q. Right. But in answering the questions posed there by
 9 Dr Crowder, would you not need to know which the
 10 applicable Building Regulations were which applied to
 11 the refurbishment at Lakanal?
 12 A. That would definitely be part of that. I mean, the
 13 building was built before national Building Regulations
 14 existed, I think.
 15 Q. But the refurbishment was done after that, wasn't it?
 16 A. I think there were more — there was more than one
 17 refurbishment, I think.
 18 Q. Yes, but the refurbishment that was being examined for
 19 the purposes of identifying the cause of the fire and
 20 whether there were any defects in compliance —
 21 A. Well, we wouldn't have known that at this stage. That
 22 would have been part of the investigation.
 23 Q. Yes, forgive me. Let me try it differently.
 24 Did you or the BRE or anybody establish which of the
 25 two versions was the version which applied to the most

28

1 recent refurbishment?
 2 A. It became known as the investigations progressed. I'm
 3 not sure at which point. As I've mentioned before, the
 4 challenge for the department and for the BRE is that
 5 there are no powers of investigation, so you're working
 6 on the goodwill of the fire and rescue service, the
 7 police, the building owners, and anybody else that's
 8 involved.
 9 Q. Right.
 10 When did you discover which set of Building
 11 Regulations and Approved Document B specifically was the
 12 relevant one for your purposes?
 13 A. I'm not sure I can answer that in confidence —
 14 confidently.
 15 Q. Well, do your best.
 16 A. At some stage, as the investigation progressed. I'm not
 17 sure I can answer that.
 18 Q. Right. Was it before the inquest?
 19 A. I think it probably was, yes, but I can't say for
 20 certain.
 21 Q. Right. And which version was it?
 22 A. It definitely wasn't the 2006 edition, so the one that
 23 preceded it, I think.
 24 Q. Right.
 25 In his oral evidence, Dr Crowder told us that he

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1 thought the question which version of ADB applied was
 2 established between you and Martin Shipp at an early
 3 stage in the investigation. He said that at
 4 {Day229/227:21—25}. Is he right about that?
 5 A. I've got no reason to doubt him.
 6 Q. Right.
 7 How was it done? How was identification of the
 8 relevant Building Regulations and approved document
 9 ascertained?
 10 A. I honestly can't remember. I imagine it would have been
 11 a discussion between BRE, the Metropolitan Police and
 12 London Fire Brigade, possibly the building owners.
 13 Q. Right. So just to be clear, at some stage, probably at
 14 an early stage, the version of Approved Document B
 15 relevant to the refurbishment which had taken place at
 16 Lakanal was the 2002 edition, not the 2006 edition?
 17 A. I believe so, yes.
 18 Q. Right.
 19 Now, once the BRE had been instructed to investigate
 20 the fire, who at the department was in contact with the
 21 BRE's investigation team?
 22 A. It would have been me.
 23 Q. Right. And at the BRE, who would it have been?
 24 A. I think in this period, I think Martin Shipp was the
 25 lead contact at BRE. Yeah, it was after this, I think,

30

1 that Dr Crowder took over that role.
 2 Q. In the days and weeks immediately after the fire, can
 3 you tell us a little bit about what work the BRE did, so
 4 far as you were aware at the time? What did they do?
 5 (Pause)
 6 A. I'm struggling to separate what I think they would have
 7 done from what I know they did. But they visited the
 8 site on several occasions. They would have spoken to
 9 the police and London Fire Brigade to try and learn
 10 about their experiences and what they knew about the
 11 incident, insofar as they were willing to share that
 12 information.
 13 Q. And by whom were you kept informed or updated by the BRE
 14 during that period, which was essentially July and
 15 August 2009?
 16 A. I think in terms of the main work on the investigation,
 17 I think Dr Crowder did most of the work, so I think
 18 I spoke to him.
 19 Q. Was this telephonic, because we haven't seen emails?
 20 A. Yeah, it would have been by telephone.
 21 Q. I see. How regularly did you speak to him, do you
 22 think?
 23 A. Every other day, perhaps, for a matter of a couple
 24 of weeks, I imagine.
 25 Q. How detailed were his updates?

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1 A. I'm ...
 2 (Pause)
 3 I don't think I can answer that question confidently
 4 from memory. I don't remember having a problem with the
 5 level of detail that he was giving me, but I can't say
 6 exactly how detailed they were.
 7 Q. All right.
 8 Now, what aspects of his investigation specifically
 9 do you remember you asked to be updated on or were
 10 updated on?
 11 A. I think it was a general view about what they'd found.
 12 I know they'd had some difficulties when they first
 13 visited the scene. I think they arrived on the scene
 14 and I think there was some tension with London Fire
 15 Brigade. Again, because they had — we had no powers of
 16 investigation, it's only by the acceptance of the
 17 authorities on scene as to whether they can have access
 18 to the site, and I think shortly after they'd arrived,
 19 initially — because they were well known to the London
 20 Fire Brigade fire investigation team, and I think they'd
 21 worked together in the past, but I think someone more
 22 senior in the London Fire Brigade decided that — was
 23 unhappy with the number of people that were on the scene
 24 and so they asked BRE and possibly some other
 25 organisations to leave until a proper protocol could be

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1 put in place.
 2 Q. Did you, during those communications, give Dr Crowder
 3 specific instructions in any way about what aspects of
 4 the fire or the building itself he was to focus on?
 5 A. I doubt it. I think we would have just discussed what
 6 he was seeing and what he'd found out. I might well
 7 have said, "That's an important point, see if you can
 8 find out more". I wouldn't have told him not to look at
 9 a particular issue.
 10 Q. Dr Crowder tells us in his evidence that he recalls —
 11 well, to be more accurate, he thinks he would have had
 12 a lengthy conversation with you on 9 July, so that's
 13 six days after the fire, following a particular site
 14 visit, giving you an overview of the investigation at
 15 that stage. That was {Day229/232:25} onwards. Do you
 16 remember that?
 17 A. I don't, but I have no reason to doubt it. It sounds
 18 likely.
 19 Q. Right. Do you remember anything of what you were told?
 20 A. One of the things that I do remember arose quite — at
 21 some stage in the investigation was there was quite
 22 an unusual feature in this block. They were two—storey
 23 flats, and the staircase that joined the two storeys of
 24 the flat, which was a way — it was within the confines
 25 of the flat, it spanned over the top of the communal

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1 corridor for the building, which would be the sort of
 2 principal escape route, and the way that was constructed
 3 meant that there was a weakness where fire could get
 4 from the flats into that corridor, where the staircase
 5 met the corner of the corridor, and I know that was
 6 something we were quite concerned about at the time
 7 could be repeated on similar blocks with a similar
 8 design, and it was decided to alert other social
 9 landlords to see if there was a similar form of —
 10 similar arrangement in other blocks.
 11 Q. Did you visit the site?
 12 A. Yes, I think I went once, yes.
 13 Q. Once. Do you remember when that was? How long after
 14 the fire?
 15 A. Probably within a week.
 16 Q. Right, and for what purpose?
 17 A. To gain a — it was quite a complicated building in
 18 terms of its geometry, and so it was to get
 19 an understanding of the nature of the building and what
 20 had happened.
 21 Q. Right. What did you learn, apart from what you have
 22 told us about the scissor block, the scissor
 23 configuration of the staircase?
 24 A. I think my overriding finding was that it was
 25 a complicated incident.

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1 Q. At the visit, did you have any discussion with any
 2 investigator on site about what they had found initially
 3 in terms of the purpose of the investigatory work we've
 4 looked at? In other words, whether the fire had
 5 resulted from a failure of the relevant regulations or
 6 guidance or from non—compliance.
 7 A. I don't think I concluded anything from that. My
 8 recollection is that I was on — I went to the scene,
 9 I think Sir Ken Knight was with me, and I think we met
 10 the then commissioner of London Fire Brigade, which
 11 I think was Ron Dobson then.
 12 Q. Ron Dobson?
 13 A. Yes. So it was quite — it was more of
 14 a familiarisation exercise than anything else.
 15 Q. I'd like to show you or look together with you at the
 16 FOSI reports you received from the BRE on this fire.
 17 There are three versions, one of 7 July 2009, which
 18 was a draft at {CLG00001693}. I'll just put that up on
 19 the screen for you so you can see it. That's the first
 20 version, and the date of that, as you can see, about
 21 a third of the way down your screen, is 7 July.
 22 The second one is 16 July at {BRE00036261}, and you
 23 can see there that the date of that is 16 July 2009.
 24 Then the third one, the final version, is
 25 10 August 2009 at {BRE00005878/195}. Now, there it is,

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1 appendix A, and it forms part of the Real Fires project
 2 for the period, and it's dated 10 August 2009.
 3 Now, Dr Crowder told us in his evidence, in his
 4 third witness statement at paragraph 91
 5 {BRE00047668/25}, that he submitted an initial FOSI
 6 report, fires of special interest report, to you on
 7 16 July 2009 — that's the second one we've just looked
 8 at — and then a final version, which is this version,
 9 on 10 August.
 10 Does that accord with your recollection?
 11 A. That's what I would have expected him to have done.
 12 I don't remember the dates.
 13 Q. You don't remember?
 14 A. No.
 15 Q. Now, we'll come back to this in a moment, but before we
 16 do, can we look at {CLG10003915}, please. This is
 17 an email run between you and Glenn Horton.
 18 Now, Glenn Horton at the time was a director of
 19 an entity called Locke Carey, who are or were
 20 a fire safety consultancy, and this email exchange is on
 21 13 and 14 July 2009.
 22 Now, Glenn Horton, was he a friend or at least
 23 a professional contact of yours?
 24 A. I'd met Mr Horton a number of times. He was quite
 25 involved in standards drafting, and I think he was

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1 an ex-firefighter, so he was quite a useful — somebody
 2 that was working as a fire engineer, with firefighting
 3 experience, was quite a kind of useful person to talk
 4 to.
 5 Q. Right. How long had you known him?
 6 A. I didn't know him — I mean, I would have met him from
 7 time to time at various committees, but probably over —
 8 what year is this?
 9 Q. This is 2009.
 10 A. Might have been eight to ten years, I suppose, I don't
 11 know, but I wouldn't have, like, spoken to him every
 12 day.
 13 Q. No.
 14 Now, just paraphrasing the email that you received
 15 from him, which you can see in the middle of your screen
 16 there, on Monday, 13 July, I'm just going to paraphrase
 17 it, he offers assistance to the department in relation
 18 to the fire at Lakanal House, and if we look at your
 19 response at the top of the page, the next day, 14 July,
 20 you say this:
 21 "Hi Glen [sic]
 22 "It has been a bit lively here. I even worked last
 23 Sunday!
 24 "Thanks for the offer of help. BRE have been on
 25 scene and we are waiting to see what they've found.

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1 Based on the snippets of info I've had so far I don't
 2 think there's any need for changes to ADB. Although
 3 people may be a bit more thorough when doing Risk
 4 Assessments.
 5 "If there is an inquiry they may be looking for
 6 independent experts. I'd be happy to put your name
 7 forward."
 8 In the light of the fact that you tell Glenn Horton
 9 that you were waiting to see what the BRE had found, are
 10 you able to tell us how you had come to the view only
 11 11 days after this fire that so far you didn't think
 12 that there would be any need for any changes to ADB?
 13 A. Well, I think, as I say in the email, I'm talking about
 14 the snippets of information I'd seen so far, so I'm not
 15 saying categorically there wouldn't be a need for
 16 changes to ADB, but what I'd seen didn't imply that
 17 there would need to be.
 18 Q. And what had you seen that led you to that preliminary
 19 view?
 20 A. I think that preliminary view showed me that these —
 21 this was mostly an issue with the original construction
 22 of the building. I think that was the view I probably
 23 had at that time.
 24 Q. What aspects of ADB had you considered, on the basis of
 25 what you knew at that point, might require change

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1 following this fire?
 2 A. I think — I'm not sure I can answer that question.
 3 This was — I'm essentially putting Mr Horton down
 4 politely, saying, "Thanks for your help, we'll bear you
 5 in mind".
 6 Q. Right.
 7 A. I wouldn't read more into it than that.
 8 Q. Now, from whom at the BRE had you received these
 9 snippets of info?
 10 A. Probably Dr Crowder.
 11 Q. What was the content of the snippets up to that point?
 12 A. Oh, I haven't got a clue. I can't remember what I knew
 13 at a particular point in time.
 14 Q. Was there any discussion between you and Dr Crowder
 15 about external fire spread?
 16 A. Well, there would have been at some point, but I can't
 17 remember when that was.
 18 Q. Might it have been at this point or can't you recall?
 19 A. I ... you're asking me to pinpoint what I knew at
 20 a particular point in time. I don't think I can do that
 21 reliably.
 22 Q. Yes.
 23 You say here, "Although people may be a bit more
 24 thorough when doing Risk Assessments". What did that
 25 mean?

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1 (Pause)
 2 A. I'm guessing, but I think — at various points during
 3 the investigation, I think the level of fire safety
 4 management and the quality of risk assessments that had
 5 been carried out on this building I think were quite
 6 heavily criticised, so I think that's all I'm pointing
 7 out.
 8 Q. I see. Was that a reference to the outcome, namely that
 9 the FRA for Lakanal was inadequate and there needed to
 10 be some regulation of fire risk assessments or fire risk
 11 assessors?
 12 A. I can't say what was going through my mind at the point
 13 when I drafted this email, but I know that those were
 14 issues that arose from this incident.
 15 Q. Now, before you saw any of these reports, can you recall
 16 what information the department had received about the
 17 possible causes of the fire?
 18 (Pause)
 19 A. No, I think the only information I'd have had with any
 20 reliability would have been whatever I got in the FOSI
 21 reports from BRE.
 22 Q. Right. Was there any discussion between you and
 23 Dr Crowder about external fire spread, do you remember?
 24 A. There would have been, because the fire spread
 25 externally.

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1 Q. Right.
 2 A. Certainly part of the — as I say, it was a very complex
 3 incident, and there was some fire spread between floors
 4 externally, as I recall.
 5 Q. Right. Those conversations, did they prompt you to have
 6 a look at ADB and consider whether or not the external
 7 fire spread and what you knew of it from those
 8 conversations might have an effect on or —
 9 A. Those were the thought — those were things that we were
 10 talking about.
 11 Q. Right.
 12 A. I can't reliably tell you exactly what was said at
 13 various points during this process or what I was
 14 thinking.
 15 Q. Is it right that you had no information at that stage —
 16 so mid-July 2009 — about the composition of the
 17 external panels at Lakanal?
 18 A. I know eventually we had an idea about what they were
 19 constructed of. I can't say what I knew at the time.
 20 Q. No testing I think had been undertaken at this stage,
 21 had it, on the samples of the window panels, whether
 22 under 476—6 or 7 or any other standard?
 23 A. I think that's correct.
 24 Q. Yes.
 25 Can we then look at the second draft I showed you,

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1 the 16 July draft, at {BRE00036261}. That's page 1, and
 2 there is the date: 16 July 2009. It's the second of the
 3 drafts, but maybe the first you saw.
 4 First of all, can I just ask you: did you see this
 5 report at the time?
 6 A. I would have done.
 7 Q. If we go to page 3 {BRE00036261/3}, let's look at the
 8 fourth bullet point down on that page. It says:
 9 "Fire spread through:
 10 " ■ Interior of maisonettes (initially)
 11 " ■ Flame spread up window façade (initially).
 12 " ■ Burning droplets down window façade (source of
 13 droplets under consideration)."
 14 Do you see that?
 15 A. Yes.
 16 Q. Then if you go down the page to the section headed
 17 "Potential implications for Building Regulations", you
 18 can see these are ticked off:
 19 "Means of escape — Yes.
 20 "Compartmentation — Yes.
 21 "Cavity Barriers — Yes."
 22 And then:
 23 "External Fire Spread — Yes."
 24 Do you see that?
 25 "Fire initially spread up externally from flat of

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1 origin. Fire spread down due to burning material
 2 falling — possibly lodged in anti-pigeon wires. Also
 3 wind may have been significant in blowing fire through
 4 corridor (see Fig 8)."
 5 If we go to figure 1 on page 4 {BRE00036261/4}, you
 6 can see the title reads:
 7 "West face of Lakanal House. Arrow indicates room
 8 of origin on 9th floor. Fire spread to floors below
 9 believed by LFB to be caused by drop down of flaming
 10 material from window frames."
 11 Did you read that at the time?
 12 A. I would have done, yes.
 13 Q. Now, take it from me that there is no other reference
 14 within this document to the panels on the external face
 15 of the building, window or balcony, still less to any
 16 observations or findings about the composition or the
 17 compliance or otherwise of the infill panels with the
 18 regulations and the guidance. Take that from me.
 19 Now, Dr Crowder said in his evidence that even the
 20 later final version of the FOSI report dated
 21 10 August 2009 was presented to the department as no
 22 more than an incomplete investigation, and he went on to
 23 say that it could be nothing more given that by that
 24 date he'd not even, as he said, "gotten to the stage of
 25 stopping and doing, if you like, a review, a comparison

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1 of Approved Document B versus the findings from the
 2 investigation".
 3 He also told us — and this is {Day230/12}:
 4 "It's predominantly just focused on trying to get
 5 the facts down in terms of, you know, the way the
 6 building was put together and the sequence of events, as
 7 far as could be ascertained at this time."
 8 That was his evidence.
 9 Now, that's quite a lot for you to keep in your
 10 head, and we can look at the transcript if you like, but
 11 is it right that by this date, 16 July 2009, no
 12 assessment had been carried out of either the nature or
 13 the composition of the external panels?
 14 A. I think that's correct. As I say, I can't remember the
 15 timeline as what happened when.
 16 Q. No.
 17 Now, if we can go back to page 13 {BRE00036261/3}
 18 and look at the end of the fourth bullet point there,
 19 where it says:
 20 "Burning droplets down window façade (source of
 21 droplets under consideration)."
 22 When you read that, did you consider that that
 23 observation was a significant one?
 24 (Pause)
 25 A. I think I would have done, but I can't remember what

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1 I was thinking at the time.
 2 Q. Did you consider the downward spread of fire to be
 3 unusual?
 4 (Pause)
 5 A. I'm struggling to place different conversations in the
 6 timeline. I remember discussions about the potential --
 7 the issue of fire spreading downwards. I'm pretty sure
 8 Sir Ken Knight took the view that it wasn't that unusual
 9 for falling debris to result in secondary fires.
 10 Although, as you might imagine -- I mean, in general
 11 flames go upwards, but falling debris causing secondary
 12 fires wasn't that unusual a situation.
 13 Q. When was that conversation --
 14 A. I can't remember, I'm sorry.
 15 Q. -- with Ken Knight? You don't remember.
 16 Was downward fire spread and the falling burning
 17 droplets something you discussed with David Crowder?
 18 A. I remember some discussion about it, and I certainly
 19 remember some discussion about the sort of anti-pigeon
 20 provisions that were on the building.
 21 Q. Right. That's a specific recollection. Can we take it,
 22 therefore, that you did have a discussion with the BRE,
 23 David Crowder, about falling burning droplets?
 24 A. I would have thought so.
 25 Q. Yes. Dr Crowder told us when he gave evidence that that

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1 was a matter he specifically flagged for your attention
 2 as unusual, even before he'd submitted his report or
 3 draft report.
 4 A. Yes. I've seen his evidence to that effect. As I say,
 5 I think that was his view. I think Sir Ken Knight took
 6 a -- didn't think it was as unusual as perhaps had been
 7 suggested.
 8 Q. Did these matters, the fact of the falling debris and
 9 burning droplets observed in this fire, as we can see
 10 from this report, lead to any concerns on your part?
 11 (Pause)
 12 A. I can't remember being overly focused on it. I know it
 13 was one of the issues that got raised in this incident,
 14 but I ...
 15 Q. When you say not overly focused, I mean, does that mean
 16 yes or does that mean no?
 17 A. I guess it means yes, we did talk about it, but I can't
 18 remember exactly where we got to with it all.
 19 Q. Did you take any action or did you make a note, even
 20 a mental note, to do something about what you'd observed
 21 about external downward fire spread?
 22 A. I think at this stage it was still quite early in terms
 23 of understanding the detail of what had happened, and it
 24 was clear because of the nature of the incident, both
 25 the fire and rescue service and the Metropolitan Police

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1 were going to carry out a much more extensive review
 2 than we had the resources to do within the Investigation
 3 of Real Fires contract. It's one of the frustrations
 4 with that contract, is that you can get a small team to
 5 have a look at an incident, discuss some of the issues
 6 with the firefighters, if they're available. What it
 7 doesn't provide is an in-depth analysis of every
 8 incident that they look at, just because I think that
 9 would be very resource-intensive.
 10 Q. Right. But presumably -- would this be right? -- you
 11 were looking at this draft report with an eye to seeing
 12 whether or not ADB was sufficiently robust to prevent
 13 the fire spread that we are reading about here?
 14 A. I guess so, yes.
 15 Q. Yes.
 16 A. Yeah.
 17 Q. Did you ask yourself, therefore, whether ADB ought to
 18 regulate materials and products which might produce
 19 burning droplets and cause downward external fire
 20 spread?
 21 A. I know it's an issue that we'd looked at at various
 22 points in the past.
 23 Q. When was that?
 24 A. So some of the European classification tests attempt to
 25 measure the production of burning droplets. It's

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1 something which is associated with thermoplastics in
 2 particular.
 3 Q. Is that the D designation?
 4 A. Yes, and I think there was a piece of research the
 5 department looked at to look at both the smoke
 6 designation and the droplets designation, and I think
 7 the department at the time decided not to take that
 8 forward --
 9 Q. No, indeed.
 10 A. -- and adopt that.
 11 Q. No, indeed. If you're talking about class B-s3, d2,
 12 within diagram 40, that was of course an option, but it
 13 was an alternative to class 0, which did not measure
 14 either smoke production --
 15 A. That's right.
 16 Q. -- or droplets. Yes.
 17 It's right, isn't it, also, that falling burning
 18 debris or droplets was not a matter addressed by the
 19 2003 second edition of BR 135 which bore your name?
 20 A. It would have been picked up in the mechanical
 21 performance criteria, but it's not a pass/fail criteria.
 22 Q. No, indeed, and as we've seen, you and Dr Colwell had
 23 taken a decision way back in 2003 that there would be no
 24 failure criteria based on mechanical performance.
 25 A. I don't recall that being my decision. That was

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1 a decision. I'm not sure how that decision got made.
 2 Q. Well, it was certainly the outcome —
 3 A. Yes.
 4 Q. — in a publication to which you put your name. Yes.
 5 A. Yes.
 6 Q. You nodded.
 7 Did the falling burning debris at Lakanal lead you
 8 to consider whether or not that decision, whether or not
 9 it was yours primarily, should be revisited, so that the
 10 next edition of BR 135 would actually contain mechanical
 11 failure criteria so as to address burning droplets down
 12 window façades?
 13 A. I think by then the 2006 edition of the approved
 14 document had, in our view at the time, addressed
 15 combustibility of the façade we thought more effectively
 16 than the previous edition, and you can only get burning
 17 droplets if you've got something on the wall that's
 18 burning.
 19 Q. Well, is that filler again? When you say —
 20 A. Well, I think that, and more important, I think, for
 21 this particular incident, the insulation. Although
 22 I think it was a thermosetting insulation, from memory,
 23 so it wouldn't have produced a droplet, but you would
 24 get debris. You also get debris from things that might
 25 be stored on balconies or things that are blown out of

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1 windows, and I think ultimately it was never established
 2 what the material was that was the debris that caused
 3 the secondary fires. It could have been part of the
 4 building, it could have been part of the contents of the
 5 building. I don't think that was ever categorically
 6 established.
 7 Q. Two things, I think, flow from that answer.
 8 First, I think you would accept that, with the
 9 exception of the removal of the qualification for
 10 ventilated cavities in what became 12.7 in 2006, the
 11 requirement that insulation should be a material of
 12 limited combustibility did not change from the
 13 2000 version amended in 2002 to the 2006 version, did
 14 it?
 15 A. Yeah. Well, the key point is the ventilation question.
 16 Q. Well, this isn't a ventilated system, is it?
 17 A. Exactly, so this — for the 2006 edition, that would
 18 have said, "Don't use combustible insulation in the
 19 external wall".
 20 Q. Exactly, so —
 21 A. Regardless of whether it's a ventilated cavity or not.
 22 Q. So if the problem was caused by droplets falling from
 23 combusting insulation, the amendments made by the 2006
 24 edition of ADB made no difference.
 25 A. No, that's not right.

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1 Q. Well, how would it have made a difference?
 2 A. Because if this work had been done in accordance with
 3 the 2006 edition, then the combustible insulation
 4 wouldn't have been there.
 5 Q. Well, if it had been done in 2000, the combustible
 6 insulation wouldn't have been there either, would it,
 7 because the 2000 edition of the equivalent of 12.7
 8 required insulation to be of limited combustibility?
 9 A. But only in ventilated cavities.
 10 Q. But I thought you'd agreed there wasn't a ventilated
 11 cavity system here, so it wouldn't —
 12 A. And therefore it wouldn't have required
 13 non-combustible — material of limited combustibility
 14 insulation, whereas in 2006 it would have done.
 15 Q. The other thing that follows from your evidence just now
 16 is this: is there anything in ADB 2006 which actually
 17 specifically addressed downward fire spread or burning
 18 droplets?
 19 A. No.
 20 Q. No.
 21 Let's go to the final FOSI report, 10 August 2009.
 22 That's at {BRE00005878/195}. We can see that the report
 23 starts here.
 24 Again, can we take it that you read this at the
 25 time?

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1 A. I must have done.
 2 Q. If we go to page 196 {BRE00005878/196}, please, first
 3 paragraph, fifth line down, it says this:
 4 "On odd floors the external wall to each bay
 5 consists of a full height painted aluminium window frame
 6 assembly, with layered polymeric panels forming the
 7 lower halves of these sets (Figure A1 and Figure A5).
 8 On even floors a block work half wall, with door and
 9 window set, leaves room for a narrow balcony on each
 10 side of the building (Figure A6), providing additional
 11 means of escape to the main stairwell. This is
 12 described in more detail later. Balconies have steel
 13 guardrails and polymeric panels fitted to them ..."
 14 Now, take it from me — we don't need to go back to
 15 it — that this information had not been included in the
 16 earlier FOSI report of 16 July.
 17 Looking at the last line there and the reference to
 18 polymeric panels, what did you understand those to be?
 19 A. "Polymeric" is a term to describe some sort of plastic,
 20 which — so they've used that term because they probably
 21 don't know specifically what the material is.
 22 Q. So polymeric would be generally a combustible material;
 23 yes?
 24 A. You'd expect so, yes.
 25 Q. Yes. So is this right: by 10 August 2009, the BRE had

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1 been able to identify polymeric and therefore
 2 combustible materials in the external wall of
 3 Lakanal House?
 4 A. Yes.
 5 Q. And therefore that combustible products had been used in
 6 the external wall refurbishment; yes?
 7 A. Yes.
 8 Q. Yes. What did you make of that news?
 9 (Pause)
 10 A. It was clearly an issue that needed to be looked at.
 11 I can't remember what I was thinking at different stages
 12 during the timeline, so — but it's obviously a factor
 13 that needed to be considered.
 14 MR MILLETT: Mr Chairman, is that a convenient moment?
 15 I'm afraid we're right in the middle of this topic, but
 16 there is no more or less convenient moment than now, so
 17 the clock tells us that it is convenient.
 18 SIR MARTIN MOORE—BICK: Have you finished with this
 19 document?
 20 MR MILLETT: No.
 21 SIR MARTIN MOORE—BICK: But you have some way to go?
 22 MR MILLETT: Yes.
 23 SIR MARTIN MOORE—BICK: All right. Well, I'll be guided by
 24 you in that case.
 25 Mr Martin, we'll have a morning break at this point.

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1 We will resume, please, at 11.35, and as I have asked
 2 you before, please don't talk to anyone about your
 3 evidence while you're out of the room.
 4 THE WITNESS: Yes, sir.
 5 SIR MARTIN MOORE—BICK: All right? Thank you very much.
 6 Would you like to go with the usher, please.
 7 (Pause)
 8 Thank you very much. 11.35, please.
 9 (11.20 am)
 10 (A short break)
 11 (11.35 am)
 12 SIR MARTIN MOORE—BICK: All right, Mr Martin, ready to carry
 13 on, I hope?
 14 THE WITNESS: Yes, sir.
 15 SIR MARTIN MOORE—BICK: Thank you very much.
 16 Yes, Mr Millett.
 17 MR MILLETT: Yes, Mr Chairman.
 18 Mr Martin, back into the same report, please,
 19 {BRE00005878/202}, third paragraph down. Let's read it
 20 together:
 21 "Falling burning debris from flats 79 and 65 (most
 22 probably from both the window façade assemblies and the
 23 contents of Flat 79), ignited materials in Flats 37 and
 24 53, located on the 5th and 7th floors respectively. It
 25 has not been possible to determine which source of

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1 falling debris was responsible for each Flat that was
 2 ignited. Footage from Channel 4 confirmed reports that
 3 these two flats happened to have windows open. These
 4 windows appeared to be open in such a way that would
 5 enable them to collect falling debris into the flat ...
 6 Flat 37 appeared to become involved shortly before
 7 (approximately 2 minutes) Flat 53 ..."
 8 Now, on page 203 {BRE00005878/203}, if we turn to
 9 that, please, halfway down the page, first heading in
 10 bold, "Potential Implications for Building Regulations",
 11 we read as follows:
 12 "The following issues are of note with respect to
 13 Building Regulations and Approved Document B."
 14 Then if you look at the third paragraph from the
 15 bottom, if you scroll down, you can just see it there
 16 towards the bottom of your screen:
 17 "External Fire Spread — Yes. Fire initially spread
 18 up externally from flat of origin. Fire spread down due
 19 to burning material falling. Wind may also have been
 20 significant in blowing the fire through the corridor."
 21 Now, that's a copy of the same section of the
 22 earlier report we saw of 16 July 2009, which is at
 23 {BRE00036261/3} we saw, other than after the words
 24 "Fire spread down due to burning material falling", the
 25 words "possibly lodged in anti—pigeon wires" in the

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1 16 July report had been removed. Did you notice that at
 2 the time?
 3 A. I don't remember noticing it.
 4 Q. Right. As far as you understood it, had some finding or
 5 conclusion been arrived at that the burning material
 6 which was falling had not become lodged in the
 7 anti—pigeon wires?
 8 A. Not that I'm aware of.
 9 Q. Right.
 10 What did you understand by the heading, "The
 11 following issues are of note with respect to the
 12 Building Regulations and Approved Document B"?
 13 A. That's — so that's the place where we asked the BRE
 14 team to set out where they think there might be issues.
 15 Q. Right. So, in other words, you, the department, were to
 16 note — in other words, to consider — the matters
 17 listed, including external fire spread?
 18 A. Yeah. I mean, the nature of these things is it's often
 19 to some degree conjecture on their part, because it's
 20 the limited amount of information that they're able to
 21 gather.
 22 Q. Did you actually give consideration to the information
 23 recorded there about external fire spread?
 24 A. I guess I must have — I can't remember exactly what
 25 happened at which time, but that's something we would

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1 have been looking at and thinking about, yes.
 2 Q. Right. But in any case, I think you and I can agree
 3 that here we see recorded both upward and downward
 4 external fire spread; yes?
 5 A. Yes.
 6 Q. But there is no further commentary here in this report
 7 on the possible reasons for the observed external fire
 8 spread, either up or down; that's right, isn't it?
 9 A. That's correct.
 10 Q. And no further information is given on the specific
 11 make-up of the external wall products, is there?
 12 A. No.
 13 Q. No. Equally, I think you would accept, no information
 14 given about the compliance or otherwise of the materials
 15 used in the external wall with the Building Regulations
 16 or the guidance contained in Approved Document B.
 17 A. Yeah, that's correct.
 18 Q. Yes.
 19 Can we then turn to {BRE00043742}. What I'm showing
 20 you here is an email dated 28 July 2009 from you to
 21 Martin Shipp, with David Crowder copied in, subject,
 22 "Camberwell":
 23 "Martin
 24 "For the purposes of the Fire Investigation contract
 25 you have with the Department I'm satisfied that there

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1 will be no need for you to re-visit Lakanal House. Any
 2 further visits will need to be funded by a third party.
 3 "I've raised this with colleagues in FRD and they
 4 are happy for you to step away now. Clearly if the
 5 Police or London Fire Brigade want to commission you to
 6 carry out further work then we would have no
 7 objections."
 8 Now, that, in a word, is the shutdown, isn't it, on
 9 your authority, not just of physical visits to the
 10 Lakanal site, but also the BRE's further investigation
 11 of the incident; yes?
 12 A. Essentially, yes. I mean, it says, "You won't need to
 13 revisit Lakanal House". I mean, if they'd gathered
 14 other information they hadn't reported to us, they could
 15 have shared that, but I think at that stage the
 16 Metropolitan Police and the London Fire Brigade were
 17 progressing their investigations, and the conclusion
 18 that we'd come to in the department is it was better to
 19 let those authorities — given the nature of the
 20 incident and the seriousness of it, it was better to let
 21 those authorities carry out their investigations.
 22 Q. But you were also, weren't you, by doing this, calling
 23 a halt to any further investigations into whether or not
 24 this was a fire stemming from non-compliance with the
 25 regulations and ADB, or whether there were matters

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1 within the regulations and guidance which needed to be
 2 considered for amendment?
 3 A. I think we took the view that that's something that
 4 London Fire Brigade and the Metropolitan Police were
 5 looking into. They were ... we understood — I can't
 6 remember the detail of the conversations, but we
 7 understood that they were planning to investigate this
 8 incident quite thoroughly. There'd been some tension
 9 between London Fire Brigade and certainly the Chief Fire
 10 and Rescue Adviser's team, because, as I've said, we had
 11 no statutory locus to investigate, and I think there was
 12 a concern that the department's intervention into what
 13 might be at that time a criminal investigation was
 14 something we needed to be very cautious about. As
 15 a government department, you don't want to undermine
 16 a potential prosecution by getting in the way of what
 17 the police and the fire and rescue service are doing.
 18 So having discussed it internally and certainly, as
 19 it says in the email, with the fire and resilience
 20 directorate, I think both Sir Ken and Shona Dunn, who
 21 would have been the director of fire and resilience
 22 then, I think, were content that that was the right
 23 thing to do, given what the Metropolitan Police and
 24 London Fire Brigade were doing.
 25 Q. Now, this decision was taken almost two weeks before the

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1 department could have and indeed did receive the final
 2 report on 10 August; yes?
 3 A. I'll have to take your word for it. I don't know what
 4 the timeline was.
 5 Q. Right. Did you have information on the basis of which
 6 you were satisfied that there was no need for the BRE to
 7 investigate any further on behalf of the department?
 8 A. I think the Chief Fire and Rescue Adviser's team and
 9 fire and resilience were in close communication with the
 10 Metropolitan Police and London Fire Brigade, so they had
 11 a good idea about what those two authorities were
 12 planning to do, and that's why we felt that it was
 13 appropriate for the department to step back and let
 14 those authorities do what is their statutory role. So
 15 that's the approach we took.
 16 I think I was also conscious that, given that there
 17 was a lot of work being done by those authorities, and
 18 the amount of funding available to this research, the
 19 Investigation of Real Fires contract was quite limited,
 20 I didn't want this one incident to use up all of the
 21 available resources when there might be other incidents
 22 which wouldn't be investigated in that much detail where
 23 BRE would be more use.
 24 Q. I see.
 25 At the moment when you or the department decided to

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1 pull BRE off the investigation, here at the end of July,
 2 before they'd finally reported, did you have in place
 3 with the CFRA or the police or the LFB an arrangement
 4 whereby they would provide to you the results of their
 5 investigation or other information which would enable
 6 you to decide whether or not this was a simple case of
 7 non-compliance or whether there was a defect in the
 8 regulations or Approved Document B?
 9 A. Not a specific arrangement. I don't think that's
 10 something that you — you couldn't — I think there
 11 was ... as I say, the Chief Fire and Rescue Adviser and
 12 the fire and resilience directorate had quite good lines
 13 of communication with the police and London Fire
 14 Brigade, so they would inform us of what they were
 15 finding, where they thought that was appropriate, given
 16 the constraints of what could have been a, you know,
 17 potential prosecution.
 18 Q. Did you take or did anybody in your department take any
 19 steps to put in place an arrangement which, on the one
 20 hand, of course, would have safeguarded any prosecution
 21 or other criminal proceedings flowing from the incident
 22 on the one hand, but nonetheless gave you sufficient
 23 information, sufficient data, to decide whether or not
 24 the Lakanal House fire was a simple case of
 25 non-compliance or had revealed defects in the

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1 Building Regulations and Approved Document B?
 2 A. Essentially, that was the arrangement that had been
 3 established between the Chief Fire and Rescue Adviser's
 4 office and the two authorities. I'm not sure if that
 5 was in writing or — I'm not sure of the detail of —
 6 I'm not sure if it was a formal procedure, it was more
 7 of an agreement to work together where possible.
 8 Q. But why not? I mean, you're the official in the
 9 department to whom the BRE was reporting. Why did you
 10 let them go without ensuring you had a sufficiently
 11 robust substitute in place as a conduit for the
 12 information you needed to make the decision?
 13 A. I think I was satisfied, that's — having spoken with
 14 the Chief Fire and Rescue Adviser and the director of
 15 fire and resilience.
 16 Q. But it was left informal, not in writing, and a matter
 17 of —
 18 A. I can't say that for certain. They might have written
 19 something down. I can't remember.
 20 Q. At any event, do you accept, I think, that at this
 21 stage, 28 July 2009, no findings had been communicated
 22 to you — no final findings — about the specific
 23 composition of the external panels at Lakanal?
 24 A. I think that's correct.
 25 Q. And no assessment had been carried out of the

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1 performance in fire of those external panels, had it?
 2 A. I think that's correct too.
 3 Q. Now, we know that it was established by the BRE at
 4 a later stage through testing various samples of the
 5 panels to BS 476-7, surface spread of flame, that the
 6 panels couldn't achieve national class 0 and, in fact,
 7 were national class 3. Take that from me, but are you
 8 aware of that fact?
 9 A. Yes.
 10 Q. Yes. That was many months after 28 July 2009, wasn't
 11 it?
 12 A. I believe so, yes.
 13 Q. It was in November and December of that year.
 14 Now, that means that by 28 July 2009, when you
 15 pulled BRE off the job, there had been no testing at all
 16 of those panels to establish their performance in fire;
 17 that would follow, wouldn't it?
 18 A. That's correct, but, as I say, that's something we would
 19 have expected to find out in the fullness of time.
 20 Q. So what did you know at that date about the cause of the
 21 burning material falling and the downward fire spread?
 22 A. That it was as a result of debris falling from the flats
 23 where there were fire to — in through windows on other
 24 floors.
 25 Q. Why flats? Why not also possibly the panels themselves?

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1 A. Sorry, I'm including that generically, it was —
 2 Q. Right. All right.
 3 A. I don't think it ever was established what material —
 4 Q. Right.
 5 A. And it was very possibly a mixture of the two.
 6 Q. I see. So at this date, to the best of your
 7 recollection, you were aware that there was a cause of
 8 burning falling material, and that, at least in part,
 9 that was contributed to by the burning panels; yes?
 10 A. Yes.
 11 Q. Yes.
 12 Who within the department had final say on the
 13 cessation of BRE's investigation?
 14 (Pause)
 15 A. Well, I guess if — I would — as I say, I definitely
 16 discussed it with the Chief Fire and Rescue Adviser and
 17 the director in fire and resilience, and I would have
 18 discussed it with the deputy director, which I think was
 19 Bob Ledsome then. So if they'd have disagreed with the
 20 proposal, then they could have said, "No, keep them
 21 there for longer".
 22 Q. Right. FRD is what?
 23 A. I think it was called the fire and resilience
 24 directorate, so they were the bit of the department that
 25 was responsible for the fire and rescue service at the

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1 time.
 2 Q. Right. But you say also you think Bob Ledsome too; yes?
 3 A. I must have done.
 4 Q. I mean, this wasn't a decision, was it, you took on your
 5 own?
 6 A. No.
 7 Q. Was it a decision you made and sought approval for, or
 8 was it something you were told should happen?
 9 A. It was probably a mixture of the two. I imagine that it
 10 was something we were discussing at the time, what's the
 11 appropriate thing to do. As I say, I know that there
 12 was some tension between, in particular, London Fire
 13 Brigade and the Chief Fire and Rescue Adviser's unit.
 14 It was a relatively new role, the Chief Fire and Rescue
 15 Adviser, and I think there was some difficulty trying to
 16 establish where the Chief Fire and Rescue Adviser's role
 17 should start and finish in relation to looking at
 18 a particular incident, whereas London Fire Brigade had
 19 a clear statutory function to investigate.
 20 Q. Now, let's look at David Crowder's second witness
 21 statement, please, {BRE00043716/28}, paragraph 88h at
 22 the foot of the page. He says:
 23 "Following this period I believe that I had very
 24 little contact with Brian Martin regarding Lakanal House
 25 until the time of the inquest. My general impression

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1 was that the view of DCLG at this time (prior to the
 2 inquest) was simply that Lakanal had occurred as
 3 a result of non-compliance with a previous edition of
 4 Approved Document B (the 2000 edition consolidated with
 5 2000 and 2002 amendments; whereas the current edition
 6 was the 2006 edition amended 2007). Matters concerning
 7 the adequacy of guidance for firefighting were not
 8 within Brian Martin's remit and I predominantly dealt
 9 with Peter Wise in this regard."
 10 Then at the next subparagraph, i, he says:
 11 "Note that I was in regular contact with
 12 Brian Martin throughout the above period regarding the
 13 Investigation of Real Fires project generally, but not
 14 in respect of Lakanal House in particular. My general
 15 impression, as previously stated, was that Lakanal House
 16 was not of particular concern to DCLG in terms of
 17 potential updates to Approved Document B given the
 18 volume of non-compliances with Approved Document B that
 19 had led to its tragic outcome."
 20 Now, I'll go into that in a moment, but just for
 21 completeness, when he gave oral evidence to the Inquiry,
 22 Dr Crowder confirmed that the general impression that
 23 he's describing in those two paragraphs I've just read
 24 to you had come from you specifically, and he had picked
 25 up that impression from you during the summer of 2009.

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1 That's {Day230/87:17-25}. He also said he was
 2 disappointed to receive the email shutting down the
 3 investigation. That's {Day230/17:1-4}.
 4 The question, having given you that to digest: had
 5 you formed the view by 28 July 2009 that the
 6 Lakanal House incident was simply a matter of
 7 non-compliance with Approved Document B?
 8 A. As I said, it's a very complex incident, and I can't
 9 remember exactly at what point I thought what, but
 10 I think that was the general conclusion we'd come to in
 11 respect of that incident, is for the most part, if not
 12 entirely, it was an issue of non-compliance rather
 13 than — certainly non-compliance with the current
 14 edition of the approved document.
 15 Q. But how could you have come to any conclusion given that
 16 you knew that the BRE investigation was incomplete, had
 17 been stopped by the department, and had given you no
 18 final set of facts on which to base your decision?
 19 A. Probably from whatever other information we were finding
 20 out from London Fire Brigade at the time.
 21 Q. Well, what was that?
 22 A. I can't — I'm sorry, it's really difficult to place in
 23 time what I knew at different points in time. But we —
 24 I guess we gradually gleaned more information and
 25 eventually the inquest itself provided more information.

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1 Q. Can we go to {BRE00043744}. This is some emails between
 2 you and David Crowder in November 2009. If we go to
 3 page 1, second email down on page 1, you can see that
 4 David Crowder writes to you, and the topic is
 5 "Lakanal House", and he says:
 6 "Brian,
 7 "Would you mind giving me a call as soon as is
 8 convenient?"
 9 And your response at the top of the screen there,
 10 a few minutes later, is:
 11 "I'm out and about — I'll call in the morning."
 12 At that stage — so this is mid-November 2009 —
 13 I think it's right, isn't it, that — he certainly says
 14 so — he was acting on behalf of the Metropolitan Police
 15 Service and the LFB in the Lakanal House investigation?
 16 A. That sounds right, yes.
 17 Q. It's his statement at paragraph 5b, in his second
 18 statement, {BRE00043716/2}.
 19 Question for you: did you call him back the next
 20 morning?
 21 A. I haven't got a clue.
 22 Q. Right. Do you know why he had wanted you to call him?
 23 A. No.
 24 Q. Do you remember what you discussed?
 25 A. No.

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1 Q. Now, we know from the evidence of Dr Crowder that he had
 2 been commissioned by the LFB — and the date matters —
 3 on 17 November 2009, so the day before his email of the
 4 18th, to carry out standard tests on sample panels taken
 5 from Lakanal House. We get that from his second
 6 statement at paragraph 5c {BRE00043716/2}.

7 Does that help you with why he was calling or what
 8 you discussed, if you discussed anything?

9 A. I can't be sure. I remember becoming aware of some of
 10 the tests that LFB had commissioned, but I don't think
 11 Mr Crowder would have — Dr Crowder would have shared
 12 that information with me until he had authority from
 13 London Fire Brigade. So this seems too early for that,
 14 but I could be wrong.

15 Q. Can we go to his second statement again, please,
 16 {BRE00043716/22} this time, paragraph 78. There, in 78,
 17 you can see what he says. In the first line he says:

18 "I believe the FOSI report was emailed to DCLG on
 19 10 August 2009. I also contacted Brian Martin via email
 20 (the subject of which was 'Lakanal House') on
 21 18 November 2009 requesting a telephone call [which he
 22 exhibits]; this was around the time when the BS 476
 23 Part 7 tests were being carried out. I do not recall
 24 the specific nature of the phone call, but I do recall
 25 it being made clear to me at some point that the issue

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1 with the panels was one of non-compliance; not that the
 2 panels were somehow compliant and had produced burning
 3 debris in spite of being compliant. In addition, it
 4 remained the case that it was not possible to confirm
 5 whether the panels were in fact responsible for the
 6 burning debris which had ignited Flats 37 and 53, or
 7 whether it was simply the contents of the flats that had
 8 produced the burning debris."

9 Now, were you aware in November 2009 that it had by
 10 that stage still not been possible to establish what was
 11 responsible for the falling burning debris igniting the
 12 secondary fires in flats 37 and 53 below?

13 A. I think I would have been aware, yes.

14 Q. Right. In fact, it was never established at any later
 15 time either, was it?

16 A. No, I mean, that's — the challenge of fire
 17 investigation is very often the materials that you're
 18 most interested in are destroyed by the fire, so it's
 19 not always possible to know for sure what did or didn't
 20 happen.

21 Q. Did you tell Dr Crowder, during your call in November
 22 2009, that the issue with the panels was one of
 23 non-compliance, as he says?

24 A. I'm not sure if I would have told him. I think we would
 25 have discussed it.

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1 Q. Right. Did you discuss the issue and at least give him
 2 the impression that, so far as you were concerned, there
 3 was an issue of non-compliance with the panels, not that
 4 there was some problem with ADB?

5 A. I can't remember that conversation, but that's the
 6 sort of thing we would have talked about.

7 Q. Right.

8 When had you reached the conclusion that the issue
 9 with the panels was one of non-compliance?

10 A. Well, I don't know for sure that I did, but, as I say,
 11 that would be the sort of thing that I would — that we
 12 would talk about, and I'd be interested in his opinion.

13 Q. Well, you see, his recollection is that it was made
 14 clear to him by you that the issue with the panels was
 15 one of non-compliance. Now, do you recall either saying
 16 that to him or using words to that effect?

17 A. No.

18 Q. Now, I think you were aware at some stage that the tests
 19 under part 7 of BS 476 were undertaken, as you have told
 20 us. Now, just to be clear, for your benefit, those
 21 tests were carried out on three types of panels; they
 22 were foam-cored: one with a pale yellow core, one with
 23 a pink foam core and one with an orange core. Do you
 24 remember that, or do you remember that fact?

25 A. I've been reminded of it in preparation for giving

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1 evidence. I can't recall if I knew that at the time.
 2 I probably would have done.

3 Q. Did you ever see any report showing the results of those
 4 tests?

5 A. I was aware of the results. I don't know if I saw the
 6 actual test reports.

7 Q. Do you remember when the results of those tests were
 8 first communicated to you?

9 A. I'm sorry, I couldn't give you a date.

10 Q. Why did you not want to see the reports? If you didn't
 11 seem them, why didn't you ask for them?

12 A. I'm not sure why I would have needed to see them.
 13 As I say, I was definitely aware of the results in some
 14 form, which were quite straightforward, I think.

15 Q. You see, you had called off the investigation by the BRE
 16 on the basis that there were continuing investigations
 17 by the police and by the LFB. As part of that
 18 investigation, you're given information by Dr Crowder
 19 about the results of these tests. Why didn't you want
 20 to know the results of those tests so as to be able to
 21 answer the critical question: was Lakanal compliant or
 22 not, and if it was, how come?

23 A. Well, I did know the results, that's what I've just
 24 said, I just didn't see the test reports.

25 Q. Were you made aware at any stage that the panels had

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1 burnt in those tests with such ferocity that the BRE had
 2 been reluctant to go on to test under part 6 because
 3 they feared damaging the testing equipment?
 4 A. I think that's more of a foible of the nature of that
 5 particular test rather than the ferocity of the fire .
 6 Q. Well, were you aware of what I've just put to you,
 7 Mr Martin?
 8 A. I don't remember that, no.
 9 Q. Let's look at one of the test reports on one of the
 10 sample panels, {BRE00005878/242}. This has a title at
 11 the top, as you can see, "Surface spread of flame test
 12 to BS 476: Part 7: 1997".
 13 The actual report starts at page 238
 14 {BRE00005878/238}, dated 11 December 2009, prepared for
 15 BRE Global by somebody called Potter, approved by
 16 Dr Debbie Smith.
 17 If we go, please, to page 242 {BRE00005878/242}, as
 18 we can see, you've got the statistics and the
 19 observations.
 20 Under "Observations" at paragraph 4.2, you can see
 21 line 1:
 22 "All. Incandescent spalling was visible throughout
 23 all test runs."
 24 Would you tell us for everyone's benefit what the
 25 word "spalling" means?

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1 A. Bits of material coming off of the surface.
 2 Q. Yes. Then:
 3 "All. Popping sounds of widely varying volume were
 4 audible throughout all test runs.
 5 "All. Specimens were flaming strongly at the end of
 6 all test runs."
 7 Then line 4:
 8 "Flaming debris was observed burning on the floor
 9 for a maximum of 5 seconds each."
 10 Then 2:
 11 "A piece of flaming debris was' second at
 12 6:01 minutes:seconds, which continued to burn on the
 13 floor for 20 seconds.
 14 "Flaming was visible above the reference line ... "
 15 Finally:
 16 "Flaming was visible above the reference line up to
 17 620mm."
 18 Does this trigger a recollection? Did you ever see
 19 this report, do you think?
 20 A. I'm not sure, I don't recognise it .
 21 Q. No. I mean, do you agree that identifying whether any
 22 of the panels tested at Lakanal were national class 0 or
 23 class 3 wasn't going to tell anybody about the fire
 24 performance of those panels as a whole?
 25 A. It's only part of the story, I accept that.

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1 Q. Yes.
 2 Do you remember when you first learnt that the foam
 3 core of the window panels was considered by the BRE to
 4 be a PIR or a PUR foam?
 5 A. I'm not sure when I found that out, but as I said
 6 earlier, I was under the impression that it was
 7 a thermosetting plastic, which is what they are.
 8 Q. Indeed, there is a reference, as we saw, in the
 9 16 August 2009 report to polymeric foam. We saw that.
 10 A. Yes.
 11 Q. Yes.
 12 Did you give any consideration at this stage — and
 13 this is before the inquest, so either in December 2009
 14 or later — to the fact that the insulation was
 15 combustible PIR or PUR foam?
 16 A. I don't think I can honestly answer that. I can't
 17 remember what I was thinking at the time. But
 18 certainly, as I say, the changes that we'd made to
 19 Approved Document B in 2006 had removed the reference to
 20 ventilated cavities, which meant that the guidance would
 21 be specifically telling you not to use foamed plastics
 22 in those locations.
 23 Q. I mean, the specific composition of the materials making
 24 up the foam cores of these panels was never identified
 25 at any stage, was it?

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1 A. Yeah, that's a common problem. It's quite difficult to
 2 identify with certainty the specific nature of
 3 a material without going to quite a lot of effort, and
 4 so you first need to ask yourself: what would you do
 5 with that information? And it probably wouldn't have
 6 made a lot of difference whether you'd known which
 7 particular — beyond knowing that it's a thermosetting
 8 foam, there'd be — there wouldn't be much benefit in
 9 knowing specifically which one.
 10 Q. Is it not important to know whether it's PIR or PUR or
 11 phenolic within the family of thermosetting insulants?
 12 A. No, I don't think it would have been particularly useful
 13 information.
 14 Q. Right.
 15 Can we take it that you didn't give any further
 16 consideration to investigating further or asking the BRE
 17 to investigate the precise nature of these foam
 18 insulants?
 19 A. No. I think — I mean, it's clear that it was
 20 a thermosetting foam. The way that they burn was
 21 something which the fire science community had quite
 22 a lot of information on.
 23 Q. The reason I ask the question is because although they
 24 may be treated as a family as combustible, they may melt
 25 or drip in different ways.

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1 A. Well, they're thermoset, so they don't melt or drip,
 2 they tend to char and spall sometimes.
 3 Q. Right.
 4 A. Dripping is what you get from a thermoplastic.
 5 Q. Yes, all right. But burning falling debris, the
 6 creation of burning falling debris.
 7 A. It's quite a different behaviour.
 8 Q. That's the point, isn't it? You would need to know
 9 whether it was PIR or PUR or phenolic to know or to
 10 assess the fire safety implications of the panels as
 11 a whole, particularly having regard to the downward fire
 12 spread as observed at Lakanal?
 13 A. No.
 14 Q. You don't agree with that?
 15 A. No.
 16 Q. What, so they all behave the same, do they?
 17 A. Near enough, yes, in terms of what you needed to know.
 18 There's a big difference between thermoplastics and
 19 thermosets in terms of the way they behave in fire. In
 20 terms of the differences between different forms of
 21 thermosetting plastic, the differences are — certainly
 22 for this purpose, it would be pretty much academic,
 23 I think.
 24 Q. I think you would agree with me that the results of the
 25 part 7 tests here and the observations we've just looked

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1 at demonstrated that whatever it was on Lakanal House
 2 was a dangerous combination of materials.
 3 A. Well, it confirms that it's a combustible insulation
 4 material, definitely not a material of limited
 5 combustibility, and the way it's behaving sounds like
 6 a thermosetting foam.
 7 Q. Right.
 8 A. Whether it's dangerous or not depends on what you do
 9 with it.
 10 Q. Okay. That takes us to the question of non-compliance.
 11 Did Lakanal signal to you in any way that there
 12 might be a legacy of high-rise buildings where the
 13 building control certificate had been issued before your
 14 2006 guidance came in and which might contain
 15 combustible insulation or panels with a combustible
 16 core?
 17 A. I think that is a fair question. I think we were
 18 focused on what changes we might or might not need to
 19 make to the Building Regulations, so we were looking at:
 20 what do the Building Regulations say here? And the
 21 guidance had been changed such that this type of
 22 insulation shouldn't be used in the external walls of
 23 tall buildings.
 24 Q. Right.
 25 A. I don't think we ... I don't remember us considering the

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1 fact that there would potentially be a legacy.
 2 Q. Yes. That would be consistent, though, with your
 3 approach throughout the entire period to the
 4 Grenfell Tower fire, wouldn't it? Which is that while
 5 you may be interested in making changes prospectively to
 6 ADB, you were never interested in doing a survey of what
 7 was out there to make sure that the buildings people
 8 were living in weren't dangerous.
 9 A. I think that's a fair criticism.
 10 Q. And why is that?
 11 A. It was the nature of the work we did. We were focused
 12 on trying to improve building standards or set
 13 appropriate building standards. That wasn't our — we
 14 didn't see that as our function, and in general that's
 15 the way Building Regulations worked over time, is that
 16 you would change the building standards in the light of
 17 lessons learned, but a retrospective application of
 18 those — certainly retrospective application of those
 19 regulations isn't something you would do. And it would
 20 have to be a more severe issue to justify something
 21 retrospective, and I think that's probably a mindset
 22 that we adopted probably inappropriately sometimes.
 23 Q. And a more severe issue would be something like the fire
 24 at Grenfell Tower?
 25 A. That's an extreme example, but yes.

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1 Q. Well, it's the precise example, because it is only after
 2 that incident that the British government decided to do
 3 something retrospective, isn't it?
 4 A. Yes, I think that's a fair point, and ... if we'd have
 5 thought this was a very severe situation, then we may
 6 have taken — suggested more steps. That wasn't the way
 7 our team typically functioned. Our job was to develop
 8 policy for Building Regulations, as we saw it, and
 9 I guess that's a weakness in the system.
 10 Q. And does it explain why, so far as we know — and tell
 11 me if this is wrong — you never thought to alert
 12 Anthony Burd to conduct some sort of survey, or alert
 13 Louise Upton to alert building owners in turn so that
 14 they could beef up their fire protection and prevention
 15 measures under the RRO in blocks containing these kinds
 16 of panels, whether or not they were compliant?
 17 A. Well, I mean, I certainly didn't raise that. I mean, at
 18 that time, the Chief Fire and Rescue Adviser's unit did
 19 have some expertise in this subject matter and they were
 20 aware of these results too, and I guess that would have
 21 fallen to them, and none of us looked upon this as being
 22 something where retrospective action was necessary.
 23 Q. Even though six people had lost their lives in the fire
 24 at Lakanal?
 25 A. I think it would be very wrong to look at the

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1 Lakanal House fire and consider that the external wall
 2 construction was the cause of those deaths, and I know
 3 that's — that was the conclusion that Dr Crowder came
 4 to, and I think he's right. It was a much more complex
 5 incident than that, and the issues that were probably
 6 more significant related to the failure of the internal
 7 fire protection and compartmentation, such as the issue
 8 with the staircases that I mentioned earlier on.
 9 Q. Now, let's go to Dr Crowder's final report to the
 10 Metropolitan Police into the Lakanal House fire. It's
 11 dated 11 May 2012, and we find it at {BRE00005881}.
 12 If we go to page 1, we can see the date at the
 13 bottom right—hand corner. It's called an expert witness
 14 report, and if you go, please, to page 2
 15 {BRE00005881/2}, you can see that it's prepared by
 16 Dr Crowder and reviewed by Martin Shipp on 11 May 2012.
 17 Now, did you receive this report or read it at any
 18 time?
 19 A. I can't say.
 20 Q. Right. Well, let me just see if I can pick up
 21 a document. {HOM00001108}. This is an email of
 22 12 September 2012, so five months later.
 23 (Pause)
 24 I'll come back to it later if I need to.
 25 Let's go to page 97 of this document

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1 {BRE00005881/97}. You can see here — see if this
 2 triggers a recollection — at this section he,
 3 Dr Crowder, is commenting on what Nick Coupe, the
 4 Symphony Windows manager, has said in his witness
 5 statement to the inquest. Now, Nick Coupe or
 6 Symphony Windows had supplied the window panels for the
 7 refurbishment at Lakanal.
 8 If we go on in this section to page 99
 9 {BRE00005881/99}, paragraph 552, Nick Coupe says this in
 10 his witness statement:
 11 "Paragraph 3: 'With reference to the infill panels —
 12 it would be unusual for us to deviate from the sandwich
 13 panels but we may if, for example, a back-up panel was
 14 required on the inside. The insulation in the panel is
 15 a high density polyurethane board which is commonly used
 16 in the industry and I am not aware of any alternatives
 17 for this type of installation. Although, I believe
 18 polystyrene is still used in some installations but it
 19 is not a product we would consider. It is my
 20 understanding that polyurethane insulation meets
 21 recognised standards of fire safety."
 22 Were you aware of that evidence at any time?
 23 A. I don't recognise it.
 24 Q. Right. How is it that you were not aware of that
 25 evidence? Was it not ever brought to your attention?

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1 A. I can't say. It may have been and I've forgotten it,
 2 but I don't recognise this text.
 3 Q. Right.
 4 Did you have any evidence at any time to suggest
 5 that the type of board Nick Coupe is referring to here
 6 was not commonly used in the industry at the time?
 7 A. I guess I wouldn't have known one way or the other, but
 8 I think it was something that we later raised with the
 9 registration schemes for window installers to try and
 10 get them to address compliance issues.
 11 Q. Let's go, then, to {HOM00001106}. This is a note of
 12 a meeting on 18 January 2011 at Eland House, attended by
 13 you and by Dave Kennett, Paul Jenkins and Stuart Reeves
 14 of the LFB, and Damian Walsh of the Met.
 15 Do you remember that meeting?
 16 A. I do have some recollection of it, yes.
 17 Q. Right. Do you remember how it had come about?
 18 A. I think — so London Fire Brigade had employed
 19 an adviser, I think that's who Adrian Prest is, on
 20 Building Regulations, and he'd suggested that
 21 requirement B4 didn't address external fire spread to
 22 them, which they — that was not their understanding of
 23 the Building Regulations, and they were asking for some
 24 advice on that point.
 25 Q. Advice from you?

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1 A. Yeah.
 2 Q. Right. Was this formal or informal advice?
 3 A. They asked to come — asked to speak to me about
 4 an issue, and it was an important issue so I'd said I'd
 5 help where I could.
 6 Q. Right.
 7 A. I guess it's formal on some level.
 8 Q. Right. How did that fit with the instruction that you
 9 told us about over the course of your evidence
 10 previously that, as an official, you were required not
 11 to provide an advice or an opinion?
 12 A. Oh, I see what you're saying. I think that — so that
 13 general policy would have meant that I would have been
 14 discouraged from saying, "This material does or doesn't
 15 comply", but I think what LFB were looking for was
 16 an understanding of the actual functional requirement
 17 itself, and also this is an investigation into a serious
 18 incident, so if it was possible to assist them, then
 19 I would do what I could to do so.
 20 Q. So do I understand that answer to mean that you were
 21 free to give advice, an opinion, a steer on your view of
 22 the meaning or underlying intent behind a building
 23 regulation, but not the guidance?
 24 A. Yeah, we'd need to be cautious about how we responded to
 25 that sort of query, yes.

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1 Q. Where did that distinction come from? Did somebody tell
 2 you that you are free to advise on the Building
 3 Regulations but not on the approved documents?
 4 A. Not in those terms. As I say, the general advice we'd
 5 been given as officials was not to directly, if you
 6 like, make a decision that should be made by
 7 a building control body, or in this case ultimately it
 8 could be a court that would decide whether or not
 9 somebody had or hadn't contravened the law. But what
 10 LFB were looking for here was to check their
 11 understanding of the Building Regulations, and clearly
 12 that would be something we'd try to help with.
 13 Q. Is it fair to summarise the purpose of this meeting as
 14 advice from you to the LFB on various aspects of the
 15 Building Regulations and the approved documents,
 16 Approved Document B, where it was related to their
 17 continuing investigation into the Lakeland House fire?
 18 A. I think that's a fair description of it, yes.
 19 Q. Now, I want to ask you about some sections of these
 20 notes, but before we do, can we go to a later email at
 21 {HOM00046917}. Now, it's an email sent ... right. We
 22 may have to come back to that at a later stage.
 23 Going back to this note {HOM0001106}, then, were
 24 you asked specific questions at this meeting?
 25 A. I can't remember that much detail.

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1 Q. Right.
 2 Looking at the first paragraph, the note says this:
 3 "Brian Martin broadly expressed the view that
 4 Adrian Prest was wrong in his assertion that B4 does not
 5 include external fire—spread. He stated that BR 135
 6 (revised) addresses the issue but concludes that it
 7 predominantly refers to rapid vertical fire—spread
 8 (makes reference to a case in Scotland involving rapid
 9 vertical fire spread caused by external panels made of
 10 GRP) as opposed to jumping from floor to floor which
 11 would be virtually impossible to prevent because of open
 12 windows etc and mentions that downward spread could even
 13 be caused by falling curtains etc (makes reference to a
 14 case when falling aluminium window frames ignited a car
 15 below)."
 16 Now, in summary, among other things, Adrian Prest,
 17 do you remember, had expressed the view that ADB did not
 18 clearly indicate that resistance or prevention of
 19 fire spread over external walls from an internal fire
 20 was an objective in its own right?
 21 A. Yes, I think that is what he said.
 22 Q. Yes. We can look at Adrian Prest's letter of
 23 18 October 2010, which the Inquiry has already seen.
 24 For our purposes, it's at {LFB00039588}, or
 25 {LFB00039545} put to Dan Daly on Day 183. But your

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1 answer is yes.
 2 At that stage, had Adrian Prest's views on the
 3 functional requirements on B4 caused you any concern in
 4 relation to a possible lack of clarity about the way in
 5 which those requirements were expressed?
 6 A. I was — I remember being surprised at that conclusion,
 7 probably because we had just done all of the work on
 8 BR 135, which was specifically about that issue, in
 9 support of requirement B4. So I couldn't see — and
 10 I think I remember looking at the functional requirement
 11 and the guidance and not seeing how you could come to
 12 that conclusion if you read it.
 13 Q. Can we go to {LFB00052135/4}. You can see that on
 14 page 4 is an email from Dave Kennett to Andy Jack. You
 15 don't need to go back to the bottom of page 3, it just
 16 says "Kennett, David", but you can see the signatory
 17 a quarter of the way down your screen, and he says this.
 18 It's sent to Andy Jack and a group of other people
 19 within the LFB whose names will be familiar, at least to
 20 the panel, I think. He says this:
 21 "Only to add that in 2010 we engaged Adrian Prest to
 22 advise us on interpretation of B4. Adrian had been head
 23 of BC for several local authorities. As I recall, his
 24 advice was that the fire resistance of the external face
 25 of a building was only relevant with regards to

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1 distances from boundaries and unprotected areas. We
 2 (including Paul Jenkins) took the view that the FR of
 3 the external face was a requirement in its own right.
 4 Hence the letter to Brian Martin, who confirmed this to
 5 be the case. Brian was also horrified that such an
 6 experienced BCO should misinterpret B4 in this way.
 7 I wondered at the time (bearing in mind that lack of
 8 guidance on this issue) whether his view was commonly
 9 held. Indeed, Adrian had checked his view with another
 10 senior colleague before providing us with written
 11 advice."
 12 Now, is that right, that you were horrified by
 13 Adrian Prest's misinterpretation, as David Kennett puts
 14 it?
 15 A. I think I probably was, yes. I mean, I found it
 16 difficult to reconcile that opinion with what the
 17 guidance said. I thought it was — the objective is
 18 clear.
 19 Q. Did you at any time carry out any enquiries, even
 20 informal enquiries, to find out whether others in the
 21 building control industry or industry more widely held
 22 the views which aligned with Adrian Prest's and which
 23 were therefore horrifyingly wrong?
 24 (Pause)
 25 A. I think I may have done. I can't remember for sure.

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1 It's the sort of thing I might well have discussed with
2 some building control officers .
3 Q. Right. And what was the upshot?
4 A. I don't think any of us understood how you could come to
5 that conclusion.
6 Q. Well, yes. I mean, Adrian Prest, as you can see, had
7 been head, or was head, of building control for a number
8 of local authorities , so was not inexperienced, I would
9 suppose; yes?
10 A. I assume so. It might have been that he'd been in
11 a managerial role for a long time and perhaps was out of
12 line with the regs, I'm not sure.
13 Q. Well, the regs had been around — apart from the word
14 "adequately", which came and went — since 1985.
15 A. Yes.
16 Q. So that doesn't really offer much of an explanation. We
17 can also see that he had checked his view with another
18 senior colleague.
19 My question is this: in the light of what you knew
20 about Adrian Prest, and the fact that he'd checked his
21 view with another senior colleague, did you not think it
22 sensible to find out how he'd come to that view or,
23 critically , work out whether or not this was a common
24 view, a common error?
25 A. I think it was something I bore in mind in conversations

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1 I had with other building control officers and when
2 I was at building control related events. I didn't
3 carry out a formal exercise as such.
4 Q. Right.
5 Now, going back to the first paragraph of the note,
6 if we can, please, at {HOM00001106}, when you said there
7 in the second and third lines that BR 135 predominantly
8 referred to rapid vertical fire spread as opposed to
9 jumping from floor to floor, what did you mean by that?
10 A. So that's — there's a diagram at the front of BR 135
11 which explains the issue that if you've got a fully
12 developed fire on one floor, the flames coming from the
13 windows are likely to be so long as to attack the
14 windows of the floor above, and that's something which
15 you can't reasonably prevent with the construction of
16 the building. So what the object — what we're trying
17 to achieve with the guidance in the approved document
18 and BR 135 is to ensure that there isn't further
19 fire spread which is supported by the external wall
20 construction.
21 Q. Right. So the difference between what one might call
22 fire spreading upwards through the elongated flame
23 envelope and the coanda effect, perhaps, on the one
24 hand, and a cladding system on fire on the other?
25 A. Yes.

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1 Q. Yes. The case in Scotland was Garnock, wasn't it?
2 A. Yes.
3 Q. Yes. Did it occur to you that, as you gave the
4 explanation in January 2011, one option for at least
5 attempting to prevent that type of fire spread would be
6 for the regulations and guidance to require the use of
7 non-combustible materials in the external wall
8 arrangements of high-rise buildings as a linear route to
9 compliance, harking back to the recommendations from
10 December 1999 from the select committee?
11 A. I think at that time I thought that the changes we'd
12 made in 2006, removing the reference to ventilated
13 cavities , and the fact that BR 135 had been produced
14 which provided sort of background information, had done
15 that.
16 Q. How was that —
17 A. Had achieved the objective. That's what we genuinely
18 thought, is that the guidance that we'd changed in 2006
19 addressed that risk adequately, and BR 135 supported
20 that.
21 Q. But, of course, as we know, class 0 still remained in
22 diagram 40, and the alternative option of class B had
23 a d2 requirement, which was essentially a standard which
24 did not prevent burning droplets; yes?
25 A. That's correct, yes.

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1 Q. Yes. So it hadn't arrived at the position whereby
2 non-combustible materials would be used in the external
3 wall arrangements over 18 metres, you had —
4 A. Not wholly non-combustible, no. As we've discussed,
5 that's something which we'd looked at as part of the
6 2006 review.
7 Q. Yes.
8 Now, we can see in the paragraph I've just read to
9 you that it refers to falling curtains as potentially
10 responsible for the falling debris. Why did you say
11 that?
12 A. I can't remember exactly what I was thinking at the time
13 of this meeting, but it's a fact that material from
14 fires sometimes falls out of windows.
15 Q. Yes, indeed, but why did you not also discuss the
16 possibility that the falling burning debris could have
17 come from the combustible external window panels
18 themselves, as we saw recorded in the 16 August 2009
19 BRE report, the last —
20 A. I imagine we would have talked about that, otherwise we
21 wouldn't have talked about the curtains. I think it's
22 just this note may not have picked that up.
23 Q. Looking at the second paragraph, it says this:
24 "States that insulation above 18m should be of
25 limited combustibility and that the original specified

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1 Aluminium panels would have been Class '0' on the
 2 surface but the Insulation may not have been. Also
 3 notes that Aluminium has not always proved reliable
 4 during intense heat."
 5 What did it mean when it says there that the
 6 original specified aluminium panels would have been
 7 class 0 on the surface but the insulation may not have
 8 been? May not have been what?
 9 A. I can't — reading that sentence, I think it means that
 10 the insulation may not have been class 0 or a material
 11 of limited combustibility.
 12 Q. Why would the insulation be class 0? Why would it be
 13 tested to class 0?
 14 A. You wouldn't expect it to be.
 15 Q. Right.
 16 A. I can't remember the detail of this conversation.
 17 Q. Right.
 18 A. And it's a note that someone's made after a meeting.
 19 I don't know whether I saw it or not at the time.
 20 Q. Right.
 21 It goes on to say that aluminium has not always
 22 proved reliable during intense heat; to what experiences
 23 or observations were you referring there?
 24 A. Aluminium's got a melting point of 600 degrees C, so it
 25 tends to melt in contact with flames.

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1 Q. You had seen that or you knew that from experience, did
 2 you?
 3 A. Yes, it's a thing that most engineers would know.
 4 Q. You're not an engineer, though, as I think we
 5 established early on in your evidence.
 6 A. I'm a chartered building engineer, so it's different
 7 sorts of engineer.
 8 Q. Right, indeed.
 9 Now, did you have in mind the test carried out in
 10 July 2001 under cc1924?
 11 A. No, because, as I've said repeatedly, I didn't see all
 12 the detail of those, and I don't think that would have
 13 been particularly relevant here anyway.
 14 Q. Okay.
 15 Now, it goes on to say:
 16 "Notes the difference between Non Combustible and
 17 Fire Resistance. Non Combustible material should not
 18 ignite but Combustible material can offer fire
 19 resistance if it burns at a slow rate."
 20 What did you mean when you said that combustible
 21 material can offer fire resistance if it burns at a slow
 22 rate?
 23 A. I think we're talking about the difference between
 24 fire resistance and reaction to fire, which — it's
 25 important to be clear about which of those — most

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1 construction products, when you're looking at their fire
 2 performance, you're either thinking about their reaction
 3 to fire properties, which is how easily they ignite and
 4 the energy they release and the way that they burn;
 5 fire resistance is about their ability to stay intact or
 6 contain a fire. So, for instance, a fire —resisting
 7 door, they're often made of wood, which is, you know,
 8 known as a combustible material, but the way that
 9 they're constructed and the thickness of the door means
 10 that it resists fire spreading from one side of the door
 11 opening to the other when the door is closed. So it's
 12 the difference between fire resistance and reaction to
 13 fire.
 14 Q. Was that a difference that you considered Mr Prest
 15 understood or not?
 16 A. Oh, I'd be really surprised if a building control
 17 officer didn't know that. I think — I don't think this
 18 note is entirely about the discussions relating to
 19 Mr Prest's evidence. I think this is a general
 20 discussion with the London Fire Brigade team that were
 21 working on the Lakanal investigation.
 22 Q. What was the relevance of the distinction you were
 23 seeking to draw in that paragraph?
 24 A. I can't be certain this is what we were talking about at
 25 that time, this was a meeting that's quite some time

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1 ago, but certainly one of the issues that was discussed
 2 and was considered at the inquest was that these panels
 3 burnt through, and that was to some extent an issue that
 4 had been looked at, and so the panels burning through is
 5 a question of fire resistance, whereas the panels being
 6 on fire is a question of reaction to fire.
 7 Q. Now, let's go to {LFB00049528}. This is the minute of
 8 an LFEPA meeting of 1 February 2011. Now, you weren't
 9 there, but we can see from the list of attendees that
 10 Dave Kennett was, as was AC Steve Turek and Andy Jack.
 11 This is about two weeks after the meeting you had had
 12 with Dave Kennett at Eland House.
 13 If we go to the bottom of page 1, under the heading
 14 "Enforcement", it says this:
 15 "Dave Kennett reported that he, Andy Jack,
 16 GM Paul Jenkins and police representatives had met with
 17 Brian Martin to discuss the issues raised by
 18 Adrian Prest. Brian Martin did not concur with Adrian
 19 Prest's views on external fire spread and the Building
 20 Regulations and suggested that LFB write to him (rather
 21 than the Secretary of State) with a series of questions
 22 to get a formal view. Dave Kennett has produced the
 23 questions that had been agreed by all relevant parties,
 24 he will now draft a letter for AC/DAC (FSR) approval."
 25 Did you suggest to the LFB that their letter should

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1 come from you rather than the Secretary of State?
 2 A. I think I might have done. I think that was just —
 3 I think it may have been to speed the process up.
 4 I think I was concerned if they'd wrote to the
 5 Secretary of State, there would have been delays in the
 6 letter getting to me.
 7 It was — having had the discussion with LFB about
 8 this problem, I was conscious that this was an important
 9 investigation, and I was trying to help, so I suggested
 10 to them: write to us and I'll see if I can get you
 11 an official response from the department which would
 12 resolve the issue.
 13 Q. When you say, "I'd get you an official response", does
 14 that mean it would come from you?
 15 A. I wouldn't have been allowed to do that in isolation.
 16 I distinctly remember talking to the department's
 17 lawyers about how we should approach this, and given
 18 that I was doing that, I probably spoke to more senior
 19 officials as well. I imagine I spoke to Mr Ledsome
 20 about this as a minimum.
 21 Q. Well, maybe you imagine it, but, I mean, do you remember
 22 doing it?
 23 A. I remember speaking to the lawyers, and the lawyers
 24 wouldn't have spoken to me without me speaking to
 25 Mr Ledsome first, but I remember the conversation with

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1 lawyers but not the one with Mr Ledsome.
 2 Q. Yes.
 3 Can we go to {CLG10004650}, please. This is
 4 an email from Dave Kennett of LFB to you dated
 5 15 February 2011, so two weeks or so after the meeting,
 6 the minutes of which we've just seen. He says:
 7 "Brian
 8 "Attached is a copy of the formal letter. Would you
 9 like me to also send you a hard copy?"
 10 If we go to the attachment, we can see this. It's
 11 {CLG10004651}. It's dated 14 February 2011, addressed
 12 to you at the department, and it's written by
 13 Steve Turek, as you can see from the bottom of your
 14 screen. We don't need to go through it all, because we
 15 will come back to the questions when we look at your
 16 response.
 17 We know that you sent your response to this letter
 18 by email to Dave Kennett on 23 February 2011. We have
 19 that email, if you want to see it, Mr Martin, at
 20 {CLG10004683}. We know also that you discussed the
 21 draft with your colleagues Steve Kelly and Anthony Burd
 22 before the letter was finalised. Do you remember that?
 23 A. I remember the letter. It was something we put quite
 24 a lot of time into.
 25 Q. Yes, all right, and I'll look at that in a moment.

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1 Before the letter was sent, did you seek clearance
 2 from any official more senior to Anthony Burd?
 3 A. I can't honestly remember. I know that we cleared it
 4 with the department's legal team, which suggests to me
 5 that we probably did go higher up the ladder, but
 6 I can't remember.
 7 Q. Do you remember seeking ministerial approval for it?
 8 A. I don't think so.
 9 Q. Now, can we go, then, to the letter, {CLG10004684}.
 10 It's dated 23 February 2011, and responds to the
 11 questions set out in Steve Turek's letter of
 12 14 February 2011.
 13 If we look first, please, at the second paragraph on
 14 page 1, you say this:
 15 "You will appreciate that I cannot give a definitive
 16 determination of the law as this is a matter for the
 17 courts. However I hope the following responses to your
 18 questions are of assistance. I have answered your
 19 questions in relation to Approved Document B (Volume 2 —
 20 Buildings other than dwellinghouses) based on the
 21 current, 2006 edition which took effect in April 2007.
 22 You may need to check that this edition is relevant to
 23 any building work that may have taken place.
 24 "I would also remind you that Approved Documents do
 25 not provide the only way to comply with the requirements

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1 of the Building Regulations. The legal status of
 2 Approved Documents is set out in section 7 of the
 3 Building Act 1984 and my comments in relation to the
 4 Approved Document should be considered in this context."
 5 Why did you base your answers to these questions
 6 that you'd been asked on the 2006 edition of the
 7 approved document?
 8 A. As I remember it, we discussed this with London Fire
 9 Brigade, or I discussed this with London Fire Brigade,
 10 and they asked us to refer to the 2006 edition.
 11 Q. Why?
 12 A. I can't remember now.
 13 Q. Why did you agree to?
 14 A. Well, I agreed to do it because we were trying to help
 15 them, and having discussed it with them — I distinctly
 16 remember having a conversation with someone from LFB
 17 about, you know, "How do you want us to approach the
 18 question of different approved documents applying to
 19 different aspects of the work that had been done to the
 20 building?" And it might have been that at that stage
 21 there was still some uncertainty about which element of
 22 work was dealt with at which time. I'm not sure of the
 23 detail now. But I remember we discussed it with LFB and
 24 said — asked them how they wanted us to approach this,
 25 and they said that for the purposes of what they were

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1 looking for, reference to the 2006 edition would serve
 2 their purpose, so that's what we did.
 3 Q. Well, take it from me that that instruction does not
 4 appear in the Steve Turek letter of instruction of
 5 14 February that we've just looked at, and I'm very
 6 happy to go back and show that to you.
 7 A. I don't doubt it, but that's the conversation we had.
 8 Q. Who did you have the conversation with?
 9 A. I think it was whoever was leading on the
 10 investigation — I think it was — was it Mr Kennett?
 11 No, I can't remember the exact name now. I definitely
 12 remembered speaking to the person at LFB that was sort
 13 of leading on that investigation.
 14 Q. Did they give you a reason why you should use the 2006
 15 edition?
 16 A. I think they did, but I can't remember what it was in
 17 detail now.
 18 Q. Can we take it, as you've told us earlier this morning,
 19 that you knew in 2009 that the edition of ADB applicable
 20 to the refurbishment at Lakanal was the 2000 edition
 21 with the 2002 amendments?
 22 A. I think that was my understanding. I suppose knowing is
 23 a different question, but I was confident it wasn't the
 24 2006 edition. But, as I say, that's the approach — I'm
 25 sure we agreed it with LFB, and I can't remember the

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1 reason why.
 2 Q. Right. Had you somehow concluded that there were no
 3 wider implications for the 2002 version of Approved
 4 Document B?
 5 A. I don't think that's what I was thinking about at the
 6 time. I think I was just trying to help LFB out with
 7 this specific problem that they had and, having
 8 discussed it with them, we'd agreed to refer to the 2006
 9 edition.
 10 Q. Right. Did you tell them that, so far as you were
 11 aware, it wasn't the 2006 edition that applied to the
 12 relevant refurbishment at Lakanal but the earlier
 13 version?
 14 A. I think they were well aware of that, they'd spent quite
 15 a lot of time investigating this incident.
 16 Q. So, I mean, I know you can't recall, you say, but what
 17 is the explanation for your going along with what you
 18 say is the instruction from the LFB to use an irrelevant
 19 edition?
 20 A. I'm sorry, I can remember the conversation but I can't
 21 remember the detail of it, but that's what we agreed.
 22 The key point was that we made it very clear in the
 23 letter that that was what we'd done and that served —
 24 that helped them address the issue that they had at the
 25 time.

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1 Q. Right.
 2 Now, let's go to page 2 of this letter
 3 {CLG10004684/2}, please, and LFB's question 2. We can
 4 see the questions are set out here for convenience, so
 5 we don't need to go back to the 14 February letter from
 6 Steve Turek.
 7 The question reads as follows:
 8 "Please confirm whether or not Building Regulations
 9 and Approved Document B recognises that rapid
 10 fire spread over the external envelope of a building may
 11 make fire service intervention more difficult and,
 12 therefore, the combustibility of the external envelope
 13 should be controlled."
 14 Now, your response below that is this:
 15 "The guidance set out in Diagram 40 is more onerous
 16 for walls above 18m in height. Whilst there is no
 17 reference to fire service intervention in this part of
 18 the guidance the 18m dimension is widely regarded as the
 19 maximum height at which the fire service can attack
 20 a fire externally. This principle is discussed in
 21 Paragraph 17.1 onwards."
 22 Now, first of all, if you look at the question,
 23 question 2, which I've read to you, the question you're
 24 asked is about control of combustibility on the external
 25 envelope of the building, isn't it?

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1 A. I see your point, yes.
 2 Q. Well, the point will come in a moment. Maybe you do see
 3 it. But I think you understood the letter at the time
 4 that this was addressing combustibility of the external
 5 envelope. So the question is: why are you referring the
 6 LFB to diagram 40 to answer a question about
 7 combustibility?
 8 A. I think we use — I think this is something which we've
 9 discussed before, is — it's probably an issue with
 10 terminology — is that combustibility, certainly in my
 11 mind, still now, is another term for the reaction to
 12 fire performance of a material. So it's not just is it
 13 or isn't it combustible; it's how combustible is it.
 14 I think that's something that we've discussed before
 15 over the last week or so.
 16 Q. It is, and I think you would agree — and if you don't,
 17 please tell me — diagram 40 doesn't control or make any
 18 stipulations in terms of combustibility, does it?
 19 A. That's the point I made which you've just ignored again,
 20 is that in my view the reaction to fire performance of
 21 the external walls, which is set out — the surface of
 22 external walls that's set out in diagram 40 relates to
 23 its combustibility in terms of how — you know, the
 24 sliding scale of combustibility, rather than the black
 25 and white, is it or isn't it combustible. I know that's

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1 something that the Inquiry seems to be focused on, and
2 that's not how I read the word "combustibility" in that
3 sentence.
4 Q. Forgive me, Mr Martin, for appearing to ignore your
5 evidence. I certainly don't mean to do that. I just
6 seek to understand it, and I'm trying to understand the
7 distinction or lack of distinction in your mind at the
8 time between the word "combustible" or "combustibility"
9 on the one hand and the technical requirements of
10 diagram 40 on the other.

11 My question — I'll ask it one more time, and I'm
12 sorry to labour the point, forgive me — it's right,
13 isn't it, that diagram 40 does not control or make any
14 stipulations in terms of combustibility as, for example,
15 clause 12.7 does, does it?

16 A. Well, I think it does. I think it sets out a minimum
17 reaction to fire performance of the external surface of
18 the wall.

19 Q. Are you quite sure in your own mind, Mr Martin, that at
20 this point, February 2011, you had a full and clear
21 understanding of the concept of combustibility and the
22 difference between combustibility and classification to
23 national class 0?

(Pause)

24 A. In my view at the time, and I think my view now, is that

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1 when I'm talking about combustibility in its general
2 sense, I would include a classification such as class 0.
3 Q. But, of course —
4 A. But it doesn't tell you whether it's combustible or not
5 in terms of the definition of non-combustible. There
6 isn't a definition of combustible, there's a definition
7 of non-combustible, so you presume that anything — in
8 the same way that a material of limited combustibility
9 is referring to combustibility, but it's not referring
10 to a non-combustible material.

11 Q. Let's go to question 3:

12 "Please confirm whether or not Approved Document B
13 recommends that in a building with a storey greater than
14 18m in height, any insulation used in the construction
15 of external walls should be of limited combustibility
16 and that this should be the case regardless of distance
17 from any boundary."

18 That's the question, and the answer follows:

19 "Paragraph 12.7 does indicate that insulation
20 materials used in wall constructions over 18m in height
21 should be of limited combustibility. However,
22 paragraph 12.5 offers an alternative approach by using
23 a full scale test from British Standard 8414 (Fire
24 performance of external cladding systems). As such,
25 there will be cladding systems that do contain

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1 combustible insulation materials but still demonstrate
2 an acceptable performance through this test."

3 Now, do you agree with me that the question posed by
4 the LFB there specifically asks about whether any
5 insulation used in those circumstances should be of
6 limited combustibility? Yes? I think it's pretty —

7 A. Yes.

8 Q. Yes, it's clear, I think, we can agree that —

9 A. Yes.

10 Q. — from the first line.

11 Now, you give your answer based on paragraph 12.7 of
12 the 2006 edition of Approved Document B; yes?

13 A. Yes.

14 Q. Were you aware, when you wrote that, that in the 2000
15 edition of Approved Document B with 2002 amendments,
16 which were in force when the relevant refurbishment took
17 place, it wasn't the case that any insulation used over
18 18 metres was required to be of limited combustibility,
19 was it?

20 A. That's definitely the case. Did I fully understand that
21 at the time? I think so, but I can't be certain.

22 Q. Indeed, I think, as we have been through in some detail
23 in the history over the last few days, that the section
24 at the time, which was section 13.7, did not require
25 insulation to be of limited combustibility in

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1 an external façade of a building over 18 metres unless
2 it was used in ventilated cavities.

3 A. That's right.

4 Q. A point I think you've reminded me of this morning.

5 A. Yes.

6 Q. Therefore, you would have been well aware at the time,
7 having yourself removed the words "in ventilated
8 cavities" when drafting the amendments to the 2006
9 edition; yes?

10 A. Yes.

11 Q. And as we know, Lakanal House did not have a ventilated
12 cavity system, did it?

13 A. That's correct.

14 Q. Therefore, that tells us, doesn't it, and you would have
15 known at the time, that PUR or PIR insulation was
16 perfectly compliant for use over 18 metres on
17 Lakanal House under the 2000 edition of the guidance?

18 A. I think that's correct, yes.

19 Q. Yes. Did you explain that at any time to the LFB or the
20 Metropolitan Police?

21 A. I know that we discussed the fact that there were
22 different editions of the approved document. I can't
23 remember the detail of the conversation.

24 I mean, they weren't ignorant of the provisions of
25 the approved document. Quite the contrary. This was

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1 quite an experienced team of fire safety officers
 2 working for LFB. We were trying to give them — sort of
 3 reinforce the points that they'd concluded themselves in
 4 a format that they thought would be useful for their
 5 purposes.
 6 Q. Why did you think it would be useful for their purposes
 7 to base your answers on the 2006 edition, with which the
 8 Lakanal panels would not have been compliant, in
 9 circumstances where they were compliant with the edition
 10 in force at the time of the refurbishment?
 11 A. Because as I recall it, that's what they asked me to do.
 12 Q. But you can't remember the rationale?
 13 A. I — not with any confidence, no.
 14 Q. Would it not have been of crucial importance, whatever
 15 the expertise of the LFB's fire safety department, for
 16 them to know from government what government's position
 17 was in relation to compliance or non-compliance with the
 18 governing approved document at the time?
 19 A. Yes, and, as I say, that's something we discussed with
 20 them, and their view was that what they wanted from us
 21 was advice based on the 2006 edition. As I say, I can't
 22 remember why. That's what they asked us to do. We were
 23 trying to help them do their job, and that's what we
 24 did.
 25 Q. The lack of any fire performance requirement in the

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1 relevant edition of Approved Document B for the foam
 2 insulation at Lakanal was also not something you
 3 mentioned, I think, at any time during your evidence at
 4 the inquest into the six deaths in March 2013. That's
 5 right, isn't it?
 6 A. I think you're right, yes.
 7 Q. Yes. Why is that?
 8 A. As I recall it, the — I was asked to answer some very
 9 specific questions by the inquest, which I'd received in
 10 writing in advance of attending, and so that's what
 11 I did.
 12 Q. Right.
 13 Did you consider the fact that the insulation used
 14 in the external wall arrangement of Lakanal House was in
 15 fact compliant with the provisions of Approved
 16 Document B in terms of its combustibility exposed
 17 an obvious flaw in the 2002 edition of the approved
 18 document?
 19 A. We definitely concluded that in the process of drafting
 20 the 2006 edition.
 21 Q. Yes, so why not mention that to the coroner?
 22 A. As I say, I think I'd been asked to answer some quite
 23 specific questions, and not to stray into other areas.
 24 Q. Did it occur to you that had that matter been made clear
 25 to the coroner, there may have been other questions for

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1 the department to answer?
 2 A. It didn't occur to me at the time, no.
 3 Q. Didn't occur to you at the time that the fact that the
 4 insulation complied with the approved document at the
 5 time but was nonetheless implicated in the six
 6 fatalities was something relevant for the coroner to
 7 know?
 8 A. I wasn't giving general advice to the coroner, I was
 9 answering specific questions. The coroner had other
 10 experts that were being consulted. I was being asked to
 11 address a specific question that had arisen in —
 12 through the process of the inquest.
 13 Q. Now, we don't have a record of this matter or fact being
 14 mentioned at any time to the LFB or the Metropolitan
 15 Police or the coroner by David Crowder. Do you know why
 16 that is?
 17 A. No.
 18 MR MILLETT: Mr Chairman, can I just finish off on this
 19 letter? I'm looking at the time, but I'm mid-letter and
 20 I've got about five minutes left.
 21 SIR MARTIN MOORE-BICK: Yes. Well, it's not going to take
 22 you too long, is it?
 23 MR MILLETT: No, I don't think so. If it does, I'll stop.
 24 SIR MARTIN MOORE-BICK: All right. Yes, go on then.
 25 MR MILLETT: Going back to the letter, please, and the

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1 questions we've looked at at questions 2 and 3, there is
 2 nothing in there, is there, in either answers to 2 or 3
 3 or anywhere else in the letter about filler material, is
 4 there?
 5 A. No, I don't think it was relevant because the insulation
 6 material used in those panels was insulation. It was
 7 being used for its — as I understood it, for its
 8 thermal performance, so the question of filler and those
 9 other issues didn't arise.
 10 Q. Well, is that right? There's nothing in here, is there,
 11 that would tell the LFB that 12.7 of Approved Document B
 12 was intended to restrict the combustibility of the core
 13 of a composite panel as well as insulation material, is
 14 there?
 15 A. No, because that's not what they were asking us.
 16 Q. Well, nor is there anything in there to say that any
 17 part of a panel as opposed to insulation was restricted
 18 by 12.7 in the 2006 edition.
 19 A. No, same answer, I was trying — we were trying to
 20 answer some specific questions that they had that they
 21 felt would be useful for them in addressing the issues
 22 that they'd come across in the investigation. We were
 23 trying to be helpful. I drafted this letter with the
 24 assistance of my colleagues and it was reviewed by our
 25 legal team.

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1 Q. Do you agree that there's certainly no indication in
2 this letter that there's any kind of catch—all in 12.7
3 or any word that's intended to be open-ended to be
4 filled in by discussion to the effect that all elements
5 or key elements of an external wall arrangement be
6 restricted to materials of limited combustibility?
7 A. Yeah, we don't address that, because the question didn't
8 arise.
9 Q. No. You say the question didn't arise; why didn't it
10 arise?
11 A. Because they — the nature of the construction was such
12 that it was — there was a surface and there was
13 insulation and there wasn't much else.
14 MR MILLETT: Mr Chairman, is that a convenient moment?
15 SIR MARTIN MOORE—BICK: Yes.
16 MR MILLETT: I'm not entirely sure I've quite finished with
17 this document, but it's likely to be a convenient
18 moment.
19 SIR MARTIN MOORE—BICK: Yes, all right. Thank you very
20 much.
21 Well, Mr Martin, we'll stop at that point so we can
22 all get some lunch. We will resume, please, at 2.05,
23 and again, please don't talk to anyone about your
24 evidence while you're out of the room.
25 THE WITNESS: Yes, sir.

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1 SIR MARTIN MOORE—BICK: All right? Thank you very much.
2 (Pause)
3 Thank you. 2.05, please. Thank you.
4 (1.05 pm)
5 (The short adjournment)
6 (2.05 pm)
7 SIR MARTIN MOORE—BICK: All right, Mr Martin, are you ready
8 to carry on?
9 THE WITNESS: Yes, sir.
10 SIR MARTIN MOORE—BICK: Thank you very much.
11 Yes, Mr Millett.
12 MR MILLETT: Yes, Mr Chairman, thank you very much.
13 Mr Martin, can we now turn, please, to some later
14 correspondence, this time from 2013, at {CLG10005528}.
15 Now, this is an email run from March 2013, and if we
16 go to page 2 {CLG10005528/2}, we can see that there's
17 an email from — if we go to page 2, sorry. We need
18 page 2 for this.
19 (Pause)
20 Yes, thank you very much.
21 On page 2, you can see an email from Mike Atkins to
22 a large number of recipients, including, I think, you,
23 attaching the short supplementary report from
24 David Crowder. The names in that list will be familiar
25 to many in this Inquiry.

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1 At the time of the inquest into the deaths, that had
2 started in the January of 2013, and was well underway,
3 wasn't it, as at 1 March?
4 A. I believe so, yes.
5 Q. Now, if we go to page 1 of this email run
6 {CLG10005528/1}, please, we can see Anthony Burd's email
7 of 4 March 2014 in the middle of the screen which sends
8 the report to you and Steven Kelly; yes?
9 A. Yes.
10 Q. Yes. He says this:
11 "I find item (e) most telling here... both the
12 question and the answer...
13 "So, if the right panels had been fitted then one
14 could of expected less in the way of falling debris,
15 which in turn may have limited the starting of the fires
16 in the lower flats, which in turn may have meant that
17 the LFB may not have moved its bridgehead lower down the
18 stairs ... I think we can see where the MPS are going
19 with this."
20 Now, if we go to the supplementary report which was
21 attached and made its way to you, that is at
22 {BRE00005886}. Let's look at item (e) to which Mr Burd
23 is referring you. We find that at page 3 in the
24 document, {BRE00005886/3}. The first page of that is
25 the BRE letter of 1 March 2013 setting out the

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1 instructions, and if we go to page 3, at (e) it says:
2 "If the composite panels had complied with the
3 requirements, is it possible to express a view on
4 whether the ability of debris within flats 65 and 79 to
5 be blown out of those flats and fall into flats below
6 would have been reduced?"
7 You can see the response below that. I'll read it
8 to you:
9 "If the composite panels had complied with the
10 requirements set out in David Walker's report, I would
11 have expected them to remain in situ for some time;
12 given that the fires in flats 65 and 79 were not unduly
13 severe and no more severe than the conditions achieved
14 in a standard furnace used to assess fire resistance,
15 I would have expected the panels to last 30 minutes or
16 more. During that time, I would have expected these
17 panels to act as a physical barrier to burning debris
18 produced within the room. This would have significantly
19 reduced the amount of debris from within the flats which
20 could have been blown out of those flats."
21 Now, I show you that.
22 I now want to go back to the email, please, at
23 {CLG10005528}, which is your response to Anthony Burd's
24 question based on (e) that I've just read you. Right?
25 Here is your response, also on March 4, six minutes

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1 later, and you say:
 2 "But the falling debris, could have been from the
 3 bird netting or some other crap falling out the window.
 4 I still think they are over egging the impact of the
 5 panels (although they clearly didn't help matters)."
 6 First, who is "they" in that second sentence?
 7 A. I don't remember the email distinctly, so I can't say
 8 for certain who I was referring to.
 9 Q. Is it --
 10 A. It could have been LFB or the Metropolitan Police, I'm
 11 not sure.
 12 Q. Or the BRE or David Walker?
 13 A. It could have been, yeah, I'm sorry, I can't remember.
 14 Q. Did you intend that comment to mean in the context of
 15 the falling debris which ignited the fires below it or
 16 more broadly?
 17 A. I think that's what I'm referring to, is the falling
 18 debris.
 19 Q. Right. Why did you think that the impact of the panels
 20 was being overegged, in your expression?
 21 A. It's difficult to remember what I was thinking about
 22 this particular email, but I think there had been a lot
 23 of focus on those panels when a lot of the issues that
 24 occurred in that incident were internal fire spread
 25 issues associated with the internal compartmentation.

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1 I think that's what I'm -- I think that's the point I'm
 2 making, is that there was -- there seemed to be a lot of
 3 focus on those panels that had been installed at the
 4 time of the refurbishment, when there are other I think
 5 what I considered to be more important at the time
 6 issues with the compartmentation in that building.
 7 Q. When had you first formed the view that they, whoever
 8 they are, were overegging, as you put it, the impact of
 9 the panels?
 10 A. I can't remember, I'm sorry.
 11 Q. Had you expressed that view to David Crowder, the BRE?
 12 A. I can't remember enough detail to be sure what I had or
 13 hadn't said to anybody.
 14 Q. All right.
 15 Was it the position that you were very keen to
 16 emphasise repeatedly, as we've now seen, that the
 17 falling flaming debris came from the flats rather than
 18 parts of the panels themselves?
 19 A. Well, that was clearly one of the two sources of debris.
 20 I wasn't -- didn't have any particular motive in that,
 21 it was just it was a point.
 22 Q. Well, you say you didn't have any particular motive in
 23 that, but one can detect from the documents I've shown
 24 you -- and perhaps you don't agree -- that your position
 25 seemed to be one of taking the emphasis away from the

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1 effect or impact of the panels and focusing more on the
 2 effect of burning debris blowing out of the flats and
 3 falling to the flats below and causing secondary fires;
 4 is that fair?
 5 A. Well, I wasn't trying to detract attention from the
 6 panels, I think it was just we were discussing what we
 7 thought about the incident.
 8 Q. There may well have been other complexities and
 9 concurrent causes of the incident --
 10 A. Yes.
 11 Q. -- but why weren't you really interested to get to the
 12 bottom of the relative contribution to the fires in the
 13 flats below, the secondary fires in the flats below,
 14 which had been made by the panels, as opposed to
 15 combustible material from the contents of the flats
 16 above?
 17 A. It would have been useful to know, I guess, but it was
 18 clear, I think, it was impossible to know for sure what
 19 material had fallen where and where it had come from.
 20 Q. Well, that may be, but were you not interested for
 21 future reference to know whether or not these panels
 22 might behave the same way in a later high-rise fire and
 23 cause secondary fires below?
 24 A. In the context of thinking about Approved Document B,
 25 I think at that time I was thinking: well, we've already

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1 addressed the potential for burning material to be
 2 falling from the wall construction.
 3 Q. Well, we have been through that, Mr Martin, but I think
 4 many people would disagree with that, not least because
 5 you've still got class 0 hanging around in diagram 40.
 6 A. Well, certainly for this building --
 7 Q. Yes.
 8 A. -- what was beneath -- what was in those panels was
 9 thermal insulation, so that's not a matter of dispute.
 10 I fully understand that the question of filler and so on
 11 is a contentious matter, I understand that, but here we
 12 were looking at insulated panels.
 13 Q. Do you agree with this: that if you look at diagram 40,
 14 and you look at the European classification, B-s3, d2,
 15 d2 means that the production of burning droplets is
 16 wholly unregulated? Did you know that?
 17 A. Well, only insofar as if you've got very little that's
 18 burning, you'll get very little burning debris.
 19 Q. Well, you'll get a class B panel burning with d2
 20 droplets. Did you understand that that was either no or
 21 very low levels of restriction?
 22 A. I didn't know that. Whether I was thinking about that
 23 at the time, I can't be sure.
 24 Q. No, and similarly, you wouldn't have been thinking
 25 about -- is this right? -- whether class 0, with its

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1 476—6 and 7 tests, regulated falling burning droplets.
 2 Presumably, if you had thought about it, you would have
 3 realised that those tests did not; yes?
 4 A. They didn't control burning droplets, but they tended to
 5 reduce the relative combustibility of the materials
 6 involved and, therefore, you're less likely to have
 7 burning material.
 8 Q. Yes. You see, what I'm really putting to you is: why
 9 didn't the Lakanal incident and what you knew about it
 10 by March 2013, the time of the inquest, prompt you to
 11 think about whether or not ADB, particularly 12.6,
 12 diagram 40 and 12.7, was sufficiently robust to regulate
 13 one of the potential causes of downward fire spread at
 14 Lakanal, namely falling burning debris, which could have
 15 come in part from the panels?
 16 A. Sorry, can you rephrase the question? Sorry.
 17 Q. Well, I can do. It's a long question.
 18 A. Or repeat the question.
 19 Q. Yes. Given what you knew about the contribution that
 20 the panels had made to the downward spread of fire
 21 through falling debris, why didn't you think at the
 22 time, March 2013, about whether or not Approved
 23 Document B was robust enough to regulate it?
 24 A. I think we would have discussed that, and I think we —
 25 I can't remember the detail of the conclusions that we

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1 came to. I think genuinely we thought Approved
 2 Document B was doing enough, the 2006 edition.
 3 Q. Right.
 4 Let's move, then, to the inquest itself.
 5 Now, it's right, I think, isn't it, that before
 6 giving evidence, as you told us this morning, you were
 7 asked by the coroner to provide written answers to
 8 a series of questions?
 9 A. Yes.
 10 Q. You did that in a witness statement, didn't you?
 11 A. Yes.
 12 Q. Can we look at it, {CLG00019202}, dated 12 March 2013.
 13 Now, I'm going to ask you, please, to look at page 5
 14 {CLG00019202/5} first, because on that page we see that
 15 there is a signature above your name. Is that your
 16 signature?
 17 A. Yes.
 18 Q. Above that there is a statement of truth:
 19 "I believe that the facts in this statement are
 20 true."
 21 Yes?
 22 A. Yes.
 23 Q. If we go back to page 1 {CLG00019202/1}, please,
 24 paragraph 2, you say this:
 25 "I should make it clear that whilst I am happy to

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1 alert the inquest to the relevant statutory guidance,
 2 the Department for Communities and Local Government (the
 3 'Department') has no authority to give direction on what
 4 does or does not comply with the building regulations
 5 legislation. I have been explicitly asked to address
 6 the following points ..."
 7 Now, who asked you to do that, was that the coroner?
 8 A. Yes, there was a written —
 9 Q. Right.
 10 A. — request. It was very specific.
 11 Q. Right. Did that specificity come as a result of the
 12 department telling the coroner that you had no authority
 13 and that you would only respond to specific questions?
 14 A. Not that I recall, no.
 15 Q. Right.
 16 A. But I can't say for certain. I can't remember the
 17 detail of it. I remember there had been — in the
 18 process of the inquest, there'd been some specific
 19 issues that had arisen over the interpretation of
 20 Building Regulations which had — in a way it was
 21 distracting from the work of the inquest, and between
 22 the department and the inquest, we concluded that we
 23 might be able to resolve that quickly to allow the
 24 inquest to continue its work.
 25 Q. At paragraph 3 on page 2 {CLG00019202/2}, you say this:

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1 "I have referred to the 2000 edition of Approved
 2 Document B (AD B) incorporating the 2002 amendments
 3 which, I understand, is relevant to the work in
 4 question."
 5 Were you told that or did you assume it?
 6 (Pause)
 7 A. I'm not sure where I got that information from.
 8 Q. Right.
 9 You see, we've seen that in 2011 you corresponded on
 10 the basis of the 2006 version, but here you're now
 11 saying that you're referring to the 2000 edition, and
 12 indeed I think it's right, because you told us so this
 13 morning, that you realised that it was the 2000 or 2002
 14 edition that was relevant to the Lakanal refurbishment
 15 at quite an early stage, in 2009.
 16 A. I believe so, yes.
 17 Q. Yes.
 18 Now, I just want to pick up on a number of matters
 19 with you relating to points (c), (d) and (e).
 20 Can we deal with (c), please. That's at page 4
 21 {CLG00019202/4}. At page 4, paragraph 16, under the
 22 heading, "Which panels were required to be Class 0", you
 23 say:
 24 "Paragraph 7 above explains the relevant guidance.
 25 It is only those parts of the external surfaces that are

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1 themselves above 18 metres in height that have to be
2 constructed of Class 0 material. Glass is such
3 a material."

4 Now, if we go back to page 2 {CLG00019202/2} and
5 look at paragraph 7 next, you say this:

6 "In Section 13 (titled 'Construction of external
7 walls') (pages 89–91), paragraph 13.2 (page 89) [and
8 this is the 2000/2002 edition, I should say] introduces
9 the principle of limiting the combustibility of external
10 walls of tall buildings to reduce the danger from
11 fire spread up the face of the building. This relates
12 to the need to meet Class 0 for walls above 18 metres in
13 height and has no bearing on fire resistance. Class 0
14 refers to the reaction to fire of the materials used in
15 the construction of the external surface."

16 Why do you say here that the principle of limiting
17 the combustibility of external walls of tall buildings
18 relates to the need to meet class 0?

19 A. I think it's — that's the point that we've discussed
20 a few times now, is that in this context I'm using the
21 term "combustibility" to talk about the general concept
22 of how — you know, there's a sliding scale of
23 combustibility, whereas I appreciate that the Inquiry
24 thinks it's more of a binary point.

25 Q. Well, never mind what the Inquiry thinks or not. Let's

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1 get to the facts.

2 I think you agree with me that class 0 itself, which
3 is based on passing two parts of BS 476, is not
4 a combustibility test, is it?

5 A. I don't know how many times I have to disagree with you
6 on this point.

7 Q. Right.

8 A. There isn't a combustibility test. There's
9 a non-combustibility test, and then there's the question
10 of measuring how combustible something is. So the
11 concept of combustibility is a sliding scale, and
12 class 0 is one of a range of different classifications
13 that attempt to classify how combustible something is.

14 Q. Clearly my questions aren't really getting through.

15 Do you accept that class 0 isn't a combustibility
16 test and doesn't tell you very much about
17 combustibility; what it tells you about is fire
18 propagation, which is the part 6 test, and surface
19 spread of flame, which is the part 7 test? Yes?

20 A. Which relate to the combustibility of a material.

21 Q. Well, in what sense do they relate to the combustibility
22 of the material as understood in Approved Document B?

23 A. So in this context, the word "combustibility" is, if you
24 like, shorthand to saying reaction to fire, so it's
25 talking about the sliding scale of combustibility,

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1 rather than a binary: is something combustible or not.

2 Q. Right. That, with great respect to you, is what you
3 told us a number of times already in your evidence.

4 A. Yes.

5 Q. My question is: did you explain that to the coroner?

6 Did you explain to her that you were using the word
7 "combustibility" as shorthand for reaction to fire?

8 A. I think if you read that paragraph in whole, in
9 completeness, I don't think there's any uncertainty
10 about that. Perhaps you think otherwise. But it says
11 at the last sentence, "Class 0 refers to the reaction to
12 fire of the materials used in the construction of the
13 external surface", which I think is correct.

14 Q. Let's look at page 4 {CLG00019202/4}, paragraph 17. You
15 can see the heading, "Which panels were required to be
16 Class 0". And you say this — or you can see the
17 question. Well, let me just show you paragraph 16,
18 first of all, just under the heading:

19 "Paragraph 7 above explains the relevant guidance.

20 It is only those parts of the external surfaces that are
21 themselves above 18 metres in height that have to be
22 constructed of Class 0 material. Glass is such
23 a material."

24 Then the question at (d):

25 "The extent to which the guidance on any of these

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1 points has been updated or clarified in versions of
2 Approved Document B subsequent to the 2000 version."

3 That's the question. Your answer at 17 is this:

4 "The guidance which supports Part B (Fire safety) of
5 the Building Regulations, namely Approved Document B —
6 Fire Safety: Volume 2 — Buildings other than
7 dwellinghouses was last amended in 2006 and the
8 amendments came into effect in April 2007. With
9 particular reference to the matters in question,
10 guidance on the construction of external walls was
11 clarified in the 2006 amendments to avoid ambiguity.
12 The layout of the paragraphs and wording were presented
13 in a more definitive way, with particular reference to
14 paragraphs 13.5–13.7 in the 2000 version and paragraphs
15 12.5–12.9 in the 2006 version of AD B."

16 Now, what specifically were you referring to there
17 when you said that the guidance on the construction of
18 external walls was clarified to avoid ambiguity?

19 A. I think the way we'd reconstructed those paragraphs to
20 sit under a general heading of construction of external
21 walls or external wall construction, I can't remember
22 the exact language.

23 Q. I see. So that's the layout, is it, the reference to
24 the change in the layout that we saw and when we
25 compared the 2002 edition with the 2006 edition?

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1 A. Yeah, I think what we were trying to do was set out that
 2 when you're looking at the external wall construction,
 3 it's a combination of factors.
 4 Q. What was the ambiguity that you were seeking to avoid by
 5 those amendments that you were telling the coroner here?
 6 A. At that time, we thought we'd made it a lot clearer.
 7 Q. But you refer to ambiguity; what was the ambiguity?
 8 A. I don't think I was referring to anything specifically.
 9 Q. Right.
 10 A. If I was, I don't remember.
 11 Q. When you say there that the layout of the paragraphs and
 12 wording were presented in a more definitive way, what
 13 did that mean?
 14 A. I think the same as what I've just said. At that time,
 15 we felt that we'd made that guidance much better.
 16 Q. By structural changes, I think; is that right?
 17 A. And some of the other textual changes that we'd made as
 18 well.
 19 Q. Well, you say that, and that's my next question. Were
 20 you intending to refer, in part, to the changes in
 21 wording of the headings to certain paragraphs?
 22 A. I think so. I can't remember what I was specifically
 23 thinking of at the time I wrote this, but I know that at
 24 the time of writing, we thought we'd made that guidance
 25 better.

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1 Q. Right.
 2 Can you tell us why there's no reference here to the
 3 introduction of the words "filler material etc" into the
 4 text of what became 12.7?
 5 A. Yes, looking at the text I've used here and the question
 6 I've been asked at that time, it was, you know, where
 7 has this guidance been changed, so I was giving a —
 8 explaining the structure had been changed and pointing
 9 the inquest at the specific paragraphs.
 10 Q. Well, that doesn't really answer the question, does it?
 11 Why didn't you point the coroner squarely to the change
 12 that you had made as a result of The Edge fire which
 13 addressed the use of combustible foam insulation
 14 material in an external wall panel, and tell her that
 15 the words "filler material etc" were intended to address
 16 that very problem by way of an amendment?
 17 A. I probably wasn't thinking about the word "filler"
 18 because it wasn't particularly relevant to the panels
 19 that were being discussed for the Lakanal House inquest,
 20 I guess, and, as I say, I'm pointing out the relevant
 21 paragraphs. I would imagine that the counsel to the
 22 inquest compared the text in both paragraphs.
 23 Q. Well, I don't — this morning I think you told us — I'm
 24 sorry, Mr Martin, if I'm trying your patience, but this
 25 morning you told us —

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1 A. Sorry, it's been a — I'm tired. I'm doing my best
 2 to — if I seem aggravated, it's because I'm tired, and
 3 I apologise.
 4 Q. All right. Well, let's take it slowly.
 5 You told us this morning — correct me if I'm
 6 wrong — that one of the important, if not the important
 7 amendment in the 2006 approved document was the
 8 introduction of the word "filler", which restricted the
 9 core of an external wall panel to a material of limited
 10 combustibility, which was a critical difference.
 11 A. Amongst other things, yes.
 12 Q. Yes. Absolutely.
 13 Now, the question therefore is: given that that
 14 critical change had made the difference in the context
 15 of the Lakanal fire, why not bring that very change to
 16 the attention of the coroner under paragraph 17?
 17 A. Because it didn't make the difference for the Lakanal
 18 fire. The Lakanal panels were insulated panels, so the
 19 question was whether it controlled insulation or not,
 20 and that was very clear.
 21 Q. Well, why not tell her that the removal of the
 22 qualification relating to ventilated cavities and the
 23 broadening of the restriction to material of limited
 24 combustibility had had the effect of improving the
 25 guidance?

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1 A. I think that might have been a more helpful thing to do
 2 at the time. I guess we didn't think of it. I tried to
 3 point — looking at — I mean, I can't remember what was
 4 going through my head specifically at the point I was
 5 writing this. I think what I was trying to do was
 6 explain in general terms that we had revisited that
 7 text, and this was the new text.
 8 SIR MARTIN MOORE-BICK: Mr Martin, I think the point that
 9 really you're being asked to consider is: although you
 10 have identified in this paragraph the fact that the
 11 previous paragraphs 13.5 to 13.7 had been rewritten, you
 12 don't explain the respects in which they had been
 13 changed, and do you think that would have been a useful
 14 thing to do?
 15 A. I think, in hindsight, it would have been a useful thing
 16 to do, sir, yes. I honestly thought I was giving
 17 a constructive and helpful answer at the time. Being
 18 asked that question, I guess I could have gone into more
 19 detail about the exact changes. Whether that would have
 20 been helpful or not, I'm not sure.
 21 SIR MARTIN MOORE-BICK: Yes. All right, thank you.
 22 MR MILLETT: Were you trying to avoid scrutiny by
 23 the coroner of the words "filler material etc" because
 24 you knew it was less than clear and, as you told us in
 25 your own evidence here, were unhappy with it in the

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1 circumstances in which it had come into ADB in 2006?
 2 A. I don't think that's what I was thinking, no.
 3 Q. Why is there no reference here to the removal of the
 4 caveat that we saw earlier in the 2000 and 2002 edition,
 5 the last part of the second sentence of what was then
 6 paragraph 13.7?
 7 A. Again, I thought this was a helpful and constructive
 8 answer to the question at the time. I guess I could
 9 have listed all of the textual changes, but it probably
 10 would have been easier just to show — give the inquest
 11 the two sets of paragraphs, which is what I've done.
 12 Q. When you were preparing this witness statement, did you
 13 have at your elbow the text of section 12 of ADB 2006
 14 and compare it with the text in section 13 of the 2002
 15 edition?
 16 A. Well, I would have had access to it, yes, it would've
 17 been on my — I think both copies would have been on my
 18 desk at the time.
 19 Q. Yes. Didn't you notice before you made your comments
 20 here on the more definitive layout that the heading of
 21 paragraph 12.7 was intended to apply not only to
 22 insulation but to all products, and draw that to the
 23 coroner's attention?
 24 A. I think at the time I was thinking about insulated
 25 panels, because that's what were being used — those

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1 were the products that had been used at Lakanal House.
 2 Q. When you say insulated panels — let's be clear about
 3 terminology — do you mean sandwich panels?
 4 A. They were effectively quite narrow sandwich panels, yes.
 5 Q. Yes. So how were they different from the panels at
 6 The Edge?
 7 A. They were being used for their thermal properties,
 8 whereas for The Edge we suspected that they weren't
 9 being used for their thermal properties and therefore
 10 they weren't thermal insulation, whereas these — the
 11 panels for Lakanal House were the — were acting as the
 12 separation between the outside air and the inside air,
 13 so the thermal properties were why the insulation was
 14 there.
 15 Q. So why not bring that fact to the coroner's attention
 16 and just say in simple terms that Approved Document B in
 17 2006 was updated and clarified so as to tighten the
 18 restriction to ensure that the panels which were used at
 19 Lakanal were no longer compliant? Why not say that?
 20 A. Well, less compliant, I suppose, because they weren't
 21 compliant anyway because they weren't class 0, and that
 22 was the question we were mostly focused on, I guess. In
 23 hindsight, I could and probably should have mentioned
 24 the insulation.
 25 Q. Yes. Yes.

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1 Now, you knew by March 2013 that the composite
 2 panels at Lakanal were comprised of a Trespa
 3 high—pressure laminate, yes, as well as an unidentified
 4 foam core?
 5 A. I think so, yes.
 6 Q. Yes. Did it occur to you at that time that it might be
 7 appropriate to flag to the coroner the potential
 8 relevance of the combustibility, and I mean that in its
 9 technical sense, of the composite panels?
 10 A. I don't think it did at the time.
 11 Q. Why is that?
 12 A. I'm not ...
 13 (Pause)
 14 I think I was focused on the specific questions,
 15 rather than the generality of the issue, which may have
 16 been wrong, I'm not sure. I think — I can't — I have
 17 a feeling that I was instructed to answer the specific
 18 questions directly without expressing any other points.
 19 I can't remember for certain now.
 20 Q. Right.
 21 Let's look at the next question at the bottom of
 22 page 4 {CLG00019202/4}:
 23 "The extent to which there is scope for further
 24 clarification on any of these points."
 25 Answer:

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1 "The Department has no immediate plans to update the
 2 guidance contained in AD B. However, a new style guide
 3 has been adopted for Approved Documents which is
 4 designed to make them easier to follow and incorporates
 5 the principles of plain English. As and when AD B is
 6 reviewed again, this new style would be applied."
 7 Looking at that now, can you help us, how did that
 8 actually answer the question that the coroner had posed
 9 to you?
 10 A. I think it was setting out the department's plans at the
 11 time. I suppose ultimately there's always the scope to
 12 change something if the Secretary of State agrees that
 13 we should change it. Perhaps I took that as being
 14 obvious and didn't need to be said, I don't know. At
 15 the time I thought that — I honestly thought this was
 16 a helpful response at the time I drafted it.
 17 Q. You see, the question was the extent to which there was
 18 scope for further clarification on any of these points.
 19 Did you not understand that to be a question on whether
 20 the department thought that, in the light of what it now
 21 knew about the Lakanal House incident, notwithstanding
 22 any updates or clarifications in approved documents
 23 since 2000, there was scope for further clarification?
 24 Did you not understand the question in that way?
 25 A. I don't think I did read it in that way, but I can't be

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1 sure. This is a long time ago and I honestly can't
2 remember exactly what I was thinking. I do remember
3 taking what I thought was a lot of care over this, and
4 when you read back these things years later
5 forensically, you do look at it and think: could have
6 said more about X or Y. At the time, I honestly thought
7 I was providing a helpful answer to help resolve
8 a problem that had happened with the inquest.

9 Q. Right.

10 Did you, when you signed this statement, not recall
11 the correspondence that you had had with Daniel Turner
12 of Ipswich Borough Council only two months before, the
13 January of 2013, and his question and the resulting chat
14 in the office? It was the "cool beans" emails. Do you
15 remember those?

16 A. I don't remember thinking about them at the time, but
17 I honestly can't remember what I was thinking.
18 I answered the specific questions to the best of my
19 ability at the time, I thought.

20 Q. Right.

21 A. Forensically, yes, there are things you can look at and
22 say there could have been more detail in some of these
23 paragraphs. I think I can only accept that.

24 Q. Did somebody tell you to keep your evidence as narrow
25 and as vague as possible when answering the coroner's

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1 questions?

2 A. Certainly no one told me to be vague.

3 Q. Well, general, then. Did somebody tell you to answer
4 these questions in as generic and as general a way as
5 possible without condescending to any details?

6 A. No, I don't think anyone told me to do that. I think
7 our intention was to be as helpful as possible to
8 the inquiry. I think the advice I was given was to
9 address only the questions I had been asked, and I think
10 that was to some extent the nature of the way my
11 evidence — I'm not an expert in these matters, but
12 I was described as an evidence to the fact, which meant
13 that I wasn't to express any opinions, so I think that
14 was one of the reasons why I was advised to focus very
15 specifically on the questions I'd been asked.

16 Q. Indeed, focusing very specifically on the questions you
17 had been asked, but in relation to the answers, why were
18 you as generic and as general as this, instead of
19 condescending to particular details about, for example,
20 the questions which had arisen about the meaning and
21 scope of 12.7, which we've already explored, as they
22 stood at March 2013?

23 A. I don't think — I don't remember making a conscious
24 decision not to include those things. As I say,
25 I thought I was giving a constructive and helpful answer

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1 to the inquest, focused on the questions they'd asked
2 me, and I guess relevant to the particular construction
3 they were focused on.

4 MR MILLETT: Let's turn next to your oral evidence —

5 SIR MARTIN MOORE-BICK: Well, before we leave question (e),
6 can I just invite your comment on this: what I think you
7 were asked in question (e) is: could ADB be made clearer
8 in certain respects? And that invites a preliminary
9 response, yes or no, before you go on to say whether the
10 department has any plans to do anything. Do you see now
11 what is really the point you're being asked to address?

12 A. I think so, sir. I think there's at least three ways of
13 reading that question. I don't think I read it in the
14 way you're suggesting, but I can see that is one
15 possible interpretation. I don't even remember thinking
16 about this — I mean, this — compared to the other
17 questions in this statement, I probably didn't think
18 this one was as significant. Perhaps that was wrong.
19 SIR MARTIN MOORE-BICK: Well, it's a slightly difficult
20 question if you think you're not entitled to express any
21 form of opinion, because, in a way, it's inviting you to
22 do that, but if you didn't read it in that way, then
23 obviously your answer is going to reflect the way in
24 which you read it.

25 A. I think so, sir, yeah.

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1 SIR MARTIN MOORE-BICK: All right. Well, perhaps —

2 A. I'm not sure if I can come up with a better answer than
3 the one I've given there. I mean, there's always scope
4 to improve some text, I guess, and if the department or
5 the Secretary of State had decided to change text, then
6 obviously there would have been scope to do so. Still
7 at the time I think we thought it was the — we'd given
8 good guidance.

9 SIR MARTIN MOORE-BICK: All right, thank you very much.

10 MR MILLETT: Just to be clear on that last answer, did you
11 read the word "scope" as meaning opportunity, or did you
12 read the word "scope" meaning need? They're different.

13 A. I can't say what I thought at the time. I'm reading it
14 now thinking it means opportunity, but I can see that
15 perhaps you could read it different ways.

16 Q. Did you think of going back to the coroner and asking
17 for clarification on what you regarded at the time as
18 an ambiguity in her question?

19 A. I don't think I realised that — I didn't think it was
20 an ambiguity at the time. I think I probably would have
21 done.

22 Q. Let's turn to your oral evidence.

23 Now, you'll recall that that covered a full day;
24 yes? Do you remember that?

25 A. Yes.

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1 Q. Now, we're obviously not going to go through all of it ,
 2 but I just want to concentrate on two specific aspects
 3 of your evidence on the day.
 4 {INQ00015070}, please. This is 13 March 2013, the
 5 day after you signed your statement on the 12th, and
 6 that's the first page, where you're introduced by
 7 Mr Maxwell—Scott of counsel, counsel to the inquest.
 8 If we go, please, to page 51 in the transcript
 9 {INQ00015070/51}, we can see some questions and answers.
 10 The context, so you're clear, was a series of questions
 11 from counsel about fire resistance of balcony panels,
 12 and you had explained your view that none was required.
 13 If we pick it up at line 11, you were asked this
 14 question:
 15 "Question: On that footing, the fitting of panels
 16 which caught fire within one minute and burnt through
 17 within four and a half minutes would be, what, perfectly
 18 acceptable in accordance with Approved Document B?
 19 "Answer: Well, if they caught fire, they probably
 20 weren't Class 0."
 21 Now, that answer was, do you accept, inaccurate and
 22 wholly misleading, wasn't it?
 23 A. I don't know if it's wholly misleading, but I think it's
 24 fair to say that it wasn't as precise an answer as
 25 I could have given. I think probably over the years

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1 I've got a better understanding of some of the
 2 limitations of the class 0 classification which I might
 3 not have fully understood then.
 4 Q. It gives a clear impression, doesn't it, that something
 5 which is class 0 won't catch fire? Doesn't it?
 6 A. And I think to some extent I thought that was true.
 7 Q. How could you have thought that that was true?
 8 A. Because you — because it — things that are class 0 are
 9 harder to ignite than other things.
 10 Q. Well, what was it about the limitations of class 0 that
 11 you didn't understand when you were giving evidence to
 12 the coroner in March 2013?
 13 A. I think I probably had greater confidence in it as
 14 a classification than perhaps I do now.
 15 Q. No, but what was it as a matter of technical
 16 ingredients —
 17 A. Well —
 18 Q. — that you didn't understand when you gave your answer,
 19 "Well, if they caught fire, they probably weren't
 20 Class 0"?
 21 A. I think I recognise now that a class 0 component could
 22 still eventually be ignited. We'd looked at the
 23 question of surfaces and components beneath that, and so
 24 I think it was an imprecise answer to the question.
 25 Q. Does that imprecision belie the fact that, in reality,

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1 you were conflating class 0 and the concept of limited
 2 or non-combustible?
 3 A. I don't think so. I think class 0 materials, unless
 4 they're one of these materials which has, if you like,
 5 circumvented the intention of the test through very thin
 6 layers of foil, tend to be quite difficult to ignite.
 7 That's why class 0 was introduced into the Building
 8 Regulations for external walls in the first place.
 9 SIR MARTIN MOORE—BICK: Just help me with this: does it
 10 suggest that the surface is difficult to ignite, or
 11 that, once ignited, it burns rather slowly?
 12 A. It's probably a combination of those factors, I —
 13 SIR MARTIN MOORE—BICK: Well, I'm sorry to interrupt you,
 14 but doesn't the test suggest it's concerned with the
 15 speed at which it burns, and of course the heat
 16 generated by the burning, rather than the difficulty in
 17 the initial ignition?
 18 A. I suppose the part 7 test, the surface spread of flame
 19 test, to some extent is linked to how easy a material is
 20 to ignite. I'm probably stretching my area of
 21 expertise, sir, but the harder something is to ignite,
 22 the slower flames are likely to spread along its
 23 surface, that seems reasonable to me, and the fire
 24 propagation test adds a level of looking at how much
 25 heat is released when it does that.

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1 Perhaps it was an ill-considered answer at the time,
 2 I think, but I think it's fair to say that there's
 3 a link to how readily something will ignite to class 0,
 4 and I think that's — I'm sure there are fire scientists
 5 that might disagree with me, but that's my — that was
 6 definitely my understanding then, and I think it still
 7 is now.
 8 SIR MARTIN MOORE—BICK: Thank you. Right.
 9 Yes, Mr Millett.
 10 MR MILLETT: Let's just pick up that theme while we're on
 11 it. Can we go to page 72 {INQ00015070/72}, please,
 12 line 21. At line 21 you're asked this question:
 13 "Question: So Class 0 doesn't necessarily mean
 14 a surface that won't ignite, it means one that has
 15 limits as to the time and the rate at which fire should
 16 spread; is that a fair comment?
 17 "Answer: Yes, it's — it will burn, just not very
 18 much."
 19 Now, again, that's not an accurate answer either, is
 20 it?
 21 A. I think it's what I was just trying to say.
 22 (Pause)
 23 I think that was — I don't know how else to express
 24 it. Something with a low surface spread of flame and
 25 low fire propagation is going to burn less than

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1 something that's got high values on those tests.
 2 Q. Well, now, we have been through the evidence on the
 3 cc1924 tests done in 2001 as the preparatory work,
 4 funded by government, leading up to BR 135 published by
 5 you and Sarah Colwell in 2003. You were aware, were you
 6 not, by March 2013, a decade on, more, that a product
 7 achieving class 0 could suffer extensive burning?
 8 A. I don't think that was in my mind at the time.
 9 Q. Well, why did you give this answer, "it will burn, just
 10 not very much"?
 11 A. I believed that was the right answer.
 12 Q. Why did you believe it was the right answer?
 13 (Pause)
 14 A. I saw class 0 as being on the sliding scale of
 15 combustibility, not as good as material of limited
 16 combustibility, but better than class 1.
 17 Q. Class 0 isn't on the sliding scale of combustibility, is
 18 it?
 19 A. Well, I think it is.
 20 Q. Well, do you accept or did you remember that there is
 21 a British Standard national class test for limited
 22 combustibility, namely 476—11? That's about
 23 combustibility, and it's a different test.
 24 A. Well, it's got "combustibility" in the title, that
 25 doesn't mean to say that the other tests don't. I still

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1 take the view that the term "combustibility" is
 2 a general term.
 3 Q. So you go back to your answer you gave us a number of
 4 times now this morning —
 5 A. Yes.
 6 Q. — which is you use the word "combustibility" as
 7 a shorthand for reaction to fire and lump within it
 8 class 0?
 9 A. Yes.
 10 Q. Yes.
 11 Going back to class 0 and its tendency to burn, had
 12 you no thought to the UAE fires that had occurred the
 13 year before, for example, which had used ACM external
 14 wall panels?
 15 A. I don't think I made that connection at the time.
 16 I probably should have done.
 17 Q. What about making the connection with the evidence given
 18 to the select committee in the summer of 1999 and the
 19 select committee's report and recommendation on
 20 14 December 1999 about class 0? Had you forgotten that?
 21 A. Well, I wasn't directly involved in that. Perhaps if
 22 I'd been more involved in that I'd have given this more
 23 thought.
 24 Q. At what stage — well, let me put it slightly
 25 differently.

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1 I think it's right, isn't it, that at no stage
 2 during your evidence did you say that if Lakanal House
 3 had been refurbished in or after 2007, then the PUR foam
 4 in the window panels would have been non-compliant with
 5 the approved document because they were combustible and
 6 not of limited combustibility? You didn't say that
 7 anywhere, as we can see.
 8 A. No, I think, as I say, I was addressing quite specific
 9 questions at the time.
 10 Q. But why did you not at least, in the course of your
 11 answers, alert the coroner to that fact?
 12 A. I think I was focused on just answering those specific
 13 questions. Perhaps I should have raised that, but at
 14 that time that wasn't in my mind.
 15 I think the main issue in question really related to
 16 the question of fire resistance, and I think I was more
 17 focused on that at the time.
 18 Q. But class 0 isn't about fire resistance, it's about, as
 19 you say, combustibility, which means reaction to fire,
 20 and these questions are about reaction to fire.
 21 A. Yes.
 22 Q. So why not just say, "If this refurb had been done after
 23 2007 then these panels couldn't have been used"?
 24 A. I think because we were talking about whether or not
 25 they should have been class 0. That's — that was the

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1 question that had arisen in the inquest, and I think
 2 I was focused on that specific question. That's
 3 an explanation, not an excuse. I think I should have
 4 mentioned the insulation. I'm not sure why I didn't.
 5 Q. You didn't raise the possibility, which I would suggest
 6 to you was an obvious possibility, that the combustible
 7 nature of either the Trespa HPL or the unidentified foam
 8 insulation, or both together as a composite panel, may
 9 have been significant factors in the external fire
 10 spread. We don't see that.
 11 A. No. I mean, I wasn't there to give general advice on
 12 the fire. That was for other — the experts that were
 13 advising the inquest.
 14 Q. Right. Do you say you didn't realise the relevance of
 15 that matter at the time?
 16 A. Well, it wasn't relevant to the specific questions I was
 17 being asked.
 18 Q. Right.
 19 Now, let's go back, please, to page 43 in the
 20 transcript {INQ00015070/43}. On page 43 we have
 21 line 13, where there's the question as follows:
 22 "Question: Given that there were so many wrong
 23 analyses by people who were applying their mind to
 24 Approved Document B, do you agree that it might be
 25 desirable if Approved Document B could be revisited and

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1 reworked so that it was clearer to those who had to
 2 apply it as to what the conclusions ought to be?
 3 "Answer: That's an interesting point. Trying to
 4 make these documents simple to use is a challenge.
 5 Designing buildings is a complex subject. My own
 6 experience from dealing with the enquiries that I get is
 7 generally most professionals in the industry seem to
 8 cope with applying the guidance without too much
 9 difficulty. If it was generating the kind of problems
 10 that you might imply from the discussions you've had
 11 here, I think I would know about it, and I don't."
 12 What experience were you referring to there?
 13 A. I think that, again from memory, most of the contentious
 14 issues that were cropping up here related to the
 15 question as to whether or not the walls needed to have
 16 fire resistance or not, and my experience was that
 17 people understood those provisions. So that was the
 18 point I was making, is if people — lots of people were
 19 having that problem, I would have thought that would
 20 have come to my attention, and at that time I didn't
 21 think we were getting a lot of enquiries on those
 22 issues.
 23 Q. Who are the professionals that you're referring to here?
 24 A. Oh, various people that I would bump into and talk to on
 25 the telephone.

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1 Q. Right.
 2 Why do you say with such confidence that if the
 3 clarity of the guidance was generating the kinds of
 4 problems the coroner was referring to, then you say
 5 "I think I would know about it"? How would you know
 6 about it?
 7 A. By the number of enquiries that we'd have been
 8 receiving, and at that point we weren't getting that
 9 many. Some of the questions on external wall
 10 construction probably manifested themselves a year or so
 11 later, I think.
 12 Q. Right.
 13 Moving to page 45 {INQ00015070/45}, then, line 5,
 14 you say — well, sorry, there's a question, actually.
 15 It's quite a longish question. Let's stick with the
 16 answer at line 5:
 17 "Answer: I think the idea that you could have no
 18 ambiguities, I think, is ... a nice objective. I'd be
 19 surprised if it's possible.
 20 "Question: But nevertheless, there could be some
 21 reworking, couldn't there, to increase clarity?
 22 "Answer: Any document can be improved, yeah."
 23 Now, do you agree that, at least from the face of
 24 the transcript, this is quite a defensive answer in the
 25 face of criticisms of the approved document?

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1 A. I suppose. I can't remember what I was thinking at the
 2 time. I think — I know the coroner was frustrated with
 3 some of the confusion that had occurred during the
 4 inquest. Some of that was probably a fair criticism to
 5 say the approved document could be improved, but I think
 6 a lot of that also was the nature of the way various
 7 counsels that were at the inquest were pursuing
 8 particular lines of argument, and it's not a very
 9 constructive way to review a document with — in that
 10 kind of environment. So I think that's the point I was
 11 trying to make there, is that in practice — I mean,
 12 certainly the issue of arguing that the external walls
 13 should all have two hours' fire resistance, that wasn't
 14 something that was occurring on a daily basis.
 15 SIR MARTIN MOORE—BICK: Mr Millett, I take it this is
 16 a question which began on the previous page and was put
 17 by Mr Maxwell—Scott; is that right?
 18 MR MILLETT: It is.
 19 SIR MARTIN MOORE—BICK: In his question, did he —
 20 MR MILLETT: Let's show the —
 21 SIR MARTIN MOORE—BICK: — identify specific respects in
 22 which he was suggesting this document might be
 23 clarified?
 24 MR MILLETT: Well, that is a good question, and the answer
 25 is: no, not really, but there's a long run-up to this

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1 which starts a number of pages earlier, which is about
 2 120—minute fire resistance to the outside surfaces of
 3 Lakeland House, and thinking that was wrong. That was
 4 one of the suggestions. And there are a number of
 5 contentions here which are nothing to do with reaction
 6 to fire.
 7 SIR MARTIN MOORE—BICK: No, well, I'm not inviting you to
 8 read a lot of material.
 9 MR MILLETT: That's why I was trying to avoid it.
 10 SIR MARTIN MOORE—BICK: I understand the difficulty.
 11 MR MILLETT: Yes.
 12 SIR MARTIN MOORE—BICK: It's just that what the witness has
 13 said is: well, a sort of generalised suggestion that the
 14 document could be improved is one with which it's quite
 15 hard to quarrel in relation to any document, but not
 16 very helpful if one's actually trying to focus on
 17 a specific area.
 18 MR MILLETT: No. I think the best thing I can do to try to
 19 answer your question is to start at page 44
 20 {INQ00015070/44}, line 21, and —
 21 SIR MARTIN MOORE—BICK: That would give us the lead—in.
 22 MR MILLETT: It will give you the lead—in, but I'm not sure
 23 it will elucidate much more, with great respect to
 24 Mr Maxwell—Scott.
 25 At 44 he says:

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1 "Question: Understood. Well, it's a matter for our
2 coroner, who has the power to make recommendations for
3 the future, and we've heard what you've said about the
4 introduction of plain English and designing this
5 document so instead of being two columns it's one
6 column, but it might be something that the coroner might
7 have in mind as recommending that this document really
8 should be re-edited in order that there can be no
9 ambiguities of this kind in the future. What would you
10 say to that?"

11 Then I've read to you the exchange after that.

12 SIR MARTIN MOORE-BICK: Yes, thank you.

13 MR MILLETT: Now, I would like to go to page 78

14 {INQ00015070/78}, please, if we can, line 24.

15 I should certainly take you to the coroner's
16 question at line 5 first, up the screen. Can we scroll
17 up, please, to line 5. The coroner asks you this:

18 "The coroner: It's just it seems to me that if you
19 need a specialist engineer to take you through
20 a document in order to get straightforward answers to
21 fairly basic, straightforward questions, then the
22 guidance document isn't really doing what it says on the
23 tin, is it?"

24 "Answer: I think that may be a little unfair. What
25 you tend to find is that different contractors and

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1 different manufacturers, and other people involved in
2 the process, learn the bit of the Building Regulations
3 that affect the kind of thing they do.

4 "So in practice a lot of them will probably never
5 directly refer to the Approved Document. That's one of
6 the benefits of schemes like the FENSA scheme, for
7 instance, where common work is replacement of windows,
8 and rather than the members of that scheme clawing their
9 way through the building regulation, they'll use the
10 guidance that they're given by the scheme provider,
11 which is explaining how to apply the Building
12 Regulations to the kind of work they do.

13 "So my experience is it's not as big a problem as it
14 appears, but I do recognise that the Approved Document
15 could always be easier to read. The challenge with
16 a document like this is it could well end up being a
17 library full of paper if you tried to cover every
18 eventuality. So it's a balance between those two
19 things."

20 Then the debate continues between you and
21 the coroner.

22 Now, when you say there:

23 " ... my experience is it's not as big a problem as
24 it appears, but I do recognise that the Approved
25 Document could always be easier to read."

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1 What was not as big a problem as it appears?

2 A. I think the general — I'm pretty sure at this point we
3 were talking very — about the generalities of the
4 approved document. There had been a number of issues.
5 I think one of the things that the coroner was
6 frustrated with or had become an issue was that the ...
7 Lakanal House was of a design that was quite popular at
8 the time it was built. It's what's known in — as
9 a balcony approach block. So part of the circulation
10 and therefore the escape routes from the flats was via
11 the external balconies, which was quite common, I guess,
12 1930s through to 1950s, something like that, but had
13 become unpopular in more modern buildings, and
14 fire safety guidance on that type of building wasn't
15 included in Approved Document B, it was in — it
16 wouldn't have been BS 9991 then, it would have been its
17 predecessor, which I think was BS 5588, I think it was
18 part 1, and understandably there was a frustration that
19 you needed to refer out to multiple documents to get the
20 answer to what I can understand why the coroner regarded
21 as a straightforward question, and that was the
22 question, I think, about whether the panels needed
23 fire resistance to protect the escape routes, which
24 I think was where there was some — I think that's where
25 the surveyor that the coroner had appointed to advise on

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1 Building Regulations had made a mistake in his report,
2 because that code only requires fire resistance to the
3 escape routes where they're only in a single direction.

4 I'm sorry, it's a really complicated answer, but
5 that was — I know that was one of the frustrations, was
6 that the document cross-referenced to other
7 publications, which is frustrating if you're trying to
8 look at an existing building and decide whether or not
9 it met the rules. If the rules are distributed over
10 multiple documents, that's frustrating. I recognise
11 that, and had to do that myself. But you would end up
12 with a library full of paper if you put all the
13 information in one document, and that's the challenge
14 you have.

15 Q. Right.

16 Now, let's go to page 80 {INQ00015070/80}, and if
17 you go, please, to line 2, she says this:

18 "The coroner: Well, I think the exercise that we've
19 seen in these courts indicates that it isn't
20 a straightforward exercise. In fact, it's quite
21 byzantine, isn't it?"

22 "Answer: I'm probably not the right person to ask,
23 I've worked with it for a long period of time, which to
24 me is why it seems very straightforward, which is why we
25 went through the process I've described in the lead up

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1 to the 2006 changes, to ask people who do use it what
 2 they think, and the feedback I get is that people don't
 3 have a problem with it."
 4 Were you not effectively telling the coroner there
 5 that you were too close to the document to be able to
 6 assess in any impartial way whether or not its content
 7 was sufficiently clear to its intended users?
 8 A. I think to some extent that is what I'm saying, yes,
 9 is — and that's why when you — it's important if you
 10 are carrying out a review of something like that that
 11 you do include the readership.
 12 Q. Yes, and Mr Harral described you, when he gave his
 13 evidence, on Day 243, as possibly "snow blind", his
 14 word, as a consequence of having worked very closely
 15 with Approved Document B for a number of years. Was
 16 that a fair way of describing you at the time?
 17 A. I'm not sure if I'm the person to judge —
 18 Q. No, you may not —
 19 A. — what people ... it may be that — it may be in
 20 looking at what's happened over the last few years,
 21 maybe that's fair.
 22 Q. The better question, perhaps, is: is that the message
 23 you were trying to impart to the coroner yourself here?
 24 A. I think I'm also trying to impart to the coroner that
 25 that's exactly the exercise we'd just been through with

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1 the 2006 review, is that in order to ensure that it was
 2 as clear as we could get it, we had gone to quite some
 3 length to speak to the readership of Approved Document B
 4 and identify those things that needed improvement. We
 5 would have gone through the same exercise again with the
 6 next review, and I'm convinced that's the right way to
 7 do it.
 8 It's been clear to me that as I moved from working
 9 in building control to working in policy, is that you
 10 very quickly lose touch with how the thing's working in
 11 practice, and given that we didn't have a regular
 12 monitoring mechanism, when you came to do a review,
 13 an important part of that review would be to start with
 14 a survey of users and interaction with users. So
 15 I think I'm trying to say to the coroner that's exactly
 16 the exercise we've just been through.
 17 Q. Why did you not mention to the coroner your reaction of
 18 horror to Adrian Prest's complete misunderstanding of
 19 the fundamental requirements in B4 which we looked at
 20 earlier?
 21 A. I guess I could have talked about all sorts of things.
 22 I mean, this was the first time I'd been in a coroner's
 23 court as a witness, I can't say that it was something
 24 that I was comfortable with, and I was probably
 25 answering as helpfully as I could be, but probably not

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1 as extensively as I could have done.
 2 Q. Well, it's a question of impression. When you say most
 3 people don't have a problem with it, you had had quite
 4 recent experience of a senior head of building control
 5 who had checked with another senior colleague and had
 6 completely misunderstood one of the functional
 7 requirements. Was that not something that you had
 8 recalled when telling the coroner that most people don't
 9 have a problem with it?
 10 A. If I'd have recalled it, I would have mentioned it, but
 11 clearly I didn't.
 12 Q. Similarly, when you had dealt with Daniel Turner at
 13 Ipswich Borough Council in the January of that year, you
 14 yourself had told him that you needed to read the
 15 approved document provisions on external fire spread two
 16 or three times to work out what they mean; had you
 17 forgotten that exchange?
 18 A. I don't think it was in my mind. I didn't think that
 19 was particularly significant. If you're thinking that
 20 someone can write a book that tells you how to design
 21 every conceivable building in very simple terms, then
 22 that's not possible, and I'm confident that that will
 23 always be the case.
 24 Q. Yes. But I'm quite sure you didn't understand that
 25 the coroner was asking for a cast-iron 100% hit rate,

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1 for anybody who opened ADB to understand it pellucidly
 2 clearly, surely?
 3 A. Yeah, and I think what I'm saying here is I thought most
 4 people understood it most of the time and that's
 5 reasonable, but you can always improve it.
 6 Q. Now, at page 80 {INQ00015070/80}, line 12, the coroner
 7 says this:
 8 "The coroner: I just query whether applying plain
 9 English principles or having one column on a page rather
 10 than two columns on a page will actually resolve the
 11 sort of difficulty that we've been seeing in this court.
 12 "Answer: The exercise that we — the document we've
 13 most recently applied this to is the document dealing
 14 with the design of stairs, and we restructured the
 15 guidance as well to make it easier to follow. But it's
 16 difficult, fire protection in buildings is a complicated
 17 subject, and I don't think you can stop that being the
 18 case.
 19 "The coroner: But it's such an important subject
 20 that it's one that ought to be accessible to the people
 21 who have to use this document.
 22 "Answer: My experience is that it is."
 23 Your evidence ended at that point.
 24 Now, it's clear, I would invite you to accept, that
 25 the coroner wasn't talking about the need to use plain

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1 English or shuffling paragraphs around, was she?

2 A. No, and the exercise that we'd carried out on the new

3 style guide that we'd adopted went a lot further than

4 just using plain English and changing the format of the

5 document. But it's really difficult work to do, and

6 something that, at that time, we were planning to work

7 our way through all of the approved documents and bring

8 them into that new style. It was something that we

9 thought was the right thing to do, and that's what we

10 were trying to do, was trying to adopt a better approach

11 to the way approved documents were produced.

12 Q. I'm looking at the evidence. Can you help us to

13 understand what it was in March 2013, when you were

14 addressing the questions from the coroner, that led you

15 to be able to state with unassailable confidence that

16 the technical content of the approved document on

17 external fire spread was sufficiently clear to its

18 users?

19 A. I don't think I am using unassailable confidence.

20 I think that's stretching the point a bit. I've

21 acknowledged that the guidance could be improved and

22 that we were planning to improve it, which I guess is

23 the contrary to what you've just said. But I —

24 Q. Let me put the question —

25 A. But most people in the sector, I firmly believed,

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1 understood the principles that Approved Document B was

2 drafted around.

3 Q. Right.

4 A. Perhaps I was wrong.

5 Q. Mr Martin, since you take issue with the way I put the

6 question, let me put it more neutrally. Question at

7 line 22:

8 "Question: But it's such an important subject that

9 it's one that ought to be accessible to the people who

10 have to use this document.

11 "Answer: My experience is that it is."

12 Can you help us what it was at that time that led

13 you to say that about external fire spread?

14 A. It wasn't about external fire spread, we were talking

15 generally about the entire approved document, and

16 I firmly believed that the 2006 edition was better than

17 the previous editions, and the people that I met and

18 discussed fire precautions with understood the

19 principles that was in the approved document. So

20 I think that's what I'm trying to say there.

21 Q. And what I'm really trying to get you to accept, and

22 maybe you don't accept it, is that your experience

23 actually included some instances which were relevant

24 qualifications to the experience that you're telling

25 the coroner there.

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1 A. In that from time to time I'd speak to people that

2 didn't understand it, I suppose that's true, but, as

3 I said, I think — as I think you've just agreed to

4 yourself, is you're never going to get a 100% success

5 rate.

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

7 SIR MARTIN MOORE—BICK: Yes, I think it is, thank you very

8 much.

9 Well, Mr Martin, we'll have the afternoon break at

10 this point. We'll stop now. We'll come back, please,

11 at 3.35.

12 Again, please don't talk to anyone about your

13 evidence or anything relating to it while you're out.

14 THE WITNESS: Yes, sir.

15 SIR MARTIN MOORE—BICK: All right? Thank you very much.

16 (Pause)

17 Thank you very much, Mr Millett. 3.35, please.

18 (3.18 pm)

19 (A short break)

20 (3.35 pm)

21 SIR MARTIN MOORE—BICK: Right, Mr Martin, ready to carry on?

22 THE WITNESS: Yes, sir.

23 SIR MARTIN MOORE—BICK: Thank you very much.

24 Yes, Mr Millett.

25 MR MILLETT: Thank you, Mr Chairman.

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1 Mr Martin, we're now going to go to the Rule 43

2 recommendations that the coroner sent, making

3 recommendations under Rule 43.

4 Can we go, please, to {CLG00001870}. You can see

5 there that the letter is dated 28 March 2013, sent to

6 the Right Honourable Eric Pickles MP, who was the

7 Secretary of State for Communities and Local Government

8 at the time. It starts:

9 "Dear Secretary of State

10 "Lakanal House fire 3 July 2009."

11 Can we take it that you read this letter in full at

12 the time?

13 A. Yes.

14 Q. In detail and with care?

15 A. Yes.

16 Q. Yes.

17 Can we go to page 3 {CLG00001870/3}, and I want to

18 focus on the fourth recommendation under the second

19 heading, "Building Regulations and Approved Document B".

20 Now, there's quite a lot of text there, but can

21 I take it that you're familiar with it?

22 A. Yes.

23 Q. Yes, and if you look at the recommendations under the

24 first text, it says:

25 "It is recommended that your Department review AD B

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1 to ensure that it
 2 "■ provides clear guidance in relation to
 3 Regulation B4 of the Building Regulations, with
 4 particular regard to the spread of fire over the
 5 external envelope of the building and the circumstances
 6 in which attention should be paid to whether proposed
 7 work might reduce existing fire protection.
 8 "■ is expressed in words and adopts a format which
 9 are intelligible to the wide range of people and bodies
 10 engaged in construction, maintenance and refurbishment
 11 of buildings, and not just to professionals who may
 12 already have a depth of knowledge of building
 13 regulations and building control matters.
 14 "■ provides guidance which is of assistance to those
 15 involved in maintenance or refurbishment of older
 16 housing stock, and not only those engaged in design and
 17 construction of new buildings."
 18 Now, if we look at the text that follows the words
 19 "It is recommended", I think we can agree, can't we,
 20 there are three distinct parts to it? Yes?
 21 A. Yes.
 22 Q. The coroner asks that the approved document be reviewed
 23 and that consideration be given to three separate
 24 matters, and let's see if which can tick them off
 25 together.

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1 The first is to provide clear guidance in relation
 2 to B4 and, in particular, external fire spread; yes?
 3 A. Yes.
 4 Q. Yes. The second recommendation was to ensure that the
 5 language and format of the guidance were intelligible to
 6 the wide range of users of the document; yes?
 7 A. Yes.
 8 Q. Yes. Then thirdly to ensure that the guidance assisted
 9 those refurbishing older housing stock as well as those
 10 constructing new buildings; yes?
 11 A. Yes.
 12 Q. Yes, thank you.
 13 Now, if we go to your statement, please, page 8
 14 {CLG00019469/8}, paragraph 23, you say at paragraph 23
 15 there as follows:
 16 "Recommendations from Coroners are always treated as
 17 a high priority. My recollection is that the
 18 Lakanal House rule 43 letter was taken very seriously by
 19 the Department and by the Ministers involved."
 20 What is it about your recollection of the treatment
 21 of this particular Rule 43 letter that leads you to say
 22 that it was taken very seriously by the department?
 23 A. A lot of people were involved in considering the
 24 recommendations and the response to it.
 25 Q. Okay.

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1 A. And all the way up the department, and certainly I was
 2 aware of directors being involved in discussions about
 3 that, and I presume directors general and above would
 4 have been involved as well, but I wouldn't have known
 5 that.
 6 Q. All right.
 7 Let's go to {HOM00047478}. This is a series of
 8 emails between you and various officials in and outside
 9 the department, including Louise Upton, in April 2013.
 10 We don't need to read it all.
 11 If we go to page 2 {HOM00047478/2} we can see
 12 an email sent by Mary Marshall on Monday, 15 April 2013
 13 at 6.45 pm to Louise Upton and Bryan Lea, subject, "RE:
 14 Draft Lakanal House Rule 43 submission — FSO/housing".
 15 Now, you're not copied in to that, but we can see
 16 from it that the coroner's recommendation from the
 17 housing division of MHCLG is being discussed there.
 18 That is, in summary, what's happening; yes?
 19 A. Okay.
 20 Q. If we go to the bottom of page 1 of this email run
 21 {HOM00047478/1}, we see that Louise Upton forwards this
 22 email chain to you the following morning, April 16, and
 23 she says:
 24 "Housing comments attached — do you think we should
 25 firm their mettle to put proper advice to Mark Prisk on

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1 the sprinkler issue? — I'm losing the will to live."
 2 Do you see that?
 3 A. Yes.
 4 Q. Then your response, moving up the next email in the
 5 chain to page 1, is at follows:
 6 "'We will need to consider', isn't a recommendation.
 7 "I guess there are two options.
 8 "■ Try and actively raise awareness of the coroner's
 9 thoughts with all landlords (a big and essentially
 10 pointless task)
 11 "■ Tell the coroner that we've already raised this
 12 with social landlords. But for others, it is up to them
 13 (and most will be aware of the case) so we don't plan to
 14 do anything. (we only have a duty to respond to the
 15 coroner, not kiss her backside)
 16 "I'd suggest the second option.
 17 "I doubt housing will be able to come up with this
 18 themselves cos they seem to be confused by big words.
 19 You could put the second option into the sub and see if
 20 anybody shouts.
 21 "B."
 22 Now, two questions about that text there.
 23 First, on the sprinkler issue: what was the basis on
 24 which you said it would be essentially pointless to try
 25 to raise awareness of the coroner's recommendation with

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1 all landlords?
 2 A. I'm trying to think back to that time. I think probably
 3 the point is because all of those landlords would have
 4 been aware of those points anyway, and as I recall in
 5 relation to the retrofitting of sprinklers, the
 6 coroner's recommendation was that landlords should
 7 consider retrofitting sprinklers, which I think is
 8 something that had been raised with landlords on
 9 a previous occasion. So I think that's — I guess
 10 that's the point I'm making here, is you'd need
 11 a communications exercise to say, "Please think about
 12 this thing", knowing full well that they'd only recently
 13 thought about that thing, and they couldn't afford it
 14 last time so they probably can't afford it now. I think
 15 that's the point I'm making.
 16 Q. Did it not occur to you, though, that landlords as
 17 a group might take it a little bit more seriously if
 18 your asking them was as a result of your following
 19 a recommendation made by one of Her Majesty's Coroners
 20 as a result of an inquest into six fatalities?
 21 A. I think the challenge for the department is that the
 22 department would not be able to make a — this is
 23 a nature of the way that sort of government policy
 24 impacts on something like this. It's one thing for the
 25 department to say, "Take note, the coroner made this

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1 comment which is addressed to yourselves"; what the
 2 department couldn't do is put any more weight to that,
 3 because that would be what would be known as a new
 4 burden, certainly on local authorities.
 5 So there was a principle which applied in government
 6 policy, and still applies today, which is where if
 7 a government department says to a local authority, "You
 8 ought to be doing this extra thing", then it is for that
 9 department to find the funding for that extra thing, and
 10 so for a situation like this, it's one thing to say, "We
 11 really think you ought to think about this"; if you gave
 12 any more weight to that, other than essentially
 13 repeating the coroner's words, then that would be caught
 14 by this — it's known as a doctrine, I think it's
 15 a legal term, I'm not quite sure why that's used in the
 16 civil service, but the new burdens issue would have been
 17 triggered there.
 18 So I think that was the difficulty for the
 19 department with this, is saying something more direct
 20 would have created a funding problem for the department.
 21 Q. The second question relates to the second bullet point.
 22 The private comment to Louise Upton that you only have
 23 a duty to respond to the coroner, not kiss her backside,
 24 discloses, do you agree, your attitude to the coroner's
 25 recommendations, which would not tend to indicate that

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1 they were being taken very seriously; do you agree?
 2 A. Clearly it's an informal comment. I think I'm
 3 describing that second option, as — the statutory
 4 situation was that under the Coroners' Rules — I forget
 5 the legislation — the department must respond within
 6 a fixed amount of time, but there's no requirement on
 7 the department to do what the coroner recommends, that's
 8 for the Secretary of State to consider. So that's the
 9 point I'm making here.
 10 As you say, it's an informal comment between
 11 colleagues, and it's no more than that, as far as I'm
 12 concerned.
 13 Q. Right.
 14 I mean, I think you understood at the time there was
 15 a statutory requirement under the Coroners' Rules for
 16 the Secretary of State to provide a formal response.
 17 A. Yes.
 18 Q. Yes.
 19 Now, this letter was addressed to the
 20 Secretary of State — not this email, of course, the
 21 Rule 43 letter was addressed to the Secretary of State.
 22 Was it your understanding that the ultimate
 23 responsibility for deciding on the terms of the
 24 response, including whether the particular
 25 recommendations were accepted or rejected, would fall to

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1 the Secretary of State?
 2 A. Yes, and I think the first line in this email, which is
 3 probably the one which — is that having seen what
 4 colleagues had — housing had drafted, they didn't
 5 actually — when you're giving advice to ministers, you
 6 need to give them some firm options of recommendations,
 7 and I think the draft that Mrs Upton had sent to me
 8 didn't include a recommendation, so the response from
 9 the housing directorate back to the Secretary of State
 10 would have been, "We'll need to consider this", which
 11 of course was a fact anyway, and that's the point I'm
 12 making, is that you need to actually identify what the
 13 options for the Secretary of State are, which is either
 14 to actively alert people to the coroner's comments —
 15 I can't imagine there was a local authority housing
 16 department that wasn't aware of this inquest — or make
 17 the point that it had already been raised, which it had
 18 been not long before that.
 19 Q. I'm sorry, I'm not sure I follow or really understand
 20 that answer.
 21 I think the answer to my question is: the question
 22 whether a particular recommendation is accepted or
 23 rejected is one which falls to the Secretary of State?
 24 A. Yes.
 25 Q. Yes, and in doing that, in accepting or rejecting

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1 a recommendation, the Secretary of State at the time
2 would — is this right? — rely on the advice of his or
3 her officials .

4 A. To some extent. I mean, the Secretary of State —
5 I mean, it's not unusual for ministers to reject the
6 advice they get from officials .

7 Q. No, all right .

8 A. So —

9 Q. I mean, they wouldn't do it without consulting their
10 officials .

11 A. It's been known. But generally, yes, you'd expect the
12 minister to go back to officials .

13 But what you would need to do in that advice is to
14 say, "Well, these are the implications of the options
15 that are available to you", and I can't remember the
16 detail of this note, but certainly the challenge for the
17 Secretary of State at this time would have been to say
18 anything more than, "I hope you're all aware of what
19 the coroner said last week" would be a significant
20 funding issue.

21 Q. Well, do you agree that in order for the
22 Secretary of State, for the department, to take the
23 recommendations seriously, as you say was done, and for
24 appropriate action to be taken in response, it would be
25 necessary both for senior officials and for the

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1 minister, including the Secretary of State, to do two
2 things, do you agree: first, understand in full the
3 recommendations which had actually been made; yes?

4 A. Yes.

5 Q. Yes. Secondly, have a clear idea of the nature of the
6 criticisms made by the coroner of, in this case, the
7 approved document?

8 A. Well, that's not in the case of this email. This
9 email's about sprinkler provision .

10 Q. No, I'm asking you a general question.

11 A. Oh, I see. Yes.

12 Q. Yes. I can put it more colloquially: in order to know
13 what to do properly by way of taking seriously this
14 Rule 43 recommendation, senior officials, ministers and
15 the Secretary of State would need to understand the
16 recommendations and have a clear idea of the nature of
17 the criticisms made by the coroner; yes?

18 A. Yes.

19 Q. Yes, thank you.

20 Now, let's go to paragraph 22 of your statement,
21 please, page 8 {CLG00019469/8}. You say there:

22 "When the Department received the rule 43 letter
23 from the Coroner with conduct of the Lakanal House
24 Inquest the recommendations that were relevant to each
25 policy team were identified and then policy advice was

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1 submitted to the relevant Junior Minister. When
2 Ministers were content the advice was then consolidated
3 and passed to the Secretary of State who considered the
4 advice and then signed the reply to the Coroner."

5 Now, the recommendation relevant to you and your
6 division was the recommendation I read to you, the
7 fourth one, wasn't it, which related to Building
8 Regulations and Approved Document B?

9 A. Yes.

10 Q. What steps were taken between the two events that you've
11 identified in paragraph 22, the first being identifying
12 the recommendation relevant to your area, and the second
13 being the submission of policy advice to the minister?

14 A. My recollection is it was something that was discussed
15 within the division, so that would have been myself,
16 Mr Burd, Mr Ledsome, where we discussed those
17 recommendations, and essentially what the coroner was
18 asking us to do was what we were expecting to do at the
19 next review of Approved Document B anyway, which would
20 be to apply the new approach to drafting and improve the
21 quality of the guidance. It's something that we were
22 trying to do to all the approved documents, and —

23 Q. Now, the — sorry. So sorry.

24 A. I think having identified — having looked at that,
25 I think as a team we took the view that — we were in

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1 the middle of another project at the time, and I think
2 we probably presumed, I guess wrongly, that we'd be
3 starting work on a review of Approved Document B quite
4 soon at that stage, within a year or two, I guess, and
5 so it made sense to us to carry out those — implement
6 those recommendations as part of that review, and that
7 would have then been discussed by — that general,
8 you know, approach — sort of proposed response would
9 have been looked at by — all the way up the department,
10 so directors — I'm pretty sure — I think there were
11 three directors involved in this. I'm pretty sure they
12 discussed it, and then that would have gone up the line
13 via directors general, and I can't imagine that the
14 Permanent Secretary didn't look at this. It's quite
15 an important thing for the department.

16 Q. Now, the first ministerial submission relating to the
17 recommendations involving your department was, do you
18 remember, sent by you to Don Foster, who was the junior
19 minister at the time with responsibility for
20 Building Regulations?

21 A. Yes, he was the junior minister that I would have gone
22 to first, yes.

23 Q. Yes. If we need to, we can look at it. Let's have it
24 up anyway, {CLG00001871}. You sent this on 11 April
25 direct to Don Foster; yes?

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1 A. Yes.
 2 Q. Yes, copied to the Permanent Secretary, and secretaries
 3 to all ministers.
 4 Now, this is a very short period here between the
 5 receipt by the department of the coroner's Rule 43
 6 letter on 28 March 2013 and 11 April. During that time,
 7 that period, were you the one primarily responsible for
 8 formulating the advice to be given to Don Foster?
 9 A. I was the one with the task of drafting the submission,
 10 but the — its content would have been discussed with
 11 a range of officials.
 12 Q. Right. So who else was involved in formulating the
 13 content of that advice? Was there anybody else other
 14 than you?
 15 A. Definitely Mr Burd and Mr Ledsome and, as I say, the
 16 content would have been — this would have been cleared
 17 at director level as a minimum.
 18 Q. You say definitely Mr Burd; I think Mr Burd had actually
 19 left the department —
 20 A. Oh, I beg your pardon.
 21 Q. — in the January of 2013 and been replaced by
 22 Richard Harral. Am I right about that?
 23 A. Yeah, I beg your pardon. It would have been Mr Harral
 24 at that stage, I think, yes.
 25 Q. How did you and Mr Harral and Mr Ledsome go about

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1 formulating your policy advice in relation to each of
 2 the three matters we've looked at together that
 3 the coroner had asked the department to address?
 4 A. I think we'd ... this was an exercise that was carried
 5 out internally within the department, and the time
 6 available in order to produce the draft was quite
 7 limited, because you've got a fixed — there is
 8 a statutory timetable about which you've got to respond
 9 to a coroner's letter, and given that this would need
 10 quite a lot of clearance, that meant that, if you like,
 11 at the ground we needed to move quite quickly, because
 12 we need to produce some guidance — produce some advice,
 13 which would then be cleared through the various hurdles
 14 and then through the junior ministers, and then the
 15 Secretary of State would need sufficient time to
 16 consider if he was happy to sign it. So that meant that
 17 we had a relatively short amount of time to do our bit,
 18 if you like, and so we looked at those recommendations
 19 and considered them in the light of what we knew and
 20 came up with what we thought was the best approach. As
 21 I say, I'm aware that directors talked — met to discuss
 22 the approach that we were taking. I can't remember when
 23 that was, though.
 24 Q. Now, have you read the department's opening submissions
 25 to this module of the Inquiry?

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1 A. I have done, yes.
 2 Q. Yes. Let's go to that at {CLG00036387}. What I want to
 3 do is just show you some of these passages and see if
 4 you agree with them.
 5 Can we go to page 36 {CLG00036387/36}, first of all,
 6 please, paragraph 112(a) to (e). In that paragraph it
 7 says:
 8 "Having given extensive consideration to the
 9 response to the Lakanal House Coroner's recommendations
 10 issue, the Department's position is that:
 11 "a) The Department's response to the Coroner was
 12 inadequate and should have clearly set out whether each
 13 recommendation had been accepted, to what extent, and
 14 any relevant reasoning.
 15 "b) In particular, the Department should not have
 16 worked on the basis that Recommendation 4 related to the
 17 2000 and not the 2006 version of ADB, nor should it have
 18 concluded that the exercise to clarify and simplify ADB
 19 in its 2006 iteration was not safety critical and
 20 therefore not urgent, without making that position clear
 21 in its response to the Coroner and thereby affording her
 22 an opportunity to comment on a fully informed basis.
 23 "c) Without having made its position clear in its
 24 response, the Department should have treated the work to
 25 clarify and simplify ADB as an urgent priority and so

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1 should not have decided to fold the work into a broader
 2 review expected to take at least another three years.
 3 "d) Subsequent delays to the original timetable
 4 should have been highlighted to ministers and led to
 5 a reconsideration of whether changes to ADB required
 6 more urgent progression."
 7 Then over the page {CLG00036387/37} at (e):
 8 "e) The Department missed the opportunity to look
 9 beyond the recommendations made by the Coroner, and to
 10 consider how widespread the use of non-compliant
 11 materials on high-rise residential buildings was and the
 12 associated fire safety risks."
 13 Now, we can take each one in turn, but let me ask
 14 first generally: do you agree or do you disagree with
 15 any of those admissions?
 16 A. I disagree with some of them.
 17 Q. Right.
 18 Now, let's go to the previous page, please, page 36
 19 {CLG00036387/36}.
 20 Do you disagree with (a)?
 21 A. To some extent. I think my concern — as I said to you
 22 yesterday, I've had no involvement in the drafting of
 23 this document at all, which is probably appropriate,
 24 I guess. Practically everybody — you know, the whole
 25 line of the department at that time considered this

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1 response. This isn't something that was cooked up by
2 a few junior officials and handed to the
3 Secretary of State. I think if it's the department's
4 view, and perhaps the government's view, that in
5 future — or this coroner's letter and any other
6 coroner's letter should be responded in a specific way,
7 then it needs to issue guidance at Cabinet level to all
8 departments as to how coroners' letters should be
9 responded to. There is no such guidance in place at the
10 moment, as far as I'm aware.

11 Q. Well, my question is: do you agree or disagree? It
12 sounds as if you disagree.

13 A. I think I do disagree.

14 Q. Right.

15 A. I think — at the time we considered the coroner's
16 letter and drafted what we thought was an appropriate
17 response, and three — two ministers, I guess, junior
18 ministers and the Secretary of State were all satisfied
19 that it was appropriate. So I have an issue with that.

20 Q. Okay.

21 Do you agree that it should have clearly set out
22 whether each recommendation had been accepted, to what
23 extent and any relevant reasoning, or not?

24 A. I thought it did to a reasonable degree, but I can see
25 how people would argue differently in hindsight, and

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1 I think that's the point I'm making, is if genuinely the
2 department and the government thinks that coroners'
3 letters should be responded to in a particular way, then
4 that should be something that's set out in guidance that
5 applies to all government departments, and that — from
6 the Cabinet Office.

7 Q. Looking at (b), is there anything in (b) you disagree
8 with?

9 A. I think I do. I think the department's response to the
10 coroner's letter set out a timetable along which it was
11 planning to bring into effect those recommendations, and
12 that made it clear that this was not going to be done
13 very quickly. So I think on that point, it was clear
14 that the department wasn't dealing with this as
15 an urgent matter. So I think that's the point I'd like
16 to make about that —

17 Q. Right.

18 A. — paragraph.

19 Q. Right. What about (c)? Do you agree or disagree with
20 any part of (c)?

21 A. I guess it's linked to (b), this question of whether
22 those amendments were urgent or not.

23 Q. Yes.

24 A. It's a — we didn't perceive them as being urgent at the
25 time. I guess, in hindsight, perhaps one could argue

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1 that they should have been treated with more urgency,
2 which is the argument that's been made here. If that
3 was — the only way we could have done that at the time
4 would be to bring a halt to the work that we were doing
5 at the time, and I don't think ministers would have been
6 supportive of that at the time.

7 I think this position paper is the position of the
8 current department, led by the current
9 Secretary of State. We weren't working for the current
10 Secretary of State at the time, so I think it's quite
11 difficult to look at this in this way.

12 Sorry, that's not a very clear answer.

13 Q. What about (d)? Is there anything you agree with or
14 disagree with in (d)?

15 A. I think I agree with (d), in that once the original
16 timetable had started to slip, then that probably should
17 have been brought to the attention of ministers, and the
18 fact that one of — that in amongst the programme that
19 had been delayed were — was a response to a coroner,
20 and I think the problem we had, which I know you
21 discussed with Mr Ledsome and Mr Harral, is that having
22 grouped the part B review in amongst a much wider review
23 of the whole of the Building Regulations meant that the
24 references to the coroner's recommendations had slipped
25 to the bottom of the submissions and documents that

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1 related to it, and I agree that that was a mistake.

2 Q. Then finally, at the top of page 37 {CLG00036387/37},
3 (e), is there anything you agree with or disagree with
4 about that?

5 (Pause)

6 A. I agree with that, and I think, in part, I'd carry some
7 responsibility for that, in that I think I'd become
8 entrenched in a focus on, "What do we need to do to
9 Approved Document B in the future?", and did not
10 properly appreciate some of the hazards that might
11 result from materials that were in existing buildings.
12 I think — I mean, this is focused on the Lakanal House
13 fire, but I think even in that respect I accept that
14 I think the department, and to some extent myself, we
15 should have said to ourselves, "This doesn't comply with
16 our current guidance, is one thing, but does it present
17 a sufficient risk that we should be raising it for
18 existing buildings?" And I think we were entrenched in
19 the mindset that we were thinking about, "What do we do
20 next to the approved documents?", rather than, "What's
21 the risk in the existing building stock?"

22 Q. Thank you.

23 Now, let's go back to your statement, then, please,
24 at paragraph 25, page 9 {CLG00019469/9}. You set out
25 the coroner's recommendations there, and looking at

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1 recommendation 2, what you've called recommendation 2 in
2 the middle there, which focused on the format and
3 language of the approved document and, in particular, on
4 a review to ensure that the document was intelligible to
5 users, was that recommendation accepted or was that
6 rejected?

7 (Pause)

8 A. I think it was accepted insofar as was practicable.
9 Q. What does that mean?
10 A. It means we accepted that we needed to try and make the
11 approved documents as intelligible to as many people in
12 the industry as possible, and not just Building
13 Regulations specialists. I think we accepted that.
14 But, as we've discussed earlier today, there will always
15 be people in — looking at the approved documents who
16 might not fully understand it.
17 Q. Is this right: that the conclusion was in fact that the
18 department already started to plan to update the format
19 and style of the approved documents using the newly
20 published style guide, as you I think had told
21 the coroner in your witness statement?
22 A. Yes.
23 Q. If we can go to paragraph 26 and go over to page 10
24 {CLG00019469/10} in that paragraph, in the last
25 four lines of that paragraph you say:

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1 "I feel that it is important to note that as much as
2 the Department was intending to update ADB in accordance
3 with the new style guide, the Approved Documents should
4 properly remain in the realm of professionals, as set
5 out in the Secretary of State's response of
6 20 May 2013."

7 Now, are you expressing your own view there or the
8 view of the department at the time?
9 A. I think that was the view of the department at the time
10 because that's what was set out in the Secretary of
11 State's letter.
12 Q. Was that the same view that you expressed to the coroner
13 during your evidence, as we've seen?
14 A. I think so, yes. I mean, it's worth noting I've come
15 across a number of people in the sector that have
16 expressed a concern that there's a danger from writing
17 the approved document in such simplistic terms that
18 somebody with no training in construction thinks they
19 can design a building, and I know that's something which
20 a number of people in the fire sector were concerned
21 about, is that you wouldn't want this so simple.

22 I mean, I'm not sure that's actually a possible
23 thing, but I think that was a concern in the sector,
24 that you don't want anybody designing a building, they
25 still ought to be competent people, because you can't

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1 possibly write a book that tells you how to design
2 a building, it's something you need to be taught how to
3 do.

4 Q. Which professionals or categories of professionals are
5 you referring to in your statement here?
6 A. I'm not just thinking of building control professionals,
7 I'm thinking of design professionals, so structural
8 engineers, fire engineers and architects, I guess.
9 Q. Now, the regulations, of course, apply to anybody
10 carrying out the work, don't they?
11 A. Yes.
12 Q. Yes, and that could be an ordinary householder or
13 a builder with no professional qualifications and
14 possibly no experience; yes?
15 A. Yes.
16 Q. So why should the guidance on how to comply be limited
17 to a smaller class of person, the class that you have
18 identified?
19 A. Because the only way you'd be able to do that is to
20 write a book that explained, shovel by shovel, how to
21 build a building, and that's just not feasible.
22 Q. But was that not rather the coroner's point? She was
23 essentially, wasn't she, rejecting your evidence or your
24 opinion about the class of readership, and recommending
25 that it be made clearer and simpler and easier to

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1 navigate for the entire class of readership, namely —
2 or including — the person carrying out the work?

3 A. I'd be surprised if she meant somebody that had no
4 training in construction whatsoever. I can't say that
5 for certain.
6 Q. Right.
7 Did you think about this at the time? I mean, did
8 you think: how do we marry the need to ensure that it
9 isn't a shovel-by-shovel instruction booklet to the
10 completely uninitiated on the one hand, but on the other
11 consider that it is guidance for those persons carrying
12 out the work who are bound by the regulations?
13 A. That's something that we — in developing the style
14 guide and talking about the approach to the way we would
15 produce approved documents in the future, that was very
16 much on our minds.
17 Q. Now, before the department received the coroner's
18 recommendations, when was it that the department had
19 been intending to update the style of Approved
20 Document B, the style, the layout, the language?
21 A. I don't think that was fixed in time at that point. So
22 the Future of Building Control document had a plan in
23 it. That had been put to one side by the coalition
24 government when it came in in — and replaced by the
25 work that we'd been tasked to do in the sort of Red Tape

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1 Challenge and so on, and I think at the time I — ADB
 2 was due a review, and this was a catalyst, if you like,
 3 to get a date fixed in the diary.
 4 Q. Now, moving on to recommendation 1, if we can turn the
 5 page back, please, to page 9 {CLG00019469/9},
 6 paragraph 25, you set it out there. It's a direct
 7 quotation from the letter:
 8 "Provides clear guidance in relation to
 9 Regulation B4 of the Building Regulations with
 10 particular regard to the spread of fire over the
 11 external envelope of the building and the circumstances
 12 in which attention should be paid to whether proposed
 13 work might reduce existing fire protection."
 14 What was your own understanding at the time of that
 15 particular recommendation?
 16 A. I think to some extent it was a criticism of the bits of
 17 the approved document that the inquiry had — the
 18 inquest had been looking at. So I think myself and my
 19 colleagues all took the view that the 2006 edition at
 20 least to some extent had already addressed some of these
 21 criticisms, which is why I think we concluded that we
 22 didn't think it was urgent.
 23 Q. Did you understand the coroner to be indicating by these
 24 words that the guidance on external fire spread in
 25 particular was not clear enough to the reader?

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1 (Pause)
 2 A. I'm trying to think exactly what we were thinking, and
 3 I don't want to put words into our mouths. I can't
 4 remember exactly what we were thinking.
 5 We came to the conclusion that the coroner was
 6 referring to the previous edition. We'd, in our view at
 7 the time, improved that text, and I understand that's
 8 a contentious point now, but at that time we thought
 9 that text had been improved, and it made sense to do all
 10 of this in a single exercise. We didn't see it as being
 11 an urgent issue.
 12 Q. Let's look at this theme as you pick it up in
 13 paragraph 26, as you do, because you cover this there to
 14 some extent. You say this:
 15 "The Inquest had, as the Coroner stated in her
 16 rule 43 letter, been working from the 2000,
 17 incorporating 2002 amendments, edition of ADB as this
 18 was the guidance that was in force at the time the works
 19 were carried out on Lakanal House. However, a new
 20 edition of ADB had already been published and it was
 21 felt that Recommendation 1 had already been addressed by
 22 the revisions made in the 2006 edition of ADB. I sent
 23 a submission to ... Don Foster regarding the Rule 43
 24 recommendations regarding Building Regulations on
 25 11 April 2013. The advice was that issuing a new,

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1 further clarified ADB would be an extensive exercise and
 2 that it would be logical to include this, and
 3 Recommendation 2, as part of a wider technical review."
 4 And it goes on, "To support this submission",
 5 et cetera.
 6 Now, if the consensus was that recommendation 1, as
 7 you say, had already been addressed by the revisions
 8 made in the 2006 edition of ADB, is it not right that in
 9 2013 there would have been no immediate or urgent need
 10 to review or rewrite that section of the guidance?
 11 A. I think that's the view we were taking, yes.
 12 Q. Right.
 13 Given that the 2006 edition of ADB pre-dated the
 14 Lakanal House fire by three years, and the inquest by
 15 some seven years, how could it have addressed the
 16 particular problem with ADB that the evidence in the
 17 inquest revealed and which concerned the coroner?
 18 A. Because the coroner was looking at the 2000 edition. So
 19 it didn't direct — the 2006 edition clearly didn't
 20 directly address the issues that the coroner had raised
 21 because they were drafted before the coroner had raised
 22 them.
 23 Q. Exactly, that's the point.
 24 A. But we took the view that the changes that had been made
 25 had the effect of addressing those recommendations.

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1 Q. Right, I follow. But does it follow that in fact
 2 neither your witness statement to the coroner nor your
 3 oral evidence to the coroner actually told her that the
 4 2006 edition of ADB addressed the problems about
 5 external fire spread revealed by the evidence that she'd
 6 heard?
 7 A. I guess that's true.
 8 Q. It explains, doesn't it, why she was left with the
 9 impression that ADB 2006 did not provide clear guidance
 10 about external fire spread?
 11 A. That wasn't the impression that I got from her letter.
 12 Q. Why did you not go back to her in response or advise the
 13 Secretary of State to go back to her and say, "Well, the
 14 problems at Lakanal about compliance with the 2002
 15 edition have been cured through the amendments to the
 16 2006 edition and therefore your recommendation 1 has
 17 already been met"?
 18 A. I guess we could have done that. That wasn't the form
 19 of words that we came up with.
 20 Q. No, but, I mean, if you had thought at the time that
 21 the coroner had missed the point and that
 22 recommendation 1 was unnecessary, why didn't you advise
 23 the minister that he or the Secretary of State write
 24 back to her immediately, correcting her and saying,
 25 "Well, recommendation 1 is unnecessary"?

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1 A. That probably would have introduced quite a lot of
2 delays. As I say, we had to turn this around quite
3 quickly in order to meet the Coroners' Rules.
4 Q. Why would it have introduced any delays? The
5 Secretary of State could have responded on 20 May in
6 exactly those terms. What was wrong with that?
7 A. At the time, we thought that was the right advice to
8 give. We looked at what the coroner had said, we looked
9 at what happened at the inquest, and thought about what
10 had been done to the 2006 edition, and also looked at
11 how easily we could go back and do — revisit those
12 particular provisions, and came to the conclusion that
13 the best advice would be to give the response that we
14 did.
15 Q. Can we look at the recommendation letter again, the
16 Rule 43 letter, {CLG00000401/3}, under the second
17 heading. She says in the second line there:
18 "I am aware that AD B has subsequently been amended,
19 and believe that a further amendment is due to be
20 published soon."
21 So did you spot the fact that the coroner had
22 specifically acknowledged that Approved Document B had
23 been amended since 2000 but had nonetheless made that
24 recommendation?
25 A. I'm trying to remember what we were talking about at the

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1 time, which is difficult.
2 Q. Why didn't you go back to her, or rather advise the
3 Secretary of State through the ministerial chain to go
4 back to her, and say, "You've quite rightly picked up
5 the fact that ADB had been amended after 2000 and 2002,
6 it was in fact amended in 2006, and, as a result of
7 those amendments, your recommendation 1 is no longer
8 necessary"?
9 (Pause)
10 A. I guess we could have done. That's not the approach
11 that we decided to take.
12 Q. Did all the officials involved in this discussion
13 leading to the formulation of policy advice on this
14 recommendation agree that the coroner's recommendation
15 in recommendation 1 had been comprehensively addressed
16 by the amendments made in 2006?
17 A. Certainly within the — our division that would have
18 been the case, because we would have looked at it and
19 talked it through.
20 Q. Right.
21 A. I think above that level, I imagine that directors would
22 have just asked — would have just looked and decided:
23 is this an appropriate response to a coroner? Which
24 they clearly decided that it was. I doubt they would
25 have read the approved document.

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1 Q. In what way specifically did you at least consider that
2 the revised 2006 edition of the approved document had
3 already addressed the recommendation?
4 A. We thought at the time that the way we'd restructured
5 the guidance on B4 made it more straightforward. I can
6 see why people would dispute that now, but that's what
7 we were thinking at the time.
8 Q. I think it's right that your decision was to advise
9 ministers not to attend to this recommendation straight
10 away, but to address it as part of a wider technical
11 review, alongside recommendation 2.
12 A. Yes, I mean, one of the problems is if you're — and
13 I've had experience of this on other projects, is where
14 you take technical guidance and you say, "Can we make
15 this easier to use", if your terms of reference are
16 that — make it easier to use but don't change any of
17 the technical provisions, that becomes very difficult
18 sometimes, because sometimes the technical provisions
19 are just complicated, and we'd certainly had that
20 problem — the work that we'd done in relation to
21 staircases, where I think it was mostly led by Mr Harral
22 and Mr Kelly, but certainly I had quite a lot of
23 involvement in that as well, we'd come across a number
24 of points where we said, "I'm not really sure how to
25 make this clear". It's — the text is problematic, the

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1 table makes no sense, or whatever the problem was, but
2 to change that without making some sort of technical
3 change would be very difficult, and so it would be
4 better to have the option in your terms of reference to
5 make technical changes as well as just structural
6 changes to make it easier to follow, and that's what —
7 that's one of the reasons why we felt it was better to
8 do that.
9 We had the same problem immediately after the
10 Grenfell fire when the Secretary of State asked us to
11 carry out this exercise, and had a considerably bigger
12 team to do that with, and we came across a number of
13 points, working with various stakeholders in the working
14 groups that we were working with, that there wasn't
15 an easy way of simplifying something without
16 fundamentally changing that technical requirement, and
17 that would have been outwith the terms of reference that
18 we had, and so we had to park some of those problems and
19 move them forward into a technical review.
20 So that's why we felt carrying out a clarification
21 and improvement exercise, an editorial exercise, if you
22 like, without having the option to make technical
23 changes, was not an efficient way of working.
24 Q. Was that recommendation accepted or was it rejected?
25 A. Which recommendation, sorry?

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1 Q. Well, the recommendation not to address the
 2 recommendation immediately but to address it as part of
 3 a wider technical review. Was your advice accepted or
 4 was it rejected?
 5 A. It was accepted.
 6 Q. Was the recommendation at 1 accepted or rejected, in
 7 other words the recommendation in the first bullet point
 8 there?
 9 A. The coroner's recommendation you're talking about now?
 10 Q. Yes. Was it accepted or was it rejected?
 11 A. It was — I guess it was accepted. I can see the point,
 12 in that the letter doesn't categorically say "accept" or
 13 "reject". I'm not sure if that's necessary. If
 14 that's — if government thinks it is necessary, then
 15 that should be a matter of policy and not something
 16 that's left to individual departments to consider on
 17 a case-by-case basis.
 18 Q. Well, let's go to {CLG00011293}. This is the submission
 19 from you to the then minister, Stephen Williams, on
 20 11 June 2014. Now, this is a year on after the
 21 Secretary of State's 20 May 2013 letter back to
 22 the coroner.
 23 At paragraph 3 there you say, under "Background":
 24 "Following the Lakanal House fire, the Coroner
 25 criticised the complexity of the guidance in Approved

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1 Document B and called on the Government to revise it.
 2 The Secretary of State rejected this (see Flag B) but
 3 did commit to a review which would deliver a revised
 4 document in 2016/17, preliminary work is now underway."
 5 Now, flag B is simply a copy of the
 6 Secretary of State's response to the coroner's
 7 recommendation letter, okay?
 8 So it looks as if in fact the Secretary of State
 9 rejected or was understood by you to have rejected that
 10 first recommendation; is that right?
 11 A. I think it's a bad choice of words, looking back at
 12 this. I think the point we were trying to make was that
 13 we accepted that the approved document should be
 14 improved and had plans to do so. What the
 15 Secretary of State rejected, I guess, was that this
 16 needed to be done immediately. I think that's a bad
 17 choice of words in this submission.
 18 MR MILLETT: Mr Chairman, I've got a little bit of a way to
 19 go before we finish this major topic, before moving on
 20 to another section. If I was to have another
 21 ten minutes, I could finish a subsection of it. I'm in
 22 your hands as to whether we go on this evening a little
 23 bit later or not. The answers are quite long at the
 24 moment and —
 25 SIR MARTIN MOORE-BICK: Yes. Well, Mr Martin is probably

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1 getting quite tired, it's been another full day, and
 2 we're going to have to ask him to come back tomorrow.
 3 MR MILLETT: We are. We are going to have to have
 4 an imposition anyway because we have a Secretary of
 5 State giving evidence in the morning.
 6 SIR MARTIN MOORE-BICK: Yes, but if we stop at this point,
 7 is it going to put us in difficulty finishing his
 8 evidence tomorrow?
 9 MR MILLETT: That depends on the alacrity with which
 10 Mr Kinnier asks his questions and receives his answers
 11 tomorrow morning, but the answer is yes, it might. It
 12 might endanger whether we finish Mr Martin tomorrow.
 13 SIR MARTIN MOORE-BICK: Right.
 14 MR MILLETT: If we were to take another 15 minutes — again,
 15 no guarantees — but I would be closer to being able to
 16 be confident —
 17 SIR MARTIN MOORE-BICK: Well, you have heard that exchange,
 18 Mr Martin. How do you feel about the afternoon? Has it
 19 gone on too long for you already?
 20 THE WITNESS: I suppose the honest answer to that is yes,
 21 sir, but I think if an extra 15 minutes will help
 22 the Inquiry, then I'll do my best to continue.
 23 SIR MARTIN MOORE-BICK: Well, that's good of you. I think
 24 the alternative — which you might prefer, I don't
 25 know — might be to take the chance of having to sit

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1 a little bit late tomorrow, because we'd like to finish
 2 your evidence tomorrow and I'm sure you'd like to finish
 3 tomorrow as well.
 4 THE WITNESS: Yes, sir.
 5 SIR MARTIN MOORE-BICK: Would you rather take the chance of
 6 going on tomorrow?
 7 THE WITNESS: Either is equally ...
 8 SIR MARTIN MOORE-BICK: Well, except that you won't have
 9 given — I'm afraid, as I was going to explain to you,
 10 we won't be hearing you first thing in the morning, so
 11 it will only be a half day tomorrow.
 12 THE WITNESS: I suppose in terms of my ability to give you
 13 my best answers, then I guess working late tomorrow is
 14 probably the best option, sir.
 15 SIR MARTIN MOORE-BICK: The better option, yes.
 16 Mr Millett, I'm loath to interrupt you part-way
 17 through a topic, but I think the day has been quite
 18 long.
 19 MR MILLETT: Very well.
 20 SIR MARTIN MOORE-BICK: Mr Martin will not be giving
 21 evidence first thing tomorrow, and so he will be, to
 22 that extent, fresher.
 23 MR MILLETT: Yes.
 24 SIR MARTIN MOORE-BICK: If we have to sit late tomorrow to
 25 finish him, well, maybe we have to.

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1 MR MILLETT: Very well.
2 SIR MARTIN MOORE—BICK: But I think that's probably the
3 better choice.
4 MR MILLETT: Very well. Thank you.
5 SIR MARTIN MOORE—BICK: Can you just help us with this: at
6 what time would we like to be able to continue
7 Mr Martin, depending on the next witness?
8 MR MILLETT: 2 o'clock.
9 SIR MARTIN MOORE—BICK: So if we ask him to come for
10 2 o'clock, that will be all right, will it?
11 MR MILLETT: Yes. I'm hoping that it won't be later than
12 that.
13 SIR MARTIN MOORE—BICK: Well, it won't be earlier? That's
14 the point.
15 MR MILLETT: No. I don't think it will be earlier than
16 that.
17 SIR MARTIN MOORE—BICK: All right. Thank you very much.
18 Well, Mr Martin, we have to interpose another
19 witness tomorrow morning, because one of your former
20 ministers is coming to give evidence and he will be
21 abroad at other times that we might have seen him, so
22 we're going to have to put him in at 10 o'clock tomorrow
23 morning. The expectation is that he will complete his
24 evidence during the morning. So we're going to have to
25 ask you to come back, but not before 2 o'clock, please.

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1 I can't promise you'll actually start at 2 o'clock, but
2 we'll do our best to make sure you do. Then we'll
3 reckon to finish your evidence tomorrow afternoon, even
4 if we have to sit a little bit late to do that. Is that
5 all right?
6 THE WITNESS: Yes, sir, and I've worked with enough
7 ministers to know that a Secretary of State's diary is
8 not something to be messed with lightly, so ...
9 SIR MARTIN MOORE—BICK: Well, we've said we will take him
10 tomorrow and I think we have to do that.
11 THE WITNESS: Yes, sir.
12 SIR MARTIN MOORE—BICK: So we will break at this point. As
13 I said, I'm afraid we have to get you back again
14 tomorrow, but if you could be here ready to start by
15 2 o'clock, we'll take you as soon as we can and expect
16 to finish your evidence then tomorrow afternoon.
17 THE WITNESS: Yes, sir.
18 SIR MARTIN MOORE—BICK: In the meantime, please don't talk
19 to anyone about your evidence or anything relating to
20 it. All right?
21 THE WITNESS: I understand. Yes, sir.
22 SIR MARTIN MOORE—BICK: Thank you very much.
23 Well, then, we'll break there, and we'll see you in
24 time to start at 2 o'clock tomorrow. Thank you very
25 much.

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1 (Pause)
2 Mr Millett, I'm sorry to interrupt your questioning
3 at that particular point, but I think it's been long
4 enough for Mr Martin.
5 MR MILLETT: Yes.
6 SIR MARTIN MOORE—BICK: And we'll sit — I won't say "quite
7 as late as we have to", but I think that ought to be
8 the —
9 MR MILLETT: That's very good of you.
10 SIR MARTIN MOORE—BICK: — in order to finish him, but
11 please bear in mind that although he's starting late, by
12 the time we get to 4.45, everyone's concentration is
13 beginning to —
14 MR MILLETT: Indeed, and I'm thinking of the transcriber's
15 fingers.
16 SIR MARTIN MOORE—BICK: Well, the transcriber's fingers,
17 yes, are a very important part of the whole operation,
18 we have to bear those in mind.
19 If you think we're going to go quite late, could you
20 let us all know?
21 MR MILLETT: Yes, of course.
22 SIR MARTIN MOORE—BICK: We will think about whether we need
23 to take an additional short break.
24 MR MILLETT: Yes. That's very helpful. Thank you very
25 much. Yes.

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1 SIR MARTIN MOORE—BICK: All right?
2 Then tomorrow morning we have a different witness at
3 10 o'clock.
4 MR MILLETT: We have Brandon Lewis.
5 SIR MARTIN MOORE—BICK: Yes. Good. Thank you very much.
6 Well, we break at that point and we resume at
7 10 o'clock tomorrow morning, please.
8 Thank you very much.
9 (4.35 pm)
10 (The hearing adjourned until 10 am
11 on Wednesday, 30 March 2022)
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