



GRENFELL TOWER INQUIRY RT

Day 257

March 30, 2022

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1 Wednesday, 30 March 2022
 2 (10.00 am)
 3 SIR MARTIN MOORE—BICK: Good morning, everyone. Welcome to
 4 today's hearing. Today we're going to hear evidence
 5 from the Right Honourable Brandon Lewis MP, currently
 6 the Secretary of State for Northern Ireland, but
 7 formerly a junior minister in the Department for
 8 Communities and Local Government.
 9 Yes, Mr Kinnier.
 10 MR KINNIER: Sir, may I call Mr Lewis.
 11 SIR MARTIN MOORE—BICK: Thank you.
 12 THE RT HON BRANDON LEWIS CBE MP (sworn)
 13 SIR MARTIN MOORE—BICK: Thank you very much. Please sit
 14 down, make yourself comfortable there.
 15 (Pause)
 16 All right?
 17 Yes, Mr Kinnier, when you're ready.
 18 Questions from COUNSEL TO THE INQUIRY
 19 MR KINNIER: Thank you, sir.
 20 Would you please confirm your name for the record.
 21 A. Brandon Lewis.
 22 Q. Thank you, Mr Lewis, for attending the Inquiry today to
 23 assist with your evidence.
 24 As I've said to all witnesses, I will endeavour to
 25 keep my questions short and simple. Sometimes it

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1 doesn't play out like that, so if any of my questions
 2 are unclear, please say so and I'll try and remedy the
 3 situation.
 4 If you could keep your voice up whilst giving
 5 evidence, that will help the transcriber capture
 6 everything you say, and everything you say accurately.
 7 Finally, if at any time you require a break, please
 8 don't hesitate to say so.
 9 Now, you have produced one statement for
 10 the Inquiry, which we can find at {CLG00031121}. Is
 11 that it?
 12 A. Yes, that's it, yeah.
 13 Q. If we could go to page 35, is that your signature?
 14 A. Yes, it is, yes.
 15 Q. Have you read the statement recently?
 16 A. Yes, I have actually, yes.
 17 Q. Can you confirm that its contents are true?
 18 A. Yes, yeah.
 19 Q. Apart from your legal team, have you discussed your
 20 evidence with anyone before coming here today?
 21 A. No.
 22 Q. Now, the first issue I'd like to discuss with you today
 23 is the role and structure of the department.
 24 Between 4 September 2012 and 15 July 2014, is it
 25 right that you were the Parliamentary Undersecretary of

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1 State for Communities and Local Government in the
 2 department of the same name?
 3 A. Yes, that's right, yeah.
 4 Q. And you were responsible for fire and resilience; is
 5 that right?
 6 A. As part of my portfolio, that was — yes, that was part
 7 of it.
 8 Q. When you were appointed, what was the nature and extent
 9 of your knowledge of fire safety policy.
 10 A. Effectively none. Yeah, no, I'd not had any direct
 11 involvement in anything to do with fire, because even
 12 when I was a councillor, my council didn't have control
 13 of the fire service in that area, so it was a separate
 14 authority.
 15 Q. So you were presumably unfamiliar with the requirements
 16 of the Regulatory Reform (Fire Safety) Order 2005?
 17 A. Absolutely, yes. That's correct.
 18 Q. Were you similarly unfamiliar with the contents of
 19 Approved Document B?
 20 A. Yes. Yes, I'd never heard of it.
 21 Q. On your appointment, did officials provide you with
 22 briefing material so that you could familiarise
 23 yourself, at least in broad terms, with the nature and
 24 extent of the live issues falling within your portfolio?
 25 A. Well, we had — look, I don't consciously remember

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1 having briefings on those areas, particularly around the
 2 Document B, because that's something that's only really
 3 become conscious to me when I have been reading through
 4 the papers for the Inquiry, but officials will have at
 5 the time, as they do for any new minister coming into
 6 a role, gone through a briefing process, both papers and
 7 in person. Most of the briefing that I remember at the
 8 time was around the local government side of the role,
 9 because at the point I was appointed — I was appointed
 10 in September — sort of the main issue on the desk at
 11 that point was we were just about to start — well, the
 12 department had already started work on the local
 13 government finance settlement, so that was — most of
 14 that — the conversation I recall were around that, and
 15 then very quickly moved into the pay dispute we had with
 16 the Fire Brigades Union.
 17 Q. Thank you.
 18 Mr Lewis, if I could ask you maybe to moderate the
 19 pace of your answers.
 20 A. Sorry, yes.
 21 Q. I make this plea on behalf of the transcriber, but thank
 22 you.
 23 A. No, that's a fair point. My mother would agree.
 24 Q. When you were being given your briefing on appointment,
 25 do you remember any particular points arising out of

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1 fire safety that you were briefed on?
 2 A. No.
 3 Q. Now, you say at paragraph 7 of your witness statement,
 4 and we can go to that, which is at {CLG00031121/3}, that
 5 the dominant areas of your portfolio in 2012/2014 were,
 6 as you've just now indicated, local government finance,
 7 the revitalisation of high streets and the strikes by
 8 the FBU.
 9 During that two-year period, were you aware of or
 10 made aware of matters relevant to, first of all,
 11 operational firefighting?
 12 A. Yes, in the sense of that was part of the discussion we
 13 were having with the Fire Brigades Union about pay and
 14 conditions, because there was issues around fitness and
 15 things like that, and obviously as fire minister, when
 16 you were doing visits, you were briefed on how things
 17 operationally work. But it wasn't — that wasn't
 18 an issue that was at the forefront of the work I was
 19 doing, even in the fire part of the brief, which
 20 wasn't — outside of the strikes, wasn't the core part
 21 of the work I was doing as the Parliamentary
 22 Undersecretary.
 23 Q. When you were the Parliamentary Undersecretary, your
 24 Secretary of State was Eric Pickles; is that right?
 25 A. Partly, yes. Actually, while I was Undersecretary, yes,

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1 he was, yes.
 2 Q. Until May 2015?
 3 A. Yes.
 4 Q. From May 2015 onwards, Greg Clark was appointed the
 5 Secretary of State; is that right?
 6 A. That's right, yes.
 7 Q. Now, you say at paragraph 10 of your statement
 8 {CLG00031121/3}, which is just at the bottom of the
 9 screen now, that:
 10 "In respect of the fire and resilience aspect of my
 11 portfolio I recall being supported at official level on
 12 fire policy by Dawn Eastmead and Neil O'Connor, as well
 13 as the Chief Fire and Rescue Adviser, firstly Ken Knight
 14 and then Peter Holland."
 15 Now, Dawn Eastmead was the deputy director of the
 16 fire policy team and Neil O'Connor was director of the
 17 fire policy team; is that right?
 18 A. From the best of my memory, yes.
 19 Q. Can you help us, in practical terms, how were you
 20 supported by Dawn Eastmead and Neil O'Connor?
 21 A. In the sense that, if we were having meetings,
 22 particular — and at that time, from my memory, a lot of
 23 the meetings I would have been having around the
 24 fire service were related to the fire strike. Well,
 25 there are two things, actually. We were selling off the

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1 fire training centre, so there were discussions around
 2 that, privatising that, and also around what became the
 3 fire strikes and the dispute with the FBU, and they
 4 would have been briefing me on those issues. Generally
 5 present in meetings with the FBU would have been
 6 particularly Neil O'Connor, and Dawn Eastmead as well,
 7 particularly on the Fire Kills campaign, which was
 8 a campaign we were running sort of continually but with
 9 a particular focus around the changing of the clocks,
 10 which is obviously very current of a last weekend, to
 11 promote people's knowledge and understanding of
 12 fire safety and smoke alarms.
 13 Q. Would you receive direct advice from them? Would
 14 Dawn Eastmead and Neil O'Connor be your principal
 15 advisers?
 16 A. Yes.
 17 Q. To what extent would you receive advice on fire safety
 18 policy or fire policy generally from your special
 19 advisers? If you had any at that stage.
 20 A. For special advisers, no, it would have been officials.
 21 So as a junior minister, the interaction with special
 22 advisers would generally have been around — in a format
 23 where — if there was a submission put up to me as
 24 a minister, it may well have on it comments from
 25 a special adviser around — if they'd made any comments

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1 on issues, but generally it would have been from the
 2 officials.
 3 Q. Would you routinely seek advice from the Chief Fire and
 4 Rescue Adviser?
 5 A. Yes, yeah, yeah, I think that's — routinely it's a fair
 6 comment. Ken Knight was in place when I first came into
 7 post, but he retired fairly soon after I came into post,
 8 and then Peter Holland, and Peter would generally be
 9 involved in the conversations that I would have, yes.
 10 Q. Can you give the panel an idea, on what topics would you
 11 seek the advice of the Chief Fire and Rescue Adviser?
 12 A. So — well, again, most of the conversations that I can
 13 remember — I don't doubt there were other
 14 conversations, but the conversations that — in my
 15 memory around that time were around the issue around pay
 16 and conditions, fitness, how we were dealing with the
 17 Fire Brigades Union in terms of seeking to initially not
 18 to have strikes and then obviously to end the strikes;
 19 advice around — through that period, how we work with
 20 the fire authorities to make sure that they can manage
 21 through the strikes; to understand and be confident,
 22 both from my experts and also where somebody like
 23 Peter Holland and before that Ken Knight, but through
 24 that — the core of that period would have been
 25 Peter Holland, would be their expert experience, and

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1 both of them being, you know, very, very experienced
 2 chief fire officers, their expertise around
 3 understanding that the teams had what they required to
 4 be able to manage through the strikes, and both at CLG
 5 itself in the command centres but also working with the
 6 fire authorities, that they had the resources to be able
 7 to cope and to give us the confidence that they were
 8 able to manage to keep people safe through those
 9 strikes.

10 Q. So the broad thrust of the matters on which you'd seek
 11 Sir Ken Knight's advice and that of Peter Holland was
 12 industrial relations and matters pertaining thereto in
 13 the main?

14 A. Only in that — yes, but that's because that was the
 15 sort of the main issue that was being dealt with at the
 16 time, because it was the acute sort of current challenge
 17 at that point. We also were — would have been having
 18 conversations from time to time that came from the back
 19 of a review that Ken Knight had done about the future of
 20 the fire service.

21 Q. We will come on to these matters.

22 A. So there would have been conversations around that as
 23 well, but the main thing I would have been dealing with
 24 on the fire side through most of my period at CLG
 25 dealing with fire was the fire strikes.

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1 Q. So fire safety wouldn't be a prominent feature of those
 2 discussions; is that a fair assumption?

3 A. Yes, it is, and partly because of where the focus was
 4 and partly because a fair part of what comes under
 5 fire safety is probably more properly dealt with through
 6 the Building Regulations team, which wasn't part of my
 7 portfolio.

8 Q. Now, did the head of fire safety policy, Louise Upton,
 9 brief you directly on any issue during your time as the
 10 Parliamentary Undersecretary?

11 A. She may well have done, but I don't particularly
 12 consciously remember that. I do remember Louise, so
 13 I've no doubt she would have been in meetings with me at
 14 some stage, yes.

15 Q. But the primary advisers were Dawn Eastmead and
 16 Neil O'Connor?

17 A. To my memory, yes.

18 Q. Now, during your time as Parliamentary Undersecretary,
 19 were you also supported by the head of the
 20 Building Regulations team, Brian Martin?

21 A. No.

22 Q. Because building regs were outside the scope of your
 23 responsibility?

24 A. Yes, they sat with a different minister.

25 Q. Now, between 16 July 2016 and 11 June 2017, you were

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1 Minister of State for Policing and the Fire Service and
 2 the Home Office; is that right?

3 A. That is right, yeah.

4 Q. In that office, you were responsible for, amongst other
 5 areas, national fire policy, including fire safety; is
 6 that right?

7 A. Yes, I believe — yes, that's — yeah.

8 Q. Now, you say at paragraph 15 of your witness statement,
 9 which is at page 5 of the document on the screen
 10 {CLG00031121/5}, that:
 11 "The 'fire and resilience' element of my portfolio
 12 as Parliamentary Under-Secretary of State for
 13 Communities and Local Government had transferred over to
 14 the Home Office on 5 January 2016 and so formed part of
 15 my brief again when I joined the Home Office."
 16 Were your responsibilities as Minister of State at
 17 the Home Office substantially similar to those you held
 18 at CLG, when you were the Parliamentary Undersecretary?

19 A. No.

20 Q. What was the principal difference?

21 A. Well, it was a — it was quite a different portfolio in
 22 terms of how it worked in practice, because the idea —
 23 and it's probably worth giving some context. There'd
 24 been discussions for quite a long period of time —
 25 a number of years, actually — around trying to bring

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1 together the blue-light services into one place, having
 2 one minister who dealt with both fire and police, and
 3 that's what this was the culmination of, predominantly
 4 because — and the thinking and the conversations were
 5 because the predominance of the fire service's work had
 6 moved away from, fortunately, fires in the home, which
 7 had dropped quite dramatically over a period, to
 8 supporting police and working on road traffic accidents
 9 and that area, and it made more sense to have one
 10 minister dealing with both.

11 When I was — by the time it had moved to the
 12 Home Office, when I went to the Home Office, it was
 13 very — rather than being part of a brief that included
 14 local government, who in parts of the country are
 15 responsible for the fire service, and working that way,
 16 so obviously it was linked to the fire — fire was
 17 linked to the policing brief, the policing brief, as
 18 paragraph 14, I can sort of see the end of, sort of
 19 outlines, the policing brief was by far the bigger part
 20 of the brief. When I was doing fire — it was
 21 a relatively short period, as it outlines there. When
 22 I had fire at the Home Office, the predominant work at
 23 that point was around — from memory, it was around the
 24 change in how the Chief Fire Officers Organisation(sic)
 25 was working, moving it into a format that was much more

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1 akin to the National Police Chiefs Council as well, so
 2 it was a much — it was about that sort of structure,
 3 rather than — because obviously we'd moved past the
 4 fire strikes.
 5 So in terms of fire — and it was also around —
 6 there was a — quite a bit of work in terms of engaging
 7 with people in local communities around the fire service
 8 becoming part of the police and crime commissioners'
 9 role. So the fire side of the role when I was at the
 10 Home Office was focused really in those two areas,
 11 rather than the wider part of the brief, as it had been
 12 under — when I was at CLG.
 13 Q. So whilst fire safety remained part of your portfolio,
 14 it wasn't a prominent part of that portfolio?
 15 A. No, and again, if I was looking at it in an analytical
 16 way in that sense, I would say that's probably because
 17 the building regs, again, stayed at what was then DCLG,
 18 now DLUHC, and, as I say, it was a relatively small part
 19 of the brief in terms of the timeframe.
 20 Q. Thank you.
 21 As Minister of State, did you continue to be advised
 22 by Louise Upton?
 23 A. When I was at the Home Office, not that I recall.
 24 Q. Now, I want to move on to a separate topic, which is
 25 briefing and decision-making at the department you

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1 served at.
 2 First of all, by way of preliminary question, we've
 3 reviewed the disclosure provided by CLG, in its various
 4 names, and one consistent theme is that when ministerial
 5 submissions are put up to you, we haven't got
 6 ministerial submissions that show your manuscript notes
 7 or comments on them. Can you help us understand why
 8 that would be the case?
 9 A. Well, I'm afraid I can't help explain why you haven't
 10 got them. From my point of view, when I was going
 11 through the papers, it would have been very helpful to
 12 have them. I still today will put handwritten notes on.
 13 I much prefer having a hard copy, rather than
 14 electronic, which obviously when I was first there, we
 15 didn't have electronic in that format, so it was before
 16 iPhones and things had come into government.
 17 But the benefit of having the original hard copies
 18 is that it can give some context. So where I've said to
 19 you, for example, I don't recall that, there will be
 20 subs where, as a minister, you will look at a sub, and
 21 it's a very straightforward, uncontroversial response to
 22 a letter or something that's not — doesn't need a great
 23 deal of thought, and you will literally just tick it.
 24 Being able to see that is an indication that this at the
 25 time was a very straightforward thing. If there is no

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1 comment on there at all and no tick at all, it could
 2 well be because it's something that didn't actually come
 3 to a minister's box, because your private office could
 4 take a view that this was copied to you out of
 5 politeness because you're one of the ministers, but
 6 actually it's not directly involved in what you're doing
 7 and therefore —
 8 Q. Thank you.
 9 A. As opposed to having something that was a key issue, and
 10 therefore you would have written notes on, comments on,
 11 et cetera, and that context would be quite helpful.
 12 Q. Thank you.
 13 Mr Lewis, could I politely encourage succinctness in
 14 answers.
 15 A. Sorry, yes.
 16 Q. I understand, it's always helpful to have context, but
 17 the questions are directed at particular points, so it
 18 would help us move on during the course of today.
 19 A. Sure.
 20 Q. Could we go to page 32 in the statement we're looking at
 21 on the screen {CLG00031121/32} and paragraph 82 in
 22 particular.
 23 There you say this, from the third line onwards:
 24 "Even where a submission [ministerial submission]
 25 concerned my ministerial portfolio, if the matter was

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1 contentious I would have anticipated the Secretary of
 2 State giving final approval."
 3 Now, in the particular areas of fire and resilience,
 4 during your time as a junior minister, can you give the
 5 panel an idea of the type of issues that would be
 6 ultimately decided by the Secretary of State?
 7 A. No, that's quite difficult to do now. I mean, as I say,
 8 with hindsight, I would say things like the fire
 9 strikes, the final decisions on what offer we would
 10 make, that would be a discussion between the
 11 Secretary of State and, indeed, at that time, probably
 12 the Chancellor.
 13 Q. Okay.
 14 Now, I would like to move to a new topic, which is
 15 the briefing that you received before the Lakanal House
 16 inquest which started in January 2013, and
 17 Sir Ken Knight's report on the emerging issues following
 18 that fire.
 19 Now, if we can stay in your statement and go back to
 20 page 7 {CLG00031121/7}, paragraph 21. Now, at the foot
 21 of that page, that paragraph says this:
 22 "On 3 December 2012 my Private Office sent me
 23 a submission of the same date updating me on the
 24 pre-inquest review for Lakanal House, which had taken
 25 place on 26 November 2012."

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1 If we can turn to that particular submission, which
2 we can find at {HOM00001135}. We can see in the
3 right-hand column at the top of page 1, the very top, it
4 was drafted by Louise Upton, and was dated
5 3 December 2012.

6 Now, if we look at paragraph 1, we can see that the
7 submission was, and I quote, to:
8 " ... [bring] you up to speed with the background and
9 progress towards the inquests into the six deaths which
10 occurred in the Lakanal House fire on 3 July 2009."

11 Is that right?

12 A. Yes, yeah, I can see that.

13 Q. Now, before you received that particular briefing, what
14 was the extent of your knowledge about the facts and
15 circumstances of the Lakanal fire?

16 A. I don't recall particularly having any, beyond the fact
17 that, because it was quite a well known, tragic
18 incident, it had happened, but I don't have any —
19 I didn't have any particular conscious knowledge or
20 memory of it.

21 Q. You don't recall any particular briefings devoted to the
22 topic?

23 A. No.

24 Q. Could we go to page 5 {HOM00001135/5}. You will see
25 there the heading at the top of the page,

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1 "Lakanal House: Background", and in the third paragraph
2 under the heading, the submission said this:

3 "On 6 July 2009, the then Secretary of State
4 requested that Sir Ken Knight, as Chief Fire and Rescue
5 Adviser, undertake an immediate review of the
6 circumstances surrounding the fire to provide an
7 independent overview of the investigations relating to
8 the fire and to report back on emerging findings
9 urgently. Sir Ken's report was published on 6 August
10 2009, highlighting various emerging issues, including
11 concerns about fire risk assessments in social housing.
12 As a result, DCLG instigated a programme of work to
13 consider and address the emerging issues identified."

14 Now, although you weren't in post as Parliamentary
15 Undersecretary at the time of publication, did you ever
16 read Sir Ken Knight's report that he prepared, which was
17 published in August 2009?

18 A. Well, no, I wasn't even a MP then, so I don't recall
19 being aware of it at all at that point. When I became
20 Parliamentary Undersecretary, I may well have been given
21 it to read, but I don't consciously remember that.

22 Q. If we could turn to the report, which we find at
23 {HOM00001092}, there it is.

24 If we could turn to page 24 {HOM00001092/24},
25 Sir Ken said this, in paragraph 2.2, in the lower half

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1 of that page:

2 "Although investigations are still ongoing, it is
3 believed that the fire then spread externally to the
4 11th floor where the maisonette directly above became
5 involved in fire. This is not unique fire spread caused
6 by the significant heat and flame coming from the
7 uncontrolled (the firefighters having withdrawn from the
8 9th floor) fire on the 10th floor and rising externally
9 up the face of the building."

10 Now, were you briefed in December 2012 about the
11 nature of the external fire spread at Lakanal, to the
12 best of your memory?

13 A. Not to the — to the best of my memory, no.

14 Q. Do you remember at that time — so we're talking the end
15 of 2012 — any discussion or briefing about the role of
16 external panels in the fire?

17 A. No.

18 Q. If we can turn to page 25 {HOM00001092/25}, and if we
19 look at section 3, and it's really the first paragraph
20 of that section, which says this:

21 "Although the cause of the fire at Lakanal House has
22 been identified, the fire development and fire spread
23 was unusual. The initial investigations have not as yet
24 been able to identify the mechanisms that caused the
25 fire development and spread."

19

1 Now, was the unusual nature of the fire spread at
2 Lakanal a point that was emphasised to you at the time
3 of this ministerial submission in December 2012?

4 A. Not that I recall, no.

5 Q. Now, the next two paragraphs read thus:

6 "The principles of fire safety and firefighting in
7 the UK are based on containment of the fire within
8 a compartment. It is therefore important that there is
9 a full understanding of how and why the fire developed
10 and spread to ensure that this principle remains sound.

11 "It is anticipated that the outcome of the
12 investigations will inform the question concerning the
13 internal passive fire protection and external fire
14 spread and will be used to provide appropriate guidance
15 on modification and refurbishment of premises and to
16 improve operational guidance for fire and rescue
17 services regarding firefighting procedures in such
18 premises."

19 Now, earlier in this module, Sir Ken Knight gave
20 evidence that, at the time, the major failure at
21 Lakanal — I'm using his words — was the failure of
22 compartmentation, and the way that the refurbishment of
23 the premises had allowed compartmentation to fail.

24 Was that a concern that you recall being briefed on
25 in December 2012, either by Sir Ken or by Louise Upton

20

1 or any other official ?
 2 A. I don't recall that. That doesn't necessarily mean that
 3 they didn't put submissions up or go through it, but, as
 4 I said, because at the time the main focus wasn't in
 5 this area, so I don't particularly recall this, and when
 6 subs would have been coming up and — around some of
 7 these issues, the work that that paragraph 3 outlines is
 8 work that you would — as a minister, you would assume
 9 that the officials have taken that into account as part
 10 of their thought process that would lead to the
 11 submission that you have got in front of you.
 12 Q. But you don't remember at the time either Sir Ken or
 13 indeed anyone else bringing this matter to your
 14 particular attention and saying, "Minister, we need to
 15 think about this"?
 16 A. No.
 17 Q. Similarly, do you remember any concerns being expressed
 18 or a briefing given to you by Sir Ken or anyone else
 19 about fire risk assessments in social housing and their
 20 adequacy?
 21 A. Not particular — not specifically on social housing.
 22 We did do some work generally around fire risk
 23 assessments, and wanting to ensure that they were done
 24 effectively, efficiently, and that we had — and that
 25 the — that we were looking at how the CFOA itself works

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1 to ensure that people are doing that in a proper and
 2 effective way, but as much for commercial premises,
 3 hotels and B&Bs and places like that.
 4 Q. Do you remember what prompted that work? Was it
 5 concerns about the competence of fire risk assessors or
 6 was it something else?
 7 A. I don't recall what prompted it, I'm afraid, but it
 8 was — there were discussions and a piece of work being
 9 done around how that's managed, how that's done and that
 10 it's efficient and effective for commercial businesses.
 11 I think, from memory, it was as much about hotels and
 12 sleeping accommodation as it was about anything to do
 13 with social housing specifically.
 14 Q. But, again, it wasn't a point that was of particular
 15 concern or prominence at this time; is that a fair
 16 summary?
 17 A. Yes, that's correct, yeah.
 18 Q. If we can go back to Sir Ken Knight's report at page 11
 19 {HOM00001092/11}, and it's really the heading under
 20 paragraph 7, which read, "The Regulatory Reform (Fire
 21 Safety) Order 2005". You will see a subheading
 22 italicised there, "Emerging issues", and Sir Ken wrote
 23 this:
 24 "There is a requirement under the Fire Safety Order
 25 to appoint one or more competent persons to assist the

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1 responsible person in undertaking the preventable and
 2 protective fire safety measures within premises.
 3 However, there is no similar requirement for a competent
 4 person to be appointed to assist in making a suitable
 5 and sufficient risk assessment.

6 "It is important that assurance be given to both the
 7 responsible person for the premises and the enforcing
 8 authority that a risk assessment has been undertaken by
 9 a competent person, particularly in relation to high
 10 risk premises."

11 Now, at this stage, were you aware that there was no
 12 statutory requirement in the Order for a competent
 13 person to be appointed to undertake a fire risk
 14 assessment?

15 A. I don't recall being aware of that at the time, no.

16 Q. If you were aware of it, given that you have no
 17 background in fire policy, would that have struck you as
 18 a surprising omission in the legislation?

19 A. I'm not sure it would necessarily strike me as
 20 a surprising omission. What I think — what we would be
 21 looking at, and the way we were focusing on things at
 22 the time, was allowing and trusting the experts in the
 23 sector to be able to do things. So part of the work
 24 with CFOA was around: they are the experts in the field
 25 and, therefore, making sure that there is a duty on

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1 building owners to have proper safety measures and risk
 2 assessments in place, and being — having to know where
 3 they go to get that advice, ie from the relevant
 4 fire authority or whoever an appropriate expert person
 5 is would probably be more the focus, rather than whether
 6 it required to be statutory — as long as there was
 7 a duty there and it's a requirement, whether it's in
 8 guidelines or primary statutory I think would be
 9 a secondary discussion.

10 Q. Would you nonetheless consider it from the lay
 11 perspective, which is essentially what you brought to
 12 bear, that as a baseline requirement, a competent person
 13 ought to be retained to carry out a fire risk
 14 assessment, given its importance in ensuring public
 15 safety?

16 A. Oh, yes, yeah, that's a very fair point, yeah.

17 Q. If we turn over the page to page 12 {HOM00001092/12}, we
 18 see a box which is headed "Areas for consideration", and
 19 the first bullet point reads thus:

20 "■ Consideration should be given to conducting
 21 a review as to how the responsible person under the
 22 Regulatory Reform (Fire Safety) Order 2005, can be
 23 assured that their assessment of risk is suitable and
 24 sufficient, particularly where the premises is of
 25 a higher risk. This assurance is particularly important

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1 where the responsible person may be relying on using
 2 someone else to undertake the risk assessment.
 3 "■ Where appropriate, the current Fire Safety Order
 4 guidance should be amended accordingly."
 5 Were you aware of that particular recommendation?
 6 A. I don't recall being consciously aware of that, no.
 7 Q. Do you recall having any views on that, however
 8 preliminary or —
 9 A. Well, in the sense — yes, in the sense that — not
 10 particularly related in the sense of it being to that
 11 box, area for consideration point, but, as I said, we
 12 were looking at how we made sure that there was
 13 a structure whereby the risk assessments were being
 14 properly carried out. It was actually part of a wider
 15 range of work around regulations that the government was
 16 doing more generally, and one of the things we were
 17 looking at was making sure that commercial premises were
 18 having proper checks, and actually that — and we saw
 19 CFA as the body that should be able to advise on that,
 20 as the experts in fire.
 21 Q. Now, Sir Ken's evidence to the Inquiry was that he'd
 22 intended to recommend that Article 9 of the Order be
 23 amended so as to place a duty on the responsible person
 24 to appoint a competent person to carry out a risk
 25 assessment in high-risk premises. Were you aware of

25

1 that thinking that underlay Sir Ken's advice here?
 2 A. Not that I recall, no.
 3 Q. Do you recall any conversation in which he raised this
 4 prospect with you —
 5 A. No.
 6 Q. — as an idea or anything else?
 7 A. No.
 8 Q. Now, Louise Upton told us that she had — I use her
 9 word — potentially informed Sir Ken's office that any
 10 proposed revision of the Order would not be looked upon
 11 favourably within the department.
 12 Would you have considered such a recommendation
 13 unfavourably?
 14 A. Well, I don't see why I would have particularly
 15 considered it unfavourably. If a submission is put
 16 up — my view has always been — and, to be fair,
 17 I think this was the wider view across the department —
 18 if a submission was put up with a recommendation based
 19 on the advice of experts, then we would be taking the
 20 advice of experts. That's how submissions work, and it
 21 would be — I'd be surprised, if we had our officials
 22 with all of their experience and an expert like
 23 Sir Ken Knight suggesting something, that we wouldn't
 24 give that very serious consideration with a view to
 25 taking that forward as the appropriate way forward.

26

1 I mean, it would depend on the wider context, but
 2 I would be surprised that somebody would assume that we
 3 would not look at it favourably when it's coming from
 4 somebody with that kind of expertise.
 5 Q. I hope I put this fairly, but the impression arising
 6 from Louise Upton's evidence was that there was
 7 a political predisposition against further statutory
 8 intervention in this field.
 9 First of all, is that something you recognise?
 10 A. Yes, in — well, yes, in the sense that we would always
 11 look at: do you require — and, to be fair, in
 12 government we still do — do you require statute to
 13 achieve what you're looking to achieve? Can you do
 14 it — is there statutory powers in place that already
 15 allow you to do this through guidelines or regulations,
 16 rather than having to do primary legislation? So in
 17 that sense, that's a fair point. But I think from my
 18 memory, and even when I was looking through some of the
 19 papers for the Inquiry, I think we had a fairly strong
 20 record in DCLG, both before my time and through that
 21 period, of being very, very serious about the work we
 22 were doing to ensure fire safety, for example the Fire
 23 Kills campaign, the work we did on carbon monoxide
 24 sensors, I think highlights we were looking to do all we
 25 could to ensure that we were working with the experts to

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1 keep people safe.
 2 Q. Now, at the time that Louise Upton briefed you in
 3 December 2012, had you been made aware of any other
 4 research that had raised further concerns about the
 5 quality of fire risk assessments being carried out in
 6 England?
 7 A. I don't particularly recall that, but — no.
 8 Q. I may take you through a few.
 9 A. Sure.
 10 Q. If you recall any, shout, but if not, say so.
 11 Now, can we go to DCLG's review from March 2009
 12 about the effectiveness of the Regulatory Reform Order.
 13 We can find that at {HOM00046062}. You can see there
 14 it's entitled the "Initial Evaluation of the
 15 Effectiveness of The Regulatory Reform (Fire Safety)
 16 Order 2005".
 17 Were you aware, in broad terms — you may have no
 18 good reason to have read this in particular — of
 19 concerns expressed by what were described as
 20 stakeholders over the variability in the level of
 21 competence evident in the work of independent fire risk
 22 assessors or fire safety consultants, and that it had
 23 "led to some demands for a system of accreditation to be
 24 put in place, to quality-assure the work of such
 25 organisations or individuals"?

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1 A. I don't particularly recall that specifically. There
 2 was always — and in that brief I had at the time beyond
 3 fire, there was always in a number of sectors people in
 4 the sector asking for more regulatory powers, and that
 5 happening in high streets and across local government,
 6 but I don't particularly remember that specifically.
 7 Q. No.
 8 Another document is one that was published in
 9 December 2010, which I recognise was before you entered
 10 office, just after you entered parliament, indeed. The
 11 London Assembly's planning and housing committee had
 12 produced a report called "Fire Safety in London:
 13 Fire risks in London's Tall and Timber Framed
 14 Buildings".
 15 If we go to {INQ00014711}, that's the document. Do
 16 you remember seeing that at all?
 17 A. No.
 18 Q. Could we go to page 41 {INQ00014711/41} and look at
 19 recommendation 7, which is at the top of the page. That
 20 recommendation said this:
 21 "By 2012, DCLG in association with the relevant
 22 bodies such as the Local Authorities Co-ordinators of
 23 Regulatory Services ... and Chief Fire Officers
 24 Association should draw up national guidance to ensure
 25 mandatory minimum standards of competence for training

29

1 and accrediting fire risk assessors."
 2 Were you aware of that recommendation?
 3 A. Not that I recall, no.
 4 Q. Were you aware of the Fire Futures review which had been
 5 launched by, I think, your predecessor, Bob Neill, in
 6 July 2010?
 7 A. Yes.
 8 Q. If we can go to the Fire Futures national interest
 9 workstream report, which we can find at {FSF00000037}.
 10 Now, this was published in December 2010.
 11 If we could go to page 10 in this document
 12 {FSF00000037/10} and look at the fourth paragraph on the
 13 left — hand side, it says this:
 14 "There is currently a perceived low level of
 15 competency within the sector in relation to fire safety
 16 and built environment, not helped by the fact there is
 17 no common qualifications' framework that covers building
 18 and fire safety competencies. Whilst the [fire and
 19 rescue service] undertakes building safety checks, no
 20 single organisation can take on responsibility for
 21 awareness of fire safety amongst building designers,
 22 constructors, owners and occupiers. This campaign can
 23 be taken on by that part of Fire UK, normally referred
 24 to as the 'industry'. That part of the sector needs to
 25 come together more closely and be less introspective,

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1 and there must be a much better dialogue, in particular,
 2 with those outside the core specialist fire safety
 3 sector who are not fire specialists but who in practice
 4 are responsible for delivering fire safety in practice
 5 (eg general design, specification, and construction,
 6 owners)."
 7 Were you aware even in broad terms of the nature of
 8 the concerns expressed here?
 9 A. No, but I don't think it's an unreasonable concern.
 10 Q. Is it one that you had heard resonated elsewhere after
 11 you had taken office as Parliamentary Undersecretary?
 12 A. Not particularly. As I said, there was always — in
 13 most sectors in my experience at that point — as I say,
 14 not just in fire but in other parts of my brief — parts
 15 of industry always were seeking to have some kind of
 16 a regulated structure for themselves. Oddly — and
 17 I appreciate this is not directly on fire — but
 18 hair dressers is an example of that, where they wanted
 19 that, which becomes actually a barrier to entry to the
 20 industry. But I don't particularly remember
 21 specifically being lobbied or having people outline
 22 issues on this particular area. We were — as I say,
 23 the focus for us when I came into this post was in
 24 a different part of the brief, really.
 25 Q. Can I turn to a separate topic now, which is a letter

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1 that was sent to you by the then commissioner of the
 2 London Fire Brigade, Ron Dobson. It was sent on
 3 11 December 2012, and it concerned the definition of
 4 "common parts" under the Order and fire risk assessor
 5 competency, as well as a lack of clarity in Approved
 6 Document B.
 7 Now, the letter is at {LFB00032154}. On its first
 8 page, it says this:
 9 "Dear Minister,
 10 "You will be aware that the London Fire Brigade has
 11 been carrying out an investigation into the fire that
 12 occurred at Lakanal, Camberwell, on the 3rd July 2009.
 13 In the course of that investigation a number of issues
 14 have come to light that may warrant consideration by
 15 your Department. The issues have been set out below as
 16 a number of recommendations. Appendix One, which is
 17 attached to this letter, provides background information
 18 for each recommendation."
 19 If we can skip a paragraph, we see recommendation 1,
 20 and this commended the following:
 21 "That Government provide further guidance regarding
 22 (a) which parts and areas of buildings containing
 23 multiple domestic premises can be described as 'parts
 24 used in common' (common parts) and (b) how the fire
 25 safety order is intended to operate in relation to these

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premises where the responsible person does not necessarily have control over features affecting common parts and/or common fire precautions.

"Recommendation 2: That when the CLG sleeping accommodation guide is revised consideration is given as to how the guide might provide greater assistance for risk assessors, owners and managers as to how they, as responsible persons, might comply with the Order with regards to the common areas of domestic premises."

If we go to the bottom of page 1, we find recommendation 5:

"That Government provide further guidance in relation to Requirement B4 of the Building Regulations, particularly with regards to the spread of fire over the external envelope of the building."

If we could turn over the page {LFB00032154/2}, we find recommendation 7:

"That Government provide guidance for the responsible person as to how they might assess that the risk assessor has sufficient training, experience and knowledge to carry out a suitable assessment of the risk in complex and high risk premises."

That's a long run—up to a short question, which is: do you remember this letter?

A. Yes, I do, yes, and it's one of the things I'd looked at

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in terms of putting together my witness statement.

Q. Did you read it at the time it was received?

A. I'm sure I would have done, yes.

Q. Now, if we turn to the ministerial submission that included a draft response prepared by officials to the commissioner's letter, we find that at {CLG00001859}. Again, we can see from the top right that the submission was drafted by Louise Upton, and we can see that it's dated January 2013, and that it had been cleared by Dawn Eastmead.

Now, do you recall having a discussion with either Dawn Eastmead or Louise Upton, or indeed both, about the substance of the commissioner's letter?

A. I don't particularly recall having a discussion about it, but it is entirely possible that we would have done.

Q. Do you remember, thinking about matters more particularly, discussing the substance of the proposed response?

A. No.

Q. Would you discuss with officials the substance of a proposed response to this type of letter, or would you scan it and approve it if it didn't raise any concerns with you?

A. I wouldn't necessarily have a conversation with officials about it. It would depend on — the first —

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it's quite likely the first I saw of the Ron Dobson letter would have been it would have come to — it would normally come to a minister — in my experience, the letter from Ron Dobson would have come with the submission and potentially the draft reply all at the same time. So what I would have done as a minister is look through that. If I'm happy with it, I would have likely just ticked it, signed it off to say that's fine. If I had queries, we may well then have had a conversation about it. That's the likely process it would have gone through.

Q. When you're looking at the proposed letters, are you most particularly looking out for matters that are of political sensitivity? Is that the primary focus when considering these drafts?

A. Not necessarily. I mean, that will be something that you would think about, as a politician replying to a letter —

Q. It's instinctive.

A. — it's just instinctive, and the reality is everything you write, you write knowing it's going to end up at some stage as a public document. But in something like this, you would also be looking through saying, "Do I actually" — you know, is the reply a reply we're happy with in whatever context. This would have — and

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I can see from the top left this has gone to myself, the then housing minister and the building regs minister, Mark Prisk and Don Foster. The challenge with a letter like this I suspect would have been at the time that there are parts of the letter that come into each of our individual briefs and therefore parts of that letter that I won't have taken a view on, because they're not areas that were my expertise or portfolio.

Q. Now, given that the response went out under your name, to what extent did you scrutinise or test officials on the contents of what they were saying, given that ultimately you were the addressee in the first instance and you were answerable for the contents?

A. It's very — the honest answer is I don't recall, but it's very likely that not very much, in the sense of I would have expected to have gone through the letter and the areas within my portfolio I would have a view on, and I may well have been just very happy with the draft given by officials. They are, you know, the experts and you trust them and you're used to working with them a lot, as it happens, in certain areas.

In the parts of the letter that were not part of my brief, I will have — even though it's gone in my name, I would have taken the view that the relevant teams working for both Mark Prisk and Don Foster would have

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1 gone through that, and if they're happy with it, it's
 2 their portfolio, it's their expertise, I wouldn't
 3 particularly have necessarily commented on that.
 4 Q. In practice, therefore, you're tremendously reliant upon
 5 the advice and good judgement of your officials in
 6 preparing these responses; is that a fair summary?
 7 A. Yes, absolutely, yes.
 8 Q. If we can look at the —
 9 A. Sorry, I should just say, that, to be fair, is a very
 10 fair and good reason, in the sense that as ministers you
 11 can sometimes be in a brief for a matter of months, if
 12 you're fortunate for a matter of years; officials will
 13 tend to be there for longer, so you know they're the
 14 ones with the expertise.
 15 Q. And unless there's something express or it's
 16 a contemporary source of political concern, you won't
 17 necessarily raise any doubts or concerns about the
 18 substance?
 19 A. Correct, and probably the longer you are a minister in
 20 a particular brief — because, again, then you — after
 21 a period of time, you develop your own understanding and
 22 expertise of an area.
 23 Q. If we could look at that draft response, Mr Lewis,
 24 {LFB00032153}.
 25 Now, if we turn to page 3 {LFB00032153/3}, we can

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1 see it was signed by Louise Upton.
 2 Would it be normal in these circumstances, even
 3 though the letter was addressed to you and from
 4 the commissioner of the London Fire Brigade, for it to
 5 be — I put this colloquially — staffed out to
 6 an official to sign and send?
 7 A. Yes, yeah, that's not — that wouldn't be unusual, and
 8 the reason for that, I would — I can't remember the
 9 detail at that point, but I would imagine that the
 10 reason would be that Ron Dobson is not a politician, he
 11 is an official, as the chief commissioner, and therefore
 12 the reply going to him from an official would not have
 13 at the time seemed controversial in itself.
 14 Q. If we can go back in the document to page 1
 15 {LFB00032153/1} and look at the third and fourth
 16 paragraphs on that page, Ms Upton said this:
 17 "In terms of recommendations 1 and 2, we have
 18 considered previously the extent to which the Regulatory
 19 Reform (Fire Safety) Order 2005 — which gives effect to
 20 a number of European Council Directives designed to
 21 improve safety and health of workers at work — was
 22 intended to apply to premises, or parts of premises,
 23 other than those which could be viewed as workplaces or
 24 places to which the public have access. As you know,
 25 the Order specifically does not apply to domestic

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1 premises, except to the extent mentioned in
 2 article 31(10).
 3 "Although ultimately, only the Courts can decide, we
 4 have no evidence to suggest that the Order was intended
 5 to apply generally to the structure of a block of flats.
 6 In brief, this is because it would be artificial to
 7 delineate the domestic premises, for the purposes of the
 8 Order, in such a way that it excludes the structure,
 9 such as external walls, around a flat. We consider this
 10 is the case regardless of whether the structure is, in
 11 property law terms, comprised within the lease or
 12 tenancy of a flat because, considering the variety of
 13 possible arrangements and extent to which various
 14 combinations might apply in any one building, the
 15 results are anomalous. We therefore do not consider
 16 that the Order could have been intended to apply in this
 17 way."
 18 If we go over the page {LFB00032153/2}, the first
 19 three paragraphs on page 2. She recognised the
 20 legislative complexity in the first paragraph. The
 21 second paragraph is:
 22 "Following the Lakanal House fire, those responsible
 23 for fire safety in purpose built flats reported that
 24 they would welcome additional and specific guidance on
 25 how to manage fire safety ..."

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1 Thirdly, confirmation there was sector—developed
 2 guidance in place.
 3 Now, the impression arising from that draft is it's
 4 merely restating what the department had already done.
 5 Is that a fair reading, do you think, Mr Lewis?
 6 A. Yes, other than — up until the point where, in that
 7 final paragraph you mentioned starting "Following the
 8 Lakanal House fire", obviously that does lead into the
 9 work that was then being done with the Local Government
 10 Association, LACORS as it was referred to, about what
 11 they were developing and looking at.
 12 Q. If we go back to page 1 {LFB00032153/1} and just look at
 13 what was said in respect of recommendation 1, would you
 14 agree that the thrust of the response was that the
 15 department did not plan to implement the LFB's advice
 16 and recommendation that the guidance be given on the
 17 definition of common parts for the purpose of the Order?
 18 A. Reading that paragraph, yes.
 19 Q. And that the department's response in respect of that
 20 definition was essentially that it would be doing
 21 nothing more; is that a fair reading?
 22 A. Yes, in the sense that the outline was that what was
 23 there and in place was satisfactory.
 24 Q. And presumably you were content with that approach?
 25 A. Yes, and, as I say, at the time what I can't recall —

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1 and this comes back to your — I think your opening
 2 question around the way subs are dealt with and being
 3 able to see notes — not being able to see the original
 4 notes, it is entirely possible that some of these areas
 5 would not have been directly in my portfolio and
 6 therefore I wouldn't have particularly commented on it,
 7 and I would have taken the view that the officials
 8 working with the relevant ministers would have put that
 9 together in a format that was right.

10 Q. Would it be fair to say that you had no informed view of
 11 the problems flowing from the absence of a definition of
 12 "common parts"?

13 A. Yes, yeah, that is a very fair point.

14 Q. And you would defer to officials on that particular
 15 point?

16 A. Yes.

17 Q. Now, Louise Upton told the Inquiry that there was a lack
 18 of clarity within the department about the scope of the
 19 definition or the absence of any definition of "common
 20 parts". Was that something she told you about?

21 A. Not that I recall particularly in this context. I mean,
 22 I'm not saying she didn't, I just don't particularly
 23 recall it in this context. There were — and this —
 24 coming to the final paragraph that's on the screen in
 25 front of me, there were conversations in a different

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1 context at the time because there were issues around
 2 ownership and how you deal with these areas, but with,
 3 for example — not particularly with regard to
 4 fire safety, but in a different context when I was in
 5 the housing brief, around, for example, care homes and
 6 residential care homes and exactly where the private
 7 domain ends and where the common area begins. So that
 8 conversation in a different context happened, but that
 9 was at a later point.

10 Q. When Ron Dobson gave evidence to the Inquiry, he
 11 essentially said that the concern which underlay
 12 recommendation 1 was the rapidity of fire spread at
 13 Lakanal. Was that concern made clear to you by
 14 officials when briefing you on the substance of this
 15 response, do you recall?

16 A. No, not that I recall, no.

17 Q. Would it have been unusual for you to have received
 18 correspondence from the LFB commissioner in these terms,
 19 making specific recommendations for reform?

20 A. No, I don't think so, in the sense that — at a couple
 21 of levels. One is obviously I was the fire minister, so
 22 for Ron Dobson as the commissioner, he would naturally
 23 write to the fire minister, even if it was relating to
 24 other areas, and it would be for me as the fire minister
 25 who had the relationship with the London fire

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1 commissioner, my team would be the ones who would do the
 2 work, even if it was with other ministers in other parts
 3 of the department, to then compile that to respond. And
 4 I would have had quite a lot of engagement with
 5 Ron Dobson as the London fire commissioner — he is the
 6 sort of premier fire chief in the country, as it were —
 7 on a whole range of issues, rather like the
 8 Metropolitan Police commissioner. They have a wider
 9 role than just London and an expertise. So I would have
 10 had a lot of interaction with Ron Dobson generally.

11 Q. Just following on from that —

12 A. Relative to other chiefs.

13 Q. Bearing in mind that answer, did you ever say to
 14 Ron Dobson, "Listen, I've seen your letter of
 15 December 2012, what in particular was prompting it? Why
 16 have you written to me in these terms?"

17 A. Not that I recall, but that is — that's most likely
 18 because it was being dealt with as part of the work that
 19 the department were doing, and I was — would have been
 20 comfortable at the time that the department's properly
 21 replying and responding to the issues he was raising.

22 Q. Now, if we can look at what is said in the response in
 23 relation to recommendation 5, if we go to page 3
 24 {LFB00032153/3}, the top paragraph, it said:
 25 "Requirement B4 of the Building Regulations, and its

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1 supporting guidance, explicitly state that external
 2 walls should adequately resist the spread of fire over
 3 the walls and from one building to another. Further
 4 guidance is given in the BRE publication [which is
 5 quoted there] ... which explains the objectives for
 6 controlling fire spread on the external envelope of tall
 7 buildings in detail."

8 Now, the gist of that response is that
 9 requirement B4 and its supporting guidance was
 10 sufficiently clear about external walls and fire spread.
 11 Is that a fair reading of that paragraph?

12 A. Yes, and this paragraph, I think, falls into
 13 the category I mentioned — that I sort of referred to
 14 in a different context, which is the sense that because
 15 this is explicitly about Building Regulations, this is
 16 not part of the letter I would have necessarily had any
 17 knowledge of or taken a view on. I would have trusted
 18 that the officials working through the building regs
 19 team, which would have been a different minister —
 20 whether it was Don Foster or Stephen Williams, I can't
 21 quite remember the timeframe — but that that is correct
 22 and that they were happy with it.

23 Having read it, however, and noting Louise has
 24 underlined the word "and", I actually would say I do
 25 think that is clear as well.

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1 Q. Now, could we return to Mr Dobson's letter,
 2 {LFB00032154/6}, and this is the bit of the letter where
 3 he sets out a bit more of his reasoning which underpins
 4 recommendation 5.
 5 If we look at the penultimate paragraph on page 6,
 6 the letter said this:
 7 "The investigation has highlighted that the
 8 intentions of Building Regulations with regards to
 9 restricting the spread of fire over the external face of
 10 the building may not be fully understood. We do not
 11 think that Approved Document B is particularly clear on
 12 this matter."
 13 Now, bearing in mind what you've said about building
 14 regs falling primarily in the sphere of other ministers,
 15 do you remember any concern at the time that whilst
 16 officials were telling you that B4 was clear, you've got
 17 the head of the largest fire and rescue service in the
 18 country saying, "We don't think it is"? Did that ever
 19 give you cause for concern, given its general relevance
 20 to fire?
 21 A. No, I don't recall it doing so, and when I — when you
 22 look at the Louise Upton response and that particular
 23 line around the phraseology, as I say, where she
 24 underlined the word "and", even reading it as somebody
 25 without — I would have taken two thoughts on it. One

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1 would have been, first of all, the building regs team
 2 are confident, they're the experts, they've said that
 3 this is okay and this is correct and I would have
 4 trusted that, and the relevant minister I would have
 5 expected to comment on it if he felt otherwise. And
 6 also, even on reading Louise's reply, as I said, even
 7 when you look at that — the paragraph we had on the
 8 screen a few moments ago, that language, to me, I have
 9 to say, even today, looks clear.
 10 Q. Now, bearing in mind the strength of the letter and the
 11 fact he's written to you, do you remember discussing the
 12 contents of Mr Dobson's letter with Sir Ken?
 13 A. No, I don't, actually, no.
 14 Q. Did it pass through your mind that it would be useful to
 15 have Sir Ken's views as to whether Mr Dobson's concerns
 16 reflected broader concerns in amongst fire and rescue
 17 authorities?
 18 A. Well, I wouldn't have got involve in an issue around
 19 Building Regulations. That would have been the
 20 Building Regulations minister. I may —
 21 Q. But the other recommendations —
 22 A. Yeah, no, I would've — it is very likely at the time
 23 that around wider issues around the letter, I may well
 24 have had a conversation with Sir Ken Knight, I just
 25 don't particularly recall it.

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1 Q. None is referred to in your witness statement, so can we
 2 presume that one didn't take place or would that —
 3 A. Well, as I say, I have no recollection of those
 4 conversations happening at the time. But, as I say,
 5 I would have been engaging with and talking to, whether
 6 it was Sir Ken Knight and others, on a whole range
 7 issues at different times, so that doesn't mean it never
 8 came up, but I don't recall a specific conversation
 9 around it.
 10 Q. Now, when he gave evidence to the Inquiry, Mr Dobson
 11 stated that the hope in relation to recommendation 5 was
 12 that the government would provide some additional advice
 13 and clarity in relation to the meaning of B4, or even to
 14 revise Approved Document B altogether.
 15 Were you aware of that particular hope held by
 16 Mr Dobson?
 17 A. I don't recall being aware of it at the time. Obviously
 18 I've seen what he's said to the committee, and I know
 19 the government was looking at doing work to revise
 20 Approved Document B, but that's not something I was
 21 involved with or conscious of at the time, no.
 22 Q. In respect of recommendation 7 from Mr Dobson's letter,
 23 which focused on competency of fire risk assessors,
 24 Louise Upton's response doesn't deal with that at all.
 25 First of all, are you able to help us as to why

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1 there was no response on that particular issue?
 2 A. No, and — no, and having read it, that struck me, and
 3 I can't recall realising that at the time, but I don't
 4 consciously recall the letter from the time. But even
 5 reading it today, no, I'm afraid I can't — I'm unable
 6 to help with why that is.
 7 Q. Were you aware at the time whether there were any
 8 substantive proposals or even early thinking about what
 9 to do about the concern expressed about the competency
 10 of fire risk assessors as reflected in Mr Dobson's
 11 letter?
 12 A. As I said earlier on, yes, I do recall having
 13 conversations, and we were looking at how we ensure, in
 14 the context particularly of, as I say, commercial
 15 premises where people were sleeping — as I say, hotels,
 16 bed and breakfasts, HMOs, places like that — that
 17 property owners understood they had a duty to ensure
 18 that they had proper checks and were doing so in
 19 an efficient and effective way. There was equally
 20 a problem at the time, if I recall correctly, that
 21 people were having issues around having multiple checks
 22 at different times. So how do we bring this together to
 23 make sure that this is done efficiently and effectively
 24 with experts? Again, the chief fire officers and the
 25 fire authorities in those areas were probably the best

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1 placed organisations and experts to be able to advise
 2 local businesses on doing that.
 3 MR KINNIER: Thank you.
 4 Can we move on to a separate but related —
 5 SIR MARTIN MOORE—BICK: Sorry to interrupt you, Mr Kinnier.
 6 Before we do, can I just seek your help on this:
 7 looking at the letters now, you clearly appreciated that
 8 there was no draft response to the recommendation about
 9 fire risk assessors; is that something that you think
 10 perhaps you should have noticed at the time?
 11 A. Yes, I think that's a fair point, yeah.
 12 SIR MARTIN MOORE—BICK: Had you done so, what would have
 13 happened?
 14 A. Well — and this again comes back to the challenge of
 15 not being able to have the original documents with
 16 comments. It may well be that there is a handwritten
 17 note somewhere asking that very question, I just don't
 18 consciously recall it.
 19 SIR MARTIN MOORE—BICK: I understand.
 20 A. And it may well have been that there wasn't — it wasn't
 21 involved in the letter because there had been a meeting
 22 or separate conversation or something else was happening
 23 that I'm afraid I just don't recall at the moment.
 24 Looking at it, as you say, Chairman, now, not having
 25 that context or knowledge of that, it seems odd that

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1 that wasn't dealt with, or indeed that, from what I can
 2 see, it wasn't particularly followed up as an issue
 3 afterwards, which would infer to me that there was
 4 something else going on that was dealing with that
 5 separately, but I don't know.
 6 SIR MARTIN MOORE—BICK: All right. Thank you very much.
 7 Yes, Mr Kinnier.
 8 MR KINNIER: We will follow this particular topic through,
 9 so it may become clear as we follow through the
 10 documents.
 11 If we can look now at the Rule 43 letter that
 12 followed the Lakanal House inquest and the department's
 13 response to the coroner, if we can go back to your
 14 witness statement, {CLG00031121/9}, and if we look at
 15 paragraph 26, you confirm that:
 16 "On 28 March 2013 my Private Office was sent
 17 notification of the verdicts in the Lakanal House
 18 inquest."
 19 If we could look briefly at the letter, which we
 20 find at {HOM00045865}, we can see the coroner wrote to
 21 the Secretary of State himself.
 22 Nonetheless, would you have seen that letter when it
 23 arrived?
 24 A. Quite likely, yes.
 25 Q. Now, if we can look at page 2 {HOM00045865/2} and the

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1 heading "Fire risk assessments pursuant to Regulatory
 2 Reform (Fire Safety) Order 2005", the coroner said this:
 3 "The evidence adduced indicated that,
 4 notwithstanding publication of your Department's 2006
 5 guide (Fire safety Risk, sleeping accommodation) and of
 6 the Local Government Association's August 2011 guide,
 7 there remains uncertainty about the scope of inspection
 8 for fire risk assessment purposes which should be
 9 undertaken in high rise residential buildings. Evidence
 10 was adduced which indicated that inspection of the
 11 interior of flats or maisonettes in high rise buildings
 12 was necessary to enable an assessor to identify possible
 13 breaches of the compartment which have the potential to
 14 impact on the fire safety of the resident or others.
 15 "It is recommended that Government provide clear
 16 guidance on
 17 "■ the definition of 'common parts' of buildings
 18 containing multiple domestic premises.
 19 "■ inspection of a maisonette or flat which has been
 20 modified internally to determine whether
 21 compartmentation has been breached.
 22 "■ inspection of a sample of flats or maisonettes to
 23 identify possible breaches of the compartment."
 24 Now, that again is a long run—up to a fairly
 25 straightforward question: do you accept that the clear

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1 thrust of the coroner's recommendation was that there
 2 remained uncertainty about the scope of inspection in
 3 fire risk assessments of high-rise buildings?
 4 A. From that letter, yes.
 5 Q. Would you also accept that there remained uncertainty
 6 about the definition of "common parts" for the purposes
 7 of the Order, because why else would she recommend that
 8 the government provide a clear definition of "common
 9 parts"?
 10 A. Again, as outlined in the letter, yes, I do accept.
 11 Q. Now, if we could go back to your statement,
 12 {CLG00031121/9}, paragraph 27, you say this:
 13 "On 17 April 2013 my Private Office was sent
 14 a submission regarding the 'Lakanal House Inquest —
 15 Rule 43 Fire Safety Recommendations'. I provided my
 16 approval on 30 April 2013."
 17 Now, if we could look at that submission, which is
 18 at {HOM00046067}, again top right—hand side, drafted by
 19 Louise Upton, cleared by Dawn Eastmead, and dated
 20 17 April 2013.
 21 If we could turn to paragraph 3, which lies under
 22 the heading "Recommendation", the submission said this
 23 to you:
 24 "That you agree [to] respond to the coroner's
 25 recommendations (set out in paragraph 6 below) in

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1 respect of the Regulatory Reform (Fire Safety) Order
 2 2005 and fire safety in multiple domestic premises as
 3 follows:
 4 "▪ highlight the availability of DCLG-funded
 5 national guidance ('Fire Safety in Purpose Built Blocks
 6 of Flats' — July 2011), owned by the Local Government
 7 Association on behalf of the housing and fire sectors;
 8 and, confirm that DCLG are working with the LGA to
 9 consider whether it remains fit for purpose; and
 10 "▪ acknowledge that whilst the legislation (i.e.,
 11 the Fire Safety Order, which applies to the common parts
 12 of such buildings and, the Housing Act 2004, which
 13 applies to individual dwellings and to the common parts)
 14 can be complex (Annex B), the guidance, which is well
 15 known within the sector, is designed to make its
 16 practical application simple. We have no plans to issue
 17 new guidance but we will, with the LGA and stakeholders,
 18 review and, if necessary, amend the existing guidance to
 19 ensure it adequately reflects issues raised by the
 20 Inquest."
 21 Now, on what basis did you — and I mean you, not
 22 your officials — conclude that a review with only the
 23 possibility of a revision was a sufficient answer to the
 24 clear and express terms of the coroner's recommendation?
 25 A. Well, exactly as you — I think the point that's made

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1 there in the submission is fair, to do a review to
 2 assess whether what is already in place is clear enough
 3 and works for the sector, and to do that working with,
 4 as I said in answer a short while ago, that work we were
 5 doing with the LGA, who were the — who through, as was
 6 called, LACORS had the ownership of dealing with the
 7 majority of the fire services.
 8 Q. But, Mr Lewis, doesn't that answer miss the vital point
 9 here, that the ministerial submission only held out the
 10 possibility of revision, which clearly fell short of
 11 what the coroner was expecting of government?
 12 A. Well, the coroner is outlining — is making the point
 13 that they feel that that needs reviewing. It is
 14 obviously then for the government to have a look at
 15 that, decide, having done a review, as we're saying
 16 here, of that work with the LGA, what is necessary and
 17 how to do that to — if there is a requirement to amend
 18 existing guidance, which I think is a reasonable
 19 response.
 20 Q. Well, with respect, Mr Lewis, shall we go back and look
 21 at what the coroner actually said. Can we go to
 22 {HOM00045865/2}, and if we look at the bottom paragraph
 23 there, if that could be expanded, the coroner was clear
 24 and express and unambiguous about what she said, which
 25 is that, "It is recommended that the Government provide

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1 clear guidance on". So a review which offered only the
 2 possibility of revision, I suggest to you, falls far
 3 short of the more direct provision of clear guidance
 4 that she was expecting and recommending; would you
 5 accept that?
 6 A. Oh, yeah, no, I don't disagree. I accept that what the
 7 government was proposing is not what the coroner
 8 directly asked for in that letter, but my point is that
 9 having had the coroner ask for the government to provide
 10 clear guidance of the definition of "common parts", the
 11 government looking at whether the guidance that's in
 12 place is good enough and whether and how to change that
 13 I think is a reasonable response.
 14 Q. But it's not a response to what she recommended; would
 15 you accept that?
 16 A. Well, she is recommending the government provide clear
 17 guidance. If you look at what the submission says, the
 18 submission — part of — I would make the case to you
 19 that part of what the government is saying is to look at
 20 whether our guidance is clear enough and to then take
 21 a view about what needs to be amended. If it needs to
 22 be amended, it would be, and through that period, there
 23 was quite a lot of work done at CLG in a range of areas,
 24 as I touched on earlier on, around improving things for
 25 fire safety. So I think if there was a view that it

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1 needed to be improved, we would have looked favourably
 2 upon that, but it's right that the government does the
 3 work to make that assessment.
 4 Q. Bearing that in mind, when you were considering the
 5 ministerial submission, do you remember putting,
 6 figuratively or literally, the coroner's letter on one
 7 side of your desk and looking at the proposed response
 8 and asking yourself the question: have we done what
 9 the coroner is expecting of us?
 10 A. Well, I don't particularly recall consciously having the
 11 submission from the officials, but it certainly would
 12 have been a submission I would have had at the same
 13 time. They would have been together, so I'd have been
 14 looking at them at the same time, yes.
 15 Q. Did you discuss the substance of the submission with
 16 either Dawn Eastmead or Louise Upton, or indeed both?
 17 A. I don't recall. That, again, is where having some of
 18 the original documentation would help, because I would
 19 have likely written on it "Wish to discuss" or something
 20 along those lines. But, as I say, I don't recall
 21 a specific meeting on that.
 22 Q. You said you were likely to have written, "Let's
 23 discuss"; why do you think that was a likelihood?
 24 A. No —
 25 Q. Was it just something —

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1 A. No, my point was if I had had a meeting on it, this is
 2 where the original documentation would be useful.
 3 I don't recall having a specific meeting or conversation
 4 on this issue. The original documentation would be
 5 useful because if I had have done or if I'd wanted to,
 6 I'd have likely written on the sub something like
 7 "I want to discuss this", but I don't recall that.
 8 Q. Now, were you aware at this time that a review of the
 9 LGA had been carried out in 2012, so before this letter,
 10 and that review had revealed that some stakeholders
 11 considered that there were "gaps" in that guidance,
 12 including in respect of flat entrance doors, vulnerable
 13 people, personal evacuation plans and the competency of
 14 fire risk assessors?
 15 A. I don't recall being aware of that at the time. I've
 16 seen it through the documentation, obviously, for
 17 the Inquiry.
 18 Q. Is that the type of information which you would rely
 19 upon officials to give to you?
 20 A. Yes, yeah.
 21 Q. Particularly where the guide is prayed in aid —
 22 A. Even if —
 23 Q. If you let me finish the question.
 24 A. Sorry.
 25 Q. — in relation to the effectiveness of the government's

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1 response to the coroner's recommendations?
 2 A. Yes, even if it's in the context of an official saying,
 3 "This is our draft reply and this is the reason for it",
 4 I would expect to have it put in that format, yes.
 5 Because when you see a submission, you work on the basis
 6 that your officials — who are, as I said earlier,
 7 effectively the experts who are dealing with this in
 8 issues generally — will have taken those issues into
 9 account, and you have to work on that basis because
 10 they're the ones with the expertise.
 11 Q. Now, did you discuss the proposed response with your
 12 Secretary of State, Eric Pickles, before it was sent?
 13 A. Not that I recall particularly, no.
 14 Q. Even though he was the addressee of the coroner's
 15 letter?
 16 A. Well, as I say, I don't recall having a particular
 17 meeting about it. If there was a reply from myself or
 18 comments from myself on a sub, they would have then —
 19 the way the system works, they would have then gone up
 20 to the Secretary of State's office, in the same way they
 21 do in the department I'm in now. When I see
 22 a submission, if it's gone to a junior minister, when it
 23 comes to me, it will have the junior minister's comments
 24 on it for me to consider.
 25 Q. Now, a review was conducted by the LGA of its guidance

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1 in around June 2013. We've heard from Louise Upton that
 2 there was little substantive response to that review,
 3 although there was robust endorsement from its authors,
 4 which was construed by the department as an indication
 5 that the housing and fire sectors were content that the
 6 guidance remained appropriate, fit for purpose.
 7 First of all, were you aware of the fact of the
 8 review and its conclusions?
 9 A. I don't particularly — I mean, I know there was
 10 a review done, but I don't recall being consciously
 11 aware of it particularly.
 12 Q. Can I now turn to a separate topic, which is the
 13 response provided by the Fire Sector Federation to
 14 a coroner's letter which was addressed to them.
 15 If we go back to your witness statement,
 16 {CLG00031121/21}, paragraph 54 of your statement at the
 17 top of the page, you say this:
 18 "On 24 May 2013, my Private Office received
 19 a submission regarding the FSF response to the Coroner
 20 in the Lakanal House inquest and an invitation to
 21 discuss taking forward the findings of the Focus on
 22 Enforcement Review; I address this Review later in my
 23 statement ... The FSF response to the Coroner explained
 24 that they were:
 25 "' ... focussing on the immediate questions of

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1 competency and effectiveness in carrying out fire risk
 2 assessments.'.
 3 "The submission recommended that I:
 4 "' ... propose a meeting to discuss the synergies
 5 between CFA and the FSF's stated objectives of
 6 supporting proactively regulatory compliance and
 7 enforcement to better support business.'"
 8 Can you remember, did you read the FSF's response to
 9 the coroner?
 10 A. I may well have done. I don't remember it now, but
 11 I may well have done at the time.
 12 Q. Were you aware that the coroner had asked the federation
 13 to consider whether it had a role in clarifying the
 14 scope of fire risk assessments and, in particular,
 15 providing further training for fire risk assessors?
 16 A. Again, I don't particularly recall that at the time,
 17 but, as I say, I can see it as part of the documentation
 18 for the Inquiry.
 19 Q. It doesn't ring any particular bells?
 20 A. No.
 21 Q. If we can stay on page 21 but look at paragraph 57 of
 22 your statement, where you say that you set up a meeting
 23 with Paul Fuller on 10 July 2013, and fire risk assessor
 24 competency was a proposed agenda item for discussion.
 25 You say in the second sentence this:

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1 "The submission to my office dated 8 July 2013,
 2 briefing me for the meeting, noted that the FSF had
 3 recently published a sector-developed competency
 4 standard for commercial fire risk assessors and that
 5 CFOA were encouraging fire and rescue authorities to
 6 make the details of competent assessors available
 7 locally. It recommended that I query how the FSF's
 8 scheme and that of CFOA could work together."
 9 Now, at the time — so thinking March/April 2013 —
 10 were you aware of the fact of the competency standard?
 11 A. I don't recall at the time being particularly alert to
 12 that, no.
 13 Q. You say not particularly aware of it —
 14 A. Well, as in —
 15 Q. Not?
 16 A. No, no, not that I can remember now, thinking back to
 17 2013, no.
 18 Q. Were you aware of the substance of CFOA's involvement in
 19 that proposal that's referred to here?
 20 A. Only in the sense of — I can't recall what I was aware
 21 of at the time, but in preparing — looking at the
 22 documentation and preparing the witness statement, one
 23 of the things I was aware — that I am aware of and
 24 I think I was aware of at the time was there was also
 25 quite a crossover between FSF and CFOA itself. This was

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1 one of the issues around how you have these things
 2 working together in an efficient and a proper way,
 3 bearing in mind you actually — and if I remember
 4 correctly, I think at the time Paul was on both boards,
 5 and so that side of it was — I was aware of, yeah.
 6 Q. So in the normal course you received a briefing for the
 7 meeting, and we have that briefing at {HOM00047874}.
 8 Again, drafted by Louise Upton, this time cleared by
 9 Brian Nash, and dated 8 July 2013.
 10 If we could turn over the page to page 2
 11 {HOM00047874/2} and paragraph 9, it says this:
 12 "Fire Sector Federation and CFOA: CFO Fuller in his
 13 role as Deputy Chair of the FSF sent you a copy of the
 14 FSF's response ... to the Coroner in the Lakanal House
 15 inquests, which sets out a number of actions it has
 16 initiated in response to the recommendations. These
 17 include 1) the development of competency for risk
 18 assessors including in the housing sector; 2) to advise
 19 on changes to the next iteration of Approved Document B
 20 (the fire safety element of the Buildings Regs); and 3)
 21 the roll out of a fire safety awareness and publicity
 22 programme, targeted on the fire sector and those
 23 involved in building design, construction and
 24 refurbishment. Given the FSF commitment to apply its
 25 influence at the national level to articulate a core

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1 concept of integrated fire safety, we suggest you ask
 2 CFO Fuller for his view on how these will taken forward
 3 in tandem with the relevant enforcing authorities (eg,
 4 FRAs [fire and rescue authorities], [local authorities],
 5 who enforce housing legislation, and Building Control
 6 bodies)."
 7 If we could look below at the proposed agenda items,
 8 which are on page 4 {HOM00047874/4}, you see item 2,
 9 "CFOA and the Fire Sector Federation". The bullet
 10 points say:
 11 "■ Fire risk assessor competency.
 12 "■ Advice/information sharing.
 13 "■ Building on success through wider engagement."
 14 And then the question was:
 15 "How do you see the FSF and CFOA working together to
 16 ensure those needing fire safety advice get consistent
 17 information on which to base their decisions?"
 18 Can you remember now, what was the gist of the
 19 discussion on fire risk assessor competency?
 20 A. Yes. I would just say you read out — those questions
 21 would have been draft questions officials would have
 22 suggested you can use as a minister to get
 23 a conversation going. It doesn't mean I'd necessarily
 24 have used them.
 25 Q. You don't follow it as a script, it's more of a prompt?

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1 A. It's more — I mean, different ministers have different
 2 approaches. For me, they're more of a prompt.
 3 But, yeah, I mean, this is — that meeting and that
 4 part 2 that's on the screen at the moment around fire
 5 risk assessor competency and advice and the paragraph we
 6 just looked at I think is exactly the point I was
 7 referring to a short while ago, where we were talking to
 8 the sector around these issues of how you ensure that
 9 risk assessments are being done properly, they're being
 10 done efficiently. Particularly, as I say, in my mind
 11 the focus actually was around bed and breakfasts, hotel
 12 accommodations, places like that, because obviously you
 13 have got — and there was conversations at the time,
 14 there is a huge number around the country of small,
 15 privately-owned hotels, not necessarily the big chains,
 16 and therefore ensuring that people have confidence that
 17 they are being properly risk assessed and that the
 18 owners understand (a) that they have a duty to their
 19 customers, obviously, and also that they have access to
 20 getting that advice from experts. So it was that work.
 21 And obviously as the sub around this outlines,
 22 Paul Fuller had a particular role across both
 23 organisations which meant he could bring this together,
 24 and that was also part of the conversation, making sure
 25 this is joined up.

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1 Q. Do you remember any particular discussion about the
 2 national housing fire safety group's development of
 3 qualifications for risk assessors, and Mr Fuller had
 4 cited this in his response to the coroner? Do you
 5 remember that being a topic of discussion?
 6 A. Not specifically, no. But, as I say, that doesn't mean
 7 it wasn't, I just don't recall it.
 8 MR KINNIER: Sir, that is possibly a convenient point.
 9 SIR MARTIN MOORE—BICK: Is it a good point?
 10 MR KINNIER: If I may suggest a break until 11.30, that will
 11 allow us to keep on track to allow Mr Martin to start
 12 his evidence clean at 2.00.
 13 SIR MARTIN MOORE—BICK: You want to truncate the break a
 14 bit, do you?
 15 MR KINNIER: Yes.
 16 SIR MARTIN MOORE—BICK: Well, Mr Lewis, we have a break
 17 during each session and now is the time to take it.
 18 I am going to say 11.30, it's slightly shorter than we
 19 usually have, but there we are, that will keep us
 20 moving.
 21 The only thing I have to say now is: when you're out
 22 of the room, please don't discuss your evidence or
 23 anything relating to it with anyone.
 24 THE WITNESS: Understood.
 25 SIR MARTIN MOORE—BICK: Thank you very much. Would you like

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1 to go with the usher, then, please.
 2 THE WITNESS: Thank you.
 3 (Pause)
 4 SIR MARTIN MOORE—BICK: Thank you, Mr Kinnier. 11.30, then.
 5 MR KINNIER: Thank you, sir.
 6 (11.18 am)
 7 (A short break)
 8 (11.30 am)
 9 SIR MARTIN MOORE—BICK: Right, Mr Lewis, ready to carry on,
 10 I hope?
 11 THE WITNESS: Yes, Chairman, thank you.
 12 SIR MARTIN MOORE—BICK: Thank you very much.
 13 Yes, Mr Kinnier.
 14 MR KINNIER: Thank you, sir.
 15 Mr Lewis, can we turn to a new topic, which is the
 16 enforcement review of the RRO that was carried out in
 17 2012.
 18 Now, you refer to this in paragraph 54 of your
 19 statement {CLG00031121/21}, and you exhibit the review
 20 to that. We see it at {HOM00026445}. It was carried
 21 out by what was then the Department for Business,
 22 Innovation and Skills in the second half of 2012.
 23 What was your department's involvement in that
 24 review?
 25 A. Not at a ministerial level, but the departments on

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1 something like this would have been working across BEIS
 2 and the DCLG officials.
 3 Q. In a letter to Stephen O'Brien MP dated 11 February
 4 2013, which we can find at {CLG00013015}, we can see
 5 that in the final paragraph on that page, in the last
 6 sentence, you inform Mr O'Brien thus:
 7 "The review process is nearing completion; the
 8 outcome will help inform the fire sector in how it can
 9 proportionately support business and commerce achieve
 10 compliance under the Fire Safety Order."
 11 Can you help us, how and in what ways did you expect
 12 the review to inform the fire sector to comply with the
 13 Order?
 14 A. Oh, well, that — to be fair, that would have depended
 15 on what the outcome was. It was being led by BEIS.
 16 I responded as the fire minister but, as it says in
 17 there, that was a BEIS—led issue and I wasn't directly
 18 involved at a ministerial level.
 19 Q. Okay.
 20 If we can look at page 19 {HOM00026445/19} and the
 21 summary of the review, and if we look at the first
 22 substantive paragraph, we see that the topic of
 23 commercial third-party fire risk assessors was
 24 discussed. It says:
 25 "Many small businesses are using commercial

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1 providers to carry out their risk assessments — with
 2 little assurance available on the quality of their
 3 service."
 4 Moving further down, it says this, halfway in the
 5 first paragraph:
 6 "However, it is clear that many businesses use
 7 commercial third parties to carry out the risk
 8 assessment. Until recently no certification or
 9 accreditation existed in relation to these services and
 10 none are currently required in the market, meaning that
 11 in effect anyone can offer their services. Some
 12 businesses reported overselling by assessors that were
 13 also equipment suppliers, and a number of fire
 14 professionals questioned the quality of some commercial
 15 providers. In practice a third party assessment offers
 16 no guarantees to a business, and sometimes they will
 17 find that a fire protection officer will ask for
 18 additional measures beyond those identified in the
 19 'bought in' fire risk assessment."
 20 If we could move further down the page to the second
 21 paragraph, and halfway down that, the review concluded:
 22 "It should be noted that some business bodies are
 23 not in favour of accreditation for third parties, seeing
 24 this as another regulatory step, identifying the risk
 25 that it may squeeze some smaller operators out of the

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1 market, and also because they think it may in time lead
 2 to businesses having to use a third party assessor and
 3 thereby lead to increased costs for small businesses.
 4 A number of fire industry professionals nevertheless
 5 felt there was a good case for certification and
 6 accreditation."

7 Now, would you agree that, on any view, this is
 8 another example of concerns being expressed regarding
 9 the adequacy of commercial fire risk assessors?

10 A. Yes, I think this is exact — this again is part of the
 11 point I was making before the break around the work we
 12 were doing with the fire sector and ensuring that
 13 property owners understood that they needed to have and
 14 where they could get good expert advice.

15 Q. Did you read the review when it was published?

16 A. I may well have — I don't recall, but I may well
 17 have — it's likely I would have done.

18 Q. Did this particular finding resonate with you or can you
 19 remember it being the subject of discussion with
 20 officials?

21 A. I don't consciously recall this finding, but, as I said,
 22 we were having wider conversations and this may well
 23 have been part of what was feeding into my mind and
 24 others around the conversations we were having at the
 25 time with CFOA and others around ensuring that, as

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1 I say, business owners and property owners knew where
 2 they could seek and how they could access good quality
 3 expert fire assessment advice.

4 Q. Can we look at Louise Upton's proposal for a national
 5 regulator for fire safety which was made in July 2013.
 6 She told us that the recommendation we've just looked at
 7 prompted work for a proposal for a national regulator
 8 for fire safety.

9 Now, if we could turn to the development of that
 10 proposal, we find first of all a ministerial submission
 11 at {HOM00046036}. Now, we see from the top right corner
 12 it was written by Tani Nisbet—Jones, national fire
 13 policy, it's dated 8 July 2013, and it was entitled,
 14 "Fire: government response to the Knight review".

15 In paragraph 1 it says this:
 16 "This submission seeks your views on the scope and
 17 ambition of the Government Response to Facing the Future
 18 (the Knight Review). It sets out the arrangements for
 19 cross-government involvement and a proposed timetable
 20 for publication in October."

21 Do you remember this particular submission?

22 A. I don't consciously remember this particular submission,
 23 but I do recall conversations and, as I say, the Facing
 24 the Future, the Knight review work, yes.

25 Q. If we look at page 4 {HOM00046036/4}, we should find

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1 annex A, which is, "Excerpts from Dawn Eastmead's
 2 submission of 7 June, SR statement, blue lights work and
 3 government response to the Knight Review".

4 Now, at the very bottom of this page there is
 5 a title above paragraph 2 which reads, "Workstreams
 6 falling out of the Government response", in italics, and
 7 if we could turn over to page 5 {HOM00046036/5}, the
 8 last bullet point on that page says this:
 9 "The scope for creating a national regulator for
 10 establishing and overseeing local approaches to
 11 supporting compliance and enforcement of the Fire Safety
 12 Order. This could provide a consistent framework for
 13 the delivery of fire protection services, including the
 14 provision of advice and development of appropriate
 15 technical standards, addressing many of the concerns
 16 businesses have raised."

17 Do you recall this particular proposal?

18 A. No.

19 Q. Do you recall discussing the proposal at all with
 20 Tani Nisbet—Jones?

21 A. Not that particular part of it. I mean, I would have
 22 had a conversation around the general sub, and we had
 23 a number of conversations around the Knight review.
 24 A lot of the focus at the time, from my memory, around
 25 the Knight review was actually — and we can see it on

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1 this page here, a bullet point further up on that from
 2 the one you just referenced, which was around the
 3 retained and on-call firefighters, and there was brief
 4 conversations around FRA mergers, but that wasn't
 5 something we were seriously looking at.

6 Q. Let's see if we can prompt a memory.

7 If we can go to {HOM00046059}, and if we could look
 8 at the very bottom of the page, there is an email from
 9 Tani Nisbet—Jones, 17 July 2013 at 3.52, to your office,
 10 and if we go to page 2 of this exchange {HOM00046059/2},
 11 and the sixth bullet point, she says this:
 12 "The Minister was not keen on the idea of a national
 13 regulator, but further work would be done to scope the
 14 option ..."

15 Now, why were you not keen on the proposed national
 16 regulator?

17 A. Well, as I say, I don't particularly — or I don't
 18 recall where I was at the time on it, but I would
 19 imagine it would have been because of the wider issues
 20 around looking at how we make things efficient and
 21 effective with the schemes that we already have with
 22 CFOA, rather than creating another body for the sector
 23 on top of what we already had, and that's why — I think
 24 that's probably why I would imagine at the time I said
 25 I wanted to see further work for how this would fit. If

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1 we're going to look at something like this, how do we
 2 ensure it doesn't just become another layer of
 3 regulation that doesn't deliver anything meaningful over
 4 and above what we've got and the capacity to deliver
 5 through the machinery that's already there?
 6 Q. So it was a generic objection rather than a considered
 7 evaluation of the advantages and disadvantages of the
 8 proposed —
 9 A. Well, I think the point in that paragraph about further
 10 work needing to be done to scope the option is about —
 11 would be about seeking details on that particular option
 12 if it's something we were going to look at.
 13 Q. But you had clearly formed a sufficient view not to like
 14 the idea, given what Ms Nisbet—Jones reports.
 15 A. I wouldn't — yeah, conceptually, it's unlikely I would
 16 be attracted to creating another body on top of bodies
 17 we already have in existence. I'd be more interested in
 18 looking at how we use the bodies we've got.
 19 Q. Now, we know that Louise Upton was commissioned to make
 20 a start on developing a range of options, and we know
 21 that she produced a paper in December 2013 on the
 22 proposed national regulator for fire safety. We don't
 23 need to go to that, but do you recall any substantive
 24 discussion with either Tani Nisbet—Jones, with
 25 Louise Upton or Dawn Eastmead on the advantages or

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1 disadvantages of the national regulator model?
 2 A. No, though that doesn't mean they didn't take place, and
 3 I should have said earlier on, just to explain, the
 4 reality is, back in that period, in that particular
 5 role, it's likely that in any given day, I would have
 6 been having meetings on different issues about — pretty
 7 much solidly all day, every — on the half hour, every
 8 half an hour. So within a lot of other meetings,
 9 a whole range of things would have been discussed. It
 10 wouldn't necessarily have been the core focus. But
 11 I don't particularly remember a specific meeting on
 12 this. But, as I say, because of the scale of the number
 13 of meetings we'd have been having in any given day, over
 14 sort of three or four days a week when in London, it's
 15 possible that that would have happened.
 16 Q. Now, the proposal did not progress; do you know why it
 17 did not progress?
 18 A. No, I mean, looking at the paragraph that's in front of
 19 me, it could well be because the further work came to
 20 a conclusion that the bodies we already had are able to
 21 deliver what we need, but I don't particularly recall.
 22 Q. Where you required officials to carry out further work,
 23 how would you keep a track on that further work being
 24 done? Would you just rely on officials providing it to
 25 you?

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1 A. Essentially, yes, yes, you would rely on officials
 2 coming forward with that work once they had the chance
 3 to obviously do the work. You're reliant partly on your
 4 own memory that there is something you have asked to be
 5 done and it hasn't come back yet after a period of time.
 6 In the department we also used to run a sort of
 7 spreadsheet, we call it the grid, across a range —
 8 across the whole department, that would have been
 9 tracking key things. Whether it would've got — I don't
 10 think it would have gone down to the detail of this, but
 11 certain things would have been on that grid and
 12 therefore would have been kept an eye on whether they
 13 are green, amber, red in terms of timeframe. It would
 14 also be a reminder that — around the particular issue
 15 needed to be chased up or decisions to be made.
 16 Q. If we can look at the proposal, {HOM00046039/2}, and
 17 it's really the first line of the second paragraph from
 18 the head of the page, the paper says this:
 19 "... Ministers' expectation has been that the 'fire
 20 sector' will step up to the plate and work together to
 21 develop a strong self-governing sector ..."
 22 Now, the general thrust of the paper is that that
 23 had not happened.
 24 First of all, do you recall seeing this particular
 25 paper?

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1 A. No, but it's likely I did.
 2 Q. Can you remember why you continued to support the
 3 concept of a self-governing sector when the evidence was
 4 building up that it wasn't stepping up to the plate to
 5 the extent required?
 6 A. Because generally across government at the time we
 7 were — and particularly, I think — fire at that point
 8 effectively formed part of the local government family,
 9 it came within the Local Government Association, in many
 10 parts of the country it was governed by county
 11 councils — still is, actually — through local
 12 authorities, so it formed part of the local government
 13 family, and we were always looking at how we devolve
 14 power away from central government to local authorities
 15 and to the fire authorities, as the experts, as the
 16 people closest to the residents that they serve to
 17 function, and obviously through fire, particularly with
 18 the Chief Fire Officers Association, and through the
 19 LGA's structures for fire, that they were the competent
 20 bodies to be able to manage and run it, and that's what
 21 they need to be empowered to do and encouraged to do,
 22 and that was always our focus across a range of areas.
 23 Q. Now, on the assumption that you maintained an open mind
 24 on these matters, can you help us, what would it have
 25 taken to have shifted your preference for a sector-led

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1 approach to one of regulation? I'm thinking
 2 particularly in the area of the competency of fire risk
 3 assessors.
 4 A. I don't know. I mean, that's a hypothetical — it's
 5 quite difficult to answer, sort of eight/nine years on
 6 from what we were. We would have looked at —
 7 Q. Well —
 8 A. What I would have done would have been looking at
 9 whether we think the sector is able to manage something,
 10 whether fresh — and obviously there's a difference
 11 between guidelines and regulation and what the sector
 12 already has powers to do, and whether the government
 13 needed to take primary statutory powers to do something
 14 is moving away from the focus of what we're looking to
 15 do and whether it actually adds anything to the powers
 16 they already have.
 17 Q. Given the overall thrust of government policy at the
 18 time which you have summarised for us today, can you
 19 give us an idea, though, of what would have been
 20 required in terms of event, in terms of level and noise
 21 of complaints regarding, for example, fire risk assessor
 22 competency, for the government to have taken the
 23 decision that regulation was now justified and that the
 24 sector-led approach had failed?
 25 A. Well, I think you'd look at it — we would be looking at

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1 it on individual cases, as we did with things like the
 2 carbon monoxide testing programme, which we obviously
 3 issued through CLG through a different part to my own
 4 portfolio, but there was a range of areas where we were
 5 through that period, particularly in building regs,
 6 planning and other areas, bringing in regulation. So
 7 where we felt it was the right thing to do and it was
 8 the only way to deliver something, then we weren't shy
 9 of doing that. So it would have been on a case-by-case
 10 basis on a particular issue.
 11 Q. Bearing in mind that answer, let's look at page 3 of
 12 this paper {HOM00046039/3} and, in particular, under the
 13 heading "Implications", which is in the bottom half of
 14 that page. The first paragraph under that heading says
 15 this:
 16 "Without an effective sector-wide, holistic approach
 17 to fire safety, it seems that the Government's policy of
 18 standing back to allow the sector to fill the space
 19 vacated by Government is risky."
 20 The paper then goes on to identify six particular
 21 risks. First:
 22 "The Government's reputation on public safety —
 23 no-one has any certainty on standards/benchmarks for
 24 appropriate levels of safety in non-domestic premises,
 25 and the policy of allowing the sector to fill the gap is

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1 criticised."

2 Secondly:
 3 "The cost of compliance for business various
 4 unacceptably according to the advice available and
 5 approach of the enforcing authority."
 6 Turn over the page {HOM00046039/4}. Thirdly:
 7 "The Courts and/or Government are increasingly asked
 8 to arbitrate in disputes between businesses — increasing
 9 the perception of sector failure and a lack of interest
 10 in appropriate public safety standards."
 11 Fourthly:
 12 "Pressure grows for legislative change — including
 13 the introduction of prescriptive fire safety standards —
 14 which may be attractive to some, but not others."
 15 Fifthly:
 16 "The lack of a nationally agreed competency standard
 17 for fire safety officers means FRAs are increasing[ly]
 18 unable to deliver their advice, audit and enforcement
 19 standards effectively."
 20 Sixthly and finally:
 21 "There is no organisation with a strategic oversight
 22 of emerging technological developments, commissioning
 23 research and promoting the need for proportionate
 24 standards/benchmarks and working with industry — both
 25 clients and fire sector professionals as well as the

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1 enforcing authorities — to develop appropriate and
 2 credible guidance and enforcement policies."
 3 Now, given the cumulative weight and power of those
 4 six risks that the paper had identified, why did you
 5 hold fast and persist in rejecting the idea of
 6 a national regulator for fire safety?
 7 A. Well, as I said to you, I don't particularly recall this
 8 document. I'm not saying I didn't see it at the time,
 9 but I have no recollection of that. I don't recall the
 10 document. And what I don't know at the moment is, and
 11 what I haven't been able to see is, what — these are
 12 projected possible risks. Of course, what there would
 13 have also been, I suspect, at the time would have been
 14 advice around actually doing it this — the way that we
 15 were doing it, in terms of working through the sector,
 16 we think we can manage these risks with various outcomes
 17 and with various actions, potentially, including through
 18 the conversations we were having with the sector itself.
 19 So, as I say, that I don't have because I haven't got
 20 those — that submission in front of me.
 21 Q. But what there appears to be is an absence of evidence
 22 that you asked officials, tested officials, asked
 23 questions of officials regarding this analysis to
 24 satisfy yourself that the position that a regulator
 25 wasn't required remained true. Now, why didn't you ask

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1 those questions of officials ?
 2 A. Well, again, that comes back to one of the issues of not
 3 having the original documentation. I may well have
 4 asked that very question in the submission. I don't
 5 know because I can't see those original comments in
 6 a submission. And, as I say, I have no — I don't
 7 recall seeing this document.
 8 Q. Now, we know that the national regulator wasn't set up.
 9 Were you content for that proposal to wither on the vine
 10 given a predisposition against further regulation in
 11 this area?
 12 A. Well, in the sense that at the time obviously we took
 13 a decision, as you say, that that wasn't going to be
 14 progressed, we obviously took the view at the time that
 15 there was sufficient structure and the work we were
 16 doing with the sector to manage these issues. Again,
 17 not having the ability to see the original questions
 18 that may have been asked and comments we may well have
 19 made on those submissions, I can't really comment
 20 further than that, because I don't have access to the
 21 comments we would have made directly at the time on
 22 these issues.
 23 Q. But you don't recall concern, at least, that the
 24 sector-led approach was failing?
 25 A. I don't — no, I don't recall there being a particular

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1 concern about the sector-led approach failing and,
 2 actually, the focus was on working with the sector so
 3 the sector could take things forward in a positive way.
 4 Q. Now, we know nothing happened in relation to the
 5 national regulator, but given that this proposal flowed
 6 from the findings of the focus on enforcement review,
 7 what did you require to be done to ensure appropriate
 8 standards of competency on the part of fire risk
 9 assessors?
 10 A. In what sense do you mean?
 11 Q. Well, ensuring that the concerns expressed in this
 12 document were addressed.
 13 A. Well, as I say, without seeing the submissions and
 14 without having that in front of me, I can't recall what
 15 the conversations would have been and the submission
 16 comments would have been at the time.
 17 Q. Do you recall having any thoughts at all about the
 18 particular issue of the competency standards of fire
 19 risk assessors?
 20 A. No. At the time, as I said earlier on, the conversation
 21 we were having around this were around working with CFOA
 22 around how we ensure that the work they were doing to
 23 engage with property owners and business owners around
 24 ensuring that they had access to and knew how to source
 25 the advice that they needed to fulfil the work they

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1 needed to do for risk assessments, but again this was
 2 not one of the key areas we were working on at the time.
 3 Q. Now, let's look at how these matters developed over
 4 time.
 5 Next, can we turn to the reply you gave to
 6 James Cleverly in October 2013 to correspondence you had
 7 received from him. If we go to {CLG00031121/10}, in
 8 paragraph 30 here you refer to your response to
 9 Mr Cleverly's letter of 26 September 2013, which had
 10 enclosed a letter from Commissioner Dobson, as he then
 11 was, asking for an update on the recommendations he'd
 12 made in his letter of 11 December 2012. They're the
 13 matters we discussed earlier this morning.
 14 A. Mm—hm.
 15 Q. Now, if we can turn to the letter to James Cleverly,
 16 that's at {LFB00058999}, this is your response to him,
 17 dated or date stamped 16 October 2013. If we look at
 18 the second paragraph of your reply on page 2
 19 {LFB00058999/2}, there you say this:
 20 "Finally, your letter notes that London Fire Brigade
 21 did not receive a response in respect of the
 22 recommendation that the Government provide guidance to
 23 the responsible person on how they might assess that the
 24 risk assessor is competent to carry out a suitable
 25 assessment of risk in complex and high rise premises.

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1 Fire Sector Federation published in February 2013 the
 2 competency criteria for fire risk assessors that had
 3 been developed and agreed by the fire safety sector.
 4 These criteria, which have been adopted by a number of
 5 certification bodies, was published alongside guidance
 6 for responsible persons looking for help in finding
 7 an independently certified competent fire assessor to
 8 help them comply with their duties under the Fire Safety
 9 Order. The guide is available on the Federation's
 10 website and my Department has, along with the Chief Fire
 11 Officers' Association, encouraged individual fire and
 12 rescue authorities to make it available to the public on
 13 their websites."
 14 First of all, do you recall the substance of this
 15 response?
 16 A. Well, obviously in preparing for the Inquiry I've gone
 17 through this — gone through the correspondence and,
 18 yes, I mean, that letter would have been from me and
 19 I recall it in that sense, yes.
 20 Q. Bearing in mind what's set out there, by this stage, can
 21 we just go through what the department, at least, were
 22 aware of: first, that Ken Knight had identified fire
 23 risk assessor competence as a concern in his Lakanal
 24 report in July 2009; secondly, there were the LFB's
 25 concerns about fire risk assessor competency from its

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1 tall and timber-framed buildings report, the issues
2 raised in the national interest workstream report and
3 the Fire Futures review, and that was December 2010, and
4 you had Commissioner Dobson's letter of
5 11 December 2012, and by this stage you also had — or
6 the department, at least, had the benefit of the
7 findings of the focus on enforcement review.

8 Now, given what at least your officials were aware
9 of, can you help us as to why you remained content to
10 leave competency of fire risk assessors to the industry,
11 rather than intervening by way of regulation to ensure
12 competency?

13 A. Well, yeah, I mean, to an extent, in the sense of —
14 with this letter, for example, that would not have come
15 up and I don't recall that letter coming up to be signed
16 in the context of, "Here's a reply to a letter", and, as
17 you have just fairly done, outlining all of those,
18 you know, "Following this issue, this issue, this issue,
19 or this comment, this comment, on these dates, we think
20 this is the appropriate response"; this would have come
21 up with James Cleverly's letter and then this as a draft
22 reply. So, as a minister, you would assume that the
23 officials have done that work and taken that into
24 account in terms of putting this forward.

25 In the context of what we were looking at, I think

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1 this reinforces the point I was making I think in my
2 last answer, actually, around the work — we were
3 focused on doing this work with the sector, and also how
4 you work to ensure — and I think this is, I would say,
5 the point being made in the latter part of that
6 paragraph — with those private landowners and business
7 owners to be educated about where they seek that
8 guidance and that that guidance and advice, risk
9 assessment, is coming from the experts, which is the
10 fire sector itself, based on that FSF publication in the
11 February of 2013, and that that would have been the
12 right and an appropriate response.

13 And, as I say, again, at this point, this was —
14 this would not have been the key issue and this would
15 have been — this would not have been the sort of main
16 issue that I was dealing with or even the department
17 more widely in terms of fire generally. By this stage,
18 remembering — thinking about the dates of this letter,
19 we would have been much more focused — this would have
20 been very much — dealing with the letter rather than —
21 the conscious issues we'd have been dealing with in fire
22 were much more at that time focused around the strikes,
23 the dispute we were having with the FBU.

24 Q. So, again, even at this stage, you'd been fire minister
25 for some time by now, you were content to defer to

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1 officials on these matters because your focus was
2 diverted elsewhere?

3 A. Yes, and — but, equally, I would say that, as I've said
4 a few times this morning, we were focused on the —
5 looking at the bodies we already had in the sector and
6 how can we work with them to deliver what needs to be
7 done to get the right outcomes, rather than on taking
8 a more central approach to things, when our entire ethos
9 was about moving more to devolving power away from
10 central government, rather than bringing it in.

11 Q. But, in reality, we're dancing around a truth here,
12 which is that there was an aversion to increased
13 regulation, even in the face of failure by the industry
14 to remedy the problems about competence of fire risk
15 assessors.

16 A. I don't think that's fair, actually, in the sense of —
17 I think, from memory, if you look through the amount of
18 guidance, publications, regulations that were brought
19 through CLG in a whole range of areas around building
20 regs, but particularly on fire, and I've mentioned
21 carbon monoxide testing and obviously the smoke alarm
22 work we were doing, I think we were very focused in
23 terms of ensuring that we were not shy of doing what we
24 felt was right. I think just in this area the view was,
25 you know, as we were looking to continually devolve away

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1 from central government, working with the experts in the
2 field was the right way to do it.

3 SIR MARTIN MOORE-BICK: But, Mr Lewis, wasn't the problem
4 that the message that was coming back from those who
5 were knowledgeable in this field is that the sector was
6 not doing the job?

7 A. Look, as I say, in the conversations as I recall them
8 with CFOA and the FSF at that time, they were actually
9 quite focused on how and what they can do to run this
10 area. I don't particularly recall them saying that this
11 wasn't something they could do. But, yeah.

12 SIR MARTIN MOORE-BICK: All right. Thank you.

13 MR KINNIER: Now, I am mindful of what you've said about
14 your responsibility for the Building Regulations. Could
15 we, though, just look at the final paragraph on page 1
16 of this response {LFB00058999/1}, where you said:

17 "We have also commissioned a range of research to
18 inform a future review of the Buildings Regulations
19 (Part B). The Chief Fire Officers' Association and
20 others are involved in the research programme to support
21 the next iteration, and individual fire and rescue
22 authorities will have the opportunity to feed in
23 comments at the consultation stage. We plan to publish
24 a new edition of Approved Document B in 2016/17."

25 Now, do you remember having any informed or

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1 considered view as to the timing and the appropriateness
 2 of the timing of any further review of Approved
 3 Document B?
 4 A. No, none at all.
 5 Q. And so, in relation to this, you'd sign it off because
 6 the officials who were responsible had formed that view?
 7 A. Yes. Actually, slightly more than that, in the sense of
 8 if I was consciously thinking about it, yes, the
 9 officials would have done that, but also I would assume
 10 that the building regs minister would have seen this and
 11 be happy with that comment as well. I don't recall
 12 having a conversation with him about it. And, as I say,
 13 actually, until I went through the documentation for
 14 the Inquiry, I don't consciously recall ever being aware
 15 of Approved Document B, as it happens. It's not
 16 something that ever — that I was directly — recall
 17 ever having a conversation or thought about.
 18 Q. When she gave evidence, the former deputy commissioner
 19 of the LFB, Rita Dexter, said that she felt that the LFB
 20 were not pushing at an open door in their communications
 21 with the department about their broader concerns about
 22 Approved Document B, fire risk assessor competency and
 23 the rest of it.
 24 Had she hit the nail on the head there, that
 25 basically the government was not minded to intervene by

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1 way of regulation, notwithstanding the evidence, first
 2 of all, of failure in relation to fire risk assessor
 3 competency, and the persisting concerns about clarity of
 4 Approved Document B?
 5 A. Well, on the fire risk assessment, so we had a view
 6 about how we devolved that away from central government.
 7 In terms of Approved Document B, I don't know what we
 8 actually — because I wasn't — that wasn't my area, so
 9 I can't particularly comment on that, other than if the
 10 department had said, which it had done, that it was
 11 doing a full review of Approved Document B from the
 12 building regs side of it with a view to publishing a new
 13 edition, then I would actually suggest that the
 14 department had taken the view that it did need updating
 15 and it was doing that work and doing that detailed work
 16 behind — on building regs. But, as I say, that wasn't
 17 my part of the portfolio, so I'm probably not able to
 18 help too much further on that.
 19 Q. Now, can we move on to a stock-take meeting and
 20 a refusal to attend that meeting regarding the Lakanal
 21 recommendations 30 October 2013.
 22 If we go to {CLG00000661/4}, this is an email chain,
 23 and we see on page 4, the bottom email on that page sent
 24 at 5.32 pm, and we can see that on 18 October 2013,
 25 Eric Pickles and the other recipients of Rule 43 letters

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1 from the coroner were invited to a meeting on
 2 30 October 2013 by Harriet Harman MP "to take stock of
 3 the progress that has been made". And Harriet Harman
 4 was the MP for Peckham at the time; is that right?
 5 A. Yes.
 6 Q. Do you recall this particular invitation?
 7 A. No, other than seeing it as part of going through the
 8 documentation for the Inquiry.
 9 Q. Now, can we look at the advice that you and Mr Pickles
 10 received about the meeting, {HOM00048110}. Again, top
 11 right corner we can see it was drafted by Louise Upton,
 12 dated 24 October 2013, cleared by Dawn Eastmead.
 13 We can see at paragraph 1, in the last sentence, the
 14 advice was:
 15 "We suggest that the invitation is declined, but
 16 that the Secretary of State offers an update on the
 17 actions that the Department is taking to address the
 18 outstanding issues."
 19 Do you recall considering that advice and
 20 considering whether you should in fact attend the
 21 meeting?
 22 A. No, I don't, but looking at the submission itself,
 23 I would have taken the advice of — I suspect there
 24 was — would have been a couple of things. If I was
 25 thinking about this consciously, it would have been,

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1 first of all, there would have been potentially a diary
 2 issue about — I can't quite remember what the timeline
 3 was between this and the actual meeting, and whether
 4 literally, diary-wise, it could fit in. As I said
 5 earlier on, the diary in DCLG was often completely
 6 chockablock for quite a long way in advance, so putting
 7 things in was always quite challenging for a range of
 8 issues, particularly, if I remember correctly, from the
 9 previous page that we had on the screen, I think
 10 Harriet Harman was looking for a Wednesday morning.
 11 Wednesday morning was always set aside for — there were
 12 a series of department meetings, both what we call
 13 prayers, but then meetings we had with outside bodies,
 14 the LGA and a few other groups. So it would have
 15 clashed with that.
 16 But, equally, the response to this, going from that
 17 final sentence there where it says "but that the
 18 Secretary of State offers an update", that would have
 19 been quite normal, and still would be, that
 20 a Secretary of State would respond to somebody of
 21 Harriet Harman's standing, with her position and
 22 experience in parliament, rather than a junior minister.
 23 Q. And he declined to attend, and you had no role in the
 24 decision regarding attending that meeting?
 25 A. No. As in correct, yes.

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1 Q. Following that meeting, you were sent a parliamentary
2 question by Harriet Harman, which you detail at
3 paragraph 31 on page 10 of your statement. If we can go
4 to {CLG00031121/10}, you say this:
5 "On 4 November 2013 I answered a written
6 parliamentary question from Harriet Harman regarding the
7 Lakanal House Coroner's recommendations. This response
8 referred Mrs Harman to the Local Government
9 Association's guidance for the rationale of the stay—put
10 principle. It confirmed that following the conclusion
11 of previous inquests, the Local Government Association
12 had been assured that there was a high level of
13 confidence in the existing guidance. This answer to the
14 Parliamentary Question was prepared by my policy team,
15 and signed off by SpAds. Though I approved the answer
16 I have no conscious memory of the exchange. It was not
17 a contentious matter at that time and as such it would
18 be unusual for me as a minister to adjust the answer
19 before approval."
20 Now, if we can turn and look at the question itself,
21 {HOM00002157}, and it's the top of the page and the
22 first question:
23 "To ask the Secretary of State for Communities and
24 Local Government, with reference to the recommendation
25 of Judge Kirkham following the conclusion of the Lakanal

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1 House fire inquest, when he expects to provide clear
2 guidance on the scope of inspections which should be
3 undertaken in high-rise residential buildings for fire
4 risk assessment purposes."
5 Then below, in the last paragraph on the page, your
6 response to Ms Harman is this:
7 "Following the conclusion of the inquests, relevant
8 partners have assured the Local Government Association
9 that there is a high level of confidence in the existing
10 guidance. My Department therefore continues to make it
11 available on the fire safety pages of the Government's
12 website, to help the owners of purpose built blocks of
13 flats to understand and discharge their fire safety
14 responsibilities under both the Housing Act 2004 and the
15 Regulatory Reform (Fire Safety) Order 2005."
16 Now, I appreciate your evidence that the answer was
17 prepared by SPADs, but what assurances had been given
18 and by whom to the Local Government Association about
19 the existing LGA guide, do you know?
20 A. I don't know, sitting here today, no. That may well
21 have been — there may have been information around that
22 in the submission, because when a parliamentary question
23 comes to the minister like this, it will have some
24 background information around it to explain the answer,
25 and that may well be answered in that, but not that

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1 I recall or I'm aware of, who that would have been.
2 Q. If we can stay on this page, we can see at the very top
3 is the second question which Ms Harman posed, which was
4 this:
5 "To ask the Secretary of State for Communities and
6 Local Government, with reference to the recommendation
7 of Judge Kirkham following the conclusion of the Lakanal
8 House fire inquest, whether he has published
9 consolidated national guidance in relation to the 'stay
10 put' principle and its interaction with the 'get out and
11 stay out' policy, including how such guidance is
12 disseminated to residents."
13 Do you recall if you took the reference to
14 "consolidated national guidance" to be a reference to
15 the national operational guidance known as Generic Risk
16 Assessment 3.2?
17 A. No. As in no, I don't recall.
18 Q. Do you have any knowledge of those matters at all or any
19 recollection of those matters?
20 A. Not consciously, no.
21 Q. Were you aware — I suppose the rationale underpinning
22 my question — of the recommendation from the coroner
23 that GRA 3.2 be revisited?
24 A. I can't recall being particularly aware of that.
25 I wouldn't necessarily have been thinking about that in

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1 the context of responding to that question, unless it
2 was part of what was in a sub sitting behind the draft
3 response.
4 Q. What was the extent of your knowledge about the work
5 that was being carried out by the department on GRA 3.2?
6 A. I don't recall any.
7 Q. You were unaware?
8 A. As in I don't recall what work was going on.
9 Q. Could I now turn to the Stephen Hunt inquest that was
10 carried out in June 2016.
11 Now, Mr Hunt was a firefighter who died attending
12 a fire in Manchester on 13 July 2013. The inquest
13 concluded in May 2016, so roughly three years after the
14 event. At that time, you were the Minister of State for
15 Policing and the Fire Service, which included fire and
16 resilience, as we've discussed earlier.
17 Now, do you recall the Stephen Hunt inquest at all?
18 A. Yes. I mean, not in detail, but I remember the case.
19 Q. Do you recall that the jury found that inadequate fire
20 risk assessments which had been carried out between 2009
21 and 2011 was one of the factors that probably
22 contributed significantly to the death of Stephen Hunt?
23 A. No, I don't recall that.
24 Q. If we can look at the recommendation which was made by
25 the senior coroner, Nigel Meadows, in a prevention of

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1 future deaths report dated 8 June 2016 and your
 2 response, which we can find at {HOM00043186}.

3 Now, this appears to be a draft of the letter that
 4 you sent to the senior coroner, Mr Meadows, in response
 5 to the coroner's prevention of future deaths report. Is
 6 that a correct assumption to make?

7 A. Yes, yeah, yeah, looking at it, yes.

8 Q. We've got a copy of the signed front page of the letter,
 9 which is at {HOM00033384}.

10 Now, can you help me with whether the letter would
 11 have substantially changed for any reason between the
 12 draft that we first looked at and this one?

13 A. No. No.

14 Q. No. If we look at page 6 {HOM00043186/6}, we see one of
 15 the recommendations made by the coroner is at
 16 recommendation 9, and he commended the following:

17 "It is suggested that the Secretary of State for the
 18 Home Department considers measures to ensure that:

19 "(i) Fire risk assessors are adequately trained and
 20 qualified so as to be competent in the role, and
 21 "(ii) The responsible person has the means to verify
 22 the competence of any person holding themselves out to
 23 be a fire risk assessor."

24 First of all, do you remember that recommendation?

25 A. Not consciously, no.

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1 Q. The response provided by your department is set out
 2 below in unbolded text, and it said this:

3 "The Government makes available guidance to help
 4 'responsible persons' comply with fire safety
 5 legislation. This guidance is clear that where
 6 a responsible person is unable to apply the guidance to
 7 their particular premises, then they should seek expert
 8 advice from a competent person.

9 "The Government has worked with the fire sector,
 10 including CFA, to develop a set of criteria against
 11 which the competency of those offering commercial fire
 12 risk assessment services could be assessed and
 13 independently certified.

14 "These criteria were published in 2013 by the Fire
 15 Risk Assessment Competency Council, alongside a 'Guide
 16 to Choosing a Competent Fire Risk Assessor'. This guide
 17 (updated in 2014) includes details of organisations
 18 holding registers of companies or individuals whose
 19 competency to carry out fire risk assessments has been
 20 independently assessed by a certification and/or
 21 professional body."

22 Now, the criteria that was being referred to here
 23 was the Fire Risk Assessor Competency Council's
 24 competency criteria which was published on
 25 21 December 2011.

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1 First of all, do you recall that level of detail?

2 A. No, not — I mean, as I say, I recall this — the fact
 3 that we were referring back to the structures that are
 4 in place that the government has approved, but not in
 5 the context of replying to that letter you showed me
 6 a few moments ago.

7 Q. Do you particularly recall reviewing and considering the
 8 proposed response to the coroner's recommendations?

9 A. Not sitting here today, no, I don't particularly recall
 10 the process we would have gone through back at that
 11 point, no.

12 Q. Do you recall whether you remembered the pre-existing
 13 concerns about the competency of fire risk assessors
 14 that had been raised back in 2013 and whether that rang
 15 any bells when you came to consider this particular
 16 recommendation?

17 A. No, I don't. As I say, our position would still have
 18 been that we were — our role was around having that
 19 structure, as outlined in that paragraph we just looked
 20 at on the previous page, that the sector has as experts
 21 there, and we make that property owners and that are
 22 alert to and aware of where they can seek that advice,
 23 should they require it, if they don't have that
 24 competency within their organisation.

25 Q. Can you help us as to — it may well be you have

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1 answered this slightly — why, notwithstanding the
 2 concerns that had now been expressed for many years
 3 about the competency of fire risk assessors, you
 4 concluded there was no need to consider further measures
 5 were necessary?

6 A. What I can't recall is what further work we were doing
 7 behind the scenes and if we were giving further
 8 consideration, and all of these things — to one extent
 9 or another, all of these things would always be kept
 10 under some form of review, but at any given point we
 11 would look at it, and even at that stage there, clearly
 12 we were of the view that there is still enough of — the
 13 structure is there, and actually our role is around
 14 supporting the sector to make sure that, as I say, those
 15 property owners or the relevant person with the duty of
 16 care, if they don't have that expertise within the
 17 organisation, knows where they should look for people
 18 who are properly qualified to do that work.

19 Q. And can —

20 A. And part of that work is ensuring that they have easy
 21 access to understand who is properly qualified as
 22 opposed to who is not.

23 Q. Now, can we take it, though, that you have no particular
 24 recollection of the reasons why the conclusion was that
 25 no further measures were required?

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1 A. Not beyond what I've just outlined, no.
 2 Q. As opposed to putting a gloss on the response that's set
 3 out here.
 4 A. Yes.
 5 Q. Are you able to assist the panel with what were the
 6 detailed reasons as to why there was no need to consider
 7 further measures to allow responsible persons to verify
 8 the competence of a fire risk assessor? Are you able to
 9 help us with that?
 10 A. Not — I don't think so, beyond what I've already said
 11 in terms of the work we were doing with the sector and
 12 the sector's own work on this.
 13 Q. So, again, this is an example where you would defer to
 14 the advice and knowledge of the officials who were
 15 briefing you; is that fair?
 16 A. Both the officials who were briefing us, but ultimately
 17 that also encompasses the expertise of the experts in
 18 the field, which would be effectively through CFA and
 19 organisations groups like that, the chief fire officers
 20 themselves.
 21 Q. Clearly you have had one coroner at Lakanal raising, in
 22 broad terms, concerns about competency of fire risk
 23 assessors; you have another coroner, the senior coroner,
 24 Mr Meadows here, raising near as dammit the same
 25 concern; did that not prompt in your own mind questions

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1 of your officials and questions of those in the sector
 2 from whom you were taking advice as to whether
 3 intervention was now necessary and desirable?
 4 A. It may well — as I say, this comes back to — I don't
 5 recall looking at it or being alerted to it at that
 6 point in time in that cumulative sense that you have
 7 just outlined quite fairly. It is possible that, at
 8 the time when a submission came in around this issue,
 9 myself or any other minister — but this obviously would
 10 have been myself — may well have raised those
 11 questions. I don't have access to that information at
 12 the moment. I don't consciously recall particularly
 13 challenging in that way because our — again, even at
 14 that point in time, that's not where — our focus was on
 15 other areas, as I said in the opening remarks earlier
 16 this morning, around fire, and therefore we would have
 17 been comfortable with the position the government has
 18 taken based on the advice from the experts and our
 19 officials that that process is one that's still
 20 competent.
 21 MR KINNIER: Well, we've seen no evidence —
 22 SIR MARTIN MOORE-BICK: I'm sorry to interrupt you,
 23 Mr Kinnier.
 24 Just help me with this, if you could, Mr Lewis: I do
 25 understand the difficulty you have in not having the

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1 original paperwork to stimulate your recollection, and
 2 I understand that there may be occasions when you did
 3 write notes or raise questions for your officials and
 4 that you can't remember now one way or the other, but if
 5 you did, could we expect to see that reflected in the
 6 subsequent conduct of your officials?
 7 A. I would like to think so, yes, yes, in the sense of
 8 if — even if it was in a handwritten note to
 9 a submission saying, "Can we look into this" or "Can
 10 I have some further advice on this", you would expect
 11 that there would be that further advice or at some stage
 12 in the future there would be some response to that in
 13 terms of work from officials.
 14 As I say, I don't — I'm not — I don't consciously
 15 recall that, because I think we were — from my memory,
 16 we were confident and comfortable with the work we were
 17 doing with the sector that the right way to do this was
 18 still with the experts in the sector.
 19 SIR MARTIN MOORE-BICK: Yes, but the reason I asked the
 20 question is because it might follow that if we do not
 21 see any action being taken by your officials, which
 22 ordinarily one would imagine would be recorded in some
 23 way, we might infer that you did not make any such note
 24 or raise any —
 25 A. Oh, yes, yes, no, that is absolutely right, and that's

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1 why I say it's equally — and, I would say, more likely
 2 from my memory — that we were comfortable with the
 3 advice we were getting and the work we were doing with
 4 the sector that those sector-led experts were still the
 5 right people to manage this.
 6 SIR MARTIN MOORE-BICK: Thank you.
 7 Yes, Mr Kinnier.
 8 MR KINNIER: The Chairman has slightly stolen my thunder and
 9 the question I was going to ask you.
 10 We have seen no evidence that any further work was
 11 done, so can we take it that you didn't ask the
 12 questions?
 13 A. Well, as I say, I would — if I had made that kind of
 14 request, I would have expected to see something come
 15 back from officials. But as I've also said, and just
 16 answering the Chairman as well, my conscious
 17 recollection, insofar as it goes, was we were
 18 comfortable with the work we were doing with the sector
 19 that it was still the right way to progress.
 20 Q. So notwithstanding the cumulative weight of the concerns
 21 that had been expressed now by two coroners dealing with
 22 fatalities in which they'd raised concerns about the
 23 competency of fire risk assessors, nonetheless you
 24 remained content that intervention wasn't required?
 25 A. Yes.

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1 Q. From your personal point of view, that result was as
 2 a result of a predisposition against intervention in
 3 this field?
 4 A. Yes, in the sense that we were always still at that
 5 point looking at how we devolve power from central
 6 government, even in 2016, as much as when I was in DCLG,
 7 and at a time where we were trying to empower police and
 8 crime commissioners to take fire on and therefore
 9 work — and CFOA had just re — was in the process, if
 10 I remember correctly, of restructuring itself to be
 11 a much more structured body in the way that the police
 12 commissioners were, and therefore having that expertise
 13 and empowering them to do that work, and at the end of
 14 the day, they are the fire experts, so —
 15 Q. I'm sorry to —
 16 A. — empowering them in that way would still seem the
 17 logical way.
 18 Q. I'm sorry to interrupt you, though, Mr Lewis —
 19 A. That's all right.
 20 Q. — in relation to this. I ask the question again: what
 21 would it take to shift the presumption you had against
 22 regulation in order to intervene particularly to deal
 23 with the issues of the competency of fire risk
 24 assessors, when you had had two separate coroners, in
 25 addition to persistent concerns over many years, about

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1 competency of fire risk assessors? What would it take
 2 for you to intervene by way of regulation, set against
 3 that background?
 4 A. Well, the decision for us, in a very simplistic sense,
 5 would seem to me to have always been around the decision
 6 between whether — government taking central control of
 7 setting up a regulation, as opposed to government
 8 advising people and accrediting people to be the experts
 9 where companies and businesses should go, which
 10 of course if you — and I'm just trying to explain this
 11 as clearly as I can, even if you regulate, even if
 12 government puts in regulations, it won't necessarily
 13 stop what would colloquially be referred to as cowboys
 14 offering services that are not good enough, as opposed
 15 to those accredited experts who are able to do the job
 16 correctly and properly, and therefore the focus for us,
 17 I would say, would always have been around making sure
 18 that we are doing everything we can to encourage and
 19 educate people around where to get the correct advice
 20 from the experts who will ensure that they are following
 21 the guidelines correctly.
 22 Regulating wouldn't necessarily change that, and,
 23 actually, some people might argue could make the problem
 24 worse in terms of how companies interact.
 25 Q. That's a very high-level response, Mr Lewis. We've got

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1 a practical problem here. There had been —
 2 A. Yes, but that is the response in a sense — sorry, let
 3 me just —
 4 Q. Hang on, if you let me finish the question.
 5 There's persistent concerns here about the
 6 competency of fire risk assessors, supported by
 7 conclusions made by two coroners, one the senior coroner
 8 in Manchester. Nothing was done in order to regulate
 9 when you had a cumulative weight of evidence that
 10 something needed to be done. Why, in those
 11 circumstances, was greater weight attached to
 12 an ideological presumption against regulation rather
 13 than taking action when it was plain the sector-led
 14 approach was not working?
 15 A. Well, my point would be it wasn't just an ideological
 16 thing around devolving, it was also around what
 17 practically can make a difference, and practically
 18 making a difference is making sure that the right
 19 experts who have that understanding and expertise are
 20 available to the organisations that need that advice to
 21 get their fire risk assessments done correctly.
 22 Q. But it wasn't working, was it? This is the point we're
 23 dancing round, Mr Lewis, which your answers aren't
 24 grappling with: it wasn't working.
 25 A. Well, the question you're asking me is why we made the

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1 decisions at that point in time, and my answer is:
 2 that's why we made the decision we made at that point in
 3 time. As I said to you earlier on, when we were looking
 4 at those subs in that way, I wasn't — I'm not aware of
 5 looking at them in that cumulative way as you've just
 6 very fairly outlined, but that's why we made the
 7 decisions we did at the point we made them.
 8 Q. Can we look at another document, {INQ00014699}. This
 9 was the letter sent to the then Home Secretary,
 10 Amber Rudd, by Matt Wrack, who remains the general
 11 secretary of the FBU, and the letter was sent on
 12 3 October 2016. The letter was entitled:
 13 "FBU comments on the Home Office response to the
 14 coroner's letter, Regulation 28: Report on Action to
 15 Prevent Future Deaths — Stephen Alan Hunt."
 16 Now, although it's addressed to the Home Secretary,
 17 given your portfolio, would you have seen this letter
 18 when it was received at the Home Office?
 19 A. I would expect so, yes.
 20 Q. Now, I think you're the one who responded to it. We can
 21 go to the response, but we can take it from that that
 22 you would have seen and read this letter, presumably?
 23 A. If I responded to it, I would have — yes, because,
 24 again, the draft response would have come concertinaed
 25 with the initial letter.

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1 Q. If we can go to page 5 {INQ00014699/5} — it's a long
 2 letter from Mr Wrack — and paragraph 9, the subheading
 3 is, "Response to concerns about fire risk assessors".
 4 Mr Wrack wrote this:
 5 "The FBU finds the Home Office response
 6 unsatisfactory. We do not question the veracity of the
 7 description of steps taken, but we do question why those
 8 steps have failed and why the Home Office proposes
 9 neither any new steps/initiatives to address the
 10 failings of the measures in place nor any steps to
 11 assess whether the guidance for choosing a competent
 12 fire risk assessor has had any discernible impact. The
 13 document 'A Guide to Choosing a Competent Fire Risk
 14 Assessor' was first published in February 2013. The
 15 incident where Stephen Hunt was killed occurred on
 16 13 July 2013. It is over three years since its
 17 publication and two years since it was updated."
 18 Do you recall that particular concern expressed by
 19 the FBU at the time?
 20 A. No, I don't, no.
 21 Q. Is that the type of concern that you would have
 22 expressly discussed with, for example, Peter Holland?
 23 A. Potentially. I don't particularly recall, but possibly.
 24 If I'd have had a conversation around a draft response,
 25 possibly, yes.

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1 Q. Do you remember forming a considered view of the merits
 2 of the point the FBU was making here?
 3 A. Not sitting here today, no.
 4 Q. If you had asked officials for advice on whether his
 5 criticisms were well made, presumably there would be
 6 email correspondence to demonstrate that?
 7 A. Yes.
 8 Q. And absent any such correspondence, we can assume you
 9 asked no questions?
 10 A. Potentially, depending on — as I say, this would have
 11 come to me in the context of this would have been his
 12 letter and there would have been a draft reply to it,
 13 potentially.
 14 Q. We know that Peter Holland, who was the Chief Fire and
 15 Rescue Adviser by this stage, met Matt Wrack on
 16 1 September 2016 to discuss the concerns, and that you
 17 wrote a letter in response to Mr Wrack on
 18 8 November 2016, which referred to that particular
 19 meeting.
 20 Now, the letter is at {INQ00014700}. You can take
 21 it from me for these purposes that the letter does not
 22 specifically address the concern that Mr Wrack had
 23 raised regarding competency of fire risk assessors.
 24 Do you know why that particular concern was not
 25 addressed in this response?

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1 A. No.
 2 Q. Now, if we look at page 1 of the letter and the second
 3 paragraph, second sentence, you said this:
 4 "I have been advised that at the meeting he
 5 [Mr Holland] offered to progress your request for a
 6 'task and finish group' to address the issues you
 7 raised, and work has started in earnest to progress
 8 this."
 9 Can you help us, was that task and finish group in
 10 fact set up?
 11 A. I don't know. I mean, I would imagine it would have
 12 been, if it's in a letter like this, I would imagine it
 13 would have been set up fairly swiftly. My experience
 14 with Peter Holland is he's very assiduous and therefore
 15 that would have been done, but I don't recall.
 16 Q. Do you have any recollection as to the composition of
 17 that group?
 18 A. No.
 19 Q. Its chair?
 20 A. No.
 21 Q. Regularity of its meetings?
 22 A. No. No, none at all.
 23 Q. And no recollection of the work it carried out, even in
 24 broad terms?
 25 A. Not sitting here now, without looking at any sort of

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1 feedback of paperwork that came out of it.
 2 MR KINNIER: Sir, I have reached the end of my prepared
 3 questions for Mr Lewis.
 4 SIR MARTIN MOORE-BICK: Right.
 5 MR KINNIER: I would be grateful for some time —
 6 SIR MARTIN MOORE-BICK: The usual break?
 7 MR KINNIER: If that's convenient.
 8 SIR MARTIN MOORE-BICK: Yes.
 9 Well, Mr Lewis, when counsel gets to the end of his
 10 prepared questions, we have to have a short break just
 11 to enable him to check he's not left anything out, and
 12 also to enable those who are following the proceedings
 13 but from other places to suggest questions that they
 14 think possibly we ought to put to you.
 15 So we'll break now for 15 minutes. We will come
 16 back at 12.45. At that point we will see if there are
 17 any more questions for you. All right?
 18 THE WITNESS: Thank you.
 19 SIR MARTIN MOORE-BICK: Thank you. Would you go with the
 20 usher, then, please.
 21 (Pause)
 22 Thank you very much. 12.45, then, please,
 23 Mr Kinnier.
 24 MR KINNIER: Thank you.
 25 (12.30 pm)

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1 (A short break)
 2 (12.45 pm)
 3 SIR MARTIN MOORE—BICK: Right, Mr Lewis. Well, we'll see if
 4 there are any more questions for you.
 5 Yes, Mr Kinnier.
 6 MR KINNIER: Just a few, Mr Lewis.
 7 We discussed before the last break that if you had
 8 asked any questions or required further work to be done,
 9 we'd expect a consequential email chain from officials,
 10 and if there was no such chain, then we can take it that
 11 no such questions or concerns were made by you. Do
 12 I fairly summarise your position?
 13 A. Yes, that's reasonable.
 14 Q. Can you help us, say, for example, a min sub is put up
 15 to you, you make notes on it. Do you know what happens
 16 to that ministerial submission once you return it to
 17 your private office?
 18 A. Well, I ... until this process of the Inquiry, I'd
 19 always assumed that that — what would happen was the
 20 private office would take the comments, advice — on
 21 occasion it would be verbal but generally it would be
 22 something that's written on the sub — feed that into
 23 officials as part of either the decision or for work for
 24 them to do to come back, and then the bit I'd always
 25 assumed is that that was kept somewhere, which obviously

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1 is not the case.
 2 Q. So you can't help as to where those documents are kept
 3 and, if so, where and for how long and the rest of it?
 4 A. No. As I say, I had always assumed that they were kept
 5 in some kind of storage or archive by the department,
 6 but, as I found out in preparing for the Inquiry, that's
 7 not the case.
 8 Q. And you simply return those documents once you have
 9 completed work on them?
 10 A. Yeah. So when I was in that particular role,
 11 for example — from memory, I would have had two big
 12 boxes, as we call it the red boxes — so, sorry to
 13 demonstrate with hands, but about this deep (Indicated),
 14 sort of two piles like that, most evenings of
 15 submissions or letters to sign and things like that.
 16 Once you have done them, they go back to the private
 17 office and that's normally the last you would see of
 18 them as a minister.
 19 Q. One of the topics we repeatedly came back to during the
 20 course of the morning was evidence gradually accruing
 21 regarding concerns about the competency of fire risk
 22 assessors and why nothing was done to remedy or answer
 23 those particular concerns, or nothing, we'd say,
 24 effective.
 25 This was a question in broad terms that was put to

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1 Melanie Dawes, who was previously the
 2 Permanent Secretary at the department: is the reality
 3 that it took a multi-fatality event such as Grenfell to
 4 focus proper attention on the issues that had been
 5 discussed in the decade before the Grenfell fire?
 6 A. Well, in a practical sense, that's clearly happened,
 7 tragically, obviously, with the situation with Grenfell.
 8 The context I would give to it, though, in terms of
 9 what was happening at the time would be, as I said to
 10 you earlier on, I don't recall having subs put to me and
 11 I don't recall thinking about these decisions at any
 12 given point, the response to any particular letter, with
 13 the conscious thought process of that cumulative set of
 14 things that are happening in that previous point,
 15 bearing in mind, from memory, from earlier on, some of
 16 those letters are several years apart, and I'd done
 17 different jobs in between as well. So you look at it in
 18 the context of the letter you've had and the response
 19 you're given, necessarily — not necessarily cumulative.
 20 But also, and I would make the point more succinctly
 21 than I made just before the break, which is even if
 22 you're looking at whether government should regulate,
 23 the focus we would have been looking on is: will the
 24 regulation — would a regulation also make a difference,
 25 and in the context of the questions you have been asking

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1 me, that's around: would the sector be under regulation
 2 making sure it's getting that direct advice? And
 3 of course our work was around making sure the sector
 4 knew where to get that direct advice. So it was about
 5 what practically gets the outcome, rather than
 6 whether — regulation itself wouldn't necessarily have
 7 solved the problem, is what would have been going
 8 through our minds.
 9 Q. Mr Lewis, my final question is this: bearing in mind
 10 what you now know, and bearing in mind the work you did
 11 preparing for this Inquiry, is there anything you would
 12 have done not at all or differently during your time as
 13 minister with responsibility for fire?
 14 A. I can't say that I would necessarily change the
 15 decisions I made at the point I was at, but looking at
 16 it today, I think you would be — I would like to
 17 think — a couple of things: one is more consciously
 18 thinking through, challenging potentially some of the
 19 questions, even in areas that are — because my name's
 20 on the letter, even though something may not be in my
 21 portfolio, digging into that a bit more, and you would
 22 look more cumulatively at that process, as you have
 23 fairly outlined through the course of this morning, in
 24 terms of how you're dealing with something.
 25 I'm still not — as I say, if you're looking

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1 particularly at the question you were asking earlier on
2 around whether you regulate, I would still be looking at
3 what — and I still do today, I would look at: what is
4 the outcome we're looking to achieve and how do we best
5 achieve that? And that's a fair challenge.

6 But, yes, I think as you work through a career, let
7 alone looking at something so tragic as Grenfell, you
8 will always look back and think — you like to think
9 about what you can do differently to avoid ever being in
10 that situation again.

11 MR KINNIER: Mr Lewis, those are all the questions I have
12 for you. Thank you for attending to give evidence
13 today.

14 THE WITNESS: No, thank you, my pleasure.

15 SIR MARTIN MOORE—BICK: And it's right, Mr Lewis, that
16 I should thank you on behalf of all three members of the
17 panel. It's been very helpful to hear what you have to
18 tell us, and we have learned a lot from hearing your
19 evidence, and we're grateful to you for making the time
20 in no doubt a very busy schedule to come and give us the
21 evidence that you have given. So thank you very much
22 indeed.

23 THE WITNESS: No, thank you, sir. It's important to do all
24 we can to learn lessons, so I'm very happy to do what
25 I can.

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1 SIR MARTIN MOORE—BICK: Well, thank you very much, and now,
2 of course, you're free to go.

3 THE WITNESS: Thank you very much. Thank you all.
4 (The witness withdrew)

5 SIR MARTIN MOORE—BICK: Thank you very much, Mr Kinnier. We
6 have Mr Martin back at 2 o'clock, I think.

7 MR KINNIER: You do.

8 SIR MARTIN MOORE—BICK: Yes, good, thank you.

9 We'll rise now and we'll sit again at 2 o'clock,
10 when we will see Mr Martin.

11 MR KINNIER: Thank you, sir.

12 SIR MARTIN MOORE—BICK: Thank you.
13 (12.51 pm)

14 (The short adjournment)
15 (2.00 pm)

16 SIR MARTIN MOORE—BICK: Yes, Mr Millett. Now, we're back to
17 Mr Martin, is that right?

18 MR MILLETT: We are, Mr Chairman, yes. Thank you.

19 SIR MARTIN MOORE—BICK: Would you ask Mr Martin to come in,
20 please.

21 MR BRIAN MARTIN (continued)

22 SIR MARTIN MOORE—BICK: Good afternoon, Mr Martin.

23 THE WITNESS: Hello, sir.

24 SIR MARTIN MOORE—BICK: Welcome back. Are you ready to
25 carry on?

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1 THE WITNESS: Yes, sir.

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

3 Yes, Mr Millett.

4 Questions from COUNSEL TO THE INQUIRY (continued)

5 MR MILLETT: Thank you, Mr Chairman.

6 Mr Martin, good afternoon.

7 We are in the spring of 2013, and I want now to move
8 to your submission the then minister, Don Foster, at
9 {CLG00000461}. It's on the screen in front of you. You
10 can see it's dated 11 April 2013, from you to
11 Don Foster, copies to the Permanent Secretary's office,
12 "Lakanal House inquest — Rule 43 recommendations
13 regarding Building Regulations".

14 If we go, please, to paragraph 4 under
15 "Recommendation", it says:

16 "That you agree to respond to the coroner's
17 recommendations at Annex A (page 3) regarding building
18 regulations as follows;

19 "a) Acknowledge that the guidance in Approved
20 Document B (Fire safety) can be difficult for
21 inexperienced people to apply.

22 "b) Commission a review of guidance given to members
23 of Competent Person schemes to ensure that there is
24 proper understanding of the scope of the schemes and
25 where fire protection requirements affect window

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1 installations.

2 "c) Set out the Government's intentions to issue
3 a revised Approved Document B in 2016/17 following
4 a full review of the fire safety aspects of Building
5 Regulations. This would use the Department's new, style
6 guide for 'easy to read' approved documents and take
7 account of current research which is due to deliver in
8 2014."

9 Now, looking first at (b), please, 4(b), can we go
10 to the top of page 3 of the submission {CLG00000461/3},
11 paragraph 12, and you can see there it says this:

12 "Given that most of the issues with Building
13 Regulations related to the FENSA scheme it would be
14 advisable to raise the issue with FENSA and other scheme
15 providers for replacement windows to ensure that their
16 members are fully aware of the scope of the schemes and
17 the requirements applicable to their work. This could
18 be completed in a few months without the need for the
19 Department to divert significant resources."

20 Now, in fact, it's right, isn't it, that the coroner
21 had directed the jury at the inquest that there was no
22 evidence that could lead the jury to conclude that
23 reliance on FENSA, the Fenestration Self Assessment
24 Scheme, contributed to the deaths in any way? That's
25 right, isn't it?

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1 A. I think you're correct. I think the issue that had
 2 arisen was that the panels that we were talking about
 3 yesterday had been installed by a window installer, and
 4 the window installer had self-certified compliance with
 5 Building Regulations through what was then the FENSA
 6 scheme, and that's one of the mechanisms — one of the
 7 different administrative ways of demonstrating
 8 compliance.
 9 There then, as I recall, followed a debate about
 10 whether those panels — which weren't in themselves
 11 windows, they weren't transparent — whether they were
 12 covered by that scheme or not, and I think within the
 13 department we'd looked at this issue, and there seemed
 14 to be some — I think at the time FENSA acknowledged
 15 that they didn't think those panels were covered by the
 16 scheme, and we took the view that a way of addressing
 17 the problem that had occurred would be to ensure that
 18 FENSA and the other window scheme providers that were in
 19 place at the time had a clearly defined scope, so that
 20 window installers on those schemes knew whether or not
 21 they could self-certify that kind of panel, and if the
 22 scheme allowed them to do so, that they had the
 23 necessary knowledge and expertise to be able to do that
 24 correctly.
 25 Q. Well, you've answered a different question.

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1 A. I beg your pardon, I thought that was the question.
 2 Q. I think the answer to my question is yes, isn't it? The
 3 question was: do you accept that the coroner had
 4 directed the jury that there was no evidence to lead the
 5 jury to conclude that reliance on the FENSA scheme
 6 contributed to the deaths? Do you recall that?
 7 A. I'm not sure if I recall those exact words. I think —
 8 as I said yesterday, I think the general conclusion is
 9 that those panels weren't the most significant factor in
 10 that fire. As I said, it was a very complex incident
 11 and it would be wrong to regard that incident as
 12 a cladding fire. It wasn't.
 13 Q. All right.
 14 Let's just put this behind us. Let's go, please, to
 15 {INQ00015074/77}. This is the inquest transcript, and
 16 this is the coroner's summing-up on day 44,
 17 20 March 2013, after you had given your evidence.
 18 If we look at line 16, please, you can see
 19 the coroner gives the following direction:
 20 "Members of the jury, you need not concern
 21 yourselves with questions concerning the FENSA scheme,
 22 as there is no evidence which could lead you to conclude
 23 that reliance on the FENSA scheme contributed to the
 24 deaths with which we are concerned. I hope that both of
 25 those will be of help."

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1 So I was simply getting you to confirm that that is
 2 correct and coincides with your recollection.
 3 A. Yes.
 4 Q. Yes.
 5 Now, if we then go back to the submission, please,
 6 where we were, top of page 3 {CLG00000461/3},
 7 paragraph 12, how had you, in your submission here,
 8 concluded that most of the issues with Building
 9 Regulations related to that competent persons scheme?
 10 A. There had been a lot of discussion about that issue
 11 during the hearings.
 12 Q. It's not correct, is it, to say that most of the issues
 13 with Building Regulations related to the FENSA scheme?
 14 That would be inconsistent with the direction to the
 15 jury that I've just shown you, wouldn't it?
 16 A. I disagree.
 17 Q. Why do you disagree?
 18 A. Because you're talking about the findings of the
 19 inquest, not the proceedings of the inquest. The point
 20 I'm making here is that this was an important topic, and
 21 there was clearly disagreement and misunderstanding on
 22 that subject. So it was an issue associated with
 23 Building Regulations that needed to be addressed.
 24 Q. Let's go back to page 1 {CLG00000461/1}, then, please,
 25 and look at paragraphs 4(a) and 4(c) of your

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1 submissions, where you're summarising for the minister
 2 the recommendations which you had attached.
 3 Leaving aside the competent person scheme, and
 4 looking at 4(a) and 4(c), can you just help us, which of
 5 those recommendations deals in any way with the
 6 coroner's recommendation 1 that Approved Document B be
 7 reviewed to ensure that it provides clear guidance on
 8 external fire spread?
 9 A. I think that's (a) and (c).
 10 Q. Where, please?
 11 A. Well, it doesn't specifically point to those particular
 12 recommendations, but in terms of improving the clarity
 13 of the guidance, I think that's what (a) and (c) are
 14 intended to address.
 15 Q. Right. It's not there in terms, as I think you accept.
 16 Did you explain separately to Don Foster that the
 17 coroner had made three distinct recommendations in
 18 respect of the approved document?
 19 A. I can't remember exactly the detail of this submission,
 20 but it included a copy of those recommendations, and
 21 I would have expected him to have — given the
 22 importance of this, he probably would have read them.
 23 Q. Why didn't you set out for him on the face of your
 24 recommendation that recommendation number 1 was that the
 25 approved document be reviewed to ensure that it provided

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1 clear guidance on external fire spread in particular?
 2 A. Because he would have read them for himself, so I didn't
 3 need to repeat them in — the thing with ministerial
 4 submissions, as I think a few people have already told
 5 you, is we're expected to keep them very short. So if
 6 you're including a copy of the recommendations, which
 7 you definitely would do for something like this, you
 8 would expect the minister to read it for himself. You
 9 wouldn't want to repeat the text, otherwise you're using
 10 up the limited space you've got to say the same thing
 11 twice. It would be better that he read it himself.
 12 Q. Right.
 13 Why did you summarise the recommendations but omit
 14 reference to external fire spread, the one particular
 15 thing that the coroner drew attention to specifically in
 16 recommendation 1?
 17 A. I don't think I did that deliberately.
 18 Q. No, but why did you do it?
 19 A. I think I just answered that question, is we gave advice
 20 to the minister about what steps we thought was
 21 appropriate to take, and gave him a copy of the
 22 recommendations so that he could familiarise himself
 23 with them.
 24 Q. Was it your general experience, as at April 2013, that
 25 ministers read everything that was attached to your

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1 submissions, or would they go on what was in the
 2 submissions themselves in the main?
 3 A. That would vary from minister to minister. Something
 4 like this they would read all of it, I would have
 5 thought.
 6 Q. What was your experience of Don Foster's assiduousness
 7 when it came to —
 8 A. My recollection is he was a very thorough minister.
 9 Q. Did you explain to Don Foster that the coroner had made
 10 it clear that, despite your evidence, both in her
 11 Rule 43 letter and during the inquest itself, the
 12 simplification of the language and a reshuffle of the
 13 layout of Approved Document B was not going to be
 14 sufficient to address her concerns about the clarity of
 15 the guidance on external fire spread? Did you explain
 16 that to Don Foster?
 17 A. I don't think so.
 18 Q. Why not?
 19 A. Again, we need to be very concise with these things, and
 20 what we put here was what we thought was appropriate,
 21 and a copy of the recommendations was included so that
 22 he could consider them.
 23 Q. Did it occur to you that without bringing that fact to
 24 his attention, there was a clear risk that Don Foster
 25 would not have known that more might be required

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1 properly to address the coroner's concerns about
 2 clarity?
 3 A. We didn't think that at the time. As I say, this is
 4 a document that I wouldn't have written in isolation,
 5 and we all agreed that this was the appropriate advice
 6 to give.
 7 Q. Who did you agree that with?
 8 A. Well, it would have definitely — as you say, I think
 9 Mr Harral was my line manager then. Mr Ledsome would
 10 have been heavily involved in this, and it would have
 11 been cleared by directors and above.
 12 Q. Now, go to paragraph 10 {CLG00000461/2}. What is said
 13 there is this:
 14 "Given the confusion in court it is unsurprising
 15 that the Coroner has criticised the clarity of the
 16 guidance in Approved Document B and has called for it to
 17 be made clearer. The Department has adopted a new style
 18 guide for Approved Documents, which was used in the
 19 drafting of new approved documents published in
 20 January."
 21 Now, just looking at that, you link the coroner's
 22 criticism of the clarity of the guidance on external
 23 fire spread directly, don't you, to the confusion in
 24 court? Why did you do that?
 25 A. Well, the reason that I'd given evidence at the inquest

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1 is because there'd been a lot of confusion in relation
 2 to the application of Approved Document B.
 3 Q. And if you look at paragraph 9, just above that, you
 4 say:
 5 "Unfortunately, the expert witness appointed to
 6 advise the Inquest gave confused and conflicting
 7 evidence on what was required by building regulations at
 8 the time. This was, to some extent, due to process of
 9 cross examination and it became necessary for me to give
 10 evidence to clarify the situation."
 11 Now, just looking at that, David Walker, do you
 12 remember, was an RICS chartered surveyor —
 13 A. Yes.
 14 Q. — instructed by the coroner to advise at the inquest,
 15 wasn't he?
 16 A. Yes.
 17 Q. Can we agree that he had got confused both during his
 18 written and his oral evidence about whether the external
 19 wall at Lakanal was required to be fire resisting? That
 20 was the subject on which there was confusion.
 21 A. That was the subject where there was the most
 22 disagreement, yes.
 23 Q. Yes.
 24 A. And his report was for the most part correct, and the
 25 only issue that he'd not picked up on, which was this

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1 issue about needing to look at more than one document to
 2 understand what was appropriate for a building of that
 3 type, and so it was ... you know, it wasn't
 4 a fundamental misunderstanding.
 5 However, under cross-examination, I can't remember
 6 who the counsel was that raised it, but he was taken --
 7 in court, he was taken through different aspects of the
 8 approved document and saying, "Is this true? What does
 9 this say? What does this say?", and they got to the end
 10 of that and said, "And therefore all the external walls,
 11 100% of the external walls, need to be two hours
 12 fire resisting", and I don't think there -- there were
 13 quite a lot of fire protection people in the room at the
 14 time. They all knew that that was a nonsense
 15 conclusion. But Mr Walker accepted the argument that
 16 had been put to him, I think under the pressure of
 17 cross-examination, which was why I was asked to assist
 18 the inquest, because it had become a distraction. It
 19 was an argument which had very little to do with the
 20 actual incident and was going to swallow up potentially
 21 quite a lot of time.
 22 Q. It's right, isn't it, that any confusion on his part
 23 during the course of cross-examination wouldn't or
 24 didn't explain the views he had already expressed in his
 25 written report, which I think you had told David Crowder

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1 in a prior email you thought were wrong anyway; in other
 2 words, he had already made the mistakes or confusions in
 3 his report?
 4 A. He'd made one mistake, I think, from recollection, and
 5 that was this issue of whether or not a balcony escape
 6 route -- you approach it differently, depending on
 7 whether you can escape in both directions or not.
 8 Q. So was it your position that actually there was no
 9 confusion at all about ADB and it was all the fault of
 10 the process, rather than the fault of the document?
 11 A. I wouldn't say it was one -- it was a mixture of the two
 12 things, but I think the process had certainly created
 13 a problem, and that's why I was asked at quite short
 14 notice to assist the inquest to resolve the particular
 15 question that had arisen.
 16 Q. At paragraph 10, as you can see, you refer to the style
 17 guide there --
 18 A. Yes.
 19 Q. -- in the second sentence, after recording that
 20 the coroner had called for ADB to be made clearer.
 21 Why do you conflate or identify the recommendation
 22 on clarity made by the coroner with the recommendation
 23 on language and format by referring to the style guide?
 24 A. Because the style guide is designed to make the
 25 documents easier to read and understand.

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1 Q. It's not designed to clarify matters of substance which
 2 are ambiguous or unclear.
 3 A. Yes, it is.
 4 Q. That was your understanding, was it?
 5 A. It still is, yes.
 6 Q. The style guide?
 7 A. Yes, it's ... it was an instruction -- as well as basic
 8 instructions to an editor in terms of layout and so on,
 9 we used it as a -- to draft -- produce a drafting guide,
 10 so in future we'd approach the drafting of approved
 11 documents in a more consistent way, to avoid the kind of
 12 ambiguities that had cropped up over the years.
 13 Q. Right. But that's to be used in the drafting of new
 14 approved documents, not as a guide to understanding the
 15 existing documents.
 16 A. Correct, yeah.
 17 Q. Yes, I see. Therefore, a style guide wouldn't allow
 18 you, for example, to understand 12.7 in the way you had
 19 originally intended it as opposed to the way in which
 20 people in the industry might have been looking at it.
 21 A. No, I mean, the point I'm making in this statement here
 22 is that our intention is to apply this new guide to the
 23 approved documents as we revised them so that we
 24 improved the quality of them.
 25 Q. Looking at paragraph 11 you say:

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1 "However, a rewrite of Approved Document B would be
 2 a significant project and we would therefore recommend
 3 that this be done as [part] of a fuller review. The
 4 Department has not made any statements about when the
 5 next review would be carried out but, with Ministers
 6 agreement, we have commissioned research intended to
 7 feed into a future edition. This work is due to be
 8 completed in 2014 and we would expect that a revised
 9 Approved Document could be published during 2016/17."
 10 Now, I think it's right, isn't it, that the coroner
 11 had not in fact recommended a rewrite of the approved
 12 document, had she?
 13 A. That's not as I read it.
 14 Q. Well, we can see how you read it, because we can see
 15 your recommendations on page 1 {CLG00000461/1}. Could
 16 you go back to those, please.
 17 A. I think if you look at all three of her recommendations
 18 in relation to Approved Document B, I'd find it
 19 difficult to meet those recommendations without
 20 rewriting the whole document. You could meet one of
 21 them by only rewriting one section.
 22 Q. Sorry, my question was: the coroner herself had not
 23 recommended a rewrite. I think the answer is yes, isn't
 24 it?
 25 A. I think so, yes.

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1 Q. Yes. What she'd recommended was that the department
2 review ADB to ensure that it provided clear guidance, in
3 particular on external fire spread; yes? We can go back
4 to the —
5 A. Yeah, no, I accept your point, yes.
6 Q. Yes, and that was a narrow, focused and pretty specific
7 recommendation, wasn't it?
8 A. Yes.
9 Q. So why had you chosen to read it as requiring a rewrite?
10 (Pause)
11 A. I think because she — some of the things that she was
12 recommending, Approved Document B probably didn't
13 achieve.
14 Q. Right.
15 A. So we did look ... I'm not sure if we looked at it in
16 that light, but we definitely considered the approved
17 document, considered her recommendations, and concluded
18 that to meet her objective you would need to rewrite
19 some or all of the approved document.
20 Q. Did you have a discussion with Don Foster about that?
21 Did you say, for example, "Well, we can see what her
22 narrow and specific recommendations are at bullet
23 point 1, but actually this is going to require a much
24 bigger exercise and we should tell her that"?
25 A. I can't remember for certain whether we spoke to him.

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1 I think we may have done, but I can't remember.
2 Q. Nowhere in this document did you advise that your view
3 was that the provisions of Approved Document B on
4 external fire spread had already been clarified by the
5 changes made when the document was amended in 2006, do
6 you?
7 A. Not directly, no.
8 Q. Well, indirectly even?
9 A. I guess not.
10 Q. No. Why is that?
11 A. I can't say for certain. We ... this is something we
12 discussed within the division, and it was looked at up
13 and down the line, and people thought it was
14 an appropriate piece of advice. I can see why, looking
15 back at it, you might argue differently. At the time,
16 we thought it was good advice.
17 Q. Why didn't you advise the minister anywhere in the
18 submissions which of the coroner's recommendations he
19 may wish to accept or those he might wish to reject?
20 A. I think we took the view that that wasn't the best way
21 to respond to the coroner's comments. I think, as
22 I said yesterday, if it is considered appropriate that
23 any government response to a coroner should include
24 a direct yes or no, accept or reject line, then I think
25 that needs to be something that's included in formal

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1 guidance, which as far as I'm aware it isn't.
2 Q. Well, Mr Martin, it's really a matter of common sense.
3 Don't you want to be advising your minister whether or
4 not, on your advice, he or she is accepting the
5 recommendations or rejecting them, or if something
6 between the two, identify what it is that they're going
7 to do by way of response, if not respond in full?
8 A. You can argue that. I think at the time we did what
9 I think — I think it was an appropriate response at
10 that time.
11 Q. Well, isn't the problem here that it isn't crystal
12 clear? You're advising the minister to weave between
13 the recommendations and the response without making it
14 crystal clear whether they're being accepted, rejected
15 or adopted only in part. It's mealy-mouthed.
16 A. I'm not sure I would say it's mealy-mouthed. I accept
17 the fact it doesn't clearly say one way or the other,
18 and none of the people that reviewed this, which is
19 probably the best part of ten people, I imagine, thought
20 that that was an issue at the time.
21 Q. Let's move on in the month to May 2013. I want to look
22 at the ministerial submission to Lord Pickles, as he now
23 is.
24 Can we please go to {CLG00002889}. What I'm showing
25 you here is the final collated submission sent to the

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1 Secretary of State, Eric Pickles, from Louise Upton in
2 the fire safety policy team on 13 May 2013. You can see
3 the title, "DCLG's response the coroner's Rule 43
4 recommendations". The recommendation at 3 is, "That you
5 agree to respond as proposed at Annex B."
6 Then if you move down to paragraph 5 at the foot of
7 the screen:
8 "Ministers have agreed recommendations on handling
9 the respective recommendations, reflected in the
10 proposed reply, as follows ..."
11 You can see at the very, very foot of the page,
12 page 1:
13 "Annex F — Don Foster: submission on Building
14 Regulation issues."
15 Do you see that?
16 A. Yes.
17 Q. Now, if you go down to the bottom of page 3
18 {CLG00002889/3} at paragraph 15, we can see that much of
19 the text from your 11 April submission to Don Foster is
20 set out at paragraph 15 at the bottom of page 3, over on
21 to page 4 at paragraphs 16 and 17. Just have a look at
22 that. If we scroll down now to page 4 {CLG00002889/4},
23 paragraphs 16 and 17, you can see that what's gone in
24 there is very similar, if not identical, to what was in
25 your 11 April 2013 submission to Don Foster.

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1 A. Yes.
 2 Q. Yes, thank you.
 3 Now, there are some differences, and I just want to
 4 explore that.
 5 First, can you remember, did you draft the final
 6 version of paragraphs 15 to 17 for inclusion? We can
 7 scroll back to the foot of page 3 {CLG00002889/3}, look
 8 at paragraph 15.
 9 A. I imagine they were subject to comment by a whole range
 10 of people in the department.
 11 Q. Right.
 12 Well, let's look at {CLG00000559}. This is a draft
 13 of the ministerial submission from the department, and
 14 you can see it's got tracked changes on it.
 15 If we go to page 4 {CLG00000559/4}, we can see the
 16 tracked changes of paragraphs 15 to 17. There they are
 17 in full. "Building Regulations" in bold. Then you can
 18 see the tracked changes there which have come into this
 19 document.
 20 Did you insert those?
 21 A. I honestly haven't got a clue. It wouldn't surprise me
 22 if a lot of the comments on the drafting came in hard
 23 copy form. It wasn't unusual for senior officials to
 24 get a hard copy of a document and for them to write
 25 their comments on. So it could have been anyone that

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1 then entered it into the draft.
 2 Q. Right.
 3 We have, from the metadata, 8 May as the date.
 4 Maybe that does or doesn't help you with your
 5 recollection.
 6 A. I'm sorry, I haven't got a clue. And I would — it
 7 wouldn't surprise me if I had half a dozen bits of paper
 8 from different people and I was collating that together,
 9 I don't know.
 10 Q. The author of the tracked changes appears to be
 11 "Martin". Now, that of course could be you.
 12 A. Almost certainly would have been me, yes.
 13 Q. Right.
 14 Let's then look at paragraph 17 together:
 15 "A full review of the Approved Document would
 16 require significant resources and have a disruptive
 17 effect on the construction industry. Instead, we
 18 propose to seek confirmation from FENSA and other scheme
 19 providers for replacement windows to ensure that their
 20 members are fully aware of the scope of the schemes and
 21 the requirements applicable to their work."
 22 Now, quite apart from the fact that the coroner had
 23 not recommended a full review of the document, which we
 24 have been through already, that second assertion there,
 25 that a full review of the approved document would have

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1 "a disruptive effect on the construction industry", had
 2 not appeared, had it, in your original submission to
 3 Don Foster of 11 April?
 4 A. I think you're correct, yes.
 5 Q. Yes. We can compare the two, but as a matter of
 6 documentary ... can you explain why that wording was
 7 added?
 8 A. I'm not sure that I can. It may well be that someone
 9 had suggested some extra text. Certainly the government
 10 at that time was very focused on — because this was the
 11 coalition government, following the financial crisis, so
 12 ministers were very focused on avoiding anything that
 13 might impact on the economy in a negative way.
 14 Q. Yes. I think that's an answer to my next question, but
 15 confirm anyway: was this extra text intended to ensure
 16 that the recommendation received a warm welcome in
 17 a deregulating department which was focusing on
 18 promoting housebuilding and removing impediments for the
 19 construction industry more generally?
 20 A. It could be. I honestly can't remember. I doubt it was
 21 me that added that, but it might have been. It's
 22 something we would have spoken about. Certainly that
 23 was — one of the — when — if you change — if you
 24 significantly change a piece of guidance without any
 25 intended direct effect, there's still a cost to

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1 industry, which would still have registered in the
 2 government's one in, one out regime. So that would have
 3 been a factor that we were thinking about at the time.
 4 I can't remember the exact conversation about this
 5 particular text.
 6 Q. Well, you say cost; is that what you mean by or was
 7 meant by "disruptive effect"?
 8 A. Well, the disruption would be the cost.
 9 Q. Right.
 10 What was the evidential basis on which you or others
 11 in the department considered that a review of Approved
 12 Document B would have the effect of disrupting the
 13 construction industry?
 14 A. Every review we've ever done, I suppose. It was — one
 15 of the things that we were required to do whenever we
 16 made any changes, whether they were substantive or not,
 17 would be to consider what the transitional costs would
 18 be. Failure to do that would have fallen foul of the
 19 procedures that had been put in place to control
 20 regulation under that government.
 21 There was an organisation called the Regulatory
 22 Policy Committee that reviewed all of these — this kind
 23 of analysis, and they would definitely have rejected
 24 anything that didn't recognise that a new pan-industry
 25 guidance document was on everybody's desks that meant

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1 lots of people would have to familiarise themselves with
2 the changes.
3 Q. But I think it's right, as we've seen, that your own
4 initial submission to Don Foster in April, which was
5 attached to this submission as appendix F, was that any
6 rewrite of the approved document should be done as part
7 of a "fuller review". That's page 2 of the
8 11 April 2013 {CLG00000461/2}.

9 So how are these two pieces of advice consistent, on
10 the one hand recommending a rewrite as part of a fuller
11 review, and saying that a full review would have
12 a disruptive effect to industry and instead you're going
13 to have a FENSA exercise?

14 A. I think you need — I'm not sure what the other changes
15 are here. It still refers to the fact that we planned
16 to carry out a review of the approved document in the
17 future.

18 As I say, I can't remember who made what changes to
19 this draft. It might have been as a result of the
20 conversations that we'd had with the junior minister.

21 Q. Well, let me try it differently: would a fuller review,
22 as you had recommended to the junior minister, have
23 required less resource than simply clarifying the
24 guidance in relation to external fire spread in B4 as
25 the coroner had specifically recommended?

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1 A. Well, the coroner — in our view, the coroner had
2 recommended a review of the whole document.

3 Q. Well, would a fuller review have had a less disruptive
4 effect on the construction industry than simply
5 clarifying the guidance in relation to external fire
6 spread?

7 A. I think you would have ended up doing two pieces of work
8 a year or so apart, each with the same degree of
9 disruption, so that would have registered as — in terms
10 of the one in, one out procedure, would have registered
11 two ins. You would end up with a greater total cost to
12 business.

13 Q. Why not just take the coroner's recommendations at face
14 value, word for word, and do what she said? If you had
15 done that, and not had a fuller review as you had been
16 recommending, do you accept that that would have
17 required less resource and had much less of a disruptive
18 effect on the construction industry?

19 A. Are you suggesting that we could have looked at the
20 approved document and not done anything to it?

21 Q. Just do what she said.

22 A. I don't think any of us took the view that she was
23 suggesting we should review it, satisfy ourselves it's
24 okay and do nothing. I think she felt that something
25 needed doing.

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1 Q. I'm sorry, I'm not really finding that answer very
2 satisfactory.

3 A. Maybe I'm confused by your question, I'm sorry.

4 Q. Well, maybe. We have been through the first bullet
5 point of the coroner's recommendation, which
6 specifically refers to external fire spread. My
7 question is: if you had taken that bullet point at face
8 value, looking at the words on the page, and done what
9 she'd said, do you accept or do you not accept that that
10 would have required less resource and had a less
11 disruptive effect on industry?

12 A. I suppose if we'd ignored the other two bullet points,
13 yes.

14 Q. Going back to the submission to the Secretary of State
15 at {CLG00002889/4}, please, paragraph 17, you don't go
16 on, as you did in your submission to Don Foster at
17 annex F, to recommend that the approved document be
18 rewritten as part of a fuller review. What you say
19 instead at paragraph 17 — let's look at it — is that
20 instead you proposed to seek confirmation from FENSA and
21 other scheme providers for replacement windows to ensure
22 that their members are fully aware of the scope of the
23 schemes and the requirements applicable to their work,
24 and you go on about that. Then you go on at the end to
25 say that you commissioned research intended to feed into

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1 a future edition of Approved Document B with
2 a publication date of 2016/2017.

3 Do you accept that that advice, taken alongside your
4 earlier advice to Don Foster, forming part of this
5 advice to the Secretary of State, was contradictory, was
6 inconsistent internally and wholly unclear?

7 A. I think the net result is the same. I'm not sure if
8 I follow the point you're making.

9 Q. Well, the point I'm making is that in the submission to
10 Don Foster which forms annex F to the submission to the
11 Secretary of State, you have recommended that ADB be
12 rewritten as part of a fuller review, but here in
13 paragraph 17 we're seeing something much narrower and
14 rather different.

15 Do you accept that the advice being given to the
16 Secretary of State was contradictory, internally
17 inconsistent and thoroughly unclear?

18 A. No, I don't think I do.

19 Q. Why is that?

20 A. I think it's quite clear.

21 Q. Which is it? Is there going to be a fuller review by
22 way of a rewrite or is there going to be a FENSA scheme
23 exercise plus research to feed into a future review or
24 future edition? Which is it?

25 A. Well, it says we propose to work with FENSA and the

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1 other scheme providers to address the question of the
2 self — certification schemes, and it says that we're
3 planning to revise the approved document and we expect
4 it to be completed in 2016/17. So it's consistent in
5 terms of its outcome.

6 I can't remember why the text has changed.
7 I imagine lots of different people commented on it
8 before it got to the Secretary of State, and that might
9 be why it's different. But the outcome seems the same
10 to me.

11 Q. Well, I don't understand that. In the first sentence
12 you're saying that a full review would require
13 significant resources, and instead you propose to do
14 something different. What I'm simply putting to you is:
15 was that "Instead" and what follows, instead of a full
16 review, inconsistent with the advice in annex F that
17 there be a full review?

18 (Pause)

19 A. I didn't read it like that at the time. I think I can
20 see the point you're making. I think, again, it's
21 important to note that attached to this submission I'm
22 pretty sure was the letter that the Secretary of State
23 was being asked to sign, and again, the
24 Secretary of State wouldn't have signed that without
25 reading it. In fact, he probably would have asked

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1 several people to read it on his behalf as well. So
2 I think the intent was clear.

3 So, I'm sorry, I think in total, I don't think
4 that's particularly contradictory. I can see your
5 point, it is a little different. I don't remember why
6 that was at the time. Sometimes too many people comment
7 on these documents and they become unstable. That might
8 have been it. I don't know.

9 Q. Okay.

10 At paragraph 17, as we can see from the very end,
11 you advise the Secretary of State that:

12 "The Department has also commissioned research
13 intended to feed into a future edition of Approved
14 Document. This work is due complete in 2015 and we
15 expect that a revised Approved Document B could be
16 published during 2016/17."

17 In other words, is this right: you wanted the
18 Secretary of State to understand that the department
19 would be working towards a revised Approved Document B
20 with or without the recommendations of the Lakanal
21 coroner?

22 A. It might be it's phrased this way because the junior
23 minister had agreed for us to carry out the review, so
24 we didn't need to seek the Secretary of State's
25 permission to do so, because the junior minister had

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1 already done it. I honestly can't remember. That might
2 explain why it's drafted like this.

3 Q. Did you intend the minister to think that the proposal
4 to do the future edition of Approved Document B by
5 2016/2017 was a response to the coroner's recommendation
6 or something that the department was going to do anyway?

7 A. I can't remember, I'm sorry.

8 Q. The date 2016/2017, we saw that in your 11 April
9 ministerial submission to Don Foster.

10 A. Yes.

11 Q. Where did you get that from?

12 A. That's — we looked at — so at that time we were
13 working on another project, and we didn't have capacity
14 to start work on Approved Document B immediately, so we
15 were expecting at that time that we would start work on
16 Approved Document B as soon as the project we were
17 working on was completed, and a project like that can
18 run to the best part of four years.

19 Q. Was it your estimate, 2016/2017, or were you given that
20 by somebody else?

21 A. I think we jointly came up with that as being — as
22 tying in with the research that we'd already
23 commissioned and how long it takes to do that kind of
24 work.

25 Q. Right.

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1 Now, attached to the submission is the proposed
2 draft to the coroner at annex B. Now, we don't need to
3 go to the draft. You can take it from me that the draft
4 was cleared without amendment, so we can therefore go to
5 the final as-sent version, and that is at {CLG00002788},
6 please. You can see it was sent on 20 May 2013 to
7 the coroner.

8 I want to look with you at the paragraphs on the
9 Building Regulations starting at page 2 {CLG00002788/2},
10 at the penultimate paragraph, and it says there:

11 "Finally, in relation to Building Regulations,
12 I have noted your concerns about the difficulties that
13 some of those involved in the Inquests had with the
14 interpretation of Approved Document B. I can assure you
15 that my Department is committed to a programme of
16 simplification. However, the design of fire protection
17 in buildings is a complex subject and should remain, to
18 some extent, in the realm of professionals."

19 Just pausing there, that's your wording, isn't it,
20 "the realm of professionals"? We saw that yesterday.

21 A. I guess so. As I say, all of this would have been
22 produced cumulatively and we would have come up with
23 this text amongst ourselves.

24 Q. Well, did you have a hand in drafting this letter?

25 A. Yes.

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1 Q. You did.
 2 Now, a "programme of simplification", you can see
 3 that in the third line there, was not what the coroner
 4 had recommended, was it?
 5 A. She wanted it to be understood by a wide range of
 6 different people. It's pretty difficult to do that
 7 without simplifying it.
 8 Q. But as you knew — I think Lord Pickles didn't — the
 9 coroner had specifically commented to you during the
 10 hearing that applying plain English principles or having
 11 one column on a page rather than two columns on a page
 12 would not resolve the difficulties. You may recall we
 13 looked at the transcripts —
 14 A. Yes, and I think I've spoken several times now and said
 15 that's not all we were planning to do. That's not what
 16 the style guide was all about. It was much more
 17 involved than that. We put a lot of effort into trying
 18 to improve the way that we produce our guidance to make
 19 it easier. It's an incredibly difficult thing to do.
 20 Q. Right.
 21 I mean, a programme of simplification, did you
 22 understand that to be an acceptance of her
 23 recommendation for clarification?
 24 A. Yes.
 25 Q. Going on with the Secretary of State's response to

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1 the coroner, on the final paragraph on page 2
 2 {CLG00002788/2}, please, it says:
 3 "We have commissioned research which will feed into
 4 a future review of this part of the Building
 5 Regulations. We expect this work to form the basis of
 6 a formal review leading to the publication of a new
 7 edition of the Approved Document in 2016/17. The
 8 revision would be drafted in accordance with a new
 9 'style good' for Approved Documents, aimed at ensuring
 10 the guidance is capable of being more easily understood,
 11 and that the need to cross-reference is reduced.
 12 "In the meantime, however, I have commissioned my
 13 officials to review the current guidance issued by
 14 providers of Competent Person Schemes for window
 15 installers. The review is intended to ensure that
 16 members of these schemes are fully aware of the scope of
 17 these schemes and the fire safety measures which should
 18 be addressed, and is I believe, an appropriate response
 19 to the problems that came to light during the inquests.
 20 "I am grateful for your recommendations and can
 21 assure you of my commitment to ensuring that the safety
 22 of residents in high rise building continues to be
 23 a priority."
 24 Did you write those paragraphs I've just read to
 25 you?

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1 (Pause)
 2 A. I would have been involved in the drafting of the
 3 penultimate one. I doubt I drafted the last one.
 4 Q. Now, you say in your statement, paragraph 29
 5 {CLG00019469/11} — we don't need to go to it — that no
 6 issues were raised with the department's formal response
 7 to the Rule 43 letter.
 8 A. I think the coroner did reply, but not in relation to
 9 the Building Regulations issues.
 10 Q. Right.
 11 Now, can we look back, then, at the department's
 12 opening submissions, please, to this module of the
 13 Inquiry, {CLG00036387/32}, paragraph 95. It says this
 14 at the top of the screen:
 15 "The Department's response to the Coroner's letter
 16 was drafted by officials and approved by and sent under
 17 cover of the Secretary of State. The Department is of
 18 the view that its response to Recommendation 4 was not
 19 well structured and is unclear and difficult to follow
 20 when read against the text of the recommendations."
 21 Do you agree with that?
 22 A. I suppose the point it's saying, "when read against the
 23 text of the recommendations", I think — it doesn't say
 24 "Recommendation 1, accept/reject; recommendation 2,
 25 accept/reject", and if the coroner thought that was

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1 appropriate, that the response was inadequate, she could
 2 have said so in her reply. As I say, she did take the
 3 time to reply to this letter. And at that time,
 4 numerous officials and the sort of political leadership
 5 of the department had reviewed the letter and was happy
 6 that it was appropriate.
 7 So that's an opinion of someone looking back at that
 8 letter many years later. Do I agree with that? I think
 9 it's clear what the department was planning to do, and
 10 if the coroner wanted the department to do something
 11 else, she was more than able to say so.
 12 Q. If we go to paragraph 97, it says this:
 13 "The advice that was sent to Ministers, and the
 14 Secretary of State's subsequent response to the Coroner,
 15 failed to articulate clearly that the work was not
 16 considered to be safety critical, or to explain how and
 17 why this view had been reached. Without this
 18 information, the response to the Coroner was ambiguous
 19 as to whether the recommendation was accepted, in full,
 20 as safety critical; and this may have been the reason
 21 why, in turn, the Coroner did not challenge or seek to
 22 correct any misunderstanding in the Department's
 23 response."
 24 Now, is there any part of that that you would
 25 disagree with?

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1 (Pause)

2 A. I think it was clear enough to the coroner what the

3 department was proposing to do. I'd be surprised if

4 the coroner didn't understand that.

5 As I say, there was a clear timetable in there, so

6 you could look at that and realise that this perhaps

7 wasn't — that we weren't treating this as an urgent

8 piece of work. And the ... I think the coroner would

9 have understood that.

10 Q. It's right, isn't it, though, that you did not

11 consider — the department did not consider — the

12 coroner's recommended review of the provisions of ADB on

13 external fire spread to ensure clarity to be safety

14 critical?

15 A. I think that's probably fair, yes. I think, as I say,

16 we'd indicated in the letter that this was something

17 that we agreed the approved document could be improved

18 and that we had a programme of work to do so, and set

19 out a clear timetable of when we thought that would be

20 done, and it was plain to anyone looking at the letter

21 that it wasn't being treated urgently.

22 Q. Would it be fair also to say that you yourself did not

23 consider that any such review needed to be carried out

24 at all as at the spring of 2013?

25 A. I'm sorry, can you say that again?

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1 Q. Yes. Is it fair to say that you yourself did not think,

2 as at spring 2013, that any review needed to be carried

3 out at all?

4 A. No, that's not true.

5 Q. So what was it about external fire spread as at

6 April 2013 that you did think needed to be carried out?

7 A. No, I considered that Approved Document B was due

8 a revision. I think approved documents, certainly the

9 more complex ones like Approved Document B, need to be

10 reviewed probably at least every five years.

11 Q. Yes. That's a generic answer, though. My question is

12 a bit more specific.

13 A. Well, it is now. It wasn't when you first asked me.

14 Q. Oh, right.

15 A. You asked — the question you asked me was whether you

16 think — I thought at that time Approved Document B

17 needed a review, and I did.

18 Q. No, you're quite right. Let me be more specific,

19 Mr Martin.

20 Would it be fair to say that, so far as the

21 coroner's recommendations about a review of Approved

22 Document B on external fire spread are concerned, your

23 view, as at spring 2013, was that no such review was

24 required?

25 A. As at that time, we thought that the guidance was

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1 adequate, yes.

2 Q. Yes, thank you.

3 Now, I'm going to ask you a few questions about the

4 seven workstreams report which we know were commissioned

5 in 2012, which was before the Lakanal inquest, and which

6 I think the department had in its hands by

7 February 2015, and which were eventually published in

8 February 2019. That's what I want to ask you about.

9 A. Okay.

10 Q. All right?

11 Now, can we agree three things: first, none of the

12 seven workstreams addressed external fire spread and the

13 dangers posed by the use of combustible materials on

14 buildings over 18 metres?

15 A. Not directly, but they did address cavity barriers,

16 which is linked to external fire spread.

17 Q. All right.

18 Can we agree that none of the seven workstreams

19 addressed the clarity of the guidance on external fire

20 spread?

21 A. That's correct.

22 Q. Yes.

23 Can we agree that none of the seven workstreams

24 addressed the concerns in respect of unusual downwards

25 external fire spread of the type seen at Lakanal House?

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1 A. I think that's correct too, yes.

2 Q. Did you appreciate when you read the seven workstreams

3 reports that they nonetheless highlighted a number of

4 areas where ADB was quite significantly out of date and

5 which required prompt action by way of revision?

6 A. I definitely knew that Approved Document B needed work.

7 It was well overdue by the time we'd got to that stage.

8 Q. For example, can we agree that report 7 on the means of

9 escape for disabled people — and we can look at it —

10 included a survey which was highly critical of the

11 adequacy of the means of escape for disabled people?

12 A. I think you're correct, yes.

13 Q. Yes. I think you'd known since 2004, which was the time

14 of the 2004 to 2005 consultation on ADB, that the means

15 of escape provisions in ADB were inadequate?

16 A. Sorry, that's — you're jumping backwards and forwards

17 in time and I'm losing track of the question.

18 Q. Oh, I'm sorry. Let me —

19 A. We made quite — the 2006 edition included quite a lot

20 of changes in relation to improving standards for means

21 of escape for disabled people. It was very — across

22 the whole of government there's been a — it's an area

23 of policy that I guess nearly every policy official in

24 government is trying to wrangle with, is that the

25 population is changing, the demographic's changing, and

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1 that has an impact on a range of different issues, so
 2 we're aware that that was something that could be
 3 improved on.
 4 Q. Well, let's see if we can approach this slightly more
 5 structurally so as to help you.
 6 Let's start with the means of escape for disabled
 7 people's report 7 as part of the seven workstreams.
 8 That's at {CLG00006270}. That's the first page. It's
 9 prepared for you, dated February 2015; yes?
 10 A. Yes.
 11 Q. If we go — I'm not going to take you to all of it — to
 12 page 17 {CLG00006270/17}, we can see the results of
 13 a survey there. There are the question 9 responses.
 14 Question 9 is at the top, and it says:
 15 "Within existing buildings, where provided, are the
 16 means of escape provisions for disabled people suitable
 17 and sufficient for the building population?
 18 "The majority response was 'No', reflected in the
 19 following comments."
 20 The first comment is about retrofitting to allow
 21 access by disabled people, so hotels, schools, colleges,
 22 local authority buildings, to name but a few. And then
 23 the second bullet point:
 24 "'No' ... generally not for buildings where you
 25 would expect a higher than normal number of disabled

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1 persons to be present With one evacuation chair it
 2 will take about 30 minutes to get 6 disabled persons out
 3 of a typical medium rise office building. Developers
 4 and Design & Build Contractors are only interested
 5 (generally) in doing the absolute minimum to secure
 6 Building Regulations approval."
 7 Then maybes, which are there. You can see the pie
 8 chart underneath that at figure 12.
 9 So that's what came to you in 2015.
 10 But jumping back in time, if I may, to 2004, can we
 11 go, then, to {CLG00013062}. This is part of the looking
 12 forward reporting in July 2004, take the date from me,
 13 and you can see the heading, "Looking Forward to a new
 14 Part B", which I think we looked at earlier on in your
 15 evidence.
 16 If we go to page 3 in that document {CLG00013062/3},
 17 please, under the heading "Means of Escape for Disabled
 18 People" at the foot there, you can see it says this:
 19 "It was clear from the comments made that current
 20 guidance on this issue was inadequate and is an issue
 21 that should be addressed. One of the main difficulties
 22 concerns how people are assisted from refuges to a final
 23 exit. This is generally regarded as a management
 24 procedure but there may be built-in solutions that could
 25 facilitate this process and guidance was required. The

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1 use of lifts was thought to be the ideal option; however
 2 it was felt that the potential costs may be
 3 prohibitive."
 4 Now, in fact, you, I think, got this document at the
 5 time. We can see that from — let's go to it —
 6 {CLG00001526}. That's an email which attaches this
 7 document, "Forwards look", from Peter Field to
 8 Mike Payne, and if you go to the foot of the screen, you
 9 can see that it goes to Anthony Burd and you, among
 10 other people.
 11 So can we take it that you saw this at the time back
 12 in 2004?
 13 A. Yes, I was involved in drafting it, as I recall.
 14 Q. Yes. Thank you. So did the BRE report in 2015 not
 15 highlight to you that ADB needed to be amended to
 16 incorporate specific requirements for the evacuation of
 17 disabled people which perhaps the 2006 edition had not
 18 done?
 19 A. Yes, that's why we commissioned it. So the 2006 review
 20 we — people suggested guidance should be improved and
 21 there was a range of additional measures put into
 22 Approved Document B at that point. I recognised that
 23 this would be one of the questions that would arise in
 24 a future review of Approved Document B, and I needed
 25 an evidence base so that when we were looking at that

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1 question, I would be able to demonstrate why we needed
 2 to do more, and that's why we'd commissioned that piece
 3 of work.
 4 Q. Yes, and did that report, when you got it in
 5 February 2015, not bring home to you that that work was
 6 becoming urgent, given that the inadequacy of means of
 7 escape for disabled people had been an issue since 2004?
 8 A. It had been an issue since long before then. As I said
 9 before, it's an incredibly difficult issue to address.
 10 But, yes, it was one of a range of things that we needed
 11 to do — needed to address. That will always be the
 12 case, I imagine. There will always be things you can do
 13 to improve things, and it's a case of at each time you
 14 review something like this, you establish what's
 15 considered to be reasonable at that time, and what's
 16 reasonable changes over time.
 17 Q. Right.
 18 You tell us in your statement — I don't think we
 19 need to go to it — that you also received some research
 20 in April 2016 from David Crowder that you'd commissioned
 21 in November 2014 to address some concerns raised by the
 22 APPG about the appropriate fire performance of cladding
 23 panels; do you remember that?
 24 A. Oh, this was the question of fire resistance of what
 25 often are described as spandrel panels?

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1 Q. Well, yes, you cover it in your statement at
2 paragraph 141. We can look at that.
3 A. Only if you need to.
4 Q. Well, thank you. Let's do that then, if you want to.
5 Let's go to {CLG00019469/50}, paragraph 141. Let's go
6 to that, just so we're clear, because I'm not sure I can
7 answer your question.
8 Let's go to paragraph 141, and you can see there you
9 say:
10 "In April 2016 I received the results of some
11 research I had commissioned BRE to undertake on the
12 concerns regarding fire spread over the external walls
13 of multi-storey buildings. I had commissioned this
14 research in November 2014 to address the issues that had
15 been raised previously by the APPG in their letter of
16 5 August 2014."
17 Yes? That's what you say there.
18 A. Yes.
19 Q. You also go on to tell us at 142 — I'll read it to you
20 rather than trying to paraphrase it:
21 "On the basis of this BRE research I was satisfied
22 that not only did the Building Regulations adequately
23 cater for external fire spread, but also that there was
24 adequate guidance available in the public domain."
25 Now, Dr Crowder has told the Inquiry in his evidence

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1 that the research was flawed, and he said that his third
2 witness statement at paragraph 186 {BRE00047668/47}, and
3 the detailed reasons for that were explored when he gave
4 oral evidence.
5 Let me show you his statement first of all,
6 {BRE00047668/47}, paragraph 186. You can see at the
7 foot of the screen, he says this:
8 "I accept the work carried out for the External Fire
9 Spread reports was flawed. However, the work I believe
10 should be seen in the context of the extremely limited
11 resources (in terms of budget, people and time) that
12 were available to the team to complete it."
13 Now, first, do you yourself accept that the work he
14 carried out, as he says here, for the external fire
15 spread reports was flawed?
16 A. It was intended as a scoping study, so it was a small
17 exercise to just examine what the issues were, and there
18 was already some historic research on the same subject,
19 and so it was an opportunity to look at that again, and
20 what I'd hoped is it would be something that we could
21 include in one of a number of journal articles that —
22 when we revised this contract a few years in advance of
23 this time, I'd included a clause in that contract that
24 the contractor would produce journal articles so that
25 there would be an opportunity to disseminate information

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1 more quickly. One of the problems we had is that the
2 Investigation of Real Fires work fed into the work that
3 we did, but it might be sometimes ten years before that
4 got to the industry. Well, that's too slow, and I —
5 and it's very difficult to — for us to do something
6 directly, because you'd need to go through all the
7 political approvals processes.
8 Q. I'm sorry to interrupt you, but can I please just see if
9 you can answer my question.
10 A. Sorry.
11 Q. All I want to know is whether you agree with Dr Crowder
12 that his own research was flawed as he says in his
13 statement.
14 A. Not in the context of what it was intended to do.
15 Q. You don't think it was flawed?
16 A. No.
17 Q. You see, he told us in his oral evidence,
18 {Day230/148–220} — and I'm going to paraphrase it for
19 obvious reasons — that this was a basic set of
20 experiments using homogeneous materials which were
21 rushed through with extremely limited resources, there
22 were problems with the way the experiments were set up,
23 problems on the face of the report, problems with the
24 fact that the panels hadn't achieved the classifications
25 which were assumed and problems with the thermocouple

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1 measurements in the experiments. That's a very potted
2 version of quite a lot of his evidence which he has told
3 us.
4 Do you disagree with even the summary I've given you
5 just now?
6 A. No, it's the nature of a scoping study, is that you
7 carry out some experiments and learn not only about the
8 results of the experiments, but if you were to do a more
9 detailed study, what you'd need to take account of to
10 design an experimental programme.
11 Q. Where do you get the words "scoping study" from?
12 A. That's the conversation I had with them. This was never
13 intended to be a final answer to a question. It was —
14 this is what I was trying to say, is what I wanted to do
15 was bring into the public domain the historic research
16 on the subject, and also just to show some more recent
17 experiments that we'd done. That was what I was trying
18 to do with that piece of work. So I recognise that it
19 wasn't a definitive study. I didn't have any —
20 I didn't have the funding to do a definitive study.
21 And — but by getting that information in the public
22 domain, it allowed people to discuss the facts that were
23 available.
24 Q. Now, Dr Crowder told us in his evidence,
25 {Day230/153:12–15}, and again at {Day230/186}, that you

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1 and he had had conversations after the Grenfell Tower
 2 fire in which you both agreed that his work was flawed.
 3 That's what he told us. Do you agree?
 4 A. Well, that particular piece of work was about
 5 fire resistance of spandrels, so it wasn't particularly
 6 relevant to Grenfell.
 7 Q. Sorry, do you agree that you and he had conversations
 8 after the Grenfell Tower fire in which you and he agreed
 9 that the work was flawed?
 10 A. I don't remember those conversations. That doesn't mean
 11 to say they didn't happen. It was a particularly
 12 intense period of time.
 13 Q. He also told us that even at the time research was done,
 14 he understood that you wouldn't have had much of
 15 an intention of relying on it. That's {Day230/154:13}.
 16 Is he right about that?
 17 A. I think so, yeah, I wasn't planning to make — that
 18 wasn't what we'd use to make a fundamental policy
 19 decision. It was more about — it was an issue that had
 20 been raised by — I think it was Ronnie King had raised
 21 it via the all-party parliamentary group, and as
 22 I understand it, that had been suggested to him by
 23 Sam Webb, and what I wanted to do was to get a broader
 24 range of people in the fire safety community to discuss
 25 that issue.

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1 Q. But if, as you now tell us, this was never intended to
 2 be a final answer, it was not a definitive study and, as
 3 you just say, this wasn't what you'd use to make
 4 a fundamental policy decision, can you explain why it
 5 was that you say, as you do in your statement at
 6 paragraph 142 {CLG00019469/50}, that, "On the basis of
 7 this ... research I was satisfied that not only did the
 8 Building Regulations adequately cater for external fire
 9 spread, but also that there was adequate guidance
 10 available in the public domain"?
 11 A. I think at that time I was thinking about the question
 12 of the fire resistance of those panels.
 13 Q. Let's be absolutely clear, then, please. Can we go back
 14 to your statement at page 50 {CLG00019469/50}. You
 15 quote from the findings there; yes?
 16 "'... there is a clear demonstrable need to ensure
 17 that buildings are designed and constructed so that
 18 fire spread across the external surface and within the
 19 external façade is inhibited as required by
 20 Building Regulations. There is adequate guidance
 21 available in the public domain to allow this to be
 22 achieved.'"
 23 And then you say:
 24 "On the basis of this BRE research I was satisfied
 25 that not only did the Building Regulations adequately

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1 cater for external fire spread, but also that there was
 2 adequate guidance available in the public domain."
 3 Now, I put my questions again: on the basis of the
 4 evidence you have given just now about that research,
 5 that it was a scoping study, not intended to provide
 6 a final answer and not a definitive study, can you
 7 explain why it was that you were satisfied, based on
 8 that research, that not only the Building Regulations
 9 adequately catered for external fire spread, but that
 10 there was adequate guidance available in the public
 11 domain?
 12 A. I think, from memory, the journal articles covered more
 13 than just the question of fire resistance. I think
 14 that's the point I'm making here. I don't think I've
 15 made it very clearly and I'm sorry.
 16 Q. Right. Let's move on to a different — well, before
 17 I do, can we agree, then, just to put a line under this,
 18 that you shouldn't have taken any comfort at all from
 19 the piece of work that had been done, and certainly not
 20 as the basis for understanding that there was
 21 satisfactory guidance in Approved Document B on external
 22 fire spread?
 23 A. This was 2016, so I was well aware that we needed to do
 24 work on Approved Document B and was trying to get it
 25 done, so I think at that — I think the point I've

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1 probably made quite badly here is that this question of
 2 the fire resistance was something that I was having —
 3 part of this exercise brought this historic research,
 4 which was quite difficult to find, back into sort of
 5 circulation, if you like, and I was happy that it wasn't
 6 something that we needed to look at again, but by
 7 putting it in that journal article, it provided the
 8 opportunity for other people to challenge that.
 9 Q. Mr Martin, we don't see any reference in paragraphs 141
 10 or 142 to fire resistance as opposed to anything else.
 11 It's about —
 12 A. Yes, I accept that. I think I've not made that clear in
 13 my statement.
 14 Q. Why do you say it now? Why do you say that this is
 15 really about fire resistance and not about external fire
 16 spread, as it says in at least three places?
 17 A. Well, it's ... the question of fire resistance for those
 18 panels related to external fire spread. It's
 19 a different facet of external fire spread.
 20 Q. Let's turn to a different topic, then. Let's go to
 21 {CLG00018930}. Now, this is an email chain between
 22 Mr Harral and you from May 2016. If we look at the
 23 first email in the chain at the bottom of page 1, it's
 24 from Richard Harral on 25 May at 10.40 in the morning to
 25 you, and over the top of page 2 {CLG00018930/2} it says

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1 this. You can see from the first few lines of the email
 2 that he's suggesting to you that you might like to take
 3 on some infractions or EPBD work, and then he says:
 4 "I would support you on this as I can understand why
 5 the editorial work on Part B turns you off (how long
 6 have you been looking at AD B? 11 years?) — we could
 7 export the bulk of editorial work to a technical editor
 8 though RIBAE and we should have some money in the piggy
 9 bank from Part R if you wanted to free up some time to
 10 do this. It's good to do new things to avoid getting
 11 stale — and the Carbon Budget/EPBD stuff can be quite
 12 interesting.
 13 "Let me know.
 14 "As an aside ..."
 15 I'll come to that in a moment.
 16 Had you told Richard Harral that the editorial work
 17 on part B turned you off?
 18 A. I think I'd probably had what you might describe as
 19 grumpy conversations with Richard at this time. Because
 20 the division had been unable to get clearance to carry
 21 out any — or to go out into the public domain with any
 22 project work, Richard had decided that what we could do
 23 as a team is amongst ourselves carry out editorial work
 24 on all of the approved documents, which is quite
 25 a big — everybody had maybe four approved documents

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1 that they were responsible for, I had something in that
 2 order, and he wanted us to go through them, apply the
 3 new style guide and produce a draft.
 4 I was frustrated by that because, in my view, it's
 5 very difficult to produce a document that suits its
 6 readership if you're not allowed to speak to its
 7 readership, and I guess that's where the — I don't
 8 think I was alone in that. I think we were all very
 9 frustrated at that time, that we couldn't publicly talk
 10 about the work we were doing, and I was concerned that
 11 I would go through the exercise of doing a lot of
 12 editorial work on the approved document, and then we'd
 13 show that to our stakeholders who would all say, "No,
 14 this is no good, we think this is worse". So I was
 15 unhappy about doing what I saw as work that might not
 16 bring any real benefit.
 17 Q. Well, he asks you the question, "how long have you been
 18 looking at AD B? 11 years?", so wasn't this really more
 19 about you becoming fed up with the familiar, rather than
 20 the frustrations of the editorial exercise itself?
 21 A. Probably a mixture of the two. I had been working on
 22 ADB a long time. Unfortunately there was no one else in
 23 the team that had any background in fire protection.
 24 The one person that we had had in the team had left, not
 25 least because there was no chance of him getting a pay

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1 rise, basically, and he'd just had a young family and he
 2 could earn considerably more working as a building
 3 inspector than he could working in the policy team that
 4 wrote the Building Regulations, so you can see why he
 5 left. So there wasn't really anyone else to look at ADB
 6 at the time.
 7 Q. Looking at the last paragraph of Richard Harral's email,
 8 he says this:
 9 "As an aside, I've never quite understood what
 10 needed to be sorted out in ADB as a result of [Lakanal]
 11 House? Was it primarily application of requirements to
 12 retrofit work, or guidance on surface spread of flame,
 13 or perhaps a bit of both?"
 14 Can you explain why Richard Harral was so uncertain
 15 about that, so out of touch with the coroner's
 16 recommendations, three years on after she'd made them,
 17 and three years minus two months after the
 18 Secretary of State's promise?
 19 A. I mean, this is an informal email between colleagues.
 20 He was aware of the recommendations. He probably
 21 couldn't remember at that time exactly what they said,
 22 I imagine. He'd been ... sorry, what was the date of
 23 this email? I'm just trying to place this in time.
 24 Q. 25 May 2016.
 25 A. Yeah, he'd been under an enormous amount of pressure at

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1 that time. He was very frustrated, like the rest of us,
 2 about the fact there had been no progress and it was
 3 making him ill.
 4 Q. Well, he says "I've never quite understood", not "I've
 5 forgotten". Can you explain why, at least according to
 6 him, when you saw this, you thought he'd never
 7 understood what needed to be sorted out in ADB?
 8 A. I think it's a bad choice of words on his part. I mean,
 9 I think you asked him this question. I can't remember
 10 what his answer was.
 11 Q. If we go to your response on page 1 {CLG00018930/1},
 12 please, second email down, the next day, you say:
 13 "Hi Richard
 14 "It's more like 16 years but I'm not counting.
 15 "I'm procrastinating because I'm not able to do the
 16 job the way I want to.
 17 "I suspect I need to lock myself away for a week and
 18 JFDI!
 19 "I am getting a bit 'stale', I think it might be a
 20 form of mid life crisis. (I'm [redacted] is this it?).
 21 But ADB is almost like my third child. I would have
 22 gladly handed the job to Steve K but that wasn't to be."
 23 Now, then you go on to say:
 24 "There's a limit to what RIBA E can do but I think
 25 they could help a lot."

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1 What did you mean by "I'm procrastinating because
2 I'm not able to do the job the way I want to"?
3 A. That's the point I was just making, is that Richard
4 wanted us to redraft the document, but not — we weren't
5 able to do that in the public domain.
6 Q. I see.
7 A. And I saw that as very counterproductive.
8 Q. And "JFDI", does that mean "just fucking do it"?
9 A. Yes.
10 Q. In what way were you getting a bit stale?
11 A. I think I was acknowledging the fact that I had been
12 working on part B for a really long time, and I remember
13 when Mr Kelly was in the team, he had the enthusiasm
14 that I think I had when I'd first joined the team, and
15 I thought — and he was a very capable person and
16 I thought he would be a good person to take over the
17 mantle of ADB and bring some fresh eyes to it.
18 Q. Right. And why was ADB almost like your third child?
19 A. Because I'd been working on it for such a long time.
20 Q. Did you feel like you might have been in the job for too
21 long?
22 A. I think at that time I was looking for another job,
23 yeah, I was fed up.
24 Q. Right. Was this an acknowledgement on your part, in
25 reality, that you had become too close to ADB and were

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1 incapable of thinking about it objectively?
2 A. I think there was an element of that, yes. I think
3 I did — I had done that job probably too long, and
4 a set of fresh eyes and the enthusiasm that that brings
5 might have helped. But as it was, the environment we
6 were working in was not likely to attract anybody with
7 any enthusiasm anyway.
8 Q. What did Richard Harral do to help you resolve the
9 difficulties that you have expressed to him here?
10 A. I don't think he did. In the end, I JFDIed it. I got
11 on and I think the next thing I did following this
12 conversation was draft a set of instructions to the
13 editors at RIBAE to restructure the approved document
14 for us, and then I took that as the — a working draft,
15 which I did some work on myself afterwards.
16 Q. Richard Harral told us in his oral evidence that there
17 was some tension, as he put it, between him and you at
18 this time, largely because of him putting pressure on
19 you in relation to the ADB simplification work. That's
20 what he told us, {Day243/84}.
21 A. Yeah, I think that's what I was just describing.
22 Q. Right.
23 A. I mean, we were still friendly, I regard Richard as
24 a friend now, but I think I was getting grumpy with him
25 and he was probably getting grumpy with me because of

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1 the environment we were working in.
2 Q. Right. What about between you and Bob Ledsome, was
3 there similar tension?
4 A. I think there was frustration across the whole division
5 about the situation that we were in at that point.
6 Again, I've got a great deal of respect for Mr Ledsome.
7 Q. Were you taking short periods of leave at short notice
8 at this time?
9 A. I can't — I don't know. I imagine you're asking me
10 that for a reason. I don't know.
11 Q. Well, yes. Were you dissatisfied with the department to
12 the point of wanting to leave?
13 A. It was certainly something I was considering at the
14 time. If I wasn't going to be able to do the work that
15 I was there to do, perhaps it was time to go and find
16 something else to do. So that was something that I was
17 thinking about, yes.
18 Q. He told us, did Mr Harral, that he had written his email
19 to you in a deliberately broad way to try to engage you
20 in a broader discussion about whether there were
21 technical changes that were needed to ADB following the
22 Lakanal recommendations. Were you aware at the time
23 that that is what he was seeking to do?
24 A. No.
25 MR MILLETT: Mr Chairman, we've got another topic, but

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1 I won't finish it within an appropriate time before the
2 break, and I'm conscious that this is probably likely to
3 be a slightly longer afternoon than we're used to, so
4 this would be an appropriate moment.
5 SIR MARTIN MOORE-BICK: Yes. I think it would.
6 We will take a break at that point, Mr Martin.
7 THE WITNESS: Yes, sir.
8 SIR MARTIN MOORE-BICK: We will come back, please, at 3.35,
9 and in the meantime, while you're out of the room,
10 please don't talk about your evidence or anything
11 relating to it to anyone. All right?
12 THE WITNESS: Yes, sir.
13 SIR MARTIN MOORE-BICK: Thank you very much.
14 (Pause)
15 Thank you very much, Mr Millett. 3.35, please.
16 (3.17 pm)
17 (A short break)
18 (3.35 pm)
19 SIR MARTIN MOORE-BICK: Right, Mr Martin.
20 THE WITNESS: Yes, sir.
21 SIR MARTIN MOORE-BICK: Ready to carry on? Thank you very
22 much.
23 Yes, Mr Millett.
24 MR MILLETT: Thank you, Mr Chairman.
25 Mr Martin, could I just revisit one question which

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1 we were looking at earlier about the response to the
 2 coroner's recommendations, and that was the promise of
 3 the review of ADB by 2016/2017, and you told us that
 4 that timeframe had been discussed collectively within
 5 the department.
 6 What did you mean or what did you think was meant by
 7 2016/2017?
 8 A. I think what I meant was some time during 2016 and 2017.
 9 I can't be certain exactly what — that's my
 10 recollection of what I remember. It wasn't aimed at the
 11 financial year, which I know some people seem to think
 12 it was. I'm not sure why we would have done that. The
 13 common commencement dates would be the obvious link.
 14 But I don't think — a project like that's quite
 15 difficult to be precise about until you've established
 16 the terms of reference.
 17 Q. Right. You say you know some people seem to think it
 18 was; that includes, of course, Melanie Dawes, the
 19 Permanent Secretary of the department, and I think also
 20 Bob Ledsome.
 21 A. Apparently so, yes.
 22 Q. Was it your understanding that actually 2016/2017 meant,
 23 at the outside, 31 December 2017?
 24 A. I guess conceivably. As I say, it was — as I recall,
 25 we felt it was important to indicate an approximate

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1 timeframe in the response to the coroner, and given that
 2 the scale of the project would depend on the terms of
 3 reference, which might well change, we gave
 4 a generalised date without nailing it down too much, but
 5 giving an indication of the amount of time we thought it
 6 would take.
 7 Q. Does that tell us that, in your head, 2016/2017 was
 8 essentially a two-year landing spot; it could be
 9 January 2016, it could be December 2017?
 10 A. I think that's what was in my head.
 11 Q. Right.
 12 A. I know you've asked other people that and they had
 13 different ideas. I think that would have manifested
 14 itself when we'd started proper.
 15 Q. Right. So I think we can take it from your evidence
 16 that, from your perspective, there was no shared
 17 understanding about what the timeframe for the delivery
 18 of an ADB review actually was?
 19 A. Apparently so. I didn't realise that at the time.
 20 Q. A different topic: APPG.
 21 I think you will recall, very generally, that the
 22 APPG, the All-Party Parliamentary Fire Safety and Rescue
 23 Group, raised concerns about fire safety and Approved
 24 Document B a number of times between 2014 and 2017.
 25 A. Yes.

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1 Q. I think you would also agree, just in general terms,
 2 that they regularly pressed for updates on ADB review
 3 and advocated the greater use of sprinklers, including
 4 retrofitting of sprinklers?
 5 A. Absolutely, yes.
 6 Q. And also concerns about the use of combustible materials
 7 and the lack of adequate guidance, as they saw it, on
 8 external fire spread; yes?
 9 A. To some — I think their focus on external fire spread
 10 was the issue that we were talking about earlier, the
 11 question of fire resistance. But they had a general
 12 concern about modern methods of construction and the
 13 increased use of combustible materials within the
 14 construction of a wide range of different buildings.
 15 Q. We know that between February 2014 and April 2017 the
 16 APPG sent, at our count, 16 or so letters to the
 17 department. Not all of those were responded to.
 18 Do you agree that not one of those responses replied
 19 in any substantive and detailed way to the APPG's
 20 detailed and carefully articulated concerns about modern
 21 methods of construction, the approved document and the
 22 risk of a major tragedy occurring?
 23 A. I understand the point you're making. The challenge
 24 that — I would have drafted many of those replies,
 25 probably not all of them, and the problem we would have

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1 had is that because we weren't — we hadn't carried out
 2 an exercise to review the approved document and to look
 3 at the policy questions they were raising, the
 4 government didn't have a policy position on them, other
 5 than to say, "We will look at them when we do the
 6 review". And unfortunately, for the reasons which
 7 I think the Inquiry's only too well aware, that dragged
 8 on far too long.
 9 But I couldn't say to the minister, say, we will do
 10 this or we won't do that, because the government hadn't
 11 made a decision on those points.
 12 Q. You say the government; I think the governments.
 13 A. I guess it would have been governments, yes.
 14 Q. Now, let's go to {CLG00002824}. This is a November 2014
 15 email run.
 16 Picking it up at page 2 {CLG00002824/2}, please,
 17 middle of the page, email from Anthony Maude,
 18 10 November 2014, to you. Do you see that? And he says
 19 there:
 20 "Brian
 21 "Do you have an oven ready background and line to
 22 take on why we don't want a piecemeal approach to ADB as
 23 I think it is something that might possibly be raised
 24 with the Minister."
 25 If we go back to page 1 {CLG00002824/1}, please,

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1 third email down in the chain, you can see that you
2 respond, and you explain the commitment to the review of
3 ADB after Lakanal and explain that the research has been
4 commissioned to feed into the future review of the
5 Building Regulations, and then in the last paragraph on
6 that page you say this:

7 "Since then, Stephen Williams has had an exchange of
8 correspondence with the All Party Group (basically
9 Ronnie King got them to write) these aren't open letters
10 of course."

11 Over the page {CLG00002824/2}:

12 "The explanation as to why we won't do this one bit
13 at a time is in the first letter from SW (D R.tiff)."

14 Going up the chain, if we can, please, back to
15 page 1 {CLG00002824/1}, Anthony Maude replies on
16 10 November at 16.32:

17 "Thanks Brian — it is Ronnie who is on about this."

18 Then we see your response at the top of the page,
19 same day, four minutes later:

20 "Yes — he's very annoying."

21 "Basically we will not be changing the AD as and
22 when Ronnie asks — we'll do it when we're ready."

23 "Every time we change the AD there's a transitional
24 cost to industry, so we don't want to do too many
25 piecemeal changes. He's miffed that we made some

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1 de-regulatory changes in 2013 so why cant we do a quick
2 change to the AD now and require sprinklers wherever
3 they can go. Ronnie will not listen to reason so I just
4 ignore him."

5 Why was he very annoying, Ronnie King?

6 A. It's the nature of — well, so Mr King's a passionate
7 campaigner for fire safety, and was involved both in the
8 Fire Sector Federation and was the secretary for the
9 all-party parliamentary group. All-party groups are
10 groups of backbenchers whose function is to press the
11 government on the issue that that particular group's
12 interested in, so their function is to be annoying,
13 their function is to harass the government and press the
14 government to do things that they think should be done.
15 So arguably that's kind of the point of them.

16 Q. Was he annoying because he was pressing you to do things
17 that you didn't think should be done?

18 A. No, I think — when was this dated? 2014. No, I wanted
19 to review Approved Document B, but obviously that's not
20 something that we would have been able to directly say
21 to him. But he was pressing the department to change
22 the Building Regulations immediately, and that wasn't
23 something we were going to be able to do.

24 Q. Is the truth that he was advocating for fire safety
25 standards which you had decided were over the top and

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1 unnecessary?

2 A. He advocated some standards which would not have met
3 with the government's regulatory policy.

4 Q. Is that what made him annoying?

5 (Pause)

6 A. Not so much that he was advocating those things.

7 I think as the point here — as I say, Mr King's
8 a passionate advocate for fire safety, and I think
9 during the period that I'd been working in the
10 department, I think he's — the APPG, with Mr King, had
11 met practically every minister I have served in that
12 time, and he had a tendency to argue in a way which
13 probably put ministers off the subject, and I used to
14 find that frustrating.

15 Q. Wasn't it important, though, for you to engage with
16 stakeholders who might be advocating for significant
17 improvements in fire safety, particularly in residential
18 buildings?

19 A. Yes, and we did.

20 Q. Well, why did you think it was annoying, then, if he was
21 doing exactly that?

22 A. Because the way he did it was annoying. It doesn't mean
23 to say that we didn't engage with him.

24 Q. Why was it acceptable just to ignore him?

25 A. This is an informal email between colleagues. We didn't

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1 ignore him. And most of the time he was writing letters
2 on behalf of the all-party parliamentary group, so those
3 were letters that would be replied to by a minister.

4 Q. Do you agree, looking back on it now, that the concerns
5 of the APPG were met by you, and certainly by the
6 department, where you weren't writing the letters, with
7 unjustified hostility and derision?

8 A. No.

9 Q. You don't accept that? You don't accept that at all?

10 A. No.

11 Q. So is it your view that you entertained the APPG's
12 concerns fully, candidly, and with full attention to the
13 detail that they were —

14 A. Insofar as was possible, given the constraints that we
15 worked within, yes.

16 Q. Do you —

17 A. As I say, I think a minister met with — every minister
18 I served, and the ministers came — I think over that
19 period, I think we were lucky to have a minister that
20 lasted a year, and each one of them met with the
21 all-party parliamentary group, and invariably they would
22 exchange pleasantries and then hand over to Mr King, who
23 would directly speak to the minister. So I think he
24 probably spoke to ministers more often than I did.

25 Q. Do you remember going to an APPG lunch with

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1 Sir David Amess and the minister James Wharton at the
 2 House of Lords on 26 November 2015?
 3 A. Yes, I think that the APPG often invited a new minister
 4 to attend a lunch. I think it was a way of getting —
 5 it's a tactic for getting into a minister's diary,
 6 usually the only slot that's free is the lunch break,
 7 I think, and so they would invite the minister to lunch
 8 and then lobby him on issues that they were concerned
 9 about.
 10 Q. You say lobby him. Let's see what happens at this one.
 11 You remember it.
 12 A. I do.
 13 Q. {CLG10008066}. This is a note of this meeting, and
 14 there it is.
 15 Have you ever seen this note before?
 16 A. I wrote a note of this meeting. I don't know if this is
 17 the one I wrote.
 18 Q. Oh, right. That's helpful. Have a look at it and let's
 19 see if you can help us to see whether it was you who was
 20 the author.
 21 It refers to the lunch meeting, 26 November 2015, it
 22 identifies those present. You can see:
 23 "Sir David Amess MP, Chairman of the [APPG] ...
 24 invited James Wharton MP to an informal lunch with some
 25 members of the Group and Brian Robinson, Chairman of the

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1 Fire Sector Federation.
 2 "The meeting took place on Thursday 26th November
 3 2015 between 12pm to 1pm in the Barry Room (House of
 4 Lords)."
 5 You can see who was in attendance: Sir David Amess
 6 MP and a series of other MPs, Ronnie King OBE and
 7 a number of others, and you and Sarah Morgan from the
 8 DCLG.
 9 Does that help you?
 10 A. I remember the meeting.
 11 Q. You remember the meeting?
 12 A. Yes.
 13 Q. Then it starts:
 14 "Sir David Amess MP (Chairman of the all party
 15 group) introduced the group and flagged that they had
 16 not been able to persuade previous ministers that
 17 a review of Approved Document B was urgent."
 18 Brian Robinson then sets his concerns out.
 19 Then, after some contributions from others at the
 20 meeting, we can see that the minister said in the
 21 pre-penultimate paragraph at the bottom:
 22 "James Wharton MP said that he did want to do work
 23 with the building regulations and that he hoped to set
 24 out his plans early in the New Year. He welcomed
 25 comments from the all party group and the federation.

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1 However, he was clear that the principle objective for
 2 any work would be simplification and the reduction of
 3 red tape.
 4 "He raised a concern that a debate on a significant
 5 change in scope for part B (beyond life safety) could
 6 significantly delay progress and should be raised as
 7 a separate issue."
 8 Now, did that option, prioritising the review on
 9 life safety issues, get picked up as an option with the
 10 department?
 11 (Pause)
 12 A. So part B is restricted to life safety. I think one of
 13 the issues that we did pick up in the discussion
 14 document, actually, was whether it should go beyond
 15 life safety to property protection, particularly in
 16 domestic buildings. So I guess we didn't pick up on
 17 that as a way of accelerating things. I think, in
 18 practice, it wouldn't have made a lot of difference.
 19 Q. Did you say anything at this meeting?
 20 A. I don't think I did. I think I did write this note, by
 21 the way, I'm pretty sure I recognise it.
 22 Q. Right.
 23 A. The way these things normally work is having — is you
 24 provide some advice to the minister about the general
 25 background to the issues they raised, and you sit

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1 quietly unless the minister asks you to explain
 2 something, and I'm pretty sure I sat there and said
 3 nothing throughout that meeting.
 4 I distinctly remember James Wharton raising the
 5 simplification issue, and he was fairly new in the job,
 6 I think, at that stage, and I imagine that's probably
 7 something that had been brought to his attention by
 8 either the Secretary of State or the Prime Minister.
 9 Q. Now, you say you didn't say anything; does that tell us
 10 that you didn't mention the fact that there was
 11 widespread ignorance about the use of combustible
 12 insulation in the industry above 18 metres which meant
 13 that there were potentially many blocks out there with
 14 combustible insulation on them?
 15 A. In a meeting like this, an official keeps quiet unless
 16 he's asked to say something.
 17 Q. Even on a matter of widespread risk to life safety?
 18 A. Yes.
 19 Q. So protocol before lives?
 20 A. I wouldn't have thought about it that way, but the
 21 protocol is that this is a meeting between the all-party
 22 group, which is mostly MPs, there are a couple —
 23 there's at least one lobbyist in the group as well, and
 24 the minister, and they — that conversation pans out,
 25 and then it's for the minister if he wants any further

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1 briefing after the meeting.
 2 Q. Well, why not raise it with the minister quietly,
 3 separately?
 4 A. I think he left straightaway to do something else.
 5 I mean, we don't get that much airtime with ministers.
 6 I'm a junior official, so it's not as if I have the
 7 opportunity for regular conversations with ministers.
 8 Q. Does that explain why you didn't mention also the fact
 9 that there were parts of ADB dealing with the
 10 fire safety of cladding panels and insulation which were
 11 regarded by much of the industry as unclear and in need
 12 of clarification?
 13 A. I could have sat there for a couple of hours talking
 14 about the different things that needed to be improved,
 15 I imagine, but that wouldn't have been acceptable. The
 16 minister would have shot straight off to the next
 17 meeting.
 18 Q. Or that people had flagged the presence of ACM with
 19 a combustible core and asked whether the awesomely
 20 powerful fire that had occurred in the UAE —
 21 A. Same answer: that's not something I'd have had the
 22 opportunity to do.
 23 Q. Well, I'm going to get to the end of my question —
 24 A. I beg your pardon.
 25 Q. — and then you can answer, that's how this works.

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1 People had flagged the presence of aluminium
 2 composite material with a combustible core as present,
 3 and asked whether the awesome power of these fires in
 4 the UAE could happen here. That was something you knew.
 5 Does what you told us explain why you didn't mention
 6 that to the minister?
 7 A. Yeah. All I wanted to do at that stage was get moving
 8 on the next review so that I could address a wide range
 9 of different issues which had arisen at that point, but
 10 that's not a conversation you have in that kind of
 11 environment.
 12 Q. I'm now going to turn to some questions about the period
 13 immediately following the fire.
 14 Now, the first question is: when did you first come
 15 to realise that Grenfell Tower had been clad in
 16 aluminium composite panels with a polyethylene core?
 17 A. I think that information became clear quite early,
 18 within a day or so, I think. I'm not sure how, but it
 19 seemed to be an accepted piece of information.
 20 Q. During the course of your evidence, you've told us
 21 a number of times, Mr Martin, that you underestimated
 22 the scale and hazard of the issues which had been raised
 23 with you about the use of ACM PE products on high-rise
 24 buildings in the UK.
 25 A. Yes.

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1 Q. When did you first come to the realisation that you had
 2 underestimated the scale and hazard presented by those
 3 products?
 4 A. Probably around the time of that fire, I think.
 5 I remember being horrified by it.
 6 Q. Can we then look at {NHB00001457}. This is an email
 7 from you to Diane Marshall of the NHBC on 16 June 2017
 8 at 14.36 in the afternoon, so this is a day and a half
 9 after the fire:
 10 "FW: Rebuttal of Times Article.
 11 "Importance: High.
 12 "Apologies in advance for asking but;
 13 "I've been asked to prepare a rebuttal of the
 14 assertion that PE cored ACM panels comply with the
 15 guidance in ADB.
 16 "I've also been asked if an independent expert would
 17 be willing to say this (or something similar) in public?
 18 "Can you consider the attached and let me know
 19 please."
 20 Now, let's look at the attachment. It's at
 21 {NHB00001458}, and it reads as follows:
 22 "In the Times.
 23 "The Times asserts that cladding on the
 24 Grenfell Tower was formed using a composite aluminium
 25 panel with a polyethylene core. It claims that such

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1 panels conform to UK standards but are prohibited in
 2 other countries.
 3 "We cannot comment on what has or has not been used
 4 on Grenfell Tower but we would dispute the assertion
 5 that a polyethylene cored panel is acceptable for use
 6 under current building regulations.
 7 "Requirement B4 of the Building Regulations 2010
 8 provides that 'the external walls of the building shall
 9 adequately resist the spread of fire over the walls and
 10 from one building to another' (Paragraph 12.5).
 11 "The Guidance in Approved Document B that supports
 12 this requirement says that the external envelope of
 13 a building should not provide a medium for fire spread.
 14 It goes on to provide detailed advice that 'in a
 15 building with a storey over 18m or more above ground
 16 level any insulation product, filler material (not
 17 including gaskets, sealants and similar) etc. used in
 18 the external wall construction should be of limited
 19 combustibility' (Paragraph 12.7).
 20 "Unmodified polyethylene would not meet the
 21 definition of 'limited combustibility'. So a composite
 22 panel formed with a polyester core would not be
 23 considered to comply with this guidance. As such it
 24 should not be used as a cladding material on buildings
 25 over 18m in height."

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1 Now, before we look at the detail of that text, I'd
 2 like to look together with you at Diane Marshall's
 3 response to you, which is a little bit later that same
 4 afternoon.
 5 Can we please go back to {NHB00001459} and look at
 6 the top of that document. She says:
 7 "Hi Brian
 8 "Thanks for the email, whilst I fully agree with the
 9 content of your suggested text I believe that it may be
 10 seen to be more independent by engaging with the BCA as
 11 the broader body representing all BCBS. The current
 12 chairman is Martin Conlon who I know has already been
 13 involved in some media coverage so would I imagine be
 14 happy to support you.
 15 "His email address is ..."
 16 And then it's provided.
 17 Now, having received that rejection from
 18 Diane Marshall, can we then go to {CLG00036408}. Her
 19 email comes to you at 15.28, and if you look at the last
 20 email on the first page here, at 15.32, so four minutes
 21 later, you write to your former colleagues,
 22 Debbie Smith, David Crowder and Sarah Colwell in
 23 identical terms. Do you see that?
 24 A. Yes.
 25 Q. Yes.

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1 Now, let's look back at the text at {NHB00001458},
 2 which I've just read aloud to you. There it is again.
 3 Who drafted that?
 4 A. I guess I did.
 5 Q. You did?
 6 A. I believe so, yes.
 7 Q. Now, the content of that draft rebuttal is in line,
 8 isn't it, with the text of your earlier note to
 9 Melanie Dawes' office sent on that morning,
 10 16 June 2017, which we looked at, where you effectively
 11 explained that the use of non-fire retardant ACM panels
 12 would be in contravention of Building Regulation
 13 guidance and is effectively banned? Do you remember we
 14 looked at that document?
 15 A. Yes.
 16 Q. We can look at it again if you'd like to be clear.
 17 A. No.
 18 Q. But I'm putting to you that the content of this article
 19 that you drafted was consistent with what you told
 20 Ms Dawes that morning.
 21 A. Yes.
 22 Q. Yes.
 23 Now, if we look at the final paragraph in your draft
 24 rebuttal here, you refer to unmodified polyethylene.
 25 Why do you do that? Why do you refer to unmodified

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1 polyethylene?
 2 A. I'm using that to describe a polyethylene — an ACM core
 3 that has no mineral content in it, and so it's just
 4 polythene, it hasn't got any fire retardant in it.
 5 Q. Right. Was it your view at the time that a polyethylene
 6 core modified with mineral content would necessarily be
 7 a material of limited combustibility?
 8 A. I think at that time I probably didn't know, and I think
 9 I was talking specifically about — I'm not sure why we
 10 were talking about unmodified polyethylene at that time.
 11 It might be that that's what had been asserted.
 12 Q. Right.
 13 A. I might need to look at The Times article to see what
 14 they said. I'm not sure that's necessary though.
 15 Q. Did you have any knowledge about what quantity of
 16 mineral content was required in a polyethylene core to
 17 permit it to be classified as of limited combustibility?
 18 A. No, not at that time, no.
 19 Q. You didn't. Right.
 20 Why was it possible, after the deaths of 71 people
 21 on the night, to state so definitively that such
 22 products were not acceptable for use over 18 metres,
 23 when you had been asked that repeatedly for a number of
 24 years and had never given any plain and unequivocal view
 25 to that effect?

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1 A. I think that is the answer that I'd given in the past.
 2 Not phrased in those ... that's the point that had come
 3 up repeatedly. I wasn't saying anything new.
 4 Q. Well, the closest you had ever come — and you will
 5 recall this from our questions and answers before — to
 6 an unequivocal view was that the polyethylene core of
 7 such products could reasonably be considered to be
 8 filler material, which is what you told Nick Jenkins in
 9 February 2016.
 10 A. Oh, I see what you're saying.
 11 Q. Yes. So why were you able to be quite so definitive in
 12 your response to the public in this way, that you were
 13 intending somebody should say, if not you, but hadn't
 14 been unequivocal like that in your response to
 15 Nick Jenkins the previous year?
 16 A. It's probably because that's probably what the press
 17 office would have wanted me to do. There may have been
 18 some iterations of this where I'd been bouncing it with
 19 the — working with the press office.
 20 Q. Why did you consider it necessary to provide
 21 Diane Marshall, and then, after she had said no,
 22 Drs Smith, Crowder and Colwell with a pre-prepared
 23 script, rather than simply asking them to express their
 24 own independent views as independent fire safety or
 25 industry experts?

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1 A. As I recall, somebody senior in the press office
2 instructed me to draft a rebuttal, and at the same time
3 I was told to find an expert that would support the
4 department's position. I think at the time I had doubts
5 that anyone would be willing to do that, not necessarily
6 because they disagreed, but just because immediately
7 after an incident like that, people will be very
8 cautious about getting involved in any public domain
9 statements.

10 So I did as I was told and sent a draft form of
11 words to a range of people that I thought would do what
12 I'd been asked to do. It didn't surprise me that, in
13 the end, I don't think any of them actually agreed to
14 say something publicly, although several of them
15 accepted that — agreed with the points that were in the
16 note.

17 Q. You say in that last answer that "somebody senior in the
18 press office instructed me to draft a rebuttal". So did
19 the instruction to draft this text here not come from
20 your line manager, Richard Harral, or Bob Ledsome?

21 A. It might have done, but it would have come from the
22 press office, and I've a recollection that — this was
23 a really intense period, and ... ultimately — certainly
24 the idea of getting an expert to support the department
25 would be something that came from the press office, I'm

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1 sure of it.

2 Q. Did you query that, either in your own mind or with the
3 press office, to say, "Well, we're the government,
4 whatever we say is the government's position, we don't
5 need an independent expert to support it"?

6 A. Press handling strategy is what press officers do.

7 Q. My question is: did you challenge it as something —

8 A. I think I may well have told them that I'd be surprised
9 if anyone is willing to make a public statement about
10 anything so quickly after the fire. My experience is
11 that the people that do make technical statements
12 immediately after incidents like this tend not to be the
13 most reliable experts.

14 Q. I mean, if the position was as crystal clear from ADB as
15 this text says, or indicates, why not just let NHBC or
16 BRE express their own views in their own way?

17 A. I guess this is quicker, and, as I say, press handling
18 strategy is something that the press office and special
19 advisers and ministers are more interested in. So you
20 get told to do something like that, you get on and do
21 it. I'm a junior official, that's what you do.

22 Q. Did you consider it appropriate to approach these
23 organisations with a finished pre-prepared script to be
24 presented as if it were the independent view of
25 an independent expert in support of the government's

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1 interpretation of the guidance after the fire?

2 A. It's not something I'd ever asked — been asked to do
3 before. I understand it's not that unusual.

4 Q. But did you consider it appropriate?

5 A. I thought it was a bit odd, but I didn't think it was
6 inappropriate.

7 Q. Right. So you thought it was a bit odd, Diane Marshall
8 told us that she considered it to be a bit unusual, and
9 Dr Smith considered it to be inappropriate. I think —
10 is this fair — you're somewhere perhaps between the
11 two?

12 A. I guess so, yes. I've spent a lot of time working with
13 press officers and the press, so perhaps I'm more used
14 to that kind of stuff.

15 Q. Did you go along with this as far as you could because
16 you knew the fragility of the position the government
17 was in?

18 A. Oh, I don't think I was thinking about that at the time.
19 I think — I didn't know which way was up, I think,
20 those few days after the fire.

21 Q. So far as you could tell from the press office or the
22 department more generally, was the department seeking to
23 bolster a retrospective recasting of the narrative with
24 apparently independent support?

25 A. I don't think so. I remember quite shortly after all of

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1 this that — I'm not sure which — it might have been
2 the Permanent Secretary or somebody quite senior in the
3 department commissioned legal advice to satisfy
4 themselves that the position that I set out here was one
5 that the department was happy to continue with. So they
6 didn't accept my word as being necessarily correct.
7 They checked it with — they sought counsel's opinion,
8 I think.

9 Q. Going back to the emails, please, at {CLG00036408}, we
10 can see that Debbie Smith responds to you within the
11 same minute and says:

12 "Hi Brian

13 "Just spoken to David and it is my understanding
14 that this is now no longer live? If this is wrong
15 and/or you need to discuss, please let me know."

16 Then if you go up, please, to the second email in
17 the chain, you say to her two minutes later:

18 "Hi Debbie

19 "I still need an expert but it can't be an employee
20 of BRE. That's the approach I agreed with the Met
21 Police.

22 "See you in the morning."

23 Why could it not be an employee of the BRE?

24 A. I think, bearing in mind it says a discussion with
25 the Met Police, I think by then the Met may have already

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1 appointed BRE as advisers to the investigation, and so
 2 they probably wouldn't have wanted BRE to get involved
 3 in any public comment.
 4 Q. Right.
 5 We can see at the top of the screen:
 6 "Brian
 7 "Can I call you or you call me? I'm on the Eurostar
 8 so may be patchy coverage."
 9 Did you actually speak to Debbie Smith at that time
 10 in advance of the meeting of experts to take place the
 11 next day?
 12 A. I honestly haven't got a clue. I might have done.
 13 Probably not.
 14 Q. Let's then go to {CLG00003356}. Now, this is a chain of
 15 emails internally between you and various officials at
 16 the department on the morning of 16 June, so earlier the
 17 same day.
 18 If we look at the third email down in the chain, we
 19 can see an email from you on 16 June 2017 at 11.47 to
 20 office of Melanie Dawes, Helen MacNamara, Sally Randall,
 21 copied to the Grenfell Tower team and Shayne Coulson,
 22 "Urgent expert advice", and you say:
 23 "I've been asked for a draft Cast List for the
 24 urgent meeting of experts — most have confirmed
 25 availability .

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1 "Currently as follows ..."
 2 Then you go on to list the cast members: you've got
 3 Debbie Smith, Colin Todd, Professor Bisby,
 4 Sir Ken Knight, Roy Wilsher, Dan Daly, Dr Crowder and
 5 officials from the Home Office and DCLG. Yes?
 6 A. Yes.
 7 Q. I think I missed out Martin Shipp —
 8 A. You did.
 9 Q. — I'm afraid.
 10 Did you select those names?
 11 A. I certainly suggested some of them. Probably most of
 12 them, but I don't think all of them.
 13 Q. Right. Do you know whose names you didn't select?
 14 A. I can't remember.
 15 Q. Is it right, to the best of your recollection, that the
 16 purpose of gathering that group was to provide immediate
 17 advice to government on various aspects of this tragedy,
 18 and particularly on steps to be taken in terms of safety
 19 checks on other buildings?
 20 A. Yes.
 21 Q. A meeting of that group took place, didn't it, on the
 22 next day, Saturday, 17 June?
 23 A. Yes.
 24 Q. And it happened at Marsham Street, I think, didn't it?
 25 A. That's correct.

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1 Q. Yes.
 2 Can we go to {CLG00005247}. This is a document,
 3 a briefing note, setting out information for the
 4 minister, Alok Sharma MP, as the chair. He was by then
 5 the Secretary of State, wasn't he, for DCLG?
 6 A. No, he's Minister of State.
 7 Q. The Minister of State.
 8 If you look at the first page, you can see there is
 9 Debbie Smith and her bio.
 10 If you go to page 3 {CLG00005247/3}, we can see that
 11 you were to attend, along with Bob Ledsome and
 12 Louise Upton; yes?
 13 A. Yes.
 14 Q. If we go to page 4 {CLG00005247/4}, we can see the
 15 purpose of the meeting, and it says:
 16 "We have called together the group of fire safety
 17 experts to advise us on advice for local authorities and
 18 housing associations on how to identify risks in similar
 19 high rise buildings risks which have been refurbished
 20 with cladding, and the process for assessing those risks
 21 and taking necessary action to provide reassurance for
 22 tenants."
 23 Does that align with your understanding of the
 24 purpose of the meeting?
 25 A. Yes, I think so, yes.

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1 Q. If we go lower down page 4, you can see that it says
 2 "Handling":
 3 "We suggest that you open the meeting by thanking
 4 them for their help and outlining the Government's
 5 expectations and plans for helping provide tenants of
 6 similar buildings with reassurance about the safety of
 7 those buildings. Suggested opening remarks at Annex A.
 8 "Then invite Brian Martin, DCLG Building Regulations
 9 fire safety expert, to lead the discussion."
 10 Why was it you, did you understand at the time, who
 11 was singled out as the fire safety expert among all
 12 these people to lead the discussion?
 13 A. Well, I was the DCLG — there wasn't anybody else at
 14 DCLG that worked on fire safety, and I was just opening
 15 the discussion.
 16 Q. You were going to lead it.
 17 A. I think you're reading too much into that word. I think
 18 I just set out what we were trying to do. I mean, those
 19 people aren't the sort of people you can tell what to
 20 say. They're quite capable of expressing their own
 21 opinions.
 22 Q. Yes, this isn't about —
 23 A. I'm sorry, I don't understand what you mean by — you're
 24 remarking on "lead the discussion". I don't understand.
 25 Q. Well, I'm asking you what you understood by your role as

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1 leader of the discussions.

2 A. To set out what the department was hoping to achieve by

3 the meeting, and seek the advice of the people that had

4 attended.

5 Q. Did you lead the discussion in that way?

6 A. I certainly started the discussion. As I say, none of

7 these people are sort of retiring, you know, quiet

8 types; they all had plenty to say.

9 Q. Let's go to page 5 {CLG00005247/5}, where we can see

10 some further detail set out for the minister in

11 a speaking note.

12 Under the second heading, "Purpose of the meeting",

13 you can start at the fourth bullet point down, which

14 says:

15 "■ We are asking for your advice on how local

16 authorities and housing associations can identify risks

17 in similar high rise buildings which have been

18 refurbished with cladding, and the process for assessing

19 those risks and taking necessary action.

20 "■ Please provide your frank advice to me and my

21 officials. We really need to know what you think we

22 should be doing.

23 "■ Clearly as we go forward, we will need to be very

24 careful about saying or doing anything which could cut

25 across the investigation. But at this point we need

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1 your frank advice."

2 Was it clear to you, during this meeting, that the

3 minister was asking for your full and frank advice, as

4 well as that of the others?

5 A. The minister never said any of this in the end, as

6 I recall. I think he was called away to

7 a COBRA meeting, and I think he came into the room,

8 thanked everybody for coming, and left without really

9 saying any of this.

10 Q. Right. Did you not see this note at the time?

11 A. Yeah, so a note like this is — so this was organised at

12 very short notice, and the minister's private office

13 would have asked for a standard briefing. A standard

14 briefing includes things the minister might wish to say.

15 Whether the minister says it or not is a matter for the

16 minister, and my recollection of this meeting is that he

17 was there for maybe two minutes before he was — and he

18 essentially popped in to thank everybody for coming and

19 then shot off to a meeting with COBRA.

20 Q. I follow.

21 Let me see if I can get at it a slightly different

22 way: did you draft this note?

23 A. I don't think I did, no.

24 Q. So there are two parts to it: the technical expert group

25 next steps with all the photographs and biogs in it, and

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1 then the handling brief. Do you know who drafted those

2 two documents, if they are indeed separate?

3 A. We dragged a few people in from other parts of the team

4 to organise this. Might have been Mr Ledsome.

5 I honestly don't know.

6 Q. Whether the minister said it or not, was it not your

7 understanding, at least, that the minister was relying

8 upon everybody there, including you, to give him full

9 and frank advice?

10 A. I suppose so, yes.

11 Q. Yes.

12 Now, if we go to the very bottom of page 5, we can

13 see that it says:

14 "Invite Brian (Martin) to say a little more about

15 some of our initial thoughts on this and leads the

16 discussion."

17 If we go to the next page, page 6 {CLG00005247/6},

18 please, in the top paragraph under "Possible Questions",

19 it says this:

20 "Do you think this is an isolated incident or

21 something peculiar to this building? Recognise the need

22 to be very careful about speculation and comment given

23 that there is a criminal investigation underway."

24 Do you remember whether there was any discussion on

25 that topic?

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1 (Pause)

2 A. I think so.

3 Q. Do you remember what advice or answers were given to the

4 question: is this an isolated incident or something

5 peculiar to this building?

6 A. I can't remember in detail, no.

7 Q. Did you or, to your recollection, anybody else,

8 including perhaps Dr Smith, tell the minister that the

9 department had carried out a full-scale test on

10 a cladding system incorporating ACM panels some 16 years

11 previously and therefore had a very good idea of how

12 such panels were likely to perform in a fire?

13 A. Well, the minister wasn't there, but no, that didn't

14 come up in conversation, as I recall.

15 SIR MARTIN MOORE-BICK: Can we just clarify something.

16 You've told us that the minister attended for about

17 two minutes and then disappeared.

18 A. Yes. It's no criticism of him, sir.

19 SIR MARTIN MOORE-BICK: No, no, I'm not suggesting it was.

20 What I would like to understand is: who chaired the

21 meeting?

22 (Pause)

23 A. I'm not sure if we had a formal chair. Arguably it

24 might have been me, sir. It wasn't that formal

25 a gathering.

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1 SIR MARTIN MOORE—BICK: All right. And do you know who at
 2 the meeting had a copy of this briefing document?
 3 (Pause)
 4 A. I would have had access to it. I'm not sure if I had it
 5 in my hand at the time, sir.
 6 SIR MARTIN MOORE—BICK: And Mr Ledsome and others from the
 7 department?
 8 A. They might have done. I imagine Mr Ledsome might have
 9 had it in his hand, actually. I can't remember for
 10 certain, sir.
 11 SIR MARTIN MOORE—BICK: Would I be right in assuming that
 12 those who were not officials, in other words the various
 13 persons attending who we see with their pictures, did
 14 not have a copy?
 15 A. That would be correct, sir, yes.
 16 SIR MARTIN MOORE—BICK: All right. Thank you very much.
 17 Yes.
 18 MR MILLETT: Now, you say the minister attended for about
 19 two minutes and then had to rush off to a COBRA meeting.
 20 What happened after that? Did the meeting break up or
 21 did you all carry on?
 22 A. Oh, no, so we discussed a range of things, whether ...
 23 so I think there was a discussion about the different
 24 types of ACM that was available, and the question arose
 25 about: how do you differentiate between those? So the

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1 key question we were trying to address at that time was:
 2 what can we say to building owners so that they can
 3 identify if they've got a similar material on their
 4 building? And the challenge there was that there were
 5 at that time we understood to be three types of ACM, and
 6 it was difficult to tell which type it was just by
 7 looking at it. So I think it was Professor Bisby and
 8 Dr Smith that agreed to see if they could come up with
 9 a useful way of identifying the type of ACM that was on
 10 a building.
 11 And there was a — and I think, having been through
 12 that exercise, there was a discussion then about: okay,
 13 so what should a building owner do if they find that
 14 they have got the similar cladding on their building?
 15 What's an appropriate response to that? And I think,
 16 again, several of the people in the group sat down and
 17 came up with draft advice to building owners along those
 18 lines.
 19 Q. Was there any discussion at the meeting, whether or not
 20 the minister was there, that as a result of ACM with PE
 21 core panels achieving class 0, those panels would have
 22 been perfectly compliant with the guidance in Approved
 23 Document B, at the very least until the publication of
 24 the 2006 edition in April 2007?
 25 A. No, that's not the way — the main focus of this debate

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1 was: how do we find buildings with this type of material
 2 on them and what advice do we give to building owners if
 3 they find they've got it? It was all about what to do
 4 now. There was very little retrospective discussion.
 5 Q. The question, you see, the reason I'm asking you this,
 6 is because in the speaking note, one of the things that
 7 it was thought would be of interest to the minister was
 8 whether this was an isolated incident or not, as you can
 9 see from the possible questions on your screen. Do
 10 I take it that that question simply wasn't investigated
 11 at this meeting?
 12 A. I suppose the point was that we needed to find out, and
 13 the way to be sure would be to ask building owners to
 14 check what's on their buildings and provide a means for
 15 identifying it.
 16 Q. Mr Martin, you knew the answer to this question, though,
 17 didn't you? You had been given it by Nick Jenkins in
 18 the February of the previous year, 2016, and indeed you
 19 would have known this because it was only in 2007, to
 20 your way of thinking, that the introduction of the word
 21 " filler " in 12.7 put an end to the use of
 22 combustible—cored panels?
 23 A. Well, I think that Mr Jenkins said all the material he
 24 supplied was fire retardant, and he alleged that other
 25 buildings might have the polyethylene—cored ACM. But in

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1 answer to the question how many of those there were,
 2 I didn't know.
 3 Q. Well, let me try it slightly differently. We can argue
 4 until the cows come home about what Mr Jenkins actually
 5 said. Did you tell anybody present, or did you take any
 6 steps to get the minister to know, that there was
 7 a matter of grave concern, at least in some sectors of
 8 the industry, caused by the widespread use of ACM panels
 9 with a polyethylene core in the UK?
 10 A. I didn't mention the discussions we'd had about
 11 interpretation of the approved document at this meeting,
 12 as I recall.
 13 Q. But why not, given that that would have answered the
 14 question: is this an isolated incident?
 15 A. Well, we were working on the basis that it probably —
 16 if there is one building, there are probably others. So
 17 I think we took it as read that there probably are
 18 others and we should find them. As I say, we were
 19 focused on trying to find other buildings with similar
 20 cladding systems, and what advice we could give to
 21 building owners to ensure that people in their buildings
 22 were safe.
 23 Q. Yes, I understand that, but there's the question here
 24 which somebody thought fit to put in as a potential
 25 question to have answered.

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1 Did you, when you saw this document, think of taking
 2 steps, in all candour, to tell this group and, through
 3 some route, the minister that the Grenfell problem was
 4 unlikely to be an isolated incident because you had been
 5 made aware a year earlier by Nick Jenkins of
 6 Booth Muir of the fact of historical and ongoing
 7 widespread supply and use of ACM PE for high-rise
 8 residential buildings in the UK?
 9 A. I didn't raise it at this meeting, no.
 10 Q. Why is that?
 11 A. I didn't think it was helpful.
 12 Q. Well, it may not have been. Why wouldn't it have been
 13 helpful?
 14 A. The net result was the same: we needed to work out what
 15 to tell building owners to know what to do next.
 16 MR MILLETT: Let's go to the minutes of a meeting on
 17 17 June.
 18 SIR MARTIN MOORE-BICK: I'm sorry to interrupt you yet
 19 again, Mr Millett.
 20 MR MILLETT: That's all right.
 21 SIR MARTIN MOORE-BICK: Can you just help me with one other
 22 aspect of this meeting.
 23 The speaking notes and so on obviously assume that
 24 the minister would be there and would ask these sort of
 25 questions and obtain advice from the people at the

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1 meeting. Now, in his absence, who, if anyone, was
 2 seeking advice on behalf of the department or on behalf
 3 of the minister from those present?
 4 A. It would have been either myself or Mr Ledsome, I guess.
 5 I wish I could remember the details, sir, I am sorry.
 6 SIR MARTIN MOORE-BICK: I see that Mr O'Connor was there, or
 7 at least he's said to have been there. Was he a more
 8 senior official?
 9 A. He is a director, sir, yeah. I think he attended — did
 10 he attend the whole meeting? I wouldn't want to say
 11 that — now you mention it, I think he was there, but
 12 I don't know whether he was there for the whole meeting,
 13 sir.
 14 SIR MARTIN MOORE-BICK: As you understand it, who other than
 15 perhaps yourself or Mr Ledsome was, as it were,
 16 collecting the advice?
 17 A. I guess it was us as officials, sir, yes.
 18 SIR MARTIN MOORE-BICK: Thank you very much.
 19 Yes, Mr Millett.
 20 MR MILLETT: Can we go to {CLG00016581}. This is the minute
 21 of a meeting of 17 June, Saturday, at noon, in the
 22 ministerial conference room in Marsham Street, with
 23 Alok Sharma in the chair, present as Minister of State.
 24 Also present, Debbie Smith, Colin Todd, Luke Bisby,
 25 Ken Knight, Martin Shipp, Roy Wilsher, Nick Coombe and

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1 DCLG officials.
 2 Now, let's go to the minutes, please, at page 1,
 3 final paragraph. This is under "Summary of discussion".
 4 Last bullet point:
 5 "From the available information, it was understood
 6 that a PE cored Aluminium Composite Material (ACM)
 7 cladding system had been used on Grenfell Tower. While
 8 the exact reasons for the speed of the spread of fire
 9 have yet to be determined, it was agreed that additional
 10 tests should be undertaken with regard to this type of
 11 cladding."
 12 Now, did you, during that discussion or at any other
 13 time during this meeting, tell the minister or anyone
 14 present that you and some others present from the BRE,
 15 including Debbie Smith, might have a very good idea as
 16 to the exact reasons for the speed of spread of fire,
 17 namely the result of the 2001 testing?
 18 A. I don't think there was any ... we were working on the
 19 basis it was probably the cladding, but I think the
 20 way — I don't remember who drafted this note. I think
 21 it was clear from the pictures that we'd all seen that
 22 the cladding had been an obvious factor in the fire, and
 23 I think it's phrased in that way just because you can't
 24 be absolutely certain until an investigation is complete
 25 exactly what happened.

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1 Q. No, but my question again: did you or anybody else from
 2 the BRE tell those present that you and the BRE might
 3 have a very good idea as to the exact reasons for the
 4 speed of the spread of the fire, namely what you had
 5 learnt from the 2001 tests?
 6 (Pause)
 7 A. Well, I certainly understood the way that ACM — the
 8 mechanism by which ACM ignites, and I think we may have
 9 discussed that.
 10 Q. Did you tell the minister that you or others within the
 11 department were aware of and that you had been remarking
 12 on the awesome power of major fires involving external
 13 fire spread through ACM PE products internationally
 14 since 2012?
 15 A. I think certainly the fact that ACM had been involved in
 16 fires in other countries was something that we talked
 17 about.
 18 Q. You did.
 19 Did you tell the minister that you had been assuring
 20 others within the department that your view, whilst
 21 there were no guarantees, was that such a fire should
 22 not happen in the UK on the basis of the content of
 23 Approved Document B?
 24 A. No.
 25 Q. Why not?

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1 A. That wasn't necessary at the time. All we were focused
 2 on was about what we could do to address the problem
 3 that was in front of us.
 4 Q. Did you tell the minister or anybody else at the meeting
 5 that the only specific and targeted guidance in Approved
 6 Document B which would serve to prevent the use of ACM
 7 polyethylene-cored panels on high-rise buildings in this
 8 country was the words "filler material etc" in 12.7?
 9 A. As I say, that was something that was discussed at some
 10 point quite early on in the department's response to
 11 this disaster, and the department asked for counsel's
 12 opinion to check against the view that we'd taken.
 13 Q. Did you tell those present that the meaning of the words
 14 "filler material etc" had been the subject of heated
 15 debate and a difference of interpretation for a number
 16 of years, three years?
 17 A. I'm not sure it was heated debate, I think it --
 18 Q. All right, debate.
 19 A. -- had been discussed.
 20 Q. Debate and difference in interpretation for a number of
 21 years.
 22 A. I don't think I did at the time.
 23 Q. Why is that?
 24 A. It didn't seem important at the time.
 25 Q. Right.

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1 Did you tell the minister or those present that that
 2 particular language had been introduced into the
 3 approved document by you in late 2006 without any
 4 consultation, at the last minute and under the radar, so
 5 to speak?
 6 A. No. I don't think that would have been helpful.
 7 Q. Well, no, but it might have been relevant. So can you
 8 explain, perhaps, why you didn't think it fit to draw
 9 attention of that fact to those present?
 10 A. I think at that time all we were focused on was the
 11 immediate response.
 12 Q. Does that answer also apply to why, as it appears, you
 13 didn't tell the minister or those present that you had
 14 forgotten, as you told us, to issue a clarification on
 15 behalf of the department as to the meaning and the scope
 16 of that language, having learnt in July 2014 that it
 17 wasn't clear, at least to some sections of the industry?
 18 (Pause)
 19 A. No, I -- as I say, at this point in time, we were
 20 focused on what can we do immediately, which was
 21 an enormous task, it transpired.
 22 Q. And did you tell any of those present that you had
 23 undertaken, in your own words, in March 2016, to change
 24 that very wording, and you had undertaken so at
 25 a meeting of industry experts at which you were present,

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1 having reached a consensus that it was poorly written,
 2 open to interpretation and misleading?
 3 A. I think the questions of what had or hadn't happened
 4 with Approved Document B were something that was raised
 5 very early, and as I recall there was -- some officials
 6 were tasked with the job of looking back over what we
 7 had or hadn't said and done.
 8 Q. Did you tell anybody at the meeting that the lack of
 9 clarity in 12.7 of Approved Document B was a problem
 10 that you had indicated to industry professionals in
 11 March 2016 would be solved in the next edition of ADB
 12 but which had been delayed?
 13 A. No, that wouldn't have been helpful, this was -- there
 14 was -- this was a difficult enough task as it was.
 15 Q. So do you disagree with my question that the matters
 16 I've just put to you were matters which would have been
 17 relevant and important for those at the meeting to know?
 18 A. Not at this meeting, no. At this meeting, the question
 19 was: what do we do about this material? Are there other
 20 buildings? How do we ensure that no one else is at the
 21 same risk?
 22 Q. Was one of the reasons or the reason why you mentioned
 23 none of the matters that I've just put to you that you
 24 realised in the starkest possible terms that the
 25 catastrophic series of errors that you had made were on

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1 your watch, solely yours, and you didn't want to own up
 2 to them?
 3 A. No.
 4 Q. Is there any other explanation?
 5 A. Because we were focused on the immediate response.
 6 Q. And you knew very well that this wasn't a one-off,
 7 didn't you?
 8 A. I was concerned there might be more. I was surprised
 9 how many there were when we eventually found out how
 10 many buildings were involved. I still find that hard to
 11 understand.
 12 Q. Why not tell those present at least that, that you were
 13 concerned there might be more?
 14 A. This meeting was about an immediate response, and that's
 15 what we were focused on.
 16 MR MILLETT: Very well.
 17 Let's go next to {RBK00015952}.
 18 Now, Mr Chairman, I'm sorry, before I go on, I do
 19 note the time. It's 4.35. I probably have another
 20 20 minutes or so left of main questions, which will take
 21 us to about 5 o'clock, and then --
 22 SIR MARTIN MOORE-BICK: Then we'll have the usual --
 23 MR MILLETT: Yes. I just want to make sure that everyone in
 24 the room is comfortable with that.
 25 SIR MARTIN MOORE-BICK: I was going to find a moment to ask

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1 you that.
 2 Mr Martin, you have heard what Mr Millett said. If
 3 we're going to finish your evidence this afternoon --
 4 and I'm sure you would like us to -- it will mean
 5 sitting longer than usual, almost certainly beyond
 6 5 o'clock. Is that going to be all right, as far as
 7 you're concerned? And if we do that, would you like to
 8 have a short break now?
 9 THE WITNESS: Clearly I want to stay and finish my evidence,
 10 sir, and I am tired, but --
 11 SIR MARTIN MOORE--BICK: We can take, you know, five minutes
 12 or so now.
 13 THE WITNESS: Can we just take five minutes, please, sir?
 14 SIR MARTIN MOORE--BICK: Yes. I was also going to ask the
 15 shorthand writer, who is probably thinking what you're
 16 saying. It's been a long afternoon and her fingers are
 17 tired.
 18 So, Mr Millett, I think we'll do that.
 19 MR MILLETT: All right.
 20 SIR MARTIN MOORE--BICK: I know it's going to prolong things,
 21 but I think it's in everyone's interests that we don't
 22 press on too hard and too long for everyone.
 23 So we will rise now and come back at 4.45, please.
 24 It's only five minutes, but I think it will be worth
 25 taking.

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1 THE WITNESS: Yes, sir.
 2 SIR MARTIN MOORE--BICK: And same as before: please don't
 3 talk to anyone about your evidence while you're out of
 4 the room.
 5 MR MILLETT: Yes. Can I also just make a plea, if those
 6 outside the Inquiry are going to send follow-up
 7 questions in, that they make the most of the break as
 8 well, please, because I can't entertain them if they
 9 come in a minute before I get back up to my feet.
 10 SIR MARTIN MOORE--BICK: Yes. That's a very fair point.
 11 4.45, please.
 12 THE WITNESS: Yes, sir.
 13 SIR MARTIN MOORE--BICK: Thank you.
 14 (Pause)
 15 Thank you, Mr Millett. 4.45. Thank you.
 16 (4.40 pm)
 17 (A short break)
 18 (4.45 pm)
 19 SIR MARTIN MOORE--BICK: All right, Mr Martin. I'm sorry it
 20 was a short break, but I hope it's been helpful.
 21 THE WITNESS: I'm grateful, sir.
 22 SIR MARTIN MOORE--BICK: Ready to carry on?
 23 THE WITNESS: Yes, sir.
 24 SIR MARTIN MOORE--BICK: Thank you.
 25 Yes, Mr Millett.

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1 MR MILLETT: Mr Chairman, thank you.
 2 Can we please go to {RBK00015952}. This is a letter
 3 dated 22 June 2017, sent by Melanie Dawes, the
 4 Permanent Secretary, to all local authority and housing
 5 association chief executives.
 6 Can we take it that you're familiar with this
 7 letter?
 8 A. Yes.
 9 Q. Yes. Who was responsible for the technical input into
 10 it?
 11 A. Probably me.
 12 Q. Can we look at annex A, please, page 2 {RBK00015952/2}.
 13 In the first paragraph it says this:
 14 "If it is determined that the insulation within
 15 Aluminium Composite Material (ACM) [and there is
 16 a footnote 1] is unlikely to be compliant with the
 17 requirements of the current Building Regulations
 18 guidance, it is essential that you immediately
 19 [underlined and in bold] implement the following interim
 20 mitigating measures to ensure the safety of residents,
 21 pending replacement of the cladding."
 22 The measures are then listed.
 23 Then if you look at the footnote at the bottom of
 24 page 2, it reads as follows:
 25 "For the avoidance of doubt; the core (filler)

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1 within an Aluminium Composite Material (ACM) is an
 2 'insulation material/product', 'insulation product',
 3 and/or 'filler material' as referred to in
 4 Paragraph 12.7 ('Insulation Materials/Products') in
 5 Section 12 'Construction of external walls' of Approved
 6 Document B (Fire safety) Volume 2 Buildings other than
 7 dwelling houses. (The important point to note is that
 8 Paragraph 12.7 does not just apply to thermal insulation
 9 within the wall construction, but applies to any element
 10 of the cladding system, including, therefore, the core
 11 of the ACM)."
 12 Now, do you remember who wrote that footnote?
 13 A. As I recall -- I'm sorry, now looking at this document,
 14 I think this is the document which was drafted ... it
 15 was a subset of the group that had met on the Saturday,
 16 and we talked about all of these issues. So this is
 17 a sort of composite document drafted by several people.
 18 Q. Right. Let's see if we can explore that a little
 19 further.
 20 Can we go to {CLG00018973/2}, please, foot of
 21 page 2, an email run on 20 June 2017, so two days before
 22 the letter was eventually sent, and if you look at
 23 page 2 at the bottom, there's an email that says:
 24 "All
 25 "Sorry about the delay we had a bit of version

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1 control issue!
 2 "However I have now incorporated the amendments
 3 including the input from NFCC as to what the FRSs are
 4 expected to do on being informed.
 5 "We are not required to include advice on insulation
 6 in this document.
 7 "Martin [Shipp], you raised a question about the
 8 link to Part B so that it is explicit. I am content
 9 with Colin's common understanding of the terms in the
 10 body of the text however if you feel there is merit of a
 11 foot note can you add it? Also I know that Debbie is
 12 developing tests if so can you agree on behalf of BRE?
 13 "It would be really good if you could confirm your
 14 agreement with this final draft as a matter of urgency.
 15 "Thanks very much.
 16 "Ken Knight."
 17 Now, Martin there I think is Martin Shipp; yes?
 18 A. I would think so.
 19 Q. Yes.
 20 If we go up to the next email in the chain, a little
 21 further up page 2, we can see here is an email sent by
 22 Martin Shipp a little bit later that morning, and he
 23 writes to you, Colin Todd, Ken Knight and others, and he
 24 says:
 25 "Ken

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1 "Herewith, with proposed footnote.
 2 "I've tried to keep it as simple as possible.
 3 "Regards
 4 "Martin."
 5 The footnote as drafted by Shipp is — let's look at
 6 it, {HOM00045123/3}. At the bottom, in red, there is
 7 the footnote, and it ends, as you can see, with the
 8 words "other than dwelling houses". It doesn't have the
 9 words in brackets referring to all elements of the
 10 external wall build-up, as we see in the final version.
 11 I just want you to note that.
 12 Now, then, if we then go back to the email run,
 13 please, at {CLG00018973/1}, foot of page 1, here comes
 14 CS Todd, back to Martin Shipp and Ken Knight, and it's
 15 copied to you:
 16 "Ken,
 17 "Martin's footnote is great, to the extent that
 18 I think we could hammer it home even further, as people
 19 are confusing the insulation within the wall and the
 20 core within the ACM."
 21 Over the page, please {CLG00018973/2}:
 22 "To that end, I have added a sentence to Martin's
 23 footnote and discussed it with Martin, who is happy.
 24 "Hope this helps. As always, shout if you need any
 25 more.

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1 "Best wishes.
 2 "Colin."
 3 Can we agree, on what I'm showing you, that the
 4 footnote to this letter was crafted by Martin Shipp and
 5 Colin Todd, Colin Todd adding the last sentence in the
 6 brackets?
 7 A. Apparently so. I don't remember the detail at the time.
 8 Q. No, okay.
 9 Then if you look at the next email up in the chain
 10 at page 1 {CLG00018973/1} sent by Ken Knight at 15.05
 11 only to you, he says:
 12 "Brian
 13 "Spoke to Colin on this.
 14 "He says that there is an air of denial with[sic]
 15 that Part B applies to the cladding and DCLG have just
 16 got it wrong. It is of course not Colin's view!
 17 "He thinks therefore that this is a good opportunity
 18 to hammer it home by expanding the footnote."
 19 If you look at the response above that, you say to
 20 Ken Knight, "Thanks Ken". Do you see that?
 21 A. Yes.
 22 Q. Now, let's go back to the footnote that we've just
 23 looked at. That was at {RBK00015952/2}, foot of page 2.
 24 There's the footnote, just look at it again, and
 25 particularly looking at the last sentence in the

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1 brackets there.
 2 Looking at that, do you accept that far from
 3 hammering home anything which had been previously known,
 4 this was the very first time that the department had
 5 confirmed in any formal manner that the words "filler
 6 material etc" were to apply to the core of a composite
 7 panel?
 8 A. In a formal sense, I think that's probably true, yes.
 9 Q. Yes. So this footnote was doing what had been called
 10 out for on 2 July 2014 at the CWCT meeting and which you
 11 had undertaken to do at the 17 March 2016 CWCT meeting,
 12 but had not done?
 13 A. And I honestly believed the Building Control Alliance
 14 guidance note had done that job. As has become evident,
 15 it hadn't.
 16 Q. My question was directed to you, though. Do you accept
 17 that this footnote was doing what you had been called
 18 out as requiring to do in July 2014, had undertaken to
 19 do in March 2016, but had not yet done?
 20 A. That's true.
 21 Q. Yes, thank you.
 22 Now, let's look at that final sentence, where it
 23 says, I'll read it again:
 24 "(The important point to note is that Paragraph 12.7
 25 does not just apply to thermal insulation within the

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1 wall construction, but applies to any element of the
 2 cladding system, including, therefore, the core of the
 3 ACM)."
 4 That's not right, is it?
 5 A. It's not the interpretation that I'd ---
 6 Q. No.
 7 A. --- come to. It's more in line, I guess, with the
 8 Building Control Alliance guidance note. I must have
 9 missed that at the time.
 10 Q. Yes. How come?
 11 A. How did I miss it? I was probably really tired at that
 12 point, I think.
 13 Q. Well, it's lunchtime. Why were you tired?
 14 A. I hadn't gone home.
 15 Q. Right.
 16 Just to be clear, you've given evidence that 12.7 in
 17 the 2006 version of ADB did not and was never intended
 18 to apply to any element of the cladding system,
 19 including the external facings. That's right, isn't it?
 20 A. I'm sorry, I'm not sure if I agree with that, what you
 21 just said. This is the difference between the surface
 22 and below the surface, which was the whole discussion
 23 about filler, and ---
 24 Q. Yes.
 25 A. --- you're saying that wasn't the intention.

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1 Q. Yes, you told us when you gave evidence about the
 2 amendment that you made to ADB in 2006 that the
 3 intention was to capture the core of a composite ACM
 4 panel ---
 5 A. Yes, yes.
 6 Q. --- but not the surface.
 7 A. Yes. Sorry, it sounded like you were saying something
 8 different there. I apologise.
 9 Q. All right.
 10 So do you know how this false representation of the
 11 government's position about the intention behind 12.7
 12 came to be included in this footnote, given that it does
 13 not reflect the content of the actual guidance as
 14 intended by you at the time?
 15 A. It's a mistake on my part. I must have missed it.
 16 Q. Are you sure this wasn't a planned, deliberate and
 17 underhanded attempt by you and those around you to
 18 rewrite history in the light of the 71 deaths at
 19 Grenfell in order to protect the government's position
 20 after the event?
 21 A. No.
 22 Q. You're sure about that?
 23 A. Yes.
 24 Q. Let's then turn to the final event.
 25 On the Tuesday after the Grenfell Tower fire, that

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1 is to say 20 June 2017, this very day, do you remember
 2 attending a meeting with Melanie Dawes, the then
 3 Permanent Secretary?
 4 A. Yes.
 5 Q. Do you remember that the purpose of the meeting was for
 6 you to explain to her the relevant guidance in Approved
 7 Document B so that she understood it?
 8 A. Yes.
 9 Q. Do you remember what you told Melanie Dawes?
 10 A. Not word for word, no.
 11 Q. Did you go through the text at 12.7 with her?
 12 A. I think I did, yes.
 13 Q. Did you explain it to her?
 14 A. Yes.
 15 Q. Do you remember what your explanation of that wording
 16 was?
 17 A. It would have been along the lines of the same answer
 18 I've given you in this Inquiry.
 19 Q. It was Melanie Dawes' evidence to the Inquiry when she
 20 gave it on {Day259/153:18-21} that during the meeting
 21 you acknowledged that because it referred to insulation,
 22 it might not be clear that it also applied to other
 23 materials. Is her recollection correct on that?
 24 A. I can't remember.
 25 Q. Did you tell Melanie Dawes, as you've told us in this

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1 Inquiry, that you weren't entirely happy with the text
 2 of 12.7 when the changes went in in the latter part of
 3 2006?
 4 A. I'm not sure. I don't think I did.
 5 Q. Why didn't you?
 6 A. There was a fixed amount of time and I did my best to
 7 explain things as best I could. As I say, I can't be
 8 sure exactly the words I used.
 9 Q. Did you tell her that the particular wording had been
 10 introduced into Approved Document B in 2006 without any
 11 external scrutiny, without consultation, without
 12 a definition of "filler material", at the last minute
 13 and under the radar?
 14 A. No, I wouldn't have said that, and I'm not sure that's
 15 entirely fair. The text was drafted to some extent in
 16 response to a consultation. Documents changing after
 17 a consultation is not unusual.
 18 Q. Did you tell her that you didn't go back out to industry
 19 to ask them whether the words "filler material" was
 20 understood in the same way that you had intended it to
 21 be understood?
 22 A. No.
 23 Q. No.
 24 Did you tell her, as I think you told us, that the
 25 change which was the substantive one had not been

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1 publicised in the normal way for fear, at least in part,
 2 that the department would be subjected to judicial
 3 review for introducing it without proper scrutiny?
 4 A. No, because I don't think — that wasn't my view then or
 5 now.
 6 Q. Did you give her any of the background to how this
 7 language had come into 12.7, and the problem that it was
 8 introduced to address?
 9 A. I don't think I did.
 10 Q. Why is that?
 11 A. I think there was a fixed amount of time available.
 12 It's the first time I'd ever spoken to a Permanent
 13 Secretary.
 14 Q. Yes, and making allowances for that, did you not think
 15 it appropriate to give her just a little bit of your
 16 personal recollections about the background to 12.7,
 17 given the importance that it had now assumed in the
 18 deaths of 71 people in a single incident?
 19 A. I briefed her as best I could at the time. I appreciate
 20 there may have been things that I could have said that
 21 I didn't.
 22 Q. She recalls, as she told us, that you did mention that
 23 you had been asked to clarify the meaning of the scope
 24 of 12.7. Do you remember telling her that?
 25 A. I don't remember it at all, no.

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1 Q. Do you remember telling her that you had forgotten to do
 2 so?
 3 A. Well, I don't think that's true.
 4 Q. Well, you told us it was. You told us you had forgotten
 5 to clarify it after the 2 July 2014 —
 6 A. No, the — after 2014 there was the Building Control
 7 Alliance guidance note, and after 2016 I'd agreed
 8 that — I'd planned to amend Approved Document B and at
 9 that time I thought I was about to.
 10 Q. Did you tell her that you had been involved in a project
 11 including large-scale testing in 2001 at the BRE
 12 involving ACM with a polyethylene-cored panel which
 13 showed that such panels caused a raging inferno during
 14 an external wall fire?
 15 A. I wasn't aware of the details of the results of that
 16 test. I just had a general understanding of the
 17 outcome.
 18 Q. Did you tell her that in 1999 a parliamentary select
 19 committee had recommended a change to the relevant
 20 guidance such that all external wall materials should be
 21 entirely non-combustible or be proven through full-scale
 22 testing not to pose an unacceptable level of risk in
 23 terms of fire spread?
 24 A. I doubt it.
 25 Q. Why?

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1 A. That was — I could have talked her through the entire
 2 history of the Building Regulations, I suppose, but
 3 I don't think there would have been time. I'd explained
 4 to her the provisions that were in place at the time.
 5 Q. Right. So you didn't think, therefore, to tell her that
 6 the recommendation made by the select committee had been
 7 rejected by government, the government of the day, in —
 8 A. I may have done. I don't remember doing so though.
 9 Q. Did you tell her that there had been longstanding
 10 concerns about the adequacy of the national
 11 classifications, including class 0, as a measure of fire
 12 performance?
 13 A. No. I — keep asking your questions, I'm sorry, carry
 14 on.
 15 Q. Did you tell her that you had received a number of
 16 warnings about cladding fires abroad, including in the
 17 UAE, in which ACM with a PE core had caused rapid
 18 external fire spread?
 19 A. I imagine I would have mentioned that there had been
 20 similar problems in other countries.
 21 Q. Did you tell her that you had been asked by your seniors
 22 in the department about those fires and whether those
 23 fires could happen here, and, without giving guarantees,
 24 said that they should not in reliance on Approved
 25 Document B?

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1 A. I doubt it.
 2 Q. Did you tell her you had been involved in meetings and
 3 exchanges in the four years between 2013 and 2017 during
 4 which industry figures, including the BRE, NHBC, CWCT
 5 and others had explained that the guidance in ADB was
 6 not clear, open to interpretation and misleading,
 7 particularly on the subject of whether it covered or
 8 didn't cover the combustible core of a panel such as
 9 an ACM panel?
 10 A. I doubt that I did.
 11 Q. Why is that?
 12 A. There wouldn't have been time.
 13 Q. And presumably the same answer would apply, would it, to
 14 the question whether you told her that in early 2016 you
 15 had been told by a reputable or apparently reputable
 16 cladding consultant that ACM PE panels were on many
 17 high-rise buildings in the UK, their use was increasing
 18 and, so far as he saw it, the situation was of grave
 19 concern? You didn't tell her that either?
 20 A. No.
 21 Q. Or that you had underestimated the severity of the
 22 hazard, as you had come to realise?
 23 A. No, that's probably something — the realisation
 24 probably came after that, I imagine.
 25 Q. And you didn't tell her, I don't think, that you had

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1 undertaken in March 2016 to change the very guidance,
 2 12.7, which was relevant to the use of these panels,
 3 which had been identified to you as poorly worded, open
 4 to misinterpretation and misleading? You didn't tell
 5 her that either?
 6 A. I'm sorry, I thought you'd already asked me that
 7 question, and she said that I had told her that I had
 8 been asked to clarify it. But I honestly can't remember
 9 what I said, so maybe yes, maybe no.
 10 Q. Right.
 11 Nor did you tell her that in July 2016, only
 12 11 months before, you had lent your tacit support to
 13 NHBC's guidance document to its building control
 14 officers which expressly permitted the use of ACM with
 15 a PE core if it was class B, in other words not of
 16 limited combustibility, on buildings above 18 metres?
 17 A. No, I wouldn't have mentioned that, because I was under
 18 the impression that they were panels that had
 19 an appropriate fire performance to get a BR 135
 20 classification.
 21 Q. Now, I've provided, I'm afraid, rather a long list of
 22 questions of matters that I'm asking you whether you
 23 drew to her attention. Are you able to agree that all
 24 of those matters that I've asked you about would have
 25 been highly pertinent and of fundamental and obvious

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1 importance for Melanie Daves to know at the time?
 2 A. I'm not sure they were at the time. I'm sure other
 3 people will think differently, but at that time I was
 4 asked to brief her on what the Building Regulations said
 5 and how they were intended to work, and I did that to
 6 the best of my ability.
 7 Q. Now, the catalogue of things that I've just put together
 8 and asked you about, can you help us understand why it
 9 was — and if I'm wrong, tell me — that you said
 10 nothing about these matters, not simply at this meeting
 11 but at any other time?
 12 A. These are issues that I've discussed at various points
 13 with other people in the department.
 14 Q. So are you saying that everything I've just asked you
 15 about what you told Melanie Daves are matters well known
 16 to Bob Ledsome or Richard Harral?
 17 A. At various points over the last four years, yes, I would
 18 have thought so.
 19 Q. Various points in piecemeal form, perhaps, but as
 20 a catalogue?
 21 A. I haven't sat down and listed a catalogue, no.
 22 Q. When you put them all together, do you accept that they
 23 reveal a catalogue of failures, errors and omissions on
 24 your part, Mr Martin?
 25 A. I think to some extent, yes.

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1 MR MILLETT: Mr Chairman, I've come to the end of my
 2 prepared questions.
 3 SIR MARTIN MOORE—BICK: Yes.
 4 MR MILLETT: I'm sorry it's taken longer than I had
 5 anticipated, and I'm grateful to Mr Martin for his
 6 patience.
 7 SIR MARTIN MOORE—BICK: Yes. We will have to have a short
 8 break at this point, won't we?
 9 MR MILLETT: We will.
 10 SIR MARTIN MOORE—BICK: Mr Martin, you may be aware of this,
 11 but when counsel gets to the end of his questions, we
 12 have to have a short break.
 13 THE WITNESS: Yes, sir.
 14 SIR MARTIN MOORE—BICK: Partly to let him check that he has
 15 not left anything out, though you may think that's
 16 unlikely, and partly because other people are following
 17 the proceedings from other places and they may need to
 18 suggest questions that perhaps we should put to you.
 19 So we will break now. We'll come back at 5.20. At
 20 that point we will see if there are any more questions
 21 that we need to ask you. All right?
 22 THE WITNESS: Yes, sir.
 23 SIR MARTIN MOORE—BICK: So would you go with the usher,
 24 then, please.
 25 (Pause)

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1 Mr Millett, I'm working on the basis that
 2 ten minutes ought to be long enough.
 3 MR MILLETT: It ought to be.
 4 SIR MARTIN MOORE—BICK: Given the fact we have had
 5 an earlier break.
 6 MR MILLETT: I have had one or two through while I have been
 7 asking questions in the usual way.
 8 SIR MARTIN MOORE—BICK: Yes. Well, if it turns out that you
 9 need a bit longer, you can ask the usher to let us know.
 10 MR MILLETT: Yes, thank you.
 11 (5.08 pm)
 12 (A short break)
 13 (5.20 pm)
 14 SIR MARTIN MOORE—BICK: All right, Mr Martin, we'll see if
 15 there are any more questions for you.
 16 THE WITNESS: Yes, sir.
 17 SIR MARTIN MOORE—BICK: Thank you very much.
 18 Yes, Mr Millett.
 19 MR MILLETT: Mr Chairman, there are no further questions.
 20 I have considered the questions that we have been asked
 21 with great care and, on balance, decided that we have
 22 covered a lot of ground, and we've had to cut our cloth
 23 correctly, and so there are no further questions I have
 24 for Mr Martin, other than one, and it's this.
 25 Mr Martin, it's a question that we reserve for

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1 particular witnesses in this Inquiry, and I'm quite sure
2 you know what it is.

3 Looking back on your time, going back to 1999 at the
4 BRE, and looking back on the seven and a half days of
5 evidence that we have covered together, is there
6 anything that you would have done differently?

7 A. Yes, sir.

8 I find it difficult to express how sorry I am for
9 what's happened to the people of Grenfell Tower.

10 Over the last few months, I've been looking through
11 the evidence and the documents, and when you line them
12 up in the way that we've done over the last seven days,
13 it became clear to me that there were a number of
14 occasions where I could have potentially prevented this
15 happening.

16 I think I'd become — over time, I'd become
17 entrenched in a position where I was focused on what
18 I could do to improve the approved document, and didn't
19 realise just how big the problem was. I think there
20 were times when perhaps I would have done. I think at
21 the meeting in 2014 with the CWCT. If I'd been there in
22 the second part of the meeting, with Dr Colwell there,
23 I think between the two of us perhaps we would have
24 realised how severe the risk really was, and I think if
25 I'd have realised that, I would have escalated the

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1 issue, and perhaps we could have done something to
2 prevent what happened to the people of Grenfell Tower.

3 What I will say is that the approach the
4 government — the successive governments had to
5 regulation had had an impact on the way we worked, the
6 resources that we had available, and perhaps the mindset
7 that we'd adopted as a team, and myself in particular,
8 and I think, as a result of that, I ended up being the
9 single point of failure in the department, and I think
10 that's why, when I missed that point, that's why I think
11 we failed to stop this happening. For that's something
12 I'm bitterly sorry.

13 Thank you, sir.

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

15 MR MILLETT: Mr Martin, thank you very much for that answer,
16 and for the entirety of your evidence. On behalf of the
17 Inquiry, we are extremely grateful to you for coming
18 here and giving your assistance to us. So thank you
19 very much.

20 THE WITNESS: Thank you.

21 SIR MARTIN MOORE—BICK: Mr Martin, we're not going to let
22 you go without saying a profound thank you for all the
23 time and the evidence that you have given us. You have
24 given evidence for longer than any other witness, and
25 I think we all understand how difficult that's been for

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1 you at many points during the seven and a half days you
2 have been in the witness box. I think all three of us
3 would like you to know how helpful it's been to have
4 heard your evidence, and we're very grateful to you for
5 giving up so much time to come and talk to us.

6 So thank you very much indeed, and now you're free
7 to go.

8 THE WITNESS: Thank you, sir.

9 SIR MARTIN MOORE—BICK: Thank you.

10 (The witness withdrew)

11 SIR MARTIN MOORE—BICK: Thank you, Mr Millett. Well, that's
12 certainly it for today.

13 MR MILLETT: Yes.

14 SIR MARTIN MOORE—BICK: And tomorrow we have another
15 witness.

16 MR MILLETT: We do. We have Lord Wharton of Yarm tomorrow
17 morning at 10 o'clock.

18 Can I just say to the panel and to the transcriber
19 and to Oli, who operates the documents, that I'm
20 extremely grateful to all of you for sitting late on
21 this occasion and finishing Mr Martin's evidence.

22 I know it's been a long day, but I'm very grateful.

23 SIR MARTIN MOORE—BICK: Well, I would certainly like to
24 endorse your thanks, because we do trespass on the
25 goodwill of those who keep us running in all respects.

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1 So thank you all very much indeed.

2 10 o'clock tomorrow, then, please. Thank you.

3 (5.26 pm)

4 (The hearing adjourned until 10 am
5 on Thursday, 31 March 2022)

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