GRENFELL TOWER INQUIRY RT

Day 214

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(10.00 am)

SIR MARTIN MOORE-BICK: Good morning, everyone. Welcome to today's hearing.

Today we're going to hear opening statements in relation to the remaining topics in Module 6 from those of the core participants who wish to make an oral statement.

First we're going to hear from Counsel to the Inquiry, Mr Richard Millett Queen's Counsel.

Yes, Mr Millett.

Module 6 (Testing, Government & FRA) opening statement by COUNSEL TO THE INQUIRY

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

Today marks the start of the next section of Module 6 of this Inquiry. In this phase, we are going to be looking in detail at the actions of successive governments in addressing fire safety in the built environment. In light of the evidence you have already heard in Modules 1, 2, 3 and 5 of the Inquiry's work, important questions arise about the regulation of fire safety in the years before the Grenfell Tower fire.

Anybody who has followed the work of this Inquiry to date will appreciate that much has already been said,

both by factual and by expert witnesses, about the adequacy and the clarity of the regulatory regime which applied to Grenfell Tower during the time of its refurbishment and its management; that is to say principally the Building Regulations and the RRO. This will be an opportunity for those who had responsibility for the regulation of fire safety to explain their acts and their omissions at the time, and to explain why they did and said what the record shows.

The evidence that you are about to hear over the coming months will enable you, the panel, to understand:

1. The wider context in which those responsible for making the decisions about the refurbishment at Grenfell Tower came to make the decisions that they did.

2. The context in which the various manufacturers made and sold PE-cored ACM panels and combustible insulation, and in which the BRE carried out tests and research and the BBA and other bodies came to certify those products.

3. The wider context in which the TMO managed the building and purported to discharge its statutory obligations in relation to fire safety and fire risk assessments.

4. The further background and context for the LFB's own actions, their own omissions and their

understandings in the years between Lakanal House in 2009 and Grenfell Tower in June 2017.

Much of that evidence you will already have heard. What you will hear will also put you in the best possible position to make appropriate recommendations for future change.

Government.

When examining the work of successive governments before the Grenfell Tower fire, we will be asking four essential questions:

1. Were the risks from fire in high-rise buildings properly understood by government before the Grenfell Tower fire?

2. Had lessons been learned from previous relevant incidents, both in the United Kingdom and overseas?

3. What steps had and had not been taken by government to address the risks from fire in high-rise buildings?

4. What motivated government in the approach which it did take to fire safety prior to the Grenfell Tower fire?

When undertaking this investigation, we will be looking very closely at the functional requirements of the Building Regulations and the relevant guidance in relation to fire safety, including the practical

guidance issued pursuant to statute, such as Approved Document B on fire safety. That will include detailed consideration of a number of things, including, first, the development and interpretation of the relevant Building Regulations and associated guidance over the relevant years; and, second, reviews of and amendments to the Building Regulations and associated guidance, including relevant consultations.

Inevitably, given the findings of this Inquiry in the Phase 1 report, and the role of the external wall at Grenfell in promoting rapid flame spread, we will be focusing particularly closely on the regulation of external wall materials, and some central questions we will be examining include the following:

1. What changes, if any, were made to relevant guidance, including Approved Document B, to address the risks posed by combustible external wall materials on tall buildings as they were perceived from time to time.

2. Why national class 0 remained a relevant performance requirement in paragraph 12.6 of Approved Document B, dealing with external surfaces.

3. How and why clause 12.7 of Approved Document B came to be worded in the way that it did, and what it covered in setting a "limited combustibility" requirement for certain materials.

4. How and why the alternative route of large-scale testing was introduced into Approved Document B.

5. The emergence of desktop studies in 2014 as a further route to compliance with Approved Document B.

We will be looking closely at government policy on relevant aspects of fire safety and the evidential or other basis for such policies. We will seek to understand what motivated government at different stages in its approach to fire safety and Building Regulation, and what it knew about the building industry, including its approach to compliance and its culture. This will include an examination of fire safety research commissioned by the Ministry for Housing, Communities and Local Government, now known as the Department for Levelling Up, Housing and Communities, and other relevant organisations, the conclusions drawn by those organisations and any action taken by government in relation to such research.

We will be looking in detail also at relevant matters raised in relation to fire safety by external individuals and organisations, including coroners and other relevant bodies. Of particular pertinence to the Grenfell Tower fire is the inquest into the six deaths in Lakanal House in July 2009, not least because of the recommendations that the coroner directed at central

government that came to be of great relevance to the fire at Grenfell Tower. That inquest ran, as I think you know from the evidence we've heard already, from January to March 2013. It's already been the subject of considerable attention in Module 5 and the first part of Module 6. We will be exploring what investigations were carried out following that fire, what evidence was given to the inquest on behalf of the government and its officials and its advisers, together with the nature, the extent and the adequacy of the response of central government to the coroner's detailed recommendations in late March 2013.

We intend to scrutinise the steps taken by government in response to recommendations made by inquiries, by inquests, parliamentary committees, experts and industry associations, and to examine the conclusions reached following investigations into previous fires. That will involve consideration about how thoroughly previous fires were actually investigated; whether appropriate lessons were learnt from those fires; whether those lessons, where learnt, were made public and communicated to relevant stakeholders; and what, if any, changes were brought about to the relevant regulatory regime as a result of those earlier fires. That examination will include

particular consideration of the Knowsley Heights fire in Liverpool in 1991, the Garnock Court fire in Irvine, Scotland, in 1999, and The Edge fire in Salford in 2005.

We will also want to understand what lessons were learnt from other similar fires, including those which occurred abroad, such as the spate of cladding fires in tall buildings in the UAE between 2012 and 2016, and the Lacrosse fire in Melbourne in Australia in 2014. We will be asking what the government knew about these fires and whether any appropriate steps were taken to address the risks which were identified in those fires.

We will also be examining central government's actions in response to the Lakanal House coroner's recommendations and the LFB's request for assistance about the meaning, about the scope of the RRO and about the setting of competency standards for fire risk assessors.

We will be hearing further evidence about the production of the 2011 Local Government Association (LGA) guidance, "Fire safety in purpose-built blocks", and, in particular, its treatment of vulnerable persons and of the fire risks posed by external cladding systems. We will also investigate the role of central government in the drafting and production of the edition of GRA 3.2, "Fighting fires in high rise buildings",

published in February 2014, and, in particular, its treatment of the risks posed by cladding and other modern methods of construction, and also its treatment of the stay-put policy and evacuation strategy, and its consistency or otherwise with the LGA guidance's treatment on the same subject.

The Inquiry plans to hear oral evidence from a number of previous ministers and officials within the Ministry for Housing, Communities and Local Government and from officials within the fire safety unit of the Home Office, together with other key advisers to government, including personnel at the BRE, the Building Research Establishment.

Testing and certification.

In this part of Module 6, we will also be undertaking a more holistic examination of the testing and certification regime, picking up from where the Inquiry left off in Module 2, and asking broader questions about the way in which the testing and certification regime led to a situation whereby many buildings, like Grenfell Tower, were clad in combustible materials in the years prior to 2017.

We will be focusing in particular on the following: first, the development of the various standards and criteria relevant to fire safety for external wall

arrangements, including testing to BS 8414 and the BR 135 criteria; also, the development of the practice of carrying out desktop assessments; the standards, procedures and operational practices of accredited fire test organisations, such as the BRE; the standards, procedures and operational practices of certification bodies, such as LABC, the Local Authority Building Control; the system of accreditation for testing and classification bodies; the development of guidance in relation to fire safety of external wall systems produced by manufacturers, industry associations and standard-setting organisations; the role of organisations such as the National House Building Council, NHBC, and the LABC; the interaction between manufacturers, testing and classification organisations, certification and accreditation bodies, industry associations and standard-setting organisations; the oversight and regulation of the regime for testing, classification and certification as a whole in relation to fire safety and performance in fire; finally, to add to that long list, the role of central government in all oversight, or any oversight, including in relation to the guidance produced by manufacturers, industry associations or other similar organisations.

We therefore intend to hear oral evidence from

witnesses from the following organisations involved in the testing and certification regime: first, the LABC; then NHBC; UKAS, United Kingdom Accreditation Service; the Centre for Windows and Cladding Technology, CWCT, about which you have already heard something; and the BRE.

In relation to the structure of this part of Module 6, we will begin with opening statements today from some eight of the core participants, or sets of core participants. Then, from Wednesday this week, 8 December, we will begin to hear evidence from the LABC as part of the testing and certification evidence, which we will be taking first, before moving on to the central government witnesses in the last part of Module 6. We currently anticipate that this remaining part of Module 6 will last some 12 weeks and will conclude in early April 2022, allowing for a short break during January 2022.

By way of postscript, by the time this week is over, many will have read the opening written submissions of the public or quasi-public bodies from whose witnesses we are going to hear and will have heard what they tell you. We have seen a number of concessions made by these bodies, particularly by DLUHC and the Home Office. You may come to wonder whether they go nearly far enough,

and whether there are any further concessions to come before their witnesses come to assist us.

I would say this: this Inquiry is not a game of cat and mouse, where core participants might hope that their witnesses will smuggle something past Counsel to the Inquiry, or Counsel to the Inquiry might miss a trick. These core participants and their witnesses know, or ought to know, what is in the documents. It is in the interests of the Inquiry's work, and so in the public interest, that these bodies fully embrace their obligations of candour and openness, and face up to the stark realities that they reveal. Their written submissions tend to suggest that they have been drafted with fingers crossed. We would urge the witnesses to come in this module to approach their evidence in the full spirit of co-operation, and make concessions unhesitatingly where justified on the material.

Mr Chairman, members of the panel, that is all I propose to say at this stage.

Thank you very much.

SIR MARTIN MOORE-BICK: Thank you very much indeed, Mr Millett.

Well, the first of the statements to be made by or on behalf of core participants is going to be made by Ms Barwise Queen's Counsel, who represents a number of

the bereaved, survivors and residents.

Good morning, Ms Barwise.

MS BARWISE: Good morning, Mr Chairman. Good morning.

SIR MARTIN MOORE-BICK: You are ready to make your opening statement?

MS BARWISE: I am, yes.

SIR MARTIN MOORE-BICK: Good, thank you very much. Well, then, off you go.

Module 6 (Testing, Government & FRA) opening submissions on behalf of BSR Team 1 by MS BARWISE

MS BARWISE: You have our written submissions. I propose to begin with some opening remarks; second, an overview; third, government's response to Lakanal House; fourth, government's failures in relation to the Regulatory Reform Order and other specific failures; and end with some closing remarks.

The Grenfell disaster is a predictable yet unintended consequence of the combination of the laudable desire to reduce carbon emissions coupled with an unbridled passion for deregulation, in particular a desire to deregulate and boost the housing construction industry. Government's dependency on that industry resulted in government becoming the junior partner in the relationship, thereby permitting industry's exploitation of the regulations.

Government's response on realising the extent of the problem was to react by concealment instead of candour. The result is a prolonged period of concealment by government which should properly be regarded as one of the major scandals of our time.

The failure to identify and address the problem of fire safety in façades has, in one sense, transcended party politics, stretching as it does across Conservative, Labour, Conservative/Liberal Democrats coalition and finally, again, Conservative governments. That said, certain political ideals, principally deregulatory policies entwined with a radical housing policy, bear primary responsibility for the astonishing period of willful blindness reflected in a failure to revise ADB properly from 1992, and a failure to review it at all from 2006 to the time of the Grenfell fire and beyond.

The events which occurred at Grenfell are not merely the product of the absence of enforcement or oversight, as government now suggests, but are an unintended consequence of a political ideology which broke free from common sense and safety constraints. That is ultimately a failure of systems.

Government now accepts the regulatory system was not fit for purpose, and that it failed to clarify and

simplify ADB, but does not yet accept that the Building Regulations and ADB were fundamentally flawed, albeit intelligible to a competent person, as Professor Torero has explained.

The original architect of what became the coalition government's green economy, Michael Heseltine, had intended that there be fetters on industry. He said:

"... markets know no morality. It is our responsibility ... to bring a balance to the books of life."

In the event, however, the overriding deregulatory imperative meant there were no fetters, and safety considerations were not balanced against either the environmental imperative or industry freedoms. On the contrary, the particular brand of deregulation and dependence on Big Society involvement instead of adequate regulation enabled industry to write its own rules.

None of this, however, exonerates those in the construction industry who wilfully exploited the regulations and ignored even those parts of the regulations and ADB which were clear.

By way of overview, from 1957 onwards, responsibility for Building Regulations and housing lay with different departments, which latterly became the

Ministry for Housing, Communities and Local Government, now known as the Department for Levelling Up. Responsibility for fire had lain with the Home Office prior to 2001, but, from then until 2016, also lay with the same departments as Building Regulations and housing. I shall therefore refer to the relevant government department simply as "the department".

Let us begin with the origin of the problem which led to Grenfell. It can be traced back to the 1952 model byelaws for use by local authorities, which made a distinction between the structural external wall, which had to be non-combustible, and cladding, allowing the latter to be class 0. The definition of class 0 between 1953 and 1976 was confined to the surface spread of flame test contained in BS 476-7. The 1965 Building Regulations, the first to apply nationally, permitted class 0 cladding unless the building was less than 3 feet from another. At this time, class 0 could be a combustible material with a minimally non-combustible surface.

Both the requirements for the structural external wall and the definition of class 0 became increasingly less robust during the further deregulatory processes, which began in earnest with the Building Act 1984 and ADB 1985. These provided for functional requirements,

but without the prescription previously contained in the 1965 regulations, and instead provided merely the non-mandatory guidance in ADB.

Problems began with the use of modern cladding material. Although there had as yet been no testing of ACM, even in the 1960s there was awareness of the dangers of aluminium cladding, and some civil servants, Brian Martin included, were later aware of this research. As BRE acknowledged in a report prepared for itself in July 2016, the impact on fire safety of external cladding systems had been "a real concern since their first appearance ... 30 years ago".

The fact of the flaw in the regulations and ADB is one thing, but the culpable failure is not to have corrected it. Government's knowing neglect of safety can be traced back to the failure to take evasive action following the Knowsley Heights fire in 1991. Civil servants were aware of the significance of this fire, although ministers may, initially at least, have been unaware of the full extent of the implications for the government Estates Action Programme, by which the department funded local authorities to re-clad 1960s blocks using combustible cladding. The pilot for this programme, Knowsley Heights, suffered a terrible fire shortly after re-cladding.

The government's own Investigation of Real Fires contract, let to BRE, required the research to "provide timely feedback on the effectiveness or otherwise [of ADB] ... in achieving fire safety". Accordingly, complete candour in reporting was required. Instead, a memo, which appears to have been written by someone within government, states:

"We have received via HMEA a request from [Markham] Street press office to play down the issue of the fire ..."

The likely reason was the need to avoid the bad press then circulating in a national newspaper headed "Danger that flats could explode like a tinderbox", and to avoid the cladding scandal then estimated at a likely cost of £500 million, but which has reached biblical proportions today.

The report of the Knowsley fire was stated to be limited circulation, and yet contained two vitally important pieces of information: first, that cladding could pose a risk to life if the cavity was large enough to permit vertical flame spread; and, second, that cellulosic materials, such as uPVC, should not be used in close proximity with polymeric materials, such as glass reinforced plastic, GRP. The cladding was GRP and the window reveals were uPVC. Had this report been

published, perhaps the combination of uPVC window reveals and polymeric cladding would not have been used at Grenfell.

As to the propensity for vertical flame spread, it was only a later BRE report in 1994 by Connolly which characterised the cladding cavity as a chimney flue up the full height of the building. Once again, that is the situation at Grenfell. The Connolly report contained a prohibition on referring to it in any published work, so the chimney finding too remained secret.

The consistent pattern of inadequate investigation and suppression of reports from Knowsley to Garnock, through The Edge and Lakanal, goes beyond mere accident and involves government collusion. Government's tendency was to regard fires as something to be covered up or trivialised, such that the public might be reassured and avoid criticism of underlying regulations, thereby continuing to allow industry the latitude it wanted. Even following the privatisation of BRE in 1997, close links between it and the department remained, and Brian Martin, who would become a senior civil servant, was seconded to the department in 1999, before joining it in 2008. His relationship with BRE remained strong, with informal lines of communication.

There are clear indications that BRE regarded clients as its handler to some degree. During the investigation of Garnock for North Ayrshire Council, BRE asked itself: "Can we say that we think they were sold a pup?" This is obviously an inappropriate question for a scientist to ask themselves. North Ayrshire had been sold a pup, as the GRP cladding was unlikely ever even to have been class 0. It is not clear whether BRE felt constrained by central or local government to suppress the fact that the cladding was non-compliant with regulations and ADB. Perhaps it felt constrained by both, given government had paid for the Ayrshire report.

The report sent to the department was entirely neutered and failed to mention class 0. It is profoundly odd that BRE would have prepared such a report, especially given the more fulsome version given to North Ayrshire, but equally odd that the department did not question the properties of the GRP cladding, given the impact of the smoke plume on the GRP was said to have generated a self-propagating fire.

Both Knowsley and Garnock had many similarities. Primarily they were part of the government's housing management department's Estates Action project, which was clearly of the utmost importance to it. Both fires included the use of GRP panels, which was not even

class 0 at Garnock and may not have been at Knowsley. Both involved uPVC window reveals which softened and created a fire path.

At another Estates Action project, Lavendon, there was subsequently, in 1997, a fatal fire involving an uPVC fascia and soffit at the eaves. The report stated that if the soffit and fascia were thermoplastic such as uPVC, then "significant ... risk to life can occur". Why, therefore, was the Knowsley report not more widely circulated at latest at the time of the Lavendon report? The continued failure to prohibit uPVC is the more shocking given the select committee's criticism of the department for failing to prohibit it.

One of the salient features of The Edge fire in 2005 was that it involved downward spread of flame in cladding. This made it particularly important to understand whether or not the cladding panels achieved class 0, and yet Professor Bisby is unable to find in any report any reference to class 0. Although Greater Manchester Fire and Rescue requested and obtained a copy of the report on The Edge, it was not widely circulated.

Again, this was a fire which merited widespread understanding, especially so given one of the joint investigators of the fire would later remark to

Brian Martin that it "signalled the end of 'rainscreen cladding'". It did not, but should have ended the use of highly combustible cladding.

Whether government admitted it or not, these fires would have informed Brian Martin, given his background at BRE, of widespread, dangerous non-compliance with ADB. Inadequate investigation became a pattern in subsequent fires, which the Inquiry will obviously need to explore.

The first missed opportunity to abandon class 0 came after the Knowsley fire in 1991. The 1992 edition of ADB removed the requirement that external walls be limited combustibility, and instead confined the requirement only to the insulation within the external wall. This was a lost opportunity to remove the class 0 classification and require that cladding panels, in addition to the insulation, be limited combustibility.

Instead, government exacerbated the problem by diluting functional requirement B4 of the Building Regulations by the second 1992 amendment. This replaced the absolute requirement to resist fire spread with a requirement that the external wall need only "adequately" resist fire spread. That lesser and confusing requirement remains to this day.

This is consistent with government legitimising the

flammability of the cladding, rather than solving the problem it posed. Whether or not ministers were aware of the Knowsley cover-up, they were certainly aware of the findings of the select committee in 2000, following the Garnock Court fire. As I've explained, the investigation of that fire was also the subject of a cover-up. This tends to suggest government did not want to know the extent to which cladding contributed to fire. That is the more extraordinary given the fire occurred in June 1999, and evidence to the select committee a month later ventilated the class 0 conundrum. It is a term repeatedly confused with limited combustibility due to its definition, which provides it may either be a limited combustibility material or a class 1 material.

It is frequently forgotten that class 0 materials are not invariably limited combustibility. The term is predominantly but not exclusively a measure of the surface spread of flame, as it is a test for lining materials in which the cut edge of the specimen is not heated. The definition means class 0 applies both to the surface of a material and also to the entire product, including composite products containing plastic or foam cores.

If following the linear route to compliance, class 0

is, on one view, the only requirement cladding panels over 18 metres must satisfy, as clause 12.6 of ADB directs the reader to diagram 40, which in turn only requires that the surface be class 0. We do not hold that view, given the opinion of the Inquiry's cladding expert, Mr Sakula. This problem, however, led to the debate as to whether clause 12.7, which requires insulation to be limited combustibility, might also extend to the core of a cladding panel by virtue of the word "filler".

Government witnesses suggest that "filler" was introduced into clause 12.7 in response to The Edge fire in 2005. Given, however, that the heading of 12.7, "Insulation products", was also introduced in that edition, it should not have been wasted on the draftsmen that whatever "filler" meant, it was confined to insulation. If the amendment was made in response to The Edge, then the material they were concerned with, the filler, was a form of insulation, namely the core of a sandwich panel, even though it was used to stiffen, not insulate.

Both we and Mr Sakula do not rely on the word "filler" as imposing a duty to supply better than class 0 panels; rather, we rely on the functional requirement to ensure the walls adequately resist

flame spread.

Class 0 does not provide any significant fire safety, as the foam core may ignite, as was explained in evidence to the select committee. Despite the select committee's recommendation that fire test 9 should be substituted for class 0, the classification was cynically retained. The explanation for government's refusal to withdraw class 0 may be the RADAR research, which identified that adoption of the more realistic European tests, such as single burning item, would "discriminate against" foil-faced insulation products.

The problem with jointly procured industry and government research such as RADAR is the risk of conflict of interest. It appears the research was commissioned to give voice to building industry manufacturers' concern to ensure that no significant change to the regulatory status quo will occur due to the introduction of the new reaction to fire test methods. Kingspan was not shy in broadcasting industry's hold over government, proclaiming that, "Government has stated that it will not implement the new Euroclass system until the industry is ready to adopt it".

The second missed opportunity to abandon class 0

came following the 2000 select committee report, when the department retained BRE to assist in revising BR 135 by large-scale and other testing, and to develop further guidance for ADB. I will call this the BR 135 revision contract. The results of these testing programmes, carried out as early as 2001 and reported on in 2002, reveal the precise dangers of PE ACM, even used in conjunction with mineral wool, and the unsuitability of class 0 as a metric of flame spread.

It is clear from these reports that a cladding system described as aluminium polyethylene-core sheets using a glass wool insulation failed the large-scale test within just under 6 minutes. A full version of the report summarising the full-scale testing reveals that the crib fire for this test had to be extinguished at a mere 5 minutes and 45 seconds. When we remind ourselves that the crib is meant to remain ignited for 30 minutes, it's easy to understand why Professor Bisby expresses disbelief that class 0 was not withdrawn after the September 2002 reports of these 2001 tests. We venture further and consider it beggars belief that aluminium composite panels containing polyethylene were not expressly prohibited, given it was patently a material inconsistent with the adequate, or indeed any, inhibition of flame spread.

This testing programme, taken together with other data government was receiving at the time, make it incredible that the national classes were not withdrawn. One of the BRE reports available to the department at the time made clear that, "Certain combustible claddings can support unlimited vertical flame spread", but noted that less combustible ones do not. It was therefore clear beyond peradventure that combustible cladding posed the risk of unlimited vertical flame spread, which the department knew, or should have known, high-rise buildings had no capacity to tolerate, as Professor Torero explains.

The likely reason for government's failure to act is industry interference. As the Centre for Windows and Cladding Technology (CWCT) explained to BRE at the time, industry was concerned that the use of the large-scale test proposed in the BR 135 revision contract would result in rainscreen cladding ceasing to be a permissible method of construction, that because all the rainscreen claddings tested had failed in that programme. This, CWCT claimed, could lead to "economic consequences for the building industry and the UK as a whole". This may explain government's failure to abolish class 0, contrary to the select committee's recommendation. If the class 0 criterion in diagram 40

prevailed and the BS 8414 test was simply an alternative, then industry could avoid the test and continue using unsuitable class 0 panels. Allied to this was government's failure to extend the requirement for limited combustibility to cladding panels as well as insulation.

After the 2000 select committee, there were countless opportunities to withdraw class 0, not least amongst them the Lakanal House fire in 2009, and the further opportunity presented by the deputy coroner's recommendations in 2013.

As to the government's relevant knowledge of the inadequacy of ADB, it appreciated both the class 0 conundrum and its knock-on effect of causing confusion as to the insulation requirements. Government's nonchalance in the face of clear warnings is telling as to its intentions.

Industry warned Brian Martin in 2013 and 2014 that combustible insulation was being used, and that ADB 12.7 did not clearly require limited combustibility-cored cladding panels. The filler issue was raised by Tony Baker of BRE directly with Martin by email in 2013 and Martin responded by admitting the problem with diagram 40 and class 0 was, in his words, "You can have a thin surface that gives you the performance and back

it with something less desirable".

This problem, together with the fact that there had been major fires worldwide involving ACM, were all made clear to Martin at a CWCT fire group meeting in July 2014. One is forced to conclude that the ambiguity in ADB was deliberate and that the department intended class 0 should remain permissible. Even though BRE agreed to develop an FAQ document with the department, this never materialised, the department telling BRE that the issue would be considered in the next version of ADB.

The filler debate continued and proved a controversial topic at a conference BRE hosted in January 2016. Martin's responses to a post-conference query on the meaning of "filler" make clear he had not taken BRE's advice seriously and did not intend to clarify the regulation since, as he said, he was "not sure the text is all that ambiguous".

It was also made clear to Martin at the July CWCT meeting that, despite ADB 12.7 clearly requiring insulation must be limited combustibility, the confusion that class 0 equated to limited combustibility led some designers to use foam insulations to comply with the thermal requirements imposed by part L. The department clearly took this on board as Brian Martin shared what

he called a "friendly warning" with the NHBC on that same day as the July meeting. As he told NHBC, "I've been talking to a few folk", who had indicated to him that Kingspan's K15 insulation was being mis-sold by virtue of an erroneous BBA certificate. Martin then escalated this to senior officials within the department, saying combustible insulation had been used on "possibly a lot" of buildings.

As from 2014 at latest, therefore, the department was fully on notice both of the widespread use of combustible insulation and the dangers and use of ACM.

The government was also aware of the fact of and risks posed by desktops. Desktop assessments of large-scale tests were never a route to compliance under ADB, despite considerable argument to the contrary, particularly from NHBC, which was largely responsible for the increase in desktops by its drafting of TGN18, together with BCA. Martin discussed his concerns that desktops were not being done adequately with NHBC in June 2016, but he did not intervene to prevent their use.

Government has also been aware since 1994 that cavity barriers were ineffective in rainscreen cladding. The requirement for cavity barriers within the external cavity was introduced into ADB 1992 as a result of the

Knowsley fire. The government and BRE, however, understood, as from BRE's Connolly report in 1994, that cavity barriers were ineffective in rainscreen cladding. The report recorded the failure of metals, and that cavity barriers would only work if fixed directly to masonry.

Turning briefly to the policies which impacted fire safety.

First, the government's commitment to the housing construction sector began in October 2010 with the spending review, in which it planned, over the next four to five years, to reduce the regulatory burden on the house-building sector, whilst also incentivising local authorities and communities to support housing growth.

Increased housing was no doubt necessary, but our criticism is the unwavering commitment to the housing construction sector, even when it became clear it posed a threat to safety. The housing agenda was compounded by the "one in, one out" rule, which began in autumn 2010, requiring a deregulatory measure to be found of equivalent net cost for any new regulation introduced. Between 2010 and 2016 "one in, one out" became "one in, two out" and ultimately "one in, three out".

Hard on the heels of the "one in, one out" came the budget moratorium in March 2011, which meant a waiver

had to be obtained in order to make any changes to Building Regulations, and these had to be compensated for by cuts in the house-building industry.

The Housing Standards Review in 2012 was, as Ledsom, deputy director of Building Regulations, says, "An example of regulation to deregulate". Ostensibly an exercise to remove contradictory standards, it was described by David Cameron as a "bonfire of the Building Regulations". This was a return to the Red Tape Challenge, begun in 2011, in which Pickles, the Secretary of State, proposed a "bonfire of red tape", including section 20 of the London Building Acts, which required sprinklers on industrial buildings over 30 metres.

The 2015 productivity review, entitled "Fixing the foundations: creating a more prosperous nation", was an impetus to compensate for the fallout of the financial crisis and boost productivity, including boosting the Northern Powerhouse by committing £13 billion to transport networks in the north, relaxing cladding laws, and building more affordable homes, together with support for first-time buyers. This became known in the autumn 2016 statement as accelerated construction, with government committing £2 billion to speed up house-building on surplus public sector land,

and a commitment to encourage new developers and different models of construction in house-building.

It seems, when considering the impact of the budget moratorium, the department gave consideration to the interplay between deregulation and the Article 2 of the European Convention on Human Rights right to life, which imposed on government an obligation to have in place appropriate systems to safeguard life. Government's recognition that its self-inflicted regulatory paralysis risked breaching the right to life, and yet continued inaction in relation to regulations and ADB, is truly chilling. As Randal, the director of social housing, would comment on the day of the Grenfell fire, "Some of the stuff about disproportionate burdens feels uncomfortable today".

As to the impact of these policies on the review of the Building Regulations, consultations in 2008, 2010 and 2012 were simply identifying opportunities to deregulate. The review in 2010 to 2013 comprised purely deregulatory and stylistic changes. Government's continued failure to revise ADB to correct the class 0 conundrum and ambiguity as to the core of composite cladding products from 1992, when it had sufficient knowledge to do so, can only be justified by a desire to preserve the ambiguous status quo in order to give the

construction industry the desired latitude.

In order to preserve this status quo, and given its self-induced regulatory paralysis, government was drawn into ever more ridiculous exercises. Martin was asked in April 2015 to produce a worry list after the BRE's seven workstreams which had been commissioned in the wake of the Lakanal inquest became available. Those reports indicated fundamental flaws in various aspects of ADB, and yet were not made public until February 2019, during a consultation on ADB. Martin's worry list was absurd, in that albeit it noted the government's position on sprinklers was becoming increasingly hard to defend, it omitted cladding as a concern.

There then followed the saga of the ADB discussion document, originally proposed in spring 2015 pending the election. As originally proposed, it would have given ADB priority in the review queue, but instead, following government's 2015 productivity review, involving yet further indulgence to the house-building industry, all that was possible was a productivity review of all the approved documents, which took the form of yet further harvesting of deregulatory wins. The discussion document, totally lacking in substance as it was, was not published until 2017. A usability survey of users,

also finally published in 2017, was equally pointless, being confined to canvassing views on style and usability, despite the substance being so flawed. Government was well aware of the flaws by then, not least because of the seven workstream reports.

This period of wilful blindness, requiring a complete suspension of disbelief by civil service and ministers alike, was undoubtedly facilitated by the government's preoccupation with its radical housing agenda. This was compounded by the department priding itself on being a deregulatory department, and the fact that a single senior civil servant, Brian Martin, had responsibility for ADB for a prolonged period of nearly 20 years by the time of the Grenfell fire.

He had been initially involved with ADB from 1999, when seconded to the department from BRE. He came to refer to ADB as "almost like my third child". Not only was he too close to ADB to have any objectivity about its shortcomings, but clearly, from a certain point, he seemed to lack desire to do so, referring to himself as "getting a bit stale". Even had he wanted to change, government's deregulatory imperatives would have made it practically impossible, perhaps a further demotivating factor for him. His perceived superior knowledge of ADB and fire safety rendered him untouchable, and his

behaviour, and that of his department with him, became puerile and callous, particularly in his dealings with the all-party political group for fire safety. That group was understandably agitating for review of the Building Regulations and ADB.

Civil servants knew they were endlessly procrastinating, producing discussion documents about the revision of the regulations and ADB and the building control system, rather than actually revising ADB. The department dressed up deregulatory measures as safety improvements and sat on the critical seven workstream reports.

Ministers may have been unwitting pawns, but, if so, were foolish or naive. The coalition government's self-avowed radical housing policy required rapid building of a vastly increased number of homes, and that, coupled with the deregulatory policies, meant government could not impose burdens on industry. That in turn led government to allow industry to write its own rules under the guise of empowering the citizen. That Big Society imperative, however well intended at the outset, and possibly triggered by the parlous financial state of the country following the 2008 financial crash, did not lead to citizen empowerment, but instead led to industry getting its own way.

NHBC and BCA appear to have been leant on by Kingspan to write rules circumventing ADB, notably TGN18, which legitimised desktops, and latterly NHBC's acceptability of common wall constructions. This was in itself a desktop which legitimised the use of ACM together with combustible insulation, the very combination which proved lethal at Grenfell. This occurred with government's tacit approval, because it depended on industry both to build houses as quickly and easily as possible, and also to write the rules, government now having prevented itself from imposing burdens by regulating.

As to the system of building control, it could only be as good as the flawed guidance on which it was based, as ADB was the benchmark used by building control bodies. The situation was undoubtedly worsened by the creation of private building control officers, namely approved inspectors, which led to competition between local authority building control and approved inspectors. That competition resulted in contractors becoming valued clients to be cherished rather than policed, resulting in a "race to the bottom", as government was made aware. It was an open secret that workmanship was terrible and that building control had become, as one building control body would later tell

the LABC, "in many cases morally corrupt and a mere commodity to be bought and cast aside as industry chooses".

NHBC, in its capacity as approved inspector, recognised in 2016 the need not to allow commercial pressures to override life safety issues, noting:

"Our reputation would be shredded if we knowingly let something go we knew was life threatening and there was an accident."

Nevertheless, it did precisely that. It approved Kingspan K15 for some eight years from 2005, despite the obvious fact that the BBA certificate applied only to one specific system tested under BS 8414. NHBC continued to approve K15 even once alerted to the dangers in late 2013 by an independent façade engineer. NHBC's continued approval was on the spurious grounds of compliance with BCA TGN18, which was merely a circumvention of ADB which NHBC and BCA had devised. This circumvention was necessary in order to protect NHBC, which, as an approved inspector, had approved so many developments using K15.

Even now, NHBC is disingenuous in its defence, pretending to have been alerted to the fact that K15 was not limited combustibility only by a change in the BBA certificate. In fact, NHBC was already aware K15

was not limited combustibility from November 2013, prior to the revision of the BBA certificate.

LABC reveals itself as a spineless members' association, motivated primarily by a need to foster local authority building control bodies. Despite providing system approvals for products such as K15 and Celotex's RS5000 on which it knew BCOs and others would rely, LABC did not investigate the accuracy of these approvals, even when alerted back in 2011 to "sharp practice" by both Kingspan and Celotex.

As to the test houses and certifiers, they were complicit in supporting the testing regime and therefore are a part of the problem. BRE is a wholly flawed organisation, which has effectively sponsored Kingspan's activities for over a decade without raising the alarm, and has presided over a series of inadequate and dangerously misleading fire investigations, beginning with Knowsley and Garnock, continuing through The Edge and Lakanal. When Jenkins, then of Booth Muirie, raised the filler debate of Colwell of BRE, she simply referred him on to Brian Martin, prompting Jenkins to describe BRE as a "buck passing load of incompetents".

To conclude the review, government was aware of critical fire safety issues many years before Grenfell and could have foreseen the disaster. In addition to

its knowledge of the class 0 conundrum and the confusion caused thereby which led to the use of ACM and combustible insulation, government was also aware of three other critical issues.

First, poor workmanship and wilful non-compliance flowing from the fundamental ambiguity in ADB, described after the fire by the department's director of housing, MacNamara, as "One of the open secrets in the building industry". As to wilful non-compliance, ministers too became aware, at latest from December 2015 onwards, that cavity barriers were not being installed when new homes were built. The dramatic fire spread resulting from this lack of cavity barriers at Kennett Drive in June 2014 completely destroyed four homes on an estate and, as a result, timber-framed houses were the subject of a parliamentary debate. That fire and the Old Tannery fire in July 2015, in which 45 properties were damaged or destroyed, should have acted as indicators that the radical new homes policy, coupled with the lack of compliance with ADB, posed a very dangerous combination.

Second, government was also aware of the tension between its green agenda and fire safety. Brandon Lewis, as housing minister, was warned as early as 2012 that the green agenda was driving increased use

of combustible insulation, with the inevitable impact on fire safety.

Third, the government's Chief Fire and Rescue Adviser between 2013 and 2017, Peter Holland, told both Upton and Martin in February 2015 that BRE knew products were made simply to pass the test, and that there was no redundancy built in to the products.

I now turn to government's failure to respond appropriately to the Lakanal House fire.

Government did not prioritise the response to Lakanal and, in fact, responding to it conflicted with the coalition government's true priority, namely its radical housing agenda.

Government's investigation into the fire was a complete whitewash. The public report in July 2009 of the Chief Fire and Rescue Adviser, then Sir Ken Knight, focused on a lack of compartmentation and firefighting issues, but failed to focus on the cladding, despite noting unusual fire spread. Knight subsequently discovered that the cladding was class 3 and not class 0, and yet, despite LFEPA's desire to make the findings public for safety reasons, the department refused. The department's concern instead was to reassure, noting the need to "avoid giving the impression that we believe all buildings of this

construction are inherently unsafe".

What next transpired is an extraordinary suppression of information. The department shut down the inquiry prematurely, without explanation, leaving it to LFEPA and the police to carry out further investigations, a grotesque abdication of responsibility. It also raises the spectre of a deliberate cover-up, given Knight never sought to correct his misleading report. This was compounded by BRE's report for police, of which Knight had been kept appraised. BRE's report failed to investigate downward spread or establish what the cladding panel actually was.

Government's response to the inquest was equally misleading. Brian Martin's evidence to the deputy coroner was an exercise in disingenuity, because it suggested that class 0 was unlikely to spread fire. At no point did he suggest that class 0 was an inadequate metric and ought to be abandoned.

The department now claims by its opening that its response to the deputy coroner's Rule 43 recommendations letter fulfilled its statutory obligations. We disagree. Nothing meaningful whatsoever was done by way of response.

The department concedes that it missed the opportunity to ensure the system was fit for purpose,

and with that we agree, but we reject the implicit submission that the missed opportunity was accidental. The department's suppression of the critical information as to the nature of the cladding removes the possibility of accident.

The Rule 43 letter recommended, first, that the department provide clear guidance on the definition of common parts under the RRO and the scope of the inspection required for a fire risk assessment, or FRA; second, that the department encourage providers in high-rise buildings to consider retrofitting sprinklers; and, third, that the department review ADB to ensure it gave clear guidance on B4.

Starting with the definition of common parts and scope of the FRA, following the fire, the department commissioned the LGA guide to give guidance to landlords and risk assessors. This guide did not give adequate guidance on the FRA scope, namely the need to inspect flat entrance doors and consider the external walls.

Pickles' response to the deputy coroner relied on the LGA guide as guidance under Article 50 of the RRO, yet, despite offering to do so, the department failed to review the LGA guide. It also failed to consider what the scope of the RRO should be against what it actually said. Instead, abdicating its responsibility, the

department considered the question would be for the courts to decide and refused to address the underlying policy question, other than to repeat the original policy intent.

This contradicted the department's stance in the immediate wake of the Lakanal fire, when the department's housing section had indicated the risk assessor should consider the structure between flats and common parts.

In the department's post-Grenfell internal communications, the only steps recorded against the definition of common parts or scope of FRA was Pickles' response to the coroner. Nothing was done.

As to the second recommendation, sprinklers, the department's reply to the coroner simply attached the letter sent to local authorities and private registered housing providers following Shirley Towers. This limp-wristed letter had itself been sent to create the impression of proactivity, given considerable press and media interest, and the department's desire, as it said, "to be able to say that DCLG is taking action". It was, however, clear that the department had no intention of promoting sprinklers, internally acknowledging that it would need a "defensive line" against them.

As to the third recommendation, namely the review of

Building Regulations and ADB, this had not been done by the time of the Grenfell fire. The critical review of ADB was instead wrapped up in a wholesale review of the approved documents, which was nothing more than a deregulatory cull of provisions.

The department now admits the urgent review of ADB should not have been folded into the wider review. Again, any implicit suggestion of mere oversight is rejected. This was a conscious decision taken over many years. The opportunity to review ADB kept being presented, and as late as September 2015, Harral, head of technical policy in the Building Regulations division, was aware, as he said, that "the documents themselves are in urgent need of comprehensive review to address problems created by many decades [of] iterative change".

Pickles, in his response to the coroner, volunteered a review of the competent person scheme for window installers, even though this had not been requested and was not causative at Lakanal. It was a purely deregulatory measure, giving scheme providers the ability to write their own rules, which the department had already intended to implement. In any event, as Martin admits, he did not in fact follow through with the review.

I now turn to government's wider failures. These include, first, the failure to ensure that the fire safety regime, the RRO, was adequately supported by guidance.

Whilst, in Dr Lane's opinion, the guidance was intelligible, as a competent person would have read it in its entirety, it was unclear in relation to both the ambit of the RRO and whether the scope of an FRA extended to leaseholder doors and external walls, and whether PEEPs were required in general needs housing blocks.

The government should not have deferred to industry for sector-led guidance, which principally derived from Todd, but should instead have ensured clear, cohesive guidance was provided. The department was aware of the PEEPs issue shortly after the LGA guide was drafted, as it was copied on an email received from a consultancy pointing out that the LGA guide's position on PEEPs was contrary to law. With the department's approval, Todd's office drafted a tendentious and incorrect response to the letter, suggesting that a vulnerable or disabled person should simply remain in their flat and await rescue by the fire and rescue services.

The final response sent by LGG disingenuously relied on stay put, rather than explaining the true rationale

for LGA's position on PEEPs, namely to avoid imposing disproportionate burdens on landlords, which was the department's position at the time.

A further failure is government's abdication of responsibility for producing competence criteria for fire risk assessors, leaving it instead to the fire safety sector. Government chose not to legislate to require that only a person defined as a risk assessor may carry out FRAs, and did not expressly require such a person to be competent. But Lakanal provided a trigger for improving the competency of risk assessors.

During the process of government shuffling off responsibility for drafting competency criteria on to the Fire Sector Federation, government was made aware that a nationally accredited register of UKAS accredited risk assessors was necessary to avoid competency standards defaulting to their lowest level. Yet, in the end, government left it to the FSF to resolve. FSF discussed setting up a self-financing scheme, but it didn't come to fruition.

Industry cannot be allowed to produce guidance, because it does not speak with one voice. Like most sectors, it contains good actors and bad actors. Unfortunately, the bad actors are often the most vocal,

having more to protect themselves against. Kingspan demonstrates this point perfectly. Its opening submissions are an ode to the BS 8414 test. Having completely abused and exploited the BS 8414 system for over a decade, making light of it as they did so, they now seek to use this Inquiry as a vehicle to advocate large-scale testing because their ability to market their products depends upon it.

Two other government failures are of broad relevance to the Grenfell disaster.

First, government failed those with disabilities over a prolonged period. The department was aware from July 2004 that the ADB guidance on means of escape for those with disabilities was clearly inadequate. The department was reminded in 2012 that it had received a run of letters complaining that ADB doesn't provide adequate means of escape for disabled people. Yet again, Martin defaulted to his standard position that it was for industry, professional bodies, not the department, to draft the guidance and explain ADB to its members.

The finally produced BRE workstream 7 report in February 2015 also makes clear that the majority of users were vehemently critical of the guidance for means of escape for those with disabilities, which read:

"Much more needs to be done to educate designers about the wide range of needs that arise ... The world needs much more practical guidance on managing evacuation of disabled people."

This clear criticism sits ill with the report's conclusion that ADB is considered to be sufficient to provide minimum guidance. Despite Martin noting these concerns in his April 2015 war book, a brief for new ministers, no further guidance or amendment to ADB was made by the time of the Grenfell fire.

Second, government was aware of underfunding of social housing and problems with tenant management organisations, but failed to act. In the Conservative 2010 emergency budget, council spending was to be cut at a rate of 7.1% over a period of four years and thereafter remained constrained. Following the Grenfell Tower fire, MacNamara, the director general of housing, admitted the department knew that housing benefit did not pay for housing costs in large parts of the country. She questioned the extent to which government had incentivised RBKC's choice of contractor, which had underquoted by orders of magnitude compared to other bidders. MacNamara also asked: did the regulator know the TMO was failing? The answer is that it did. Barwell was made aware, by virtue of an appeal to him as

Secretary of State, of the problems which existed with MMAs and TMOs impacting on, for example, safety of gas supply and the problems caused by inadequate funding.

Finally, a few thoughts by way of closing remarks.

Grenfell is a lens to see how we are governed. The failures are system failures. If the civil service is known for its poor institutional memories, ministers have little hope. They are often, if not invariably, not in any way expert in the sector into which they are parachuted, often there only briefly, and there does not appear to be any handover between ministers to alert incomers of problematic issues.

The civil service now lacks technical expertise, so government is entirely dependent on industry.

Ministers, with laudable exceptions, appeared insufficiently aware that their role encompassed protection of the nation's safety. As the potential for danger arises in all fields of human endeavour, it is vital that we be governed in such a way that safety considerations are somehow ringfenced and not abandoned to political whims of the day.

Ministers did receive warnings of the problems caused by the use of combustible materials, and so the responsibility for failure to react does not lie with officials alone. In particular, the political

subterfuge in 2015 or 2016 whereby very high-level civil servants persuaded ministers to write to each other in a desperate attempt to progress the review of ADB should have warned ministers that urgent action was needed. That was well before Ledsom received his warning from Harral in May 2017 that:

"We/Ministers are increasingly vulnerable to some or all of these risks becoming material and [government] being held to account for being inactive."

There is a need for greater accountability. Select committees are the only respected internal scrutiny method, but even then their recommendation to abandon class 0 was not heeded. All-party political groups are too numerous and there is the perennial risk that they are reduced to mere lobbying groups, which may explain the ease with which Martin and others were able to brush off the fire safety group's concerns.

On an individual level, Martin appears to have escaped unscathed, indeed being promoted to head of technical policy, despite presiding over one of the major scandals of our time.

As for government and industry post-Grenfell, we shouldn't discuss these issues as if they're historical. There is every reason to believe that little has changed despite Grenfell. ADB guidance remains fundamentally

flawed. Desktops, banned following the fire, have been legitimised by BS 9414. Todd's position that PEEPs should not be required in general needs housing was legitimised in a new version of PAS 79, despite the Inquiry's Phase 1 recommendations to the contrary. That was only withdrawn following a proposed application for judicial review of the decision to publish. Three and a half years after the fire, although the RRO has been amended to clarify that its scope extends to flat entrance doors and external walls, it has not been amended to expressly require that the person carrying out the fire risk assessment be both competent and a risk assessor. There is still no national register of accredited risk assessors, despite the post-Lakanal drive to create one. These are both government and industry failures, as the former shrugs off responsibility on to industry and industry defaults to what suits it best.

One would have thought the horror of Grenfell, in which a disproportionately high number of those who died were disabled or vulnerable, would have dissuaded those who sought to publish the revised version of PAS 79, not least in the middle of a government consultation on the subject.

The need for the Inquiry to make urgent and

wide-ranging recommendations is clear.

Thank you, sir.

SIR MARTIN MOORE-BICK: Well, thank you very much, Ms Barwise. There is a lot there for us to consider. Thank you.

Well, at that point I think we'll take the break for the morning. We'll resume at 11.30, when we shall hear the next opening statement.

Thank you very much. 11.30, please.

(11.16 am)

(A short break)

(11.30 am)

Module 6 (Testing, Government & FRA) opening submissions on behalf of BSR Team 2 by MR MANSFIELD

SIR MARTIN MOORE-BICK: Now, the next statement is going to be made by Mr Mansfield on behalf of the other group of bereaved, survivors and residents.

Good morning, Mr Mansfield.

MR MANSFIELD: Good morning, sir.

SIR MARTIN MOORE-BICK: And you're ready to make your opening statement?

MR MANSFIELD: Most certainly I am, yes, may I thank you.

SIR MARTIN MOORE-BICK: Good, thank you.

MR MANSFIELD: And also your colleagues sitting alongside, Ms Istephan and Mr Akbor, good morning.

I am taking stock, because may I pay tribute to the previous statement and submissions, because not only do we adopt a large measure of them, I'm certainly not intending to repeat those matters which we had intended to reinforce. They've been made very succinctly, so I don't go over that ground.

However, I do wish, if I may, first of all, just to indicate that, subject to your own agreement, the timing of this section is split rather differently; in other words, I'm going to take rather longer than 45 minutes —— I have agreed with Mr Williamson, unless he has changed his mind in his incubation period where he is elsewhere —— 55 minutes I might take. I might take a little less. As long as that's acceptable to you and it doesn't disturb ——

SIR MARTIN MOORE—BICK: I take it Mr Williamson has tailored his remarks accordingly?

MR MANSFIELD: Yes, he has. In other words, the overall time slot will be exactly as it was before.

SIR MARTIN MOORE—BICK: Yes, all right, thank you.

MR MANSFIELD: Sir, it's a matter that will have occurred to you already, but one needs to step back. We are reaching, we would submit on behalf of Team 2, the kernel of this Inquiry, because the aspect of governance is perhaps —— I mean, every section is important, but

it's a supervening importance to the ones you've heard before. It not only underpins but overlays everything that has happened in the Grenfell case, described on a previous occasion as a disaster of human rights, and a shocking disaster, one in which there has been a serious disregard, democratic disregard, of swathes of our society, unfortunately some of whom were burnt to death on that day.

Bearing how serious it is, one has to ask the inevitable question: why did this happen in this way? How had it got so bad?

We say there is something beyond —— I think a word that's been used this morning —— the whim of those in power. This wasn't a whim, we don't say. We say —— and we do adopt other words that have been used —— that there was a deliberate policy by government to not only mislead the public, but also to afford and facilitate a hostile environment, this time not so much to do with those coming from an abroad, but for those who were living here. The hostile environment, namely that health and safety —— so it's more than a radical housing agenda, it's a step beyond that. What lies and overlays and underpins everything you're listening to in terms of evidence, and will continue to listen to in this section, everything that is in a sense underpinning it

and is the backcloth, is this hostile environment in which health and safety is diminished, health and safety is disregarded, health and safety is seen as an obstruction to business, enterprise and so on.

Once you go that extra step, it's not just a radical housing programme, it is in fact a form of social engineering that has been happening here, and deliberate social engineering, not as an oversight. Nothing that you've heard so far, nor that you will hear in this part of Module 6, was an accident, was an oversight, was somehow something they just missed or even a level of incompetence. No, far, far worse. And we say it's looking at a mindset, a political mindset, which actually doesn't remain at the level at which it's broadcast —— and I'll come back to it a little later —— it doesn't remain at that level; it percolates through to every level, because it infuses in each of the citizens of the country as well as those obviously at levels at which they're managing property, overseeing property, constructing property, refurbishing property. If, at the back of their minds, almost as an unconscious layer within their thinking, is, "That's all right, we don't need to bother about fire safety" —— I'll be specific —— "because we have, if you like, a licence from those who govern that, actually, we've got to in

a sense do away with it, because" —— well, the burning of the bonfires, however you want to describe it, that is the licence, that's the permission, that's the collusion, creates an entirely different environment, the one in which all those —— they're worse than misdemeanours, the catalogue you've heard this morning, are committed, because those in government either consciously do it or unconsciously do it because they think that they are going to be, as it were, excused by their mentors and their governors, and this is an attitude which we say has to be banished.

It's not a political whim that comes and goes; this is something that is fundamental to all our human rights in terms of survival in the future, and of course will bear upon, no doubt, a future stage, hopefully possibly next year, when you come to sit down together to consider what recommendations you're going to make. Because —— I've certainly made this point before —— you can have what regulations you want, what statutes you want, whatever you want, but if, underneath it all, you have people who, as it were, are in these positions, who maintain this, as it were, disregard for health and safety as being an albatross, a word used by the Prime Minister of the time, until that is dispensed with, until there is a recognition that respect has to

be shown to safety and to people -- and it brings me to a second point, before just dealing with the framework.

In this section -- we've called them the reflective questions. You may be aware of what they are. We as Team 2 have regularly asked that your counsel ask at the end of a witness reflective questions. The obvious ones are, "Is there anything you would have done differently?", or, step back, "Is there anything you think should have been done differently, if not by you?" These are important questions. Of course, another one that the families have been asking is, you know, "Do you have anything to say to the families?", because at the root of it all, it's the human rights of the families that have been damaged here, as well as the property itself, "Is there anything you want to add?"

Now, I appreciate for a little while it might have appeared odd to have to ask those questions, that it perhaps hasn't got a forensic benefit, but I think you will have seen even recently that it does have a benefit. These questions have been asked, and may I say on behalf of the families, they're very grateful that they are being asked. They're going to become even more pertinent in this part, that is governance, because the people who were participating in the mindset, participating in setting the agenda that led to that

hostile environment, are going to be here -- well, almost here. There is one, who I'll come back to, who at the moment isn't going to be here. We say if we're going to be talking, as we have in the statements that were made before and particularly Mr Millett, for example, who posed the question this morning about motivation twice, we accept that, motivation is extremely important to try and explain what has happened here, root and branch what has happened, not just at a certain level, but throughout the institution as a whole.

So we ask that those questions continue to be asked, or such of them as feel to be appropriate, and the answers are sometimes very educative, but that's one thing. The other thing is that it does satisfy -- not entirely, but it pays respect to the families that witnesses are recognising the repercussions for those who sit here, those who are lucky enough to be sitting here and others at home watching.

So that's the first point, in relation to the reflective questions.

But, of course, the point about the questions as well does have another forensic benefit. It allows you, all three of you, to be in a position to assess what hope there is for the future, and we're here having this

Inquiry, I hope it's accepted, that -- you know, hope springs eternal that we are working together to provide a situation in which I think all the families would say "Never again should this happen". Of course in human frailty, it might, but we have to ensure that the cause of this situation, not the person in a sense -- not the thing, in this case, a white good in one of the flats catching fire in the middle of the night, but that the people who are, some of them, coming here have the candour, the other phrase used by Mr Millett this morning, to acknowledge -- because until they acknowledge, we're going nowhere, because it means they're setting a different agenda for the next generation, who are already in place. Are we going to be treated with the same disdain as the inhabitants of Grenfell Tower and others beyond Grenfell Tower? And we hope not.

We hope that the lessons that can be learnt are learnt when witnesses are asked the direct question: well, would you have done anything differently? How rarely would they have done anything differently of those who have been asked this question. Very few have really gone that far. Even fewer -- even fewer -- despite the undertaking that has been granted, have had the courage to acknowledge and admit that mistakes were

made, worse than mistakes because we say it was a deliberate policy.

We would hope that the politicians who come here will face the truth, will admit the truth, and will give us all hope that those who come after and who read your report in due course will pay attention and realise that "Never again" means something and they're not empty words. Otherwise, of course, there will be little to reassure those who sit here that we're going to get anywhere.

So the why question, why this happened and the answer to that and the answer coming from politicians, will be listened to very carefully to see whether in fact, at last, there is going to be an acknowledgement.

We just pray in aid at this stage the fact that, I think it was only last week, Mr Roe, the current commissioner, said this, and this is revealing in itself. We adopt it, to some extent. It is roughly what I'm saying now. He was being asked by Mr Millett -- it was the afternoon of last Tuesday, 30 November, very near the beginning, and he was dealing with an interview he had given to The Guardian newspaper, and he said {Day212/85:16-22}:

"... I think every single major institution that should have kept those, you know, survivors, the

bereaved, the people who lived in the tower safe let the families down. It was the most appalling example of institutional failure I think in recent British history, and we were part of that as well ... "

Well, I'm not going into here what concessions he may or may not have made, but the general point he is making is the one we're making, which is that the institution that has failed has been our democratic institution that has failed by the paralysis, by the cover-up, by the dismissal, by the actual need to burn health and safety. Is that how our democracy is to be measured? I hope not.

So therefore I just ask, as another preface to this, briefly -- I'm not trying to obviously remind you of things you probably carry around with you. Could I have -- I have asked for this -- the updated list of issues to come on screen {IDX0882/8}. It's number 10, please, "Response to Recommendations". We say this section of the indication of the ambit of your Inquiry is of particular use, and in fact, knowingly or unknowingly -- I have to say knowingly -- Mr Millett was really reflecting these in his four questions this morning.

What were the recommendations? I'm going to reduce them to four: (a), (b) and (c), (d) and (e).

So the first one is:

"What recommendations, including from inquiries, inquests, investigations, experts [and so forth] ... and Parliamentary Committees were relevant to the risk of fire ... "

Well, you have heard quite a lot about that this morning, but that's the first question.

The second one:

"Were appropriate steps taken by central [I leave out local for the moment] ... government ... upon such recommendations ..."

This links obviously to (c), so in a sense if I can run them together, (c) being a specification of Lakanal House in particular, the recommendations, and that one -- I'm going to answer those two now quickly: nothing. You have heard it spelt out this morning. Shocking. Nothing had happened to those recommendations, particularly Lakanal, so (c) is of importance. So it won't take a lot of time to answer that one.

(d):

"If and the extent that any such recommendations were not implemented, what were the reasons ..."

We say a key question, and of course I've touched on it already.

Finally:

"(e) To what extent did any failure to implement any of these recommendations cause or contribute ..."

Well, we say again there can be a relatively short answer, which I will leave for the moment. But we say, in short form, all the recommendations arising in Lakanal alone, never mind the ones that went before -- there were other inquests suggesting sprinklers, other reports and so on. So there was a matrix of other reports and recommendations reflecting exactly what was coming out of Lakanal, and therefore we say the recommendations -- and I concentrate on high-rise residential cladding tower is the situation that we are faced in this particular Inquiry, although it spreads beyond those buildings. But in terms of that, we say there is a clear connection between the failure to act on any of the recommendations before the fire at Grenfell itself indicates -- and because the recommendations are all critical, I can remind you if necessary, but I'm sure the coroner's letter is well in mind, so again, I'm not going to take time on something that you know well.

So may I then, just before picking up on -- bearing those questions in mind, just before I embark on the first one, and which I'm going to add very little, but

sometimes there's a kind of what I call a benchmark or a litmus test which you can bear in mind, as we've already gone through this morning and go through now, and that is this. It's something that Lord Pickles has put in his statement, and I've asked, actually, that it can be put up. I don't know whether that can be now done. It's {CLG00019471/20}, paragraph 67 of Lord Pickles' statement, please. There we are. Thank you. That certainly helps people. I just read it, because when you read this -- I'm not going to spell out what the obvious inferences are, because they speak for themselves. It's res ipsa loquitur without doubt:

"During my tenure as Secretary of State, save for the matters raised in respect of the Lakanal House fire, I do not recall that the issue of the guidance in Approved Document B and the potential industry use of combustible materials in external cladding systems was ever raised with me."

Then he goes on about timber-framed buildings and so on.

Well, I think I can hear what some people call a pregnant pause at the end of that.

But bear that in mind. That's what he is saying, and he is deputed by the Prime Minister as the representative of the Big Society. The big man, he was

described as, representing the Big Society, and the changes that were being, as it were, funnelled and channelled through him are the ones I've already touched on briefly.

So bear that in mind as you go through, and I'm going to rattle through, if I may, but not too fast, in terms of the first question, in other words what are the reports, and inquests.

But I'm going to start with one which hasn't been mentioned today. I mention it because the idea that the risks of cladding on buildings was not something known and appreciated or —— certainly if you were having any kind of cognisance of the housing arena —— and this is not a fire abroad. It is mentioned in some correspondence, but it rarely gets the attention it deserve, and that's the Summerland fire, 1973. I won't go through the details, but if you have a moment at any stage, that's when cladding was understood very clearly. It wasn't high—rise, I appreciate that, has three different kinds of combustible material, one of which was a cladding material, Galbestos. It contained, perhaps obviously, asbestos. There were breaches of compartmentation, there was a modification of a fire door, the vents were not fire proofed and so on. The list, interminable, but known, identified, and there was

an inquiry into that afterwards —— very soon afterwards, in the same year, stretching into the following year —— in which certain recommendations were made.

It's interesting, the recommendations, because they bear upon —— although the regulations were not identical, there was a request for a regulatory review because of the combustible materials. There was a recommendation —— and this becomes hackneyed, and I won't repeat it more than now —— "Sprinklers, please". I've just added up the times, so you know: at least nine occasions, government was said by even BRE that it would be desirable, not just to pass a letter to the local authorities and say, "Hey, look at this, this is what the last inquiry said", it was actually indicating essentially —— certainly as time went by, coroners in their letters became more assertive and said, "We'd like a mandatory situation", which is obviously at the hands of government.

And, of course, the rejection of that is part of the political whim. "Oh, no, we can't have that, another regulation, too much burden, too expensive", and we in our written submissions have made clear that that expense, as claimed by Lord Pickles, was erroneous in the extreme. In other words, it would cost 10% of what he was putting forward.

So there it was. In 1973, it set the pace.

Between then and the next major item, of course, it's said there is an explanation for the gap. The gap is because cladding on residential buildings didn't really become an issue until a later point in time. Now, in fact, the later point in time is Knowsley. That's been covered this morning. I'm not going to go back over it. But Knowsley is important for a lot of reasons. But one of them is that the government of the day knew, or were aware, that they were engaging in a pilot, if you like, exercise, the pilot exercise being the difficulty in tower blocks of flats, post the Second World War, of keeping them warm, putting it shortly. So that's why insulation came up as an issue. So the idea was: can we cover that —— literally —— by overcladding systems, as they were termed then.

But I don't think this morning you heard this, and I add it to the chronology here: in 1986 —— that is, in other words, before Knowsley was actually built and finished, because it was commissioned in 1989, the fire was in 1991, this is in 1986 —— the government was aware then, they were aware then, and I would put to you that it's not sufficient for people to come here and say, "Nobody told me" or "I didn't find out". That's the whole point of being a responsible government minister:

that you take an interest in the area you're dealing with and you ask for information. And of course it's the fault of the civil service if they don't give it or if they don't brief ministers properly.

However, this is what the circular on 9 December 1986, from the Department of Environment this time, about the project, that's the pilot overclad block, said:

"A risk of increased vertical fire spread has been identified during the laboratory testing of overcladding systems incorporating combustible insulants."

Well, there you have it, in one sentence. The roots of why we're sitting here is spelt out in 1986, so that assuming some form of rational, cohesive policy—making and policy—makers, you would expect them to have been aware from a very early stage.

Well, Knowsley Heights was commissioned, and there was this major fire, uPVC and windows and so forth, and it was in 1992, as already said. The Approved Document B was then altered such that we get this bifurcation, 12.6, 12.7, in other words, between limited combustibility for insulation and the requirement of overcladding to remain as class 0.

May I just stand back and hopefully try —— one hopes that this isn't a scholastic exercise about how many

angels you can get on the head of a pin. Is this such a difficult problem -- because the problem's been summed up, in a sense, in 1986 -- for somebody somewhere to sit down and say, "If we are going to keep the citizens warm with overcladding, we'd better make sure that nothing in the overcladding" -- whether you call it insulation, whether you call it a panel, whether you call it -- whatever name you want to put, filler -- and filler, interestingly, it's been mentioned this morning, who put filler in the works? Brian Martin. That's what he did in 2005, after The Edge fire. So it's his wording, and if no one else, he has responsibility then to ensure that the community, and, in particular, the construction community, people who he knew a lot about, according to his emails, because he's heard talk from reliable sources -- well, if he's heard talk from reliable sources, then this was a situation in which -- at the Lakanal inquest, where he gave evidence, he could have clarified all of this, what he meant by sticking it in there. Did he mean filler was insulation or did he mean filler was between a couple of panels which is part of overcladding?

In fact, this is playing with words, as somebody has already said, playing with words throughout, so that the Knowsley experiment and so forth and the alteration in

1992 of the Approved Document B, and then his alteration in 2005 -- he's the king of the documentation of the regulations. So the ministry had, if they had wanted to, the facility, and what is really shocking is that they only, as it were, say, "Oh, well, actually, yes, it's not 0, it's limited combustibility". When did they say that? After the fire. Melanie Dawes makes the statement after the fire on behalf -- "Well, we've always said it's limited" -- no, they haven't.

So what's been happening here is a misrepresentation, misleading all the way through, deliberately, because this wasn't an oversight, Brian Martin lived the whole thing from -- well, before 1999 he was in building control, before that he was in the construction industry. So he really has bridged the gap, and there's a big gap in most of the construction, as we've seen, which has led to some of the fires. So he is the one -- and we will see exactly -- I hope it's not unfair to call him the éminence grise here. He is the one, along with Upton, along with others who are advising ministers -- and, of course, the ministers have already, as it were, got their framework of thought, so they won't be challenging Mr Martin in any way at all.

Now, I want -- the next -- this is in question 1. I'm not dealing with all the inquests. You have heard

a lot about the House of Commons report of the select committee, and I was going to ask you to look at it, but I'm not going to look at it now. May I ask you to bear in mind that we have put forward -- the evidence of Bob Moore to that committee, the evidence of the Fire Brigades Union to that committee, is extremely instructive, because they are mapping out -- should anybody not have ever heard of these issues, it was all there in front of the House of Commons, and of course the only part that I'm going to look at at this moment, which is important, the first report was in fact headed, should anybody have not realised there were risks from 1986, "Potential risk of fire spread in buildings via external cladding systems". Couldn't be clearer, and then they go on say whether there is a risk posed by such cladding, the extent of the use of external cladding -- can anybody say they weren't aware of what the issues were after this major tower fire, the adequacy of the regulations and so forth?

So the terms of reference were extremely clear. However, there has been reference, but not actually -- the detail of the conclusions of this report, which was carried out immediately after the Knowsley fire.

Now, it's paragraph 19, so you know where it is, but I don't ask for it to be on screen. They say this,

joint report:

"We do not believe that it should take a serious fire in which many people are killed before all reasonable steps are taken towards minimising the risk."

Then they go on to say small-scale tests are not really sufficient or appropriate.

But then the following one, paragraph 20, this is really important, this is way back, therefore, when this was -- and in fact it's the year that Brian Martin actually joins the BRE, who also gave evidence. And may I pause for a moment. The committee, if you look up the membership of the committee -- which, again, I was going to show you on a sheet, but I can tell you -- if one was to ask the question, you know: who do you think was a member of this committee out of all the people in this section? Lord Pickles. He was a member of this committee. To give him his due, he left in 1998, so just before the report. But again, somebody in his position wouldn't, we say, have been unaware that the committee he'd been sitting on had continued with this work and come up with this particular proposition:

"We believe that all external cladding systems should be required either to be entirely non-combustible ..."

Important, because of course -- I just pause there,

because Scotland, as you may be aware, took a different course, and so after Grenfell had happened, Scotland was able to say they hardly had any buildings that qualified in the way that Grenfell did.

So they were saying, "either non-combustible" -- so, you know, that was an opportunity. We're talking about opportunities missed. This was an opportunity, after this report, for the government of that day, which was soon to be, not so very long after that, another government wedded to the changes we've already talked about. So this was an opportunity to make changes.

The alternative to non-combustibility:

"... or to be proven through full-scale testing not to pose an unacceptable level of risk. We therefore recommend compliance with the standards ..."

And so on. I don't read the rest of it, but it's there. That's an important report, with an important conclusion.

But that's not the only thing that they were recommending. Can I just mention the other things that in 1999 were being recommended and, had they been carried out, might have been making a difference, and that is the department authorises registered social landlords to undertake a review of their existing building stock to ascertain how many multistorey

buildings are correctly using external cladding systems and how many cladding systems are in use which, whilst complying with the regulations in force at the time when they were installed, do not comply with current regulations. A register. Because after Grenfell, if a register had been established way back then, it would have been far easier to identify where the problems lay with high-rise.

And additionally, they also said they recommended fire safety assessors be reassessed themselves for their competency, and they should be called in to evaluate what work may be necessary in order to minimise the risks that they're talking about. Again, something that came up later. In other words, this is old hallowed ground which we say government knew about and ignored all the way through.

Then they make something which is important. They actually note that both class 0 and limited combustibility are different from the classification of non-combustible. So if there was any confusion, this was the opportunity for Mr Martin or others, as he later transferred to the department, to get, as it were, on top of the distinctions that shouldn't be made when one is dealing with the outside and risks outside of a building and risk to those who lived within.

Then obviously one comes -- there were inquests in between with recommendations, Rule 43 letters, I won't go through those, and then one gets to Lakanal. You're aware of the headings there, particularly the top one, stay put, and get out. I didn't show it on the last occasion. But it's important because Mr Shah, who is here today, Shah Ahmed, I put it in the submissions before -- I come back to it because it's -- that's what they're living with. He took a photograph of what was in Grenfell Tower at the time, when I started the period with him, in 2010 and the fire in Grenfell Tower at that time. What did the notice say? Nothing about stay put. It said get out. Nothing for the rest of them. That's all there was on it. And if you need any -- contact the town hall. Now, I'm not going to look at the -- but that's all it says.

So the review of stay put that was being suggested had been suggested in the Isle of Man case, suggested again in Lakanal, and I'm not going to go through all the recommendations because that's been done. None of them were actually adopted and taken up at all.

Stay put still being one of the most important, although as a result of Phase 1, and you will be aware of it from other evidence in other modules, that the stay-put policy now has been revised and there is -- and

of course it links to compartmentation, and it links to evacuation, which in turn links to the disabled and the vulnerable. So there is a kind of knock-on effect that once you start examining something which should have happened after Lakanal -- and I think those of us who practice have often wondered how frustrating it must be for coroners who take time to write it out in detail, knowing that possibly what they're saying will be, as they put in the vernacular, on the back-burner and actually won't be activated, and that is precisely what happened in the Lakanal case.

Now, I'm not going to do more on this, on the Lakanal aspect, other than -- it's been touched on as well -- the inquest itself. By this time, Lord Pickles is in post, as it were, and Brian Martin is there as well. The inquest took -- I mean, he is giving evidence -- the best part of 2013, in the beginning months, and the letter sent to Lord Pickles was sent in a very timely manner, right at the end of it. And it had a lot of publicity, so even if you are shielded in your department, you don't know what's going on in the department, you'd only have to watch television and you would have seen the images of Lakanal, because it was so, at that stage, dramatic. So the fact of the fire, the fact of a coroner coming up with very detailed

recommendations, which would have made a difference, we say, had any of them been activated, but none of them were.

So one turns really to a section -- and I'm skipping over foreign fires, Lacrosse, and all the other ones that come in the list, and the constant recommendations that were coming up. Before we get to the fact of the next question, there were no steps taken. I don't take time over going through what steps were not taken, because you have it. But we then come to, therefore, the question: why were there no steps taken? In other words, the underpinning of this policy of government, which we say is extremely important to understand why this happened. Housing policy is part of it, but the radical housing policy is part of a much bigger policy determination.

And we say, reading it now -- well, even then -- these are important statements, policy statements, being made by the head of government, and therefore ministers and percolating down to the local authorities must have been aware what was coming into power in 2009, just after that -- I say 2009 for express reasons. These speeches about the role of health and safety didn't start once the Cameron government were in power, they started in 2009, and what it was being said in 2009 has

a bearing again -- it's very interesting, because the critical period for Grenfell Tower and Mr Shah Ahmed had been, as I put in the last submissions, 2010. In 2009, what was being said and broadcast by the potential Prime Minister, as he was then, he was bemoaning 12 years of government obsessed by legislation and regulation, and stating this:

"The risk-averse culture has damaged our economy, our politics and our society."

That's a bold statement. It's an ideological statement. And I think one can't, as it were, demur from that, that is exactly what it is, and it's what's on the tin, essentially, because he is setting it out well before. And he promised, at the same time as this, at the end of 2009, that his government would bring to health and safety the presumption that there is no such thing as a risk-free environment, and efforts to eliminate all risk will eliminate enterprise, creativity, achievement, innovation. Is there anything it doesn't affect? We say this couldn't be a clearer statement. It can't be fudged. It's not an accident of history; this is a deliberate policy set out by Mr Cameron and adopted by his cabinet and government. I appreciate it was a coalition.

In October 2010 -- so it's the next year -- he goes

a bit further: he wants to scrap health and safety rules that put people off. Then he talks about Mr Pickles, the big man on the side of the people, and in the party conference in 2011 -- so it's year after year -- the shadow of health and safety is holding people back:

"This isn't how a great nation was built. Britannia didn't rule the waves with arm-bands on."

Well, there we are. It's ridiculing, humiliating health and safety, and relegating citizens, as it were, to effectively a bonfire.

So it is extremely serious when one gets essentially to the main speech, which I do think it's important to recall what he said. It was a New Year's resolution. It comes a year later, 2012. This, we say, he needs to be here to answer what he meant, because if it's going to be said through his protégés, through his ministers, whatever, that he didn't mean what he said, well, let him come and say that. But this is what he did say:

"... to kill off the health and safety culture for good. I want 2012 to go down in history not just as an Olympics year or Diamond Jubilee year, but the year we banished a lot of pointless time-wasting out of the British economy and British life once and for all. It has become an albatross around the neck of businesses, costing them billions of pounds a year, a feared health

and safety monster to be slain so that businesses feel they can get on, they can plan, they can invest, they can grow without feeling they are going to be strangled by red tape and health and safety regulation."

I read it in full and obviously with a little bit of emphasis, but I think it's important to recall, to relive the atmosphere, the environment of the time, because it could happen again, unless it is banished as an approach. It doesn't matter which party is in power, which party espouses this kind of ideology; it is not, we say, to be adopted again.

It gets worse with the Red Tape Challenge itself, which indicated -- this was Oliver Letwin, a couple of years later in 2014 -- "A call to minimise risk is a call for a cowardly society". It really is putting people who dare to say, "What about this, what about that" -- it's not just about cutting regulations, which they were doing as well, but it's about not introducing anything that's going to cause more trouble and expense for business, and it's very interesting that in none of the speeches that we've found is there a single word said about health and safety by those who are perpetrating this policy.

So, therefore, that's the background which we say cannot be dismissed and needs to be confronted, and

there needs to be accountability for setting that kind of agenda.

But I want to interpose, if I may -- I'm watching the time, I think I'm getting close, but I can do it fairly rapidly. This is in a sense, I hope it's not -- it's in part a tribute to the late Sir David Amess, because it may not be known to the public just exactly what he did -- and it wasn't just him, and it wasn't a pressure group, it was part of our democracy, the ability of an all-party group, which some crave, an all-party group, the APPG, in relation to fire and rescue safety, and I'm going to start with what he said at the end of his tenure, in a sense, although not at the end of his life, after the fire at Grenfell Tower. So it's 2019 he said this. It's a compelling insight:

"Over the past six years, the all-party group has met resistance when seeking improvements to fire safety, despite compelling evidence that such measures should be introduced. In the 13 years since regulations were last reviewed, nothing has happened. It is perhaps rather easier for a Conservative Member to make those points than it would be for other Members, because we should never have got to the position of the Grenfell Tower fire tragedy, especially after the warnings and recommendations from the coroner after the Lakanal House

fire and the 2013 inquest, the rule 43 letter to the Secretary of State ... It is the fault of every Member of Parliament that our voice was not heard and the recommendations were not listened to."

Well, in deference to him, perhaps I just add or alter the last words. They were, in a sense, heard, the recommendations, they were listened to, but worse, they weren't heeded, they were ignored. Why? Because of the greater policy that was in force at that time.

And what is of some interest is the disclosure by the BBC a few days after the fire itself, followed up by the journal Inside Housing, which is again quoted from time to time. They revealed that this committee, over the period of time that they were -- after the fire, so through from 2014, in fact, I think it is, through to 2017, the committee wrote 21 times saying the same thing. Basically: when are you going to do something about the recommendations out of Lakanal, reviewing ADB and so forth? Sprinklers. All the ones -- all the issues you've heard about.

I'm just going to ask for one to come up in the last few minutes, but the correspondence demonstrates without a question that they were fobbed off time and again with the same, and I'm sorry to say, lies. The lies were, "It's all right, we're doing a review, it will be out in

2016/17". Really? Well, as we now know from a note that's been revealed straight after the fire, where they were getting a conference together of members of the House of Commons, a note has been revealed in which work had not even begun on the ADB review.

So what they were saying to the all-party group, what they were saying to the House of Commons, what they were saying to the British public was complete nonsense, intended to be, "We'll just put them off, we'll do it, yes". But they don't. They don't do a thing. And of course now we have the Hackitt Review and all the rest of it, because, panic stricken, they're thrown into it.

But could we have on screen, please, an early riposte from Brian Martin. It's at {CLG00011295/1}. This is one in which:

"David Amess ... has written ... in response to your letter ..."

It's at the start, at the top of the page:

"The group have argued that a view of Approved Document B should be brought forward and have invited you to meet with them."

That's their point all the way through: please meet us now and talk about it. And the recommendation of Brian Martin is to decline the invitation, and this is the policy of the civil service throughout: advising

Pickles not to meet Harriet Harman, the MP, not to engage. Why? Because if they did engage they would soon discover that really very little has been done.

Paragraph 4 is of interest:

"Following the Lakanal House fire, the Coroner criticised the complexity of the guidance in Approved Document B and called on the Government to revise it. The Secretary of State rejected this but did commit to a review which would deliver a revised document in 2016/17 ..."

So, in fact, it was rejected and, in fact, as we know, nothing was being done.

Then the sprinklers are dismissed because of the cost, and paragraph 6:

"Bringing this review forward would require the allocation and re-allocation of resources and it is unlikely that the new evidence would justify any significant change ..."

And so it goes on.

Could we have one more document, please, {CLG00000694/1}, a letter dated 1 December 2015 from Sir David Amess to James Wharton. Thank you very much. And you will see there the paragraph:

"Over the past two years of correspondence between your predecessor, Stephen Williams, and myself, the

Group has felt continuous frustration over dismissive responses to its well−founded and justifiable concerns; whereas yesterday we did find a more considerate [tenor] ... "

And then he goes on to deal with the discussions.

You will see on the next page, {CLG00000694/2}, Sir David and the committee have a large number of propositions, constructive ones, of the way forward. I can summarise: none of these were followed up.

He was whistling and the committee were whistling in the wind. They were to be feeling in the next letter that comes in the sequence −− I don't ask for it to go on screen −− he describes the cross−party group's completely dejection, "unanimous dejection" is the word used, that's to the MP he had just written to, because once again −− and the demands that they're making, the observations that they are making −− and in fact what he is saying to them is: is it going to take a fire? And he actually predicts: is it going to take a fire in 2017 of a high−rise block before you're going to do anything?

But it didn't matter what he said, and once he'd tried, as he did at the end of the sequence, he tries to get a date as to when is this going to happen, this review, because at that time it's Gavin Barwell, who is giving very different answers about when it's going to

come. First he's going to make a statement and then he's not going to make a statement, and of course we know why.

May I end −− because I see the time −− with a cameo, which we submit actually speaks volumes as to what's gone on here. The cameo is this: picture the morning of the fire. Melanie Dawes −− now, Melanie Dawes is an important individual because she was the head of the civil service, and she had a particular responsibility. She'd come into post, as it were, a little later than some, 2015 she came into post, and the cameo is this: she says in her statement −− I don't ask for it to be up −− "The morning of the fire was the first time I'd heard of Lakanal, it was the first time I knew there was any query over Approved Document B and any attempt to redraft it". Well, of course, she ought to know because she'd be right in the centre of it. She is telling the truth, she didn't know. Why? Because Lakanal didn't matter, I'm afraid. And Lakanal and the recommendations, even the deaths, had not spurred them into action instead of misrepresentation.

So what she said −− it's very interesting that she didn't know, but an even bigger question: why did she start thinking about Lakanal? Was it something she read in the press, or was it Lord Pickles ringing her up or

something? Because within a few days, he was asking interesting questions −− little cameo −− on 22 June, when they were putting out what was meant by Approved Document B. He said −− and he asked for access to his documents. What did he want to know? He wanted to know what the response of the department had been to the recommendations and to the all−party group warnings. So there we have a little cameo of what's going on there. It may be he just had a loss of memory, or maybe some of the −− can I call it the Claire Williams "Lakanal moment" had suddenly, as it were, come home.

To complete the cameo, it's on the morning of the fire that the Red Tape Challenge are meeting. Not to secure health and safety; quite the opposite, they're actually meeting Oliver Letwin, who thinks it's cowardly to have a risk−averse society. They're meeting in order to see if they can remove health −− well, fire safety regulations to make it easier for business.

Now, I think I've overstepped the mark by a few minutes. I apologise to those who come after me.

Thank you.

SIR MARTIN MOORE−BICK: Thank you very much, Mr Mansfield.

Now, we're going to hear a statement next from Mr Adrian Williamson Queen's Counsel. Unfortunately Mr Williamson I think is not able to be here. At any

rate, he is attending via Zoom, and I think I had better just check that he can hear and see us and vice versa.

Good morning, Mr Williamson.

MR WILLIAMSON: Good morning, sir. Can you hear me?

SIR MARTIN MOORE−BICK: We can, thank you very much, and I hope you can see us and hear us all right.

MR WILLIAMSON: Indeed. Yes, thank you very much.

SIR MARTIN MOORE−BICK: Good, thank you very much.

Well, Mr Mansfield has slightly overrun, but he says you had agreed that he should take whatever time he takes.

MR WILLIAMSON: Yes.

SIR MARTIN MOORE−BICK: So now it's your turn, all right?

Module 6 (Testing, Government & FRA) opening submissions on behalf of BSR Team 2 by MR WILLIAMSON

MR WILLIAMSON: Thank you very much. I'll start my half an hour.

Good morning, Mr Chairman, Ms Istephan and Mr Akbor.

In Module 2 we saw that the product manufacturers Arconic, Celotex and Kingspan were indeed, as we had called them, crooks and killers, fraudulent in their marketing, recklessly unconcerned with public safety, and focused on the bottom line by fair means or foul. Because of the inherent dangers posed by their combustible building products, the process of testing

and certification of the same needed to be rigorous, impartial, expert and, above all, wholly independent. If the testing and certification system had been rigorous and independent, the manufacturers might not have got away with selling their lethal products. In fact, the testing and certification system was hopelessly inadequate, and those responsible actually knew that combustible products were going onto buildings and they failed to provide tests that could reduce the risks. Instead, they stood back and let it happen.

When the Inquiry comes to consider the evidence in Module 6, it will see that these bodies, these testing and certification bodies, were wholly aware, in the years leading up to the Grenfell tragedy, of the issues, organisations and individuals with whom the Inquiry has been concerned to date. For example, as recorded in an article in the RICS Building Control Journal, under the fateful heading "Combustible cladding: burning issues", the NHBC, for example, held a façades to tall buildings seminar in 2016, which included key speakers from the DCLG, the BRE and Exova. The article noted that these parties discussed the use of combustible materials in the external walls of high-rise buildings in addition to consequences of poor specification and the like.

Why, then, was this testing and certification system, if such it can be called at all, so dysfunctional? As the saying goes, a fish rots from the head down. The government should have been alert to see that the testing and certification bodies were performing their roles scrupulously and impartially. In fact, as we've already heard today from Mr Mansfield and Ms Barwise, successive governments were seeking to stand back and let the market work its magic.

The key figure within government, again as we've heard, was Brian Martin. He had long been aware of the risks of employing the type of material used at Grenfell. These dangers were not disputed, but nothing was done. Instead, Martin took an attitude that was complacent and collusive with a dangerously out of control industry.

For example, as long ago as 2008, concern was expressed to him by someone called Philip Reid about fire safety surrounding types of composite panels. Mr Reid said that there were loopholes in the existing framework that allowed manufacturers to offer products that were misleading in their sales documentation and were a genuine fire risk to the public. Martin's response could scarcely have been more dismissive. He said:

"If you're concerned that a manufacturer is deliberately misleading people with its literature, then that's something that should be taken up with the relevant trading standards authority."

In 2013, Martin's colleague, Mr Anthony Burd, raised the alarm regarding downward fire spread at Lakanal House. Martin replied, again dismissively:

"The falling debris could have been from the bird netting or some other crap falling out of the window. I still think they are overegging the impact of the panels."

As late as 2016, only a year before the fire, Martin said this about the regulatory framework. Could we have up, please, {CLG00031093/4}, at the bottom of the page. There we see Mr Martin saying:

"It's for the designer and the building control body to consider if Requirement B4 has been met."

He then discusses ADB and various other matters, and then he says this:

"However, if the designer and building control body choose to do something else than that's up to them."

Thank you very much, that can come down now.

I turn now to the Building Research Establishment, the BRE.

The BRE was founded in 1921, 100 years ago, as the

Building Research Board, a civil service body, in an effort to improve the quality of housing in the UK. It so operated until 1997, when it was privatised. Indeed, the BRE boast as follows on their website:

"Following 75 years as a building research agency of government, BRE was privatised in ... 1997 by ... Michael Heseltine in the last days [of] a Conservative government. Reactions from across the construction sector were unequivocal: BRE won't survive because no one will pay privately for research. Well here we are two decades later under the ownership of BRE Trust not just surviving but thriving and growing an international base for our business so we can drive our positive impact."

And how has it "grown the international basis for their business"? By putting its customers front and centre of its operation. And who are its customers? They are the manufacturers who have used and abused the testing and certification system to push dangerous products into an ignorant and complacent marketplace, and the BRE have colluded in this process.

On that same website, which was accessed but a few days ago and four years after the terrible fire at Grenfell, and in full knowledge of the devastating evidence which has been heard in this Inquiry, the BRE

say this:

"Our customers use our expertise and services to deliver their social, environmental and economic goals."

And how does the BRE seek to secure those economic goals for their customers? At the heart of the operation lies obsessive concern over client confidentiality. The "economic goals" of the customer come first. As the website also states:

"Following the tragic fire that occurred at Grenfell Tower in June 2017, BRE ... were asked by DCLG to contact all of our customers who had tested and achieved BR 135 classifications for their external cladding systems."

Then this:

"Where permission to publish details of a cladding system has been granted by the customer, this document summarises the generic components included ..."

We submit this is symptomatic of a corrupt culture in the testing and certification industry. Client confidentiality should not come first. The public interest and public safety must always come first. After all, as was rightly said in the 19th century, "If the broad light of day could be let in upon men's actions, it would purify them as the sun disinfects". Possibly sexist language apart, this remains a most

valuable guiding principle in the 21st century.

It is not, however, a principle by which the BRE was prepared to live. To the contrary, for the BRE, its commercial interests were paramount. For example, in 2014, the CWCT approached the BRE to ask whether they wished to be involved in a working group to oversee the development of CWC activity in relation to fire performance for curtain walls and rainscreens. Having regard to what was to happen three years later at Grenfell, it is hard to imagine a more pressing issue.

Dr Sarah Colwell of the BRE well knew by then that there were problems with the relevant issues that they were seeing in the industry and which were not clearly defined in ADB. Indeed, since 2002, Colwell and Dr Debbie Smith, the managing director of BRE Global Limited, had known that ACM PE rainscreen cladding products were being used on the façades of the same type as that which were later used at Grenfell. They also knew that this aluminium sheet product proved to be one of the worst performing products when tested.

Despite all this, Smith commented internally, when approached by CWCT -- and please could we have up {BRE00047364/1} in the middle of the page. There we see Debbie Smith saying:

"Wooooh!

"This looks very dangerous. We need to discuss our strategy to ensure that we don't end up handing the fire safety mantle to CWCT (a competitor) losing the need for BR 135, BS 8414 etc etc ..."

Thank you for that, we can take that down now.

Furthermore, the BRE generally, and Smith in particular, seemed to have taken a remarkably hands-off approach to their role. Their line was not to let in the disinfecting light, but to shrug their shoulders and say, "It's not my job, guv". Smith observes in her witness statement given to this Inquiry, indeed, that BRE has no subsequent role or responsibility in relation to any performance claims which the test sponsor, their client, may make for the products or systems which they sell into the market.

In summary, the BRE is an organisation in need of root and branch reform, beginning with a return to the public sector and the adoption of an unequivocal ethos of public service. It is striking that following the fire, UKAS prepared an assessment report on the BRE after examining a number of test job files and associated documentation related to BS 8414 testing. The report makes depressing reading, for example UKAS observing that those who were carrying out the tests had no ostensible qualifications so to do.

I turn now to the CWCT, the Centre for Windows and Cladding Technology. They are a trade body whose stated purpose is to publish standards and guidance in relation to fire resistance, façades, cladding and glazing. Their key objectives are to provide guidance and training in all areas of façade engineering, and to carry out research. As we have seen, the BRE regarded them as deadly rivals.

However, and unhappily, the CWCT also did little to shine light into these murky areas. They seem to have had limited understanding of the key issues. For example, at a board meeting in July 2013, Wintech -- who seemed, to be fair, to have been more on the ball than most -- raised concerns about misunderstandings regarding insulation, since class 0 products did not meet the fire regulations. CWC agreed to look into this, but seem to have done nothing about this crucial confusion.

A year later, but still three years before the fire, the CWC fire group noted at a meeting that there was "a degree of ignorance, with some people confusing class 0 with limited combustibility", and that clause 12.7 of ADB did not make clear the necessary prohibition on the use of polyethylene-cored ACM in buildings. What is so remarkable and so disheartening

is that this was a meeting attended by many of the key players in this tragedy who have given or will be giving evidence in this Inquiry, including Colwell of BRE, Martin of DCLG and Ivor Meredith of Kingspan. The issues were plainly before them, and yet the CWCT was unable or unwilling to address them effectively.

I turn next to the LABC, Local Authority Building Control, the organisation which represents all local authority building control teams in England and Wales. According to their documentation, they are said to be independent, impartial and expert. However, in their dealings with the crooks and killers, the LABC were in fact neither independent, expert nor impartial.

The first key LABC certificate we are concerned with in this Inquiry is the one issued for Kingspan's K15, which supported the false claim that the product was of limited combustibility. This seems to have been brought about by informal conversations between Pack of Kingspan and Barry Turner of the LABC. It appears that this certificate was subject to little or no scrutiny. In fact, the drafting of the document, as we heard in Module 2, was entrusted to an officer with little or no experience of façade compliance in 18-metre buildings.

Despite receiving a letter from Rockwool in 2009 asking how K15 could possibly be thought to be of

limited combustibility, the LABC entirely failed to address this false claim until the issue of its registered detail in August 2013. However, it's important to note that, despite these concerns having been raised, this detail still claimed that K15 was compliant as a product with BR 135 when no such classification existed. Further, as we know, BR 135 cannot classify a product, only a system.

How did this come about? Well, it is clear that the LABC were not independent, but were far too close to manufacturers like Kingspan and far too dependent upon their business. Thus in July 2014, one sees Mr Ewing of the LABC excitedly informing his colleagues following a visit to Kingspan that he had -- could we go to {LABC0002686/1}. One sees, at the bottom of the page, Mr Ewing reporting that he had got back from Hereford, which is where Kingspan's property is, ten minutes ago and had been asked to quote for a number of products.

If we could scroll up the page, we see the response from the colleagues, "Fanbloodytastic!" and "We'll save this failing company yet!", and Mr Ewing then reported that Justin Davies of Kingspan had been "really impressed with our approach".

Thank you, we can take that down now.

Furthermore, the LABC were internally subject to

exactly the confusion which the CWCT had been discussing. For example, in a 2013 internal exchange concerning clause 12.7 of ADB, it was stated that:

"Essentially as the board is described as Class 0, it can be termed a 'material of limited combustibility' and so in terms of the relevant part of Doc B it is suitable for use within the wall construction even at heights over 18m."

The manufacturers were only too happy to exploit this ignorance for their own ends, in particular Celotex doing so in 2014 and onwards. Indeed, Celotex were bragging by 2014 that they had once again demonstrated their applications being suitable for buildings above 18 metres, which was supported by LABC approval, and that was all based upon a registered detail which the LABC had issued which wrongly proclaimed that Celotex RS5000 had been successfully tested to BS 8414 and was suitable for buildings above 18 metres in height.

Indeed, as the Inquiry will recall, at this point the world of the LABC collided with that of the residents of Grenfell Tower. In August 2014, Mr Roome of Celotex sent an email to Mr Anketell-Jones of Harley attaching RS5000 information sheets and LABC documentation. The subject line of the email, as we all

recall, was "Grenfell Tower RS5000 data".

I turn then to the NHBC.

The National House Building Council was set up 85 years ago, and, like other venerable institutions such as the BRE, it appears to offer confidence that all will be well in the construction world. Indeed, its website claims that their purpose is to build confidence in the construction quality of new homes and to use their unrivalled expertise to support customers to improve construction quality. However, like the BRE, the NHBC was at best gullible and at worst collusive when dealing with the manufacturers. Its interactions with Kingspan are illustrative of this. Once more, it is Kingspan who are at the heart of this darkness.

In October 2013, Wintech asked for a meeting with the NHBC to discuss the concerns of the CWCT in relation to the use of K15 with rainscreen cladding in buildings over 18 metres. The meeting duly took place in November of that year, and the NHBC noted internally -- and if we could go to {NHB00000597/1} -- on the basis of what Wintech had said, that the K15 had been tested in one instance on a masonry wall construction. On that basis, Kingspan were claiming that it was suitable for use in buildings over 18 metres high, but, continued Mr Lewis of NHBC:

"... when you dig down to the detail, it's only acceptable if the wall construction is exactly the same as that tested. Most of our schemes are steel framed with a Metsec (or similar) external wall build-up and so the Kingspan test doesn't hold true and, if we follow the AD B and BR135 guidance, we shouldn't be accepting it. Even with a cementitious liner board, the product is still combustible and so doesn't meet AD B2 recommendations."

Thank you, if we can take that down.

The NHBC then seem to have investigated the position with Kingspan. Indeed, they went so far as to produce a draft memo to them in February 2014, raising concerns about the new version of the BBA certificate and asking for clarification as to the technical basis upon which changes to that certificate had been made. However, despite this, and despite the importance of these issues, by June of that year, matters had not really progressed very far. The NHBC therefore wrote to Kingspan and they said this:

"Unless additional test evidence supporting the use of K15 in constructions which differ from the BS 8414-1 test can be provided before 30 June 2014, NHBC/building control services will need to reconsider the acceptance of K15 in buildings over 18 metres as fit for purpose."

They received an evasive response from Meredith. Kingspan were clearly playing for time.

A little later, Brian Martin, as we've heard, notified the NHBC that he had heard "from relatively reliable sources" that several buildings had been erected where PIR insulation had been used in cladding panels well over 18 metres in height, and that people were under the impression that PIR was a material of limited combustibility, which it was not.

Despite all this, in October 2014, the NHBC were still merely discussing the results of testing carried out by Kingspan and holding a meeting with them where test reports were presented and discussed. There was plenty of talk, but no apparent desire on the part of NHBC to wage war on these unsafe products. What instead the NHBC did was to hold yet further meetings in November 2014 with the BRE and Arup Fire.

It is poignant to note that, again, key witnesses in this Inquiry were discussing at this meeting the very issues which this Inquiry has had to wrestle with. For example, in this meeting Arup, I think Dr Lane, stated that they were "deeply concerned" about the use of combustible components within external wall constructions of high-rise buildings, and also that they felt that the current guidance was not sufficiently

robust.

What then happened was that the NHBC did finally resolve to take some action, but at the most leisurely of paces. In February 2015, when this particular saga had been ongoing for 18 months, it was minuted by the NHBC that -- and could we go to {NHB00002667/3}. So in relation to K15, we see that:

"ID [who is an NHBC man] advised that the proposed letter to Kingspan was being finalised (with advice from the Head of Legal) ..."

There were also discussions with the BBA, and that the NHBC were keen to find an acceptable solution in conjunction with the BBA.

Thank you, if we can take that down now.

The action arising from all this was that the NHBC, in March 2015, sent out a note to builders on the use of combustible materials in buildings over 18 metres. However, and starkly, this was couched in general terms and did not even mention K15. A clue to this course of action may be inferred from the fact that the NHBC had only felt able to deal with Kingspan at all with advice from the head of legal, no doubt because they were fearful that Kingspan would resort to litigation if their position was under threat.

The NHBC were also aware of the dangers and

limitations of the testing of RS5000, the Celotex product, and even went so far as to raise these concerns with them. However, the evidence shows again and again that the NHBC took far too relaxed a stance when it came to allowing RS5000 to be specified.

At this point I should say something about the issue of desktop studies, which Ms Barwise has referred to.

During their exchanges with Kingspan, the NHBC and LABC, whilst being perfectly well aware that there were serious issues with the full-scale testing route, started to draft the first edition of what would become the BCA Technical Guidance Note 18. We submit that this was a particularly problematic piece of guidance since it legitimised the use of desktop studies in place of further testing. Initially this only permitted UKAS accredited testing laboratories with testing data already in their possession to carry out the studies, but then the scope of the note was further widened. This resulted in a series of extremely questionable studies, some of which actually permitted the use of polyethylene-cored ACM alongside combustible insulation, much like what occurred at Grenfell.

Not satisfied with the already extremely dubious and newly legitimised desktop study compliance route, the NHBC then decided to take this further. They published

their 2016 guidance note permitting, in appendix 3, the use of class 0/Euroclass B ACM alongside K15 or RS5000.

I should now briefly say a few words about two other bodies: UKAS and the BBA.

The United Kingdom Accreditation Services, the national accreditation body for the UK, appointed by government to assess organisations that provide certification /testing/inspection services. We have significant concerns about the role and performance of UKAS. However, it has not been possible to deal with UKAS in these submissions owing to the lack of relevant disclosure so far provided. We expect that we will have more to say about them once that disclosure has been provided.

The British Board of Agrément, the BBA, too have lofty aspirations, claiming on their website that for 50 years they have been helping the construction and manufacturing industries build confidence in the solutions created throughout the supply chain.

The BBA is not being called to give evidence in this module. That, we think, is a regrettable decision, since the BBA occupies a pivotal role in the current testing and certification regime and thereby of the regulation of construction products generally.

In any event, we invite the Inquiry to keep at the

forefront of its mind the evidence heard in Module 2, which details the very significant shortcomings in the BBA's presages and personnel. These are all relevant to the systemic failures with which Module 6 is concerned.

Those systemic failures were numerous, persistent and serious. What is so alarming and tragic is that the cladding and insulation dangers which would lead to the Grenfell fire were not in any way unknown. For example, Mr Lewis of the NHBC, whose document we saw a moment ago, recalls in his second witness statement for this Inquiry that he was, from at least 2014 onwards, concerned about the issue of combustible materials on buildings over 18 metres, in particular the risk of 100% PE−cored ACM. Indeed, he often made fire safety presentations. In these he highlighted to the audience that if they identified 100% PE−cored ACM, then, as could be seen in a video which he showed, it could not be said to meet regulation B4(1). The script for a presentation of this kind entitled "Combustible façades" is before the Inquiry.

I am now about to call up an image which shows images of a burning building that some may find distressing and may wish to look away from.

Could we please have up {NHB00000061/9}. That diagram shows how combustible façades would lead to

rapid fire spread and how the cladding system contributed to flame spread resulting in multiple simultaneous secondary fires. The mechanism shown is very similar to what actually happened at Grenfell.

That can come down, thank you very much.

Yet nothing effective was done by any of these apparently authoritative bodies and the manufacturers were allowed to hide in plain sight. It is noticeable in this context that the opening submissions from these core participants provide very thin gruel indeed, pious generalities from the NHBC and the BRE, and little at all from the other bodies.

Finally, Dame Judith Hackitt, as has been referred to, observed in her 2018 report that the current process for testing and certifying products for use in construction is disjointed, confusing, unhelpful and lacks any sort of transparency. Just as the process of constructing the building itself must be subject to greater scrutiny, the classification and testing of the products need to undergo a radical overhaul.

She was quite correct. The testing and certification bodies should have been robustly independent guardians of the public interest. They were not. They did not provide solutions to the safety industries and the cladding industry. They were in fact

part of the problem. The regime was wholly unreliable. The relationship between the testing bodies and the manufacturers was far too close. As a result, the bodies were wholly ineffective in monitoring and holding to account the manufacturers. Commercial gain at all times took precedence over safety.

However, in one respect, Dame Judith was insufficiently critical. She reported upon the deep flaws in the current regulatory system, but, in truth, at the time of the fire and now, there is no system worthy of the name; rather, there is a series of disparate, ostensibly competent bodies dealing with testing and certification. The remit and responsibility of these bodies and their accountability are all unclear. Their competence to pronounce upon safety is equally obscure.

What is required is that a proper system is brought into existence whereby no material is allowed to be incorporated into a building anywhere in the UK unless such material is certified safe by a single authoritative body whose loyalty is to the public interest and to nothing else.

That concludes the Team 2 oral submissions.

Sir, could I thank you for the indulgence of allowing me to run over by a few minutes.

SIR MARTIN MOORE-BICK: Thank you, Mr Williamson, that's quite all right. Well, thank you for your statement.

We will break at this point so that everyone can have some lunch. We will resume, please, at 2.05, when we shall hear an opening statement from Ms Studd Queen's Counsel on behalf of the Mayor of London.

Thank you very much. 2.05, please.

(1.05 pm)

(The short adjournment)

(2.05 pm)

SIR MARTIN MOORE-BICK: Welcome back, everybody. We are now going to hear an opening statement on behalf of the Mayor of London by Ms Anne Studd Queen's Counsel, who is appearing by video this time.

Good afternoon, Ms Studd.

MS STUDD: Good afternoon, sir.

SIR MARTIN MOORE-BICK: You can hear me, I hope, and see me?

MS STUDD: Yes, I can.

SIR MARTIN MOORE-BICK: Indeed all three of us?

MS STUDD: I can see all three of you.

SIR MARTIN MOORE-BICK: Right. Well, you're going to make a statement now, and if you're ready, off you go, thank you.

Module 6 (Testing, Government & FRA) opening submissions on behalf of the Mayor of London by MS STUDD

MS STUDD: Thank you very much.

Sir, in this part of the module, the Inquiry will, for the first time, examine what the government knew or ought to have known about the weaknesses and failings in the Building Regulations and the associated documents as a result of the learning from other earlier fires, and what was or ought to have been done in response to that information.

The built environment is kept safe for those who live and work in it in large measure by instilling compliance with the Building Regulations, together with the guidance in the approved documents which sit alongside them. The statutory framework also informs the decisions of those who attend in response to an emergency. There is clear evidence that central government were aware of the shortcomings of Approved Document B as far back as 2012, when a decision was made to commission wide-ranging research to inform a wholesale review of it. On the night of the fire, critical and crucial decisions were made on the assumption that the Building Regulations and Approved Document B had been complied with and were fit for purpose. They clearly were not, and central government ought to have known that they were not.

The Inquiry is going to hear from current and former

ministers, officials and civil servants with first-hand knowledge of what was known prior to 2017 about the effectiveness and efficiency of the Building Regulations and approved documents, the concerns being raised in relation to the fire risk in high-rise buildings, and what action was being taken by government. There is a divergence of evidence about what was done and indeed what ought to have been done, which will be a matter for the Inquiry to assess, but there are a number of features of the evidence that the Mayor would urge the Inquiry to give particular consideration to, in an effort to prevent future tragedies occurring where known risks have been identified.

Rule 43 of the Coroners' Rules 1984 as amended, and Regulation 28 of the Coroners (Investigations) Regulations 2013 concern the statutory obligation of the coroner in relation to the prevention of future deaths. This obligation is intended to ensure that the coroner's learning from hearing the evidence in a particular inquest or inquests is transferred to those with the power to change the system. It reflects the need for those with that responsibility to be made aware of the problems, faults or failures so that the system can be reformed, adapted and amended in order to prevent future deaths occurring as a result of the same or similar

failures. It is that part of the coroner's statutory function that is intended to give those families who have suffered bereavement some degree of closure and comfort, knowing that lessons have been learned from the deaths of their loved ones.

On 28 March 2013, in the aftermath of the inquests into the deaths of six individuals who lost their lives in the tragic Lakanal House fire, Her Honour Frances Kirkham sent a letter pursuant to Rule 43 of the Coroners' Rules to Sir Eric Pickles, Secretary of State for Communities and Local Government. She made wide-ranging recommendations to the DCLG which have significant resonance and familiarity to the issues that you have been asked to consider in your Inquiry into the fire at Grenfell Tower. The Mayor summarises the more relevant and important issues, some of which you have already considered in the earlier part of this module:

1. The need for sufficiently clear fire safety advice to be given to residents of high-rise residential buildings in the case of fire within the building.

2. The need for national guidance to be disseminated to residents in relation to the stay-put principle and its interaction with the get-out-and-stay-out policy.

3. The benefit of retrofitting of sprinklers and

the need to encourage providers of housing in high-rise residential buildings containing multiple domestic premises to consider the retrofitting of sprinkler systems.

4. The need for a review of Approved Document B to ensure that it provides clear guidance in words and format that are intelligible to the wide range of people required to use it, and in relation to regulation B4 of the Building Regulations, with particular regard to the spread of fire over the external envelope of the building and the circumstances in which attention should be paid to whether proposed works might reduce existing fire protection.

Those issues are all relevant and important considerations for this Inquiry as a result of the dreadful tragedy at Grenfell Tower, and the Inquiry will want to know from those in power why it was that, four years after those matters had been raised by the assistant coroner in relation to Lakanal House, another tragic fire happened involving many of the same issues with devastating consequences.

The Mayor does not suggest that the machinery of government can resolve complex issues such as these in a matter of weeks or months, but neither should matters which were considered sufficiently serious and urgent to

have resulted in a prevention of future death report be liable to extensive delay on the political whim of a department or a minister. What is clear here is that in the days following the fire, the DCLG were running for cover, and acknowledging that "the lack of urgency or reason for delay is striking" and "the fact that our focus is on red tape is very clear".

From the evidence disclosed to the Inquiry and to be examined over the coming weeks, it seems that there were two fundamental problems which this Inquiry should examine. The first was the rapid change in personnel in DCLG and latterly the Home Office which had primacy over the issues with which this Inquiry is concerned. The second was the ability of that department to delay or avoid dealing with issues which had been highlighted by the assistant coroner and about which the DCLG had given assurances in 2013.

The Secretary of State, Sir Eric Pickles, responded to the assistant coroner's Rule 43 letter on 20 May 2013. On the timing of the review of Approved Document B he said:

"We have commissioned research which will feed into a future review of this part of the Building Regulations. We expect this work to form a basis of a formal review leading to the publication of a new

edition of Approved Documents in 2016/17."

The research referred to amounted to seven workstreams commissioned for BRE in 2012. They reported in February 2015. They needed to be published to enable external stakeholders to feed into the review. Those workstreams covered: periods of fire resistance; maximum compartment sizes; construction details, roof, voids, cavity barriers and fire and smoke dampeners; fire protection of basements and basement car parks; sprinkler provisions; space separation; and means of escape for disabled people.

This demonstrates that, after the Lakanal House fire, there was already an awareness in government that there were areas of concern which required a proper review, even before they were the subject of recommendations from the coroner. Work was already under way by the time the coroner made her recommendations, which makes the subsequent delays even more striking.

The general election called for 7 May 2015 prevented publication in early 2015 and, following the new appointments of the relevant ministers, it was not provided to them until December 2015.

The workstream research papers referred to the minister in December 2015 for publication, and in

October 2016 an update was provided as publication had still not taken place. It is clear that a number of attempts had been made to get authority for publication without success.

The Inquiry will hear from those who were responsible for and failed to drive these reforms forward, but the evidence from the civil service suggests that while they were well aware of the issues and reiterated the commitment made to the assistant coroner in 2013, issues were not addressed with any urgency. There was a failure to sign off publication of the research to enable this to be carried forward within a reasonable time, or at the very least to enable the department to fulfil its commitment.

In spite of the assurance given to the assistant coroner, confusion and inaction seemed to have been prevalent. In November 2015, Brian Martin was emailing saying:

"We have not announced a formal review of Approved Document B. So there's no timetable for that, and [no] guarantee we'll do one."

The regular reminders sent to progress matters were not acted upon, and the delays were compounded by the Brexit referendum and the subsequent general election. There is no requirement by an incoming minister to

continue with the commitment of his or her predecessor, and this had the effect that these issues of public safety started from the beginning each time the relevant minister changed.

Furthermore, in the aftermath of the 2015 election, the focus of the department was perceived to have changed. As Richard Harral records in his statement, the position in September 2015 was set out in a briefing to ministers. Paragraph 10 of the briefing began as follows:

"10. The current fire safety provisions in Part B of the Building Regulations for England were published in 2006. A further review had been planned for 2013 but this was postponed whilst the Department focused its attention on other priorities including the red tape challenge and the housing standards review.

"11. In 2013, the inquiry into the 6 deaths in the fire at Lakanal House recommended that the guidance in Approved Document B should be simplified. Eric Pickles' response to the Coroner set out his intention to review Part B during this parliament and that this would include simplification where this was possible.

"12. A detailed work plan for Building Regulations is yet to be agreed with ministers but we are looking to review how these guidance documents can be improved."

A substantive review in 2013 may have resulted in a better outcome for Grenfell Tower. Richard Harral recognised too that, post-election in 2015, "any increase in the financial burden from regulatory change would be unwelcome". In spite of much toing and froing, no discernible progress was made from the receipt of the research in December 2015 to the time of the Grenfell fire in June 2017.

Overlaid upon the changes of personnel was the policy of deregulation, the Red Tape Challenge, and the perceived need for "one in, two out". Any additional regulation could only be effective in the event that two sets of regulations could be repealed. As a result, it would appear that, during 2016, there was a move away from the assurance of the full review of Approved Document B given to the assistant coroner in 2013, to a position where:

"The proposal for reviewing AD B was a limited scope review focusing on simplification and specific technical issues. The submission noted this would help to manage expectations and strong lobbying for expansion of regulation. This would lead to an update of ADB which would also fulfil the last Government's commitment to clarify guidance in this part of the Regulations (which was a recommendation from the Lakanal House Coroner in 2013)."

From the outside, it looks like lip service being paid to an assurance previously given. For the sake of these bereaved, survivors and residents, and others who may come after them, the Inquiry will need to consider what can be done to ensure that assurances provided to coroners as part of their statutory function to prevent future deaths are followed through and completed in full regardless of a change of personnel, general election, or even government policy. The implementation of safety-critical recommendations must not be sidelined for political convenience. If this can be allowed to happen, then one wonders about the fate of important recommendations made by this Inquiry. The Mayor has, in correspondence with the government, supported INQUEST's call for a national oversight mechanism to ensure that recommendations from inquiries and inquests are systemically followed up.

As of the date of Brian Martin's statement in 2018, the reports he had commissioned in 2012 had still not been published. The third-party stakeholders had not been able to provide their comments and assistance, and the review, completion of which had been promised to the coroner in 2016/17, had not taken place.

There were people actively seeking to facilitate the

recommendations that had been made. On 5 August 2014, 17 months after the assistant coroner's Rule 43 letter, the all-party parliamentary group on fire and rescue, under the chairmanship of the late David Amess, wrote to the minister, Stephen Williams. It invited three simple changes to be made to Approved Document B immediately. Two are relevant to this Inquiry. First, that the report on the effectiveness of residential sprinklers be updated to reflect later, more favourable 2012 research. Secondly, to reinstate the requirement of one-hour fire resistance to the window panels, reflecting the concerns raised at Lakanal House that the window sets and panels had burned through in four and a half minutes, leading to the spread of the fire to other flats.

Those amendments would, at the very least, have reinforced to third parties the need for the Lakanal House issues to be addressed forthwith. In spite of those recommendations, from a group that might be thought to have significant expertise in this area, the department, through Stephen Williams, considered that such a recommendation would amount to a significant policy change and would not be consistent with the policy on sprinklers and regulation more generally.

In 2014, at a meeting between the APPG and the

parliamentary undersecretary, Penny Mordaunt, the APPG expressed its concern that the department was not giving urgent attention to the coroner's recommendations to amend the Building Regulations in advance of the current planned review, which was expected to be completed during 2016 and 2017. Penny Mordaunt responded that Stephen Williams had explained in the letter dated 19 September that he had neither seen nor heard anything that would suggest that these specific changes were urgent, and that he was not willing to disrupt the work of the department by asking that these matters be brought forward.

The response from the APPG is chilling when viewed in the light of subsequent events:

"As you rightly point out, this is a matter for your ministerial colleague, Stephen Williams MP, however the Group has since written to the Minister saying that they were at a loss to understand, how he had concluded that credible and independent evidence which had life safety implications, was not considered to be urgent, when amendments of much lesser importance to the Approved Document had been made between reviews.

"As a consequence the Group pointed out to the Minister that should a major fire tragedy, with loss of life occur between now and 2017, in for example,

a Residential Care Facility or a purpose built Block of Flats, where the matters which had been raised here, were found to be contributory to the outcome, then the Group would be bound to bring this to others' attention."

12 months later, with no progress having been made, the APPG sought a meeting and clarity from the new minister, James Wharton MP. The briefing for that meeting contains the following:

"The current fire safety provisions in Part B of the Building Regulations for England were published in 2006. A further review had been planned for 2013 but this was postponed whilst the Department focused its attention on other priorities including the red tape challenge and the housing standards review."

The APPG record of the meeting which took place with James Wharton was noted as being largely more positive than had been the case with his predecessor, Stephen Williams. The APPG went on to note:

"Should the review of the Approved Document in fact proceed as intended, then whilst some clarification and simplification in the guidance is necessary, it is felt that any changes need to consider best practice and new technology and construction, and to reflect today's built environment where fire safety is wider than the

Fire and Rescue Service alone, because emergency firefighting is a measure implemented when safety features and protection has failed, and we need to remove this eventuality as much as possible. These are the views of both the Fire and Construction Sector who are of one mind that such problems are challenging both its members, and may be compromising both life and socio-economic safety."

It went on prophetically:

"Today's buildings have a much higher content of readily available combustible material. Examples are timber and polystyrene mixes in structure, cladding and insulation, with internal fire protection usually afforded by layers of plasterboard and use of fire stopping padding. A plasterboard compartment is often incomplete above false ceilings, and becomes imperfect over time, through DIY and wear and tear. This fire hazard results in many fires because adequate recommendations to developers simply do not exist. There is little or no requirement to mitigate external fire spread."

In the autumn of 2016, there was again pressure to publish a discussion document on the amendments to the Building Regulation, and to highlight the need to publish the original reports which had been available

for 18 months but had not been published to other stakeholders. The regular requests for updates by the APPG and concerns raised by the civil service that the assurances given to the assistant coroner had not been met did not meet with action.

In March 2017, the discussion document was finally provided to the then minister, Gavin Barwell. It set out the current thinking in relation to the review. It made reference to the savings that were to be made by way of deregulation, but not a single reference to the need to prevent loss of life as a result of the fire at Lakanal House, nor that it was a culmination of the assurance provided to the assistant coroner in May 2013.

The general election was called on 18 April 2017, and took place on 8 June 2017, with the Grenfell Tower fire occurring less than a week later. The issues raised by the Lakanal House inquests had not been addressed by central government, and neither had the government fulfilled its assurance given to the coroner that Approved Document B would be reviewed.

The bereaved, survivors and residents need to know why this was. They need to know whether a focus on public safety and the prevention of loss of life, rather than deregulation and the Red Tape Challenge, would have made a difference on the night of the fire or to the

safety in other buildings. And they need to know that the recommendations that this Inquiry makes will be implemented in full and promptly to avoid a situation where assurances are given and are not then fulfilled.

Thank you, sir.

SIR MARTIN MOORE-BICK: Thank you very much, Ms Studd.

Finally this afternoon, we're going to hear an opening statement on behalf of the Fire Brigades Union by Mr Martin Seaward.

MR SEAWARD: Thank you, sir.

SIR MARTIN MOORE-BICK: Thank you, Mr Seaward. When you're ready. Thank you.

Module 6 (Testing, Government & FRA) on behalf of the Fire Brigades Union by MR SEAWARD

MR SEAWARD: Thank you.

Good afternoon, sir, members of the panel and assessors who are listening.

The Fire Brigades Union and its members, including the firefighters, control staff and fire safety officers we represent, remain humbled by the Grenfell Tower fire and committed to a full and open Inquiry.

You already have our detailed written statement, and today we focus on the following issues: asking the panel to reconsider calling Matt Wrack to give evidence to this Inquiry; central government's deregulatory agenda,

which created a culture of complacency and was accompanied by a war on health and safety.

Sir, the workforce need a voice in this Inquiry. The FBU has filed witness statements with the GTI and has proffered its general secretary, Matt Wrack, to testify. That offer remains open. The GTI team have so far declined to call him.

Firstly, the FBU refutes the criticisms levelled against the union by some witnesses in Modules 5 and 6. For one example, Ron Dobson has repeatedly tried to attribute part of the blame for the LFB's own shortcomings on poor industrial relations and industrial action by the FBU. The FBU refutes that evidence.

Secondly, the Inquiry is considering issues of profound importance to the LFB's workforce without hearing from its trade union representatives. We consider this is both unfair and dangerous. Among the lessons to be learned from this Inquiry is the need for decision-makers to listen carefully to those who were directly affected by those decisions.

Thirdly, Matt Wrack can assist the Inquiry with his knowledge and experience acquired over a long fire service career, nearly 20 years as general secretary of the FBU.

The FBU has always considered its role as being

wider than addressing matters of pay, terms and conditions, and has for many decades been a key voice on fire policy and fire safety. But the FBU was not in charge of and didn't manage the LFB. The FBU has tried to deliver institutional memory within the fire and rescue service, something sadly lacking from so many in leading positions. We ask the panel to recall but do not here repeat the description of the FBU's role, representing its members and campaigning for improved health and safety, given in our opening oral submissions for Module 5 on {Day176/116:23} and following.

So far in Phase 2, the Inquiry's heard only from senior LFB managers, yet the firefighters, control staff and fire safety officers working in London are directly affected by the issues being considered, and their union, ie the organisation representing them as professional practitioners, should be heard.

Yes, we can make submissions, but submissions are not evidence. We urge that Matt Wrack be called and given the opportunity to answer the criticisms levelled against the FBU and to put the union's different perspective on the issues being considered in Modules 5 and 6.

Turning to our submissions for this part of Module 6, and starting with the central government's

deregulatory agenda, which created a culture of complacency.

The Grenfell Tower disaster was not simply the result of failings by individual professionals or private companies, or due to underfunded public services struggling to cope, although these all played their part. The fundamental underlying causes of the terrible loss of life at Grenfell Tower lie in political decisions made by central government in the service of a social and economic system driven by profit and greed. These have both encouraged and facilitated a culture of complacency towards building safety, fire safety and health and safety in general.

For more than four decades, policies relating to housing, local government, building, building control, the fire and rescue service, fire safety, including testing and certification of construction products, fire risk assessment, and other related areas have been driven by an agenda of deregulation, privatisation, and marketisation. This agenda has been driven by the profit needs of private businesses, with corporate interests being prioritised over and above the needs of citizens, and with the specific neglect of those living in social housing. It's been characterised by an unseemly tolerance of cronyism and corruption. It

has been accompanied by inadequate oversight and enforcement of the building and fire safety regimes, by austerity cuts and the war on health and safety.

This, in our submission, has predictably diminished respect for health and safety, portrayed rules and regulations as bureaucratic and unnecessary red tape, whereas they are vital for building and fire safety, degraded public services, including building control and fire and rescue services, and thereby weakened enforcement of these regimes, and it's led to the abolition of national bodies, ambiguity and confusion in the guidance which has been left unclarified, a culture of complacency created towards fire safety both during and after building works, and private companies being enabled to put profit over people.

Together, these factors have created the culture of complacency, with the increasingly prevailing attitude that safety didn't matter, and so contributed to the systemic failure of the building and fire safety regimes, thereby enabling the installation of cheap and dangerous rainscreen cladding systems all over the UK, including at Grenfell Tower. This is a national disgrace. The impact of this culture can be seen in the approach of pretty much all of the private sector companies involved in the refurbishment of

Grenfell Tower. Safety considerations simply didn't cross their minds, as we have set out in paragraph 84 of our written opening statement.

I wonder if you would be kind enough to screen the first document, that's {FBU00000108/40}, paragraph 121. Thank you very much. Excellent.

The deregulatory agenda started with Margaret Thatcher in 1979, and it gathered pace thereafter. It found its apotheosis at Grenfell, yet it's still being pursued. Under the Conservative administrations of Margaret Thatcher and John Major, publicly-owned industry and council housing was sold off, public services were contracted out, repeated policy statements were made in favour of cutting red tape or, more accurately, removing restraints from business. Key examples include Lord Young's "Lifting the Burden" White Paper, Francis Maude's deregulation unit of 1986, Michael Heseltine's deregulation taskforce of 1994.

The New Labour regime of Tony Blair and Gordon Brown from 1997 to 2010 did not reverse deregulation, but simply renamed it better regulation. Their measures included the Regulatory Reform Act 2001, Philip Hampton's "Reducing administrative burdens" report of 2005, and the "Less is More" report of 2005,

proposing the one in and one out rule.

David Cameron and Teresa May's administrations from 2010 to 2017 then accelerated the deregulation drive, coupled with austerity. Examples proliferate. The coalition agreement between the Conservatives and the Liberal Democrats backed deregulation and undertook to cut red tape. "One in, one out" was actually introduced in 2011. Mr Cameron's Red Tape Challenge was in 2011. Francis Maude's "Open public services" White Paper was in 2012. Vincent Cable and Mr Fallon introduced a "one in, two out" policy in 2012. Oliver Letwin introduced the Deregulation Act of 2015, and Sajid Javid's "one in, three out" policy was in 2016.

Even after Grenfell, the drive to deregulate continues under Prime Minister Johnson, whose adherence to rules is at best sporadic, and as recently as February 2021 convened the taskforce on innovation, growth and regulatory reform, TIGRR, and in October launched the "Reforming the framework for better regulation" consultation.

Deregulation and its push for so-called flexibility is deadly dangerous without a strong health and safety culture and adequate enforcement of the rules. Instead of providing strong leadership to reinforce the importance of health and safety at a time of regulatory

reform, David Cameron declared war on the health and safety culture which he described as pointless time-wasting, and so contributed to the culture of complacency towards health and safety which we've seen repeatedly manifested in Modules 1 and 2. This enabled the manufacturing and construction industries to put profits before people and for those involved in Grenfell to game the system. The citation on screen that you can see now is of then Prime Minister David Cameron's speech declaring war on the health and safety culture. He said:

"The government is waging war against the excessive health and safety culture that has become an albatross around the neck of British businesses. This coalition has a clear New Year's resolution to kill off the health and safety culture for good. I want 2012 to go down in history not just as an Olympics year or Diamond Jubilee year, but the year we banished a lot of pointless time-wasting out of the British economy and British life once and for all."

That was in January of 2012.

Thank you.

I wonder if you could screen the next document, which is from Professor Bisby's report, {LBYP20000001/113}, paragraph 589. Thank you.

Sir, we're now looking at the way deregulation affected Building Regulations, and obviously there was a stream of consultation, but it ended with the Building Act of 1984, which created the role of private approved inspector to act in competition with the local authority building control services, and thereby started the process of marketising building control. It introduced the Building Regulations 1985, which replaced the previously detailed technical and prescriptive regulations covering at least 300 pages with functional requirements covering just 25 pages, supplemented by guidance in ADB. And the privatisation of the Building Research Establishment in 1997 created the potential for serious conflicts of interest which we have seen laid bare in this Inquiry. By then, its workforce had already been halved and had been made to follow commercial imperatives and be more responsive to industry. In 1990 it was made an executive agency. No longer the government's in-house testing body, it was required to compete in the market.

Sir, the introduction of functional requirements and guidance was a major change. It brought significant flexibility for building designers, manufacturers and builders, notwithstanding industries must be expected to seek to exploit regulatory systems for their own

benefit. This increased flexibility was not accompanied by measures to ensure adequate oversight and effective enforcement. Inevitably, therefore, and predictably, the increased flexibility introduced ambiguity that could be and was exploited by some in the construction industry. It's thus produced a regulatory regime for building and fire safety which is not fit for purpose, as now accepted by the Department for Levelling Up, Housing and Communities, commonly known as DLUHC.

As Professor Bisby states -- and that's in the citation paragraph 589, yes, there it is:

"Thus, in the period from 1986 until 1996, the vision that Heseltine had initially set out in 1979 was largely realised. The construction industry had been granted the flexibility it had been seeking, essentially since the 1930s, and the creation of private building control meant that designers and contractors were no longer (necessarily) limited by constraints applied by Local Authority Building Control. The 'race to the bottom' had begun."

Thank you.

If you could replace that with or just go to page 256 {LBYP20000001/256}, paragraph 1598. Thank you very much. He concludes -- this is Professor Bisby:

"Finally, and fundamentally, this analysis shows

that while the guidance in Approved Document B could have been clearer and/or more restrictive, it was the structure and overarching philosophy of the wider regulatory framework that created and perpetuated -- and indeed encouraged -- the conditions in which the (ambiguous) guidance could be misinterpreted, misapplied, and/or exploited in the service of generating profit whilst avoiding (thus far) liability for inadequate design decision-making."

The evidence in Phase 2 of this Inquiry on the installation of the rainscreen cladding system on Grenfell Tower shows that the problems of this unfit for purpose regime were even worse than Dame Judith Hackitt had imagined.

Ignorance. Whereas she reported that regulations and guidance were not always read and understood by the necessary people, it turns out they were not read by any of them in the Grenfell refurbishment.

Indifference. Whereas she reported that due to a motivation to do things as quickly and cheaply as possible, safety was not always treated as a priority and some made attempts to game the system, it turns out that safety was never treated as a priority, with no one thinking fire, and all the benefactors and most of the key players involved in the refurbishment gaming the

system. Likewise all the private companies were trying to get the job done as quickly and cheaply as possible without regard to safety.

Whereas she reported a lack of clarity on roles and responsibilities, exacerbated by a level of fragmentation within the industry, it turns out that everyone involved in the refurbishment mistakenly thought that compliance was the responsibility of building control. This led to reduced ownership and accountability, which has been played out in Phase 2, with the merry-go-round of buck-passing continuing to turn. Even now, only a few core participants -- notably all public bodies, including the Royal Borough of Kensington and Chelsea, the National House Building Council, UKAS and now also DLUHC -- have admitted failures. See paragraph 137 of their written opening statement for this module. I won't read it out; I'm sure you've got it.

This belated admission, we say, is not enough. The disaster was not simply caused by lack of oversight, with the government and public authorities being taken advantage of by a few unscrupulous companies; Grenfell Tower was a systemic failure of a regime actively and, regrettably, deliberately created by central government, which encouraged companies to behave

recklessly towards building safety.

Please now turn to the next document, which is from Professor Bisby's report at page 2 {LBYP20000001/2}, paragraph 6.

We set out the evolution of ADB, with its ever greater complexity and flexibility bringing concomitant ambiguity and scope for manipulation in more detail on our written submissions, and others have doubtless done a much better job of it. But, in short, there were several elements of confusion, particularly over the permitted use of class 0 materials, the meaning of "limited combustibility", the meaning of "filler materials", the need for large-scale testing, and the use that could be made of test data.

The need for large-scale testing of every configuration of a rainscreen cladding system was well known to government, at least since the select committee reported on 5 January 2000, recommending large-scale tests of cladding systems, and saying at paragraph 20 -- this is the 2000 select committee report:

"We believe that all external cladding systems should be required either to be entirely non-combustible or to be proven through full-scale testing not to pose an unacceptable level of risk in terms of fire spread."

Yet this requirement was dropped in 2006 with the introduction of desktop studies.

The evidence shows that those involved in the construction industry, the professionals advising them, including architects, including also the BRE and the experts assisting Her Majesty's coroner at the Lakanal House inquests, were confused by the guidance in ADB for at least 25 years before the fire. It also shows the government was aware of the confusion, yet failed to clarify it, missing countless opportunities to do so since 1992. This confusion was plainly evident in those involved in the Grenfell Tower refurbishment and was ruthlessly exploited by manufacturing companies for their own commercial self-interest. We've set that out in our paragraph 41.

Mirroring the tragedy caused by the same central failing at The Edge in 2005 and at Lakanal House in 2009, the Grenfell Tower disaster was due primarily to the selection and installation of a highly combustible rainscreen cladding system which could have been avoided if there had been clear, simple provisions in ADB withdrawing the use of class 0 classification and preventing the use of combustible materials in rainscreen cladding systems on an existing high-rise residential building. It is shameful that it took the

deaths of 72 people to bring this about.

Professor Bisby reports -- and this should be on screen, it is -- this is his paragraph 6:

"... by the time of the Grenfell Tower fire there had been numerous opportunities where the statutory guidance and regulatory compliance testing regime could have been made simpler or less permissive. However, in each case there appears to have been powerful commercial and ideological incentives to increase complexity, whilst also increasing flexibility for industry. I show [that's Professor Bisby] that the resulting complexity, coupled with widespread incompetence and poor regulatory oversight of built environment professions (and professionals), significantly contributed to the disastrous fire safety outcomes at Grenfell Tower."

We agree and further say that, in pursuit of deregulation and austerity cuts, and in slavish awe of the construction and petrochemical industries, the government abdicated its duty to British citizens to protect them from foreseeable harm. This had a material contribution to the Grenfell Tower disaster, we submit.

This Inquiry will have to determine whether the confusion and ambiguity in ADB materially contributed to the disaster. We submit that, while not absolving design or construction professionals of their

responsibility for failings as regards the installation of unacceptably dangerous external cladding, confusion and ambiguity caused by ongoing deregulation, coupled with the effect on building control bodies of austerity cuts and marketisation, made these people's work more difficult and was likely to have been a contributory factor causing the disaster at Grenfell Tower.

This is supported, for example, by Mr Hoban's comments at the conclusion of his evidence. This was on {Day46/217}. Mr Hoban said:

"The other thing I'd like to say is that if we had a regulatory body like we had with the Greater London Council, and the regulations and Building Acts and constructional byelaws that we had at that particular time, and a support network of the experts that administered the regulations at that time, I don't think we'd be in a position where we are now ..."

Sir, turning from building safety to the deregulation of the fire and rescue services and of the fire safety regime.

The Fire and Rescue Services Act of 2004 deregulated and fragmented, ie localised, important aspects of fire and rescue services. We've submitted about this earlier so I'll take it briefly.

The Act of 2004 removed national standards of fire

cover, leaving local fire and rescue services to determine their own standards in light of their own individual integrated risk management plans, with inevitable slippage in the speed and weight of pre-determined attendance to emergencies, and in other departments. This was a retrograde step which effectively devolved research and development and firefighting equipment procedures and practices to local fire and rescue services. Moreover, the IRMP process was hopelessly fettered by its link to budgeting so that the provision of fire and rescue services across the country was driven not by a true assessment of risk, as it should have been, but by finances, which had been cut in austerity. The abolition of national standards created a race to the bottom within the fire and rescue service.

The Act abolished the Central Fire Brigades Advisory Council. Since 1947, this had been an important national body, whose remit covered reviewing lessons from major fires, decisions about national standards and guidance, inspection and enforcement of fire safety, the planning for operational incidents, and the training that arises from such planning. Crucially, it had worker representation by firefighters. There was no such representation at a national level in 2017.

Its abolition, unsuccessfully challenged in the courts by the FBU, was a profoundly retrograde step. Initially the CFBAC was replaced by the Practitioners Forum. However, this was abolished by Lord Pickles and the coalition government after the 2010 election. Lord Pickles doesn't comment in his statement on this further deregulatory step which led to the dearth of national guidance and a significant weakening of national oversight, horizon scanning or lesson learning.

The Act of 2004 removed the requirement for cuts to firefighter numbers to be approved by a minister. The new arrangement allowed fire authorities or chief fire officers to reduce firefighter numbers without constraints. It abolished Her Majesty's Inspectorate for the fire and rescue service in England. Chief fire officers were now allowed to peer review. It introduced an additional duty on fire and rescue services to carry out community fire safety education, which, whilst welcome in principle, placed a further significant duty on the fire and rescue service without a corresponding increase in resource.

This policy was justified in part by the fact that the number of fires and casualties had been declining, which Lord Pickles refers to in paragraphs 26 and 28 of

his statement, but though falling numerically, these fires were increasing in complexity and severity as buildings were becoming more complex, eg with the installation of rainscreen cladding systems to existing high-rise residential buildings, as we've seen at Grenfell and across the country.

The complexity of modern day fires and the increased flexibility afforded to local fire and rescue services means that a national body is more important than ever to consider the lessons from fires and provided considered national guidance tailored to the modern world of firefighting.

The CFBAC would have been the ideal forum to consider the recommendations of the coroner from the Lakanal fire inquest in relation to stay put and get out and stay out. Evacuation of a high-rise residential building in the event of a fire would be a difficult and complex operation, as Mr McGuirk advises in paragraph 26 of his report. There is still no practical strategy or operational procedure in the UK or internationally for the evacuation of a high-rise residential building in a fire. As a direct result of deregulation, such discussions did not happen.

It wasn't just the fire and rescue services, it was the fire safety regime that was deregulated. The

Regulatory Reform (Fire Safety) Order 2005, the Fire Safety Order, became law in October 2006.

I wonder if we could see the next document now. It's {FBU00000108/18}, paragraphs 45 to 46.

The Fire Safety Order repealed the certification and enforcement regime of the Fire Precautions Act 1971, under which certain high-risk buildings, albeit not generally high-rise residential buildings, were required to hold a valid fire safety certificate issued annually after an inspection by the fire and rescue service. Instead, the Fire Safety Order introduced a self-compliance regime, with fire risk assessments becoming the responsibility of a responsible person for the building.

The government knew of the risk of the increasingly widespread use of unsafe cladding materials from the FBU's submission to the select committee in June of 1998. That submission provided that the primary risk, therefore, of a cladding system is that of providing a vehicle for assisting uncontrolled fire spread up the outer face of a building, with the strong possibility of the fire re-entering the building at higher levels via windows or other unprotected areas in the face of the building. This in turn poses a threat to the life safety of the residents above the fire floor.

The government knew what ought to be done about it after receiving the report of the select committee on 5 January 2000. At paragraph 22, the select committee recommended that the department and the Housing Corporation instruct local authorities and registered social landlords to undertake a review of their existing building stock with a view to ascertaining how many multistorey buildings are currently using external cladding systems and how many cladding systems are in use which, whilst complying with the regulations in force at the time when they were installed, do not comply with current regulations.

But no such instruction was given. Instead, it was left to responsible persons to carry out what they considered to be a suitable and sufficient fire risk assessment, without any guidance for existing high-rise residential buildings with rainscreen cladding.

Please now see the next document, that's {MET00012981/19}, paragraph 5.3.

The deregulated self-compliance fire safety regime was loose and far less effective than the certification procedure which could have been but wasn't extended to high-rise residential buildings. In 2018 it was reported that 500 out of 800 of the UK fire risk assessors were not registered with accredited bodies.

Colin Todd told the police one consequence of deregulation -- and this is the citation on screen at paragraph 5.3:

"Although there have been calls by many bodies for mandatory certification or registration of fire risk assessors or fire risk assessment companies, Government has always strongly resisted any proposal that this should be a legal requirement."

And the panel will doubtless remember he reinforced that in his oral testimony.

This resistance flew in the face of the senior coroner's recommendation in his regulation 28 report following the inquest into the death of the firefighter and FBU member Stephen Hunt in Manchester, as well as the recommendation made after Lakanal.

The deregulatory policy of the Fire Safety Order, particularly the government's failure to regulate competency, thus led to the appointment of Mr Carl Stokes, who was insufficiently qualified and incompetent to risk assess the fire safety of such a complex building. He didn't properly assess the rainscreen cladding system and described as tolerable the severe risk it presented.

Neither the Fire Safety Order nor the guidance provided under Article 50 helped him, because they

didn't clarify whether the fire risk assessment duty applied to the envelope of the building. The duty applied to the common parts of a high-rise residential building, but this term wasn't defined. The government's mistaken view was that it did not apply to the external envelope, as the LFB were told, see the written opening statement for Module 3 of the LFB of 30 March 2021, and the reference for that is {LFB00120945/2}, at paragraph 8.

Like the unfit for purpose building safety regime, the lax regulatory and safety regime of the Fire Safety Order was a further source of encouragement of a complacent attitude to fire safety. See for example what Tony Pearson of Exova said. This is on {Day19/84}. He said:

"The fact that they [the LFB] appear to be happy for the building to continue to be operated would suggest that there is a general consensus that, although it is not code compliant, the risks in the context of the Regulatory Reform Order are tolerable ..."

Lord Pickles stated that he excluded the Fire Safety Order from the coalition government's policy of removing unnecessary and bureaucratic rules and the Red Tape Challenge, ie their policy of deregulation, but that statement is disingenuous. He well knows the

Fire Safety Order itself was the product of earlier deregulation, to which he also refers in his statement. Secondly, the order's regime was itself the product of a very substantial and prolonged deregulation exercise under the previous government, leading to many legislative provisions being repealed and a streamlined content being contained in the order, and that's in his witness statement at paragraphs 29 to 30.

Business was more than happy with the greatly reduced provisions in the Fire Safety Order. The coalition government fire minister Mr Bob Neill MP told an all-party parliamentary fire safety and rescue group seminar on 9 May 2011 that the Fire Safety Order was effective, well received by many in the business community, and proportionate.

We submit that central government policy of deregulation of both the fire and rescue service and of the fire safety regime was a further underlying contributory cause of the disaster.

Lord Pickles and the failure to take any or any significant action following the fire at Lakanal House. The coroner's Rule 43 letter in 2013 contained several recommendations in relation to central government. We are confident the Inquiry will investigate them all closely and, having heard Anne Studd QC for the Mayor

earlier this afternoon, I now just look at one of the coroner's recommendations. It was the one about stay put.

It was recommended that the government publish consolidated national guidance in relation to the stay-put principle and its interaction with the get-out-and-stay-out policy, including how such guidance is disseminated to residents. Lord Pickles effectively did nothing beyond erroneously asserting that the LGA, the Local Government Association, guide of 2011 already gave such guidance and had been reviewed in 2012, with stakeholders expressing a high degree of satisfaction. The chairman of the LGA from 2011 to 2014 was Sir Merrick Cockell, a champion of deregulation and leader of the Royal Borough of Kensington Council from 2000 to 2013.

The coroner's recommendation a year later in 2013, and arising from the deaths of six people at Lakanal, should have informed Lord Pickles that that was not the case. A timely review might have resulted in national guidance, including on the revocation of stay put and evacuation of high-rise residential buildings in the event compartmentation fails during a major fire. However, nothing was done. Even now, four years after the fire, there is still no such guidance.

I can skip all of those because they have been covered so well by others.

None of her recommendations were implemented either effectively or at all, either by Lord Pickles, his successors or anyone else in government. This was the consequence of the government's deregulatory agenda. Further, this failure had significant consequences both for the occupants of Grenfell Tower and the firefighters who attended the disaster. We submit there is an urgent need for a national oversight body to consider Rule 43 and regulation 28 reports and other recommendations from reliable sources to ensure they are properly reviewed and implemented.

Turning, if I may, to privatisation and the culture that private is best.

How am I doing for time? I'm a little over, I'm afraid, sir.

SIR MARTIN MOORE-BICK: You're running a bit long, yes. How much more have you got?

MR SEAWARD: If I have a look at the black line. I should think realistically -- I've obviously taken far too long -- I think realistically I've got about ten minutes, but I can take it a bit shorter.

SIR MARTIN MOORE-BICK: Well, we're not going to stop you in your tracks but, insofar as you can slim it down,

perhaps you would.

MR SEAWARD: Thank you, sir, much appreciated, I'll do that.

Well, the essential point of this section of our oral submissions is that the private sector has demonstrated that it didn't think fire and it treated compliance as getting it past building control. So, far from benefitting the building sector and the regulatory sector, the introduction of private companies had the opposite effect. We've demonstrated that at paragraphs 91 of our written opening statement in respect of all the companies involved in Grenfell, and we've looked at the effect on building control in our written opening statement, and far from providing good quality work, the evidence shows that the workmanship of the private sector companies at times was quite shocking, as we've set out in paragraph 93 of our statement, and also the culture of deceit, cronyism and corruption that we have set out in paragraph 99 of our written opening statement should be avoided if possible.

Specifically looking at the marketisation of the London Fire Brigade, there have been failed attempts to marketise the fire and rescue service in London, and these show the unacceptable safety and financial risks incurred with privatisation.

In October 2011, the FBU, the GMB and Unison

commissioned research into privatisation in London's fire service training and control centres, and concluded that it would compromise safety and bring high financial risks. The report highlighted the poor performance of previous public partnerships, finding that one in five, that's 20%, of the strategic partnership contracts had either been terminated, reduced in scope or suffered significant operational or financial problems.

Just to mention and not go into too much detail of failed attempts in the LFB. AssetCo, which was sold to private equity for just £2 in September 2012 to look after the Brigade's fleet, and was brought back into the public sector just a few months later. The FiReControl project in control, and the taxpayer is still paying £50,000 a day in rent for empty buildings, and the National Audit Office report of 2011 found that the implementation of FiReControl was heavily reliant on consultants and interim staff, and the project was rightly dubbed by the Public Accounts Committee as one of the worst cases of project failure. We've seen what happened with the distracting introduction of the new Vision system by Capita in the control room, and we've heard evidence of the difficulties working under the contractual arrangement with Babcocks for initiating new training.

Sir, far from benefitting industry, the introduction of privatisation, the Inquiry may conclude, was a disaster.

Testing and certification, I know that's been covered very effectively by others, so I won't go into it.

Not much has been said about social housing, but Grenfell Tower, along with much of social housing, had suffered decades of neglect and repair and lack of investment. We detail the impact of this and how it contributed to the disaster in paragraphs 121 to 134 of our written submissions.

The use of cheap cladding that caused the fire was due at least in part to the need to save money and keep the refurbishment within budget. This in turn was a consequence of central government policy restricting the funds that could be used for capital works in council housing. The decay and neglect of social housing by central government did not just mean that the occupants of Grenfell Tower had poor quality homes, we say it materially contributed to costing 72 of them their lives.

We've said enough about austerity cuts and I'm sure you've got our points on that.

May I just give you our conclusions, sir, and then

I'll terminate?

SIR MARTIN MOORE-BICK: Yes, thank you.

MR SEAWARD: The central state has a fundamental responsibility for the safety of its citizens in a modern democracy. We submit that central government has failed woefully in this task. They failed to regulate high-rise residential buildings and, specifically, the foreseeably hazardous albeit desirable process of insulating them against the cold and rain by installing rainscreen cladding systems. They've cut back regulations and allowed businesses to ignore fire safety rules as part of a war on health and safety culture and to prioritise profit over safety. They have abdicated the duty to research and develop emerging fire risks and protection measures. Whereas for half a century central government had an authoritative statutory fire and rescue advisory body that strategically assessed the risks and provided ministers with reliable expertise, that was abolished as part of deregulation at a time when the built environment was increasing in complexity. The abolition of the CFBAC has been a disastrous failure. The philosophy of deregulation has blighted efforts to improve and has actually worsened the living conditions of millions of people, and we call for certain recommendations.

Thank you, sir, for giving the FBU the opportunity to make these submissions, for listening to them.

And here's hoping you can find some time to celebrate this special day. Congratulations.

SIR MARTIN MOORE-BICK: Well, thank you very much, Mr Seaward.

MR SEAWARD: Thank you, sir.

SIR MARTIN MOORE-BICK: Thank you.

Well, that doesn't quite finish the opening statements, because we have three more in the programme, but each of those has been programmed for tomorrow, and I don't think any of those who are going to make their closing statements would thank me for suggesting they do it here and now.

So we're going to break at that point, and we shall resume tomorrow morning at 10 o'clock, when we shall hear the final three closing statements.

So that's it for this afternoon. We break now, and we resume at 10 o'clock tomorrow, please.

Thank you very much.

(3.11 pm)

(The hearing adjourned until 10 am on Tuesday, 7 December 2021)

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Union by MR SEAWARD