

OPUS 2

INTERNATIONAL

Grenfell Tower Inquiry

Day 16

July 7, 2020

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1 Tuesday, 7 July 2020
 2 (10.00 am)
 3 SIR MARTIN MOORE-BICK: Good morning, everyone. Welcome to
 4 today’s hearing. In a moment, we’re going to hear
 5 further evidence from one of the witnesses from Exova,
 6 but before we do that, we’re going to hear some
 7 submissions from Mr Leslie Thomas Queen’s Counsel, who
 8 appears for a number of the core participants .
 9 Yes, Mr Thomas.
 10 MR THOMAS: Good morning.
 11 SIR MARTIN MOORE-BICK: Yes. Now, then, before you start,
 12 can I just say, although we’re pleased to see you and to
 13 hear you this morning, we don’t have a lot of time
 14 available . Your solicitors indicated that you wouldn’t
 15 need more than 20 minutes, so that’s what we have
 16 budgeted for. All right?
 17 MR THOMAS: Yes. Sir, I might take 22 minutes, but I’ll try
 18 to keep it --
 19 SIR MARTIN MOORE-BICK: Try to take 18 instead of 22.
 20 MR THOMAS: All right, we will see where we go, but
 21 I understand what you have said.
 22 Submissions by MR THOMAS
 23 MR THOMAS: Well, if one really wishes to know how justice
 24 is administered in a country, one doesn’t question the
 25 policemen, the lawyers, the judges or the protected

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1 members of the middle classes; one goes to the
 2 unprotected, those precisely who need the law’s
 3 protection the most, and listens to their testimony.
 4 Ask any black man, any poor person, ask the wretched how
 5 they fare in the halls of justice , and then you will
 6 know whether or not a country is just , whether or not it
 7 has love for justice or any concept of it . That’s
 8 James Baldwin.
 9 Let me turn to the timing of these submissions. You
 10 may be wondering why these submissions are being made
 11 now. The Grenfell Tower Inquiry is investigating a fire
 12 which caused the death of 72 individuals and the
 13 dismantling of a community. You have rightly confirmed
 14 that Article 2 is engaged. Article 14 prohibits
 15 discrimination in the ambit of any of the rights
 16 protected by the European Convention of Human Rights.
 17 As we have set out in our written submissions, which is
 18 worth repeating, Article 2’s procedural duty, read
 19 together with Article 14, requires this Inquiry to
 20 investigate discrimination, including race
 21 discrimination, and whether this was a contributing
 22 factor to the Grenfell fire and the lives lost .
 23 The Grenfell fire did not happen in a vacuum, and we
 24 must be cognisant of the prevailing socio-economic and
 25 political realities of the time. This was not simply

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1 a local tragedy for West London; it had and has national
 2 and global ramifications . Those who are affected come
 3 from a culturally , racially , ethnically , religiously and
 4 economically diverse group. This disaster happened
 5 within a pocket of the one of the smallest yet richest
 6 boroughs in London, London being the richest city in
 7 Europe, or one of the richest cities in Europe, and
 8 one of the richest cities in the world. Yet the
 9 community affected was predominantly working class.
 10 That is a stark reality that cannot be ignored. The
 11 impact of race and poverty on this disaster , this
 12 Inquiry must not ignore.
 13 We make these submissions not as adjunct to this
 14 Inquiry or as a soft or tangential issue, they are
 15 central to the investigative duty that is to be
 16 discharged in the course of this Inquiry, and are
 17 founded upon sound legal principles and established law.
 18 You may be thinking: Mr Thomas, we’re aware of all
 19 of this , we’re aware of our obligation , why are you
 20 reminding us of this , what has changed? Well, our
 21 discussions about race and the recognition for the need
 22 of a cultural shift around race and discrimination .
 23 Firstly , COVID-19, which has brought about
 24 unprecedented changes to the world, claimed the lives of
 25 over half a million people worldwide, and 44,000 lives

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1 in this country to date. It certainly would not be lost
 2 on the panel that a disproportionate number of those who
 3 died in the UK have been people of colour .
 4 Secondly, the death of George Floyd in the
 5 United States , the now familiar image, footage of
 6 George Floyd being asphyxiated to death, his last breath
 7 being squeezed from his body, a white police officer
 8 kneeling on his neck as he begged for his life , calling
 9 for his dead mother and uttering the words “I can’t
 10 breathe” until he could no longer speak.
 11 The global outpouring of protest gives a voice to
 12 the collective pain and anger. His murder particularly
 13 resonates with the black community in the UK as there is
 14 a disproportionate number of black people who are
 15 stopped, searched by the police and die in custody.
 16 George Floyd’s death has also reignited conversations
 17 about class , poverty, inequality and race discrimination
 18 in this country.
 19 The advent of the mobile phone and the rolling news
 20 allows us to see in real time events as they unfold and
 21 nothing can be hidden. Just as with George Floyd’s
 22 death, so too with Grenfell . We collectively were the
 23 viewers and the quasi-eyewitnesses to those horrific
 24 deaths.
 25 It has been 21 years since the publication of the

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1 Macpherson Report into the death of Stephen Lawrence,
 2 which concluded that the Metropolitan Police were
 3 institutionally racist .
 4 Stokely Carmichael and Charles Hamilton first wrote
 5 of institutional racism in 1967 in their book Black
 6 Power: The Politics of Liberation:
 7 "When a black family moves into a home in a white
 8 neighbourhood and is stoned, burned or routed out, they
 9 are the victims of an overt act of individual racism
 10 which many people will condemn. But it is the
 11 institutional racism that keeps black people locked in
 12 dilapidated slum tenements, subject to the daily prey of
 13 exploitative slumlords, merchants, loan sharks and
 14 discriminatory real estate agents. The society either
 15 pretends it does not know of this latter situation , or
 16 is in fact incapable of doing anything meaningful
 17 about it ."
 18 Institutional or systemic racism shows in the
 19 disproportionate numbers of people who are impacted by
 20 unequal treatment.
 21 In our opening submissions, literally years ago now,
 22 we drew your attention to the report by
 23 Dr Marie Stewart. Again, I would commend that report to
 24 the Inquiry team. It is a concise but very trenchant
 25 piece of work. It explains in very clear terms why

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1 issues of diversity are so important in the context of
 2 a disaster . Dr Stewart makes parallels with other
 3 inquiries , such as the Lawrence Inquiry, and how
 4 awareness of diversity and inclusion was fundamental to
 5 enhancing public confidence, community engagement and,
 6 ultimately , added value.

7 The Grenfell Tower Inquiry will do well to learn
 8 from this and how investigating issues of race and
 9 poverty can garner the confidence of the local
 10 community, encourage their engagement and feeling of
 11 inclusion in the procedures in order to improve the
 12 investigation by learning the lessons on the importance
 13 of social , cultural diversity and poverty.

14 So what does COVID-19 have in common with Grenfell?
 15 Race and poverty. A disproportionate number of people
 16 of colour have died during the COVID pandemic, and
 17 a majority of the Grenfell residents who died were
 18 people of colour. We know that. The statistics are
 19 glaring, and provide a stark and continuous reminder
 20 that Grenfell is inextricably linked with race. It is
 21 the elephant in the room.

22 Poverty. Despite living in one of the most
 23 developed nations in the West, poverty is never far from
 24 the political agenda. COVID-19 highlighted the fault
 25 lines in UK society, and how, as ever, the poor bear the

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1 brunt of the hardships. Grenfell , too, exposes those
 2 fault lines .

3 The Royal Borough of Kensington and Chelsea is home
 4 to such exclusive addresses such as Knightsbridge,
 5 South Kensington, Chelsea Harbour, Belgravia. Does
 6 anyone seriously believe for one moment that such
 7 a disaster would have happened to a block of flats in
 8 those areas? How resources are spent and allocated , how
 9 residents are treated and consulted, how seriously their
 10 legitimate concerns are dealt with, are all impacted by
 11 who they are, who those residents are.

12 Social housing in this country, which once provided
 13 homes for a substantial proportion of the population,
 14 has in recent decades become a residualised service for
 15 the very poor. This disaster happened in a city where
 16 there is one housing system for the rich and another
 17 housing system for the poor. That political , social and
 18 economic context cannot be ignored, brushed aside, in
 19 investigating it . Nor can it be decoupled from race in
 20 a context where people of colour are disproportionately
 21 likely to be poor and live in social housing.

22 Disability . We are also looking at a community,
 23 a large proportion of whom were disabled, many of whom
 24 were placed on high floors . You touched upon this
 25 yesterday. It must be morally repugnant that so many of

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1 the most vulnerable individuals in our society found
 2 themselves discriminated against in this way and were
 3 placed directly in danger.

4 The ethnic breakdown of those who died. By way of
 5 reminder, the ethnic breakdown is listed in our written
 6 submissions. We know that four people who lost their
 7 lives were visiting the tower on the night. The
 8 remaining 67 were Grenfell residents . 32 were from the
 9 Middle East or North Africa, nine were from East Africa ,
 10 seven were white British or white Irish heritage, five
 11 were from West Africa, five were from Bangladesh or of
 12 Bangladeshi heritage, three were from the Caribbean, one
 13 was from the Philippines and one was Colombian, and
 14 there was one of unknown BAME heritage.

15 It is also worth highlighting the statistics -- and
 16 these can be found at paragraphs 8 and 9 of our written
 17 submissions -- to put the figures and the disparity into
 18 context.

19 In 2017, the Royal Borough of Kensington and Chelsea
 20 had a population of 153,000. 63.4% of the residents
 21 were white. And yet, of the 67 Grenfell deceased, 57,
 22 85%, were people of colour.

23 In the English Housing Survey in 2017/2018, it was
 24 found that 40% of those living in high-rise buildings in
 25 the socially rented sector are black, Asian or other.

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1 This compared to a percent of the population which was
2 14%. It's high.

3 The danger to those living in high-rise buildings is
4 significantly higher, especially to those living on the
5 higher floors. Most of those who died in Grenfell Tower
6 were on the higher floors.

7 The comparison is stark, the associated risk clear.

8 George Floyd. What else do the circumstances of his
9 death have in common with Grenfell? Well,
10 George Floyd's last words were "I can't breathe". These
11 were a chilling reminder of the experiences of
12 survivors, and sadly were some of the last words of some
13 of those who died in this tragedy. A 999 call at
14 02.15.07 from someone on the 12th floor reported seeing
15 fire balls and said, "We can't breathe". Jessica Urbano
16 reported that Raymond "Moses" Bernard couldn't talk to
17 the operator because he was struggling to breathe, and
18 as she herself became progressively unresponsive, her
19 final words were, "I can't breathe, I can't breathe no
20 more".

21 Some of the survivors and the bereaved have
22 highlighted the similarities of the last words of
23 a black man who died at the hands of the state to the
24 last words of their friends and loved ones. Most of
25 them were from ethnic minority backgrounds.

1 That the words "We can't breathe" were projected on
2 the Grenfell Tower for the eyes of the world to see on
3 the eve of the resumption of the Inquiry says it all.

4 You, too, may have recognised that parallel themes,
5 race and state obligation, are at the heart of all three
6 cases: Grenfell, COVID and George Floyd.

7 Some will argue that the Grenfell Inquiry has
8 adopted a dilatory approach to its investigation of the
9 issues of race and inequality, which is in keeping with
10 the tendency to shy away and gloss over complaints of
11 racism or systemic inequality. These are uncomfortable
12 subjects.

13 In this regard, I place this charge to this Inquiry:
14 you, sir, and your panel, this is your time. This is
15 your time of action to break the cycle of disengagement
16 with the issue of race and inequality.

17 One of the questions you will undoubtedly ask
18 yourself will be: what will our legacy be? What will
19 this Inquiry be remembered for? You will undoubtedly
20 want it to be on the right side of history.

21 Let me turn to the panel. It has been three years,
22 three weeks and two days since the fire, 14 June 2017,
23 and over two years since the Prime Minister's decision
24 on 10 May 2018 to appoint an additional two panel
25 members to sit with you in recognition of the scale and

1 breadth of the issues to be considered by the Inquiry.
2 The resumption of hearings yesterday without a full
3 panel, constituted by people of diverse ethnic
4 backgrounds and experiences, with only one of the two
5 assessors missing, risks, we say, breaching the
6 Article 2 procedural obligation and the public sector
7 equality duty for the reasons we have set out in our
8 written submissions.

9 These matters are further compounded by the ongoing
10 failure to instruct an expert to report on the history
11 of social housing, the role of tenant voices and tenant
12 participation, as well as an understanding of how
13 inequality discrimination occurs. It is now an
14 immediate and pressing imperative to fill these missing
15 roles. For the Inquiry to continue without them
16 undermines it and the good work that you are seeking to
17 do, sir.

18 Article 14 and Article 2, briefly. We are conscious
19 of the fact that the Inquiry has heard from very few
20 witnesses in Module 1 because of the intervening
21 application for the Attorney General undertaking.
22 That's not the Inquiry's fault, that's just what
23 happened. We are also cognisant of the fact that we are
24 now in a COVID-19 situation, and that's knocked us off
25 our course.

1 We would expect that the Inquiry's approach to the
2 question of witnesses giving evidence in Module 1 and
3 subsequently Module 2 to be undertaken with sufficient
4 scrutiny of the discharge of the Article 2 and
5 Article 14 duties and the public sector equality duty.

6 We note, for example, that Bruce Sounes is due to
7 return on 13 July, and we expect that he will be asked
8 relevant questions by the Inquiry or Rule 10
9 applications will be made by the families. We would
10 expect that Exova, Rydon, Osborne Berry,
11 Building Control and the KCTMO witnesses, as well as the
12 experts, will need to be questioned on issues relating
13 to consultation, discrimination and disability.

14 The Exova witnesses, Terry Ashton and Tony Pearson,
15 will need to be questioned on matters relating to the
16 needs of the residents -- including mobility, age and
17 disability -- living in Grenfell Tower and the needs of
18 residents likely to live in high-rise buildings in
19 preparation for the fire safety strategy, with
20 particular regard to Approved Document M concerning
21 access to and use of the building.

22 Consultation with the residents and the use of the
23 information obtained from the consultation.
24 Bruce Sounes will need to be questioned about residents'
25 consultations and how these impacted on the design and

1 the residents' needs considered in the design.
 2 I have faith in you that, despite the fact that this
 3 panel is white and justice is colour blind, let's turn
 4 to the reality and the optics, which do not appear to be
 5 colour blind.
 6 We can't be colour blind in looking at the make-up
 7 of the Grenfell residents. The fire wasn't
 8 colour blind. The majority of the people who died were
 9 people of colour. The majority of the people who died
 10 were working class. Many were disabled. There is, as
 11 you are aware, at the very least, public suspicion that
 12 race and discrimination were factors that played a part
 13 in making Grenfell Tower unsafe and endangered the lives
 14 of the residents, and ultimately led to their deaths.
 15 These are uncomfortable realities that cannot be
 16 ignored, and so if the only way to lay those suspicions
 17 is that the issue of race, poverty, discrimination, need
 18 to be investigated, then they should be investigated to
 19 discharge the Article 2 and the public sector equality
 20 duty.
 21 Equally, the second panel member from a diverse
 22 ethnic background with relevant expertise must be
 23 appointed, and so must an assessor with expertise in
 24 social housing, with an understanding of inequality and
 25 discrimination and the role of tenant voices and

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1 participation.
 2 Finally, sir, I'm conscious that I'm able to address
 3 this panel in real time. None of my clients are able to
 4 do so, neither through physical attendance or through
 5 an online platform which allows for real-time dynamic
 6 engagement. Our repeated requests for such
 7 an interactive panel, just for the advocates on behalf
 8 of their clients to allow us to participate in real
 9 time, has been refused. Our request for a platform such
 10 as Zoom, currently used on another Inquiry, or Skype for
 11 Business, currently used in the criminal courts, or any
 12 other platform used in some of the other courts has also
 13 been dismissed.
 14 Sir, our clients' perception is that the Inquiry is
 15 deaf to their concerns and their lawyers have been
 16 silenced, or, at worst, sidelined to the status of
 17 YouTube-watchers; that their voices have been locked out
 18 of the process, reduced to emailing questions or
 19 requests for interventions to a solicitors' box. They
 20 do not and cannot feel in the circumstances that they
 21 are at the heart of the process.
 22 During a period of reduced physical attendance at
 23 the Inquiry, I would not anticipate that an interactive
 24 platform, which is controlled by your team in
 25 a dignified manner, is unachievable or difficult.

14

1 My final plea to you is to request on the families'
 2 behalves that such a provision is put in place.
 3 Additionally, as you are aware, some of the families,
 4 for them effective engagement means being allowed to
 5 physically attend the hearings to see witnesses giving
 6 evidence in person.
 7 My final words: a marginalisation of families and
 8 advocates from real-time engagement renders this process
 9 ineffective. That should not be the Grenfell legacy.
 10 Remember, sir, ineffective participation reduces access
 11 to justice. Reduced access to justice leads to a lack
 12 of justice, and a lack of justice is just another way of
 13 saying this is unjust.
 14 Thank you.
 15 SIR MARTIN MOORE-BICK: Well, thank you very much,
 16 Mr Thomas.
 17 Just help me with one thing before you go:
 18 I understand what you're saying about the panel and the
 19 need for an assessor and an expert. Is there anything
 20 that you're particularly asking me or the panel as
 21 a whole to do?
 22 MR THOMAS: Sir, yes. We understand, and we have written to
 23 the Prime Minister, a letter has gone to the
 24 Prime Minister who --
 25 SIR MARTIN MOORE-BICK: Yes, I've seen that.

15

1 MR THOMAS: Yes. This Inquiry has had a period of time when
 2 we haven't been sitting due to COVID; we still have no
 3 information as to when that panel member or those
 4 missing persons are going to be engaged. You are now
 5 moving into a period where you are asking questions
 6 which are highly relevant to these issues. It happened
 7 yesterday. It happened yesterday, on the issue of
 8 disability.
 9 SIR MARTIN MOORE-BICK: Yes.
 10 MR THOMAS: We ask you to use your voice, your influence,
 11 your power, to encourage and -- you know, all the
 12 influence you can on the Prime Minister to make sure
 13 that these appointments come as quickly as possible.
 14 That's what we ask you to do. We know that you're
 15 cognisant of it.
 16 Unless I can assist you further ...
 17 SIR MARTIN MOORE-BICK: No, that's very helpful. Thank you
 18 very much indeed. If you would like to leave us now.
 19 We're going to rise for a couple of minutes so we can do
 20 some housekeeping.
 21 MR THOMAS: Thank you.
 22 SIR MARTIN MOORE-BICK: Thank you very much.
 23 We will rise for five minutes for some housekeeping
 24 purposes and resume at 10.30, thank you.
 25 (10.23 am)

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1 (A short break)
 2 (10.30 am)
 3 SIR MARTIN MOORE-BICK: Yes, Ms Grange. Sorry it's later
 4 than we had hoped, but there we are.
 5 MS GRANGE: Not a problem at all.
 6 We are now going to hear evidence from another Exova
 7 witness, who is Mr Terrence Ashton.
 8 SIR MARTIN MOORE-BICK: Yes, thank you.
 9 MR TERRENCE ASHTON (affirmed)
 10 SIR MARTIN MOORE-BICK: Thank you very much, Mr Ashton. Do
 11 sit down, make yourself comfortable.
 12 THE WITNESS: Thank you.
 13 SIR MARTIN MOORE-BICK: I am sorry we have kept you waiting
 14 longer than we had hoped. We had another matter we had
 15 to deal with, but now we are ready to go on with your
 16 evidence.
 17 THE WITNESS: Okay, thank you.
 18 SIR MARTIN MOORE-BICK: Yes, Ms Grange.
 19 Questions from COUNSEL TO THE INQUIRY
 20 MS GRANGE: Thank you, Mr Ashton, for attending today to
 21 give your evidence. It is very much appreciated.
 22 If you have any difficulty understanding anything
 23 that I'm asking you in the course of my questions,
 24 please just ask me to repeat the point or put the
 25 question in a different way, okay?

17

1 A. Thank you.
 2 Q. If you feel you need a break at any point, please let us
 3 know.
 4 Also, please try and keep your voice up. There are
 5 microphones, but try and keep your voice up so the
 6 transcriber lady there can hear your voice.
 7 A. Okay.
 8 Q. Thank you.
 9 So you have made two witness statements to
 10 the Inquiry. I just want to take you to those. They're
 11 going to appear on the screen and there is a hard copy
 12 in a file in front of you.
 13 The first is dated 27 September 2018. If we can
 14 bring that up, that's {EXO00001621}. Then if we go
 15 within that statement to page 20 {EXO00001621/20}, is
 16 that your signature there?
 17 A. It is.
 18 Q. Have you read that statement recently?
 19 A. I have.
 20 Q. Can you confirm that the contents are true?
 21 A. They are true, yes.
 22 Q. Thank you.
 23 Then you have made a second, more recent statement
 24 dated 27 April 2020. If we can bring that up, that's at
 25 {EXO00001775}. If we can go to page 6 {EXO00001775/6}

18

1 of that statement, again is that your signature there?
 2 A. It is.
 3 Q. Have you read that statement recently?
 4 A. I have indeed.
 5 Q. Can you confirm that the contents are true?
 6 A. They are correct, yes.
 7 Q. Great, thank you.
 8 So I want to start, Mr Ashton, with some questions
 9 about your background and your experience. If we can
 10 look at paragraph 2.2 of your first witness statement,
 11 so we will bring that up on the screen, that comes up at
 12 {EXO00001621/2}, thank you.
 13 Just starting with the first sentence there, you
 14 say:
 15 "I began my career in 1963 as a trainee Building
 16 Surveyor at London County Council."
 17 Do you see that there?
 18 A. Yes, indeed.
 19 Q. Did you then work as a building surveyor at the London
 20 County Council after your time as a trainee?
 21 A. No, we were placed in various sections of the
 22 architects' department, and the three of which I worked
 23 in were all to do with fire safety.
 24 Q. I see.
 25 A. And then, when I came off the training scheme, which

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1 isn't in the statement, I then worked as a technical
 2 assistant.
 3 Q. For the London County Council?
 4 A. Indeed, yes.
 5 Q. Yes, and then we can see in the next sentence, you say:
 6 "I then worked as a Technical Assistant for the
 7 Greater London Council, until its demise in 1985."
 8 A. Correct.
 9 Q. Do you see that there?
 10 A. Yes.
 11 Q. Again, can you explain to us briefly what your job as
 12 a technical assistant involved at the Greater London
 13 Council?
 14 A. It was dealing with fire safety in buildings. If I can
 15 put it as succinctly as that, that's what it was all
 16 about.
 17 Q. I see. Fire safety in buildings within the
 18 Greater London Council?
 19 A. Yes, indeed.
 20 Q. Then you moved to the Corporation of London, we see that
 21 in the third sentence. You say:
 22 "I went on to become an Assistant District Surveyor
 23 at the Corporation of London with a focus on fire
 24 safety, where I stayed until 1989."
 25 Do you see that there?

20

1 A. I do.
 2 Q. Again, can you just describe to us in brief terms what
 3 your role as an assistant district surveyor with a focus
 4 on fire safety would have involved?
 5 A. Well, in the district surveyor's offices, there were two
 6 separate disciplines: one was structural engineering,
 7 structural safety, and the other was fire safety, and
 8 I was in charge of fire safety in the City of London
 9 district surveyors service. And broadly it was setting
 10 standards for other people in the office, and also
 11 dealing with applications myself.
 12 Q. I understand, thank you.
 13 Is it right that you were on the working party for
 14 the London District Surveyors' Association Fire Safety
 15 Guide 1: Fire Safety in Section 20 Buildings; is that
 16 correct?
 17 A. I set it up, I was the chairman.
 18 Q. Yes. Thank you.
 19 Then we can see at the end of that paragraph that in
 20 1989 you were offered a role as principal consultant at
 21 what at the time was called Warringtonfire, and is
 22 now called Exova; is that correct?
 23 A. It was called Exova, it's now Warringtonfire again.
 24 Q. I beg your pardon, you're correct.
 25 A. That's another story, but, yes, indeed, factually

21

1 correct.
 2 Q. You started there as a principal consultant, and then
 3 you rose to the position of associate at Exova; is that
 4 correct?
 5 A. That's correct.
 6 Q. So just to summarise, you had 25 years in
 7 Building Control, with an emphasis on fire safety,
 8 before you joined Exova.
 9 A. Correct.
 10 Q. Is it right that, at the time you became involved in the
 11 Grenfell project, you had been at Exova for
 12 approximately 23 years?
 13 A. Yes, that's true.
 14 Q. Now, can you just help us briefly about the hierarchy of
 15 positions at Exova. So you rose to be an associate.
 16 Who would be directly senior to you?
 17 A. A director.
 18 Q. A director.
 19 A. Associates generally managed the individual offices.
 20 Q. I see, yes. Who would be senior to the director,
 21 anybody?
 22 A. The person who owned the company at the time.
 23 Q. Yes, yes.
 24 Then beneath you, who would sit beneath you? What
 25 were the layers?

22

1 A. Well, it depended on who we had in the post at the time,
 2 but there was principal consultant, senior consultant,
 3 consultant, and graduate engineer.
 4 Q. And you have done those in descending order for us; is
 5 that correct?
 6 A. Indeed.
 7 Q. Yes. Thank you.
 8 Can you explain what your role as an associate at
 9 Exova typically involved?
 10 A. Well, it was running the office, and making sure that
 11 everybody who worked under me was allocated the right
 12 amount of work, but also getting involved in actual
 13 projects myself, where I was client-facing.
 14 Q. Looking back to the time, say, when you first started
 15 work on the Grenfell project, which we will come to in
 16 a moment, in 2012, what proportion of your work would
 17 have been managing the office versus doing projects
 18 yourself?
 19 A. I would guess about 20% management, but that management
 20 would include reviewing and advising staff on the
 21 technical side.
 22 Q. Yes.
 23 Which Exova office did you work at, at the time you
 24 were involved in the Grenfell project?
 25 A. We were in a building in London Bridge.

23

1 Q. Yes. So you were at the London office of Exova?
 2 A. Oh yes, indeed, yes.
 3 Q. Have you yourself undertaken any formal training or
 4 education relating to fire engineering?
 5 A. No, I haven't.
 6 Q. But is it right that you were an associate in the fire
 7 engineering department of Exova?
 8 A. That's correct, yes.
 9 Q. Yes.
 10 Using your best guess, approximately what proportion
 11 of staff in that department had formal training or
 12 education in fire engineering at the time you worked on
 13 the Grenfell project?
 14 A. 90%.
 15 Q. So most people did have some kind of formal fire
 16 engineering qualification?
 17 A. Or they were working towards getting one, yes.
 18 Q. Yes.
 19 A. Yeah.
 20 Q. And at the time of the Grenfell project, were you
 21 a member of any professional bodies or institutions?
 22 A. Only the Society of Professional Engineers, but that's
 23 not specifically related to fire safety.
 24 Q. I see, yes. Thank you.
 25 So I want to now move on just to look a bit more at

24

1 Exova's experience and reputation.
 2 Would you agree that, at the time of the Grenfell
 3 project, Exova was considered to be a top-tier
 4 fire safety engineering consultancy firm?
 5 A. Yes, I would.
 6 Q. Can we just look at what is said about the firm in the
 7 first fee proposal for the Grenfell project, that was
 8 dated 9 May. If we can go to that and bring it up on
 9 the screen, that's at {ART0000026}. Thank you.
 10 Now, we're going to come back in a little while to
 11 look at the detail of this fee proposal later, but for
 12 now I just want to look at the first page under "Company
 13 Profile". Do you see that there?
 14 A. I do.
 15 Q. I suspect this is standard text, is that right, that
 16 gets inserted into --
 17 A. This is a standard fee proposal template, that's
 18 correct.
 19 Q. So if we look at that first sentence, do you agree that,
 20 at this time, Exova had established, it says there,
 21 "an extensive worldwide reputation for excellence in
 22 fire safety"; do you see that?
 23 A. I do.
 24 Q. In the third paragraph, it states there that one of
 25 Exova's primary goals was to "provide an extremely high

25

1 standard of service to our clients"; do you see that
 2 there?
 3 A. I do.
 4 Q. Thank you.
 5 Is it right that Exova regularly won fire
 6 engineering awards for its work?
 7 A. At that time, yes.
 8 Q. Yes. When you say "At that time", in your mind is there
 9 a time when that wouldn't have been the case?
 10 A. Well, we won awards when there were awards to win. That
 11 sounds a bit funny. The idea of giving awards for fire
 12 engineering was relatively recent, and we competed with
 13 other fire consultancies and we presented the case for
 14 us getting the award, and in some cases we won. But you
 15 can see from the -- we didn't win it every year. There
 16 were lots of other consultancies that did just as well.
 17 Q. Yes. And these are some examples of the awards that
 18 Exova won for its fire engineering services that are
 19 listed here; is that correct?
 20 A. They are indeed, yes.
 21 Q. Thank you.
 22 Now, can we turn to page 4 {ART0000026/4} of this
 23 document, and we see there is a heading "Fire
 24 Engineering Team" right at the top. Do you see that?
 25 A. Yes, indeed.

26

1 Q. In that very first paragraph, is it right that, at this
 2 time, Exova employed over 50 experienced and qualified
 3 engineers worldwide?
 4 A. That was true, yes.
 5 Q. Yes.
 6 Where it talks about "experienced and qualified
 7 engineers", would that be qualified in fire engineering?
 8 A. It would, yes, indeed.
 9 Q. In that last paragraph of that first sentence, it says
 10 there:
 11 "In addition, through Exova Warringtonfire group we
 12 have access to international experts in the behaviour of
 13 materials, fire testing and reaction to fire."
 14 Do you see that there?
 15 A. I do.
 16 Q. Did you yourself have access to those international
 17 experts in those matters at the time you were working on
 18 the Grenfell project?
 19 A. We did, yes.
 20 Q. Yes.
 21 A. I mean, our main business was fire testing and research.
 22 Q. Yes.
 23 A. The consultancy division was just a part of that
 24 company.
 25 Q. Yes.

27

1 A. So our main bread and butter was fire testing.
 2 Q. Yes.
 3 When you were working on the Grenfell project, was
 4 it your primary goal to provide an extremely high
 5 standard of service?
 6 A. Yes.
 7 Q. Yes.
 8 A. Yes.
 9 Q. Given its reputation, would you agree that it was
 10 reasonable to rely on Exova to produce comprehensive
 11 fire safety strategies for projects?
 12 A. Yes, I would expect that.
 13 Q. And that it was reasonable to assume that, by engaging
 14 Exova, the project team had access to highly competent
 15 experts for all aspects of fire safety design and
 16 compliance?
 17 A. Yes.
 18 Q. Now, at the time that you were working on the Grenfell
 19 project, did Exova as an organisation have experience of
 20 overcladding works in high-rise buildings?
 21 A. I can't speak for the company as a whole, but
 22 I personally hadn't had experience of any overcladding
 23 projects.
 24 Q. Okay, that was my next question.
 25 A. Yeah.

28

1 Q. So whether you personally had experience of advising in
2 respect of cladding works in high-rise buildings prior
3 to this project.
4 A. No, that's correct, I didn't have.
5 Q. And it must follow, therefore, that you also hadn't had
6 experience of being involved in the overcladding of
7 a residential high-rise building?
8 A. That would be true as well.
9 Q. Now, can we just look at a copy of your CV, so we have
10 that. If we can bring up {MET00065659/7}. So this was
11 one of the documents exhibited to Mr Veitch's police
12 statement to the Metropolitan Police, and he exhibited
13 the CVs of a number of people at Exova, including
14 yourself.
15 A. Okay.
16 Q. Is this a CV that you're familiar with, this format?
17 A. Yes, indeed.
18 Q. Yes.
19 Now, we see there the summary of your employment
20 history, which we have gone through. If we can go over
21 to page 8 {MET00065659/8}, we can see a list of recent
22 projects that you were involved with.
23 Would it be fair, just looking down that list, to
24 say that there are a lot of projects there that appear
25 to involve hospitals, office buildings and universities

29

1 or colleges? Would you agree with that?
2 A. Yes, a fair number.
3 Q. Would that have reflected your particular areas of
4 expertise, for example hospitals?
5 A. Not necessarily. I mean, the -- there's only a list
6 there of recent projects. I mean, we have worked on
7 high-rise residential buildings, shopping centres, as
8 you can see from that list there, public buildings, the
9 Royal Institution. It seems to be hospital heavy, if
10 I can use that, because those are the most recent
11 projects that we put on the CV, bearing in mind the CV
12 is updated regularly.
13 Q. Yes, I understand.
14 I think it must follow, therefore, from the answers
15 you have already given us, that what we don't see there
16 are any overcladding projects or residential high-rise
17 projects?
18 A. No, that's correct.
19 Q. I think you tell us in your statement that you retired
20 in March 2016; is that correct?
21 A. That's correct.
22 Q. But you also said there, paragraph 2.1 of your statement
23 {EX000001621/2} -- we don't need to bring it up, I don't
24 think -- that you continued to work for Exova part-time
25 in the same role for one day a week after your

30

1 retirement; is that correct?
2 A. That's correct, yes, after a short break.
3 Q. Fair enough.
4 Does that remain the position? Do you still do any
5 part-time work for Exova?
6 A. I still do, on an as-and-when basis.
7 Q. So you are still involved in the industry?
8 A. I am indeed, yes.
9 Q. Thank you.
10 Now, just moving to another topic, I want to look
11 a little bit more about what is fire engineering and
12 what is a fire strategy. We will come to explore in
13 detail in a moment the services which Exova were engaged
14 to perform on the Grenfell project, and it's right,
15 isn't it, that they were described as fire safety
16 engineering services? Is that right?
17 A. That's how we sell ourselves, that's what we do:
18 fire safety engineering.
19 Q. In your own words, what do you understand fire safety
20 engineering to involve?
21 A. Well, fire safety engineering is the use of engineering
22 techniques to demonstrate compliance with statutory
23 requirements, and it's an alternative to following what
24 we call standard guidance. So where you have
25 a particular building form where it doesn't fit into,

31

1 you know, the descriptions given in the statutory
2 guidance document, it might be large or it might be very
3 high, then we would use fire engineering to justify it.
4 Q. I see.
5 A. Fire engineering goes into things at first principles
6 rather than just following a prescriptive set of rules.
7 Q. So take, for example, Approved Document B, the statutory
8 guidance made pursuant to the Building Regulations.
9 A. Yes.
10 Q. Would you still say that someone could provide
11 fire safety engineering services by advising on what the
12 requirements of Approved Document B were in a particular
13 project?
14 A. Well, I think probably you could argue that the umbrella
15 term for what we do is fire consultancy, but we happen
16 to work for a fire engineering division. But if you
17 look at the totality of the work that we do, quite
18 a large proportion of the fire strategies that we
19 produce use prescriptive guidance rather than fire
20 engineering. And it's much more the case than those
21 buildings where you need to use fire engineering, such
22 as airport terminals, large spaces, and that sort of
23 thing.
24 Q. So with specific reference, for example, to Approved
25 Document B, which we're going to come back to in

32

1 a number of places, would you put that in the category
 2 of prescriptive guidance?
 3 A. Yes, indeed.
 4 Q. You would?
 5 A. Yeah.
 6 Q. Even though Approved Document B itself makes clear that
 7 it has a lot of performance-based standards within it?
 8 A. It does cross-refer to performance-based standards, yes.
 9 Q. So, for example, fire performance standards are often
 10 specified throughout the document.
 11 A. They are indeed.
 12 Q. Yes.
 13 Let's just look, then, at the definition of
 14 fire safety engineering. There is a British Standard
 15 that has a definition of this. This is BS 4422:2005.
 16 We find that at {BSI00000624}. So this is
 17 a British Standard called "Fire - Vocabulary", and if we
 18 go to page 38 {BSI00000624/38} within it, at
 19 paragraph 3.377, so that's just beyond the halfway mark
 20 on the page, if we can blow that up.
 21 A. Yeah.
 22 Q. Do you see that? 3.377.
 23 A. I do.
 24 Q. So there it says:
 25 "Fire safety engineering [is the] application of

33

1 scientific and engineering principles to the protection
 2 of people, property and the environment from fire."
 3 Do you see that?
 4 A. I do.
 5 Q. Do you agree with that definition?
 6 A. I do.
 7 Q. Would that encapsulate the type of services that you
 8 were providing on, for example, a project like Grenfell?
 9 (Fire alarm)
 10 Let me repeat the last question: would that
 11 encapsulate the type of services that you were providing
 12 on, for example, a project like Grenfell?
 13 A. Up to a point. Building Regulations are not concerned
 14 with property protection. Fire engineering would
 15 embrace that as well.
 16 If you look at the objectives of the
 17 Building Regulations, they are the health and safety of
 18 people in and around buildings, but including people who
 19 have to go there in the event of a fire, like the
 20 fire service. So property protection is not part of
 21 that function.
 22 Q. I understand. Yes.
 23 A. Although you will obviously get some benefits for
 24 property protection from the other measures you put in
 25 to protect people.

34

1 Q. Yes.
 2 Can we look at another definition as well, just
 3 while we're discussing this topic. If we can go to
 4 {INQ00011261}, this is a publication by the Institution
 5 of Fire Engineers, and what we see there at the top of
 6 that first page, under the red heading "What is Fire
 7 Engineering?", they say:
 8 "Fire Engineering is the application of scientific
 9 and engineering principles, rules [codes], and expert
 10 judgment, based on an understanding of the phenomena and
 11 effects of fire and of the reaction and behaviour of
 12 people to fire, to protect people, property and the
 13 environment from the destructive effects of fire."
 14 Do you see that?
 15 A. I do.
 16 Q. So we have got a slightly longer definition there.
 17 Again, do you agree with that?
 18 A. I do, yes.
 19 Q. Would that encapsulate in very broad terms the type of
 20 services that you were providing on the Grenfell
 21 project?
 22 A. Yes, it would.
 23 Q. Yes.
 24 Would you agree with this: that a fire safety
 25 engineer sets the agenda regarding life safety

35

1 requirements for a project?
 2 A. Broadly speaking, yes, he would.
 3 Q. Yes.
 4 A. He or she would. That's why we're employed. We're
 5 employed to provide guidance on fire safety, which is
 6 a specialist -- you know, a specialism.
 7 Q. Yes.
 8 Now, you state at paragraph 3.1 of your witness
 9 statement {EX000001621/2} that Exova's work on Grenfell
 10 principally involved the field of a fire strategy and
 11 providing a fire strategy, and I just want to explore
 12 with you at the outset precisely what a fire strategy is
 13 in this context.
 14 Could you explain for us in your own words what
 15 a fire strategy is?
 16 A. A fire strategy is a statement of the measures that are
 17 being proposed to satisfy statutory requirements in
 18 a building, in brief.
 19 Q. Yes.
 20 Again, let's just look at a British Standard
 21 publication. This is British Standard published
 22 document PD 7974-0:2002, and we find this at
 23 {BSI00001716}. This is a British Standard published
 24 document titled "Application of fire safety engineering
 25 principles to the design of buildings". Do you see

36

1 that?

2 A. I do, yes.

3 Q. Is that a publication you're aware of?

4 A. I'm aware of it, yes.

5 Q. If we go within it to page 7 {BSI00001716/7} at

6 part 3.16 at the top, this provides a definition of

7 a fire safety strategy. Do you see that?

8 A. I do.

9 Q. It says there it's a:

10 "Combination of fire safety measures that has been

11 shown by reference to prescriptive codes or a fire

12 engineering study to be capable of satisfying the

13 specified fire safety objectives."

14 Do you see that there?

15 A. I do, yes.

16 Q. I think that incorporates the two types of fire

17 engineering that we were referring to earlier: you have

18 got the possible prescriptive code route and then a fire

19 engineered solution; is that correct?

20 A. It does, yes. And in some cases you might use

21 a combination of both.

22 Q. Yes, yes, thank you.

23 Then on page 44 {BSI00001716/44} within this same

24 document, at part 9.7, again towards the top of that

25 page, if we could blow that up, it returns again to the

37

1 topic of a fire safety strategy, and it says:

2 "The fire safety strategy for the building will be

3 based on the successful trial design and is likely to

4 comprise a range of physical fire safety measures and

5 management procedures. A description of these measures

6 should be provided, together with performance

7 specifications and any recommended deviations from the

8 relevant system codes ..."

9 Then it gives an example there. Do you see that?

10 A. I do, yes.

11 Q. Again, would you agree with that broad definition of

12 a fire safety strategy?

13 A. A fire safety strategy would not always include details

14 of management procedures, unless those management

15 procedures were critical to life safety.

16 Q. Yes. So, for example, if those management procedures

17 were relevant to the active and passive fire safety

18 systems within the building, is it possible that you

19 would then deal with those in a fire strategy?

20 A. Absolutely.

21 Q. Yes.

22 Can we look as well there, while we have got this

23 up, in that second sentence, it says:

24 "A description of these measures should be provided,

25 together with performance specifications ..."

38

1 Do you see that?

2 A. I do.

3 Q. Again, would you agree that a fire strategy frequently

4 involves including performance specifications as well as

5 a description of the measures?

6 A. Yes, it does.

7 Q. Yes.

8 Now, I want to turn to another piece of guidance.

9 If we can go to {INQ00011219}. This is the Fire

10 Industry Association guidance note. We can see from the

11 title at the bottom of that page in red, it addresses

12 the scope of works for the fire engineer. Do you see

13 that?

14 A. I do, yes.

15 Q. Now, in fairness to you, this was a document that was

16 produced in May 2015.

17 A. Right.

18 Q. So it didn't come out until towards the end of your

19 involvement in the Grenfell project. But I just want to

20 explore with you some aspects of this document, the

21 extent to which it's consistent with industry practice.

22 First of all, are you familiar with this document?

23 A. No, I'm not.

24 Q. So have you ever read it before?

25 A. No.

39

1 Q. I just want to look at a number of aspects of it, even

2 though you haven't read it, just to see whether or not

3 you would agree with some of what it says here.

4 A. Okay.

5 Q. If we go within it to page 3 {INQ00011219/3}, we see at

6 the top, paragraph 1, it says:

7 "This document is intended to be distributed and

8 used within the construction industry in order to assist

9 with specifying the standard scope of works that would

10 be expected from a fire engineer."

11 Do you see that?

12 A. I do.

13 Q. It's important to make clear, I think, while we're

14 discussing this document, that at paragraph 4 -- I know

15 they're not numbered, but if you look down to the

16 paragraph beginning "This scope of works", do you see

17 that? -- it says there:

18 "This scope of works is primarily intended for

19 new-build construction projects, although it could be

20 used as the basis for a scope of works on other projects

21 such as refurbishments."

22 Do you see that?

23 A. Yes, I do.

24 Q. But just to be clear, this is not something you have

25 come across either in the context of new-builds or

40

1 refurbishments?

2 A. Not this particular document, but, I mean, it's

3 perfectly legitimate to use a code of practice for new

4 buildings and apply it to buildings that are being

5 refurbished.

6 Q. Yes.

7 A. You obviously wouldn't apply all of the measures in

8 there, but you could apply the appropriate ones.

9 Q. Yes, thank you.

10 Now, if we can look at page 4 {INQ00011219/4}, and

11 if we can look at the very first paragraph there, and if

12 I read it slowly to you, it says there:

13 "The fire engineer's overall role will be to provide

14 advice in relation to the fire safety aspects of the

15 design in order to provide reasonable confidence that

16 the design that is developed, as well as the completed

17 building, should achieve an acceptable standard of fire

18 safety, comply with the client's objectives and meet all

19 relevant legal fire safety requirements."

20 So would you agree that that would be the overall

21 role of a fire safety engineer?

22 A. Yes, I would, that's a good definition.

23 Q. There are some bullets in the middle of that page, and

24 it starts there -- thank you, that's gone to the top of

25 the page. So it says:

41

1 "The primary aspects of responsibility for the fire

2 engineer are as follows."

3 And then a number of bullets are set out.

4 Can I just work through a couple of these bullet

5 points with you.

6 A. Okay.

7 Q. So the first one says:

8 "Identify the fire safety design objectives for the

9 project such as, but not limited to, identification of

10 relevant statutory controls, confirmation of any client

11 fire safety requirements, confirmation of any insurance

12 requirements."

13 So would you agree that that would be a primary

14 aspect of responsibility for the fire engineer?

15 A. It would, but not necessarily -- it wouldn't necessarily

16 satisfy all of those criteria. It may simply be that

17 we're dealing with what is necessary to meet statutory

18 requirements rather than the client's requirements or

19 insurance requirements.

20 Q. Yes, so it would depend on whether there were such

21 client requirements or insurance --

22 A. Indeed.

23 Q. I understand, yes.

24 Then the second bullet is:

25 "Work with the design team to develop the design to

42

1 meet the fire safety design objectives."

2 Do you see that?

3 A. I do.

4 Q. Again, would you agree that's a primary aspect of

5 responsibility for the fire engineer?

6 A. I would agree.

7 Q. Yes.

8 Then in the third bullet we have:

9 "Document the fire safety design in a fire strategy

10 report."

11 Do you see that?

12 A. Yes.

13 Q. Again, would you agree that that's a primary aspect of

14 responsibility?

15 A. Absolutely.

16 Q. Yes.

17 I now just want to have a little look at what this

18 document says a fire strategy should include, and that's

19 at the bottom of this page. Do you see that there is

20 a sentence beginning:

21 "The fire strategy should cover all relevant

22 fire safety design issues, in particular ..."

23 And another list is there. Do you see that?

24 A. I do.

25 Q. If we can just look at the list, so we've got:

43

1 •" Design, location and protection of escape routes.

2 •" Identification and specification of all

3 fire safety systems that are required."

4 Do you see that there?

5 A. Yes, I do.

6 Q. Do you agree with those two, that that's what

7 a fire strategy should cover?

8 A. At least those two.

9 Q. Yes. Then we see:

10 "Surface spread of flame requirements for surface

11 materials."

12 That's the third bullet. Do you see that?

13 A. Yes, I do.

14 Q. Again, would you agree that that should be covered in

15 a fire strategy?

16 A. Yes. All of these things are a reflection of what are

17 in the Building Regulations themselves.

18 Q. Exactly. So do you agree that these points are broadly

19 correlating with the B1 to B5 functional requirements?

20 A. Absolutely.

21 Q. Yes.

22 Let's just finish off looking at them. So the next

23 one was:

24 "Structural fire resistance requirements."

25 Then we have:

44

1 "Fire compartmentation requirements including
2 fire -stopping and cavity barriers."
3 Do you see that?
4 A. Yes.
5 Q. So, again, would you agree that that ought to be
6 included in a fire strategy?
7 A. Ordinarily, yes, it should be.
8 Q. When you say "ordinarily", in what circumstances
9 wouldn't it be?
10 A. Well, where the scope of the works didn't involve
11 compartmentation.
12 Q. Yes.
13 A. In a single-storey building, for example, you wouldn't
14 have fire compartmentation necessarily.
15 Q. Yes.
16 A. You would certainly have surface spread of flame
17 requirements in a single-storey building, but not in
18 a -- you wouldn't be worried about compartmentation
19 necessarily.
20 Q. Then if we look at the sixth bullet point there, we see,
21 "External fire spread". Do you see that there?
22 A. I do.
23 Q. Again, would you agree that that should be included, if
24 relevant, in a fire safety strategy?
25 A. Yes, it should.

45

1 Q. Now, if we can go over the page to page 5
2 {INQ00011219/5}, and I want to look at a paragraph
3 that's three from the bottom, so the second half of the
4 page. Do you see there there is a paragraph beginning:
5 "In relation to fire compartmentation ..."
6 Do you see that?
7 A. I do.
8 Q. If we just read it together, it says:
9 "In relation to fire compartmentation, including
10 fire stopping and cavity barriers, the fire engineer
11 should specify the fire compartmentation requirements
12 and ensure that those are detailed in relevant fire
13 compartmentation drawings."
14 Pausing there, would you agree that those are things
15 that the fire engineer should be specifying?
16 A. He should specify what is needed. He wouldn't
17 necessarily -- he or she -- please accept "he" for "he
18 or she", otherwise it gets a bit tedious.
19 Q. Yes.
20 A. He wouldn't necessarily expect to produce the fire
21 compartmentation drawings himself. Frequently he would
22 advise the architect on how to do that.
23 Q. But would you expect the fire engineer to specify the
24 fire compartmentation requirements?
25 A. Oh, yes.

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1 Q. And that would include firestopping and cavity barriers?
2 A. Where appropriate, yes.
3 Q. Yes.
4 Then in the second half of this guidance, what it
5 does is it gives guidance on what can be expected from
6 the fire engineer at different stages of the works, and
7 it's linked to the RIBA stages of work.
8 A. Right.
9 Q. Again, are you familiar with the RIBA stages?
10 A. I am, yes.
11 Q. Yes. So can we go to look at the start of this at
12 page 6 {INQ00011219/6}. So you can see there that it's
13 breaking down the role of a fire engineer and what is to
14 be expected at the different RIBA stages, and it's using
15 the more modern RIBA 2013 stages, but we also see in
16 brackets the old references to, say, stages C or D or E
17 which we're familiar with on the Grenfell project. Do
18 you see that?
19 A. Indeed.
20 Q. I want to pick it up in terms of this section at page 7
21 {INQ00011219/7} -- actually, perhaps before we do, do
22 you agree that it is common that the work of fire
23 engineers will be linked to the RIBA stages?
24 A. Yes, it is common.
25 Q. Do you also agree that work will often be updated at

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1 each stage and in line with the design information
2 available at each RIBA stage?
3 A. If that's necessary, yes.
4 Q. So do you agree that the work of a fire engineer will
5 often develop from the concept design stage, stage C;
6 through to the developed design stage, stage D; and on
7 to the technical design, stage E; and then beyond into
8 the construction phase, stage J/K? Do you agree with
9 that?
10 A. That might happen on some projects, but generally,
11 unless we're very lucky, we stop at the end of our RIBA
12 stage D or even E. We don't get involved in detailed
13 design unless the particular client wants us to do that.
14 So for a large number of the jobs that we work on, we
15 would work at stages C, D and E, and then that would be
16 it.
17 Q. Do you agree that preparing a fire strategy might well
18 require you to advise on whether a particular type of
19 product or system was satisfactory?
20 A. Not at every RIBA stage. It might be that that comes
21 under detailed design. Although, if the information is
22 available earlier than that, you would then comment on
23 that, on the suitability of a particular form of
24 construction.
25 Q. And suitability of a particular product in the

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1 construction?

2 A. Generically, yes. For example, if somebody said, "We
3 would like to build this building out of timber", we
4 would say, "Well, yes, you could do that, but there
5 would need to be certain safeguards".

6 Q. What I'm actually going to do is when we get to looking
7 in the context of the Grenfell project at the different
8 stages, we're going to revisit this document and look at
9 what it recommends for the RIBA stages, and then have
10 a look at whether or not you agree that certain things
11 ought to have been done by different stages.

12 Just another more general question: do you agree
13 that the fire strategy is the main source of the
14 required performance criteria for the architects' fire
15 drawing information?

16 A. Yes, I would agree with that.

17 Q. Would you also agree that the intention is that other
18 members of the design team can rely on those performance
19 criteria when they're doing their own detailed design
20 work?

21 A. Yes, yes.

22 Q. Another proposition for you: would you agree that a fire
23 safety strategy commonly sets out the performance
24 requirements to enable a compliant specification of the
25 active and passive fire protection measures to be

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1 prepared?

2 A. Yes, I would agree with that.

3 Q. Would you agree that a key role of a fire safety
4 engineer when providing a fire strategy is to be
5 responsible for setting out the performance requirements
6 to meet the functional requirements of schedule 1 of the
7 Building Regulations?

8 A. Yes.

9 Q. Would that also include highlighting any relevant duties
10 under the Regulatory Reform (Fire Safety) Order 2005, on
11 which compliance with the Building Regulations rely?

12 A. Well, the Regulatory Reform Order deals with a building
13 after it has been built and occupied, and it's -- the
14 only relevance to a fire safety strategy would be that
15 the fire safety strategy which is set out forms part of
16 the RRO. In other words, if you have a building where
17 the fire strategy says that this escape route must be
18 kept clear or you should do this or should you do that,
19 or there are certain management aspects that need to be
20 put in place, then they would be relevant to the RRO.

21 Q. Yes, I understand.

22 A. But not everything. The RRO is more concerned with
23 a building in use rather than a building under
24 construction.

25 Q. But if, for example, you have a smoke control system --

50

1 A. Yeah.

2 Q. -- and compliance with the Building Regulations is, in
3 part, reliant on that smoke control system, would you
4 agree that the fire strategy might address the
5 performance requirements and the maintenance
6 requirements of that smoke control system?

7 A. Oh, yes.

8 Q. Now, just before we leave this topic about what is
9 a fire safety strategy, I also want to look at what's
10 stated on the Warringtonfire current website, this is in
11 2019, because there is some helpful guidance I think
12 here just to frame this topic.

13 If we go to that at {INQ00011259}. This is
14 Warringtonfire's own guidance on its website about what
15 a fire safety strategy is. Do you see that?

16 A. I do.

17 Q. Are you familiar with this guidance?

18 A. No, I've not visited this website.

19 Q. What I want to do is just read the first two paragraphs
20 of that. So it's:

21 "Warringtonfire are able to help you create fire
22 strategy for your building. A fire strategy is the way
23 in which fire safety objectives for a new, altered or
24 existing building are defined and achieved. For new and
25 altered buildings the fire strategy is usually developed

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1 during the design phase of the project. Our experts
2 work with you to truly understand the objectives of your
3 project and the completed building to create the best
4 solution for you."

5 Do you see that?

6 A. I do.

7 Q. If we look at the bottom, do you see there it says:

8 "A good fire strategy should set a clear framework
9 for fire safety and is usually based around showing
10 compliance with the fundamental objectives of the
11 applicable fire safety legislation, business and
12 property protection objectives and insurers'
13 requirements."

14 Do you see that?

15 A. Yes, I do.

16 Q. Sorry, just going back, I want to pick up one more point
17 in the second paragraph under "What is a fire strategy?"
18 It says there:

19 "According to the British Standards Institution
20 document PAS 911: Fire Strategies -Guidance and Framework
21 for Their Formulation, a fire strategy is 'an
22 all-encompassing document designed to overview how fire
23 can impact on a building and a business'"

24 Again, do you agree with that, that it's
25 an all-encompassing document providing that overview?

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1 A. It depends on what the fire strategy is attempting to
 2 do. If it's -- I think we covered this ground earlier.
 3 If it's only dealing with compliance with statutory
 4 requirements, then it would be limited to that and it
 5 wouldn't include business interruption, insurance
 6 requirements and so on.
 7 Now, clearly if you are dealing with something like
 8 an airport terminal, then business interruption or
 9 business continuity is critical, and therefore you would
 10 include that in that particular fire strategy.
 11 Q. I understand. But where, to take your point, it's just
 12 dealing with compliance with the statutory
 13 requirements --
 14 A. Yeah.
 15 Q. -- would you expect it to be an all-encompassing
 16 document that overviews how fire can impact on
 17 a building in its entirety?
 18 A. We don't normally introduce that sort of concept into
 19 our fire strategies. We don't say what can happen if
 20 a fire occurs in your building. It's -- we assume that
 21 whoever is reading that will know that fire can have
 22 an effect on the building and its occupants, and on
 23 other buildings. So it isn't explicitly stated in our
 24 fire strategy documentation.
 25 Q. Yes.

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1 Can we look at another piece of guidance. This is
 2 also on Warringtonfire's website. If we look at
 3 {INQ00011258}. Again, in fairness to you, this is from
 4 12 September 2019, so this is not something you would
 5 have had at the time of the Grenfell project, but it's
 6 something that Warringtonfire have now, and it's headed,
 7 we can see, "Understanding the Importance of
 8 a Fire Strategy: The Basis for Design".
 9 Are you familiar with this document?
 10 A. No, I'm not.
 11 Q. Now, I want to look at the sections headed "In reality"
 12 and "The answer?" at the bottom.
 13 So "In reality", it says:
 14 "Particularly following a serious fire with loss of
 15 life and/or severe property damage, the view is often
 16 taken that fire precautions were introduced in a fairly
 17 piecemeal fashion with no common theme or objective,
 18 with issues considered only as they occurred resulting
 19 in inconsistent changes to fire safety. A common area
 20 highlighted following investigations into an incident is
 21 that the management and fire protection systems
 22 installed within a building are often confusing,
 23 unnecessarily complex and fail to provide adequate
 24 protection in the event of a fire."
 25 Do you agree with that?

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1 A. Can I read it again?
 2 Q. Yes, I'm sorry. Read it to yourself.
 3 A. Yes.
 4 (Pause)
 5 I think it's fair to say that buildings historically
 6 have been subjected to a series of different statutory
 7 requirements --
 8 Q. Yes.
 9 A. -- generally introduced following a serious fire. The
 10 Fire Precautions Act was brought in by the Government
 11 following a serious fire in a hotel. All pieces of
 12 legislation that are enacted to do with fire safety are
 13 generally following a fire incident. Even the earliest
 14 London Building Acts were brought in as a result of the
 15 Great Fire of London.
 16 I think where the confusion arises in most people's
 17 minds is that there are too many applicable controls,
 18 and a more simple arrangement for dealing with
 19 fire safety in buildings might be preferable.
 20 This is something that happened during -- when
 21 Michael Heseltine was in charge of the DoE, he wanted to
 22 change the Building Regulations. He had received
 23 complaints about their complexity. So he organised
 24 changes to simplify the guidance, which is why we ended
 25 up with approved documents rather than written

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1 regulations.
 2 But I do agree that, in reality, there are a number
 3 of conflicting areas to do with fire safety which can
 4 have tragic consequences.
 5 Q. I see.
 6 A. Poor management is a particularly good example of that,
 7 or perhaps "good" is the wrong word.
 8 Q. Okay.
 9 This document, as we can see from the next heading,
 10 then provides what it says is, you know, "The answer?"
 11 If we could just read what it says there, it says:
 12 "These issues can often be negated by the
 13 introduction of a plan that considers what the
 14 objectives to comply with fire safety legislation are
 15 and reach a higher standard that fully considers
 16 property protection, the environment and also protects
 17 the developers'/owners' brand. The plan should look at
 18 all the key factors, not just those that are seen as
 19 relevant at that time but also follows a methodology and
 20 considers the present and future needs. This plan is
 21 the main intention of a fire strategy."
 22 Do you see that?
 23 A. I do.
 24 Q. Would you agree with that paragraph, or the sentiment in
 25 that paragraph, about what a fire strategy is seeking to

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1 achieve?

2 A. I think it's important at the introduction of a new
3 development, as distinct from one where we're just --
4 change is being made, that all the interested
5 stakeholders have a say. So, for example, if you are
6 building something like an airport terminal, you will
7 have a meeting of all interested minds, all the
8 stakeholders, so that you have a clear set of objectives
9 as to what is required. Is it just life safety, is it
10 business continuity, et cetera?

11 That doesn't happen in every case. As I said
12 earlier, property protection is not something which is
13 considered by the Building Regulations.

14 Q. Yes. If we read on to the second paragraph here, it
15 says there:

16 "A fire strategy should consider all aspects of fire
17 safety and protection in a unified manner and allow
18 flexibility whilst ensuring that the key objectives have
19 been met. The strategy should ensure that all key
20 features of the building, occupancy and processes have
21 been appropriately and properly covered."

22 Do you see that?

23 A. I do.

24 Q. Again, would you agree that the fire strategy should
25 consider all aspects of fire safety and protection in

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1 a unified manner?

2 A. Yes, it should.

3 Q. And that it should cover all key features of the
4 building?

5 A. Where they're relevant, yes.

6 Q. Yes. Now, I just want to have a look at a different
7 topic now, which is your role on the Grenfell project.

8 SIR MARTIN MOORE-BICK: Ms Grange, we haven't quite been
9 running for an hour, but are you going to a lengthy
10 topic?

11 MS GRANGE: No, this one is quite short, so maybe we will do
12 this topic and then break?

13 SIR MARTIN MOORE-BICK: If that suits you.

14 MS GRANGE: That suits me fine, yes.

15 SIR MARTIN MOORE-BICK: Yes, very well.

16 MS GRANGE: So before we come to look at your specific work
17 on the Grenfell project, I just want to ask you some
18 more general questions about how you saw your role and
19 what you were seeking to achieve on the Grenfell
20 project.

21 Can we look at paragraph 3.4 of your witness
22 statement, your first statement. So that's at
23 {EX000001621/3}. I just want to read the first two
24 sentences in the first three lines of this. So you say
25 there:

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1 "Work on a fire strategy always requires commenting
2 on the regulatory requirements, and often involves
3 advising on the likely attitude of Building Control
4 authorities to particular proposals. Those are areas
5 where I can use my expertise."

6 Do you see that there?

7 A. I do.

8 Q. Now, would it be fair to say that you saw your primary
9 role on the project as advising on the likely attitude
10 of Building Control, given what you say there in your
11 statement?

12 A. No. No, our primary objective was to provide compliance
13 with the Building Regulations.

14 Q. Yes.

15 A. As part of that, we needed to make the design team aware
16 of how a particular Building Control authority might
17 view the proposals. In other words, we think this
18 strategy is acceptable and we can go forward with
19 confidence to present it to the relevant statutory
20 authorities.

21 I must say this: that we would never write
22 a fire strategy that we considered provided
23 an unsatisfactory level of safety.

24 Q. Yes.

25 A. And frequently we are asked -- I say frequently; we had

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1 been asked in the past to justify something which we
2 cannot justify.

3 Q. Yes.

4 A. At the same time, we wouldn't put forward a strategy
5 which we thought had no prospect of being approved by
6 the Building Control authority.

7 Q. Given the particular experience you had had in your
8 career, would you say that it was a particular skill of
9 yours to be able to advise on the likely attitude of
10 Building Control?

11 A. Yes. I mean, I did have a Building Control background
12 for the first half of my career, but also I had
13 negotiated fire strategies on a huge number of projects
14 with various local authorities and fire authorities
15 throughout the country. So I think it's my experience
16 that leads me to say that I can predict what
17 Building Control are going to say about a particular
18 application.

19 Q. Yes.

20 A. That's probably a long-winded way of saying what's said
21 in there in three lines.

22 Q. I understand.

23 Is it right that you had some contacts at RBKC's
24 Building Control office?

25 A. Contacts in what sense, had we dealt with them

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1 previously?
 2 Q. Yes, knew them, come across them, worked alongside them.
 3 Did you have those contacts at RBKC?
 4 A. I knew some of the people that worked at RBKC
 5 Building Control, because they also worked with me in
 6 the Greater London Council.
 7 Q. Who were your contacts at RBKC Building Control?
 8 A. I knew John Hoban and I knew Paul Henson, because they
 9 were both trainee surveyors when I worked for the GLC.
 10 Q. Yes. Anybody else there?
 11 A. What happened when the GLC was abolished, all the people
 12 that were employed in the GLC Building Regulations
 13 division were -- those who wanted to continue working
 14 were shared out amongst the various Building Control
 15 authorities in inner and outer London. So it's
 16 inevitable that I would encounter people that I had
 17 worked with previously.
 18 Q. Did you know anybody else? For example, did you know
 19 Mr John Allen?
 20 A. No, I had never met John Allen until we had the first
 21 meeting with the RBKC.
 22 Q. Just to put this in context, in terms of one of the
 23 reasons I'm asking you about this, if we can go to
 24 a document, {EX000000655}. This is an email exchange
 25 between two of your colleagues, so I'm not suggesting

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1 you saw this at the time, but this is between your
 2 colleagues Andrew Martyn and Cate Cooney on 17 August.
 3 Just to summarise, Cate Cooney had asked
 4 Andrew Martyn whether Exova had any contacts at LABC
 5 Building Control Kensington and Chelsea, that's in the
 6 second email down --
 7 A. Right.
 8 Q. -- at the end of the first paragraph:
 9 "LABC building control Kensington and Chelsea -- do
 10 we have any contacts there?"
 11 Do you see that?
 12 A. I do, yes.
 13 Q. Then Andrew Martyn replies to Ms Cooney in the email at
 14 the top of the page saying:
 15 "I haven't dealt with that area -- Terry's the man
 16 for contacts down there."
 17 Do you see that?
 18 A. I do, yes.
 19 Q. They would have been referring to you, you were the
 20 Terry in that email?
 21 A. Yes, I was.
 22 Q. And it was likely to be because of your contacts at RBKC
 23 Building Control, which you have just explained?
 24 A. Yeah.
 25 Q. Did you also know any persons at RBKCTMO, the Tenant

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1 Management Organisation?
 2 A. No.
 3 Q. Just picking up on the theme about Building Control
 4 experience, in your view, is it common for people who
 5 come to Exova to come from a Building Control
 6 background?
 7 A. It's reasonably common. I mean, Cate Cooney came from
 8 a Building Control background. I came from
 9 a Building Control background. Andrew McCracken came
 10 from a Building Control background.
 11 Q. Yes.
 12 A. It's a fertile recruiting area.
 13 Q. Yes.
 14 A. And it's very good if they also have fire engineering
 15 qualifications, because they can then offer the complete
 16 range.
 17 But I'm getting the sense, this question, that there
 18 is something to be gained by knowing people in
 19 local authority. I would like to say the reverse is
 20 true. If you go to see somebody in a Building Control
 21 authority where you were their boss previously, they're
 22 likely to give you a very hard time. In other words,
 23 they're not prepared to give you any favours because of
 24 the personal connection.
 25 Q. I understand.

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1 Again, on this theme, is there a common perception
 2 that those who have worked in Building Control
 3 departments will know what Building Control look for and
 4 how to persuade them to approve proposals? Do you think
 5 that's a perception in the marketplace?
 6 A. No, I don't think it is.
 7 Q. Do you think that there was a perception within Exova
 8 that the central service performed by the fire
 9 engineering team was to procure Building Control
 10 approval for the client?
 11 A. Well, that is generally what we work for, to get
 12 Building Control approval to fire strategies for
 13 clients.
 14 Q. Yes. Would you accept that you personally were
 15 well known within Exova as the go-to person for getting
 16 Building Control officers to agree with your proposals?
 17 A. No, I wouldn't think that was true at all.
 18 Q. No.
 19 A. As I said earlier, if I was dealing with former
 20 colleagues, they tended to give me a hard time rather
 21 than the other way around.
 22 MS GRANGE: Okay.
 23 Mr Chairman, that completes that topic. I'm going
 24 to come on now to look at Exova's instruction on the
 25 Grenfell project. So I think that would be a good

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1 moment for a break.
 2 SIR MARTIN MOORE-BICK: Yes.
 3 MS GRANGE: How long would you like to take?
 4 SIR MARTIN MOORE-BICK: How long do you think you might
 5 need, any indications?
 6 MS GRANGE: I'm not sure yet. It's a fairly early stage in
 7 my questioning, so I would hope there are not too many
 8 extra questions.
 9 SIR MARTIN MOORE-BICK: If we say 11.45, would that be long
 10 enough?
 11 MS GRANGE: Yes, if that's long enough for Mr Ashton.
 12 THE WITNESS: Oh, yes.
 13 SIR MARTIN MOORE-BICK: Mr Ashton, we're going to have a
 14 break now anyway.
 15 MS GRANGE: I wonder if we should say 11.50.
 16 SIR MARTIN MOORE-BICK: 11.50?
 17 THE WITNESS: 11.50.
 18 SIR MARTIN MOORE-BICK: 11.50. That'll give you time to
 19 have a bit of a break and stretch your legs and so on.
 20 Please don't talk to anyone about your evidence
 21 while you are out of the room, either on this occasion
 22 or on any other, if I forget to remind you, if you just
 23 bear that in mind.
 24 Right, if you would like to leave us now and go with
 25 the usher. Thank you very much.

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1 (Pause)
 2 Right, 11.50, then. Thank you very much.
 3 MS GRANGE: Thank you.
 4 (11.33 am)
 5 (A short break)
 6 (11.50 am)
 7 SIR MARTIN MOORE-BICK: All right, Mr Ashton?
 8 THE WITNESS: Yes, thank you.
 9 SIR MARTIN MOORE-BICK: Ready to carry on? Thank you.
 10 Yes, Ms Grange.
 11 MS GRANGE: Yes, thank you.
 12 So I now want to turn to Exova's appointment to the
 13 Grenfell project.
 14 A. Right.
 15 Q. Can you recall how Exova came to be involved in the
 16 Grenfell Tower refurbishment work?
 17 A. I believe an enquiry came in to my colleague, James Lee.
 18 That was the initial approach, I believe. But I was off
 19 sick for four weeks during July of that year. I'm not
 20 quite sure -- when I came back from sick leave, it was
 21 all going, so to speak. So I believe it was with
 22 James Lee.
 23 Q. Yes. We will look at that email in a moment.
 24 Do you have any understanding how it came about that
 25 Exova was contacted in relation to the Grenfell Tower

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1 project?
 2 A. I think Studio E told us that they had a meeting with
 3 the London Fire Brigade and, as a result of that, they
 4 came to the conclusion that they needed to employ a fire
 5 consultant, because of the problems that the
 6 London Fire Brigade raised.
 7 Q. When did Studio E say that to you, can you remember?
 8 A. Very early days.
 9 Q. Yes.
 10 A. 20 -- almost at the first meeting.
 11 Q. Do you know when that meeting with the
 12 London Fire Brigade had happened?
 13 A. It had taken place some months previously, I believe.
 14 Q. Yes.
 15 So let's go to the email I think you were
 16 describing, so this is {EXO00000468}. This is an email
 17 dated 10 April 2012 from Markus Kiefer of Studio E to,
 18 as you say, your colleague James Lee --
 19 A. Right.
 20 Q. -- and to you. You can see there you're on the email
 21 list as well.
 22 A. Yes, indeed, yeah.
 23 Q. You can see from the email, "James, please find attached
 24 our sketch drawing" and various drawings and sketches
 25 are then described. Then it says:

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1 "We would like to ask you to provide us with your
 2 initial assessment regarding fire escape strategies for
 3 the above layout proposals.
 4 "If you have further queries or liked to discuss the
 5 above do not hesitate to contact us."
 6 Do you see that there?
 7 A. I do, yes.
 8 Q. Was this the first time that you had been contacted
 9 about the Grenfell project?
 10 A. I believe it was.
 11 Q. Can we just look at your witness statement. This is
 12 your first witness statement, so this is
 13 {EXO00001621/4}, and we are looking at paragraph 3.12.
 14 You say there at (A):
 15 "My understanding from discussions with Studio E
 16 around this time was that:
 17 "(A) KCTMO, the Tenant Management Organisation
 18 responsible for the building, had asked them to put
 19 together a proposal for the upgrade and refurbishment of
 20 the building in preparation for a planning
 21 submission ..."
 22 Do you see that?
 23 A. I do.
 24 Q. Yes. Then:
 25 "(B) Studio E had had a preliminary meeting with the

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1 London Fire Brigade, in early 2012 at which it had been
 2 decided that a fire consultant was required to assist
 3 with the refurbishment.”
 4 So that’s referring to the meeting you were just
 5 describing; is that correct?
 6 A. Yeah.
 7 Q. Now, you have referred there in the very first part of
 8 that paragraph:
 9 “My understanding from discussions with
 10 Studio E ...”
 11 Just with reference to those discussions, can you
 12 recall what Studio E told you regarding the proposals
 13 for the upgrade and refurbishment at that stage?
 14 A. My memory was that it was just refurbishment of the
 15 lower -- lowest four floors in the building.
 16 Q. Yes. So can you recall whether overcladding of the
 17 tower was mentioned at that time when you were having
 18 those initial discussions?
 19 A. I think I saw -- not verbally, but I think I saw
 20 a document where they -- the scope of works that they
 21 had identified included overcladding. That may have
 22 come slightly later.
 23 Q. Okay.
 24 We will come to some more emails in which the scope
 25 of works is outlined in a moment.

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1 Before we do that, can we go to Mr Veitch’s
 2 Met Police statement. This is at {MET00065128}. So
 3 I referred to this earlier. There is a witness
 4 statement provided to the police by Mr Veitch, one of
 5 your colleagues at Exova. That is correct, isn’t it?
 6 Now, can you confirm who Mr Veitch is in Exova?
 7 A. He is the head of the division.
 8 Q. Head of the fire engineering division?
 9 A. And materials group.
 10 Q. Yes.
 11 A. So he is one of the most important people.
 12 Q. Can we look at the second paragraph on that page.
 13 A. Yes.
 14 Q. He says there:
 15 “I had previously been asked if we had worked with
 16 Studio E before and at the time I was unable to provide
 17 details of this. I have searched our records and can
 18 confirm that we worked on two projects with them prior
 19 to Grenfell. These were in 2009 on the Berger Primary
 20 School and in 2012-2013 on the Kensington Academy and
 21 Leisure Centre.”
 22 Do you see that there?
 23 A. Yeah, I do.
 24 Q. Just focusing for a moment on the Berger Primary School
 25 project, was that a project that you were involved with?

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1 A. I don’t believe so.
 2 Q. Had you previously worked with Studio E prior to the
 3 Grenfell Tower project?
 4 A. If I had, I don’t remember, if I’m honest. Certainly
 5 the Berger Primary School doesn’t ring any bells with
 6 me.
 7 Q. What about the KALC project that he refers to there, had
 8 you worked on the --
 9 A. I don’t believe I had, I think that was Tony Pearson.
 10 I may have had a peripheral involvement, you know,
 11 somebody may have asked me what did I think of a certain
 12 aspect of it, but I wasn’t working on the project at all
 13 regularly.
 14 Q. We might come back to that point in a moment, because
 15 I have a feeling Mr Lee might say that you did work on
 16 the KALC project, but let’s find the reference and we’ll
 17 come back to that.
 18 So your memory is that you hadn’t worked with
 19 Studio E prior to the Grenfell project?
 20 A. That’s my memory, yes.
 21 Q. I now want to ask you some questions about some emails
 22 exchanged between you and Mr Sounes of Studio E in
 23 April 2012, so this is at quite an early stage.
 24 Can we go to {SEA00000014}, and I want to start by
 25 looking at the email at the very bottom of that page

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1 that goes on into page 2 {SEA00000014/2}. So we see
 2 there it’s dated 24 April 2012, from Bruce Sounes to
 3 you, copying in James Lee and others at Studio E. He
 4 says:
 5 “Dear Terry”, and then if we can go over, I just
 6 want to read this email:
 7 “As per our previous correspondence we require you
 8 to agree the back-to-back terms forwarded at the end of
 9 March, as per attached. RBKC will not accept any
 10 contract amendments and the £10m PI is non-negotiable;
 11 it is completely unreasonable to expect Studio E as lead
 12 consultant to cover the £5m difference in liability for
 13 fire design.
 14 “We have thus far had no commitment in writing from
 15 you to a fire strategy on either the KALC leisure
 16 centre, Academy, Residential development or the Grenfell
 17 Tower upgrade. We have had no concrete input by way of
 18 drawing markups or draft reports to support the
 19 developing designs. This is becoming critical for us
 20 with three weeks to go before we submit the Stage D
 21 Report for KALC, with much of the work undertaken so far
 22 by the whole team relying on the fire safety advice
 23 we’ve received at meetings. We fear that the designs
 24 have not had adequate scrutiny and that we are at
 25 considerable risk at this late stage of late changes,

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1 abortive work and possible cost implications to the
2 project.
3 "If you are unable to reassure us that you are
4 committed to the two projects by the end of this week -
5 both agreeing contract terms and providing detailed
6 advice - we will regard this as a renunciation of the
7 commission and be forced to look elsewhere for fire
8 safety advice."

9 Do you see that?

10 A. I do, yes.

11 Q. Do you remember receiving that email from Mr Sounes?

12 A. Yes. I think, to give it a bit of background, there was
13 some discussion or disagreement about our contract. The
14 contract wouldn't have been handled by me, it would have
15 been handled by the general manager of the office, and
16 frequently we had the discussions or disagreements about
17 PI insurance and things like that.

18 I think my involvement with the academy was maybe
19 reviewing work that James Lee had done on it initially.
20 I mean, when James Lee left, I think Tony Pearson took
21 over the project, but I wasn't aware of going and
22 dealing with him on a day-to-day basis.

23 Q. I see.

24 So, yes, just drilling down into this, and you were
25 just mentioning it, looking at that first paragraph, we

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1 can see that Mr Sounes was asking you to accept
2 back-to-back the terms that they had agreed with the
3 TMO, which included £10 million in PI. Did you
4 understand that to mean professional indemnity
5 insurance?

6 A. Yes, it was.

7 Q. He says there:

8 "... PI [professional indemnity] is non-negotiable;
9 it is completely unreasonable to expect Studio E as lead
10 consultant to cover the £5m difference in liability for
11 fire design."

12 Just asking you a bit more about that, had you had
13 a discussion with Mr Sounes about responsibility for
14 professional indemnity insurance for the fire design?

15 A. I may have had a telephone conversation with him, yes.
16 I mean, we were not prepared -- if my memory serves me
17 correctly, we were not prepared to take out large PI
18 cover on projects. I think our cover was £5 million,
19 and I do remember that RBKC said, "No, that's not good
20 enough, £10 million is non-negotiable".

21 Quite why Bruce Sounes thought that we were asking
22 them to cover the £5 million difference, I don't know.

23 Q. I see.

24 A. I don't think -- I agree with him, it would not be
25 reasonable for an architectural practice to make up the

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1 difference.

2 Q. No. I mean, it appears from this that Exova was
3 initially unwilling to accept this responsibility, as
4 you have just described. Can you explain why that was?
5 Was it just because your standard cover was £5 million,
6 or was there another reason why?

7 A. No, I think it was purely that.

8 Q. Then Mr Sounes goes on to say, in the second and third
9 paragraphs, that if Exova cannot reassure them about its
10 commitment to the KALC and Grenfell projects by the end
11 of that week by agreeing contract terms and providing
12 detailed advice, then he would assume you intended to
13 renunciate the commission. We saw that, didn't we?

14 A. We did.

15 Q. Now, at this point, in April 2012, do you agree that
16 Exova was unwilling or unable to commit to the two
17 projects?

18 A. I can't remember, if I'm honest. I mean, I think that
19 we did actually work on both the projects, so we must
20 have resolved this in some way.

21 Q. Yes.

22 A. I mean, I have to say that, historically, contract
23 disputes do -- have tended to hold things up.

24 Q. I understand that about the contract dispute, but he is
25 also talking about providing detailed advice. You see

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1 that in the last paragraph:

2 "If you are unable to reassure us that you are
3 committed ... both agreeing contract terms and providing
4 detailed advice ..."

5 Do you know why it was that Exova hadn't provided
6 detailed advice on --

7 A. It may simply have been that we weren't prepared to
8 start work on the project until the contractual issues
9 had been resolved.

10 Q. So do you think he might be correct here where he is
11 saying that the only advice they had received on the
12 KALC project at that point was in meetings?

13 A. Yeah. I mean, we would normally go to a design team
14 meeting to discuss a project in advance of either having
15 had a fee proposal accepted or having resolved
16 contractual agreements. Otherwise, you know, people
17 would say, "If you are not interested to come to us for
18 an initial discussion, then we will go elsewhere".

19 Q. Yes.

20 I mean, do you agree with me that the terms of
21 Mr Sounes' email make clear that Studio E were
22 considering at the time that Exova had provided
23 inadequate scrutiny in respect of the KALC designs?

24 A. Yes, I don't think you can mistake that for anything
25 else. That's -- they were firmly of that view.

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1 Q. Was that a fair comment for them to make at that stage?
 2 A. It may well have been.
 3 Q. Do you know any more than what we see here about the
 4 nature of Studio E's complaint about Exova's
 5 performance?
 6 A. No, I'm afraid I don't.
 7 Q. So in Mr Lee's statement, he said at paragraph 3.2 of
 8 his statement {EXO00001740/2} that:
 9 "I expect that this email was sent to me and Terry
 10 [that was the original email we just looked at
 11 on 10 April 2012] as we were both already working with
 12 Studio E on the Kensington Academy and Leisure Centre
 13 project, for which I was the lead consultant."
 14 So Mr Lee seems to recall that you both did work on
 15 the KALC project.
 16 A. Only insofar as I gave Mr Lee advice. I'm not aware of
 17 attending a meeting with Studio E to discuss KALC.
 18 Q. Yes.
 19 Do you recall what kind of advice you were assisting
 20 Mr Lee with on the KALC project?
 21 A. Not specifically. I mean, bear in mind that Mr Lee was
 22 relatively junior, and he may have wanted some
 23 reassurance on some aspect of the design.
 24 Q. Yes.
 25 Were you aware of receiving any other complaints

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1 regarding Exova's performance in relation to the KALC
 2 project?
 3 A. No.
 4 Q. Was resourcing an issue within Exova at this time?
 5 A. Resourcing was always an issue. We didn't get to the
 6 point where we were taking on more work than we could
 7 actually deal with, but, you know, if you are working on
 8 multiple projects, as we all were, there's always
 9 a difficulty when people want something yesterday and
 10 they can't get it until tomorrow.
 11 Q. Thinking back to the period that we're going to look at
 12 in a moment, so this is kind of the spring of 2012 and
 13 then going forward in 2012 and then into 2013, do you
 14 recall that being a particularly bad time in terms of
 15 resourcing, or was it the same as it always was?
 16 A. We've always been very busy, all of us. That may be
 17 because we're a victim of our own success or whatever,
 18 but we've always had a lot of clients and a lot of
 19 projects. I don't recall this period of time as being
 20 particularly busy or difficult. We were always having
 21 to deal with lots of queries.
 22 Q. Yes.
 23 Just going back to the terms of Mr Sounes' email, do
 24 you agree that it was clear from the terms of his email
 25 that Studio E were expecting Exova to commit themselves

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1 to providing detailed advice going forward in respect of
 2 both projects?
 3 A. Yes.
 4 Q. Can you recall how you managed to reassure Mr Sounes
 5 about Exova's commitment at this point? I mean, as you
 6 have said, you did in fact go on to work on the Grenfell
 7 project. What gave him --
 8 A. I think we must have had -- I must have had a telephone
 9 conversation with him saying, "Yes, we are committed
 10 and, yes, we will give you detailed help", but we don't
 11 record telephone conversations.
 12 Q. Do you have any memory of that telephone call with
 13 Mr Sounes?
 14 A. No, I'm afraid I don't.
 15 Q. What steps did you take, having received this email, to
 16 make sure that Exova did commit properly to the
 17 Grenfell Tower project?
 18 A. Well, I think we both started working on the project.
 19 Both James Lee and myself.
 20 Q. Yes.
 21 A. I'm not sure that the contractual issue was necessarily
 22 resolved at that stage but, notwithstanding that,
 23 I think we agreed that we could start work on the
 24 project.
 25 Q. Yes.

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1 Now, we can see from this email string, if we scroll
 2 up to page 1 {SEA00000014/1}, that your response to this
 3 email was to refer Mr Sounes to your general manager,
 4 David Harries. Do you see that there?
 5 A. Yeah.
 6 Q. Did you have any further involvement in this particular
 7 exchange or episode about PI insurance or commitment?
 8 A. I don't believe -- as I said earlier, contractual issues
 9 were dealt with by the general manager.
 10 Q. Yes.
 11 Let's turn on, then, to look at the fee proposal for
 12 the primary refurbishment on the Grenfell project.
 13 A. Okay.
 14 Q. So having been approached about the project in
 15 April 2012, you prepared a fee proposal for Exova's work
 16 on the primary refurbishment in May 2012; is that right?
 17 A. Yes, it was.
 18 Q. Can we look at that, so if we go to {EXO00000474}.
 19 Sorry, this is not a fee proposal, this is an email
 20 shortly before that. It's an email dated 3 May that you
 21 receive from Mr Sounes, copying in James Lee. Do you
 22 see that from the top?
 23 A. Yes, I do.
 24 Q. It's to request a fee proposal, and he says:
 25 "Dear All

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1 "The application for funding for the Grenfell tower
 2 upgrade goes before cabinet this evening, with every
 3 likelihood the £6m asked for will be agreed.
 4 "I anticipate Mark Anderson from the TMO, our
 5 client, to quickly follow up with confirmation as to the
 6 scope of the project but the principles are probably
 7 going to be based on the attached sketch ..."
 8 Then a number of numbered points appear there. He
 9 says at the end:
 10 "Please could I have your fee proposal for this,
 11 based on the above and the attached information?
 12 "Please break this down into the Stages C, D, E, F
 13 and beyond (if required) and give a summary of what you
 14 will be doing at each stage?"
 15 Do you see that?
 16 A. I do.
 17 Q. Now, taking this in stages, so we have seen this is
 18 an email to you, and he's explaining in that second
 19 paragraph what he describes as the principles on which
 20 the refurbishment was probably going to be based, is
 21 what he says. Do you see that?
 22 A. Yes, I do.
 23 Q. We can see what it included. So we can see number 1:
 24 "1. New flats on vacant Office level ...
 25 "2. Removed stair and infill to SE corner to

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1 tower ...
 2 "3. Enclosure to external areas at deck level to
 3 create new accommodation, possibly housing.
 4 "4. Overcladding.
 5 "5. New boilers to all flats .
 6 "6. Reconfigured entrance/circulation areas to
 7 tower."
 8 Is it right that, at this early stage, you knew that
 9 the refurbishment would involve overcladding, item 4?
 10 A. Yes. Yes, I think that's reasonable.
 11 Q. It's right, isn't it, that any such overcladding would
 12 affect the entire building, wouldn't it?
 13 A. Oh, yes.
 14 Q. We can also see that the proposal at 5 involved new
 15 boilers to all flats . Do you see that?
 16 A. I do.
 17 Q. Again, that would affect the building as a whole,
 18 wouldn't it, and not just the lower floors?
 19 A. Yes, but it wouldn't have been a concern to us, new
 20 boilers to flats ; that would be an engineering item,
 21 a building services item.
 22 Q. We'll come back to this later, but just to pick you up
 23 on that, what about potential breaches of
 24 compartmentation if you are putting in new pipework and
 25 infrastructure to deliver new boilers to all flats? Is

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1 that not potentially something that you would need to
 2 consider?
 3 A. Well, I mean, I'm assuming -- maybe you shouldn't
 4 assume -- that new boilers meant balanced flue boilers
 5 which would be on the exterior of the building.
 6 Q. I see, so you thought the new boilers --
 7 A. What I'm saying was I didn't take too much notice of it
 8 because it wasn't a fire critical item.
 9 Q. Okay.
 10 Just to be clear, did you understand that your scope
 11 of work would have been in relation to each of these six
 12 items? Mr Sounes says at the end of those items:
 13 "Please could I have your fee proposal for this ..."
 14 Do you see that?
 15 A. Yeah, I think our fee proposal would have covered item 5
 16 had there been an issue on the flats to discuss.
 17 Q. Yes.
 18 Can we turn to paragraph 3.7 of your witness
 19 statement, {EXO00001621/3}. It starts at the bottom of
 20 that page, and if we just read that together, it states
 21 that:
 22 "The requirements of Schedule 1 of Part B which are
 23 relevant to a fire strategy vary depending on the nature
 24 of the work being done. In the case of Grenfell, the
 25 proposal involved the bottom four floors having some

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1 degree of 'change of use' (including residential
 2 accommodation on one level). This meant that our fire
 3 strategy advice focussed predominantly on the bottom
 4 four floors ."
 5 Do you see that?
 6 A. Yes, I do.
 7 Q. Just to look at that and be more specific: it's right,
 8 isn't it, though, that the proposal didn't only involve
 9 a change of use to the bottom four floors, did it?
 10 A. No.
 11 Q. As we've seen, the proposal was to establish
 12 overcladding and that would affect every storey of the
 13 building, wouldn't it?
 14 A. That's why we use the word "predominantly". In other
 15 words, it wasn't exclusively based on the lowest four
 16 floors, but it was predominantly based on that.
 17 In terms of input, I would have expected the work on
 18 the refurbishment of the lowest four floors to take much
 19 more time than consideration of overcladding.
 20 Q. But do you agree with me that there was nothing in
 21 Mr Sounes' email of 3 May which suggested that the
 22 fee proposal or the work to be carried out by Exova was
 23 to be limited only to the works concerning the bottom
 24 four floors?
 25 A. No, no. I agree, it doesn't say that.

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1 Q. Let's go back to the email of 3 May now. That was at
2 {EXO00000474}. We can see in those last four lines --
3 we just read them -- that Bruce Sounes requests
4 a fee proposal and asks that you break it down into the
5 stages C, D, E, F, et cetera. He is referring there to
6 the RIBA stages, isn't he?
7 A. He is indeed.
8 Q. So it's right, then, that you knew that you had to break
9 down the work into the RIBA stages; is that correct?
10 A. Broadly, yes.
11 Q. He also says there -- so he has got stages C, D, E, but
12 he also talks about "F and beyond (if required)"; do you
13 see that?
14 A. Yes.
15 Q. Again, did you understand that he was asking you to
16 advise on whether work would be required at stage F and
17 beyond in any proposal?
18 A. It was my understanding that we would -- well, we might
19 be asked to work beyond stage E.
20 Q. Yes.
21 A. But I think -- maybe I'm getting ahead of myself, but if
22 you look at our fee proposal, we couldn't quantify the
23 amount of work that was necessary at F and beyond and so
24 we said it would be done on an hourly rate.
25 Q. Yes, we will look at that.

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1 A. Okay.
2 Q. He also says there, just the very final lines, that you
3 were to give a summary of what you will be doing at each
4 stage; do you see that?
5 A. Yes, indeed.
6 Q. Yes.
7 Now, let's turn to the fee proposal itself, that's
8 at {TMO10003885}.
9 Now, are you familiar with this document? Have you
10 had a chance to read it?
11 A. I've looked at it, yes.
12 Q. So we can see from the first page it's dated 9 May, and
13 it's addressed at the top to Mr Sounes at Studio E.
14 If we look at page 5 {TMO10003885/5} of this
15 proposal at the bottom of the page, we can see that you
16 were the author of this proposal. Is that correct?
17 A. I was, yes.
18 Q. And it was reviewed by Mr Seán McEleney.
19 Now, he is described there as a graduate engineer.
20 Is that correct?
21 A. He was a graduate engineer, yes, at the time he reviewed
22 this fee proposal.
23 Q. We will come back to look at his seniority later, but he
24 was junior to you, wasn't he?
25 A. Yes, he was.

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1 Q. So looking at the substance of the proposal, if we go
2 back to page 2 {TMO10003885/2} this begins with
3 a proposed scope of work.
4 Now, you say in the very first paragraph:
5 "The planned fire safety work would be undertaken
6 using the relevant design codes and will facilitate the
7 progression of the design from RIBA Stage C to
8 RIBA Stage F."
9 Then in the second paragraph it states that:
10 "The aim of the fire safety work would be to ensure
11 a high standard of fire and life safety for the
12 occupants of the building whilst highlighting any areas
13 of the building's design that may represent an approvals
14 risk. Additionally, we will recommend ways to resolve
15 these issues, to ensure that the fire and life safety
16 objectives are achieved in the most cost-effective way
17 possible and make sure that the fire strategy does not
18 compromise the architectural concept for the design."
19 Do you see that there?
20 A. Yes, I do.
21 Q. Now, there we can see towards the end you have talked
22 about the aim of the fire safety work would be to ensure
23 a high standard of fire and life safety, so it's
24 important to note that at the beginning of that
25 paragraph; yes?

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1 A. Right.
2 Q. Then towards the end of that paragraph, the
3 second-to-last line, it's talking about the most
4 cost-effective way possible.
5 Can you just explain to what extent was
6 cost-effectiveness a central consideration in terms of
7 what you were proposing to do?
8 A. It's not central. Perhaps I should explain that we have
9 a suite of templates which enable us to produce these
10 documents more rapidly than would otherwise be the case.
11 If we had to do a bespoke fire safety strategy -- sorry,
12 fee proposal for a fire strategy every time, it would be
13 very time-consuming and would not be commercially
14 acceptable. So the reason we've done this is to speed
15 things up.
16 Q. Yes.
17 A. So what you're seeing there is standard wording that
18 applies to pretty much every single fee proposal that we
19 sent out.
20 Q. I see. So would that cost-effective mention there apply
21 whether it was a local authority project, a project for
22 a TMO, like it was here, or a private building?
23 A. It would apply across the board. I mean, what we're
24 trying to say to the client, in this case, if it -- is
25 that we don't want you to waste money, we will help you

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1 to save money if it's appropriate to do so.
 2 Q. I see.
 3 A. But it isn't the primary focus of our work.
 4 Q. When you say you had a suite of templates that you could
 5 choose from, to what extent was it your usual practice
 6 to spend a bit of time checking that the template was
 7 appropriate for the project you were proposing for?
 8 A. We would only -- we wouldn't check the wording of the
 9 fee proposal from start to finish, we would just insert
 10 the things that we thought were necessary to accomplish
 11 the task we were being asked to quote for. So it would
 12 be the scope of work that we identify in the
 13 fee proposal. The introduction wouldn't change for any
 14 job.
 15 Q. I see. But here, what about -- I mean, it talks about
 16 RIBA stage C to stage F, which is what Mr Sounes had
 17 been referring to in his email.
 18 A. Yeah.
 19 Q. Would they be tailored to the particular proposal or
 20 could that vary?
 21 A. If we look at what work we're suggesting under RIBA
 22 stage C, the first paragraph and the second paragraph
 23 would be the same for every job. Where the detail
 24 changes is in the number of design team meetings that we
 25 anticipate would be necessary, discussions, the number

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1 of meetings that we would need to have with
 2 Building Control or the fire service to establish that
 3 we're on the right lines. Creation of an outline
 4 fire strategy document would be standard, and so would
 5 the last paragraph.
 6 So in relation to how much this template would have
 7 been changed for this particular part of the
 8 fee proposal, I would suggest it's probably just two
 9 paragraphs.
 10 Q. I see. Let's look at what you say at RIBA stage C.
 11 A. Yeah.
 12 Q. It's clearly stated there in the first paragraph that
 13 the work at stage C would provide -- this is the second
 14 sentence -- "a 'level of confidence' with regards to the
 15 fire safety design and ... approvals risks"; do you see
 16 that?
 17 A. Yes, indeed.
 18 Q. I think what you have just said is that's standard
 19 wording.
 20 A. It is standard wording, yes.
 21 Q. And it would "focus on issues that would either have an
 22 effect on a future application under The Building
 23 Regulations ... or would have a significant cost
 24 impact"; is that correct?
 25 A. That's correct.

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1 Q. Then we can see from the second short paragraph that
 2 work will include the production of a preliminary
 3 fire strategy report which would summarise the main fire
 4 issues on the project; do you see that?
 5 A. Yes, I do.
 6 Q. Then in the bullets we see what it involves. So, again,
 7 you have said, I think, some of these are standard
 8 items; is that correct?
 9 A. Most of them are.
 10 Q. Yes. Are there any in that bullet point list that
 11 weren't standard items?
 12 A. The only thing that changed in those bullets is the
 13 amount of time we've allocated to meetings. In other
 14 words, we would do that at stage C for any project. The
 15 variable would be the number of meetings that we needed
 16 to have in order to give them a level of confidence.
 17 Q. I see. But would that go into the fee section of this
 18 scope of work, or would you sometimes have a number of
 19 design team meetings here that you would attend?
 20 Because no number is given here.
 21 A. It says it includes for attendance at up to two
 22 meetings.
 23 Q. Oh, I'm so sorry, you're right.
 24 A. At that stage, you're using a very broad brush.
 25 Q. I see.

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1 A. So you only need to have a couple of meetings with the
 2 design team to establish the way forward.
 3 Q. I see.
 4 The third bullet talks about production of
 5 an outline fire safety strategy document to assist early
 6 design development; do you see that?
 7 A. Yes.
 8 Q. Then the fourth bullet:
 9 "Provision of an updated revision of the outline
 10 fire safety strategy report to reflect any agreed
 11 changes to the strategy ..."
 12 So is it right that you produce a preliminary
 13 report, it's an outline, and then within stage C you're
 14 envisaging developing that in accordance --
 15 A. No, it would be developed in stage C -- in stage D.
 16 When we say "early design development", it's quite
 17 possible at stage C that the design might change.
 18 Q. Yes.
 19 A. So we need to cover ourselves for that. If they give us
 20 a set of drawings and say, "Well, this is our concept
 21 design" and we produce an outline fire strategy for
 22 that, and then they come back and say, "Oh, we've
 23 decided we're not going to do this and here is another
 24 set of drawings", we have to take that into account.
 25 Q. I see. So it's really addressing changes that come in

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1 at that stage?
 2 A. Indeed. And, you know, I'll give you an example, if we
 3 went and had an initial meeting with a Building Control
 4 authority and the representative of that
 5 Building Control authority said, "Your strategy is
 6 unacceptable, we want another staircase" or something
 7 like that, then that would be changed at that stage --
 8 Q. Yes.
 9 A. -- if we weren't able to persuade them otherwise.
 10 Q. Yes.
 11 Now, we know that RIBA stage C is the stage for
 12 concept design. Can we go back now and just look at the
 13 Fire Industry Association guidance note that we looked
 14 at before. That's at {INQ00011219/4}. If we go within
 15 page 4 to the sentence before the bullets in the middle
 16 of the page. So we looked at this before, it was:
 17 "The primary aspects of responsibility for the fire
 18 engineer are as follows.
 19 •" Identify the fire safety design objectives for
 20 the project such as, but not limited to, identification
 21 of relevant statutory controls, confirmation of any
 22 client fire safety requirements, confirmation of any
 23 insurance requirements."
 24 Just concentrating on the identification of the
 25 relevant statutory controls, if we go back to your

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1 fee proposal -- that's {TMO10003885/2} -- was it part of
 2 the scope of work you were envisaging at RIBA stage C
 3 that you would identify the relevant statutory controls
 4 in that preliminary fire strategy?
 5 A. Yes, probably.
 6 Q. "Yes, probably", can you --
 7 A. Well, I mean, if we were just saying, "This is what you
 8 need to do to make a start on it", then we might not
 9 say, "The building is subject to the Building
 10 Regulations, the section 20, and when occupied it will
 11 be subject to the Regulatory Reform Order"; it might
 12 just simply be a series of bullet points saying what
 13 needs to be done to progress the design.
 14 Q. I see. But would you accept that identification of the
 15 relevant statutory controls was of primary importance in
 16 terms of ensuring a high standard of fire and life
 17 safety?
 18 A. Absolutely.
 19 Q. Now, looking at the third sentence under this stage C
 20 section in the first paragraph, you have got there:
 21 "... issues that would either have an effect on a
 22 future application under The Building Regulations ... or
 23 would have a significant cost impact."
 24 There is no express mention here of life safety.
 25 Now, I accept it's mentioned in the proposed scope of

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1 work at the top of this page, but is there a reason why
 2 you haven't mentioned life safety again in this stage C
 3 section?
 4 A. Well, I think the application under the Building
 5 Regulations 2010 would have to include life safety, so
 6 we don't repeat it.
 7 Q. I see. It is implicit within the Building Regulations
 8 reference?
 9 A. Absolutely.
 10 Q. Going back again to page 6 {INQ00011219/6} -- I am
 11 afraid we're going to do this a little bit, jump between
 12 the guidance and the proposal -- of the Fire Industry
 13 Association guidance note, it states there, at the very
 14 first paragraph under RIBA stage 2, that's previously
 15 stage C:
 16 "On an agreed drawing issue carry out a compliance
 17 check and identify any aspects of the design where
 18 changes would be required, or fire engineering analyses
 19 are needed."
 20 Do you see that?
 21 A. Yes.
 22 Q. Now, looking back at your proposal for stage C, back to
 23 {TMO10003885/2}, where is it identified that such
 24 a compliance check will be necessary and will be carried
 25 out?

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1 A. It doesn't actually say that. Maybe it should. But
 2 I mean, in order to develop an outline fire safety
 3 strategy you need to be able to look at the building --
 4 the outline of the building, the plans of the building,
 5 so maybe it's assumed that -- you can't do the job
 6 without that.
 7 Q. Just to be clear, your understanding was that at stage C
 8 you would be carrying out a compliance check based on
 9 the available drawings?
 10 A. Yes, I would expect that, and we did.
 11 Q. Yes.
 12 Then if we look at RIBA stages D and E, they're
 13 dealt with together in this fee proposal. If we look at
 14 the next section down on this, and it starts on page 2
 15 and over into page 3 {TMO10003885/3}.
 16 A. Right.
 17 Q. If we can start by looking at the first paragraph, it
 18 says that the work at stages D and E would involve:
 19 "Work undertaken during RIBA Stage C would be
 20 further developed during the approvals stage of the
 21 project where the work would ultimately involve the
 22 creation of a detailed fire strategy for the proposed
 23 development which will be written in line with the
 24 requirements of The Building Regulations 2010."
 25 Do you see that?

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1 A. Yes, I do.
 2 Q. Just look at something else and then I'm going to ask
 3 you a question about this.
 4 At paragraph 2, it then says:
 5 "The fire safety design would be documented in a
 6 fire strategy report. This document would ultimately be
 7 submitted to the building control authority in order to
 8 achieve regulatory approval."
 9 Do you see that?
 10 A. Yes, I do.
 11 Q. So is it right that it was clearly envisaged that the
 12 document that you would produce at stage D/E would be
 13 submitted to Building Control to get their approval on
 14 the project?
 15 A. Yes, it would.
 16 Q. Then in the third paragraph it states that:
 17 "The fire safety strategy would be developed to
 18 comply with the relevant statutory requirements, which
 19 would primarily be The Building Regulations ... the
 20 Regulatory Reform (Fire Safety) Order 2005 and the
 21 London Building Acts (Amendment) Act 1939 and would also
 22 utilise relevant standards and fire safety guidance
 23 documents."
 24 Do you see that?
 25 A. Yes, I do.

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1 Q. Then what you have done there is say:
 2 "The fire safety strategy for the building will
 3 consider the following items ..."
 4 And you have listed out items there under bullet
 5 points.
 6 Was that all standard wording --
 7 A. Yes, it was.
 8 Q. -- taken from the template?
 9 A. Yes, it was standard wording.
 10 Q. We can see there that the fourth bullet has:
 11 "Determination of any external fire spread issues
 12 that there may be and the impact this may have on the
 13 architectural design."
 14 Did you specifically focus on that when you were
 15 preparing this fee proposal? Did you think to yourself:
 16 well, I know there is going to be overcladding because
 17 I have been told that, and therefore determination of
 18 any external fire spread issues needs to go into this
 19 proposal?
 20 A. No, I didn't specifically concentrate on that. As you
 21 have identified yourself, it's standard wording, or at
 22 least I've confirmed to you it's standard wording, so
 23 that goes into every fee proposal that we do.
 24 Q. But was that in your mind at this stage? Were you
 25 thinking to yourself: well, I know we're going to have

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1 to look at that because I've been told there's an
 2 overcladding proposal?
 3 A. I can't honestly say that I focused on the cladding at
 4 that stage, no.
 5 Q. Then the next bullet is:
 6 "Recommendations of compartmentation and structural
 7 fire protection standards ..."
 8 Do you see that?
 9 A. Yes, I do.
 10 Q. Again, that was standard wording, was it?
 11 A. It was, yes.
 12 Q. Then over on to page 3 {TMO10003885/3}, the first bullet
 13 in the second list, you have explained what the scope of
 14 work would involve, and that includes attending relevant
 15 design team meetings and providing appropriate
 16 fire safety guidance to other members of the design team
 17 to assist the development; do you see that?
 18 A. Yes, I do.
 19 Q. It's right, isn't it, that RIBA stage D is the design
 20 development stage, and stage E is the technical design
 21 stage; is that correct?
 22 A. You're correct in what you say, but they frequently
 23 merge from our perspective.
 24 Q. Right, yes.
 25 A. When a design team produces a design, it produces

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1 a stage D report, a stage E report, a stage F report and
 2 so on, but we don't necessarily follow that rigidly.
 3 So, for example, if we produce a fire strategy document
 4 for stage D, and we don't make any changes to it at
 5 stage E, then it remains the same document.
 6 Q. I see. Does that explain why you have conflated D and E
 7 in this proposal?
 8 A. Probably, yes.
 9 Q. Yes.
 10 A. They frequently merge in that way.
 11 Q. Yes.
 12 Now, just going back to the beginning of this
 13 section that we have just looked at, going back one page
 14 {TMO10003885/2}, and looking at the bottom of the page
 15 at stage D/E, it clearly envisaged a detailed
 16 fire strategy for the refurbishment at this stage,
 17 didn't it? That's in the second line --
 18 A. Yes.
 19 Q. -- of that first paragraph.
 20 A. Yeah.
 21 Q. Now, when you were writing that part of the proposal --
 22 I mean, it sounds like that would be standard wording,
 23 so you wouldn't have sat there and written it out?
 24 A. Yes, it was standard wording.
 25 Q. But when you were putting this Grenfell proposal

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1 together, what did you envisage a detailed fire strategy
2 would include?
3 A. One that dealt with all of the functional requirements
4 from B1 to B5.
5 Q. Does it follow from that that a preliminary
6 fire strategy that you had committed to providing at
7 stage C might not include all of B1 to B5?
8 A. No, it would have -- not necessarily. It might just
9 deal with the issues that had arisen during stage C.
10 Q. Yes.
11 A. It doesn't always do that. I mean, frequently people
12 haven't committed to a particular aspect of a design and
13 so there's nothing you can say about it. But, yes,
14 ordinarily you would consider RIBA stages -- sorry, not
15 RIBA stages -- B1 to B5 of the Building Regulations.
16 Q. Yes.
17 A. Because they all have an impact on the design, some more
18 than others.
19 Q. Yes.
20 A. For example, if you're looking at external fire spread
21 in relation to distance to other buildings, that's
22 something that needs to be identified at stage C,
23 because if you're building your building too close to
24 the boundary, you need to identify --
25 Q. Space separation; is that right?

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1 A. Space separation.
2 Q. Under section 13 of ADB.
3 A. Yeah.
4 Q. We will come and look at that, actually.
5 A. Okay.
6 Q. Looking back to this, and at the time you were working
7 on this proposal, how different was the detailed
8 fire strategy going to be, in your mind, to the
9 preliminary fire strategy report?
10 A. Well, the preliminary report was very -- I don't like to
11 use the word "sketchy", but it was a series of headings
12 in our design note as to what needed to be considered.
13 Subsequent issues of that report were more detailed.
14 Q. I appreciate that's what happened in practice, but when
15 you were at the outset of your work and you were looking
16 forward, how different would the detailed strategy be to
17 the preliminary one? I mean, would they look like very
18 different documents in terms of level of detail?
19 A. Oh, yes, they would be -- yeah, I mean, a preliminary
20 report would be quite short, possibly two sides of A4.
21 Q. Right.
22 A. A more detailed fire strategy could run to ten pages,
23 possibly.
24 Q. I see. So what you were committing to under stage C
25 might have been as short as one or two pages?

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1 A. Indeed.
2 Q. And then something more detailed, I see, at stage D.
3 Just to be clear, was it your intention to be
4 producing an increasing level of detail over the course
5 of the project?
6 A. Yes, it would, that would be the intention.
7 Q. Let's look at paragraph 3.20 of your witness statement.
8 This is at {EXO00001621/6}. You confirm that there.
9 You say:
10 "Around Stages D and E, the initial advice is
11 typically developed, and changes are made to the
12 strategy as the design changes/develops."
13 Do you see that there?
14 A. I do, yes.
15 Q. Is it right that the detailed fire strategy by the end
16 of stage C would be required to provide sufficient
17 information to enable the preparation of technical
18 designs and specifications?
19 A. At stage C or stage D?
20 Q. E.
21 A. Yes.
22 Q. By the end of E.
23 A. It should have done, yes.
24 Q. If we can look back at the Fire Industry Association
25 guidance note, that's {INQ00011219/6}, and if we look at

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1 the bottom of that page and what it says about stage D,
2 it says there in the first paragraph that the fire
3 engineer should:
4 "Review the design documentation produced by others
5 to ensure that it complies with the fire strategy.
6 Identify any aspects of the design where changes would
7 be required, or fire engineering analyses are needed."
8 Do you see that?
9 A. I do indeed.
10 Q. Would you agree that that's an important part of the
11 work of a fire safety engineer, ie reviewing the design
12 documentation produced by others?
13 A. Yes, I would.
14 Q. Can you explain why that's so important?
15 A. Well, it's the only way you can identify if something's
16 not right.
17 Q. Yes.
18 A. It's generally by review of drawings, rather than
19 looking at documents.
20 Q. Yes.
21 A. At that stage, stage D.
22 Q. Yes.
23 A. I mean, you will get detailed specifications at a later
24 stage in the RIBA process, but you might not be involved
25 in that at that stage. But I wouldn't expect to see

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1 a detailed specification of all the building components
 2 at stage D.
 3 Q. No. Yes.
 4 A. Certainly well developed drawings.
 5 Q. Yes.
 6 Just going back, then, to your scope of works for
 7 RIBA stages D and E -- so that's {TMO10003885/2} -- we
 8 just looked at that, and the scope of work, if we go
 9 over on to page 3 {TMO10003885/3}, is at the top of the
 10 page. If we can zoom in on those four bullets, the
 11 scope of work.
 12 Can you explain, is there provision for reviewing
 13 the design documentation here in this scope of works?
 14 A. Only if it's available in fairly limited form. Bear in
 15 mind, we're still designing -- looking at changes in
 16 design to the drawings of the building. As I say, there
 17 will be specifications such as the specification for the
 18 fire alarm system, where they've got one for smoke
 19 extract systems, if that is ready at that stage.
 20 Q. Yes.
 21 A. Those sort of things. But detailed specification for
 22 building construction, not necessarily, because a lot of
 23 these go out to tender.
 24 Q. I think it's right that we don't see that expressly
 25 mentioned here, do we? We've got attending design team

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1 meetings to provide guidance; further development of the
 2 preliminary fire strategy report --
 3 A. Yeah.
 4 Q. -- discussions, as and when appropriate, with the
 5 statutory authorities to seek their approval; and then
 6 providing an updated revision of the fire safety
 7 strategy report to reflect any changes.
 8 A. Yes.
 9 Q. Can you explain why we don't see there any provision for
 10 reviewing the design documentation produced by others?
 11 A. Because it comes at stage F generally. I mean, bear in
 12 mind what I said earlier, that these templates are
 13 standard wording. If you look in stage F --
 14 Q. Yes.
 15 A. -- you get documents coming in as part of a tender
 16 review phase. So if somebody's proposing to use
 17 a certain form of construction, it would come in at that
 18 stage and you would advise the design team as to the
 19 appropriateness of what was being offered.
 20 Q. I see.
 21 A. Frequently, how they're going to build the building
 22 doesn't actually become obvious until a contractor has
 23 been appointed who said, "This is the way I want to
 24 do it".
 25 Q. I see.

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1 A. But there will be some documentation from the building
 2 services engineer on fire safety systems, albeit maybe
 3 in fairly general terms, which we would expect to
 4 review, particularly if they were deviating from the
 5 norm. If the document said, "We are going to provide
 6 a fire alarm and detection system to this particular
 7 British Standard", we wouldn't query that.
 8 Q. I think we're agreed that it's an important part of the
 9 process.
 10 A. Oh, yes.
 11 Q. But what you're saying is that you would have envisaged
 12 when this proposal was being put together that that
 13 would happen at stage F and following --
 14 A. Probably.
 15 Q. -- not at stage D/E.
 16 A. Probably, but not necessarily. As I say, these things
 17 aren't cast in stone. If somebody has the documentation
 18 ready earlier, then we would look at it.
 19 Q. I see.
 20 A. But of necessity we keep our fee proposals fairly
 21 concise, otherwise they run into pages and pages.
 22 Q. I think you might agree with me, but let's just test
 23 this: would you agree that review by a competent
 24 fire safety engineer enhances the chances that the
 25 building design will meet the functional requirements?

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1 A. Yes, I agree.
 2 Q. Would you agree that the reverse is the case: that if
 3 there is no review of the design documentation by
 4 a competent fire engineer, it increases the chances that
 5 the design will not comply with the functional
 6 requirements?
 7 A. That could be true, yes.
 8 Q. So let's look, then, at stage F, which is just at the
 9 bottom of this page. That is the stage for production
 10 information to enable tenders to be obtained. That's
 11 how RIBA explain stage F.
 12 A. Yeah.
 13 Q. If we can read the first paragraph under stage F, it
 14 says there:
 15 "During this stage of work, we would assist the
 16 design team and appointed contractor for the development
 17 in addressing the fire safety issues that appeared
 18 during the tender review phase. This work is likely to
 19 result in further adjustments to the fire safety
 20 strategies approved during RIBA Stages D/E."
 21 Then the bullets we see, the scope of work, we've
 22 got:
 23 "Attend relevant fire safety meetings with the
 24 design team and appointed contractor to clarify the fire
 25 safety strategies used throughout the development ..."

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1 Then:
 2 "Troubleshooting strategic fire safety issues that
 3 are identified by the contractors."
 4 Do you see those there?
 5 A. Yes, indeed.
 6 Q. Then:
 7 "Discuss the contractors issues and the proposed
 8 solutions, as an when appropriate ..."
 9 That's the next one, and then:
 10 "Provide an updated revision of the fire strategy
 11 document ..."
 12 The final one.
 13 So what sort of assistance did you envisage
 14 providing to the design team and the appointed
 15 contractor at this stage? Can you just describe that in
 16 your own words?
 17 A. We would go to meetings as and when required, we would
 18 review documents as and when required, and we would
 19 comment on those. If there were issues that the
 20 contractor wasn't happy with in how he was going to
 21 achieve the requirement in the fire safety strategy, we
 22 would meet with him and resolve those.
 23 Q. Were you envisaging -- I mean, it sounds from what you
 24 are describing like quite a passive role whereby you
 25 wait to be approached at this stage for advice; is that

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1 how you saw it?
 2 A. Yes, because not all contractors employ us, to put it
 3 simply. They might have their own fire consultant, some
 4 of them do, and they would take over our role
 5 effectively at stage F.
 6 Q. Would you agree that if you were the client reading
 7 this -- and we will come on to who the client was in due
 8 course -- you might be envisaging that you would be
 9 assisting the design team, that you would be attending
 10 relevant meetings?
 11 A. I think the key words here would be "if asked". We
 12 can't compel the client to employ us until the end of
 13 the project; it has to come from him.
 14 Q. I see. So is what you're saying here that this would
 15 only kick in, this RIBA stage F, if asked to do it?
 16 A. Yes, and that's why when we did our fee proposal, we
 17 said any work to be done at this stage would be charged
 18 on an hourly basis, although we could provide a lump sum
 19 if an agreed scope of work was identified, or words to
 20 that effect.
 21 Q. We will come back to this, but another question on this:
 22 does this work that you are describing here -- you are
 23 talking about working with the contractor, the appointed
 24 contractor -- actually fit more accurately under stage K
 25 of the RIBA plan of work, which is the construction

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1 through to practical completion stage?
 2 A. No, it's still at the stage where there is a degree of
 3 value engineering taking place.
 4 Q. I see.
 5 A. Value engineering tends to take place when a contractor
 6 is employed, and he looks at what has been agreed and
 7 thinks to himself: well, maybe we can do this a little
 8 better or a little cheaper, and that happens all the
 9 time.
 10 Q. Yes, I understand.
 11 A. But that would happen when the contractor had been
 12 appointed, not before.
 13 Q. But my point is that RIBA stage F is for production
 14 information to enable tenders to be obtained?
 15 A. Yes.
 16 Q. So thinking about it with reference to that, isn't what
 17 you are describing actually work which comes in a later
 18 RIBA stage?
 19 A. Well, you assist the design team in providing the design
 20 that is then presented for tender. Sorry, I haven't put
 21 that very well. But they have to tender against the
 22 design.
 23 Q. Yes.
 24 A. In order to win that, they need to be cost-effective, to
 25 put it bluntly. If they can do it cheaper than the next

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1 tenderer, then they will probably get the job.
 2 Q. Yes.
 3 A. At which point they would say, "Well, we have a problem
 4 with some of the aspects of your design, can we discuss
 5 it".
 6 Q. Yes, that's my point, because in fact going forward --
 7 so stage F is production information, stage G is tender
 8 documentation, and stage H is tender action. So, by
 9 definition, what you are describing here and what you
 10 are describing now does appear to be much later in the
 11 project. Do you agree?
 12 A. Well, I think you may well be right, but we didn't
 13 progress to stage F on this project, and we rarely do on
 14 other projects, for reasons I've already given. I think
 15 that there is some work at stage F which would be
 16 covered by the definition of the work in here.
 17 Q. Yes.
 18 A. Because it implies that the contractor has already been
 19 appointed.
 20 Q. Yes.
 21 A. And once a contractor is employed, he or she will want
 22 to critically examine what he or she is being asked to
 23 build. So whether it comes in stage F or later,
 24 I wouldn't like to argue.
 25 Q. Looking at this first paragraph again under stage F, in

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1 the second sentence you say there:
 2 "This work is likely to result in further
 3 adjustments to the fire safety strategies approved
 4 during RIBA Stages D/E."
 5 Do you see that?
 6 A. Yes, I do.
 7 Q. So was it envisaged that the fire strategy would be
 8 adjusted and revised from the stage D/E stage at this
 9 later stage, and as a result of the interaction with the
 10 contractor and following the tender phase?
 11 A. I think the wording is, "This work is likely to result
 12 in further adjustments"; it might not.
 13 Q. And why might it not?
 14 A. Well, if there is no fundamental change in the design as
 15 a result of the contractor being appointed and querying
 16 the design, then you wouldn't need to make significant
 17 adjustments to the fire safety strategy.
 18 Q. I see. But was your understanding at the time you put
 19 this proposal together that Exova would be checking
 20 whether, after stage D and E, there was a need to revise
 21 the fire safety strategy and produce a further version
 22 that kept up with the design?
 23 A. Again, I have to tell you this is a standard template
 24 and that wording is standard to all of them.
 25 Q. Yes, I understand that, but I'm thinking about what you

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1 envisaged would happen on the project. Did you envisage
 2 that Exova would proactively make sure the fire strategy
 3 report was updated after the stage D/E stage?
 4 A. If we were appointed. But we weren't -- you know, we
 5 weren't -- when we produced the fire -- sorry, the
 6 fee proposal, we weren't sure that we were going to be
 7 employed beyond D and E.
 8 Q. But where does it say here, "We will do all of this but
 9 only if you appoint us at this stage"?
 10 A. Well, I think that, you know, if -- it doesn't say that
 11 and I wouldn't expect it to say that. If you take the
 12 thing on face value, we're assuming, in sending this
 13 fee proposal out, that we will be working to the end of
 14 stage F and that nothing would stop that.
 15 Q. Yes.
 16 A. But it doesn't always happen.
 17 Q. But wouldn't you have expected -- sorry.
 18 A. As I say in my witness statement, it doesn't -- we
 19 frequently get dropped at the end of -- when we've
 20 produced an acceptable fire safety strategy.
 21 SIR MARTIN MOORE-BICK: Can I just ask, I notice that the
 22 way that this is expressed here is slightly conditional:
 23 "During this stage of work, we would assist the
 24 design team ..."
 25 And two paragraphs on:

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1 "The scope of work ... would include ..."
 2 Is that deliberate or ...?
 3 A. I don't believe it is deliberate, no. I mean, I --
 4 SIR MARTIN MOORE-BICK: I mean, one could read it as saying
 5 "We would do it if we were asked to".
 6 A. Oh, yes.
 7 SIR MARTIN MOORE-BICK: Well, this is why I'm asking you: is
 8 the choice of language deliberate?
 9 A. I don't believe it is deliberate. I mean, when we do
 10 these fee proposals, it isn't will necessarily; it's
 11 will in certain stages, because people want to know that
 12 they're signing up to something that is definite. If we
 13 do put the word "would" in there, then I think you're
 14 right, it would be: if we're employed, we could do this.
 15 SIR MARTIN MOORE-BICK: All right, thank you.
 16 A. I hope that clarified it.
 17 MS GRANGE: Just following this theme, can we look at what
 18 you say immediately after the bullet points here. We
 19 see a sentence:
 20 "Completion of this scope of services will occur
 21 once all the above-mentioned goals are accomplished."
 22 Do you see that?
 23 A. Yes, I do.
 24 Q. Now, is it right, when you were putting this together,
 25 that you expected your work would be complete only after

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1 those four bullets were completed?
 2 A. I think what it's meant to say is that if you want any
 3 further work done, we would have to provide a fresh
 4 fee proposal, because this is all that we're offering to
 5 do in this particular document.
 6 Q. Was it envisaged at this stage -- and I want you to
 7 think back when you were drafting this or putting this
 8 together -- that you would move from stage to stage
 9 without waiting for specific instructions to engage in
 10 the next stage from the client?
 11 A. That would have stopped at the end of stage E, because
 12 we said -- we were quite specific -- that work at RIBA
 13 stage F and onwards would be at an hourly rate. But if
 14 he hadn't -- if he had come back and said, "Carry on and
 15 I'm happy to pay your hourly rate", then we would have
 16 carried on. So, yeah, in a sense, it would flow
 17 through.
 18 Q. What we will see in due course is that the TMO accept
 19 this fee proposal. There is an email back just saying,
 20 "Your fee proposal is accepted", and we will look at
 21 that in due course. But what I'm asking you is if an
 22 instruction was required to move from stage to stage,
 23 I take your point that it talks about an hourly rate in
 24 the fee part, which we will come to, but where does it
 25 say in this proposal that an instruction will be

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1 required?
 2 A. It isn't normally required. We don't normally get
 3 a letter from the client or an email saying, "You can
 4 now proceed to stage F". We assume that if they've
 5 accepted the fee proposal, that is an invitation to do
 6 what we said in there.
 7 Q. Great, yes. So once they have accepted this
 8 fee proposal, you would keep moving from stage to stage
 9 unless you were told otherwise?
 10 A. Correct.
 11 Q. Yes.
 12 Now, just on a slightly different topic but still
 13 looking at stage F --
 14 SIR MARTIN MOORE-BICK: Is this going to take a little
 15 while, this subtopic?
 16 MS GRANGE: Actually that probably is a good moment to stop.
 17 Sorry, I should have --
 18 SIR MARTIN MOORE-BICK: Don't worry.
 19 MS GRANGE: I think, yes, why don't we pause there, because
 20 it will be a little more than two minutes. But we are
 21 making good progress.
 22 SIR MARTIN MOORE-BICK: Good, well done.
 23 Mr Ashton, we are going to break now so that we can
 24 all get some lunch, so we'll break until 2 o'clock.
 25 Again, please don't talk to anyone about any of your

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1 evidence while you're out of the room. All right?
 2 Thank you.
 3 THE WITNESS: Okay, thank you.
 4 SIR MARTIN MOORE-BICK: If you would like to go with the
 5 usher.
 6 (Pause)
 7 2 o'clock, then, please. Thank you.
 8 (1.00 pm)
 9 (The short adjournment)
 10 (2.00 pm)
 11 SIR MARTIN MOORE-BICK: Right, Mr Ashton, ready to carry on?
 12 THE WITNESS: Yes, indeed.
 13 SIR MARTIN MOORE-BICK: Good. Thank you very much.
 14 Yes, Ms Grange.
 15 MS GRANGE: Yes, thank you, and thank you, Mr Ashton.
 16 We were still looking at the fee proposal for the
 17 refurbishment works, and if we can go back to that at
 18 {TMO10003885/3}.
 19 A. Right.
 20 Q. We had been looking at RIBA stage F, and then what
 21 I want to ask you now is about: why is there no mention
 22 of the Regulatory Reform Order 2005 in that stage F
 23 section?
 24 A. I think it's because of what I said earlier, that the
 25 Regulatory Reform Order only really applies to

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1 an occupied building, and so there's very little that we
 2 can put in a fire strategy document other than the fact
 3 that -- pointing out that there is the need to comply
 4 with this, and that the fire strategy will contribute in
 5 some way to informing people what they need to do. But
 6 only insofar as maintaining structural means of escape,
 7 firefighting equipment and that sort of thing.
 8 Q. Yes. Because there was mention of it at the stage D and
 9 E stage, I think as we saw earlier.
 10 A. Yeah.
 11 Q. Do you agree that a fire strategy for this stage ought
 12 to identify aspects of the fire strategy which would be
 13 required to form part of the ongoing fire safety
 14 management in accordance with the responsible person's
 15 duties?
 16 A. Logically it should, as the other two parts do, but
 17 maybe we need to look at our fee proposal template and
 18 tinker with it, or modify it to make it more user
 19 friendly.
 20 Q. Because the point is, isn't it, that there is a link
 21 between the Building Regulations and the RRO?
 22 A. Absolutely.
 23 Q. And Approved Document B makes that clear at the very
 24 beginning, doesn't it?
 25 A. Yes. Yes.

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1 Q. Can you also explain why there is no mention of the
 2 CDM Regulations anywhere in this fee proposal, the
 3 Construction (Design and Management) Regulations?
 4 A. We have traditionally taken the view that we're not
 5 designers as defined under the CDM Regulations. That is
 6 changing, I think, in the light of the fact that we
 7 sometimes design smoke extract systems and so possibly
 8 we need to look at that.
 9 Undoubtedly, if we were still employed at this stage
 10 of the RIBA series of works, then we would be in touch
 11 with the CDM Regulations, so -- with the design approved
 12 to ensure that the CDM Regulations are met. So maybe
 13 that's something else that we would need to put in our
 14 documentation.
 15 Q. Can you expand on why it is that Exova's taken the view
 16 that they're not designers, for example if they're
 17 preparing a fire strategy for a building?
 18 A. Well, because when we prepare a fire strategy for
 19 a building, in most cases we're referring to published
 20 documentation. A designer would do something unique or
 21 original.
 22 So, as I say, if we were given the task of designing
 23 a smoke extract system for a shopping centre, then we
 24 could be deemed to be designers.
 25 Q. But aren't you taking that guidance, or those standards,

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1 and applying them to a project or a building in your
 2 fire strategy? Aren't you kind of interpreting them and
 3 explaining how it applies to that particular building?
 4 Isn't that exactly what you're doing?
 5 A. We're not actually -- how can I describe this -- we're
 6 not actually reinventing the wheel; we're using existing
 7 bona fide guidance to enable us to apply it to
 8 a building, but we're not doing anything original in
 9 that.
 10 Q. I see. But the clear position you have taken is that's
 11 not within the definition of a designer?
 12 A. No.
 13 Q. And that's why we don't see reference to it?
 14 A. Correct.
 15 Q. I see.
 16 Are you familiar with regulation 38 of the Building
 17 Regulations 2010?
 18 A. Yes, I am.
 19 Q. Can you explain briefly what that requires?
 20 A. It requires the end user of the building to be provided
 21 with all the information that he or she needs in order
 22 to run it. So it would be as-built documentation, the
 23 final fire strategy, that sort of thing.
 24 Q. Yes.
 25 A. And it is covered under Building Regulations because

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1 historically the people who take over a building don't
 2 often get that information. So now it's a requirement
 3 of the regulation.
 4 Q. Yes. I want to ask you two questions about that.
 5 Why do you not explain, for example in this
 6 fee proposal, that this fire strategy will be part of
 7 any compliant regulation 38 information?
 8 A. It's a good question, and maybe we should. I mean, all
 9 that -- our involvement in compliance with regulation 38
 10 would be to ensure that the project manager hands over
 11 the appropriate documentation that we have prepared, but
 12 that would be the limit of our -- you know, the extent
 13 of our involvement in that.
 14 Q. Yes, because the other question is whether you accept
 15 that the fire strategy should have been clear on what
 16 the requirements were under regulation 38 and the
 17 information which would need to be passed from the
 18 person carrying out the works to the responsible person.
 19 Why is that not dealt with in the fee proposal?
 20 A. Well, as I said earlier, maybe it should be.
 21 Q. Now, before we come to look at the fees that were
 22 proposed, if we can go to the top of page 4
 23 {TMO10003885/4} within this document, and look again at
 24 the fire engineering team.
 25 A. Right.

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1 Q. Just to be clear, under this, if we can look at that
 2 second paragraph, you were said there to be the leader
 3 of the project, "would lead the project with assistance
 4 from others"; is that correct?
 5 A. Correct.
 6 Q. So is it clear that it was envisaged from the very
 7 outset that you would be the project lead, but
 8 potentially with some assistance from others as
 9 necessary?
 10 A. Yes, it was.
 11 Q. Just on the RRO and the CDM, before we leave those, what
 12 training had you received on the Regulatory Reform Order
 13 or the CDM Regulations?
 14 A. We had internal presentations from people who are
 15 experts in those. As far as CDM, it's the same thing.
 16 We do have a series of internal training which is part
 17 of the continuing professional development and everybody
 18 has to attend that.
 19 Q. I see, so you have been trained on it, but it's not
 20 something that you would be looking at as part of your
 21 fire safety engineering services?
 22 A. Not necessarily, no.
 23 Q. So turning now to the fees, we can see there the next
 24 section of this, page 4 of the proposal, deals with the
 25 fee proposal, and it's proposing a fixed lump sum for

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1 RIBA stage C and a fixed lump sum for RIBA stages D/E,
 2 so we have £3,300, and £5,300. Then the next sentence
 3 says:
 4 "It is proposed that charges for work carried out
 5 during RIBA Stage F will be charged at our standard
 6 hourly rates. A time-basis charge has been proposed
 7 during this stage due to the difficulty in determining
 8 the extent of work required during this stage. If
 9 preferred, a lump sum fixed fee could be provided if the
 10 scope of services was further defined."
 11 So do you agree that it's saying there that
 12 a time-basis charge has been proposed because it's hard
 13 to determine the extent of work?
 14 A. Yeah.
 15 Q. It's not saying a time basis has been proposed because
 16 we don't know whether we're being engaged in stage F at
 17 all.
 18 A. No, no, no. No. I mean, nobody -- well, very few
 19 clients would actually sign up to an open-ended
 20 agreement whereby they paid us on an hourly rate. But
 21 where we don't actually know what they want, that's the
 22 best way of dealing with it, by saying, "We'll do it at
 23 an hourly rate unless you can be more precise as to what
 24 it is you're actually looking for at this stage of the
 25 RIBA work process".

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1 Q. When you were reviewing and preparing this fee proposal,
 2 did you think that those fees -- let's look for the
 3 moment at the lump sum fees -- were adequate to deliver
 4 the work that had been outlined in the proposal?
 5 A. I believed they were, yes.
 6 Q. Now, we've seen from a spreadsheet disclosed by Exova
 7 that you were being charged out at a rate of £118 per
 8 hour as an associate; is that correct?
 9 A. Yes.
 10 Q. For the transcript, the reference is {EXO00001353}, but
 11 we don't need to turn that up.
 12 Then a senior consultant was being charged out at
 13 £103 per hour; is that correct?
 14 A. Correct at that time, yes.
 15 Q. That's the tier below you.
 16 A. Yeah.
 17 Q. So based on those rates, that would mean for stage C,
 18 28 hours of your time at £118 per hour, if you did all
 19 the hours.
 20 A. Yes.
 21 Q. And for stage D and E, 45 hours of your time.
 22 A. Yeah.
 23 Q. Again, I want to ask you: do you think that that did
 24 allow sufficient time to create a stage C and
 25 a stage D/E report?

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1 A. Yes, I think it was.
 2 Q. Do you agree that these would be two significant
 3 reports?
 4 A. Significant for this building, yes.
 5 Q. You have also said in the proposal that the work would
 6 include a fixed number of meetings, so you said three at
 7 stage C -- that's two with the design team, one with the
 8 statutory authorities -- and six at stages D and E, so
 9 that's nine meetings in total. If you make allowance
 10 for that, and you allow just, say, half a day per
 11 meeting --
 12 A. Yeah.
 13 Q. -- then that would take up 4.5 days of the time,
 14 approximately 40% of the time allowance in fees
 15 attending meetings.
 16 Now, taking that point into account as well, so you
 17 have some time comes off because of meetings, do you
 18 still think that this fee was adequate to carry out the
 19 work that had been outlined in the proposal?
 20 A. Yes, I believe it was.
 21 Q. So you don't think that it was too low for the work
 22 involved in the preparation of a detailed fire strategy
 23 which would be used as the basis to gain statutory
 24 approval?
 25 A. No, I don't think it was too low. I mean, meetings do

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1 tend to take up quite a lot of the fee, because they're
 2 time consuming.
 3 Q. You didn't think it was too low; is that based on your
 4 experience at Exova and other projects?
 5 A. It's based on my experience. Bear in mind that -- I'm
 6 not sure that was true of this case, but we do operate
 7 in a competitive world, and sometimes we lost jobs
 8 because our fees were too expensive.
 9 Q. Were you trying to keep fees low on this proposal?
 10 A. We try and keep the fees low on all jobs where we know
 11 we're competitive. I can't say that was true of this
 12 particular project because I wasn't aware that we were
 13 in competition with anybody else for it.
 14 Q. In fairness to you, I want to put it to you that these
 15 were too low for the work that was involved.
 16 A. Well, we didn't actually use up all the fees, I don't
 17 believe, but I would need to look at the actual
 18 breakdown to see whether or not we were going to lose
 19 money on it. We have lost money on projects where we
 20 underbid them. You know, that's the way of the world.
 21 Q. We will look at how much was billed, and I think that
 22 the position was that everything was billed at stage C,
 23 but not everything was billed at stages D/E, so we'll
 24 look at that at the end.
 25 A. That's my recollection.

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1 Q. Before we leave this fee proposal, can we also look at
 2 one of the assumptions included under the fee proposal
 3 section. If we look at the second-to-last paragraph
 4 under that section, I think we need to go down the page,
 5 it says here:
 6 "We have assumed that our work would only be carried
 7 out once and would be based on an agreed set of building
 8 layouts. Any subsequent changes/revisions to the
 9 building layouts that require additional time from
 10 ourselves would be treated as additional work and
 11 therefore charged accordingly. Any further work
 12 identified outside the above-mentioned scope would be
 13 considered additional work and would be subject to an
 14 additional fee proposal."
 15 Do you see that?
 16 A. I do indeed.
 17 Q. I want to ask you about that assumption at the beginning
 18 there, that it would be based on an agreed set of
 19 building layouts?
 20 A. I think that, again, this is standard wording, and when
 21 we were looking at the various permutations of floor
 22 layouts for the lower four floors of Grenfell, we did
 23 do -- look at several different layouts, so that
 24 actually didn't comply with that.
 25 I think this is more intended to apply to

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1 a development where someone has a fairly firm idea of
2 what they're going to do, but if they decide they want
3 to change it completely -- and that does happen in
4 practice -- then we would reserve the right to ask for
5 more money, to put it crudely.

6 Q. Yes. I mean, I think you have partly answered my
7 question, but I was building up to say: was that really
8 realistic, given that the layouts can change regularly
9 during the design development phase? Was it really
10 realistic to think that the work would be only carried
11 out once on an agreed set of building layouts?

12 A. Well, the changes that were made were fairly modest,
13 moving around partitions in one or two floors of the
14 building. When we put this in our fee proposals, we
15 were not envisaging minor changes to the layout, we're
16 talking about a major design change.

17 Q. Okay. But as you have said, it came to pass in the end
18 that --

19 A. We were looking at three or four iterations of the same
20 floor plans, yes.

21 Q. Just stepping back from it, do you agree that there is
22 nothing in this fee proposal which limits the scope of
23 Exova's work and services to the remodelling of the
24 lower four floors of the tower?

25 A. Sorry, I didn't quite understand that.

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1 Q. Do you agree there is nothing in this fee proposal which
2 limits the scope of work to the remodelling of the lower
3 four floors?

4 A. No, no, it doesn't.

5 Q. Do you agree that the clear intent of the fee proposal
6 was that it would cover the whole of the Grenfell Tower
7 refurbishment project, as outlined in Mr Sounes' email
8 of 3 May which we looked at earlier?

9 A. Yes.

10 Q. Finally, before we leave this fee proposal, as we
11 discussed briefly before, this fee proposal was reviewed
12 by Mr Seán McEleney?

13 A. Yeah.

14 Q. We see that on page 5 {TMO10003885/5} at the bottom of
15 the page.

16 A. Indeed.

17 Q. So we have got this box, "Reviewed", "Graduate
18 Engineer", on 9 May.

19 We know he is junior to you. What was the purpose
20 of the review that he did of this fee proposal?

21 A. It was just to make sure that everything that was in
22 there made sense. It's less critical when you are doing
23 a fee proposal for it to be peer reviewed. All you're
24 really looking at is: do the sums add up?

25 Q. I see, yes.

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1 A. You have allotted a certain amount of time to this, are
2 the charges that you are proposing commensurate with
3 those?

4 Q. I see. So he is not doing a real in-depth examination
5 of whether the scope fits with the project?

6 A. No, no, he is just doing a technical -- sorry, a check,
7 really. It's not like a technical review of
8 a fire strategy. That's slightly different.

9 Q. Yes.

10 Let's go and look at his witness statement and what
11 he said. That's at {EX000001766/2}, at paragraphs 3.2
12 and 3.3. So he says:

13 "On 9 May 2012, my colleague, Terry Ashton, sent me
14 an email asking me to review a draft fee proposal for
15 works relating to the Grenfell Tower refurbishment
16 project ... The draft fee proposal is largely based on a
17 standard template. I have no recollection of receiving
18 this email or reviewing the draft fee proposal."

19 Then he says:

20 "The process of reviewing a document of this nature
21 would generally involve checking the document for any
22 clear errors with a focus on the parts of the document
23 that had been specifically drafted for this project
24 (that is, the scope of works and fee estimate). I do
25 not recall whether I suggested any changes to the draft

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1 fee proposal."

2 So I think it follows from your previous answer that
3 you would agree with him as to the description of the
4 review process he has carried out.

5 A. That's correct, yes.

6 Q. Can you recall whether he suggested any changes to the
7 fee proposal or had any other comments?

8 A. I don't believe he did.

9 Q. How often would reviewers have comments on fee
10 proposals?

11 A. Very rarely. Occasionally somebody might say,
12 for example, "Have you allowed enough money for this?"

13 Q. Yes.

14 A. In broad terms.

15 It's interesting to see that he says, "I have no
16 recollection of receiving this email or reviewing
17 a draft fee proposal", and yet in 3.4 he said,
18 "I confirm the authorisation of the use of my electronic
19 signature".

20 Q. Yes, I suppose he may be referring to the fact that
21 there is an email recording that, but he doesn't have
22 a recollection of it.

23 A. Right.

24 Q. Let's look now briefly at the fee proposal for the
25 existing fire safety strategy. If we can turn that up,

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1 that's {TMO10003884}, this is dated 11 June 2012.
 2 It's right, isn't it, that this exercise of
 3 preparing a fire strategy for the existing building was
 4 because there was no fire strategy in existence for the
 5 building; is that right?
 6 A. That we knew of, yes.
 7 Q. Yes. Now, at page 3 {TMO10003884/3}, it's indicated
 8 that this was reviewed by you, if you look at the text
 9 at the bottom.
 10 A. Yes.
 11 Q. It's authored by James Lee.
 12 A. Yeah.
 13 Q. And you have reviewed it on 11 June.
 14 A. Right.
 15 Q. Do you agree that it was reviewed by you on
 16 11 June 2012?
 17 A. It would have been done there or thereabouts depending
 18 on availability .
 19 Q. Do you have any recollection of doing that?
 20 A. Reviewing a fee proposal? Oh, yes, I remember doing it.
 21 When I said it's there or thereabouts, occasionally we
 22 might see it a few days before, and it isn't until we
 23 confirm that, you know, you can use electronic
 24 signatures that it actually gets dated and signed.
 25 Q. I see.

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1 A. So it's done in draft form.
 2 Q. Yes.
 3 A. It's then agreed and it's sent for formatting.
 4 Q. I see.
 5 Can we look at what you say at paragraph 3.24 of
 6 your witness statement, {EXO00001621/7}. Now, you say
 7 there:
 8 "I am aware that a separate fee proposal was
 9 provided in relation to a fire strategy report on the
 10 existing condition of the building. I was not involved
 11 in this work, and I do not personally recall how it came
 12 about, so I will not comment on it."
 13 Do you see that?
 14 A. Yes.
 15 Q. Now, when you say, "I was not involved in this work",
 16 what do you mean by that?
 17 A. I wasn't involved in doing the work or reviewing the
 18 work that was done. Signing a -- reviewing
 19 a fee proposal isn't the same as participating in the
 20 project.
 21 Q. I see. I see.
 22 A. I know it was dealt with by our colleagues in
 23 Warrington, but I'm not quite sure how it came about.
 24 This is what I said in my statement.
 25 Q. We're going to come back in a moment and look at this

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1 and what happened about the existing fire strategy .
 2 A. Okay.
 3 Q. Before we do, at this point can I just go to
 4 paragraph 3.14 of Mr Lee's witness statement. That's
 5 {EXO00001740/4}. At paragraph 3.14 he is dealing with
 6 the existing strategy fee proposal, and he says:
 7 "The fee proposal of 12 June 2012 again indicates
 8 that it was reviewed by Mr Ashton. I expect that
 9 Mr Ashton's review would have been focussed on ensuring
 10 that the proposed scope of works and fee schedule were
 11 both accurate and reasonable."
 12 Now, given we've seen your name and you did review
 13 it and you have confirmed you reviewed it, does that
 14 accurately reflect the scope or the purpose of the
 15 review, to check whether it was accurate and reasonable?
 16 A. That would be normal for any review of a fee proposal.
 17 Q. Because Mr Lee is describing it here as whether it's
 18 accurate and reasonable, and Mr McEleney described it as
 19 whether there are clear errors. Do you see those two
 20 things as the same or are they describing a slightly --
 21 A. No, I think they're saying the same thing, to be honest.
 22 Q. Now, we will come back to Exova's quality control
 23 processes later , but can you explain why, on one
 24 reading, they are different accounts as to the type of
 25 review that would be done: one is saying accurate and

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1 reasonable and one is saying clear errors?
 2 A. The subtle difference between the two is "reasonable"
 3 implies have you -- is the sum of money you're quoting
 4 appropriate for what you're doing.
 5 Q. Yes.
 6 A. That is the difference between the two.
 7 Q. Yes, and when you would review a proposal, would you
 8 be -- with the existing fire strategy proposal that you
 9 reviewed, would you have been asking yourself: is this
 10 sum of money reasonable?
 11 A. I would indeed.
 12 Q. I see.
 13 In terms of the approval process within Exova for
 14 fee proposals like this , can you describe what would
 15 happen? Is it that the main person puts it together and
 16 then it's reviewed once and then it goes out to the
 17 client? Is that the process?
 18 A. The standard procedure, when it works as it should, is
 19 that somebody will produce a fee proposal and that is
 20 reviewed by the office manager. Now, that arrangement
 21 frequently falls down because of lack of resources.
 22 People are out of the office or people are working, too
 23 busy to review it . So there is a tendency, and it's not
 24 in a huge number of cases, but, "We need to get this
 25 fee proposal out, can somebody review it for me,

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1 please". In an ideal world, fee proposals as well as
 2 reports would be peer reviewed.
 3 Q. Yes.
 4 I mean, you have said you would have asked yourself
 5 whether it was a reasonable quote for the existing
 6 fire strategy.
 7 A. Right.
 8 Q. Can you explain the process by which you would go about
 9 getting to that position, what checks would you do?
 10 A. Well, whether the amount of work specified in the
 11 fee proposal, the charges for those were reasonable in
 12 the circumstances.
 13 Q. Was it a kind of gut reaction to the fee?
 14 A. Pretty much.
 15 Q. Yes.
 16 We know that the fee proposal for the existing
 17 strategy quoted a sum of £2,865 plus VAT for the
 18 existing fire safety strategy. I want to put to you
 19 that that was a very low fee for the amount of work that
 20 was involved in the existing fire strategy report.
 21 A. As I understood it, it was just a review of the existing
 22 fire safety arrangements that prevailed in the tower and
 23 reporting on that. Now, that -- you could either go and
 24 visit the tower and do a full survey and look at every
 25 area of the building apart from within the individual

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1 flats and then do a very comprehensive report. It might
 2 also include a sort of defect survey. To do that, you
 3 would be talking about a substantial sum of money.
 4 As I understood this, this was just a review of what
 5 the existing fire safety arrangements in that building
 6 were. Not an appraisal of them, just a record of what
 7 was there.
 8 Q. I see. So just to be clear, and just to check one more
 9 time, you still think that that was a fair fee, do you,
 10 for the existing fire safety strategy, the £2,865?
 11 A. Based on just reviewing what was there, yes, rather than
 12 a detailed examination.
 13 Q. Let's come on to discuss that existing fire safety
 14 strategy.
 15 As we know, Ms Cooney produced a draft existing fire
 16 safety strategy dated 16 August 2012.
 17 A. Right.
 18 Q. Ms Barker sends this to you on 3 September 2012. Can we
 19 just look at that. That's {EXO00000413}. So this is
 20 a short email from Clare Barker to you on
 21 3 September 2012 and it's just, "Here it is, cheers,
 22 Clare". Do you see that?
 23 A. Yes, indeed.
 24 Q. Attached to it is Ms Cooney's draft Grenfell Tower
 25 existing fire safety strategy. It would appear, and

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1 I think Ms Barker confirmed this yesterday, that you had
 2 asked her for a copy of this. Is that correct?
 3 A. Just for information, yes. I mean, I already understood
 4 that there were some key recommendations in that draft
 5 report which we would need to take forward.
 6 Q. Yes.
 7 A. And those were: look at the adequacy of the smoke
 8 ventilation of the central lobby, look at the separation
 9 between the non-residential use and the residential use,
 10 and look critically, if you like -- that wasn't the
 11 words used -- those weren't the words used, but look at
 12 whether or not it was desirable to have service risers
 13 in the central core. Those are the three things that
 14 Clare -- sorry, that Cate highlighted in her draft
 15 report.
 16 Q. Yes.
 17 Do you know why you were only being sent this on
 18 3 September 2012 and not 16 August 2012 when it was
 19 actually prepared? Do you know why?
 20 A. No. No, I don't. I mean, I think I may have assumed
 21 that they were dealing with this in its entirety, and
 22 they were only giving me some information which would
 23 help me to go forward with the refurbishment works.
 24 Q. Did you --
 25 A. All of the things that they recommended in that were key

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1 to the refurbishment works.
 2 Q. Yes, quite.
 3 Did you read it when it was sent to you on
 4 3 September?
 5 A. I read it very briefly, yes, I went through it.
 6 I wouldn't say I spent hours on it because it had
 7 already been reviewed.
 8 Q. Already been reviewed by who?
 9 A. By Clare.
 10 Q. Did you note that it was a draft?
 11 A. It said it was a draft.
 12 Q. Did you note the number of assumptions and unknowns that
 13 were there throughout the report?
 14 A. I don't -- no, I didn't. I mean, if you look at the
 15 heading on this email that you've got in front of us
 16 now, it says "Existing [fire safety strategy] using
 17 existing drawings".
 18 Q. Yes.
 19 A. That's all it was.
 20 Q. Yes.
 21 A. It wasn't a more comprehensive review of the building
 22 safety.
 23 Q. But it had followed a site visit by Mr Lee, hadn't it?
 24 A. Apparently, yes.
 25 Q. When you say "apparently" --

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1 A. Well, I wasn't aware that he had visited the site. As
 2 I say, I assumed that this exercise was a completely
 3 separate one from the one that I was undertaking.
 4 Q. I see.
 5 When you say, "I wasn't aware he had visited the
 6 site", were you not aware at any stage of your
 7 involvement in the Grenfell project that he had visited
 8 the site?
 9 A. I think I learnt about it later.
 10 Q. Yes.
 11 What was the usual process carried out within Exova,
 12 so far as you understood it, when a draft strategy had
 13 been sent to a client?
 14 A. It would normally go for -- as a draft for comment, and
 15 then, once comments had been received, it would have
 16 been updated and then issued as a formal issue.
 17 Q. Would you expect to discuss the strategy with the
 18 client?
 19 A. I would think so, yes.
 20 Q. Would you --
 21 A. Even if that's only by email.
 22 Q. Would you expect a final version of that strategy to
 23 have been produced?
 24 A. Yes, I think I would have done.
 25 Q. Would you have expected it to have been discussed with

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1 Studio E?
 2 A. I think -- unless I'm wrong, I thought it was Studio E
 3 that asked for this to be done.
 4 Q. Yes. I think you're right, they did.
 5 A. Rather than TMO.
 6 Q. Can I turn at this point to an email sent to you by
 7 Mr Sounes on 30 August 2012, {SEA0000048}. So this is
 8 from Bruce Sounes to you, 30 August 2012, copying in
 9 Clare Barker and Mr Dunkerton:
 10 "Terry,
 11 "We have a meeting planned for the afternoon of the
 12 6th, which is the date Cate returns (bounce back below.
 13 She did offer to have someone come back with a markup of
 14 the plans forwarded 16/08 but we haven't received one
 15 yet. These have been developed as part of the
 16 preparations for the Planning Submission. Will it be
 17 possible to have something prepared before the meeting,
 18 and perhaps for someone to attend?"
 19 Then he says:
 20 "We need to go through the fire strategy (existing -
 21 Draft) received 16/08 which has numerous
 22 recommendations, some of which may be unrealistic for an
 23 interim strategy. It is probably also a good time to
 24 make contact with the local fire officer to discuss the
 25 project.

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1 "Please could you come back to me?"
 2 Do you see that?
 3 A. I do indeed.
 4 Q. Following that email, did you go through the draft
 5 existing fire strategy with Mr Sounes?
 6 A. No, not clause by clause. I mean, I think we focused on
 7 the issues that we had recommended, the three that I've
 8 just mentioned.
 9 Q. I see.
 10 A. Because they impacted on the building as a whole rather
 11 than the refurbished floors.
 12 Q. Do you know what he is referring to in that email where
 13 he says there were recommendations which were
 14 unrealistic for an interim strategy?
 15 A. No, I don't really understand that now and I didn't
 16 understand it then. I don't know what he means by
 17 an interim strategy.
 18 Q. Could he have meant the fire strategy for the existing
 19 building as in --
 20 A. I think he might have meant the strategy for the
 21 refurbished floors.
 22 Q. I see.
 23 A. I didn't query -- I don't remember querying that
 24 particular phraseology with him.
 25 Q. By this point he didn't have any kind of fire strategy

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1 for the refurbishment, did he?
 2 A. No, I don't believe he did.
 3 Q. No.
 4 A. But, you know, I can't say -- because I wasn't involved
 5 in that process, I can't say where it was.
 6 Q. To your knowledge, was the draft existing fire strategy
 7 ever approved by Studio E or the TMO?
 8 A. I've no idea.
 9 Q. Can we also look at {EXO00001607}. What we can see is
 10 that, following that email of 30 August which we just
 11 looked at from Mr Sounes to you, on Monday,
 12 3 September 2012 you send an email to Clare Barker,
 13 "Clare, can you please ring me regarding this. Thanks,
 14 Terry." Do you see that?
 15 A. Yes, I do.
 16 Q. It appears to be in response to the email you've
 17 received from Mr Sounes, which you have set out below;
 18 yes?
 19 A. Yeah.
 20 Q. Did you speak to Clare Barker after you sent that email?
 21 A. Yes, I'm sure I did.
 22 Q. Can you recall what you discussed?
 23 A. Well, I think it was what was in that report that needed
 24 to -- would have an impact on what we were doing with
 25 the refurbishment. But I can't -- you know, some time

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1 ago, I can't remember precisely what we discussed, but
 2 I did talk to her.
 3 Q. Did you understand that the existing fire strategy was
 4 now your responsibility?
 5 A. No, I didn't, but I think that if you look at the way it
 6 was written, it was a record of what was there, but with
 7 three recommendations which needed to be followed up.
 8 Q. Whose responsibility did you think it was, if it was not
 9 your responsibility, given it was a draft document?
 10 A. The author's.
 11 Q. So your understanding was that Ms Barker and Ms Cooney
 12 would work with Studio E, the TMO, et cetera, what we
 13 described, to finalise that strategy?
 14 A. Yes, I would have expected that to be -- I wasn't in
 15 a position to finalise it myself because I didn't do the
 16 survey of the drawings.
 17 Q. Did you understand that there was a need for detailed
 18 interrogation of that existing fire strategy because it
 19 had so many assumptions and unknowns in it?
 20 A. The assumptions and unknowns were relating to the areas
 21 of the building that it didn't cover, like the
 22 commercial elements. Now, I knew that the commercial
 23 elements were going to change.
 24 Q. Some of --
 25 A. As I saw this document, it was intended to report back

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1 to the design team on what the existing conditions are
 2 in broad terms, you know, how many stairs are there, are
 3 there any defects in it or potential defects in that
 4 which would have a lesson for us going forward.
 5 Q. Did you understand that Ms Barker and indeed Ms Cooney
 6 would have no further involvement in --
 7 A. No, I've said that I didn't.
 8 Q. So you thought they would be --
 9 A. I thought they would finish the job, yes.
 10 Q. So did you understand that she was handing the project
 11 back to you?
 12 A. She didn't explicitly tell me that.
 13 Q. And that wasn't your understanding?
 14 A. No, but, as I said earlier, the key things were that we
 15 take on board or consider the things that she felt or
 16 they jointly felt were things that needed to be improved
 17 in the building or considered in drawing up the strategy
 18 for the refurbishment.
 19 Q. Yes.
 20 Can we look at the notes of a project team meeting.
 21 If we can go to {ART0000404}, these are notes from
 22 a project meeting held on Thursday, 6 September 2012,
 23 and we can see in the "Present" list that, four up from
 24 the bottom, you are said to have been present at that
 25 meeting. Is that correct?

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1 A. Correct, yes.
 2 Q. Did you receive the notes of this meeting afterwards?
 3 A. I think I did, yes, I'm sure I did.
 4 Q. If we look at page 2 {ART0000404/2} of these meeting
 5 minutes under the heading "Fire" we can see two
 6 paragraphs. It says:
 7 "Exova need to understand the existing situation and
 8 whether LFB do test the system twice a year, and what
 9 was behind the proposed upgrade works to the smoke
 10 exhaust/fire. The statutory position on the design
 11 needs to be established as it is not possible for
 12 Building Control to insist on enhancements."
 13 Do you see that?
 14 A. Yes, indeed.
 15 Q. And that's referring to the smoke control system, isn't
 16 it?
 17 A. It is, yes.
 18 Q. Then it says this:
 19 "Draft fire strategy needs detail interrogation and
 20 a meeting was arranged with [Studio E] early next week
 21 to review."
 22 Then the actions have Studio E and Exova marked
 23 there.
 24 A. Yes. Right.
 25 Q. Now, when you were at that meeting, was it envisaged

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1 that you would be involved in the detailed interrogation
 2 of the draft fire strategy?
 3 A. No, I think I was -- I would have been involved in the
 4 specific issues that needed to be looked at, not the
 5 wording of the draft report.
 6 Q. In the paragraph before, where we looked at the smoke
 7 control system, there is reference to the existing
 8 situation and testing the system twice a year, and what
 9 Exova needed to do to understand the existing condition.
 10 Do you know what Exova did to further establish the
 11 statutory position about the existing design of that
 12 system?
 13 A. I think we all knew, every member of the design team
 14 knew, that what was there wasn't code compliant when it
 15 was built, and what needed to happen to it in order to
 16 make the building safer.
 17 Q. Okay.
 18 A. I mean, it was a natural system which wouldn't
 19 necessarily be very efficient, and I think that was
 20 identified in the draft report on the existing
 21 conditions. But from day one we knew that we had to do
 22 something about the smoke extract system, because that
 23 was something that the Fire Brigade specifically were
 24 concerned about.
 25 Q. Can we look at this point at a paragraph in Mr Sounes'

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1 witness statement, {SEA00014273/61}. This is
 2 paragraph 128.4 of his witness statement, and we just
 3 need to read the first five lines. He says:
 4 "On 10 September 2012, I met Terry Ashton at our
 5 offices. I do not recall what was discussed, although
 6 note that the minutes for the design team meeting [the
 7 ones we just looked at] on 6 September state 'draft fire
 8 strategy needs detail interrogation and a meeting was
 9 arranged with [Studio E] early next week to review.'
 10 Do you see that?
 11 A. Yes, I do, yeah.
 12 Q. In the second line of that email, Mr Sounes has referred
 13 to an email chain -- that's the reference in curly
 14 brackets -- {SEA00000058}, if we can bring that up.
 15 Now, if we can start from the bottom email on page 2
 16 {SEA00000058/2} of this chain, this is Mr Sounes to
 17 Ms Cooney on 28 August. Mr Sounes says:
 18 "Our planning application has just been submitted
 19 and we will be working on the visuals for a week or two
 20 still. However I am very conscious that the fire
 21 strategy for the proposed design is somewhat embryonic.
 22 Please could you come back to me regarding progress and
 23 when we can expect a markup of the plans?"
 24 Do you see that?
 25 A. I do, yes.

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1 Q. Then if we go up the bottom of page 1 {SEA00000058/1},
 2 Ms Cooney emails back on 10 September saying she has
 3 been away:
 4 "Hi Bruce,
 5 "Apologies for the delay in getting back to you, I
 6 only returned from leave on Friday.
 7 "I will send through some preliminary mark ups this
 8 afternoon to give you an idea of possibilities with the
 9 current layout and what may be required for approval."
 10 Do you see that?
 11 A. I do, yes.
 12 Q. Then Mr Sounes emails, if we go to the top of that page,
 13 on 10 September at 10.24. He says:
 14 "Terry is coming into our office at 3pm today. No
 15 need to duplicate any work."
 16 A. Right.
 17 Q. So it would appear that you do meet Mr Sounes on
 18 10 September 2012.
 19 A. Yes, I think that -- yes, I'm sure that's correct.
 20 Q. Yes.
 21 A. I think that what -- Cate made some recommendations to
 22 Bruce about how the means of escape could be improved.
 23 Q. Yes.
 24 A. Whether or not she was asked to do that, I don't know,
 25 but she did. And then he and I sat down with the rest

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1 of the design team and discussed how things could
 2 progress.
 3 Q. Yes.
 4 A. So, I mean, for Cate to come all the way down from
 5 Warrington to discuss a meeting with him, it was
 6 obviously a good idea for him to tell her not to do any
 7 more.
 8 Q. Yes. Can you recall, thinking back to that meeting,
 9 what you spent your time discussing at that meeting?
 10 A. Fundamentally it was the layouts of the bottom four
 11 floors.
 12 Q. Was that in the context of work on the refurbishment
 13 fire strategy --
 14 A. Yes, the refurbishment.
 15 Q. -- rather than the existing fire strategy?
 16 A. Yeah. I never had any discussions with Bruce about the
 17 existing conditions. We knew that, as a result of
 18 improving the smoke extract, that would benefit
 19 everybody in the building. But the rest of the focus
 20 was on the floors that were being altered.
 21 Q. I see. So you're quite clear that, at that meeting on
 22 10 September, you didn't look in detail at the draft
 23 existing fire safety strategy?
 24 A. No, I think we were conscious that there were these
 25 three issues that she had identified.

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1 Q. But you didn't see that meeting as part of a process of
 2 getting the draft to a final stage?
 3 A. No, not at all.
 4 Q. And that's because you didn't see that as your
 5 responsibility?
 6 A. Correct.
 7 Q. Did you ever check with Ms Barker or Ms Cooney that the
 8 work on the draft existing fire strategy had been
 9 completed and finalised?
 10 A. No. I think if it had been, I would have been aware of
 11 it, because they would have copied me in.
 12 Q. Why --
 13 A. There was a misunderstanding here. It would seem that
 14 they assumed that I was going to take over ownership of
 15 the existing strategy and I was thinking that they were
 16 going to retain it.
 17 Q. Yes.
 18 A. And it didn't happen.
 19 Q. As a result, it never got finalised.
 20 A. No, it didn't get finalised, but in terms of its
 21 significance, the key things that came out of that
 22 survey were addressed.
 23 Q. Did you not see finalising that report and getting it
 24 into a final state as really important in terms of your
 25 work on the refurbishment fire strategy, so you knew

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1 what the baseline was in the building?
 2 A. I think we knew what the baseline was. It was
 3 a high-rise block of flats with a repetitive floor plan
 4 at every level above the four floors that we were
 5 considering. I'm not quite sure what benefit there
 6 would have been in finalising that report. I don't
 7 think that it would have gone into much more detail than
 8 it actually did. What it did do was highlight the areas
 9 that needed to be considered, and we considered those as
 10 part of the refurbishment.
 11 Q. What were you basing that on? When you say it was
 12 a high-rise block with a repetitive floor plan,
 13 et cetera, what were you basing that on, that knowledge?
 14 A. Well, I had seen existing plans, you know. I mean, when
 15 they sent me drawings to look at the proposed changes,
 16 they included a typical residential floor above that
 17 will level, just as a bit of background information.
 18 But that's what high-rise blocks of flats are like;
 19 they are repetitive on a floor-by-floor basis.
 20 Q. So I think you have said that at that meeting on
 21 10 September, your recollection was it was more about
 22 the refurbishment fire strategy than about the existing
 23 fire strategy?
 24 A. Yes, yes, indeed.
 25 Q. I want to ask you some questions about that.

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1 In his oral evidence to the Inquiry, Mr Sounes
 2 stated that he remembered having the elevations on the
 3 table showing the proposed cladding and that he was
 4 "almost sure we had discussed it". Those were the words
 5 he used, "almost sure we discussed it".
 6 Do you recall there being elevation drawings on the
 7 table at that meeting?
 8 A. No, I don't recall seeing any elevations of the building
 9 at that meeting, and they certainly weren't discussed in
 10 any way, shape or form.
 11 Q. Do you recall discussing the proposed cladding at that
 12 meeting on 10 September?
 13 A. No. We didn't have a discussion on cladding at that
 14 meeting.
 15 Q. Did you think that it might be important to raise it?
 16 Was it in your mind that perhaps you ought to discuss it
 17 at some point?
 18 A. It wasn't in my mind to raise it, no. As I say, the
 19 focus was on getting the means of escape from the floors
 20 that were being altered right.
 21 Q. Can we turn now to another chain of emails,
 22 {EX000000220}. This is a chain of emails into which you
 23 are copied, spanning between 10 and 11 September 2012,
 24 and I want to start with the email at the very bottom of
 25 the chain on page 2 {EX000000220/2}. This is at 17.03.

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1 This is an email from Mr Sounes to Mr Dunkerton, copying
 2 you in. We see that on the cc list.
 3 A. Yes.
 4 Q. It states:
 5 "Hi Paul,
 6 "You forwarded us a specification for the upgrade to
 7 the alarm and smoke extract in July. It was prepared by
 8 Aecom and dated October 2011.
 9 "Presumably this was the result of feedback from the
 10 London Fire Brigade? Our fire consultant (Exova) would
 11 like to know if there was anything received in writing
 12 outlining their concerns with the current system. If
 13 not, how was the specification arrived at? I think it
 14 was Ricky Sams who originally raised this back in May so
 15 I have included him on the email.
 16 "Many thanks.
 17 "Bruce Sounes."
 18 Do you see that?
 19 A. I do indeed.
 20 Q. If we go up the chain, we can see that this email is
 21 forwarded to Janice Wray of the TMO at the top of
 22 page 2. It says:
 23 "Bruce,
 24 "By way of [update] ... I pass your request for
 25 information onto Janice Wray and Adrian Bowman, our

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1 Health & Safety officers, who will be able to assist.
 2 "Janice
 3 "Please read email below."
 4 Then Ms Wray's reply, if we go up to {EX000000220/1}
 5 in the middle of that page, we see Janice Wray's reply
 6 on 11 September at 10.54 and she says:
 7 "Hi Paul,
 8 "As per conversation just now I have attached an
 9 e-mail I sent to the LFB's Fire Safety Officer following
 10 a fire in the common parts of Grenfell Tower in April
 11 2010. Unfortunately, as I have outlined the vents did
 12 not operate as required during this fire which led to
 13 pressure on us from the LFB. Subsequent to this
 14 correspondence Keith Fifield, our then Building Services
 15 Manager, and I met with the LFB at Grenfell Tower.
 16 However, as commonly happens none of this was put in
 17 writing by the LFB. I believe that this and further
 18 investigations undertaken by RGE, our Planned
 19 Maintenance contractor, led to Keith & his team
 20 concluding that this system needed to be replaced
 21 I refurbished. I'm afraid I was not involved in the
 22 detail of progressing this or drafting the
 23 specification."
 24 Do you see that?
 25 A. I do indeed, yes.

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1 Q. Then we can see at the top of that page that that email
2 from Janice Wray is forwarded to you on
3 11 September 2012:
4 "Please find response from our Health & Safety
5 officer below and attached email."
6 Now, in the light of all of that, I want to ask you:
7 did you think to update the existing fire safety
8 strategy following receipt of this information from
9 Ms Wray of the TMO?
10 A. No, because I think, as I said earlier, one of the key
11 recommendations that was made in our report was that the
12 existing smoke extract facilities were not adequate, and
13 should be investigated, and we -- I always understood
14 that we were going to put a mechanical system in that
15 building to rectify that problem.
16 I must say I don't remember the fire, but that's how
17 it came to light, but it was always an intention from
18 day one to replace the smoke extract system.
19 Q. So because it was the intention to replace it, you
20 didn't think it was important to update the existing
21 fire safety strategy to make clear, for example, that
22 the vents hadn't opened during a previous fire?
23 A. No. I mean, I certainly don't believe that Cate or
24 Clare would have been aware of this email chain.
25 Q. Wasn't that relevant information that ought to have gone

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1 into the existing fire safety strategy?
2 A. Well, only if we were not making any criticisms of the
3 smoke extract strategy. It all depends to what level --
4 the detail you need to go to in that report.
5 They said the smoke extract system is inadequate,
6 something needs to be done about it, or words to that
7 effect, and I think that's enough. This just provides
8 a little bit of history.
9 Q. Wasn't it relevant information that ought to have been
10 included for the TMO's sake in their existing
11 fire strategy that there had been a previous fire and
12 the vents had not operated as required?
13 A. Possibly.
14 Q. Did you think to ask Ms Cooney or Ms Barker to go back
15 over the existing fire safety strategy and update it
16 with this important information?
17 A. No, I didn't think to, because, as I've said, there was
18 an intention to replace the smoke extract system.
19 MS GRANGE: I see.
20 Mr Chairman, that might be a good moment for this
21 afternoon's break, because I'm about to move to
22 a different topic, which is a bigger topic.
23 SIR MARTIN MOORE-BICK: Okay. Would ten minutes be long
24 enough?
25 MS GRANGE: That's fine for me if it's fine for Mr Ashton.

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1 SIR MARTIN MOORE-BICK: Bit of a step back to the witness
2 room, that's all, isn't it?
3 Let's say 3.10, to give you a little more time to do
4 the journey there and back.
5 THE WITNESS: Okay, thank you.
6 SIR MARTIN MOORE-BICK: Please don't talk to anybody about
7 your evidence while you're out of the room.
8 Would you like to go with the usher.
9 THE WITNESS: Thank you.
10 (Pause)
11 SIR MARTIN MOORE-BICK: How are we doing on progress?
12 MS GRANGE: Yes, we are making good progress. There is
13 a lot to cover with this witness, so I am likely to
14 cover the next two days with him.
15 SIR MARTIN MOORE-BICK: No, I just wanted to be alerted if
16 you were going too slowly, then we could consider the
17 length of our breaks, but ...
18 MS GRANGE: I think we are okay. If the witness is happy to
19 carry on at this pace, that's fine.
20 SIR MARTIN MOORE-BICK: Good. 3.10, please.
21 (2.53 pm)
22 (A short break)
23 (3.10 pm)
24 SIR MARTIN MOORE-BICK: All right, Mr Ashton?
25 THE WITNESS: Thank you.

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1 SIR MARTIN MOORE-BICK: Yes, good, thank you very much.
2 Yes, Ms Grange.
3 MS GRANGE: Thank you. I just have a couple of questions
4 arising from that last topic.
5 Can we go back to the string of emails we were
6 looking at on the smoke control system, {EX000000220/2},
7 the email that we started off looking at, we see there
8 in the second paragraph of that email on 10 September at
9 17.03, if we can zoom in on that, we can see that this
10 request has come from Exova, it says in that second
11 paragraph:
12 "Our fire consultant (Exova) would like to know if
13 there was anything received in writing outlining their
14 [the LFB's] concerns with the current system."
15 So do you know whether it was you who generated that
16 request? Was it you that wanted to know?
17 A. Yes, I would have liked to have seen what the
18 Fire Brigade thought about it in writing.
19 Q. Yes.
20 A. I think it says in a later email that they don't
21 normally write.
22 Q. Yes. So it's you that wants to know, and that would be
23 in part because the existing fire safety strategy didn't
24 tell you that detail, did it?
25 A. The existing fire safety strategy said, from memory,

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1 that there were natural ducts provided for smoke extract
 2 and stipulated a size that they measured from microfiche
 3 drawings, which may or may not have been accurate and
 4 which, therefore, needed to be checked. But just
 5 looking at that, it was obvious to me that that system
 6 would not work properly.

7 Q. Yes, and it didn't tell you about the LFB's concerns
 8 with the current system, did it?

9 A. No, but I think any fire officer who had gone into the
 10 building, not because of a fire incident but just to
 11 inspect it, and they do that occasionally, would have
 12 said, "What is this?"

13 Q. Given that this is helping, you know, the existing
 14 fire strategy, to inform the TMO's management plan for
 15 the building, and although the smoke vent system is
 16 going to be upgraded as part of the refurbishment, there
 17 are residents living in that tower at the time, wasn't
 18 it important to make sure that the existing fire safety
 19 strategy outlined that the system hadn't worked properly
 20 in a previous fire, it was that serious?

21 A. I don't think that Cate knew that when she produced the
 22 report.

23 Q. But you --

24 A. I may be wrong, but I don't remember considering
 25 the fire incident.

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1 Q. No, I'm not suggesting Ms Cooney did know that; I'm
 2 suggesting that you then became aware of that
 3 information. Why didn't you think "Well, we need to put
 4 that in the existing fire strategy because a responsible
 5 person needs to be aware that we have a building that
 6 relies on a single staircase, high degree of
 7 compartmentation, smoke vent system is important, and
 8 it's not working"?

9 A. We ... I'm not sure that we could have got anything done
 10 immediately to resolve that situation.

11 In terms of its effect on the building, there was
 12 still a stay-put strategy in the building; in other
 13 words, nobody who is in a flat that wasn't on fire
 14 needed to leave the building.

15 Q. Yes, but didn't that stay-put strategy in part depend on
 16 there being proper smoke control in the lobby of origin?

17 A. In theory it does, because the smoke extract system is
 18 supposed to keep the stair free of smoke, not the lobby.

19 Q. Exactly.

20 A. There isn't a system or there wasn't a system around at
 21 that time that was capable of providing tenable
 22 conditions for escape in the horizontal mode.

23 Q. Yes.

24 A. But, I mean --

25 Q. When you say there wasn't much that could have been

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1 done --

2 A. You couldn't actually go in there the next day and
 3 replace it with a mechanical system.

4 Q. Could you not have proposed some mitigation in the years
 5 before the refurbishment was finished to deal with the
 6 fire safety situation as at that time?

7 A. I'm not sure what system could have gone in for a period
 8 of a year that would have made it any better.

9 Q. Didn't that then call into question the stay-put
 10 strategy?

11 A. No, it reinforced the need for the stay-put strategy, in
 12 my view, because it wasn't safe for them to leave their
 13 flats, unless it was the flat that was on fire, and
 14 that's what underpins escape from blocks of flats
 15 anyway --

16 Q. I see.

17 A. -- that if you're not in the flat that's on fire, you're
 18 safe to stay where you are. Now, we all know what
 19 happened subsequently --

20 Q. But if you are -- yeah.

21 A. -- but that was the philosophy at that time.

22 Q. Okay.

23 Let's move to a different topic, then.

24 I'm now going to turn to look at the design note
 25 which you prepared on 12 September 2012. Can we go to

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1 that and bring that up. That's at {TMO10001562}. So we
 2 can see from the top that this is dated
 3 12 September 2012 and it's headed "Grenfell Tower - Fire
 4 Safety Strategy"; do you see that?

5 A. I do, yes.

6 Q. Then in the first paragraph it says:
 7 "Introduction.
 8 "This Design Note provides an outline fire safety
 9 strategy for the proposed refurbishment of the building,
 10 with particular emphasis on means of escape and access
 11 and facilities for the fire service."
 12 Do you see that?

13 A. I do.

14 Q. If we turn on to page 4 {TMO10001562/4}, at the top of
 15 the page we see it was prepared by you. Is that your
 16 signature?

17 A. It is, yes.

18 Q. It was reviewed again by Mr McEleney; is that correct?

19 A. Correct.

20 Q. Can you explain for us what the purpose of this note
 21 was?

22 A. It was just a series of headlines following a meeting
 23 that we had with Studio E and other members of the
 24 design team as to the way forward for achieving
 25 a satisfactory fire safety strategy. They wanted

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1 something in writing from us telling them what we had
 2 told them or what I had told them at the meeting.
 3 Q. Was that the same meeting we were just discussing, the
 4 10 September 2012 meeting?
 5 A. Yes.
 6 Q. Which RIBA stage was this prepared for?
 7 A. Well, it was C, really, but it wasn't a stage C report;
 8 it was a preliminary report designed to highlight
 9 what -- the key issues. It could have been an email
 10 with bullet points, but instead we chose to do
 11 a design note. That is a way that we do things
 12 sometimes. It looks better, more official.
 13 Q. Yes.
 14 Can we look at what you say about this at
 15 paragraph 4.2 of your witness statement,
 16 {EX000001621/7}. There we can see that you say:
 17 "I recall that the design note was produced
 18 following an initial meeting with Studio E, who
 19 requested that we prepare something in outline form to
 20 discuss. The design note, therefore, contained an
 21 outline fire strategy for the refurbishment, with
 22 particular emphasis on means of escape and access and
 23 facilities for the fire service. It was not intended to
 24 be a firm set of proposals for gaining Building Control
 25 approval, but rather to assist the architects in

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1 developing the design."
 2 Do you see that there?
 3 A. I do indeed, yes.
 4 Q. Now, can you just explain those last words that you have
 5 used there? It was intended to assist the architects in
 6 developing the design. Which particular part of the
 7 design was it to assist them with?
 8 A. Means of escape and access for the fire service. In
 9 other words, it didn't embrace all parts of part B of
 10 the Building Regulations, we were focusing on those two
 11 issues.
 12 Q. So it was just B1 and B5?
 13 A. Yeah.
 14 Q. We will look at that in more detail in a moment.
 15 I want to ask you how you went about preparing this
 16 initial design note. So we know that you had attended
 17 project meeting number 8 on 6 September 2012. We just
 18 looked at those minutes.
 19 A. Yeah.
 20 Q. And you had had the meeting with Studio E and Mr Sounes
 21 on 10 September 2012.
 22 Was it just Mr Sounes in attendance at that meeting
 23 or was anyone else from Studio E present, can you
 24 remember?
 25 A. I can't recall. I think there were two or three

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1 architects there, but it wasn't minuted, I don't think,
 2 that meeting.
 3 Q. Then if we can look at an email, {EX000000685}, and we
 4 start at the bottom of page 2 {EX000000685/2}, this is
 5 jumping back in time. It's an email of 22 May from you
 6 to Mr Sounes, and you have set out some initial comments
 7 on your proposals. You can see that in the first line
 8 of your email:
 9 " ... I'm not able to meet with you this afternoon
 10 here are my initial comments on your proposals."
 11 And you set out some initial comments.
 12 Then Mr Sounes -- we don't need to look at the
 13 detail of those for the moment, they're dealing with the
 14 lower levels of the tower. Then you say:
 15 "A site visit would be very helpful in understanding
 16 what the existing arrangements are."
 17 Do you see that at the end?
 18 A. I do, yes.
 19 Q. "Regards, Terry."
 20 Then if we can look at Mr Sounes' reply at the
 21 bottom of page 1 {EX000000685/1}, and he says in the
 22 second paragraph -- he starts by saying "Thank you but
 23 I don't follow", we will look at this in a moment, but
 24 I want to focus on what he says about a site visit for
 25 a moment. He said:

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1 "Mark Anderson would like to hold a design team
 2 meeting for Thursday. I do not think it is essential
 3 you are there but I think it is important we get a more
 4 detailed appraisal of any issues. A site visit is
 5 probably essential - there are risers in the lobby and
 6 the fire safety strategy obviously needs to work with
 7 the existing."
 8 Then he goes on:
 9 "The TMO estate staff are there every day."
 10 Then you reply at the top of that page, top of
 11 page 1, on 23 May at 9.47, and you say:
 12 "I can't look at the building this week due to other
 13 commitments and I'm afraid that, on their own, the
 14 photos don't help. It would be better to visit the
 15 building before giving you the necessary advice."
 16 Do you see that?
 17 A. I do indeed.
 18 Q. Did you undertake a site visit to better understand the
 19 building?
 20 A. No, I didn't.
 21 Q. Did you visit Grenfell Tower at any stage during the
 22 time you worked on the project?
 23 A. No, I didn't.
 24 Q. Can you explain why that was?
 25 A. Other priorities, possibly. Or I became more familiar

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1 with the layout of the building based on the drawings
 2 that were produced by Studio E.
 3 Q. Did you not think that it would be essential, in order
 4 to carry out your role as the lead member of Exova's
 5 fire safety engineering team, that you visited the
 6 building?
 7 A. It would have been desirable, but I didn't do it.
 8 Q. Yes, because we can see here your own recommendation to
 9 visit the site before giving advice.
 10 Do you think you should have satisfied yourself that
 11 all areas under your responsibility concerning the
 12 refurbishment had been covered by visiting
 13 Grenfell Tower itself?
 14 A. It would have been nice to do it, but I didn't do it.
 15 Q. Now, we know that Mr James Lee did a site visit at the
 16 end of May that was around two hours, and he took some
 17 photos. Is that correct?
 18 A. I believe so.
 19 Q. So just now trying to focus on what information you had
 20 about the building when you prepared the design note, if
 21 we can go back to that at {TMO10001562}. Now, we know
 22 you have received Ms Cooney's existing fire safety
 23 report nine days before you drafted this. We saw that
 24 from the emails.
 25 A. Yes.

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1 Q. You had also had various sketches and some marked up
 2 general arrangement plans that had been sent to you. We
 3 can see that from the emails. We don't need to pull it
 4 up, but for example at {EXO00000468}.
 5 Did you have anything else? I mean, did you have
 6 any written records of Mr Lee's site visit?
 7 A. Not in drawing up that design note.
 8 Q. Did you have the photos of Mr Lee's visit when you were
 9 drawing this up?
 10 A. I don't believe I looked at them. I think that the
 11 object of this was what needs to be done in the future
 12 to achieve a satisfactory level of means of escape and
 13 firefighting access to the altered floors. So it's
 14 about the design, the design changes.
 15 Q. We know that Mr Lee's visit lasted no more than
 16 two hours, and we've got the timesheet where he logged
 17 two hours. That's at {EXO00000802}. We don't need to
 18 turn that up. But would you agree that a two-hour visit
 19 was insufficient to fully survey the building, including
 20 the active and passive fire safety systems?
 21 A. It probably was inadequate.
 22 Q. At the point you prepared this fire safety strategy, did
 23 you know that Mr Lee had done a visit?
 24 A. I may have done, but, as I say, the focus of this
 25 design note was: what do we do to make your proposals

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1 acceptable?
 2 Q. Ms Cooney said that she had had discussions with Mr Lee
 3 to understand the layout. Did you have any such
 4 discussions with Mr Lee --
 5 A. No.
 6 Q. -- at any time before preparing this design note?
 7 A. No. Bear in mind this design note was produced having
 8 looked at drawings that they tabled showing their
 9 proposals.
 10 Q. Did you get any feedback from Mr Lee or anyone else
 11 about the design team meetings that he had attended?
 12 A. No.
 13 Q. Was there a project file for Grenfell where --
 14 A. Yes, there was a project file but I'm not sure that he
 15 produced any notes which were filed.
 16 Q. What about the project notes that were circulated
 17 regularly by the architects or ...
 18 A. Well, they would have been filed, yes.
 19 Q. Did you have a look at those before you prepared this
 20 design note?
 21 A. Only those that related to their proposals. I mean, we
 22 had not a huge amount of correspondence before we
 23 produced this design note.
 24 Q. Did you have any discussions --
 25 A. It was only a couple of days after the first meeting

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1 I had with them.
 2 Q. Sorry.
 3 Did you have any discussions with Mr Lee or anyone
 4 else at Exova about the fact that the project involved
 5 improving the thermal efficiency and visual appearance
 6 of the tower by overcladding?
 7 A. No, I didn't.
 8 Q. So we know that was discussed at a meeting that Mr Lee
 9 attended on 19 April 2012.
 10 Was there any further information, then, other than
 11 what I've listed -- so Ms Cooney's existing
 12 fire strategy, various sketches and marked up general
 13 arrangement plans -- was there anything else that you
 14 had before preparing the design note?
 15 A. No.
 16 Q. Did you make any enquiries of the TMO building
 17 maintenance team before you prepared it?
 18 A. No.
 19 Q. Did it occur to you that that might be something that
 20 would be helpful?
 21 A. No. As I say, the -- we didn't have very much to do
 22 with TMO. They were our client, but we didn't have
 23 a lot of interaction with them. We worked with Studio E
 24 by and large, and Max Fordham occasionally.
 25 Q. Yes.

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1 A. But at this stage we were concerned only with the --
 2 getting the proposal in a shape that could be presented
 3 to Building Control.
 4 Q. Did you think that you had sufficient accurate
 5 information about the tower when you wrote the note?
 6 A. I think there was adequate, yes.
 7 Q. Let's look at the content of the design note, so we have
 8 got it up here. We can see from the blue headings, and
 9 you have already confirmed, in the note at pages 1 and 3
 10 that it only deals with B1, that's means of warning and
 11 escape, and B5, access and facilities for the fire
 12 service.
 13 Can you explain why it only deals with those aspects
 14 of schedule 1 of the Building Regulations?
 15 A. Because the other aspects weren't as pressing.
 16 Q. So in your mind, B2, B3 and B4, they weren't as
 17 pressing?
 18 A. Not at that stage, no. We wanted to get the means of
 19 escape and the firefighting access right.
 20 Q. Why weren't they pressing, given that you knew that the
 21 tower was to be overclad?
 22 A. Well, if you take B2, that's the fire classification of
 23 surfaces. Applying surfaces to the walls in the
 24 building would have been done at a much later date and
 25 therefore wasn't significant in terms of means of escape

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1 and firefighting access. B3 -- the only aspects of B3
 2 which were part of these alterations would be separation
 3 of existing uses from the main escape route, and they
 4 are covered, albeit under B1.
 5 Q. And B3.iv -- we'll come to talk about this --
 6 A. B4 --
 7 Q. No, B3.(4), in terms of compartmentation.
 8 A. We were just dealing with the specific alterations at
 9 that stage.
 10 Q. Were B1 and B5 the parts you were most familiar with
 11 about the project at this stage?
 12 A. Yes, that's fair comment. Yes, they were.
 13 Q. But if you were aiming to help the architects with the
 14 development of their design, why were you choosing only
 15 to help with those aspects at this stage?
 16 A. Because those were the aspects they wanted answers on
 17 immediately.
 18 Q. What gave you that impression?
 19 A. They told me that they wanted a quick report confirming
 20 what I had said to them at the meeting that we had with
 21 them.
 22 Q. Did they say, "We only need you to deal with B1 and B5"?
 23 A. No, they didn't, but we didn't discuss the other parts
 24 of part B at the meeting.
 25 Q. Can you see that that might have led the design team to

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1 think that only B1 and B5 were important?
 2 A. No, I can't see that.
 3 Q. Can we just look at what Mr Sounes has said in his
 4 witness statement about this. If we go to
 5 {SEA00014273/61}, and I want to look at paragraph 128.5.
 6 He says:
 7 "On 12 September 2012, Jean Watt (Exova) emailed me
 8 ... attaching Exova's Design Note 1 [that's what we just
 9 looked at] ... The note provided an outline fire safety
 10 strategy for the proposed refurbishment of the Tower.
 11 It focused on means of escape and access/ facilities for
 12 the fire service, which reflected our conversations with
 13 Exova. As a result, I would have believed these were
 14 the most significant issues that needed to be addressed
 15 at this point."
 16 Do you see that?
 17 A. I think that's perfectly true. That's what we discussed
 18 and those were the issues that needed most attention at
 19 that time.
 20 Q. Did you think that they were the most significant issues
 21 that needed to be addressed?
 22 A. Yes, indeed.
 23 Q. Given that you knew the building was to be overclad, why
 24 didn't you consider requirement B4 in the design note?
 25 A. Because we hadn't discussed overcladding in any shape or

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1 form at that stage.
 2 Q. But you were aware -- I think you have accepted this --
 3 that there was a proposal to overclad the building.
 4 A. Yes, but our priorities, and Bruce Sounes has identified
 5 the same priorities, was to get the means of escape and
 6 the access and facilities for the fire service right, as
 7 a first task.
 8 Q. Yes.
 9 Can we just look at a few instances where the
 10 cladding is mentioned. We know, and we looked at it
 11 earlier in that initial email of 3 May 2012, that it was
 12 one of the six principles of the project. Do you
 13 remember it was point 4, overcladding?
 14 A. Yes.
 15 Q. Can we now look at another document. If we look at
 16 {SEA00003962}. This is an email from Mr Sounes to
 17 Leadbitter, Leadbitter Mark Deakin, and you are copied
 18 in, I think, to this email. Is that correct? Yes. So
 19 on the copy list, we see that you are one line up from
 20 the bottom on the copy list. Can you see that?
 21 A. Yes, indeed.
 22 Q. In the third paragraph, the second line, we see they
 23 say:
 24 "For instance we are approaching specialist
 25 overcladding subcontractors and feel it is appropriate

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1 that Leadbitter have the opportunity to comment on who
2 they might be.”
3 Do you see that?
4 A. I do, yes.
5 Q. Again, would you have read that email and been aware
6 that they were approaching specialist overcladding
7 subcontractors?
8 A. Yes, I think I would have assumed that from reading the
9 email.
10 Q. So you were aware of that when you drafted the
11 design note?
12 A. Not specifically. It wasn't -- I'm copied in on a lot
13 of correspondence which doesn't ask for me to take any
14 action. But I was aware in the background that they
15 were going to overclad the building.
16 Q. Yes.
17 We know you also attended the project team meeting
18 number 8 on 6 September. Can we look again at those
19 minutes, {ART0000404/4}. Second item from the bottom,
20 we can see that what's discussed there:
21 "Co-ordination of cladding, heating and seasons
22 critical. Input required from Leadbitter."
23 Do you see that?
24 A. I do.
25 Q. So that's a meeting that you attended in person, wasn't

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1 it?
2 A. I may not have been there for the whole time, but yes,
3 I do remember going to the meeting.
4 Q. Do you remember there being a discussion about
5 co-ordination of cladding?
6 A. No. It's possible that I left the meeting early.
7 Q. Would you have been sent the minutes to these meetings?
8 A. Probably.
9 Q. Yes. I think we have seen --
10 A. But I would only have looked at those in relation to the
11 action column which had Exova against it rather than LB
12 or TMO.
13 Q. So you wouldn't read -- these meetings, they're only
14 four pages long. You wouldn't have looked through these
15 meeting minutes to get a sense of how the design was
16 progressing, how the team was progressing, what the
17 issues were that were coming up? You wouldn't do that?
18 A. Not necessarily, no. I mean, bear in mind that you're
19 working on a large number of projects. If there is
20 something which is highlighted as an action for you,
21 then look at that.
22 Q. There were a number of other design team meetings
23 between April 2012 and August 2012 where cladding was
24 referred to, meetings to which the minutes were
25 distributed to Exova, even if they weren't present, and

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1 I just want to look at two examples of that with you.
2 A. Okay.
3 Q. Can we go to a meeting on 18 July 2012. This is
4 {EXO00000753}. This is a project meeting on 18 July, we
5 can see that, and you're part of the distribution list.
6 Do you see that they split the minutes --
7 A. Right.
8 Q. -- into those that were present in the first list, and
9 then do you see "Distribution: As present: Terry Ashton,
10 Exova" at the end of that; do you see that?
11 A. I do.
12 Q. There is a separate email a few days later on 24 July
13 where these minutes are sent to you. For the reference,
14 that's {EXO00000751}.
15 In this meeting, we can see on page 2
16 {EXO00000753/2}, under "Architecture", there is
17 a reference, second item up from the bottom, to:
18 "Zinc rainscreen emerging as front runner
19 aesthetically for cladding. VMZinc composite panel may
20 be most cost effective for true zinc finish."
21 Do you see that?
22 A. I do, yes.
23 Q. Do you remember reading those minutes?
24 A. No, but had I done so, "Zinc rainscreen emerging as
25 front runner" wouldn't have caused me to have any

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1 concerns.
2 Q. Well, we will come on to what it might have told you in
3 a moment. So ...
4 A. I probably didn't read the minutes, if I'm honest, but
5 had I done so, seeing that wouldn't have rung any alarm
6 bells.
7 Q. Why do you think you probably wouldn't have read the
8 minutes?
9 A. Because I don't tend to read the minutes of meetings
10 that I don't attend. It's not as if this is the only
11 project I'm working on.
12 Q. Yes.
13 Let's look at another example. On 19 April 2012
14 there is a design team meeting at which James Lee of
15 Exova was present. This is {TMO10001143}. Just to
16 note, James Lee is midway down on that "Present" list
17 from Exova. If we go to page 2 {TMO10001143/2} at
18 item 3.0, "Project scope", at the bottom of the page,
19 there are further objectives, and do you see there the
20 first item is:
21 "Improving the thermal efficiency and visual
22 appearance of the facade, possibly complementary to
23 KALC."
24 Do you see that?
25 A. I do, yes.

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1 Q. Then at page 4 {TMO10001143/4} there is a post-meeting
 2 note, the very last item -- sorry, it's the post-meeting
 3 note at 6.0, and in the very last paragraph there it
 4 says:
 5 "The Planners responded negatively to aluminium
 6 rainscreen as a cladding solution, calling it plastic.
 7 They would like to see the character of the tower
 8 retained or enhanced, even suggesting leaving the
 9 diamond piers exposed. They would prefer to see an
 10 insulated render system."
 11 Do you see that?
 12 A. I do, yes.
 13 Q. Would you have seen those minutes, given that Mr Lee had
 14 been present at them?
 15 A. No. No, I wouldn't.
 16 Q. Was there a system within Exova -- so we know Mr Lee
 17 left Exova at the end of May, I think it was, 2012.
 18 Would there have been a system within Exova for
 19 capturing and recording the information on a project so
 20 that the person then carrying on working on it would be
 21 able to access it?
 22 A. Not specifically. I mean, I think that if I were taking
 23 over a project from somebody else -- and that wasn't the
 24 case here, but if I were -- then I would familiarise
 25 myself with it. I might even have a discussion with my

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1 colleague as to what issues had been discussed or needed
 2 to be resolved.
 3 Q. But you are named as the lead Exova consultant from the
 4 beginning.
 5 A. Yes, but that doesn't mean to say I go to every meeting.
 6 And what's written there about the cladding seems to
 7 suggest that they didn't like aluminium rainscreen and
 8 they would rather see something like an insulated render
 9 system. So it was not clear at that stage, even if
 10 I had read it in detail, that the cladding was going to
 11 present an issue.
 12 Q. I appreciate that, but what we did just look at is in
 13 July, several months later, zinc rainscreen was emerging
 14 as the front runner and you were taken as present in
 15 that meeting.
 16 A. Rainscreen would have been the normal way of doing
 17 overcladding. Applying insulated render to a building
 18 isn't rainscreen.
 19 Q. No.
 20 When you drafted your design note, that first piece
 21 of work for Studio E and the TMO, were you aware of the
 22 possibility that aluminium rainscreen might be used?
 23 A. Absolutely not.
 24 Q. So that hadn't been picked up by you?
 25 A. No.

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1 Q. Either from colleagues at Exova or from reading the
 2 meeting minutes?
 3 A. No. Aluminium rainscreen per se isn't necessarily
 4 a problem. Aluminium is a non-combustible material.
 5 But, as I say, I didn't pick this up because it was
 6 minutes at a meeting that a colleague had attended. But
 7 aluminium, in the same way as zinc, wouldn't raise any
 8 alarm bells with me.
 9 Q. Yes.
 10 A. Because there are very few building materials that you
 11 can put on buildings as a rainscreen. Aluminium would
 12 be one; zinc would be another.
 13 Q. Yes.
 14 A. Glass would be another.
 15 Q. Well, we will come to look in a moment at the advice you
 16 gave on B4.
 17 Just pausing here for a moment, you don't mention
 18 any of these design team meetings in your witness
 19 statement. Is there a reason for that?
 20 A. Well, because I didn't go to them, most of them.
 21 Q. And you don't mention, for example, the one on
 22 6 September that you did go to.
 23 A. No, because there wasn't anything significant in that,
 24 in my view, that was worth mentioning in my witness
 25 statement.

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1 Q. If we can go back to the design note, {TMO10001562}, do
 2 you agree that the overcladding should have been
 3 mentioned at the very outset of this design note as
 4 a significant part of the refurbishment?
 5 A. No, not really.
 6 Q. Even though you describe this as, in that first note,
 7 an outline fire safety strategy?
 8 A. Addressing two specific issues only.
 9 Q. But do you agree that overcladding a building of 23
 10 storeys is a significant piece of work?
 11 A. I would agree with that statement as a general
 12 statement, yes.
 13 Q. And with the potential to make a significant difference
 14 in terms of the fire strategy for the building?
 15 A. Ultimately it would have done, yes.
 16 Q. Now, let's look at your witness statement again. This
 17 is at {EXO00001621/7}. At paragraph 4.3 you state in
 18 the second sentence:
 19 "The design note does not consider cladding - the
 20 only information I had at this time was the reference to
 21 an intention to have 'overcladding' in Mr Sounes' e-mail
 22 of 3 May 2012, and I had not seen any specific proposals
 23 that could be commented on."
 24 Do you see that?
 25 A. Yes, I do.

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1 Q. What do you mean there by specific proposals? What did
2 you have in mind when you wrote --

3 A. Well, materials possibly. I mean, we knew that there
4 was an intention to overclad the building, but we didn't
5 know what with.

6 Q. Even though you didn't have those specific proposals at
7 that stage, didn't you think it might have been helpful
8 to explain the regulatory framework which would apply to
9 any overcladding work?

10 A. Not in that particular document.

11 Q. Why was that?

12 A. Well, because that document that I produced there --
13 we're talking now about the design note. It was quite
14 specific to two issues.

15 Q. Did you ever think at this time about whether it might
16 be helpful to explain the performance requirements that
17 would apply to any overcladding work of a high-rise
18 building such as Grenfell Tower?

19 A. Not specifically, no.

20 Q. Did you ever ask Mr Sounes for the specific proposals
21 about the overcladding?

22 A. No, I didn't, but equally he didn't come back to me at
23 any point and say, "This is what we're thinking of
24 doing, Terry, what do you think?"

25 Q. As I put it to you earlier, it was his evidence that, in

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1 that meeting of 10 September 2012, he had put elevations
2 out on the table and --

3 A. They weren't discussed.

4 Q. Can you explain why Ms Cooney did consider the B4
5 functional requirement in her existing fire strategy,
6 but you didn't consider it in this note? So can we just
7 look at what she says. Her existing fire strategy is at
8 {EXO00001074}. If we can go to page 14 {EXO00001074/14}
9 within this. So this is the existing fire safety
10 strategy, the draft of it, 16 August 2012, and page 14
11 is where she deals with B4, external fire spread.

12 We can see there that what she has done is explained
13 what the requirement was in B4, external walls of the
14 building shall resist the spread of fire over their
15 surface, et cetera, and then she has explained the
16 general philosophy of the requirement, and then she has
17 given some information under "External Wall
18 Construction", "Space Separation", do you see that?

19 A. I see the space separation calculation, which just,
20 you know, confirms that the position of the building in
21 relation to the boundaries is such that there was no
22 limit on unprotected areas in the façades.

23 Q. I see that about space separation.

24 A. Yes.

25 Q. I understand that. Looking at 6.2 above it, "External

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1 Wall Construction", it says there:
2 "The external surface of the building, which is more
3 than 18m, should have a surface classification of
4 Class 0 (national class) or class B-s3, d2 or better
5 (European class). The external surfaces appear to be of
6 concrete and glazed openings in metal frames, which
7 would be satisfactory for the purposes of external
8 fire spread."

9 Do you see that?

10 A. I do, yes.

11 Q. So for an essentially concrete building with aluminium
12 windows, she has explained the intent behind B4, the
13 philosophy, and she has given some performance
14 requirements.

15 Why could you not have done the same for the B4
16 requirement in your design note, even if you didn't have
17 specific proposals?

18 A. It would not be normal doing a design note to quote
19 verbatim from every single clause of Approved
20 Document B. It ceases then to be a design note and
21 becomes a much more complicated document.

22 Q. But did you appreciate at this stage that the B4.(1)
23 requirement on external walls, adequately resists the
24 spread of fire, was going to be important given that it
25 was going to be overclad?

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1 A. No, I didn't at that stage. This would have been
2 considered at a later stage when details of the cladding
3 became known.

4 Q. And you didn't think that it was important to make
5 Studio E and the other members of the design team aware
6 of the performance requirements for a building above
7 18 metres in terms of external wall?

8 A. I would expect a competent architect to know the
9 fundamental requirements of the Building Regulations
10 without them being spelt out to him in a design note.

11 As to guidance as to how to meet those requirements,
12 I would expect him then to look to a fire consultant for
13 advice. But I wouldn't expect a design note to be
14 page after page of quotations of fire performance.

15 Q. I'm not talking about page after page --

16 A. Well, it could end up that way. You're focusing
17 particularly on the cladding, but it would apply to any
18 number of parts of Approved Document B.

19 Q. Yes, I guess --

20 A. The design note was really a list of points that they
21 needed to take into consideration in the immediate
22 future.

23 Q. The basic point I'm putting to you here is that even for
24 a fairly simple building with a concrete surface,
25 Ms Cooney has gone into the requirements and set out

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1 some of the performance requirements --
 2 A. Yes, fine.
 3 Q. -- and I'm just suggesting that that could have been
 4 done in the design note.
 5 A. It could have been done but wasn't. I mean, she's just
 6 recording what is there in effect.
 7 Q. I just want to pick up on a few other points about the
 8 design note, if we go back to that, {TMO10001562}.
 9 Just a general point, and we will look at some
 10 examples in a moment, do you accept that often what you
 11 do is you don't identify the relevant statutory
 12 requirements or guidance which is relevant to the topic
 13 that you're considering in the note?
 14 A. Well, under 3, it says, "3.1 Compliance with B1 (means
 15 of warning and escape)".
 16 Q. Yes.
 17 A. That's the functional requirement which this part of the
 18 report is dealing with.
 19 Q. Let's just look at some examples.
 20 If we look on page 1 at the very bottom and over to
 21 page 2 {TMO10001562/2} in section 3.1.2 dealing with
 22 means of escape under requirement B1, we don't get
 23 anywhere in that section, if you look at what's written
 24 there and then over the page, we don't get any
 25 explanation there of what the relevant guidance

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1 documents are that you are relying on when you are
 2 giving that advice.
 3 A. Specifically with relation to smoke extract?
 4 Q. Yes.
 5 A. Well, it was not possible for the existing smoke extract
 6 system to be redesigned to a natural system complying
 7 with Approved Document B. It would have had to have
 8 been a bespoke system, and that I believe is what was
 9 ultimately installed in the building.
 10 Q. I see. The point is that you say at the top of page 2
 11 that:
 12 "The existing smoke system serving the common
 13 lobbies will need to be refurbished and/or modified to
 14 reflect statutory requirements ..."
 15 Do you see that there?
 16 A. Yes, indeed.
 17 Q. But you don't identify what those statutory requirements
 18 are that you have in mind to which it will need to be
 19 refurbished or modified.
 20 A. I think that a lot of this is obvious, maybe not to
 21 somebody who is used to dealing with these things on
 22 a day-to-day basis, but the fundamental requirement for
 23 a smoke extract system in a high-rise block of
 24 apartments is that what is provided in the lobby keeps
 25 the stair free of smoke. I think most professionals who

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1 are dealing with smoke extract systems understand that
 2 completely.
 3 Q. Did you ever check whether Studio E understood that?
 4 A. It wasn't Studio E's design responsibility, it was
 5 Max Fordham's design responsibility, and I'm pretty sure
 6 they knew what they were doing.
 7 Q. Do you think it would have been helpful for the design
 8 team to have known what those statutory requirements
 9 were?
 10 A. Yes, obviously it would have been, but you could say
 11 that about an awful lot of the comments -- sorry,
 12 an awful lot of the text that's in there, you could have
 13 expanded it. You wouldn't have been able to issue that
 14 in the short period of time that it needed to be issued.
 15 It's really only headlines, as I've said several times.
 16 Q. Yes. Just to take another --
 17 A. If I hadn't said the existing smoke extract system needs
 18 to be modified, then you could say, "Well, why didn't
 19 you say that?" But I had said that.
 20 Q. Just to take another example, if we look at the rest of
 21 page 2 there that follows below, we can see that you go
 22 on to identify the performance of doors in various
 23 locations in that section. So we often see it says
 24 FD30S doors, FD20 doors, walls having a 30-minute
 25 standard of fire resistance. Do you see that? We see

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1 that throughout this section.
 2 A. Yes.
 3 Q. Again, you haven't identified where that guidance comes
 4 from. It's the same point: wouldn't that have been
 5 helpful for the design team to know where you are
 6 getting this guidance from, so that they can also have
 7 that in mind as they develop the design?
 8 A. Well, I think that, you know, they knew that we were
 9 looking at this with the codes of practice in the back
 10 of our minds. Whether or not we say, "You need to
 11 comply with Approved Document B and that means FD20
 12 doors of FD30S doors", I'm not sure.
 13 In a more comprehensive fire safety strategy, that
 14 sort of thing would be there. The basis for compliance
 15 with the Building Regulations is compliance with
 16 Approved Document B.
 17 This was not that. This was, as I say, a list, if
 18 you like, of headline things that needed to be
 19 considered.
 20 Q. Isn't Approved Document B potentially quite a complex
 21 document for someone --
 22 A. Yes, that's why they employ fire consultants to
 23 interpret it.
 24 Q. Yes.
 25 Can we look under the heading "Altered parts", we

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1 see that on that page, on page 2.
 2 A. Yeah.
 3 Q. Under the heading "Within apartments" that's in capitals
 4 in blue --
 5 A. Yeah.
 6 Q. -- in the last sentence there -- it's actually
 7 a separate paragraph:
 8 "There need only be one exit from each apartment
 9 provided that the travel distance from the apartment
 10 entrance door to the door to the furthest habitable room
 11 does not exceed 9m."
 12 Do you see that?
 13 A. Yeah, that's correct.
 14 Q. On the topic of travel distances, can we just look at an
 15 email sent to you on 10 September by Ms Cooney, so this
 16 is two days before this design note which is dated
 17 12 September. If we can go to that, {EXO00000388}.
 18 A. Right.
 19 Q. So this was a long email that Ms Cooney sent you on
 20 10 September, and it's "thoughts on the possible
 21 solution to Grenfell Tower", do you see that?
 22 A. Yes, indeed.
 23 Q. She has split it into thoughts over different
 24 categories.
 25 Then if you look at the third paragraph from the

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1 bottom, she says:
 2 "I noted some fairly long protected entrance halls
 3 on the new levels - I have previously spoken to Bruce,
 4 some are only just over 9m. There are two entrances to
 5 some flats, which could be rationalized, but I have
 6 mentioned flat entrance halls opening into the refuse
 7 chute lobby is not acceptable."
 8 Do you see that?
 9 A. Yes, indeed.
 10 Q. Did you check when you did your design note how long the
 11 entrance halls were before you wrote what you did?
 12 A. Sorry, could you repeat that?
 13 Q. Did you check how long the entrance halls were before
 14 you wrote what you did in your design note?
 15 A. No, because I don't think the plans were sufficiently
 16 well developed at that stage to measure them.
 17 I mean, 9 metres is the normal maximum of travel
 18 distance within an apartment. She was clearly looking
 19 at an earlier iteration of the drawings where there were
 20 several.
 21 At the end of the day, we only ended up with one
 22 apartment where the travel distances were in excess of
 23 9 metres, and we provided mitigation for that in the
 24 form of an enhanced smoke detection system.
 25 Q. I see. So --

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1 A. So these are even earlier comments than mine, if you
 2 like, in terms of what had been developed.
 3 Q. The point to put to you is: why didn't you include that
 4 detail, that there might be some over 9 metres, in your
 5 design note?
 6 A. Well, because the plans weren't fixed at that stage.
 7 Q. Were you aware -- so this is a separate point about
 8 travel distances -- at the time of preparing the
 9 design note that there were travel distances at the
 10 existing residential levels of the tower between the
 11 flat doors and the stair doors that were over 10 metres?
 12 A. No, I wasn't, but that doesn't surprise me.
 13 Q. Would that have been a material point to take into
 14 account when considering compliance with B1 and means of
 15 escape?
 16 A. No, I think that the statutory position with regard to
 17 buildings of this sort is that if you are not altering
 18 a building then it's deemed to comply with the
 19 Building Regulations, even if it doesn't meet current
 20 fire safety standards. Where you alter the building,
 21 then those parts of the building should be, so far as is
 22 practicable, brought up to current standards.
 23 You know, there's nothing you can do about
 24 an existing lobby, lift lobby, where the travel
 25 distances exceed the code recommendations. It was

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1 approved by the GLC, presumably, when the building was
 2 built.
 3 Q. I follow that, Mr Ashton. I follow that there might be
 4 nothing you could do about those travel distances, but
 5 wasn't that relevant information to be noting in any
 6 fire strategy when you are looking at B1, means of
 7 warning and escape, that there were potentially travel
 8 distances in excess of 10 metres?
 9 A. Well, Cate has already identified that there were one or
 10 two instances where the 9-metre travel distance had been
 11 exceeded; it was my job to ensure that changes were made
 12 to the design to avoid that wherever possible.
 13 Q. Yes, but she's talking about --
 14 A. As I say, we ended up with just one flat where there
 15 were excessive travel distances.
 16 Q. Yes, she is talking there about travel distances in the
 17 protected entrance halls on the new level. I was
 18 talking just now about travel distances in the existing
 19 residential --
 20 A. Yeah.
 21 Q. -- levels of the tower higher up.
 22 A. Yes, but, as I say, she was looking at an earlier
 23 iteration of the drawings that I subsequently looked at
 24 with Studio E where these wrinkles had been ironed out.
 25 Q. Yes.

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1 A. Except in one case. 1
2 Q. Just one further topic for today, because I think we are 2
3 aiming to stop at 4 o'clock -- 3
4 SIR MARTIN MOORE-BICK: You are going to get a topic through 4
5 in a minute, are you? 5
6 MS GRANGE: I'll try. 6
7 SIR MARTIN MOORE-BICK: Well, I'm just wondering whether 7
8 discretion would be the better part of valour. 8
9 MS GRANGE: I'll give in, then, thank you. Let's stop 9
10 there. It's been a long day. 10
11 SIR MARTIN MOORE-BICK: I think that's sensible. 11
12 Well, Mr Ashton, we are going to call a halt there 12
13 for today. I'm sorry, there will be more questions for 13
14 you to come and answer tomorrow. 14
15 THE WITNESS: That's all right. 15
16 SIR MARTIN MOORE-BICK: We shall resume at 10 o'clock, 16
17 please, so be here in time for that, and please don't 17
18 talk to anyone about your evidence or anything to do 18
19 with it overnight. 19
20 THE WITNESS: I won't. 20
21 SIR MARTIN MOORE-BICK: All right? We will see you 21
22 tomorrow. Thank you very much, go with the usher now. 22
23 THE WITNESS: Thank you. 23
24 (Pause) 24
25 SIR MARTIN MOORE-BICK: Right, nothing else for today? 25

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1 MS GRANGE: No, thank you.
2 SIR MARTIN MOORE-BICK: Thank you very much. 10 o'clock
3 tomorrow, please.
4 (4.00 pm)
5 (The hearing adjourned until 10 am on Wednesday 8 July 2020)
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