In this closing statement, I propose to comment briefly on five matters, as follows: first, Celotex’s role in relation to the refurbishment of Grenfell Tower; second, the regulatory system; third, the specification and design of the cladding system at Grenfell Tower, and the appraisal of that system by RBKC building control; fourth, Celotex’s product literature; and, fifth, the expert evidence as to external fire spread.

Celotex’s connection with Grenfell Tower was as the manufacturer of two insulation products used in the refurbishment: RS5000, which was used as insulation in the cladding system, and TB4000, which was, Celotex now understands, used to fill gaps in the window surrounds at the tower. Both products were PIR, a combustible form of insulation. Their combustibility was clearly highlighted in Celotex’s health and safety datasheet, which was available on Celotex’s website and expressly cited in Celotex’s product literature, including the RS5000 datasheet on which certain construction professionals involved in the refurbishment claim to have relied.

As the manufacturer of a single component used in the cladding system at Grenfell Tower, Celotex was not responsible for the design or compliance of that system. The design and compliance of the system was the responsibility of the specialist designers, contractors
and consultants engaged on the refurbishment, including
Studio E as architects, Rydon as the main contractor,
Harley as the cladding subcontractor, and Exova as the
fire engineer. Each of those construction professionals
had specific responsibility in relation to the design
and construction of the cladding façade under the terms
of their respective contracts. They were responsible
for ensuring that the cladding system complied with the
Building Regulations.

Celotex was not part of the design or construction
team on the Grenfell Tower project. Celotex is not
an architect, designer, building contractor or
fire engineer. It does not design, manufacture, supply
or install cladding systems, and it did not do so at
Grenfell Tower. It also does not install insulation,
and it did not do that at Grenfell Tower. Celotex’s
sole role in relation to the refurbishment was as the
manufacturer of insulation specified and used by others
in the exterior wall construction. Celotex was never
asked to verify or provide assurance that the cladding
system designed for or installed at Grenfell Tower was
compliant, and it did not do so.

The market for cladding systems was and is
a specialist one. Celotex reasonably took the view that
it was for designers, contractors and specialist
consultants to specify, design and construct the
cladding system on any particular project, and to verify
compliance of any such system with Building Regulations.

As the manufacturer of a single component of
a multi-component system, Celotex could not reasonably
have been expected to input into the design of that
system or ensure compliance with the system.

Whilst Celotex was provided with some information
about the proposed cladding system at Grenfell Tower, it
was not privy to full details of the design process and
had no access to the contractual documents governing the
refurbishment, or the NBS specification which governed
the selection of products. Moreover, Celotex had no
dealings with the architect or fire engineer, whose
input would have been relevant to assessing the cladding
system’s compliance with Building Regulations.

I turn then to the regulatory system.

Whatever criticism might be levelled against the
fire engineering analyses underlying particular desktop
studies, that is a matter for the fire engineers
concerned and not the manufacturer of an individual
component of a multi-component cladding system assessed
by way of such a study. Manufacturers were entitled to
operate within the parameters of accepted industry
practice and to rely on fire engineers to carry out
desktop assessments in accordance with appropriate
fire engineering principles.

In three situations: (1) where the complete cladding
system was shown by full-scale fire test in accordance
with BS 8414 to meet specific performance criteria known
as the BR 135 criteria; (2) where a desktop study was
obtained from a specialist fire engineer confirming that
the cladding system would, if tested, meet the BR 135
critical; and (3) where a holistic fire engineering
assessment was obtained, which confirmed that the
cladding system met the requirements of the Building
Regulations, taking account of the adequacy of the fire
prevention measures in the building as a whole.

There was at the time of the refurbishment a fourth
route to compliance, known as the linear route, but that
only applied where the insulation used in a cladding
system was of limited combustibility. That route was
not, therefore, available where combustible insulation
like PIR was used. Neither RS5000 nor any other Celotex
insulation product was marketed as being a material of
limited combustibility, or as being capable of meeting
the linear route to compliance.

Each of the routes to compliance I’ve mentioned was
recognised in Approved Document B, which contained the
government’s statutory guidance concerning the
fire safety of buildings. This includes desktop
studies. Approved Document B acknowledged that the
performance of materials, products and structures could
be assessed from test evidence by suitably qualified
fire safety engineers.

Although the use of desktop studies has been
criticised, the evidence shows that they were
an established route to achieving compliance at the time
of the refurbishment. Several of the Inquiry’s experts
confirmed that desktop studies had become common by that
time, including Mr Hyett, the architectural expert;
Mr Sakula, the cladding expert; Ms Menzies, the
building control expert; and Dr Lane, the
fire engineering expert. That is unsurprising, given
the infeasibility of carrying out a full-scale fire test of every possible combination of components in
a cladding system.

First, the Building Regulations and statutory
guidance in force at the time of the refurbishment
permitted the use of combustible insulation in
a cladding system installed on a building over 18 metres
It’s also important to note that it was clear from the Building Regulations that, whatever route to compliance was followed, the external walls of a building must adequately resist the spread of fire over the walls. That was an overarching requirement that governed the fire safety of every external wall construction. The regulatory principles I have outlined were or should have been known to any competent construction professional at the time of the refurbishment. However, a number of construction professionals involved in the refurbishment have sought to rely on alleged flaws in the drafting of Approved Document B to excuse their failure to have proper regard to the applicable principles when designing and constructing the cladding system at Grenfell Tower. These construction professionals have, in particular, sought to rely on alleged confusion between the concepts of limited combustibility and class 0 to justify their design and construction of the non-compliant cladding system at Grenfell Tower. They suggest that this alleged confusion excuses their misapplication of the linear route to compliance. Celotex invites the Inquiry to reject these submissions.

So far as the use of insulation is concerned, the guidance in Approved Document B was clear. In a building above 18 metres, insulation could only be used in accordance with the linear route if it was of limited combustibility, which was a defined term. The definition made clear that limited combustibility was a separate concept and was distinct from class 0, which was separately defined. A clear distinction was drawn in Approved Document B between these two concepts. They were not interchangeable. If following the linear route, class 0 was not a relevant criterion for use of insulation. Under the linear route, class 0 applied only to the external surface of a wall. In the case of a cladding system, that meant the external surface of the cladding panel and not the insulation behind the cladding panel.

As Celotex explains in its written submissions, class 0 was a relevant performance criterion for insulation in other contexts. However, under the linear route, as I’ve said, class 0 applied only to the external surfaces and not the insulation. Any competent construction professional should have known this. Insofar as there may have been confusion within the industry about the distinction between class 0 and limited combustibility, that was or should have been clarified by guidance that was in wide circulation at the time of the refurbishment. In particular, a guidance note issued by the Building Control Alliance warned that rigid foam insulants such as PIR did not meet the limited combustibility requirements of Approved Document B and should not be accepted as satisfying the linear route to compliance. Similar warnings were given in other guidance available at the time.

It therefore was or should have been clear to any construction professional involved in the refurbishment that combustible insulation such as RS5000 could only be used in the cladding system if that system was shown by testing or assessment to meet the BR 135 criteria, or a holistic fire engineering study was undertaken of the building as a whole.

Now, it’s fair to say that there was more room for debate about the guidance in Approved Document B concerning the use of cladding panels in a building above 18 metres. The evidence heard in Modules 6 and 7 highlighted the potential ambiguity about whether and how specific provisions of Approved Document B applied to the core of a composite cladding panel. This included ambiguity about whether the core of a composite cladding panel comprised filler material and was, therefore, required to be of limited combustibility if the building designer was following the linear route.

Whilst central government is responsible for failing to address this potential ambiguity before the Grenfell Tower fire, as the Department for Levelling Up has accepted, Celotex agrees with the department that a competent professional applying their mind to any confusion caused by the word “filler” and considering whether to use an ACM panel with a combustible core should have concluded that such a panel could not meet the functional requirements of the Building Regulations. This was or should have been clear to any competent construction professional from warnings given in Approved Document B and other industry guidance about the hazards of using combustible materials in a cladding system.

Indeed, the Building Control Alliance guidance, to which I have referred, advised in clear terms that, if following the linear route, materials of limited combustibility should be used for all elements of the cladding system, including the cladding panels. The same guidance expressly noted that a surface spread of flame classification such as class 0 did not infer any resistance to combustibility. A composite cladding panel with a class 0 classification could not therefore be assumed to be safe if it contained a polyethylene core.
Had a construction professional applied their mind to the available guidance and the functional requirements of the Building Regulations, they should have concluded that the polyethylene core Reynobond ACM cladding panels proposed for use at Grenfell Tower could not safely be used in compliance with Building Regulations. It follows, as Professor Bissy said, that any perceived ambiguity in the wording of Approved Document B cannot credibly be used to absolve design or construction professionals of their responsibility for failings as regards installation of unacceptably dangerous external cladding on buildings. There is, furthermore, no interpretation of Approved Document B which permitted combustible insulation such as PIR to be used in a cladding system on a high-rise building without further testing or assessment. I turn then to design and construction of the cladding system at Grenfell Tower.

Had the construction and building control professionals involved in the refurbishment paid proper regard to the regulatory requirements I have outlined, it would have been clear to them that the cladding system designed for Grenfell Tower was not compliant and should be redesigned. Instead, the relevant professionals paid scant or no regard to the functional requirements of the Building Regulations and of Approved Document B, and their criticism of the incompetence displayed by the construction and building control professionals responsible for the design, construction and appraisal of the cladding façade at Grenfell Tower includes, in particular, Studio E, Rydon, Harley, Exova and RBKC building control. The evidence heard by this Inquiry demonstrates beyond doubt that those professionals lacked the necessary skills, knowledge and competence to carry out their respective functions.

Celotex has identified in its written submissions the many serious failings by the construction and building control professionals involved in the refurbishment. The same failings are identified in submissions made by other core participants, including BSR Teams 1 and 2. Importantly, the failings identified by Celotex are all supported by the expert evidence of the Inquiry’s own experts, who have been trenchant in their criticism of the incompetence displayed by the professionals responsible for the design, construction and appraisal of the cladding façade at Grenfell Tower.

In brief summary, the failings by the construction and building control professionals that are apparent from the evidence include the following:

As regards Exova, they failed to produce an adequate fire safety strategy, despite having agreed, as the designated fire engineer, to produce a detailed fire strategy for the development of the refurbishment, which would ensure a high standard of fire and life safety for the occupants of the building.

Mr Ashton, the fire engineer who authored these draft reports, admitted in evidence that he knew that the polyethylene was highly combustible and that polyethylene—cored cladding panels could exacerbate the spread of fire over external walls.

As regards Studio E, the architects, they specified combustible insulation for use in the cladding system without considering the fire performance of the insulation or the compliance of a cladding system incorporating that insulation. They also selected Reynobond ACM PE cladding panels without any adequate understanding or investigation of the fire performance of those panels, or whether a cladding system incorporating the panels would comply with Building Regulations. The evidence showed that Studio E had a construction professional applied their mind to the available guidance and the functional requirements of the Building Regulations, they should have concluded that the polyethylene core Reynobond ACM cladding panels proposed for use at Grenfell Tower could not safely be used in compliance with Building Regulations. It follows, as Professor Bissy said, that any perceived ambiguity in the wording of Approved Document B cannot credibly be used to absolve design or construction professionals of their responsibility for failings as regards installation of unacceptably dangerous external cladding on buildings. There is, furthermore, no interpretation of Approved Document B which permitted combustible insulation such as PIR to be used in a cladding system on a high-rise building without further testing or assessment. I turn then to design and construction of the cladding system at Grenfell Tower.

Had the construction and building control professionals involved in the refurbishment paid proper regard to the regulatory requirements I have outlined, it would have been clear to them that the cladding system designed for Grenfell Tower was not compliant and should be redesigned. Instead, the relevant professionals paid scant or no regard to the functional requirements of the Building Regulations or the applicable guidance. Their knowledge and understanding of the Building Regulations and of Approved Document B was shown in evidence to be very poor or non-existent.

Among other things, the construction professionals gave no proper consideration to which, if any, potential route to compliance they were following; they had no regard to the fact that the insulation and cladding panels were combustible; they did not consider what impact that combustibility would have on compliance of the cladding system with the functional requirements of the Building Regulations; they failed to appreciate that the linear route to compliance was unavailable because of the Celotex insulation they had selected; they failed to recognise that the polyethylene—cored ACM cladding panels they had chosen were so highly combustible that the panels could not meet the requirement of the Building Regulations that the external walls of a building must adequately resist the spread of fire over the walls; and, finally, they undertook no assessment of the fire performance of the cladding system as a whole, whether by way of a BS 8414 test, desktop study or otherwise. These matters were not Celotex’s responsibility. They represent fundamental failings on the part of the construction and building control professionals who were responsible for the design, construction and appraisal of the cladding façade at Grenfell Tower. This includes, in particular, Studio E, Rydon, Harley, Exova and RBKC building control.
lacked any meaningful understanding of the fire safety provisions of the Building Regulations and Approved Document B. Studio E never properly applied their minds to which route to compliance was being followed at Grenfell Tower. As regards Harley, the specialist cladding contractor, they proposed the use of RS5000 in the cladding system at Grenfell Tower without undertaking any investigation of the product’s fire performance. Harley also strongly pushed for the use of ACM PE cladding panels, despite the hazards posed by such panels. As noted by BSR Team 1, Harley appears to have been actually aware of those hazards at the time. Harley’s design manager, Mr Anketell—Jones, admitted in an email exchange with other members of the design team during the refurbishment that the Reynobond ACM PE cladding panels would be “gone rather quickly in a fire.”

Mr Anketell—Jones told the Inquiry when giving evidence that this was a fact known throughout the industry. This evidence cannot be explained away, as Harley now submits. Furthermore, the Inquiry’s cladding expert, Mr Sakula, confirmed that any cladding contractor should have known of the dangers posed by ACM PE cladding panels by the time of the refurbishment, and should have concluded that the use of such panels at Grenfell Tower would be unsafe and would not comply with Building Regulations. Harley’s criticisms of Mr Sakula’s evidence are, Celotex suggests, misplaced. Harley’s contention advanced yesterday that it was not responsible for the fire safety of the cladding façade and not required even to consider the Building Regulations is, Celotex submits, plainly incorrect. Mr Ray Bailey accepted in evidence that Harley had an obligation to comply with the Building Regulations. That must include the functional requirements and the fire safety provisions in Approved Document B.

I turn to Rydon. Despite being the main contractor with overall responsibility for design and construction of the refurbishment, Rydon gave no thought to the fire performance or compliance of either the insulation or cladding panels used at Grenfell Tower. Rydon’s negligence extended to the wrongful design of the refurbishment, including Studio E and Harley. Indeed, Rydon’s witnesses admitted that their practice was to rely on building control to check compliance because Rydon lacked the knowledge and expertise to do so itself. It was clearly wrong for Rydon to rely on an external regulator to perform what was one of Rydon’s own essential responsibilities as the main contractor on the project.

Rydon’s negligence extended to the wrongful design and construction of the window surrounds on the tower. Rydon was responsible for Celotex TB4000 and other combustible insulation being used to fill gaps in the window surrounds. That was contrary to the contractual specification which required non-combustible insulation to be used in gaps, and was, moreover, not compliant with Approved Document B. The wrongful use of combustible insulation in the window surrounds was significant. As the Inquiry’s experts confirmed, it meant that there was a disproportionately high probability of an internal fire near a window spreading into the cladding system, as in fact happened on the night of the fire.

The Celotex TB4000 used in the window surrounds was purchased by one of Rydon’s subcontractors, SD Plastering, from a builders’ merchant. Celotex did not know and had no means of knowing that TB4000 was purchased and used in the refurbishment. Celotex only learned that this product had been used after the fire. The inappropriate use of TB4000 at Grenfell Tower was Rydon’s responsibility.

As regards RBKC building control, they failed to carry out any adequate investigation, inspection or assessment of the cladding façade, in serious breach of their responsibility as the designated building control body for the refurbishment. The extensive failings by its building control department have been admitted by RBKC, which accepts that the completion certificate issued in July 2016 by RBKC building control should never have been issued. The evidence shows that RBKC’s building control department was poorly managed, systemically under—resourced and ill-equipped to carry

...
Celotex produced a rainscreen cladding compliance assessment to meet the BR 135 criteria. This accurately reflected the requirement in Approved Document B for any cladding system containing combustible insulation in a building above 18 metres to be shown by test or assessment to meet the BR 135 criteria. Celotex produced a rainscreen cladding compliance guide which drew specific attention to the requirements imposed by Approved Document B for the exterior walls of a building over 18 metres, the risk of external fire spread in cladding construction, and the importance of building designers ensuring that any cladding system incorporating RS5000 met the BR 135 criteria. The rainscreen cladding compliance guide was a key part of the RS5000 product literature, and was distributed along with other product literature to Celotex’s customers, including, in the case of the refurbishment, Harley.

Criticism has been levelled against some of the Celotex product literature for referring to RS5000 as being suitable or acceptable for use in buildings above 18 metres. Celotex submits that these criticisms are misplaced. References to RS5000 being suitable or acceptable for use should have been read and understood in the context of each product document as a whole, alongside other statements made in the product literature describing the basis for RS5000’s suitability for use in buildings above 18 metres, namely that the product had been incorporated in a particular cladding system that had met the BR 135 criteria by way of a BS 8414 – 2 test.

Any competent construction professional would have understood that RS5000’s suitability for use in any other cladding system needed to be separately assessed by the project designer. A competent construction professional would have properly understood the Building Regulations and guidance and read the RS5000 product literature against that background, carefully and in full, and not relied on single words in isolation and out of context.

Furthermore, the “suitable for use” language in the RS5000 product literature must be understood in the context of the growing use of desktop studies at the time RS5000 was launched. By August 2014, desktop studies had become a common method for verifying the compliance of a cladding system. Prior to launching RS5000, Celotex had been advised by the BRE that widening the scope of application of a BS 8414 test via field of application reports, as desktop studies were also known, was standard practice. Advice to similar effect was given to Celotex by specialist fire consultants, as well as by the National House Building Council. In this context, RS5000 was suitable or acceptable for use in buildings above 18 metres, so long as, as Celotex warned, the building designer considered the effect of changes to the components with which RS5000 had been tested and obtained any necessary assessment in relation to those changes.

Now, Celotex recognises, as it has from the outset...
of this Inquiry, that the cladding system in which
RS5000 had been successfully tested in May 2014 was
misdescribed in the RS5000 product literature and in the
test classification reports published by the BRE. In
particular, those documents omitted reference to the use
of thinner cladding panels at certain levels of the
test rig, behind which was installed a layer of
magnesium oxide board.
This misdescription was previously unknown to
Celotex’s current management. The issue was identified
in the course of Celotex’s own investigations following
the Grenfell Tower fire. Once established, the issue
was reported in January 2018, prior to commencement of
the Phase 1 hearings, to the Inquiry, to the
Metropolitan Police, to Trading Standards, to the
Ministry of Housing, Communities and Local Government,
and to the BRE. The issue was also publicly announced
on Celotex’s website, and steps were taken to notify
customers, contractors and developers known to have used
RS5000. Desktop study providers were also notified
insofar as they were known to have been provided with
copies of the BRE reports.
Celotex reiterates its acknowledgement that the
misdescription of the tested system in the product
literature and the BRE reports involved unacceptable
conduct on the part of a number of former Celotex
employees and should not have occurred. However, this
misdescription had no causative impact on the
specification and use of RS5000 at Grenfell Tower.
There is no evidence that any construction professional
involved in the refurbishment read, let alone relied
upon, the description of the tested system in the
product literature or the BRE reports. Indeed, as I’ve
already explained, the evidence before the Inquiry shows
that none of the construction professionals read or
relied upon those documents in any meaningful respect
at all. The misdescription of the tested system did
not, therefore, affect the way in which the cladding
system at Grenfell Tower was specified, designed or
constructed.
Even if the construction professionals had compared
the system described in the RS5000 product literature or
the BRE reports with the system proposed for
Grenfell Tower, it would have been apparent to them that
the system described was so substantively different that
it could not be relied upon to justify compliance of the
system at Grenfell Tower. No competent construction
professional could have relied on the system described
in the product literature and BRE reports to validate
compliance of the very different system designed and
constructed at Grenfell Tower.
Celotex has taken concerted steps to enhance its
procedures and processes since the issues concerning the
testing and marketing of RS5000 came to light. This has
been explained by Celotex in its evidence and in
previous submissions. Celotex has provided further
detail of the steps it has taken in a witness statement
provided to the Inquiry on 1 November in response to
the Inquiry’s request for statements from core
participants about work undertaken since the fire.
The steps taken by Celotex include the recruitment
of new technical and operational management,
implementation of additional training procedures,
introduction of a new quality assurance system, and
improvements in Celotex’s testing processes and
procedures. In addition, as previously explained to
the Inquiry, Celotex commissioned another BS 8414 test
replicating as closely as possible the system described
in the RS5000 product literature and BRE reports. This
test showed that the re-tested system met the BR 135
criteria, thereby confirming that RS5000 could safely be
used in the system as described in the product
literature in accordance with the statutory guidance in
force at the time of the refurbishment.
The BS 8414 tests carried out by the government
following the Grenfell Tower fire also confirmed that
RS5000 could safely be used in a cladding system with
an appropriate combination of other materials. The
government test of a cladding system incorporating
RS5000 behind ACM cladding panels with an A2 rated core
was shown to meet the BR 135 criteria.
I turn finally to the expert evidence as to external
fire spread.
Professor Bisby’s Module 7 evidence and the testing
programme that underpins his conclusions confirmed that
the external spread of fire at Grenfell Tower was driven
by Arconic’s Reynobond ACM cladding panels and not the
insulation behind those panels. Professor Bisby’s
Phase 2 work fully corroborates the finding in
the Inquiry’s Phase 1 report that the principal reason
for the spread of fire up, around and down the tower was
Arconic’s Reynobond ACM PE cladding panels. As
Professor Bisby said, Reynobond ACM PE is a uniquely
hazardous product that presents extreme fire hazards and
should never be used on building façades. The product
is clearly incapable of complying with the functional
requirements of the Building Regulations.
Reynobond ACM PE contains a core of polyethylene
which is highly combustible and, as Professor Bisby
explained, melts, drips and flows whilst burning at
Insulation. As the Chairman found in the Inquiry’s Phase 1 report, and as Professor Bisby explained in his evidence, the crown provided a mechanism by which the fire could go around the building. As it did, the melting and dripping polyethylene from the Reynobond ACM PE flowed downwards, igniting fires lower down the building which then travelled back up the building, thereby allowing the flame front to progress diagonally across each face of the tower.

RS5000 had no direct involvement in that process. The horizontal and downward progression of fire was simply a manifestation of molten polyethylene flowing downwards from the top of the building. The horizontal and downward fire spread would not have occurred without Reynobond ACM PE.

Even as regards vertical fire spread, the role played by insulation was hugely overshadowed by the Reynobond ACM PE cladding panels, which were, by a considerable margin, the most important factor in vertical fire spread. In Professor Bisby’s view, the contribution from burning insulation to vertical fire spread was less than 10% and could have been as little as 2%.

Professor Bisby further showed that substituting non-combustible insulation for RS5000 in test rigs with Reynobond ACM PE made no material difference to the speed of the spread of fire. Indeed, test rigs with non-combustible mineral wool insulation grew to full involvement of the Reynobond ACM PE more rapidly than those with the foil-facing combustible insulation products. This accords with the results of the government’s BS 8414 testing of ACM PE cladding systems after the Grenfell Tower fire. Those tests failed to meet the BR 135 criteria irrespective of whether the insulation was combustible or non-combustible. Indeed, the system tested with non-combustible insulation failed earlier than the system tested with PIR.

It is, therefore, clear beyond doubt that the nature and speed of the spread of fire on Grenfell Tower was caused by Arconic’s Reynobond ACM PE cladding panels and not the type of insulation behind them. Furthermore, any other insulation would have performed in much the same way or worse.

Now, the evidence heard during Module 2 showed that Arconic knew years before the Grenfell Tower fire that Reynobond ACM PE was inherently dangerous, especially in cassette form, and that the product would not pass a BS 8414 test and was unsuitable for use on building façades. Arconic, however, failed to warn the market about these matters and continued selling Reynobond ACM PE in the United Kingdom on the basis of
In conclusion, sir, Celotex wishes to thank the building control.

Particular, Exova, Studio E, Rydon, Harley and RBKC professionals I have mentioned, including, in knowledge of the true performance of its cassette panel is damning, and that Arconic’s knowing deception of the evidence of Arconic’s as stated by BSR Team 1, that the evidence of Arconic’s innocence before this Inquiry. Those protestations should, Celotex submits, be rejected. The evidence against Arconic is overwhelming. That evidence is recounted in Celotex’s written submissions and the submissions of other core participants. Celotex agrees, as stated by BSR Team 1, that the evidence of Arconic’s knowledge of the true performance of its cassette panel is damning, and that Arconic’s knowing deception of the evidence is damning.

BBA and of the design team working on the refurbishment makes it primarily responsible for the spread and growth of fire at Grenfell Tower. Other entities who share responsibility for the spread and growth of the fire comprise the construction and building control professionals I have mentioned, including, in particular, Exova, Studio E, Rydon, Harley and RBKC building control.

In conclusion, sir, Celotex wishes to thank the panel and the Inquiry legal team for the care and diligence with which they have approached their task. Celotex has sought to play its part in ensuring that this Inquiry helps to bring about effective and lasting improvement in the building safety regime and in the construction industry.

Thank you.

SIR MARTIN MOORE—BICK: Thank you very much, Mr Orr.

The next statement is going to be made by Mr David Sawtell on behalf of the British Board of Agrément. We are running slightly ahead of programme, but that is never a bad thing. Mr Sawtell is here and he is, I think, ready to address us.

When you’re ready, Mr Sawtell.

Closing submissions on behalf of the British Board of Agrément by MR SAWTELL: Mr Chairman, madam, sir, I represent the British Board of Agrément, and I’m here to provide you with my oral closing submissions.

At the outset, the BBA expresses its deepest sympathy to the bereaved and to the survivors of the Grenfell Tower fire. Throughout, the BBA’s concern has been for the bereaved and survivors, and to do everything that it can to improve building safety and to ensure that a tragedy of this nature never happens again. To the extent that the BBA made errors and mistakes, it offers an unreserved apology to those affected by the Grenfell fire and its aftermath.

As an organisation, the BBA is committed to improving the safety of buildings. That was its original founding purpose, and remains central to the service that the BBA provides. To achieve this aim, and in light of the tragic events of the Grenfell Tower fire, the BBA has carried out a number of deep reviews of the way in which it operates. These changes reflect the findings in the Hackitt Report, and also the evidence provided in this Inquiry. The BBA aims to ensure that its agrément certificate, a mark of product excellence, based on rigorous national and European standards, provides reassurance in today’s highly complex construction environment. The BBA has fully engaged with the Inquiry in an open, co–operative and transparent manner, and it will analyse your report with considerable care.

These steps, sadly, though, cannot turn back the clock. The BBA’s focus now is on doing what it can to improve its services to enhance safety and to prevent a recurrence of a tragedy of this type.

Firstly I’d like to outline the background to the BBA.

The founding purpose of the BBA was to provide an independent, authoritative source of data on the performance of construction materials and their suitability for use in clearly defined applications. The BBA's aim and purpose was and remains to enhance safety within the UK construction industry. The BBA was established to accelerate the building of housing in particular through the use of innovative methods and materials, in a safe and sustainable manner. The Agrément Board became the BBA in 1982, coinciding with changes of legal status. It’s now one of a number of certification companies in the UK and, since 1983, the BBA is no longer formally part of the UK Government. However, its original remit remains.

The BBA enhances safety through its work, researching, auditing, inspecting, testing and certifying products. The BBA now operates as a self–funding non–profit–distributing company limited by guarantee, with no formal government association. It has no shareholders and does not distribute profits. Any profits made by the BBA are used for the benefit of the construction industry or for public good.

While the BBA has introduced a range of services over the years, it remains best known for its agrément certification companies in the UK and, since 1983, the BBA is no longer formally part of the UK Government. However, its original remit remains.

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that demonstrate a product’s compliance or contribution to compliance with Building Regulations.

Fourthly, the fourth point I’d make is the facilitation of innovation. The BBA often addresses innovation, both for products and the circumstances for their intended use or both, and consequently the BBA is set up to design and execute where necessary bespoke tests and assessments, and to make professional judgements based on its findings. This is particularly helpful in innovative circumstances, where standards and regulations have not yet been developed, and yet assurance of product suitability and/or safety is still necessary.

Over the course of six decades, the BBA has built up an extensive and in-depth industry and construction product expertise and track record. The staff the BBA engage to assess construction products typically have a high level of formal education, while staff also develop extensive knowledge of product—specific performance standards.

I would now like in outline to set out the context to the work the BBA undertakes, and there are some important elements in that context of the BBA’s work, particularly in the time period that the Inquiry has been considering.

Firstly, the BBA’s relationship with an applicant for a product certificate is contractual. The BBA has no powers to compel any client company to act or not act, save within that contractual framework.

Secondly, the BBA was not, at the time of issuing the certificates that have been relevant to the Inquiry, aware of any client company supplying the BBA with false information. The BBA was therefore not on notice of, or structured organisationally to prevent, a possibility of misrepresentation. We refer to that further in our written closing submissions, with steps taken at the BBA since then.

The BBA does not have, thirdly, any role to play in setting safety standards in relation to Building Regulations and the approved documents. The BBA simply assesses a product against those standards and the contents of the documents, and those are beyond the BBA’s control. At present there is no formal consultation process concerning standards involving the BBA, and again, that is a point the BBA addresses in its presentations on recommendations.

Fourthly, the BBA is run as a private organisation. It has been for several decades, and that is a conscious decision that was taken by a previous government.

Fifthly and finally, the BBA is a small...
I would now like to turn to consider oversight and certificates. It demonstrates the competence, a further degree of assurance as to the quality of BBA throughout the period in question. UKAS accreditation has been sufficient for it to receive approval from UKAS during assessment audits. The BBA’s overarching processes and operations have been sufficient for it to receive approval from UKAS throughout the period in question. UKAS accreditation is not mandatory for certification bodies. It provides a further degree of assurance as to the quality of BBA certificates. It demonstrates the competence, impartiality and performance capability of those providing accreditation.

The BBA is regulated by the United Kingdom Accreditation Service, or UKAS, and UKAS is the UK’s national accreditation body, which is responsible for determining, in the public interest, the technical competence and integrity of organisations such as those offering testing, calibration and certification services.

The BBA’s overarching processes and operations have been sufficient for it to receive approval from UKAS throughout the period in question. UKAS accreditation is not mandatory for certification bodies. It provides a further degree of assurance as to the quality of BBA certificates. It demonstrates the competence, impartiality and performance capability of those providing accreditation.

The progress of the Inquiry, however, has highlighted a number of the areas in which the BBA’s processes could improve. The BBA has always been seeking to make improvements and, since the Grenfell fire, it has made a number of important changes. Just to focus on two parts in respect of oversight and management.

Firstly, in respect of training, the BBA has always employed suitably qualified and experienced individuals. The effectiveness of the BBA’s training and competence for staff involved was examined and approved by UKAS during assessment audits. A significant amount of staff training was and remains on-the-job training, with a specific-to-the-job function and for the technical area of the business where each individual’s work is focused.

Initially staff are assigned a narrow field of operation because the BBA assesses many hundreds of different product types. Training requirements are therefore bespoke. Staff have responsibility for just a few materials, initially, under the supervision of a more experienced project manager, and the BBA focuses on training being delivered within teams. In addition to this on-the-job training, the BBA provides, in addition, formal training by way of presentations by experienced staff on relevant technical subjects. In 2017, a human resources manager with a training background was recruited, and in 2019, a learning and development manager was inducted to formalise the training of staff as they were on-boarded.

The second point I would flag at this stage is fire testing. The BBA is not a fire laboratory that carries out fire testing. It takes the results of UKAS accredited fire tests and assesses those against requirements of a document supporting the national Building Regulations.

The BBA acknowledges that, between 2004 and 2010, there was no appointed in—house fire expert within the BBA. The BBA was of the view that the technical manager at the time, Brian Hayes, had sufficient knowledge of fire in the context of the BBA’s activities, and then subsequently John Albon and Jon Denyer in respect of requirements of Approved Document B. External fire advice was obtained on occasions where an issue was outside the knowledge or expertise of the BBA’s staff.

The BBA recognised the need to formalise this external fire expertise. It entered into a consultancy agreement with Exova Warringtonfire in February 2010. A new role of technical co—ordinator for fire was set up in 2014 to facilitate a liaison with external fire experts and, in particular, to act as the BBA’s contact for the operation of the agreement with Exova Warringtonfire.

I’d now like to turn to the core of the BBA’s services, and that’s certification.

Certificates are intended for use by specialist, trained and qualified designers and specifiers. Their content and format reflect this. A certificate should be used as one part of a larger exercise to determine whether the requirements of the Building Regulations, as well as other technical standards, such as those produced by NHBC, will be met in a particular use case. Neither the BBA nor a BBA certificate certifies a particular building or part of a building.

One of the central themes that has emerged from the evidence before the Inquiry has been the importance of considering the building as an overall system and structure for the purposes of fire safety. The properties of one product is one element of that system.

Similarly, the result of a reaction to fire test in respect of that individual product can inform a designer’s judgement as to whether or not to specify a product. However, a view on the overall fire safety of a product cannot be taken in isolation from the
Certificates are reviewed every three years, necessary updates are identified, and it should then be followed by a re-issuance to incorporate them. The BBA accepts that, in the past, this was not always followed up. This is an area of weakness that has been identified by the Inquiry, and the BBA has now put in place a policy that no certificate should be more than three years old. Re-issues can also be undertaken at any time between reviews should the need be identified by the certificate holder or the BBA.

My next point, I submit, is critical. The front page of a certificate — any certificate — is and can only be a summary of more detailed content within the body of a certificate itself. The BBA has been consistent in its submission that a certificate should be read in full. This would be expected of any qualified building industry professional. It is only by reading the certificate in full that all information relevant to the use of a particular material can be known by the individual relying on the BBA certificate. No conclusion should be drawn from the front page of a certificate alone, or by relying on any other section in isolation. BBA considers it is correct to criticise a professional designer who fails to carry out the basic step of reading an eight-page certificate in full or, alternatively, to have even followed through a reference on the first page through to a half-page reference on behaviour in respect of fire. This minimum should be expected of a reasonably competent specifier or designer.

Having set out certification more generically, I now intend to consider the position of Arconic. We’ve heard throughout this Inquiry that the BBA dealt with Arconic Architectural Products SAS, formerly Alcoa Architectural Products.

First of all, the certificate itself. The BBA’s information comes from prospective certificate holders. The Alcoa application form, the information provided with it and any further information provided by Alcoa are important when considering the eventual wording of the resulting certificate.

At the time of the assessments by the BBA, Alcoa was aware that the cassette version should have been classified as class E. Alcoa also had a report at the same time that showed the riveted version of the Reynobond product was class B. It was only the latter report that was submitted to the BBA. Alcoa did not advise the BBA that the two installation methods of the product had manifestly different reaction to fire properties. Again, the BBA asserts that, had this test data been in the BBA’s possession, it would have had a material effect on certification, and when Alcoa was presented with draft certificates by the BBA, it did not correct them to show that there was this very significant difference between the riveted and cassette versions. Alcoa never provided this information to the BBA before the Grenfell Tower fire.

I’d now like to call up as a document the contract between Alcoa or Arconic and the BBA. That is a BBA reference, [BBA00010725/3]. If it’s possible, I would like to zoom in to clause 7, thank you, and we’re looking at clause 7(a), where it says:

“The Applicant shall:

“(a) disclose to the BBA full particulars of and relating to the Subcontractor including (but without prejudice to the generality of the foregoing) ...

“We go through:

“... any test data already available and of the test procedures used to obtain the same provided ...

Then if we go on to (g), to:

“Immediately notify the BBA of any change in the particulars supplied to the BBA or any third parties ...

Those simple requirements were not complied with.
I’d now like to turn to page 5 {BBA00008062/5}, and to look at “Technical Specification”. There we can see it is described as being available as being either plain edged, riveted system or flanged cassette system. It’s also stated the products are available in a fire retardant grade. So the first part, section 1, of the detailed contents of the certificate tells the reader that there are different versions of the product with different reactivity to fire properties, and one of them is fire retardant.

I’d now like to turn to page 5 {BBA00008062/5}, section 6. If we zoom in to “Behaviour in relation to fire”, this is a detailed but relatively short section.

First of all, BBA understands that the Reynobond cladding used on the Grenfell Tower had a smoke silver or pure white Duragloss surface coating. Noted in paragraph 6.1 of the certificate, the fire test provided to the BBA was actually in respect of a grey/green Duragloss coating. If we go on to look at section 6.4, it says:

"For resistance to fire, the performance of a wall incorporating the product, can only be determined by tests from a suitably accredited laboratory, and is not covered by this Certificate."

The certificate expressly does not certify the wall incorporating the product. Instead, the professional designer is directed to consider a relevant test.

At 6.6, the certificate clearly emphasises the importance of incorporating cavity barriers, as required, of course, by the approved document.

My concluding point, then, is on reading the full section 6, a professional designer would have deemed it appropriate to seek further guidance on issues as to whether they should specify a product with a fire retardant core and whether the colour they were proposing would meet either national class 0 or European class B or better. It’s very clear, the certificate is not evidence of the performance of a product in all different configurations.

It is essential, as I’ve outlined before, the certificate is read as a whole, including the caveats that it contained. A properly experienced and competent individual reading the certificate would need to be aware that the performance of a particular component would depend on the performance of adjacent components.

So there is the certificate. Let’s consider the position after certification.

The BBA was not advised of any significant changes to the specification of the product during the lifetime of the certificate. If we can consider — I would simply note the re-issued contract of November 2016 at clause 10(a) required Arconic to disclose full particulars of and relating to the subject, including any test data or other relevant data. Arconic did give details of minor changes to the product process but, critically, did not provide the BBA with available fire test results that were in its possession and it had not previously provided to the BBA. This was fundamentally misleading. It was, again, in breach of Arconic’s contract with the BBA.

I would now like to turn briefly and to outline immediate actions following the Grenfell Tower fire.

Those are set out in the first witness statement of Brian Moore, the former executive director of the BBA, and the first witness statement of John Albon, the head of approvals for construction products. They set out the information that was not provided to the BBA. Those witness statements were volunteered to the Inquiry; we were not directed to provide them. I would like to just briefly explain, then, the circumstances in which they
came into existence.

Following the Grenfell Tower fire, in a process of gathering evidence for the Inquiry, the BBA was provided with advance disclosure of appendix O of Dr Barbara Lane's report. We don't know why it was the Inquiry decided not to disclose these documents before October 2018, but immediately from reading this report it became clear that Arconic had been in possession of many more fire classification reports than it had disclosed to the BBA at the time of certification, during the review process, on re-issuance of the certificate, and after the fire.

Upon the Inquiry sending Dr Lane's report and the fire test report referred to therein to the BBA, the BBA entered into correspondence seeking urgent clarification from Arconic. As Arconic were unable to explain the failure to provide this information to the BBA's satisfaction, the certificate was suspended on 16 November 2016, and it was subsequently withdrawn on 24 February 2019.

If the information that had been available to Dr Lane had been made available either during the application process or afterwards, the certificate would either have been re-issued or amended to reflect the distinction between the fire retardant polyethylene-cored product and the riveted and cassette forms of the product.

Now, the BBA simply does not know whether Dr Lane has been provided with the witness statements of Brian Moore or John Albon that it provided in October 2018, and appendix O has not been amended in light of what we now know, what the Inquiry now knows, was the state of the BBA's knowledge at the time of certification. I would ask the Inquiry, when considering Dr Lane's report and her recommendations, to read that in light of the fact the information before her as to the state of the BBA's own knowledge had limitations.

All of this draws together a larger point. The agréément scheme is a voluntary scheme. It has been used to great effect over 60 years. As it is not a legal or regulatory requirement, it does require participants to be open and honest. If a participant is not, there are contractual sanctions. What the evidence before the Inquiry has demonstrated is that applicants to such voluntary schemes have withheld information which would be highly relevant to the product certifier. The BBA has changed its processes as a result of this. The outcome of the agréément consultation which has been set out in our submissions from 31 October 2022 has been to accept its recommendations, which have been designed to avoid a repeat of these incidents.

I would now like to turn on to Kingspan and the Kingspan K15 certificate.

The Inquiry will recall that the K15 certificate went through a number of re-issues from 2008 to 2013, before a new certificate was issued in 2015. All of the Kingspan certificates —— indeed, all certificates —— came with the following warning: that it has to be read, considered and used as a whole document. It may be misleading and will be incomplete to be selective.

However, the material wording of the certificate has changed on each occasion, and the Inquiry will recall Mr Albon was asked questions by Counsel to the Inquiry in respect of that, and I don't intend to go through that evidence in any detail.

The version that the Inquiry has spent most time on is amended issue 1, issued on 6 April 2010, and I’d ask at this stage for the document {BBA00000037} to be placed up on screen.

It’s noteworthy that, although it is dated April 2010, it was not in fact placed into the public domain until 12 July 2013. It was then replaced by issue 2, which was issued on 17 December 2013, and therefore this certificate was only in circulation for less than six months.

I’d now like to go into some of the wording, in particular in respect of Approved Document B, that this certificate refers to.

Can we please look at page 5 of this document {BBA00000037/5}. If we can zoom in, please, to section 7.1. In particular, where it says:

"The product, therefore, may be used in accordance with the provisions of:

- England and Wales — Approved Document B ... [and at the end, paragraph] 12.7 ...

The Inquiry will recall paragraph 12.7 of Approved Document B:

"In a building with a storey 18m or more above ground level any insulation product, filler material (not including gaskets, sealants and similar) etc. used in the external wall construction should be of limited combustibility ...

Then it goes on to say:

"This restriction does not apply to masonry cavity wall construction which complies with Diagram 34 in Section 9."

The point being there are two points to this paragraph: a general prohibition on the use of certain materials which are not of limited combustibility in..."
I would suggest, however, that the second part of the sentence makes it clear the restriction does not apply to certain masonry cavity wall constructions. The BBA does, however, accept, and it did accept during evidence, that this wording was allegedly open to interpretation and, with the benefit of hindsight, it was capable of being tightened. Indeed, as we recall, it was removed.

However, at no stage did the K15 certificate state that the product was of limited combustibility. A technically qualified reader reading the certificate alongside the full paragraph 12.7 would know that it could not satisfy clause 12.7 for a rainscreen construction above 18 metres as it was not of limited combustibility. As Mr Albon made clear, if the BBA considered that a product was of limited combustibility, this would have been stated clearly. So a technically qualified reader, reading the certificate alongside paragraph 12.7, would know that it could not satisfy such a construction. As I said, Mr Albon was clear: it was a statement that was allegedly capable of misinterpretation, but it was never stated it was of limited combustibility.

I also note the warning contained in the certificate about the need to contact the product manufacturer for buildings with a floor 18 metres above ground level was retained at paragraph 7.2.

Mr Chairman, I'm going to move on to another topic now, but I note the time.

SIR MARTIN MOORE—BICK: Would that be a convenient moment to take a break?

MR SAWTELL: Absolutely.

SIR MARTIN MOORE—BICK: Right, thank you very much. Well, we will break there at that point, therefore, and resume, please, at 11.45.

Thank you very much.

(11.31 am) (A short break)

SIR MARTIN MOORE—BICK: Yes, Mr Sawtell, are you ready to carry on?
wrote to the BBA to state it would be withdrawing three
BS 4414 test reports from circulation, and so at that
time the Kingspan certificate was suspended in
accordance with the BBA’s procedures. So product
sheet 7 of the certificate for K15 was suspended. The
BBA investigation concluded that the previous suspended
certificate could no longer be relied upon, so product
sheet 7 of the certificate was withdrawn on
25 November 2020. Then, as part of a long—term existing
project to update the K15 certificate with new fire
data, a new product sheet 9 was issued to Kingspan K15
on 24 November 2020, and that product sheet was given
a new number so as to differentiate it from that which
had originally been issued.

So moving on from Kingspan K15 and the issues
arising from that certificate, and turning now to UKAS,
which, as I outlined at the outset, is the UK’s national
accreditation body, which accredits conformity
assessment bodies against national or international
standards. This includes fields such as the testing,
inspection and certification of products.

Once again, the relationship between UKAS and
an accredited body such as the BBA is contractual. In
the immediate aftermath of the Grenfell fire tragedy,
the BBA was subject to two UKAS audits, which were
specifically examining the BBA’s assessment and
certification of ACM materials. The first considered
the records associated with the initial certification
and subsequent triennial reviews, and the second
included an examination of the processes leading to
re—issue of certificate 08/4510, so Reynobond, and also
covered the assessment and certification of all other
ACM materials. UKAS deemed those to give confidence in
the review process that had been conducted by the BBA,
and they stated it was a robust assessment.

As we’ve set out in our written submissions,
the Inquiry should have confidence that the UKAS
assessments in July and August 2017 were properly
carried out in accordance with UKAS’s procedures and
policies, and, of course, was based on the information
known to the parties at the time.

The BBA has been and it continues to be very happy
to work in collaboration with UKAS in the future
development of the accreditation of the agreement scheme,
and that’s something which we set out in more detail in
our 31 October 2022 submission.

I’d like to turn to one discrete point regarding the
immediate reaction to June 2017, the steps the BBA took,
and this arose out of questions which were not put to
BBA witnesses but were put to Lorraine Turner of UKAS.

That was on 7 February 2022.

If I can ask for the transcript for Day 227 to be
displayed... If we could turn, please, to page 136
(Day227/136). This is in relation to a document. We
see at line 6:

“... we have a document in the UKAS file for this
assessment from Exova... Towards the bottom we see
an email from Nisha Sharma of the BBA, and she’s emailed
Janet Murrell and Andy Kearns of Exova.”

We will look at this document in just a moment.
Can we turn to the next page, please (Day227/137).
We can see that, from this extract in the transcript, it
says “Nisha” —— Nisha, we will go on to see, being
a member of staff at the BBA:

“Our opinions are based on test evidence,
interpretation of standards and regulations and also
expert judgement.”

If we could please turn over on to the next page, at
lines 4 to 7 (Day227/138/4—7). Counsel to the Inquiry
said:

“It might be said that in this exchange the BBA was
not making a genuine enquiry about the certificates it
was updating, it was just covering itself. Do you agree
with that?”

Ms Turner —— and I would submit quite
appropriately —— says she can’t really comment on
the motivation for the question.

If we look at this email exchange, if I can ask,
please, if we turn to document (UKAS0001080/3). As
indicated, Nisha Sharma was the member of staff at the
BBA who was engaged to liaise with Exova Warringtonfire,
the external consultant that the BBA had engaged in
respect of fire testing and fire standards.

Nisha Sharma there, we can see, on 14 July 2017, is
writing:

“... you have provided your opinions/comments on the
assessment of the fire performance of various
constructions, in light of the recent fire incident, can
you please confirm that you will stand by these
opinions?”

Can we turn now, please, to page 2 (UKAS0001080/2).
A response from Exova is at the bottom, and it says:

“Nisha
Our opinions are based on test evidence,
interpretation of standards and regulations and also
expert judgement. Exova Warringtonfire confirm that our
responses to your questions were, in our opinion,
correct at the time of provision.”

No witnesses from the BBA were asked to comment on
this document. It is a serious allegation. It would be
In the submissions dated 31 October 2022, the BBA had a consultancy agreement with Exova Warringtonfire. BBA has asked Mr Albon to comment on the question that was put to Ms Lorraine Turner of UKAS by Counsel to the Inquiry, which was not put to Mr Albon himself, and he has suggested that he was ensuring that the judgement made on the basis of opinions given by Exova Warringtonfire remained valid and safe. Of course, if Warringtonfire had not indicated that was correct, BBA would have been required to re-assess and potentially re-word certificates, with the obvious consequence for installations based on the original certificate wording.

I would submit that the steps taken by the BBA in July 2017 to reach out to Exova Warringtonfire and to ask them to confirm their previous opinions was appropriate and a responsible step for the BBA to take, and I would ask that the Inquiry does not make an adverse finding in respect of the BBA on that point. I would now like to turn to the last substantive point for the BBA, and it is in respect of organisational changes.

Since the Grenfell Tower fire, the BBA has carried out a root and branch review of its organisation and delivery processes. This includes the appointment of a new governing body in 2019, significant changes to the management structure and team, and a re-design of the way in which the organisation works. This was carried out in consultation with UKAS. The BBA has made changes to its internal processes, the wording of its certificates, and the training provided to staff following the Grenfell Tower fire. A significant amount of technical staff time is in particular devoted to building technical knowledge.

In the submissions dated 31 October 2022, the BBA set out the numerous steps that it took in the immediate aftermath of the Grenfell Tower fire in 2017. These included the following: firstly, an immediate review of all certificates relating to materials or circumstances of use of products with similarities to those used on Grenfell Tower; building its human resources team to increase focus on learning and development and, as I previously indicated, in 2019, a learning and development manager was appointed to further formalise the training of staff as they’re on-boarded; an internal process review, giving specific focus to enhancing the quality of certification and the safety assurance it provides; and to increase the amount of staff time devoted to developing technical knowledge.

The BBA has supported the government in its efforts to improve building safety and, to that end, the BBA has engaged with Dame Judith Hackitt’s review of the Building Regulations and fire safety and, following the publication of the final report, the BBA agitated for a full adoption of the Hackitt Report’s findings, which it enthusiastically endorses.

In early 2019, Andrew Kitchingman was appointed as chair of the BBA. He immediately carried out his own review of the business and, in doing so, he identified the need for significant leadership changes across the organisation. I would submit they are changes that enable full business transformation. All but one of the directors were replaced, and in January 2020, a new CEO, Mr Hardy Giesler, was appointed. Following the introduction of the new top management, the BBA has undertaken a root and branch review of operational management and delivery processes.

The BBA’s change programme, called Project Alpha, commenced in January 2020 and it dominated the internal agenda for a period of two years. It looked at all areas of performance, and it gave further impetus to the ongoing internal process review that it had initiated in 2017. We would suggest that, importantly, Project Alpha gave the BBA staff a stronger and more impartial relationship with its clients.

Further changes in 2019 and 2020 ensured fuller co-operation of manufacturers, and to accelerate the BBA’s reaction time to update certificates following the provision of new information.

That process completed in December 2021, and immediately from that chronology we can see running in parallel the process of the Inquiry and the steps the BBA was taking.

The BBA launched an industry consultation in 2021 on how the agreement scheme can be improved to address the specific requirements of higher risk buildings, predominately focusing on strength and on fire performance, as well as other performance criteria.

Taken together, the recommendations that ensued set out five or more years of work, and some initiatives, where there is a need for research, will inevitably go on for longer, and so the BBA has adapted its business plan accordingly.

Following this process of internal review, the BBA has become keen to assist government and regulators to set standards and required processes for fitness for
purpose and other forms of certification to maximise
elements of its operations, which the BBA has responded
to with vigour.

product safety, and the BBA has launched
The BBA operates a policy of continual improvement.

an independently chaired working group with
It has already made significant changes, and it fully

cross—industry representation with this purpose. That
intends to continue to make changes, to work towards

group was launched in August 2022 and first met in
a high standard of safety and quality for the

October of this year. The key objectives include
construction industry.

bringing wider engagement with and understanding of
The Inquiry has considered the BBA’s processes for

certification across the market, and to broaden access
to a span approaching a decade, from circa 2006 or 2007 up

to certification and to maintain standards.
to 2017, and already, by 2014, we can identify a number

We also note the BBA has also digitised its business
of changes had been made as to how it had operated from

to ensure its way of working is system—driven and system
the outset of that period, when Reynobond and K15 were

compliance is fully integrated into all of its products.
initially assessed for certification. Subsequent to

The BBA set up an industry working group to work
the period in consideration, the BBA has made even more

with others to increase the use of product certification
significant changes, reaching the end of the third year

and to set a high standard across industry for product
to its transformation programme.

 certification .

This is an ongoing process. An external party,
So the BBA has invested significant time to

Mr Gus Carroll, was appointed to lead a review of the
understand the changes required to make the construction

BBA’s internal audit in September 2022. He will report
industry and the buildings it produces a safer place.

later this month. He was chief engineer at Centrica for
It considers that, as an organisation, it has more to

12 years, and his current role was chair of the HSE’s
contribute to transformation of the UK construction

Control of Major Accident Hazards strategic forum, and
industry with a new governing board and leadership team.

co—founder and CEO of Empirisys.
In particular, since 2019, when the wholesale

The headline point is that in the period from 2020
management and cultural transformation of the BBA began,
to the end of 2022, the BBA would have spent the
the organisation has sought to learn what it can from

the Grenfell Tower fire and to improve safety across the

to the Grenfell Tower fire and to improve safety across the

construction industry. We hope that this contribution

will continue to accelerate.

The Grenfell Tower fire brought into sharp focus the
The Grenfell Tower fire brought into sharp focus the

need for what Dame Judith Hackitt described as a need
need for what Dame Judith Hackitt described as a need

for cultural change, and a need to create drivers for
under cultural exchange and a need to create drivers for

right behaviours in the design and construction of
right behaviours in the design and construction of

high—rise residential buildings. The enactment of the
high—rise residential buildings. The enactment of the

Building Safety Act 2022 has begun the process of
Building Safety Act 2022 has begun the process of

adopting and implementation of the recommendations
adopter and implementation of the recommendations

proposed in her final report, which the BBA has
proposed in her final report, which the BBA has

campaign for. It is recognised, however, that it is
campaign for. It is recognised, however, that it is

only the start of the systemic change required. The BBA
only the start of the systemic change required. The BBA

will carefully consider the outcome of the Inquiry, and
will carefully consider the outcome of the Inquiry, and

it will do what it can to support the improvements
it will do what it can to support the improvements

required in the UK construction industry.
required in the UK construction industry.

The BBA again wishes to express its condolences to
The BBA again wishes to express its condolences to

the families and friends of those who died in the
the families and friends of those who died in the

Grenfell Tower fire, to survivors of the tragedy, and to
Grenfell Tower fire, to survivors of the tragedy, and to

those whose lives have been affected. It considers it
those whose lives have been affected. It considers it

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live and work.
live and work.

Thank you.
Thank you.

SIR MARTIN MOORE—BICK: Thank you very much, Mr Sawtell.
Mr James Maxwell—Scott’s Counsel on behalf of the Royal Borough of Kensington and Chelsea.

So, when we’ve done the little bit of housekeeping, Mr Maxwell—Scott, we shall be ready to hear you.

(Pause)

Right, when you’re ready.

Closing submissions on behalf of the Royal Borough of Kensington and Chelsea by Mr Maxwell—Scott.

MR MAXWELL—SCOTT: Good afternoon, Mr Chairman, Ms Istephan, Mr Akbor.

The council is grateful for this opportunity to make a final, overarching closing statement.

In December 2017, the full council unanimously adopted a resolution committing it to openness, transparency and candour in its approach to this Inquiry. That commitment has remained constant over the last five years. The council and its legal team have been conscious of it and guided by it throughout that period. It is not only a commitment to the Inquiry; it is also a commitment by the council to the bereaved, survivors and residents and to the people of Kensington and Chelsea, whom the council exists to serve.

It was fitting that the first and last witnesses to give evidence at this Inquiry were the bereaved, survivors and residents. Their evidence was as powerful in Module 8 this summer as it was in the commemoration hearings four summers ago.

The council has been heavily involved in many of the hearings four summers ago. The council has been a party in every one of them and repeats them. It apologises unreservedly for the way in which it has approached its role in the Inquiry, especially the way in which it has dealt with the bereaved, survivors and residents and with the rest of the community.

The council is grateful for this opportunity to make a final statement. The council made unqualified admissions in its Phase 1 opening and closing statements, and in its Module 3 opening and closing statements, and in its Module 4 opening and closing statements, and in its Module 8 opening and closing statements. This reflects the fact that, as we stated in our Phase 1 opening statement, the council was intended to detract from these unqualified admissions. Building control failed to ask for comprehensive details of the cladding system. Building control failed to identify that the insulation materials used in the cladding system were not of limited combustibility and therefore did not satisfy the requirements of paragraph 12.7 of Approved Document B. Building control issued a completion certificate on 7 July 2016, and should have not done so.

None of the points which I’m about to make are intended to detract from these unqualified admissions.

The central theme of the first part of this statement is that the council’s building control service should never have been in this position. It should never have been the case that a single local authority building control service was all that stood between dangerous products being used on Grenfell Tower.

Neither Reynobond PE 55 or Celotex RS5000 should ever have been installed on Grenfell Tower, and the combination of those two products in a cladding system should never have got anywhere near Grenfell Tower.

There are two strands to this submission: (1) Arconic and Celotex took active steps to ensure that their products were used on Grenfell Tower, despite knowing that they were wholly unsuitable for use on a high-rise residential building; (2) there were

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The fact that Knowsley was a pilot scheme backed by central government illustrates another theme: in its quest to promote energy efficiency, central government devoted too little attention to the consequences for fire safety. There was always a possibility that the development of new overcladding technologies would have fire safety implications. This possibility needed to be analysed and kept under review. For any such analysis to be effective, it would need to be evidence-based, and scientists would need to be funded to carry out the necessary research. In Module 7, Professor Torero told you about his decades-long struggle to obtain funding to carry out such research.

19 September 2002, the date of the report of the cc1924 tests. This report was prepared for central government by BRE. Several rainscreen systems were tested, including an aluminium sheeting system. The report stated that the aluminium sheeting system achieved the poorest classification in both tests, although it was the only system to achieve class 0. The full-scale test, which was meant to run for 30 minutes, had to be abandoned within under 6 minutes. By then, the flames were 20 metres high. Flames had reached the top of the 10-metre rig even earlier, within 4 minutes and 20 seconds. Everyone who witnessed this test was

of gaming the system.

I turn now to the ten key dates which I wish to draw to your attention.

5 April 1991, the date of the Knowsley Heights fire in Liverpool. This has been described by both BRE and Professor Bisby as the most significant of the historic external fires. Professor Bisby told you that learning the details of this fire was one of two moments in this Inquiry which had left him speechless. He referred in particular to discovering that the cladding was glass—reinforced polyester. His point was that because it was a polyester—based product, it was inherently combustible, yet it was regarded as class 0. So here we have rainscreen cladding which was supposedly class 0 but at the same time was combustible and had in fact combusted in a sizeable fire. This combination should have been regarded as highly significant. It should have been regarded as worthy of further investigation and analysis. In Professor Bisby's own words, it was impossible to overstate the importance of what was missed.

Knowsley is an early example of a theme repeatedly emphasised by Professor Bisby: class 0 was not a suitable measure for assessing the hazard posed by external fire spread in a cladding system.

multiple missed opportunities to prevent Grenfell Tower being clad with such wholly unsuitable products.

opportunities that could and should have been taken.

In our written closing statement, we have focused on 14 key dates, although many others could have been chosen. Today I'm going to narrow that down further and focus on ten. I'm going to structure my submissions chronologically, and highlight ten dates when we say events could and should have taken a different course.

It is natural, following a tragedy of the scale of Grenfell, to try and identify the most important failings. The approach I'm about to take is a logical approach to take, but it is important at the same time to keep an eye on the bigger picture, on themes as well as events.

Immediately after the fire occurred, many commentators were keen to portray it in very largely local terms, rather than national terms. I suspect that few people anticipated that the Inquiry would need to hear so many days of evidence, but as the Inquiry progressed, the importance of the national dimension became ever more apparent. The Inquiry's list of issues required to be updated and expanded to include a specific issue relating to the testing, certification and classification of products used in cladding systems.

This ended up with its own module, Module 2. In addition, Module 6, relating to the policy and regulatory framework set by central government, had to have its time estimate increased. In the end, these two modules, both of which focused exclusively on national issues, occupied 91 sitting days, and that doesn't include expert witnesses or opening and closing statements.

Mr Chairman, I have no doubt that when you embarked on this Inquiry, you expected to identify a sizeable number of failings. But even you may have been surprised by the nature, scale and extent of the failings which you and the Inquiry team have so effectively uncovered. In this week of overarching closing statements, you may think that this is the most shocking and most disturbing overarching feature of all. It seems clear now that over many years the construction industry developed, and central government presided over, a deeply flawed system. Dame Judith Hackitt described the system as not being fit for purpose. You and the panel may consider that judgment to have been, if anything, too generous. You may think that not only was the system deeply flawed, but that corporates working within the system actively sought to take advantage of flaws within it, that there was a culture
shocked by the speed with which the fire spread. This was the second of two moments in the Inquiry that Professor Bisby said had left him speechless. Specifically, it was the discovery of what had been tested that left Professor Bisby speechless. The aluminium sheeting system which failed so catastrophically was an ACM panel with a PE core, a panel very similar to the one used on Grenfell Tower over a decade later. Like Knowsley ten years earlier, it is an example of a class 0 product proving to be combustible and contributing to external fire spread. This test result was not shared to the extent that it could and should have been. It was contained in a document called a client report, which described itself on each page as commercial in confidence. Central government could and should have waived confidentiality and made the report public. It did not do so. The report remained essentially secret until 2021, when a summary of the test was leaked to the BBC. 14 January 2008, the date of the BBA certificate for Reynobond ACM, a document that with good reason was analysed at great length during the hearings. Today I’m not going to talk about the phrase, "The panels may be regarded as having a class 0 surface". I’m going to use this date to illustrate two features of Arconic’s conduct: (1) knowingly and deliberately manipulating the UK’s weak testing and certification system; (2) withholding safety critical information.

The certificate stated that Reynobond 55 with a PE core was European class B. It noted that the panels were available in both a riveted system and a cassette system, but drew no distinction between the two systems. As Arconic fully appreciated, the certificate therefore represented that its standard PE product was class B even when used in a cassette system. Yet by then Arconic had known for over two years that this product was not class B when used in a cassette system. Arconic knowingly and deliberately manipulated the testing and certification system by ignoring its contractual obligations and not informing the BBA about the safety critical information from the 2005 test. Arconic spent the next nine years actively relying on a certificate that it knew to be inaccurate and misleading. The cassette system was re-tested several times during those nine years. Not once did it achieve class B. The best result it ever achieved was class E. 3 July 2009, the date of the Lakanal House fire. At a time of steady reductions in annual deaths caused by fires, Lakanal was a warning that a tower block fire with multiple fatalities could still happen. The risk of one occurring was not just theoretical, it was real, and it could happen in the UK, a point that central government should have kept in mind when in later years serious cladding fires occurred abroad. Many in central government seemed to believe that similar fires could not happen in the UK, but such a belief, however sincerely held, was at best wishful thinking, unless it was supported by empirical evidence and reasoned arguments.

13 May 2013, the date of an email from Deborah French, Arconic’s UK sales manager. The catalyst for the email was a BBC News report about a cladding fire in the United Arab Emirates. It included the following statement: “At this stage we will continue to offer both PE & FR core and continue the close working relationship we have with our Approved Fabricators to make sure the right technical support, Reynobond specification and Materials are being used and installed on Reynobond Projects.” The purpose of the email was clearly to reassure Arconic’s approved fabricators concerned by the fire in the UAE, and in turn to enable them to reassure their customers.

One of the people to whom the email was sent was Geoff Blades of CEP. It was Mr Blades who ultimately supplied the ACM panels for Grenfell Tower. The significance of this email is that it establishes: (1) that Arconic worked closely with its small network of approved fabricators; and (2) that Arconic had an active interest in who used its products and how they were used.

In oral evidence, Ms French agreed that Grenfell Tower was a project where Arconic had close control of the supply chain and worked closely with the fabricator. She also agreed that Arconic was in a position to ensure that the right core ended up on Grenfell Tower. Before she left Arconic at the end of 2014, Ms French was aware that Grenfell Tower was a high—rise residential building. She was also aware that Reynobond PE 55 in a cassette system was going to be installed on it. Those involved in the Grenfell Tower project were never informed that the PE core would perform worse in a fire in a cassette system than a riveted system, and they were never even informed that a fire resistant FR core was an option. In short, the assurances provided by Arconic in the 13 May email proved to be false. Arconic could and...
Arconic's reaction to this unwelcome development was to do what it had done in the past: to withhold safety critical information from people who needed to be told about it. It didn’t even share it with the BBA, although it was contractually obliged to do so. Instead, it battened down the hatches and repeatedly ignored requests for information when the BBA was reviewing the certificate in 2014 and 2015. Arconic continued what it had been doing since 2008: actively relying on a certificate which it knew to be inaccurate and misleading. One example of this is the fact that Ms French sent it to both Harley and CEP in April 2014.

2 July 2014, the date of a meeting of the fire group of the Centre for Windows and Cladding Technology. Among those who attended were Brian Martin of DCLG and Dr Sarah Colwell of BRE. Martin specifically referred to this meeting in his final answer at the end of over seven days of giving evidence. In a section in the minutes on the use of ACM in high-rise buildings, reference was made to the fact that ACM normally had a PE core. It was stated that paragraph 12.7 of Approved Document B was intended to prohibit the use of ACM with a PE core on high-rise buildings, but that this was not clear from the current wording of 12.7. It was suggested that clarification could be achieved by means of a frequently asked question. The minutes record that Dr Colwell agreed to raise this with Mr Martin.

Nothing ever came of this. Publishing an FAQ would have been simple, but this never happened. No attempt was made by central government to find out how many high-rise buildings were clad with ACM with a PE core.

The minutes of a subsequent meeting also attended by Dr Colwell and Mr Martin stated: (1) that paragraph 12.7 was poorly written and open to interpretation; and (2) that the title of that paragraph was misleading. At the meeting it was said that these deficiencies would be changed in the next revision of Approved Document B. Given that no timetable had been set for when that revision would take place, this was, in reality, a meaningless statement.

It became clear in Module 6 that, by this time, energy efficiency was a central government priority, but updating Approved Document B was not. Finding out how many high-rise buildings were clad with ACM with a PE core should by now have been a priority, as should stopping any more being clad with it. Doing so would not have undermined central government’s desire to promote energy efficiency. With rainscreen cladding, it is the insulation behind the cladding panels that does the work of energy saving. The panels are just there to cover the insulation and protect it from the elements.
Banning combustible rainscreen cladding panels was both possible and necessary.

11 August 2014. This date is about the insulation that was installed on Grenfell Tower behind the ACM panels, insulation that, according to Professor Purser, contributed approximately half of the toxic gases generated by the fire in the cladding. It is the date of the classification report prepared by BRE for Celotex. The report stated that the system described in it had been tested and met the performance criteria set in BR 135. This report represented the culmination of Celotex’s ambitions to compete with the market leader, Kingspan, by copying its strategy. The test had been commissioned to assist the launch and marketing of Celotex RS5000, but the test was not a test of RS5000 alone, it was a BS 8414 system test, and therefore tested RS5000 together with other products in a complete rainscreen cladding system.

As BRE’s client, Celotex was regarded as the sponsor of the test and had free rein in the selection of all the products in the system. The other products were not chosen because they were representative of a typical rainscreen cladding system. Far from it. They were deliberately and cynically chosen for their fire performance, in the hope that they would increase the chances of the system passing the test.

An earlier attempt to test RS5000 within a cladding system had been unsuccessful. Celotex could have gone back to the drawing board and tried to improve the safety of its product; it chose not to. Instead, Celotex deliberately included products within the tested cladding system which (a) meant that the system was more likely to achieve a pass, but (b) were unrepresentative of typical cladding systems used by the construction industry. Celotex must have known that the improved test result could only have been attributable to the presence of the other products which had been deliberately included for their fire safety performance. Celotex must equally have known that the improved test result proved nothing about the safety of RS5000.

This was not scientific research commissioned with the aim of improving product safety; it was a deliberate and cynical attempt to game the system in order to get a test result that would support a sales and marketing strategy. Having got this report, Celotex ceased further testing and focused on marketing RS5000 as acceptable for use in buildings above 18 metres in height, and its salesforce focused on targeting individual high-rise projects. Grenfell Tower was one such project. It was described in an email to the UK managing director of Celotex’s parent company as a “must–win” project for Celotex. Celotex’s sales rep assiduously courted Harley in the hope of winning the contract. He informed Harley that RS5000 was the first PIR board to successfully meet the performance criteria in BR 135 for insulated rainscreen cladding systems, and that it was therefore acceptable for use in buildings above 18 metres in height.

This was wholly misleading. The test had no validity unless RS5000 was installed in an identical system to that tested by BRE, which for several reasons would never happen, one being that the precise make–up of the system tested by BRE was kept secret and not set out in the relevant testing, certification and marketing documents.

Celotex knew that Grenfell Tower was a high-rise residential building. It knew the attributes and chemical composition of RS5000. It should never have targeted the Grenfell Tower project.

18 September 2014, the date of an exchange of emails between Terry Ashton of Exova and Neil Crawford of Studio E. In the course of these emails, Mr Crawford sent Mr Ashton initial drawings which Harley had sent it, and an email from Harley stating that the insulation generated by the fire in the cladding. It is the date of the classification report prepared by BRE for Celotex. The report stated that the system described in it had been tested and met the performance criteria set in BR 135. This report represented the culmination of Celotex’s ambitions to compete with the market leader, Kingspan, by copying its strategy. The test had been commissioned to assist the launch and marketing of Celotex RS5000, but the test was not a test of RS5000 alone, it was a BS 8414 system test, and therefore tested RS5000 together with other products in a complete rainscreen cladding system. Far from it. They were deliberately and cynically chosen for their fire performance, in the hope that they would increase the chances of the system passing the test.

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Mr Lawrence was surely right to say that, in hindsight, properly considered the safety of the cladding system. He didn’t do so. Nor did Exova do so at any point thereafter. It never updated the one sentence of advice on external fire spread in its report.

21 October 2014. This was progress meeting number 4, attended by the TMO, Artelia and Rydon. It included as an action point that Simon Lawrence of Rydon was to appoint a fire consultant. This action point had also been included in the minutes of progress meetings 1, 2 and 3. Rydon never did appoint a fire consultant and, after this meeting, this action point disappeared from the minutes of the progress meetings, never to return.

Mr Lawrence’s evidence was that, in his experience, Rydon never engaged fire consultants. Stephen Blake, Rydon’s refurbishment director, told the Inquiry that on a project of this size it was normal for Rydon not to appoint one. Not appointing Exova or another fire consultant was therefore a positive decision by Rydon, rather than an action point that slipped through the cracks. Mr Blake confirmed this when he gave evidence.

As at October 2014, Rydon should have been aware that Exova had provided minimal advice on the cladding system. Rydon itself had no in-house fire safety expertise. Therefore, Rydon’s decision not to appoint a fire consultant meant that no fire engineer ever properly considered the safety of the cladding system. Mr Lawrence was surely right to say that, in hindsight, a fire consultant was definitely essential.

In short, Rydon, as design and build contractor, needed advice from a fire engineer. There were multiple opportunities for Rydon to obtain the necessary advice, opportunities which could and should have been taken but were not.

That concludes the list of dates which I wish to draw to your attention today, although, as I said earlier, there are many others that I could have chosen. The ten dates which I have identified and the wider themes which they illustrate support my central theme: that it should never have been the case that a single local authority building control service was all that stood between dangerous products being used on Grenfell Tower. My final date took us up to October 2014. At that time, the installation of the Reynobond PE 55 and the RS5000 had not begun. That remained the case for another six months.

The panel will recall that in an earlier stage of this Inquiry some people seemed to be suggesting that the council’s building control service was part of the design team for the project. In the course of the Inquiry, the factual evidence, the expert evidence and the relevant case law all combined to make it very clear that building control services have no role in design and are not part of design teams. Mr Tavener, King’s Counsel on behalf of Rydon accepted at the end of Modules 1 and 2 that the council’s building control service was not part of the design team.

The TMO and Rydon between them assembled a large and apparently reputable team of paid advisers and contractors. Dr Lane’s evidence on the composition of the team was as follows: “... it would be entirely reasonable for KCTMO and ... indeed any party, to assume that the ... project team had access to and could rely on highly competent experts for all aspects of fire safety design and compliance.” Nevertheless, this team designed and installed a dangerous cladding system.

I end this first part of this statement where I began: there were failings in how the council’s building control service dealt with the application for building control approval. Building control issued a completion certificate on 7 July 2016; it should not have done so.

I now turn to the second part of this statement, to fire safety measures within Grenfell Tower. This Inquiry is rightly interested in the condition of the inside of the tower as well as the exterior, and a substantial part of Module 3 was devoted to the nature, design, maintenance and performance of the active and passive fire safety measures within the tower.

When thinking about the inside of the tower, it is worth reminding ourselves of how it was managed. The council was the owner and landlord of Grenfell Tower. The tower was managed for it by the TMO. The council scrutinised and monitored the TMO. The council has previously admitted a number of failings in its monitoring of the TMO. I reminded the panel of some of them at the start of this statement. I’m not going to repeat them again at this point, but
the council stands by its admissions and apologies unreservedly for its failings.
In the first part of this statement I sought to focus on the national dimension and on overarching points. I will be taking the same approach in this part. It is for this reason that I will be focusing on the role of fire risk assessors generally and the role of the fire risk assessor for Grenfell Tower.
Following the Lakanal House fire, it became increasingly common for responsible persons to engage external fire risk assessors to carry out fire risk assessments. Central government was aware of this phenomenon, yet it never introduced a competency requirement for fire risk assessors. When giving evidence in Module 3, Colin Todd told the Inquiry that the absence of a competency requirement for fire risk assessors was not an oversight; he said that it was intentional government policy. He also said that central government very positively resisted all calls for competence to be made mandatory. The evidence in Module 6 confirmed this. Given the importance of Mr Stokes to Grenfell Tower, should have had access to adequate advice.

Between Ms Wray and Mr Stokes, in my opinion KCTMO more than one occasion in her expert report, she stated: "Between Ms Wray and Mr Stokes, in my opinion KCTMO is now clear that a significant number of flats within the tower located on floors 4 to 23. The flat entrance doors to 106 of those flats had been replaced in the period 2011 to 2013. All of the 106 new flat entrance doors were fitted with self-closers at the time of installation. In the years that followed, no programme of inspecting those doors to see if the self-closers remained present and functional was ever introduced. It is now clear that a significant number of flats within Grenfell Tower did not have functioning self-closers on the night of the fire.

The council has previously admitted that it was wrong to tell the TMO: (1) that the programme to install self-closers should be a five-year programme rather than a three-year programme; and (2) that there should not be an inspection programme. The council does not seek to qualify its admissions, but it does seek to ensure that they are seen in their proper context. Part of that context concerns the discussions that took place between the TMO and the council. I have previously made six separate points about those discussions. For today's purposes, I can boil those six points down to two.

The TMO failed to make the best case for an inspection programme and a three-year installation programme. As a result, Laura Johnson's response to the TMO was based on imperfect information. A second part of that context is the difference between what the TMO knew and what the council knew about what was happening on the ground in relation to self-closers. Dr Lane identified three reoccurring faults that arose with the doors installed in the flat entrance door replacement programme. During the Module 3 hearings, there was a good deal of evidence about who within the TMO knew what about these matters, but there was no suggestion that the council was aware of them, and there was no evidence that anyone from the council was made aware of them. During Phase 1, the Inquiry heard evidence that a handyman employed by the TMO had disconnected a number of self-closers within Grenfell Tower. There has been no suggestion or evidence that anyone from the council knew about the handyman's actions.

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I will give one example of this, although many
others could be given.

In January 2013, the TMO sent Mr Stokes a draft of
the TMO’s fire safety strategy and expressly asked him,
“What else should I include?” Counsel to the Inquiry
asked Mr Stokes:

“... why did you not add the need for [a] policy
which would cover a planned maintenance programme for
flat entrance doors with an inspection every six months,
as by now set out in the LGA guide?”

Mr Stokes replied:

“I can’t answer that question.”

Counsel persisted and asked:

“Well, is it because you have no answer?”

To which Mr Stokes replied:

“Well, yes.”

I return now to a point I made when I started this
topic about the fire safety measures within
Grenfell Tower: the fact that central government never
introduced a competency requirement for fire risk
assessors.

Anyone can call themselves a fire risk assessor. It
is not a legally protected title, and it is not alone in
that; the same is true of engineer, fire engineer and
fire safety engineer. Architect is a legally protected
title, but an architect’s practice can employ someone
without that formal qualification to do work for it, as
Studio E did with Neil Crawford. This approach to
competence in the field of fire safety should be a major
caunch, given the evidence of Professors Bisby and
Torero about the central importance of competence in
a system based on functional requirements, and about the
low levels of competence they had experienced.

The missed opportunities to introduce a competency
requirement for fire risk assessors had potential
consequences. If central government had made fire risk
assessment a profession, it could have had a number of
benefits, in addition to requiring all fire risk
assessors to hold minimum standardised qualifications.

We have analysed those benefits in more detail in our
written statement, but I will mention some of the key
ones now.

Introducing a mandatory competence requirement could
have raised standards within the fire risk assessment
industry. It could also have raised the status of fire
risk assessors, and it could have provided third parties
with an authoritative benchmark against which to assess
fire risk assessors. The availability of an
authoritative benchmark could have been a useful
aide memoire, and could have provided Mr Stokes with
greater clarity on what was expected of him as a fire
risk assessor.

In addition, raising the status of fire risk
assessors by making them professionals would have been
a decisive break with the mindset that fire risk
assessments would be done quickly, cheaply and in-house.
Professional fire risk assessors would have been able to
justify changing more and to justify taking the time
required to do the job to the appropriate standard.
An organisation such as the TMO would have had to find
the extra money required to pay for the services of
a member of a profession. If the TMO needed to apply to
the council for the extra money, clear mandatory legal
requirements would have provided it with arguments that
it could use to make a case to the council for
additional funds.

That brings me to the end of the second part of this
statement.

Finally some concluding remarks, if time permits
before the break.

SIR MARTIN MOORE—BICK: Yes, it would be convenient,
wouldn’t it, for you to continue for a moment?

MR MAXWELL—SCOTT: It would, very much so.

SIR MARTIN MOORE—BICK: Yes, of course, then, thank you.

MR MAXWELL—SCOTT: This week of final closing statements is
an important milestone in the Inquiry. On Monday
morning you heard powerful and passionate submissions
about the need for robust recommendations to address
deep-rooted systemic problems.

The leader of the council, who is here today, has
asked me to make it clear that, as far as she and
the council are concerned, these closing statements do
not mark the end of the road.

At the beginning of Phase 1, we said that the
ultimate achievement of this Inquiry would be to ensure
that when people design, construct and refurbish
buildings in future, a disaster like this never happens
again. The council remains determined to do what it can
to achieve this.

Since the fire, the council has completely changed
the way housing is managed in the borough. The council
now has direct responsibility for the management of its social housing properties. It is directly accountable to its residents for its management of those properties. The council has made significant changes in many areas, including its building control service, resident engagement, and how it manages fire safety. During the course of this Inquiry, the council has on a number of occasions provided the Inquiry with documents detailing changes it has made. The most recent such document, submitted at the end of last month, did not only address what has been done, it also detailed some of the council’s ongoing work and plans for the future.

The council believes that, at the national level, progress has been too modest and too slow. It also believes that too much of the national fire safety and building safety system is too broken to be fixed by minor changes. In our submission, the starting point for the panel should be to recognise that fundamental change is needed, that there are vested interests opposed to change which will need to be overcome, and that in order to achieve the necessary fundamental change, there will need to be both legislative change and cultural change.

The residents of Grenfell Tower were failed by many, many organisations from both the private sector and the public sector. The council was one of them. But the council is conscious that it differed from most of the other core participants in important respects. It was not an anonymous cladding subcontractor or manufacturer whom the residents might never have heard of; it was the owner of Grenfell Tower. The residents were its tenants and its leaseholders. The council was democratically accountable to them.

The council apologises unreservedly for the ways in which it failed the residents of Grenfell Tower. It wishes to say how sorry it is to each of the bereaved, everyone who survived, and all of its residents.

SIR MARTIN MOORE—BICK: Thank you very much, Mr Maxwell—Scott.

Well, we’ll rise at that point and we’ll resume at 2.05, when we shall hear a closing statement from Mr James Ageros King’s Counsel on behalf of the Tenant Management Organisation. Thank you very much. 2.05, please.

(1.06 pm) (The short adjournment) (2.05 pm)

SIR MARTIN MOORE—BICK: Now, the next closing statement is going to be made by Mr Ageros on behalf of the Tenant Management Organisation, and I understand that he wishes to make his statement remotely. So I think we wait for a moment to see whether he is going to come up on the screen.

MR AGEROS: Yes. I’m afraid to say that my camera is just playing up. I’m really sorry about this. It was working until a very short moment ago and it’s now started to play up.

Can I ask whether you can hear me?

SIR MARTIN MOORE—BICK: If that’s Mr Ageros speaking in the background, the answer is no, only some disembodied voice, and we can’t see you either. So I think the better course would be for us to rise for a moment.

MR AGEROS: Yes, thank you.

SIR MARTIN MOORE—BICK: We can now hear you but we can’t see you, and I’m sure everyone would like to see you as well as hear you. So we’ll rise —

MR AGEROS: Yes. Sir, I’m very sorry. Will you just give me five minutes? I’m really sorry about this.

SIR MARTIN MOORE—BICK: Don’t worry, we’ll rise for about five minutes and we will ask the usher to come and get us when you are there visible as well as audible. All right?

MR AGEROS: Thank you.

SIR MARTIN MOORE—BICK: Good, thank you very much.
MR AGEROS: Well, I'll carry on then, sir, shall I?

SIR MARTIN MOORE: Yes?

MR AGEROS: Thank you very much.

Well, sir, in making these final overarching submissions, the TMO appreciates that it would not be helpful to repeat submissions made previously or rehearse evidence heard before the Inquiry in detail, and so, therefore, I will avoid doing this as far as possible here. However, in identifying some of the themes the TMO considers to be key, it will be necessary to go back over some of the ground previously covered.

As it has throughout, the TMO expresses its sincere sympathy and condolences to those who lost loved ones during the terrible fire which occurred on 14 June 2017, and it hopes that those who grieve may find some comfort in the years to come, including through the findings of this public inquiry.

Sir, as to the TMO’s interaction with the Inquiry generally, although by March 2018 the TMO ceased to exist as a body with day-to-day responsibility for the management of Grenfell Tower, it has, through its lawyers and remaining staff, none of whom were in post before and at the time of the fire, sought to assist the Inquiry in achieving its aims, including through the disclosure of thousands of documents and the provision of hundreds of witness statements, including ones from witnesses who gave evidence before the Inquiry.

SIR MARTIN MOORE: No, I can see him, but I don’t know if the screens in the room.

MR AGEROS: Well, I can tell ——

SIR MARTIN MOORE: —— because we can see you and we can hear you, and apparently you appear on some of the screens in the room.

Ms Studd, if you’re very keen to see Mr Ageros ——

SIR MARTIN MOORE: No, I can see him, but I don’t know if the screens in the room.

MR AGEROS: Well, I’m going to speak to the technical people.

SIR MARTIN MOORE: Yes? Right. I think we’ve solved that problem as well —— well, I haven’t, but somebody has, that’s the point. So I think ——

MR AGEROS: Sir, can I ask, can you see me? I’m just checking whether it’s my end or not.

SIR MARTIN MOORE: —— we can now ask you to carry on and let’s assume everything is all right.

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for serious criminal offences. Sir, however, the TMO understands that being the client for the project and the resident — facing body for the refurbishment, the Inquiry will look carefully at the TMO’s role. This is only right and to be expected.

Sir, at the end of all the evidence, it’s worth reflecting again on why the Grenfell Tower refurbishment occurred in the first place. The intentions behind the refurbishment project were good ones. The overriding intention was to improve the quality of residents’ lives by investing heavily in the building, including in its energy efficiency. Sir, we say that it’s important to keep this in mind when assessing the actions and motivation of TMO staff, as all their efforts were geared towards the improvement of residents’ living conditions. How the Inquiry views the TMO witnesses is ultimately a matter for the Inquiry, but it is submitted that it would be entitled to conclude that all were well-intentioned social housing professionals, and none acted with ill will or a reckless attitude towards residents’ health and safety.

Sir, it’s been suggested that the TMO, among other core participants, may have been an institutionally racist organisation, certainly according to the Macpherson definition. This is emphatically not
accepted by the TMO, nor indeed was accepted by any of
the witnesses that gave evidence at the Inquiry. In
fact, sir, no witness was questioned on the topic, and
the TMO submits that it would be unfair in those
circumstances to make such a finding without
an evidential basis.

The Inquiry will also determine whether the TMO and
RBKC were, as it has been put, only interested in
improving the look of Grenfell Tower and whether this
suggestion was likely. While the finish of the building
was certainly important, it is submitted that aesthetics
were certainly not the final driver in the
refurbishment. In identifying the priorities for the
refurbishment project, the TMO engaged with the
community and its residents. These discussions revealed
that improvements to the internal living conditions
could best be achieved by upgrading the communal
domestic hot water and central heating systems, and by
installing thermal insulation to improve thermal
efficiency and fuel economy, as well as by installing
new windows.

While the TMO certainly sought to include residents
in the decision—making processes about the
refurbishment, and the ways in which it did this were
tensively considered in Module 3, the TMO acknowledges
that some residents say they did not participate
meaningfully in the discussions surrounding the
refurbishment, and it acknowledges that the Inquiry will
consider how else the TMO could and should have achieved
meaningful engagement. Sir, one example of the TMO
listening to and responding to residents’ concern is
when dissatisfaction was expressed during the project
about the positioning of the hot water boiler. The TMO
took these concerns into consideration and adjusted the
plan alongside Rydon, albeit after some delay.

Some general submissions.

The Grenfell Tower fire was a fire unprecedented in
post-war mainland UK history, and the causes of it have
been shown to be complex, deep—rooted and deeply
troubling. Although the fire occurred at
Grenfell Tower, it is submitted that, in reality, the
same or a similar fire could have occurred at any of the
many high—rise buildings across the UK that were clad in
ACMs or other combustible cladding, or which had PIR or
other combustible insulation. This was the view of
a number of informed commentators from within the
social housing sector in the wake of the fire.

For example, David Montague, then the chief executive at
L&Q said of the tragedy:

“It’s utterly shocking, the thought that it could
have been anybody. It could have been anybody in the
sector.”

Sirs, we submit that such views should not be readily
discounted.

It may be that a fire of the sheer scale and lethal
intensity of the one at Grenfell Tower was always liable
to be unique, although this may ultimately be a matter
of speculation, and it is recognised that other cladding
fires have not resulted in such a terrible loss of life.

Sirs, the Inquiry will certainly consider whether
there were peculiarities at Grenfell Tower which allowed
the fire to spread as quickly and extensively as it did, for
example the presence of the architectural crown,
which is strongly implicated in the fire’s horizontal
spread across the building and the fire then burning
down other sides of the building. Whatever is the case
with this, urgent investigations following the fire
revealed the extent and complexity of what’s been
referred to in common parlance as the cladding crisis.

There was flammable cladding on large numbers of
buildings, high—rise and low—rise, private and public
sector. In the immediate aftermath of the fire,
dangerous cladding was removed from hundreds of
buildings and, where it could not be removed
immediately, waking watches were established and,

indeed, are still in place on many buildings even to
this day.

The TMO submits that the Inquiry should carefully
consider the extent of the wider problem. It is
submitted that only by doing this can the Inquiry make
a properly informed judgment of the TMO as client in
this refurbishment project.

Sirs, the Inquiry’s not closely considered the extent
to which ACMs and other flammable materials were present
on other blocks across the UK at the time of the fire
and, therefore, the submissions I make on this matter
today are derived mainly from open public sources, and,
sir, within the written submissions, we have provided
links and footnotes in respect of these sources.

Soon after the fire, tests were carried out on
numerous blocks and the government announced that every
tower block tested had failed some fire safety test in
respect of its cladding. In October 2017, up to 60
tower blocks across 25 local authorities, a large
proportion of which were council owned or housing
association, were reported to have failed such tests.

A review of records from March 2018 provided by
MHCLG and collated as part of the Building Safety
Programme indicated there were at that time 306
buildings over 18 metres with ACM cladding which did not
meet Building Regulations and presented fire hazards.

Online figures for 2019 and 2020 showed a steady
ing increase in the number of buildings over 18 metres that
had ACM which did not meet Building Regulations. On
a final tally, as of 30 September 2022, the government
published figures state that there were a total of 486
residential properties over 18 metres with ACM cladding
systems unlikely to meet Building Regulations.

The MHCLG commissioned testing into the burning
behaviours of a range of non-ACM cladding materials to
identify whether there were other types of cladding that
burned like the materials present on Grenfell Tower.

Many buildings were found to have this type of cladding
and, therefore, in March 2020, the DLHC announced
a £1 billion building safety fund aimed at remediating
buildings of 18 metres and above which presented
a significant risk of fire. As of 30 September 2022,
there have been 2,824 private-sector applications for
government funds from the building safety fund to fix
buildings with non-ACM problems.

Sir, we say this is indicative of the national
crisis which has been revealed since the fire.

Sir, we have not sought to collate figures for
buildings internationally, but it is well known that
this is also an international problem.

In addition, the fact that 49 developers, which
includes numerous well-established companies such as
Barratt, Bellway, Berkeley, Crest Nicholson,
Galliard Homes, Persimmon and Taylor Wimpey, to name
only a few, signed the building safety repairs pledge to
remediate life-critical fire safety works in buildings
over 11 metres which they themselves had played a role
in developing or refurbishing across the last 30 years
in England, also attests to the scale of the problem.

Sir, we say this is indicative of the national
crisis which has been revealed since the fire.

Sir, Arconic was happy to rely on the
BBA certificate and did so for the next eight years,
despite the fact that it knew the cassette form of the
product had been rated only class E in 2005, and indeed
when re-tested in 2011, 2014, and 2015, it received the
same E classification. Indeed, it seems that after
2011, when Arconic became definitively aware of
Reynobond PE’s poor performance in fire, it deliberately
targeted countries such as the UK which were not solely
working with the European classification system.

Certification aside, Arconic was aware of the
inherent risks with this cladding from 2007 onwards.
The Inquiry heard that Arconic’s marketing manager
attended a presentation in 2007 which warned of ACM
cladding fires but, despite this, Arconic continued to
manufacture and market Reynobond PE, telling clients,
such as the TMO, it was able to follow what type of
product was being developed and offer the right
specification. Thus, when, in 2012 and 2013, Arconic
pushed PE 55 in cassette form for use on
Grenfell Tower — and, sir, they did push it, knowing
this was a high-rise building — they were aware that it


governed by fire was because it was clad in an ACM with
a polyethylene core. Without the ready source of fuel
provided by the ACM, it seems highly unlikely that there
would have been a fire of such lethal intensity. Once
the fire took hold in the ACM cladding and
compartmentation was breached, all active and passive
fire measures were quickly overwhelmed as they were
being called on to perform in an unprecedented situation
for which they were never designed.

Sir, the evidence touching on these issues has been
painstakingly examined during the Inquiry but, as the
TMO submits that its responsibility for the
circumstances in which these ACMs came to be used is
extremely limited, it proposes to summarise briefly some
of the salient features of that history now.

Sir, the Reynobond 55 PE rainscreen panel cassette
system was tested in France in 2005. It received
a class E rating under the standard European fire test
system, where A1 was the best and F the worst. It was
only in a 2008 report that the Reynobond PE 55 received
a Euroclass B rating, and this was for the riveted form
and not the cassette form. This one successful European
test in 2008 was quickly used to attain UK certification
from the BBA. The certificate in question stated that
the Reynobond PE 55 panels were to be regarded as having
a class 0 surface and, it is submitted, gave the reader
of the certificate to think that this included the
cassette form also.

Sir, Arconic was happy to rely on the
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despite the fact that it knew the cassette form of the
product had been rated only class E in 2005, and indeed
when re-tested in 2011, 2014, and 2015, it received the
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manufacture and market Reynobond PE, telling clients,
such as the TMO, it was able to follow what type of
product was being developed and offer the right
specification. Thus, when, in 2012 and 2013, Arconic
pushed PE 55 in cassette form for use on
Grenfell Tower — and, sir, they did push it, knowing
this was a high-rise building — they were aware that it
was wrongly certificated and its use had been implicated in serious fires.

Dealing briefly with the insulation used on Grenfell Tower, the TMO makes these brief submissions.

Although unsafe cladding was the principal cause of the fire, the expert evidence has shown that unsafe insulation, including Celotex’s RS5000 and Kingspan’s Kooltherm K15 insulation boards, increased the likelihood of a serious fire and the intensity of any fire once it started.

The Inquiry heard evidence that 2014 testing of Celotex RS5000 was rigged. Also that the BRE, which conducted the tests, may or may not have been aware of this. Celotex then marketed the product in a way it accepted in evidence was thoroughly misleading.

With Kingspan K15, there was a similar story. The Kingspan product used in the refurbishment had failed a fire test in 2007 but, nevertheless, Kingspan marketed it on the basis of a successful test in 2005. However, this test related to a product with a different make—up and composition. Witnesses from Kingspan appeared to accept in evidence that this amounted to deliberately misleading the customer.

With this in mind, sir, it’s again alarming that a certificate was then issued by the BBA in 2008 which classified K15 as class 0, with the certificate further stating that the product will not contribute to the development stages of a fire or present a smoke or toxic hazard. K15 was neither non-combustible nor a material of limited combustibility.

It seems that even after the fire and indeed the Inquiry’s initial findings about the role of the insulation, it was still necessary for the Secretary of State to serve prohibition notices on Kingspan requiring it to cease supplying the product, and to contact its customers and those in the supply chain to secure its return from the market and use.

Very simply, sir, had the TMO known or been made aware by its professional team that the certification for any of the products used in the refurbishment was inaccurate, or that the testing of those products was invalid, it would certainly not have allowed them to be used. The TMO will no doubt consider the extent to which it was let down by its own team of professional advisers.

Sir, findings after the fire about the prevalence of these products in other buildings is alarming, though in the light of the misselling and mistesting, possibly unsurprising.

Sir, the story of how dangerous products came to be used on Grenfell Tower does not end with their certification by the BBA. It’s necessary also to consider misconceptions and wilful misuse of the UK class 0 rating.

The UK class 0 rating was widely understood to mean, principally on the basis of diagram 40 in ADB, that a product was suitable, without more, for use on the outside of buildings taller than 18 metres. Although the prevalent view, this was not what class 0 meant or should have meant. In fact, it had nothing to do with the overall combustibility of a given material, including the combustibility of the core of a composite, such as ACM.

How was it that this dangerous misconception under which much of the construction industry was labouring arose and persisted?

It seems that government certainly played a part in it. The evidence the Inquiry heard in Module 6 suggests the government was aware that the class 0 classification was being continuously and consistently misrepresented. Barbara Lane said it had “ degraded over time”.

David Crowder from the BBA said that he did not support class 0 as a fire safety test, but it was maintained due to political motivations. When he shared his concerns with Brian Martin, he was told that there were: “... industry interests and products that were on the market as a result of achieving class 0 that would cease to be on the market if class 0 ceased to be a viable option.”

That this state of affairs arose and persisted in England and Wales in plain view of the government was all the more surprising because, in 2005, after the Garnock Court fire in 1999, Scotland changed its technical guidance to require cladding used on external walls of high-rise domestic buildings to be constructed of non-combustible products. There was no ambiguity with this.

Despite the fact that the parliamentary select committee said, and again I quote, “We do not believe that it should take a serious fire in which many people are killed before all reasonable steps are taken towards minimising the risks”, and although effective changes were made in Scotland, only limited changes were made to ADB and the government did not change the guidance in ADB that class 0 materials could be used on the external walls of a high-rise building. Moreover, the 2009 Lakanal Rule 43 recommendations, which set out a clear case for revisiting regulation on cladding on exterior walls, including ADB, were well known to all but were
Sir, the Inquiry is well aware of the history of the base of Grenfell Tower. The KALC project also had a decision on whether the government actually colluded in the dangerously misleading system of selling and classification for this type of material.

Sir, as an aside, whether in fact it fell to the government to stay ahead of changing practice within the construction industry has been questioned by many, including Dame Judith Hackitt in her independent review of Building Regulations. However, whatever the answer to that is, the guidance produced by the government was unclear and was widely interpreted to justify the use of certain combustible products in circumstances where they were wholly unsuitable.

Sir, we on behalf of the TMO have spent some time addressing the misselling and misclassification of ACMs and insulation, and failures by HM Government to get a grip of the regulatory system, because it is submitted that this is an important backdrop for consideration of, in particular, the way the TMO acted in the contractual procurement process and management of the projects.

Sir, as was previously submitted, the TMO will say that the way that it went about appointing contractors in the pre- and post-contract phase for the refurbishment was rational and generally acceptable for a non-specialist client receiving advice on appointments in a design and build contract.

Sir, the Inquiry is well aware of the history of the TMO but, briefly, it was a not-for-profit company incorporated in 1995 under the Right to Manage legislation, whose function was to manage and maintain RBKC’s housing stock. It had no shareholders, but did have approximately 5,600 members, who were residents of RBKC housing stock. It was a resident-led organisation, in that there was a majority of local tenants and leaseholders on its boards. Any profit or surpluses were retained by the organisation to improve services to residents.

It was the client for the refurbishment project pursuant to the CDM Regulations 2007, and, sir, these regulations acknowledge that clients may not themselves be specialists in construction techniques and so are not required to plan or manage the projects themselves. While, sir, as you observed, it was an educated client, its key function was nevertheless the management and maintenance of social housing stock where RBKC was landlord.

In 2011, RBKC advertised through the OJEU process the tender for a project to build a new academy and leisure centre, KALC, on the Lancaster West Estate at the base of Grenfell Tower. The KALC project also included the construction of 30 residential dwellings.

This project was authorised and led by RBKC, with the
established its own project management team to oversee the refurbishment from the client’s perspective. This team included a dedicated project manager. While the team possessed a general understanding of the construction industry and its legislative framework, and of how projects were procured and delivered from the viewpoint of a client, it would only ever have delivered a construction project by employing external construction professionals. The TMO would not and could not deliver any construction projects itself.

Artelia, which was appointed as employer’s agent, advised that the procurement route for the project should be design and build. A pre-contract professional team whose responsibility was to ensure that all pre-contract works were compliant with applicable legislation, codes of practice and building control requirements was assembled. The TMO, as client, was not part of the PCPT, and relied on the professional team it had appointed for design compliance.

Studio E was a key part of the PCPT and was engaged to provide a complete service of works from inception to completion. It was appointed to provide full architectural services and was lead consultant, lead designer and architect as designer. At the pre-contract stage, Studio E was responsible for compiling the design and specification for the works, which included the windows and the cladding systems.

Sir, the TMO recognise that concern has been expressed that Studio E had never previously undertaken the overcladding of a residential building, and it is accepted that the Inquiry will accept this aspect of the evidence with care. Sir, we say that the evidence of Paul Hyett is relevant on the point. He said it was not unreasonable for a practice of the size and experience of Studio E to undertake such a project as long as it took appropriate steps to acquire the knowledge to discharge the project safely. Rydon was appointed as principal contractor following its successful tender and, sir, it is submitted that Rydon too was a rational and suitable appointment at the time, given its size, its track record and its familiarity with cladding projects.

Pursuant to the design and build contract, Rydon was required to carry out the design, construction and completion of both the proposed re-cladding and installation of windows. The contract with Rydon specified that the construction and materials used in it complied with all applicable regulations, legislation and codes of practice.

Sir, turning to two particular topics of concern about the pre- and post-contract procurement phase. These particularly arose from the evidence heard in Module 1. They’ll be addressed again briefly here.

Firstly, what’s been described in the Inquiry as Peter Maddison’s offline meeting with Rydon. The TMO submits that whatever the Inquiry may conclude about the circumstances in which the meeting occurred, even if matters had been approached differently, it is unlikely that a different contractor would have been appointed as, by the time the meeting occurred, Rydon had been identified as the preferred bidder through price and quality. Moreover, even if a different contractor had been appointed, it’s highly unlikely that different decisions would have been taken about the materials.

Value engineering. The Inquiry heard that there was value engineering between the TMO and Rydon prior to Rydon being appointed as principal contractor in March 2014. While it is acknowledged that Rydon was the only tendering contractor offered the opportunity to value engineer, this does not mean that the value engineering was wrong per se. In fact, sir, it was common for value engineering to occur in large-scale construction projects of this sort, especially ones involving public money, and, of course, an organisation such as the TMO had a duty to use public money efficiently.

It is recognised that the choice of cladding formed part of the value engineering process and, in this context, the TMO invites the Inquiry to consider that the prospect of using cladding other than zinc had already been raised in 2013 by another contractor, Leadbitter, and this was prior to Peter Maddison joining the project. In fact, as part of the original NBS specification, bidders had been asked to price for alternative rainscreen cladding to zinc. Therefore, the possibility that cladding other than zinc would be used had arisen before the value engineering process was undertaken.

Moreover, Simon Lawrence from Rydon was arguing in favour of using ACMs before the value engineering exercise had been embarked upon. So, too, apparently, was Mark Harris of Harley Facades in the meeting on 27 September 2013 at the Hays Galleria with Studio E. In the light of this, the TMO submits the Inquiry should ask itself whether, even if value engineering had not occurred, a different outcome with regard to cladding would have been reached.

Sir, two further issues.

The Inquiry heard evidence on whether the TMO should have appointed a client design adviser and whether it
was appropriate for the TMO to take on the role itself.

The TMO reiterates its closing submissions to Modules 1
and 2, where it was said that the CDM Regulations did
not require a client design adviser to be appointed, and
even if one had been appointed, it is highly unlikely,

it is submitted, that this would have made a difference
to the selection of materials, the wider design process
or the quality of workmanship, especially in the light
of what the Inquiry heard about the misselling and
misregulation surrounding ACMs.

Another issue is whether, when the CDM Regulations
2015 came in, the TMO should have assumed the newly
created role of principal designer. Sir, this was also
addressed in the TMO’s closing submissions for Modules 1
and 2 and, as was stated there, the TMO was not advised
until late in the day that the new legislation required
a principal designer to be appointed, and it only took
on the role when all others refused it. In any event,
by the time Claire Williams took on the role, she was
advised that the design was fundamentally complete and
so, even if the Inquiry does conclude that the TMO
should not have assumed the role, there is little to
suggest that, by doing so, it caused events to occur
which would not otherwise have occurred, or failed to
prevent events which should not have occurred.

Sir, more generally, whatever input the TMO had into
the choice of materials used on Grenfell Tower, at no
point was it ever told by its experienced professional
team that the materials finally selected for use were
inappropriate, still less dangerous. In the light of
all the Inquiry has heard about the tangled web of
cynical corporate deception, longstanding and
deep-rooted misconceptions about the key classification
for cladding products used on tower blocks above
18 metres, and a regulatory framework that allowed such
dangerous misconceptions to persist, it is submitted
that it would be unfair for the Inquiry to conclude that
the TMO should in some way unilaterally have realised
that ACMs were inappropriate for use during the
Grenfell Tower refurbishment.

This is something it's submitted the Inquiry should
bear in mind when looking at Claire Williams’ “Lakanal
moment”. When considering whether this was a missed
opportunity to use cladding other than flammable ACMs,
the Inquiry should recognise that the decision to use
them was reached, approved of or acquiesced in by
a number of contractors, all of whom either had or
purported to have expertise in the selection of
materials.

Sir, two more discrete matters before I come to my
last topic.

The role of Exova first.

There is strong evidence to show that Exova did not
complete important fire safety work on the refurbishment
and, in doing so, failed in its contractual
responsibilities. Exova’s maintaining that it was not
retained by Rydon does little to explain why it failed
to complete the work it should have completed, which
would have included an assessment of the external wall
and to advise properly on the smoke control system.

The project was also signed off by RBKC building
control as being compliant with the prevailing building
standards. Whether or not this should have happened is
a matter the Inquiry will examine with care, including
whether there was an over—reliance on building control
and whether the workload of John Hoban was too onerous.

However, whatever the Inquiry concludes in relation
to this, it’s respectfully submitted the TMO was
entitled to derive comfort and assurance from
building control sign-off and approval. Certainly
against the backdrop of a project which had been carried
out by professionals, including those in the cladding
industry, there was nothing following that approval to
put the TMO on notice that things had been done in
an unsafe or dangerous way.

Sir, turning now to the last topic on which the TMO
will make submissions: the way in which the active and
passive fire measures at Grenfell Tower performed on the
night, including the way in which the TMO procured and
managed the contract for these, also the appointment and
retention of Carl Stokes and PEEPs.

The TMO reiterates the general submission it has
made previously that the active and passive fire
measures were never designed to operate in a fire of
this magnitude and so were quickly overwhelmed. It’s
submitted the Inquiry will have to grapple with the
issues of causation that arise from this fact.

Regarding the build—up of smoke in the communal
lobbies, the TMO acknowledges that the Inquiry has heard
evidence that the build—up of smoke in the communal
lobbies was rapid and represented a key factor in the
ability of residents to escape. It is accepted
the Inquiry has heard evidence suggesting that this
rapid build—up may have been connected with the
resistance of some of the fire doors in place and the
absence of self—closing devices on some of the flat
front doors.

Regarding the first of these, the Inquiry heard
evidence in Module 3 that the TMO entered into
a contract with Manse Masterdor to replace doors across
Janice Wray said that when she made enquiries of others affecting the whole social housing industry, fitted and kept in a good condition was an issue surrounding the discharge of the contract. The TMO made detailed submissions on this in its closing to Module 3 and they will certainly not be repeated here. Sir, looking at the topic from a wider perspective, there is evidence to suggest that fire doors within adequate levels of fire resistance was a widespread problem in the industry, and was certainly not merely confined to the TMO or Grenfell Tower. Testing carried out by the government in 2018 showed that fire doors made by five different suppliers failed fire safety tests and were withdrawn from the market. The then communities secretary, James Brokenshire, confirmed at the time that he had “enough evidence to suggest that there is a broader issue across the fire door market”. In March 2018, the government told parliament that there was no evidence of a systemic issue with fire doors. However, following that, Manse Masterdor removed two types of doors from sale as they did not meet the standard when tested, and it is reported to have contacted social housing landlords who were customers to inform them of the issue.

In July 2018, MHCLG wrote to building control bodies alerting them to the need to check the performance of fire doors to ensure the requirements of Building Regulations were met. By November 2018, government was undertaking an investigation into the fire door industry following concerns about the consistency of flat front entrance fire doors against the required performance standard.

Sir, concerning the way in which the TMO sought to ensure that door—closers, once fitted, were kept in good repair, the Inquiry heard detailed evidence on this, including how the TMO was told after the Adair Tower fire that it should take steps to satisfy itself that door—closers across its estate were functioning correctly. The TMO accepts the Inquiry will look carefully at how it sought to implement the requirements of the deficiency notice issued in respect of Adair Tower and how it dealt with the issue of door—closers prior to this. Detailed submissions on this topic were made in the TMO’s closing submissions to Module 3 and, again, they will not be repeated here. Suffice it to say that ensuring door—closers were fitted and kept in a good condition was an issue affecting the whole social housing industry. Janice Wray said that when she made enquiries of others within the social housing sector, none really had a solution of ready or widespread application.

That there was a widespread problem with the maintenance of door—closers is apparent from what was said by the Door and Hardware Federation, a trade association for companies associated with locks and buildings’ hardware and door sets. DHF’s general manager and secretary states that it’s too often the case that door—closers are incorrectly specified or badly installed, and a greater understanding of how to comply with the relevant standards was needed. He also said that a lack of maintenance often exacerbates the problem.

The difficulties in drafting definitive advice for those involved in building safety is illustrated by, for example, the fact in January 2020 the government published building safety advice for building owners, including advice on fire doors, but the publication was withdrawn on 10 January 2022 because it was said to have been wrongly interpreted and to have driven a too—cautious approach to building safety, going beyond what the government considered necessary.

The Fire Safety (England) Regulations 2022 will make it a legal requirement from 23 January 2023 for responsible persons for all multi—occupied residential buildings in England with storeys over 11 metres high to: (1) undertake quarterly checks of all fire doors, including self—closing devices in the common parts; and (2) undertake on a best—endeavour basis annual checks of all flat entrance doors, including self—closing devices, that lead on to a building’s common parts. The regulations will also require responsible persons to provide residents of all multi—occupied residential buildings with information on the importance of fire doors to a building’s fire safety.

Sir, it’s a matter for the Inquiry, but it’s submitted that the fact that such legislation was enacted attests to an existing lack of clarity around when and how door—closers should be checked and the need to make sure that the general public appreciate their importance. The fact that duty holders are required only to use best endeavours to check flat entrance doors speaks to the difficulties in gaining access to domestic flats.

Sir, touching briefly on the lifts at Grenfell Tower. When the lifts were refurbished, the TMO received expert advice on how to ensure that it met the relevant standards, and the Inquiry will consider the extent of the advice given and whether the TMO reasonably relied
on the advice.

Further, after the refurbishment, there were contracts in place for maintenance of the lifts, and the TMO’s expectations were that the lifts were being properly maintained. The Inquiry will consider the way in which the TMO managed these contracts.

The Inquiry will also draw conclusions on the evidence it heard regarding the ability of the LFB to take control of the lift using the fireman’s switch during the fire. The TMO submits that the Inquiry heard evidence that it did have in place subcontractors whom it could reasonably have expected to maintain the lifts and their associated switches.

Regarding the smoke control system, the Inquiry will need to consider how the system performed on the night of the fire, and, when doing this, it will need to keep in mind, as has been said, that it was never designed to deal with the quantity of smoke in the Grenfell Tower fire. In this regard, the Inquiry heard evidence from Simon Lay, who opined that the system operated as intended, and that it’s likely it operated beyond its expected parameters despite the failure of other provisions that it relied on.

Sir, regarding Carl Stokes, and briefly, it’s submitted that the TMO was entitled to conclude very least.

Regarding PEEPs, the Inquiry heard that the TMO did not have a system for completing PEEPs for disabled residents at Grenfell Tower and that none was in fact completed. In not completing PEEPs, the TMO was not acting inconsistently with the practice of other organisations in a similar position at the time and indeed today.

Sir, the TMO refutes the suggestion that it did not care for disabled people. Decisions about which floor disabled people were housed on were not made by the TMO but by RBKC. Although the TMO was aware of persons with disabilities, it believed that the compartmentation and the stay—put strategy was a sound one.

In May 2022, the government announced proposals that would not have given those who engaged him to conclude that the TMO acted reasonably within the limits of its general terms, the Inquiry would be entitled to conclude that the TMO acted reasonably within the limits of its conduct and that of its staff. It is submitted that, in assessing and analysed by the Inquiry. It respectfully invites the Inquiry to take into account all of the submissions made above and now when analysing its conduct and the conduct of its staff will be carefully assessed and analysed by the Inquiry. It respectfully invites the Inquiry to take into account all of the submissions made above and now when analysing its conduct and that of its staff. It is submitted that, in general terms, the Inquiry would be entitled to conclude that the TMO acted reasonably within the limits of its role as client on this design and build project, and its social housing professional staff acted conscientiously and in good faith. The TMO was, after all, a non—specialist body, which was entitled to rely on the expertise of its specialist contractors, particularly when taking advice on the materials to be used.

Sir, also, the Inquiry should not overlook or underplay the wider societal and systemic issues that the TMO has sought to identify in its various
submissions, and should, we would submit, consider the TMO’s conduct and performance in the light of these. The TMO also respectfully suggests that the Inquiry should not overlook the fact that it has been necessary to introduce substantial legislative changes in the wake of the Grenfell Tower fire, partly as a result of the Inquiry’s own findings to date.

Sir, none of these submissions should detract from what was said at the outset: that the TMO supports the aims of this Inquiry, and it continues to express its sincere condolences to the bereaved, and hopes that the findings, recommendations and implementation of those recommendations provide the bereaved with some comfort in the years to come.

Sir, I finish there. Can I apologise for going ten minutes over my allotted time.

SIR MARTIN MOORE—BICK: Well, I don’t think you have gone over too badly, given the fact that we had a bit of a hiccup at the beginning. So thank you very much, Mr Ageros. I’m glad we were able to hear you from Birmingham. Thank you.

MR AGEROS: Thank you very much, sir.

SIR MARTIN MOORE—BICK: The next statement is going to be made by Ms Anne Studd King’s Counsel on behalf of the Mayor of London.

BICK: The next statement is going to be made by Ms Anne Studd King’s Counsel on behalf of the Mayor of London.

MS STUDD: Thank you very much, sir.

Sir, can I start by making some introductory remarks, and then I’m going to deal with seven topics which have featured in the evidence and which the Mayor considers are important considerations for your Phase 2 report.

By way of introduction, the Mayor would like to start his final remarks to this Inquiry by paying tribute to the bereaved, survivors and residents, who, notwithstanding the length of this Inquiry and the distressing nature of much of the evidence called before it, have honoured themselves and the deceased by the dignity, the strength and the composure that they have shown.

At the centre of this lengthy Inquiry is the tragic loss of life of 72 individuals. Fittingly, the Inquiry began with the commemorations in respect of each one of them, and concluded with drawing together the circumstances in which each one died. The preparation of that evidence must have been harrowing in the extreme. Those who mourn a loved one, and those bereaved, survivors and residents who have suffered so profoundly since the fire on 14 June 2017, have ensured that those who died have remained central to this Inquiry, notwithstanding the inevitable re-traumatising impact that the whole process must have had on them. Some have attended these proceedings in person, others have attended remotely, but all of them have shown bravery and courage, and have sought to ensure that those who died have had their voices heard over the half decade since the tragedy. The Mayor is aware of how difficult this Inquiry has been for them, and how difficult their lives will continue to be when this Inquiry is over. He knows that the wait for justice has been too long.

Now that the evidential hearings have come to an end, the Mayor seeks to explore some overarching themes that have featured in the course of Phase 2, and to highlight topics that are likely to form part of his submission on recommendations. Those recommendations and the implementation of them will be fundamental to ensuring that the Grenfell Tower fire marks a turning point in building safety.

Just turning to deal with the recommendations and their implementation.

In his terms of reference, you, sir, concluded by saying that you would report your findings to the Prime Minister as soon as possible and would make recommendations. In 2017, in its report “How public inquiries can lead to change” the Institute of Government found that, of the 68 public inquiries that had taken place since 1990, only six had received full scrutiny by a select committee to hold the government to account for what progress had been made regarding those recommendations. It further concluded that there was no firm procedure for holding the government to account for promises made in the aftermath of inquiries, the implementation of recommendations is patchy, and, in some cases, repeat incidents have occurred, and there is no system for allowing inquiries to build on the learning of their predecessors.

In the course of this Inquiry, it has become clear that the lessons of the Lakanal House fire, for example, had not been learned, in spite of the recommendations from the coroner, and that some of those recommendations may have impacted on the tragic events of 14 June 2017. Overwhelmingly, the bereaved, survivors and residents need to be reassured that this Inquiry will make recommendations to prevent future loss of life in similar circumstances. They deserve robust and enforceable recommendations to give them some solace in
the knowledge that others will not have to suffer in the
way that they have.

Thus far, however, action and change at a national
d level has been conspicuously slow or absent.

Notwithstanding your recommendations in your Phase 1
report, the response from government, building
developers and owners has fallen woefully short of what
the bereaved, survivors and residents had every right to
expect. While the London Fire Brigade has completed 90%
of the recommendations directed at the service in the
Phase 1 report, the government has not yet implemented
any of the recommendations it is responsible for
undertaking, nearly three years after they were made.

In addition, there remain too many residents in London
and across the country living in fear in high-rise
buildings that are covered in dangerous flammable
cladding. The Mayor observes also that designs for
buildings are still being submitted with critical safety
failings.

The unavoidable reality of the evidence through
Phase 2 is that it has demonstrated a reluctance by
government and industry to learn and instigate change
following previous fires. Evidence heard about the
response to the Lakanal House inquests showed missed
opportunities that failed to prevent a fire such as the

Prime Minister in June 2022: what is the point of
inquests and inquiries if the recommendations and
learning that evolve from them is simply going to be
ignored?

The Inquiry should be concerned about the slow
response of government to the recommendations made in
the Phase 1 report, and troubled by its rejection of the
recommendation that would require owners of high-rise
flats to prepare PEEPs, evacuation plans, for disabled
residents. As the Inquiry is aware, 41% of those who
died in the fire were disabled, and not one had a PEEP.
The fact that those affected have felt compelled to seek
redress through the courts is a matter of the utmost
concern.

The independent charity INQUEST has, for 15 years,
been calling for the establishment of a national
oversight mechanism, an arm’s-length public body with
a duty to collate, analyse and monitor recommendations
arising from post-death investigations and their
implementation. The Mayor reiterates his support for
the establishment of such a body. It is essential that
the Grenfell Tower Inquiry recommendations are neither
ignored nor rejected without careful rationale.

The Mayor would invite the Inquiry to recommend to the
Prime Minister as part of his report that, at the very
least, a body or system is set up to monitor the
progress of the recommendations from this Inquiry,
reporting annually to parliament, perhaps symbolically
on 14 June, the progress made on the recommendations and
updates about their work on fire and building safety
overall. This should be followed by a parliamentary
debate on the report.

I turn now to deal with the seven topics.

In addition to the issue of recommendations and
their implementation, the Mayor considers that there
have been overarching themes that have crossed modules
and upon which your report should make consideration:
first of all, the institutional indifference to
residents of Grenfell Tower and the surrounding
buildings; secondly, discrimination; thirdly, the lack
of professional training, competence and skills within
the professions; fourthly, the issue of profit before
safety; fifthly, deregulation, austerity and cuts;
sixth, the absence of rigour, independence and
transparency in testing and certification; and, seventh,
the lack of accountability.

I turn first to deal with institutional indifference
to the residents.

In Modules 3 and 4 particularly, the Inquiry heard
evidence of the treatment of the residents of
Grenfell Tower and its surrounding blocks, both during
It is against that background that failures in staff were unable to view the residents’ complaints. Any appreciation that residents wanted to feel safe in their homes, there was a total indifference to their needs. It was the TMO’s job to have regard to those needs and concerns. As Mr Daffarn wrote in his statement:

“I never believed that the TMO was capable of keeping residents safe... The underlying reasons for this lie in the culture of governance that prevailed and because the personnel held prejudiced views about how residents should behave: essentially to be thankful for their service; or effectively be damned. Their dealings with me were institutionally biased, and, in many instances, animated by individual prejudice. In their eyes I was stigmatised as a ‘trouble-maker.’”

Having heard the evidence from the bereaved, survivors and residents in Modules 3 and 4, the attitude so eloquently described by Mr Daffarn was clearly not confined to him, nor to those in the Grenfell Action Group, or to the small minority of perceived troublemakers identified by the witnesses from Rydon and the TMO in the course of their evidence. The Inquiry has heard evidence on multiple occasions that the tenants were treated as second-class citizens, with the concerns that they raised being ignored or dismissed, while the focus fell on the “rebels residents and troublemakers” and how to undermine rather than resolve their concerns. Driven as they were to publicly record their concerns, those who perished were ignored or dismissed, and I quote, that:

“Although the chairman shared the concerns of those who felt these were important questions which required urgent examination, on careful reflection he came to the conclusion when recommending the inquiry’s terms of reference that the inquiry was not the best way to answer them. However, if in the course of its investigation the panel finds that factors of that kind played a part in any of the decisions under consideration, it will make that clear in its report.”

Now, at the conclusion of the evidence, it is important that the Inquiry makes good that reassurance. As others have made clear previously, discrimination is the elephant in the room. As demonstrated in the relationship between RBKC, the TMO and the tenants, both before and after the fire, issues of institutionalised discrimination have arisen in so many different ways that they certainly warrant inclusion in your Phase 2 report.

I turn to just look at a few examples.

The Inquiry heard evidence that disabled residents were housed on highest floors without any discussion or plans about what to do in an emergency. Government guidance written by Colin Todd advised that PEEPs were not needed in general residential housing, and yet 41% of those who perished were disabled. Disabled residents’ needs were not given adequate consideration when it came to emergency rehousing after the fire, and you heard painful evidence from survivors in relation to the effect of those failures.

Sir, disabled residents have been marginalised and treated as though their lives are inferior. The government’s rejection of the Phase 1 recommendation regarding PEEPs only adds to that sense of marginalisation. The Mayor endorses the emphatic plea from the BSRs outlined by Mr Friedman on Monday that this Inquiry must leave the government in no doubt that their current intransigent position is wholly unacceptable in the light of the evidence heard here, and that an urgent interim report on this issue is essential in order to immediately address the increased risk to disabled residents seeking to evacuate in the event of a fire.

The evidence also supports the concern that race played a part in the issues under consideration and...
I turn to deal with lack of professional training, Mr Chairman, given so long ago.

its report in order to fulfil that undertaking that you, being provided in the building in English.

Additionally, the Inquiry heard in Module 3 that the manipulation of the complaints system, disgraceful as it was on its own, also discriminated against those who were unable to confidently register a written complaint in English.

The discrimination that had existed before the fire translated to the response after the fire. Compare and contrast the total lack of consideration of protected characteristics and cultural requirements from RBKC and the TMO in relation to unsuitable meal provision and accommodation, with the altogether opposite approach of Mr Mark Simms and his volunteers from the Rugby Portobello Trust, who assisted in organising a street iftar so people could break fast and pray together in English.

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Their most difficult times. The state authorities appeared to be more concerned with policing those who had been displaced in order to prevent a perceived risk of public disorder, rather than ensuring a safe place, accommodating their needs and providing as much comfort as could be afforded to them in those desperate hours.

The evidence is so glaring and obvious, and the failures so elementary, that it is clearly an issue which the Inquiry should now be considering including in its report in order to fulfil that undertaking that you, Mr Chairman, gave so long ago.

I turn to deal with lack of professional training, competence and skills.

The evidence in Phase 2 has displayed an alarming lack of training, competence and skills in the professional industries that were engaged with the Grenfell Tower refurbishment. Just by way of example, as they were too numerous to list, Studio E were unqualified to perform the tasks which they had been contracted to perform, and were aware that a proper procurement process would have illustrated their lack of experience. Exova’s existing fire safety strategy was wholly inadequate for any relevant purpose for which it was required. And Carl Stokes, who in the April 2016 fire risk assessment wrote that “new external cladding has been fitted to this building, approved and accepted the fixing system and cladding used”, when he had not even seen any building control documentation or any other independent information. His opinion was based on an informal conversation with a representative from Rydon and a conversation he had with TMO. Barbara Lane described it as “professionally reckless.”

Overlaid on that professional recklessness, the Inquiry has heard about a cladding industry that relied upon aggressive marketing and was not cowed by the catastrophic testing conducted by the BRE, but was, on the contrary, prepared to manipulate the testing, ensuring it was overengineered to achieve a pass.

Serious consideration must be given to how this can be rectified by the introduction of clear, professional standards, mandatory requirements of knowledge and expertise, and ongoing compulsory training. The current skills shortage across industry, which affects also the London Fire Brigade as well as other organisations, is a cause for real concern and must be addressed. Failure to do so undermines any positive changes introduced through the Building Safety Act and the Fire Safety Act.

Profits before safety.

As the Mayor indicated in his closings to Modules 1 and 2 of Phase 2, in the course of the refurbishment of the Grenfell Tower, there appears to have been a primary focus on profit from the contractors and on low cost from the TMO, rather than any accountability or concern for risk and safety to the residents. None of the basic checks for fire performance were carried out by the design team, nor picked up by any other organisation, including the TMO. The evidence at the Inquiry revealed a total absence of risk ownership by those who should have been expected to have the safety of residents at the heart of the refurbishment.

The evidence has pointed to a culture in the construction industry in which profits are pursued at the expense of public safety. There are, again, many examples of this, including a willingness of Rydon to pocket a substantial part of the £200,000 saving by using ACM cladding, notwithstanding the greater fire risk. Additionally, the aggressive marketing adopted by the manufacturers seeking to conceal or manipulate testing to achieve better sales. On top of that, they then threatened organisations who questioned them with legal action, and while loved ones were desperately searching for news of their relatives, they attempted to lobby government to protect their own commercial interests.

The Inquiry report needs to set out clearly, sir,
The unconscionable behaviour of the industry,
illustrating the race for profit with a corresponding
disregard for public safety that appears to have become
embedded in this broken system.

Deregulation, austerity and cuts.
In the later part of Phase 2, the Inquiry heard
evidence about the barriers that deregulation placed on
the ability of departments to amend regulations which
had a public safety impact. Anthony Burd, a civil
servant in the then DCLG, told you that the drive to
deregulate resulted in “spending an inordinate amount of
time looking at how we could deregulate”, while
Brian Martin said, “Ministers were very focused on
avoiding anything that might impact on the economy in
a negative way”. This clearly had an impact on the
review of the ADB and the ability to action any
significant change in the aftermath of Lanakan House.

In addition, and undoubtedly, the policy of
austerity has contributed to a culture in which some
state employees see their role to act as gatekeepers for
the meagre service provision available, rather than as
public servants whose role it is to act in the public
interest. In line with the seven principles of public
life, state employees should act solely in terms of the
public interest, and must act and take decisions
impartially, fairly and on merit, using the best
evidence and without discrimination or bias.
The Inquiry has heard considerable evidence to
illustrate that those principles were not being acted
upon by RBKC and the TMO in the course of this
refurbishment or in the aftermath of the fire.

The deregulation agenda, coupled with austerity and
cuts to public services, was a dangerous combination.
The Inquiry heard evidence that between 2013 and 2017,
the RBKC building control department had lost ten
surveyors, who had 230 years’ experience between them,
and were replaced by one graduate. Mr Hoban, when he
gave evidence before you, demonstrated the toll that
this had had on his ability to do the job he wanted to
be able to do. The consequences of what appears to have
been a gross lack of resources were catastrophic. The
LFB too had faced budget cuts and the consequential
reduction of resources between 2009 and 2016.

The Inquiry must look at these issues in the round.
These are significant matters which had a causal effect
on public officers not being able to properly fulfill
their duties in relation to the preservation of public
safety. Proper regulation is needed. It must be
secured and not left as an option.

The absence of rigour, independence and transparency
from testing regulators and certifiers.

Perhaps of all the evidence, the evidence in
Module 2 in relation to testing was the most shocking.
It must have been deeply traumatising for the bereaved,
survivors and residents. The lack of rigour and
transparency in testing allowed the manufacturers to
keep the evidence in relation to combustibility
confidential, even when they themselves were aware of
the danger it posed. An ethical industry would have put
safety first, but they did not. Profit took precedence,
and obtaining the market share was pivotal,
notwithstanding what the industry already knew: that
this product should not be used to clad high-rise
buildings.

There was an obvious issue. The BRE were being paid
large amounts of money to test products from other
private companies. They were a significant source of
revenue. There was evidence that the relationship was
not as intrusive as the public might expect from
an independent testing regime. BRE erroneously trusted
the honesty of their clients. The privatisation and
poor governance procedures led to companies being able
to manipulate testing by setting up test rigs and adding
items without the BRE staff knowing. The complete
absence of any transparency of test results allowed
Arconic to hide its products’ failed tests.

The evidence showed that the system of testing was
capable of being and was rigged, resulting in
certificates that were worthless. Those certificates
were relied upon by organisations like the Local
Authority Building Control and the National House
Building Council, even when they were suspicious of the
results. The BBA relied heavily on information from the
very companies who wanted certification for their
products. There was a lack of intrusiveness by the
testing authorities, and a misplaced trust that
companies who were only interested in profit would
voluntarily inform certifiers of failed test results or
inaccurate information on certificates.

The public deserve to know that products being used
on their homes have been effectively and robustly tested
and certified safe. Objectivity and high standards are
paramount.

Lastly, I want to deal with the lack of
accountability.
To any observer, this has indeed been
a merry-go-round of buck-passing. The commercial bodies
have taken no responsibility and shown little, if any,
contribution for their role in the loss of 72 lives. Not
one single organisation or commercial body seems to be
The only reasonable conclusion that can be reached by this Inquiry is that this is an industry that will not change its culture voluntarily. You will recall Paul Hyett giving evidence before you when he said: “Our entire industry ... and all the professions within it, and my own included, I think there has to be a lot of very careful contemplation from here on.”

Unfortunately, from what the Inquiry has heard in the course of evidence since he gave that evidence on Day 65, this industry, as represented in this Inquiry, has not shown itself capable of such reflection.

As the Mayor highlighted in his closing to Modules 1 and 2, the architect relied upon the safety engineer, the safety engineers relied upon the cladding contractor, the cladding contractor relied upon the manufacturer, who had a commercial interest in remaining silent, and they all relied upon the final arbiter of building control for compliance, without taking any responsibility for it themselves, and without providing the information that was necessary for any accurate assessment to be made. No one asked intrusive questions. No one offered information that they knew might be relevant to the safety of those living in the tower.

As Dr Lane said to you: “Fire safety engineering is about protecting people ... when you forget that, you get caught up in the game of making things work and getting things through, and you forget about your primary responsibility, which is protecting people. In the refurbishment of the tower, it is hard to see that any organisation focused on protecting people at any stage.”

As the Inquiry will be aware, within that appalling shifting of blame, the cladding manufacturer blamed the insulation for the fire spread, while the insulation manufacturer blamed the cladding. Both distanced themselves from the decision made to use their product on Grenfell Tower, but were content to market and sell their combustible products widely and without caveat.

The lack of accountability, responsibility, candour and transparency from these organisations is shameful. The Inquiry has one opportunity left through its Phase 2 report to make findings that give the bereaved, survivors and residents the accountability they deserve and are entitled to, albeit at this very late stage after the fire, and recommendations to prevent anything like it from ever happening again. No one else must endure what they have had to endure for so long.

SIR MARTIN MOORE—BICK: Thank you very much, Ms Studd. Well, that completes the statements that we were expecting to hear this afternoon. We shall be resuming tomorrow morning at 10 o’clock, when we shall hear further closing statements from core participants, followed by a closing statement from Counsel to the Inquiry.

As I said, we will do that at 10 o’clock tomorrow, and we look forward to seeing you then. Thank you very much.

(3.37 pm) (The hearing adjourned until 10 am on Thursday, 10 November 2022)