

<p>1 Tuesday 12 December 2017</p> <p>2 (10.30 am)</p> <p>3 SIR MARTIN MOORE-BICK: Good morning, everybody. When we</p> <p>4 finished last night I'd heard submissions from those</p> <p>5 representing the bereaved, survivors and other local</p> <p>6 residents. We've now got to the stage at which I would</p> <p>7 invite Mr Maxwell-Scott to say something on behalf of</p> <p>8 the council.</p> <p>9 Thank you.</p> <p>10 Submissions on behalf of the Royal Borough of</p> <p>11 Kensington and Chelsea by MR MAXWELL-SCOTT QC</p> <p>12 MR MAXWELL-SCOTT: Mr Chairman, I am James Maxwell-Scott and</p> <p>13 I represent the Royal Borough of Kensington and Chelsea,</p> <p>14 instructed by DWF.</p> <p>15 Before turning to some specific topics I would like</p> <p>16 to make some introductory points.</p> <p>17 We have listened very carefully to the submissions</p> <p>18 made yesterday on behalf of bereaved family members,</p> <p>19 survivors and former residents. Many valid points were</p> <p>20 made, which seem to us to derive from two central</p> <p>21 themes: first, the centrality to this inquiry of the</p> <p>22 bereaved, of the survivors and of the former residents;</p> <p>23 secondly, the importance of transparency. RBKC</p> <p>24 respectfully agrees with the importance of both of those</p> <p>25 themes.</p> <p>Page 1</p>	<p>1 the public interest above our own reputation.</p> <p>2 "We commit to the Royal Borough of Kensington and</p> <p>3 Chelsea becoming an organisation which strives to</p> <p>4 approach forms of public scrutiny, including public</p> <p>5 inquiries and inquests, with candour, in an open, honest</p> <p>6 and transparent way, making full disclosure of relevant</p> <p>7 documents, material and facts. Our objective is to</p> <p>8 assist the search for the truth. We accept that we</p> <p>9 should learn from the findings of external scrutiny and</p> <p>10 from past mistakes.</p> <p>11 "We commit to the Royal Borough of Kensington and</p> <p>12 Chelsea becoming an organisation which strives to avoid</p> <p>13 seeking to defend the indefensible or to dismiss or</p> <p>14 disparage those who may have suffered where we have</p> <p>15 fallen short."</p> <p>16 Sir, I now turn to my submissions on specific</p> <p>17 topics. I have three topics which I wish to cover, and</p> <p>18 they are disclosure, experts and the split between</p> <p>19 phase 1 and phase 2.</p> <p>20 Turning first to disclosure.</p> <p>21 Sir, as you will have deduced from the resolution</p> <p>22 passed by the council last week, we are sympathetic to</p> <p>23 the submissions made yesterday about the importance of</p> <p>24 the disclosure process being transparent and of the need</p> <p>25 for participation to be informed by disclosure in order</p> <p>Page 3</p>
<p>1 Sir, you and many others present today may already</p> <p>2 be aware of the resolution adopted by the full council</p> <p>3 at its meeting on Wednesday, 6 December, but I hope that</p> <p>4 you will forgive me reminding you of it.</p> <p>5 The subject matter of the resolution was the report</p> <p>6 of Bishop Jones, which was referred to in some of</p> <p>7 yesterday's submissions. The resolution was proposed by</p> <p>8 the leader of the council, Elizabeth Campbell, and</p> <p>9 passed unanimously. The full text of the resolution can</p> <p>10 be found on the council's website, but I hope that it</p> <p>11 will assist if I read some extracts from it.</p> <p>12 The resolution began by stating:</p> <p>13 "This council notes the publication of the report by</p> <p>14 the Rt Rev James Jones, Bishop of Liverpool and chair of</p> <p>15 the Hillsborough Independent Panel ..."</p> <p>16 It also stated:</p> <p>17 "In line with the report's recommendations, this</p> <p>18 council re-affirms its commitment to be open,</p> <p>19 transparent and fully co-operative with the public</p> <p>20 inquiry into the Grenfell Tower fire, the inquests into</p> <p>21 the deaths in the fire and the police investigation."</p> <p>22 The resolution went on to set out six numbered</p> <p>23 commitments, of which I will read three, if I may:</p> <p>24 "We commit to the Royal Borough of Kensington and</p> <p>25 Chelsea becoming an organisation which strives to place</p> <p>Page 2</p>	<p>1 for it to be meaningful.</p> <p>2 RBKC received a detailed request for disclosure from</p> <p>3 the solicitor to the inquiry on 24 August. We have</p> <p>4 provided your team with disclosure in response to that</p> <p>5 request and with a signed disclosure statement.</p> <p>6 That disclosure statement, dated 8 November, runs to</p> <p>7 52 paragraphs plus appendices, and you'll probably be</p> <p>8 pleased to hear that I do not intend to read all of it</p> <p>9 into the record. However, it may assist if I refer to</p> <p>10 a small number of paragraphs from it, because they may</p> <p>11 help to answer some of the questions raised entirely</p> <p>12 legitimately yesterday.</p> <p>13 RBKC received notice from the Metropolitan Police to</p> <p>14 retain all data across its servers on 20 June. RBKC's</p> <p>15 shared information and communications technology service</p> <p>16 infrastructure manager ensured that, upon receipt of the</p> <p>17 letter, all data held on RBKC's storage area network was</p> <p>18 duplicated to create a stable copy, meaning that the</p> <p>19 data could not be changed or modified. The amount of</p> <p>20 data preserved in this manner was around 80 terabytes in</p> <p>21 total.</p> <p>22 DWF, through their forensic services providers,</p> <p>23 began extracting documents from RBKC servers on 3 July.</p> <p>24 The data was processed, then added to an online review</p> <p>25 platform, Relativity, chosen by DWF for, amongst other</p> <p>Page 4</p>

<p>1 reasons, its advanced searching capabilities.</p> <p>2 Subsequently a large number of documents were</p> <p>3 uploaded on to Relativity. By 8 November, 1,516,427</p> <p>4 documents had been uploaded onto Relativity.</p> <p>5 DWF and their forensic services providers can</p> <p>6 confirm that no documentation has been redacted, altered</p> <p>7 or tampered with in any way since being received by DWF</p> <p>8 or their forensic services providers.</p> <p>9 Sir, pausing there, I can state that all of those</p> <p>10 1.5 million documents have been disclosed to the police.</p> <p>11 So returning, then, to how disclosure has been given</p> <p>12 to your team, those documents were searched</p> <p>13 electronically by running keyword search terms across</p> <p>14 them. The search terms used have been provided to your</p> <p>15 team in an appendix to the disclosure statement.</p> <p>16 That process resulted in 90,563 responsive</p> <p>17 documents. A team was then set up manually to review</p> <p>18 those documents, and the disclosure statement explains</p> <p>19 the nature of the team and how it worked.</p> <p>20 The outcome of the manual review process was that</p> <p>21 12,918 documents were disclosed to your team by</p> <p>22 8 November.</p> <p>23 The concluding section of the disclosure statement</p> <p>24 addressed the ongoing duty of disclosure. It stated:</p> <p>25 "DWF and RBKC understand that they have an ongoing</p> <p style="text-align: center;">Page 5</p>	<p>1 As indicated in my written submissions, we recognise</p> <p>2 that the views of the bereaved, the survivors and of the</p> <p>3 former residents on the timetabling of phase 1 and the</p> <p>4 phase 1/phase 2 split are of primary importance.</p> <p>5 There's no perfect solution to this because some issues</p> <p>6 inevitably have the potential to overlap between phases.</p> <p>7 At this stage, I will restrict myself to the</p> <p>8 following general points.</p> <p>9 By the time phase 1 starts, there needs to be</p> <p>10 clarity as to which issues will be addressed and whether</p> <p>11 any views expressed on them in an interim report will be</p> <p>12 provisional or final. These issues need to be clarified</p> <p>13 in sufficient time to enable all core participants to</p> <p>14 prepare for phase 1. Of course, some residual</p> <p>15 flexibility will need to be retained. Fairness to all</p> <p>16 core participants must be ensured.</p> <p>17 We noted Mr Friedman's submission that provisional</p> <p>18 recommendations could be made before the end of phase 1.</p> <p>19 We respectfully agree. If at any stage you reach</p> <p>20 a point where the information you have received leads</p> <p>21 you to consider that you should make a safety critical</p> <p>22 recommendation as a matter of urgency, you can, after</p> <p>23 inviting and receiving submissions, make it, and in</p> <p>24 appropriate cases should do so.</p> <p>25 Sir, unless I can assist any further, those are my</p> <p style="text-align: center;">Page 7</p>
<p>1 duty of disclosure to provide the inquiry with documents</p> <p>2 identified after 31 October as being relevant to the</p> <p>3 request."</p> <p>4 It concluded by stating:</p> <p>5 "DWF and RBKC understand that the inquiry may</p> <p>6 request that further searches of Relativity be carried</p> <p>7 out using additional search terms notified to them by</p> <p>8 the inquiry. DWF and RBKC also understand that the</p> <p>9 inquiry may request additional information beyond that</p> <p>10 identified in the request. DWF and RBKC will co-operate</p> <p>11 fully with any such requests from the inquiry."</p> <p>12 So you've heard me refer to our disclosure</p> <p>13 statement, and to endorse the importance of transparency</p> <p>14 in the disclosure process. We are conscious that we are</p> <p>15 just one of 31 document providers and, therefore, we</p> <p>16 leave it to you and your team to decide how best to</p> <p>17 achieve greater transparency in this important area.</p> <p>18 I can take my remaining two points more shortly.</p> <p>19 Firstly, experts.</p> <p>20 Sir, you have my submission that it would greatly</p> <p>21 assist all core participants if expert reports could be</p> <p>22 provided sooner than one month before the start of</p> <p>23 phase 1 evidential hearings, and I don't propose to</p> <p>24 expand upon it further here.</p> <p>25 My final point, the phase 1/phase 2 split.</p> <p style="text-align: center;">Page 6</p>	<p>1 submissions.</p> <p>2 SIR MARTIN MOORE-BICK: Thank you very much.</p> <p>3 Could I trouble you, perhaps, on two matters which</p> <p>4 arose in the course of submissions yesterday on which</p> <p>5 you as an important core participant may or may not have</p> <p>6 a view.</p> <p>7 One is the establishment of what I think we've</p> <p>8 called a consultative panel. This was something</p> <p>9 I suggested I think to Mr Mansfield in the course of his</p> <p>10 submissions. Do you have any observations to make on</p> <p>11 that?</p> <p>12 MR MAXWELL-SCOTT: I certainly have no objection to that.</p> <p>13 It seems a sensible suggestion.</p> <p>14 SIR MARTIN MOORE-BICK: All right, thank you very much.</p> <p>15 The other matter was a suggestion which I think may</p> <p>16 have come from Mr Weatherby -- I can't quite pin it</p> <p>17 down -- which was that we might invite some people to</p> <p>18 provide position statements, and I think the council</p> <p>19 would probably be one party to whom such a request would</p> <p>20 be directed.</p> <p>21 Do you want to say anything about that? Is it</p> <p>22 a good idea?</p> <p>23 MR MAXWELL-SCOTT: I will say something about that, sir.</p> <p>24 The Inquiry Rules permit core participants to make</p> <p>25 an opening statement and a closing statement, as you</p> <p style="text-align: center;">Page 8</p>

<p>1 know. Unless you direct otherwise, it would be my 2 intention on behalf of RBKC to make an opening statement 3 and a closing statement. 4 SIR MARTIN MOORE-BICK: Yes. 5 MR MAXWELL-SCOTT: Those opening statements will assist the 6 inquiry and other core participants by setting out 7 RBKC's position on a range of issues. 8 Of course, if you consider it would be helpful to 9 have an indication of RBKC's position, before the start 10 of phase 2, on phase 2 issues, you have a number of 11 options; you could direct written phase 2 opening 12 statements be provided in advance, or you could direct 13 something very similar but call it a position statement. 14 We wouldn't in principle object to such an approach. 15 I don't know what timing is being considered, but we 16 would submit it would be premature to order position 17 statements now. 18 If position statements are to provide you with real 19 assistance, there will, as a minimum, we suggest, have 20 needed first to be meaningful disclosure in relation to 21 the issues, sufficient time to analyse the relevant 22 documents, probably sight of relevant expert reports and 23 time to take instructions. But we're certainly not 24 opposed in principle. 25 SIR MARTIN MOORE-BICK: All right, that's very helpful.</p> <p style="text-align: center;">Page 9</p>	<p>1 to those, sir, they relate only, of course, to the 2 timings of service of the inquiry's expert reports, and 3 we echo the oral submissions of those who have gone 4 before us that there must be prompt service of these 5 reports to allow for their content to be properly 6 considered by the core participants. 7 We welcome Mr Millett QC's acknowledgement in his 8 opening yesterday that it's right that the timescales 9 for service of such reports and any responses are 10 carefully considered, and we too ask for proper time to 11 review that disclosure. 12 In respect of the two phases, of phases 1 and 2, we 13 see the difficulties that have been expanded on in 14 detail yesterday by others of separating the issues into 15 two phases, whilst at the same time, of course, 16 recognising that it may be a logistical necessity. We 17 support, therefore, whatever approach the inquiry 18 concludes is appropriate in order to properly achieve 19 the aim of addressing the issues that you, sir, have 20 already identified. 21 Opening statements. 22 We note that the inquiry team has envisaged that 23 opening statements may be appropriate and we would hope 24 to make an opening statement at the beginning of both 25 phases 1 and 2, addressing the issues relevant to each</p> <p style="text-align: center;">Page 11</p>
<p>1 Thank you very much. 2 Now, the next speaker on my running order is 3 Ms Jarratt. Yes. 4 Submissions on behalf of the Kensington and Chelsea 5 Tenant Management Organisation by MS JARRATT 6 MS JARRATT: Mr Chairman, I am Alice Jarratt and I appear on 7 behalf of the Kensington and Chelsea Tenant Management 8 Organisation, the TMO, and I am instructed to attend 9 today by Kennedys Solicitors. 10 The TMO recognises how important it is that this 11 inquiry takes place, to understand not only how this 12 terrible tragedy came about but also to identify the 13 steps to ensure that it never happens again. 14 The TMO have engaged fully with the inquiry process 15 thus far and it wishes to encourage transparency in this 16 process. We will continue to assist the inquiry 17 wherever possible going forward. 18 The TMO is a resident-led organisation with 19 a majority of local tenants on its board. They are 20 accompanied by council-nominated and independent 21 directors. It deals with the estate management of 22 approximately 10,000 properties within the council 23 portfolio, including the Lancaster West Estate and, of 24 course, Grenfell Tower. 25 In relation to our written submissions and turning</p> <p style="text-align: center;">Page 10</p>	<p>1 phase of the process in respect of each of those 2 statements. 3 Finally, now, sir, if I may turn to give you a brief 4 update in respect of disclosure. 5 The TMO support the disclosure process being an open 6 and transparent procedure. The TMO is a paperless 7 organisation. All records are maintained 8 electronically. Immediately following the incident and 9 with support of the Metropolitan Police Service, 10 an independent digital forensic IT consultancy company 11 was instructed to capture the totality of the TMO's 12 electronic records since its inception in 1995. 13 Within a few days of the incident, all 14 electronically saved records were captured by the 15 consultancy were provided in their totality to the 16 Metropolitan Police Service shortly afterwards. 17 The TMO has offered to provide the inquiry with 18 a copy of the entirety of its electronic records, but 19 the inquiry has thus far indicated its preference that 20 the TMO continues to respond to the specific disclosure 21 requests as and when they arise. 22 Since the inquiry has started, the TMO has complied 23 with each and every disclosure request that has been 24 made to date and it has done so within the requested 25 time frames.</p> <p style="text-align: center;">Page 12</p>

<p>1 In response to a recent request by the inquiry as of 2 6 November, the TMO has provided all records in relation 3 to each individual address within Grenfell Tower and 4 a wider area of the Lancaster West Estate, as has been 5 specified to us by the inquiry. 6 All of these were provided to the inquiry in 7 electronic form on 15 and 17 November, and they have 8 again been provided on a memory stick that was delivered 9 by hand to the inquiry team on 28 November. 10 On 8 December the inquiry team requested that 11 hard-copy packs of all of these records for each of the 12 Grenfell Tower addresses be provided to the inquiry by 13 12 January in order to assist the inquiry with its 14 preparations. It has already been confirmed in 15 correspondence to the inquiry that this will be 16 completed in advance of this date as requested. 17 The TMO has also served statements from the head of 18 its IT to explain how documents are managed on the TMO's 19 electronic systems, and from the independent digital 20 forensic IT consultancy to explain how the raw data was 21 captured in the first place. 22 The TMO are committed to their engagement with this 23 inquiry and will continue to respond promptly to all 24 requests they receive from the inquiry wherever 25 possible.</p> <p style="text-align: center;">Page 13</p>	<p>1 My observation would be that, in order for that 2 statement to be full and useful and assist the purposes 3 of the inquiry, and to echo those who have made 4 representations yesterday, we would require meaningful 5 disclosure in order to properly prepare that statement. 6 SIR MARTIN MOORE-BICK: All right. That's very helpful, 7 thank you very much indeed. 8 Now, we come now to other core participants who were 9 involved in the refurbishment, CEP Architectural 10 Facades, Mr Christie. 11 Submissions on behalf of CEP Architectural Facades 12 by MR CHRISTIE QC 13 MR CHRISTIE: Mr Chairman, my name is Aidan Christie. 14 I represent CEP Architectural Facades, one of the 15 corporate participants. I'm instructed by Clyde &amp; Co 16 and I'm appearing with Mr Jim Sturman and Mr Andrew 17 McGee. 18 Mr Chairman, our written submissions are limited to 19 the issue of expert evidence. 20 SIR MARTIN MOORE-BICK: Yes. 21 MR CHRISTIE: We have raised three issues. First, the 22 current position of CEP in relation to expert evidence; 23 secondly, the proposed timetable for expert evidence; 24 and, thirdly, the division of issues between phase 1 and 25 phase 2 and any consequence of that decision.</p> <p style="text-align: center;">Page 15</p>
<p>1 SIR MARTIN MOORE-BICK: Thank you very much. 2 Would you like to comment at all on the two matters 3 that I invited Mr Maxwell-Scott to comment on, the 4 suggestions that were made yesterday that there might be 5 a consultative panel for the benefit of survivors, 6 bereaved and other local residents, and the suggestion 7 that the inquiry might consider asking for position 8 statements from at least some core participants before 9 we get too much further? 10 MS JARRATT: In respect of the first, the consultative 11 panel, sir, of course it's entirely a matter for you, 12 but if it opens lines of communication, it would seem 13 an eminently sensible suggestion. 14 SIR MARTIN MOORE-BICK: All right, thank you. 15 MS JARRATT: In respect of the second, a position statement, 16 not to repeat comments that have been made by 17 Mr Maxwell-Scott QC who has come before me, but 18 essentially our position would be similar. If it is 19 that you would see that to be a sensible way forward, we 20 of course do not object and we would be happy to provide 21 a position statement. 22 Of course, I've already made a comment on the fact 23 that we would hope in any event to make opening 24 statements at the appropriate moment prior to the 25 commencement of hearing evidence at phase 1 and phase 2.</p> <p style="text-align: center;">Page 14</p>	<p>1 Mr Chairman, I propose to make very short 2 submissions to indicate our current position in the 3 light of the remarks and observations which have been 4 made yesterday. Then, Mr Chairman, I'll pick up on the 5 two additional questions which you've been putting to 6 people who have gone before me. 7 Before I go any further, may I say we are obviously 8 aware that these are not adversarial court proceedings. 9 It is for the inquiry to investigate, and we take on 10 board Mr Millett's observations, both in his written 11 statement and in his remarks yesterday, that any party 12 wishing to adduce expert evidence will have to be in 13 a position to show why it cannot be addressed by the 14 inquiry's experts and why it is necessary for that party 15 to adduce its own evidence. 16 Taking our three points in turn, Mr Chairman, 17 without access to the site, our analysis of the expert 18 issues will have to be confined to the documents and 19 a desktop study. That is not satisfactory, but it is 20 obviously unavoidable for the reasons which we have 21 heard. But we will review our position when the 22 inquiry's experts' reports are produced. 23 As to the timing of responses to the inquiry's 24 experts' reports, we welcome the observation of counsel 25 to the inquiry that the inquiry will be sympathetic in</p> <p style="text-align: center;">Page 16</p>

<p>1 relation to those matters. We understand it's proposed</p> <p>2 there be a further procedural hearing at the end</p> <p>3 of January and we are content to wait and see.</p> <p>4 Our position is that we should be permitted at least</p> <p>5 six to eight weeks to analyse reports and respond, but</p> <p>6 we are happy to postpone the issue until January to see</p> <p>7 what proposals might be made by counsel to the inquiry.</p> <p>8 Our third and last point, Mr Chairman, relates to</p> <p>9 the division of evidence between phase 1 and phase 2.</p> <p>10 We appreciate that phase 1 is a fact-finding</p> <p>11 exercise and will be addressing what happened and how</p> <p>12 but not why, but we have concerns that there may be some</p> <p>13 blurring of those distinctions and that expert evidence</p> <p>14 may stray into an analysis of the why.</p> <p>15 We simply draw attention to the point at this stage</p> <p>16 because it may be we will want to raise the issue when</p> <p>17 we've seen the inquiry's experts' reports, but we</p> <p>18 support the observations of Mr Maxwell-Scott that some</p> <p>19 clarity would be very helpful in relation to the</p> <p>20 distinction.</p> <p>21 Mr Chairman, I assume that you want me to comment on</p> <p>22 the two additional points.</p> <p>23 SIR MARTIN MOORE-BICK: If you have comments you would like</p> <p>24 to make, please do, yes.</p> <p>25 MR CHRISTIE: We take a neutral position in relation to the</p> <p style="text-align: center;">Page 17</p>	<p>1 mainly responsive submissions to the matters that were</p> <p>2 addressed to you yesterday, and in particular the</p> <p>3 submissions made obviously by those representing all of</p> <p>4 those affected by this tragedy.</p> <p>5 If those submissions could be summarised shortly --</p> <p>6 and I will no doubt not do them justice -- as</p> <p>7 I understand it, they were to the following effect,</p> <p>8 which is that the inquiry must be fair and must be seen</p> <p>9 to be fair. Rydon agrees. That applies as much to</p> <p>10 those affected by the fire as to those who are also</p> <p>11 appearing in front of you and the individual witnesses</p> <p>12 who will be called to give evidence on behalf of the</p> <p>13 corporate and institutional core participants.</p> <p>14 With that introduction, I, with your permission,</p> <p>15 would seek to deal with three topics: the first is the</p> <p>16 engagement with those affected by the fire by the</p> <p>17 tribunal, the second is disclosure and the third is</p> <p>18 a broad ragbag of case management, experts and the</p> <p>19 phase 1/phase 2 split.</p> <p>20 You were addressed, and if I may say so, eloquently</p> <p>21 and at length yesterday in relation to the desire of</p> <p>22 those who have been affected by this tragic event to</p> <p>23 have a greater interaction with the inquiry process, to</p> <p>24 have their individual and collective voices heard, and</p> <p>25 to have their concerns raised publicly and to have those</p> <p style="text-align: center;">Page 19</p>
<p>1 consultative panel.</p> <p>2 In relation to position statements, our view is that</p> <p>3 it is premature, that we shouldn't be required to put in</p> <p>4 a position statement until certainly we have disclosure,</p> <p>5 until we have the experts' reports and until we know</p> <p>6 more about issues which we have to address. But,</p> <p>7 Mr Chairman, we are perfectly happy obviously to make</p> <p>8 an opening statement in relation to phase 1.</p> <p>9 Those are my submissions.</p> <p>10 SIR MARTIN MOORE-BICK: Thank you very much indeed.</p> <p>11 Now, next on my sheet is Mr Antrobus for</p> <p>12 Max Fordham, but I understand, Mr Antrobus, that you may</p> <p>13 not wish to add any oral submissions; is that right?</p> <p>14 MR ANTROBUS: That's right. We don't have anything to add</p> <p>15 to the submissions already made.</p> <p>16 SIR MARTIN MOORE-BICK: Thank you very much.</p> <p>17 Mr Catchpole.</p> <p>18 Submissions on behalf of Rydon Maintenance</p> <p>19 by MR CATCHPOLE QC</p> <p>20 MR CATCHPOLE: Good morning, sir. My name is</p> <p>21 Stuart Catchpole. I am instructed by DAC Beachcroft on</p> <p>22 behalf of Rydon Maintenance Limited.</p> <p>23 As you're aware from our written submissions, we</p> <p>24 don't seek any specific directions at this particular</p> <p>25 meeting. We would, however, wish to make some short,</p> <p style="text-align: center;">Page 18</p>	<p>1 concerns considered fairly. Fair in this context, as</p> <p>2 I understand it, is in particular the need for their</p> <p>3 clients to have a reasonable confidence that the person</p> <p>4 or persons actually considering their concerns has</p> <p>5 a genuine appreciation of the circumstances in which</p> <p>6 their lives are conducted and can see things from their</p> <p>7 very diverse perspectives.</p> <p>8 To the extent that it assists, Rydon agrees. That's</p> <p>9 not just on behalf of Rydon, the company; the legal team</p> <p>10 who have represented Rydon have much experience of</p> <p>11 public inquiry work, it's fair to say almost all on</p> <p>12 behalf of institutional or corporate clients, but it is</p> <p>13 a feature, rightly or wrongly, of a number of inquiries</p> <p>14 that the victims or a substantial body of the victims</p> <p>15 feel as if they are disenfranchised. They feel as if</p> <p>16 they are marginalised by the process and that the things</p> <p>17 that really touch their lives aren't given proper</p> <p>18 consideration or aren't properly understood.</p> <p>19 I say "rightly or wrongly", but it is clear that's</p> <p>20 happened from the Taylor Inquiry, in which I was</p> <p>21 involved back in 1989, right the way through.</p> <p>22 It is inevitable, given the range and nature of the</p> <p>23 issues with which this inquiry is concerned, that those</p> <p>24 feelings and those concerns on behalf of those affected</p> <p>25 are going to be voiced in an acute form. We would</p> <p style="text-align: center;">Page 20</p>

<p>1 respectfully suggest that they are real, legitimate and, 2 however you do deal with it, they need to be addressed. 3 You've raised with others the need for 4 a consultative panel as an approach. We would suggest 5 that the right way is actually interaction with those 6 representing those affected, but anything that can be 7 done to instil greater public confidence in the outcome 8 must be a good thing. 9 I would, however, note that, first of all, you are 10 unlikely to make everyone happy. Secondly, fairness 11 also demands that, to the extent that any of those 12 concerns are matters which are going to be raised in 13 this forum, proper notice needs to be given to those 14 other core participants who might be affected by those 15 concerns and would need to respond to them. 16 I will return in a moment, if I may, to some short 17 observations on the implications for the management of 18 the inquiry process. 19 The second topic was disclosure, and that was split 20 into two different aspects. The first is a call for 21 greater transparency and scrutiny of the inquiry's 22 disclosure process, the requests and the responses. The 23 second is actual disclosure of documentation. 24 In relation to the call for transparency, once 25 again, Rydon agrees that it would be appropriate for</p> <p style="text-align: center;">Page 21</p>	<p>1 adopted to allow them to see and to test what has 2 happened. 3 We very much doubt that that requires all core 4 participants or indeed even some of them to be involved 5 in the nitty-gritty of drafting requests, scrutinising 6 drafts before they go out or things like that. It's 7 very much a process to give confidence in what has gone 8 on and to identify areas which you may consider are 9 necessary to investigate further. 10 That leads me to actual disclosure. 11 We would have thought that it almost goes without 12 saying that, as a matter of principle, core participants 13 should be entitled to disclosure of potentially relevant 14 documents in sufficient time to enable a proper and 15 informed review of that body of evidence. That is the 16 only way they can contribute meaningfully to this 17 inquiry process. That is subject, we would suggest, to 18 two caveats. 19 The first is there was a suggestion yesterday, 20 I believe, at least, that disclosure should commence 21 immediately by the inquiry, even if that means that it 22 should be given in an unstructured or, I think the 23 phrase was, chaotic fashion, because that is the 24 inevitable consequence of an inquiry. 25 We would strongly -- very strongly -- caution</p> <p style="text-align: center;">Page 23</p>
<p>1 there to be greater transparency and scrutiny of the 2 disclosure process. It's both fair and, if properly 3 managed, it's likely to lead to the early identification 4 of gaps in the evidence that you will need to consider. 5 I say, however, that it not only applies to those 6 affected by the fire, it applies to all core 7 participants. It goes without saying that, with 8 respect, those represented by counsel you heard from 9 yesterday will be able to identify gaps in disclosure 10 they believe exist, my clients will be able to identify 11 other gaps that we may think may exist in disclosure, 12 just as others will look at no doubt ours in due course 13 and say the same thing. 14 I would add that, as you're aware and as others have 15 said before me on behalf of this side of the alleyway, 16 Rydon has co-operated fully with the police and with the 17 inquiry. I know, sir, that you are aware in particular 18 there's been active co-operation with your team by Rydon 19 and its solicitors, not only to gather and provide to 20 the inquiry all of the evidence that they wish, but to 21 do so in a form that is comprehensible and usable. That 22 has been ongoing for a number of months. It's been 23 a very substantial task. I know that, but the victims 24 don't, and I would suggest that public confidence can 25 only be increased if in some manner a procedure can be</p> <p style="text-align: center;">Page 22</p>	<p>1 against unstructured or chaotic disclosure. Many of us 2 have seen the effects of that approach in different 3 forums and including in public inquiries. In the BSE 4 Inquiry, for example, an approach was taken, for 5 understandable reasons, to disclose documents almost as 6 soon as they were received by the inquiry and someone 7 had checked for potential relevance. It made it 8 impossible -- I can say impossible -- for anyone 9 meaningfully to get on top of that evidence in 10 an efficient and economic way. And I was representing 11 one of the institutions who were often accused of having 12 deep pockets. For those that do not have deep pockets, 13 it's inevitable that there will be significant wasted 14 expenditure, being sent down blind alleys and I would 15 suggest than inability properly to digest and assist you 16 at the end of the day. 17 Even putting aside, as a second aspect, the legal 18 question of whether article 2 requires complete 19 disclosure of every document to every core participant, 20 a matter on which there's plenty of law and I've no 21 doubt you will have it in mind, we would suggest it is 22 not the function of the core participants -- any of 23 us -- to duplicate the inquisitorial task of the inquiry 24 team. We are here to assist you in resolving the issues 25 within your terms of reference.</p> <p style="text-align: center;">Page 24</p>

<p>1 We would suggest that disclosure to core</p> <p>2 participants has to be made in a logical and structured</p> <p>3 manner, it has to be managed in a way that is fair to</p> <p>4 all participating in this -- and I fully appreciate what</p> <p>5 those affected by the fire are saying, that they do not</p> <p>6 have access to as much as anyone else and steps need to</p> <p>7 be taken to address that -- but it has to be done in</p> <p>8 a way that actually allows you, sir, to progress this</p> <p>9 inquiry in the way that you ultimately determine is</p> <p>10 appropriate and which allows you and your team to</p> <p>11 actually do the task that you've been set.</p> <p>12 That task, with respect, at the risk of stating the</p> <p>13 obvious, is to deal with a vast number of issues in</p> <p>14 a reasonably short period of time. That is not</p> <p>15 a process that is amenable to however many lawyers</p> <p>16 sitting round these tables scrutinising 270,000-odd</p> <p>17 documents. It's just not a sensible way of proceeding.</p> <p>18 We will be here for years.</p> <p>19 That really leads neatly into my third general</p> <p>20 ragbag area of case management.</p> <p>21 If I may say so, there was a concern at least on our</p> <p>22 side yesterday from some of the submissions that we were</p> <p>23 focused on some really important issues for those</p> <p>24 affected by the fire, but, with respect, we should not</p> <p>25 lose sight of the fact that, at the end of the day, this</p> <p style="text-align: center;">Page 25</p>	<p>1 should be expanded -- it's not appropriate for us to do</p> <p>2 so -- we do suggest that one of the considerations which</p> <p>3 needs to be given proper weight in determining whether</p> <p>4 that should happen is the need for any panel member to</p> <p>5 be able to do justice to the substantial task that is</p> <p>6 faced by this inquiry. It is not an inquiry like the</p> <p>7 Taylor Inquiry. That was largely about factual evidence</p> <p>8 with one technical issue, which was about a safety</p> <p>9 barrier. This is not that case.</p> <p>10 The third area of case management is the case</p> <p>11 management by the inquiry. I hesitate to</p> <p>12 make observations on this, but we would suggest that</p> <p>13 cases of this magnitude inevitably have to be</p> <p>14 proactively managed by the tribunal. It's simply</p> <p>15 impossible for them to be effectively and fairly managed</p> <p>16 if free rein is given to any core participant to engage</p> <p>17 in the process, to cross-examine, to cross-examine in</p> <p>18 an overlapping manner.</p> <p>19 I would respectfully suggest -- but it's a matter</p> <p>20 for you -- that a procedure that's akin to an inquiry</p> <p>21 procedure where everyone gets a chance to cross-examine</p> <p>22 on multiple evidence is unlikely to assist in actually</p> <p>23 distilling the issues, it's unlikely to assist in</p> <p>24 narrowing expert issues, it is highly likely to add to</p> <p>25 the confusion of the matter and it is highly likely to</p> <p style="text-align: center;">Page 27</p>
<p>1 inquiry will have to deal with a vast quantity of</p> <p>2 potentially relevant documentary evidence and will have</p> <p>3 to consider multiple expert reports, covering complex</p> <p>4 and possibly not particularly clear technical issues.</p> <p>5 Even if one assumes that the 270,000 documents</p> <p>6 mentioned by Mr Millett yesterday contain an element of</p> <p>7 duplication or some which are not relevant -- although</p> <p>8 hopefully that is not the case, given the work the</p> <p>9 inquiry team have put into disclosure -- one certainly</p> <p>10 makes an educated guess that you are facing hundreds,</p> <p>11 possibly thousands of lever arch files of documents.</p> <p>12 And these are documents which have already been filtered</p> <p>13 for relevance.</p> <p>14 Now, reviewing, assessing and making determinations</p> <p>15 on that evidence is a very, very substantial</p> <p>16 undertaking. If you add into that the task of taking</p> <p>17 overlapping, complex expert evidence, which in itself,</p> <p>18 from experience, is a very substantial undertaking, this</p> <p>19 inquiry faces a very formidable task.</p> <p>20 The marshalling, analysis and determination of the</p> <p>21 issues arising out of that expert evidence requires, in</p> <p>22 our submission, a particular skill set. Whether we like</p> <p>23 it or not, it is a skill set that lawyers and judges</p> <p>24 possess; that is what we are trained to do. While we</p> <p>25 make no submissions as to whether or not the panel</p> <p style="text-align: center;">Page 26</p>	<p>1 be unfair to at least some witnesses, who will receive</p> <p>2 multiple cross-examination by different parties.</p> <p>3 That is precisely why one assumes that the decision</p> <p>4 was made to make this inquiry an inquisitorial process.</p> <p>5 At the end of the day, as others have said, that is what</p> <p>6 should be respected. We are here to help you achieve</p> <p>7 that aim as best we can.</p> <p>8 That is not to say, however, that the inquiry should</p> <p>9 not receive and listen to carefully applications for</p> <p>10 specific, targeted cross-examination from interested</p> <p>11 core participants. Of course they should. That's</p> <p>12 a basic premise of fairness.</p> <p>13 In terms of the expert process, I echo what has been</p> <p>14 said by many across this room.</p> <p>15 First is that the timetable that was suggested by</p> <p>16 the inquiry for the review of the inquiry's expert</p> <p>17 evidence was simply too short. It is impossible to do</p> <p>18 that job properly.</p> <p>19 Secondly, should those affected by the fire have</p> <p>20 access to expert evidence, hopefully properly marshalled</p> <p>21 and co-ordinated? Of course they should. Anyone who</p> <p>22 does these sorts of cases knows you need to be informed</p> <p>23 by your experts because that's the only way you can make</p> <p>24 meaningful contributions. But hopefully properly</p> <p>25 managed, not multiple experts, limited number -- of</p> <p style="text-align: center;">Page 28</p>

<p>1 course they should.</p> <p>2 Thirdly, should the process be left to disclosing</p> <p>3 the inquiry's expert reports and then inviting those who</p> <p>4 want to put there own experts forward to come and get</p> <p>5 involved? In my submission, no. Experience suggests</p> <p>6 that many technical issues can be resolved if you are</p> <p>7 involved early enough, and if we can make suggestions</p> <p>8 through the inquiry team as to what further inquiries</p> <p>9 the inquiry experts ought to make and to actually</p> <p>10 identify assumptions they may have made and have them</p> <p>11 tested.</p> <p>12 To that end, not only does some disclosure need to</p> <p>13 be given, but one would think that there is evidence</p> <p>14 that could be disclosed to all of us now, the video</p> <p>15 footage of the night. If there are records, as there</p> <p>16 must be, of the experts visiting the site, given that we</p> <p>17 cannot, they should be disclosed. They should be</p> <p>18 uncontroversial. Photographs taken by the experts, with</p> <p>19 sensitivity, for obvious reasons, should be capable of</p> <p>20 being disclosed. The ability to see any tests or</p> <p>21 forensic examinations they are undertaking. Not to</p> <p>22 participate, to observe and then feed back through the</p> <p>23 inquiry. All of those things are likely to lead to</p> <p>24 a more effective process for you, at the end of the day,</p> <p>25 and are likely to lead to a narrowing of the issues.</p> <p style="text-align: center;">Page 29</p>	<p>1 wish, I suspect, to put in opening and closing</p> <p>2 statements in the phases, but the bottom line is any</p> <p>3 core participant who may be subject to criticism should</p> <p>4 receive a letter of warning before that and have</p> <p>5 adequate disclosure in order properly to defend</p> <p>6 themselves.</p> <p>7 SIR MARTIN MOORE-BICK: All right. Thank you very much</p> <p>8 indeed.</p> <p>9 Now, next on my list is Mr Riley-Smith, but I think</p> <p>10 maybe you don't actually want to make oral submissions.</p> <p>11 Is that right?</p> <p>12 MR RILEY-SMITH: I am very grateful for the opportunity, but</p> <p>13 I would add nothing to the written submissions that</p> <p>14 we've submitted.</p> <p>15 SIR MARTIN MOORE-BICK: All right, thank you very much.</p> <p>16 That's splendid, thank you.</p> <p>17 So we now get to Mr Walsh, who is here for the</p> <p>18 LFEPA. Yes, Mr Walsh.</p> <p>19 Submissions on behalf of the London Fire and Emergency</p> <p>20 Planning Authority by MR WALSH QC</p> <p>21 MR WALSH: Good morning, sir. Stephen Walsh. I represent</p> <p>22 the London Fire and Emergency Planning Authority, the</p> <p>23 LFEPA, which runs the LFB, together today</p> <p>24 Sarah Le Fevre.</p> <p>25 Sir, I know you have read our written submissions</p> <p style="text-align: center;">Page 31</p>
<p>1 That leads into the final point on which I would</p> <p>2 wish to address you, which is phase 1 and phase 2.</p> <p>3 Clearly there are difficulties in the split.</p> <p>4 Clearly there is an imperative to get on with something.</p> <p>5 We would suggest, again from our experience, that having</p> <p>6 effectively a provisional time-line of the events of the</p> <p>7 night, relating to the fire ignition and spread, and to</p> <p>8 the smoke penetration through the building, together</p> <p>9 with the evacuation, is inevitably a baseline against</p> <p>10 which this inquiry will proceed. And it shouldn't be</p> <p>11 fixed, there may be things that come up in phase 2, but</p> <p>12 having that document coming out of phase 1 and any</p> <p>13 recommendations that you see fit coming out has to be</p> <p>14 helpful, because it focuses everyone's mind on facts</p> <p>15 which either are not controversial or identifying those</p> <p>16 facts that are controversial for the purposes of</p> <p>17 phase 2.</p> <p>18 Those were my submissions.</p> <p>19 I anticipate you were going to ask me about</p> <p>20 a position statement. Our position is quite clear and</p> <p>21 it really reflects what I've said before. Fairness</p> <p>22 demands that if people are going to be subjected to</p> <p>23 potential criticisms, then they should be given notice</p> <p>24 of it. That's the point at which they should be invited</p> <p>25 to respond. We, like other core participants, would</p> <p style="text-align: center;">Page 30</p>	<p>1 and understand them and all other core participants have</p> <p>2 seen them, so I have no intention of repeating them</p> <p>3 today.</p> <p>4 What I now have to say focuses on the submissions of</p> <p>5 other core participants, many of whom expanded on them</p> <p>6 yesterday.</p> <p>7 In short, the LFEPA agrees with certain of the views</p> <p>8 expressed by those representing the bereaved, the</p> <p>9 survivors and residents who lived in the vicinity on the</p> <p>10 question whether phase 1 can realistically be restricted</p> <p>11 to the factual narrative only of the 14 June, to the</p> <p>12 exclusion of what many have called the "why" questions</p> <p>13 or the qualitative questions.</p> <p>14 Sir, while we accept entirely and understand, given</p> <p>15 the enormous task which the inquiry faces, your</p> <p>16 pragmatic reasons for proposing a limited natured</p> <p>17 phase 1, we do feel strong that there are good reasons</p> <p>18 for giving more flexibility, and perhaps very</p> <p>19 considerable flexibility, to phase 1, so as to allow</p> <p>20 a consideration of the reasons why the LFEPA personnel</p> <p>21 carried out their fire and rescue operation during the</p> <p>22 fire in the way in which they did, the application of</p> <p>23 high-rise fire and rescue policies, many of which have</p> <p>24 national application, and how they were applied on the</p> <p>25 night, and obviously the enormous challenges which the</p> <p style="text-align: center;">Page 32</p>



<p>1 emergency services faced in the course of this 2 unprecedented fire.</p> <p>3 Some of the reasons for adopting a much more 4 flexible approach at phase 1 have already been touched 5 on by the lawyers for the bereaved, the survivors and 6 residents, but from the LFEPA's point of view, they 7 include, first of all, a strong belief that the bereaved 8 and survivors are entitled to gain an understanding of 9 how and why the fire rescue operation was conducted as 10 it was as soon as reasonably practicable, and that's the 11 paramount reason.</p> <p>12 But there are other reasons. The second is that 13 firefighters and others who give evidence should, in 14 fairness to them, have an opportunity of explaining not 15 only what they did but the reasons why they did it. 16 That in part would avoid, where possible -- it is not 17 always possible, we accept -- the need for witnesses, 18 many of whom continue to be profoundly traumatised by 19 their experiences to give evidence on more than one 20 occasion, which I know is an aim that everybody wishes 21 to achieve if that is possible.</p> <p>22 But it goes beyond that, because if what might be 23 regarded as obvious "why" questions, the elephant in the 24 room which one of the lawyers yesterday touched upon, 25 are not to be recognised and not to be asked at phase 1,</p> <p style="text-align: center;">Page 33</p>	<p>1 appreciate the way in which the Fire Service conducted 2 its fire and rescue operation.</p> <p>3 That remains true, but the LFEPA now feels that the 4 inquiry can properly proceed at phase 1 on the basis 5 that a great many questions will obviously need to be 6 left until phase 2, but questions which can be addressed 7 at phase 1, without prejudicing the police 8 investigation -- which is obviously of paramount 9 importance -- should be answered as soon as possible. 10 Which, in short, are the reasons why we urge upon you, 11 sir, a potentially very flexible approach to phase 1.</p> <p>12 Whether one calls it phase 1 or phase 2, those are our 13 submissions on that issue.</p> <p>14 There are only two or three other brief matters that 15 I want to touch upon. First of all, disclosure.</p> <p>16 Lest there be any doubt and so as to be entirely 17 clear, the LFEPA is and always has been, not only in 18 this inquiry but in other instances, fully candid, frank 19 and open in its duty to carry out proper disclosure. 20 Certainly in relation to this inquiry, I hope that we 21 have discharged that duty fully.</p> <p>22 I know that you are to hear from the Fire Brigades 23 Union shortly. I simply want to support the 24 Fire Brigades Union's suggestion, and indeed that of 25 others yesterday, that the inquiry really would benefit</p> <p style="text-align: center;">Page 35</p>
<p>1 the answers to them will inevitably be left hanging in 2 the air, debated in the public arena, possibly for 3 several months pending phase 2. The problem with that 4 is that there is a real risk that public confidence in 5 high-rise fire and rescue operations will be 6 unnecessarily affected, possibly through 7 misunderstandings, when clarity is capable of being 8 achieved on certain issues by addressing quantitative 9 evidence, the "why" questions, at a relatively early 10 stage.</p> <p>11 It goes without saying that the extraction of fire 12 safety critical learning and any need to change policy 13 obviously should be done as soon as possible. And it 14 occurred to me actually yesterday that the risk 15 identified by Mr Westgate, that expert reports at 16 phase 1 may carry something of a lower status than those 17 at phase 2 by reason of the fact that phase 2 reports 18 will address qualitative issues, will be substantially 19 ameliorated. It's not a major issue but it is another 20 concern.</p> <p>21 Sir, I say that because, frankly speaking, the LFEPA 22 at one stage believed that a full understanding of what 23 went wrong with the structure of the building, which we 24 say must have been the case, so as to create such 25 an unprecedented fire was necessary in order fully to</p> <p style="text-align: center;">Page 34</p>	<p>1 from the assistance of a suitable expert in the 2 application of the Housing Act 2004, particularly part 1 3 of that statute. Whether it's a housing officer or 4 an environmental health expert, the LFEPA have no 5 particular comment, but great benefit can be derived 6 from that.</p> <p>7 Position statements, which I know, sir, you've been 8 asking everybody about this morning.</p> <p>9 The LFEPA's basic position is that we can see the 10 merit in the production of written clarification of the 11 LFEPA's position, if only because it might properly 12 reflect what will in any event be contained in 13 an opening statement in due course, which all core 14 participants of course have a right to make.</p> <p>15 However, such written clarification as might be 16 provided, whether in a position statement or another 17 document, can really only properly be made at a point 18 when core participants are sighted on a significant 19 element of the disclosure which the inquiry will be 20 having to look at. In short, it can only be as good as 21 the disclosure on which it is based, and if any 22 precedent or authority is required for that assertion, 23 the same question was addressed in the renewed 24 Hillsborough inquests and the coroner, former 25 Lord Justice Goldring, took that view, in other words</p> <p style="text-align: center;">Page 36</p>

<p>1 that we should be further down the line with more</p> <p>2 substantial disclosure before position statements are</p> <p>3 appropriate.</p> <p>4 That is not to say that the LFEPA doesn't want to do</p> <p>5 it because we're very anxious to do it and get on with</p> <p>6 it as soon as possible, remembering that it is the</p> <p>7 Metropolitan Police who are responsible for taking</p> <p>8 statements, and that includes all statements from</p> <p>9 firefighters and LFEPA personnel, the vast majority of</p> <p>10 which are obviously yet to be disclosed.</p> <p>11 On that topic, finally, we would expect the LFEPA to</p> <p>12 provide its written opening statement to the inquiry for</p> <p>13 appropriate disclosure well in advance of the hearing of</p> <p>14 live evidence.</p> <p>15 And then finally, since, sir, you've been addressing</p> <p>16 the question of a potential consultative panel, the</p> <p>17 LFEPA certainly has no objection to that course and can</p> <p>18 well see why such an approach could be very beneficial</p> <p>19 for many reasons.</p> <p>20 Sir, those are the short submissions that I make.</p> <p>21 I don't know if there's anything else.</p> <p>22 SIR MARTIN MOORE-BICK: No, that's very helpful. Thank you</p> <p>23 very much indeed.</p> <p>24 MR WALSH: Thank you, sir.</p> <p>25 SIR MARTIN MOORE-BICK: Now, Mr Seaward.</p> <p style="text-align: center;">Page 37</p>	<p>1 one but you can recommend it, and that panel to reflect</p> <p>2 the Grenfell Tower community.</p> <p>3 The FBU supports the need, if at all possible, for</p> <p>4 a subsequent string of coroner's inquests to be obviated</p> <p>5 by the GTI, addressing all relevant questions and</p> <p>6 applying articles 2 and 14.</p> <p>7 The FBU supports the pleas for early and rolling</p> <p>8 disclosure of generic documents, such as those listed in</p> <p>9 for the FBU's submissions, and likewise support a venue</p> <p>10 closer to Grenfell Tower, if that's possible, to</p> <p>11 encourage greater participation, and funding for experts</p> <p>12 to enable core participants to participate effectively.</p> <p>13 The FBU also agrees on a procedural point that</p> <p>14 position statements, there's no need to duplicate them,</p> <p>15 they can come with opening statements. They are</p> <p>16 effectively the same thing.</p> <p>17 Moving on, firefighters are victims too.</p> <p>18 Firefighters who attended the Grenfell Tower disaster</p> <p>19 and control room operators up and down the country who</p> <p>20 took those harrowing calls are victims. They were</p> <p>21 exposed and re-exposed to trauma as they went back in</p> <p>22 again and again. They were in fact placed in</p> <p>23 an impossible position and they should never be placed</p> <p>24 in that impossible position again.</p> <p>25 The FBU's knowledge and experience of earlier fire</p> <p style="text-align: center;">Page 39</p>
<p>1 Submissions on behalf of the Fire Brigades Union</p> <p>2 by MR SEAWARD</p> <p>3 MR SEAWARD: Sir, I am Martin Seaward. I'm instructed by</p> <p>4 Gerard Stilliard of Thompsons and I'm counsel for the</p> <p>5 FBU.</p> <p>6 The FBU is the largest trade union in the Fire</p> <p>7 Service and it represents firefighters nationally. In</p> <p>8 London, over 90 per cent of uniformed staff are members</p> <p>9 of the FBU. Easily over 90 per cent of the firefighters</p> <p>10 who attended on the night of Grenfell Tower were FBU</p> <p>11 members. The FBU has a statutory health and safety role</p> <p>12 for firefighters and appoints safety representatives.</p> <p>13 Following the Grenfell Tower disaster, the FBU is</p> <p>14 conducting its own investigation by a safety</p> <p>15 representative, Stephen White, alongside the police and</p> <p>16 the LFB. He will report its findings to the GTI team in</p> <p>17 due course. There will be much agreement and the FBU</p> <p>18 report will deal mainly with issues where there's</p> <p>19 a difference of opinion, trying to avoid overlap.</p> <p>20 The scale of the Grenfell Tower tragedy needs no</p> <p>21 hyperbole. The FBU has from the start argued that the</p> <p>22 victims, the survivors, the residents and the bereaved</p> <p>23 should be placed at the very heart of this inquiry. The</p> <p>24 FBU supports their call for a panel to broaden</p> <p>25 diversity, whilst understanding that you can't appoint</p> <p style="text-align: center;">Page 38</p>	<p>1 fatalities shows that nearly all the firefighters who</p> <p>2 were there will have been traumatised and that some will</p> <p>3 be injured by their trauma. It's still too early to say</p> <p>4 in many cases. In the military, as in the Fire Service,</p> <p>5 late onset PTSD is becoming a recognised condition.</p> <p>6 There are clear parallels between the firefighters</p> <p>7 and the residents, survivors and bereaved. Firefighters</p> <p>8 are victims and survivors, as I've already said, of the</p> <p>9 Grenfell Tower disaster. Firefighters are, importantly,</p> <p>10 a community of working people who reflect the diversity</p> <p>11 of the Grenfell Tower community and the public that they</p> <p>12 serve up and down the country.</p> <p>13 Importantly, and perhaps you may not appreciate</p> <p>14 this, sir, firefighters feel that their voices have not</p> <p>15 been heard by the Fire Service establishment over the</p> <p>16 last 15 years of deregulation, cuts and closures.</p> <p>17 Moving on to the next procedural point. Mr Millett</p> <p>18 has described one procedure for getting evidence from</p> <p>19 residents, survivors and the bereaved and a different</p> <p>20 one for firefighters, so that firefighters don't have</p> <p>21 the opportunity under the present arrangements to call</p> <p>22 for disclosure of documents and give a statement to</p> <p>23 their recognised legal representatives, but instead they</p> <p>24 must rely solely on their police statement.</p> <p>25 We are in the dark at present about what may have</p> <p style="text-align: center;">Page 40</p>

<p>1 been said in the police statements. We did provide 2 a list of additional questions which we hope were put in 3 the course of those interviews, but we don't know if 4 they were in all cases or if they were answered. 5 But, for the reasons given by Mr Friedman yesterday, 6 the firefighters too should have safeguards, so that 7 where the need arises -- I don't say in every case, 8 because I'm sure that in most cases firefighters will be 9 content to stand by the statement they gave to the 10 police -- that other process can be followed for them as 11 well. There may be a need, for example, to 12 contextualise what they've said, as Mr Walsh indicated, 13 to explain why. 14 I've raised this with Mr Millett very briefly this 15 morning and will be happy to discuss it with him in due 16 course. 17 SIR MARTIN MOORE-BICK: Yes, all right. You envisage, what, 18 that the firefighters should have a chance to talk to 19 solicitors about what they said to the police? Is that 20 the broad thrust of it? 21 MR SEAWARD: The broad thrust of it, so they might want to 22 have a document pointed out to them, they might want to 23 refer to a document. They might be able to answer 24 a further question. 25 I appreciate that there's an anxiety not to the</p> <p style="text-align: center;">Page 41</p>	<p>1 Accordingly, we support Mr Stein's proposals he made 2 yesterday for your inquiry to retain or to implement 3 oversight of the recommendations to ensure that they are 4 embedded and implemented. How you do that is obviously 5 a very big question. The Coroners Rules were changed to 6 try and do that, but perhaps you would be prepared to 7 hear submissions in due course. 8 SIR MARTIN MOORE-BICK: Yes. 9 MR SEAWARD: Turning to phases. 10 The FBU argued in our submissions for a limited 11 extension of the scope of phase 1 on the purely 12 fact-finding basis that had been advocated by the team 13 on the cause and spread of fire, et cetera. 14 We now accept the arguments that were made yesterday 15 and indeed which Mr Walsh spoke to today for a more 16 flexible approach, and early reporting of safety issues 17 as they arise, as indeed has been supported by 18 Mr Maxwell-Scott. 19 We think things have moved on and, importantly, 20 Mr Johnson's submissions indicate that the police 21 forensic evidence won't be complete until the autumn of 22 2018, and so inevitably all experts are going to make 23 their reports provisional. That's going to make it 24 impossible to make final findings of fact at any earlier 25 stage on the cause and spread of the fire.</p> <p style="text-align: center;">Page 43</p>
<p>1 delay the process, and I don't anticipate that arising 2 in every case, but it might arise. 3 So, moving on, the Fire Brigades Union wants this 4 Grenfell Tower Inquiry to be a success, to gain and to 5 keep public confidence. 6 We've helped the police and the London Fire Brigade 7 to facilitate interviews and we've provided information 8 when requested. 9 The Fire Brigades Union also wants this inquiry to 10 answer the big question that Mr Mansfield identified 11 yesterday: how could this happen in London, where the 12 resources to achieve fire safety in tower blocks and to 13 fight fire effectively should be readily available? 14 Most importantly, the Fire Brigades Union wants 15 lessons to be learned, recommendations to be made and 16 for those to be acted upon and embedded. The Fire 17 Brigades Union experience of earlier tragedies is that 18 the recommendations are not always heeded. 19 We've already provided to your team a list of what 20 we perceive to be the relevant recommendations made from 21 earlier inquiries and inquests into firefighter 22 fatalities and other fatalities in tower block fires. 23 We anticipate providing a witness statement from 24 Matt Wrack, the general secretary of the FBU, to address 25 issue 10 under the inquiry.</p> <p style="text-align: center;">Page 42</p>	<p>1 That leads us to starting now, really, starting 2 quite quickly. 3 SIR MARTIN MOORE-BICK: Yes. 4 MR SEAWARD: So the Fire Service is predicated on the basis 5 that fire will break out. The precise cause of the fire 6 doesn't concern the incident commander who arrives. He 7 is confronted with a fire and the Fire Service is there 8 to extinguish it and to rescue people. So the 9 firefighting operational side of Grenfell Tower is one 10 aspect of this inquiry which the FBU would urge should 11 be addressed as soon as possible. What none of us want 12 is for an incident commander to arrive at a tower block 13 tomorrow and to face the same dilemmas that they faced 14 at Grenfell Tower. 15 If I can move on to the need for an independent 16 environmental health practitioner. 17 SIR MARTIN MOORE-BICK: Yes. 18 MR SEAWARD: I think there's quite a lot of support for 19 that, but just to underline it. 20 In our application, sir, we asked for such a person 21 to become an assessor. In view of the submissions made 22 by Russell-Cooke, Mr Arden and Mr Bates, and argued 23 orally yesterday by Mr Bates, we would accept their 24 position is more refined and better serves the purpose 25 we are trying to achieve, which is to have a tenant</p> <p style="text-align: center;">Page 44</p>

<p>1 representative as an assessor and to have an independent 2 environmental health practitioner as an expert for the 3 GTI team. So if I may orally amend our application in 4 that regard.</p> <p>5 As matters stand, sir, there's a very important part 6 of the fire safety regime for tower blocks like 7 Grenfell Tower which is wholly outside of the scope of 8 this inquiry, which is part 1 of the Housing Act 2004. 9 There is a little known and little understood safety 10 regime called the housing health and safety rating 11 system, HHSRS I think is how it's supposed to be 12 pronounced, and that is currently being overlooked, no 13 questions are directed to that scheme of any of the 14 experts and it doesn't appear in any of the lists of 15 issues.</p> <p>16 At the moment the focus is perhaps erroneously on 17 the fire safety order. I say perhaps erroneously 18 because perhaps that's a matter for you to consider in 19 due course. But may I direct you to paragraph 9 of our 20 third submissions, where I set this out in some detail, 21 and if I can just summarise it: the HHSRS is the only 22 fire safety regime which expressly includes the 23 structure and exterior of buildings like Grenfell Tower, 24 and so it's an important part of the fire safety regime 25 that really should be looked at.</p> <p style="text-align: center;">Page 45</p>	<p>1 So this can be remedied. It can be remedied in 2 a number of ways. If we have an environmental health 3 practitioner expert for the team, if we have a tenant 4 representative assessor, if there's a consultative 5 panel, and if a fire expert is appointed to assist the 6 team who hasn't been so closely involved with 7 deregulation and cuts as Mr McGuirk, greater confidence 8 would be established in the inquiry.</p> <p>9 SIR MARTIN MOORE-BICK: All right.</p> <p>10 MR SEAWARD: If I can move on now to Mr McGuirk.</p> <p>11 Now, the FBU does not question his expertise, his 12 seniority or his experience. We quite understand why he 13 seems to the Grenfell Tower inquiry team to be the 14 perfect expert. But we do ask you to listen to our 15 concerns and understand why we are persisting with our 16 concerns. We don't believe that Steve McGuirk is the 17 appropriate fire expert to assist the inquiry.</p> <p>18 Firstly, he has been at the forefront of 19 deregulation in the Fire Service from 1999 to 2015, the 20 period when he was a chief fire officer.</p> <p>21 He has been a champion of the change and 22 transformation that has taken place in the Fire Service, 23 and that has led to cuts and closures in reliance on 24 statistics showing a fall in domestic fires and 25 fatalities. During that time he was a board member of</p> <p style="text-align: center;">Page 47</p>
<p>1 SIR MARTIN MOORE-BICK: Thank you.</p> <p>2 MR SEAWARD: And also an expert would be needed not only to 3 do that, because the HHSRS is quite complicated, it's 4 real expert territory, but also, if we're going to have 5 proper and effective recommendations going forward, we 6 will need an expert's help to formulate those.</p> <p>7 As to the tenant representative, we do adopt what 8 the Russell-Cooke submissions said, paragraph 7 and 9. 9 Can I just add, though, what the FBU calls the 10 establishment point. This is that, as currently 11 constituted -- leaving the academics to one side because 12 everybody understands they're academics and they have 13 their own field of expertise and they get on and do what 14 they're best at -- the inquiry team currently has 15 a firefighting expert, Steve McGuirk, and two assessors, 16 Joyce Redfearn and Joe Montgomery, and all three of 17 those are or were high-level managers, and they were 18 all, possibly still are, close to local and central 19 government.</p> <p>20 If we add to that mix the fact that Steve McGuirk 21 and Joyce Redfearn are both deputy lieutenants in the 22 county of Greater Manchester, it emphasises and reflects 23 the gap between them and the Grenfell Tower community 24 and, indeed, the ordinary working people in the Fire 25 Brigades Union.</p> <p style="text-align: center;">Page 46</p>	<p>1 the Chief Fire Officers Association for over seven years 2 and he was its president from 2006 to 2008.</p> <p>3 The Fire Brigades Union has opposed those changes 4 all the way along and Mr McGuirk has consistently been 5 at the opposite end of the table to the Fire Brigades 6 Union.</p> <p>7 I asked Matt Wrack yesterday if he could remember 8 any single occasion in which Steve McGuirk and the FBU 9 agreed on an issue and he was unable to recall. That 10 might, of course, reflect his poor memory. It might 11 reflect the fact that Mr McGuirk and the FBU have 12 traditionally and still oppose each other. Certainly 13 that is the perception the FBU has.</p> <p>14 SIR MARTIN MOORE-BICK: Right.</p> <p>15 MR SEAWARD: Significantly, the FBU wants this inquiry to 16 consider the effect, if any, of deregulation and 17 closures and cuts on the emergency response of the 18 14 June 2017. That is part of investigating the big 19 question: how could this happen in London? We contend 20 that Mr McGuirk is inevitably conflicted in considering 21 or advising the team on that issue.</p> <p>22 Furthermore, he has been the principal adviser to 23 the local government association in the production of 24 their fire safety guidance. The fire safety guidance 25 has been contentious from the outset. But crucially, it</p> <p style="text-align: center;">Page 48</p>

<p>1 was unamended following the recommendations in that 2 regard made by the coroner after the inquest into the 3 Lakanal House fire. 4 SIR MARTIN MOORE-BICK: Mm-hm. 5 MR SEAWARD: So we take the view that Mr McGuirk is 6 conflicted and would be unable to help the inquiry on 7 several of the issues that have been listed, 10B, 10C, 8 10E and 12E. 9 For example, he was in charge of the Greater 10 Manchester fire and rescue authority when the 11 recommendations were made by the coroner from Lakanal. 12 One question for your inquiry would be whether those 13 recommendations were implemented in London adequately. 14 Mr McGuirk, I suggest, is compromised in that regard; 15 he's unlikely to be critical of any such implementation 16 that broadly mirrored what he did in Manchester. 17 He has a duty of impartiality and independence which 18 the team have rightly acknowledged, and he has to be 19 seen to be both impartial and independent. The FBU 20 fears that instinctively he will strive to show that 21 deregulation, cuts and closures were irrelevant to what 22 happened at Grenfell Tower. 23 The FBU suggest that the team could use another 24 retired chief fire officer, preferably from Scotland, 25 who hasn't opposed the FBU throughout his or her time in</p> <p>Page 49</p>	<p>1 representative and an expert who is an independent 2 environmental health practitioner. 3 SIR MARTIN MOORE-BICK: Yes, all right. 4 MR SEAWARD: Thereafter, if Mr McGuirk stands as an expert 5 to the inquiry then for the FBU would ask for permission 6 to instruct an expert in operational firefighting so as 7 to peer review his evidence, and the FBU -- 8 SIR MARTIN MOORE-BICK: Would it be sensible for you to see 9 his report before that is taken any further? 10 MR SEAWARD: It would be sensible, yes, certainly. 11 The reason I am raising it now is because the FBU 12 can't afford to fund that expert. That expert would 13 have to do a lot of reading and a lot of work and that 14 would all cost money, and so an application for funding 15 will be made. I believe that's already underway. But 16 the FBU is a non-profit-making organisation; it doesn't 17 have a budget for this sort of commitment. 18 The sixth application, I can leave that until 19 a later stage. 20 SIR MARTIN MOORE-BICK: Yes. All right. Thank you. 21 MR SEAWARD: So unless I can help you any further, sir. 22 SIR MARTIN MOORE-BICK: That's very helpful. Thank you very 23 much indeed. 24 MR SEAWARD: Thank you. 25 SIR MARTIN MOORE-BICK: Now, although I think on your</p> <p>Page 51</p>
<p>1 high office. 2 I've made some specific points about the letters of 3 instruction to experts in the submissions and I refer 4 you to our supplementary submissions, paragraphs 8 5 to 15. 6 SIR MARTIN MOORE-BICK: Yes, I've read those. 7 MR SEAWARD: Unless you want to ask any particular questions 8 about them, I propose to move on. 9 SIR MARTIN MOORE-BICK: It's probably all there, isn't it? 10 MR SEAWARD: It's all there. 11 SIR MARTIN MOORE-BICK: Unless you want to expand on 12 anything. 13 MR SEAWARD: I don't, it's all there. Thank you, sir. 14 If I can take you to the application, then. 15 The FBU is applying for the termination of the 16 appointment of either or both of Mr McGuirk as an expert 17 or Ms Redfearn as an assessor. 18 We are grateful that the inquiry team have made 19 their checks and are satisfied of the integrity of both. 20 SIR MARTIN MOORE-BICK: Mm-hm. 21 MR SEAWARD: And we accept that, obviously. But this is 22 a process that's got to be transparent and justice has 23 to be seen to be done. The FBU's reservations remain. 24 Paragraph 3 has been amended as I indicated, so it's 25 the appointment of an assessor who is a tenant</p> <p>Page 50</p>	<p>1 running sheet Mr Beer comes next, I've slipped into my 2 running sheet a note that Mr Brown, who is instructed by 3 the Fire Officers Association, is here. Would you like 4 to make some submissions? 5 MR BROWNE: Briefly, please. 6 SIR MARTIN MOORE-BICK: Yes, of course. 7 Submissions on behalf of the Fire Officers Association 8 by MR BROWNE QC 9 MR BROWNE: Good morning, sir. 10 I am Louis Browne. I'm instructed by Jonathan Wall 11 of Burton Copeland solicitors on behalf of the Fire 12 Officers Association. 13 The Fire Officers Association, the FOA, has 14 a current membership of around 1,200 and represents 15 mainly those in middle management roles. It is one of 16 the two nationally recognised unions for fire and 17 service personnel. 18 Whilst we of course represent the interests of the 19 union as a whole, our particular focus at this stage is 20 on two of its members, Richard Welch and Lee Drawbridge. 21 Richard Welch is the borough commander for Lambeth 22 and he arrived at Grenfell Tower shortly before 2 am on 23 the night of the tragedy. He assumed the role of 24 incident commander. He designated the fire as a major 25 incident. The role of sector commander was performed by</p> <p>Page 52</p>

<p>1 Deputy Assistant Commissioner Lee Drawbridge, and 2 Mr Welch was then appointed fire sector commander, 3 a role which he held for about 10 hours. It was his 4 duty to constantly re-assess the incident as it 5 developed, the formulation of strategies and the 6 deployment of resources, including firefighters. 7 Mr Drawbridge was tasked with the duties of sector 8 commander, command support, and he remained at the scene 9 of the tragedy until about 4 pm that day. 10 Can I briefly say a word about collaboration, 11 please. 12 We will look to collaborate closely with both the 13 London Fire Authority and the Fire Brigades Union 14 wherever possible, with both of whom we share 15 many common interests, and we will co-operate with them 16 in a manner that will avoid the duplication of work, 17 resources and time. 18 Can I then deal, please, with some discrete issues. 19 SIR MARTIN MOORE-BICK: Yes. 20 MR BROWNE: Disclosure. We adopt and repeat all that has 21 been said on that. We would respectfully seek 22 disclosure in a structured manner as soon as reasonably 23 practicable. Broader issues of disclosure, we agree 24 with Mr Seaward and the position he sets out in 25 paragraph 11 of his written submissions. And we would</p> <p style="text-align: center;">Page 53</p>	<p>1 SIR MARTIN MOORE-BICK: No, that's very good. Thank you 2 very much indeed. 3 Now I think it is Mr Beer's turn. Can you make your 4 way out of there Mr Beer? Yes. 5 Submissions on behalf of the Secretary of State for 6 Communities and Local Government by MR BEER QC 7 MR BEER: Sir, Jason Beer, representing the 8 Secretary of State for Communities and Local Government. 9 I had indicated to Mr Millett that I didn't intend 10 to say anything and, indeed, I don't intend to speak to 11 the two-page document that we submitted. Given 12 conversations that I'd had with him and the submissions 13 that he'd made yesterday, it's not necessary to do so. 14 Can I just briefly, therefore, address you and try 15 to assist you on the two supplemental issues that have 16 arisen -- 17 SIR MARTIN MOORE-BICK: Yes, of course. 18 MR BEER: -- and that you've been putting to other 19 advocates. 20 Firstly, then, a consultative panel. 21 If such a panel encourages the opening of lines of 22 communication and a dialogue between former residents, 23 the relatives of the bereaved and survivors of the 24 disaster, and if it allows dialogue outside of the 25 formality of hearings such as this, it has much to be</p> <p style="text-align: center;">Page 55</p>
<p>1 welcome the use of the Relativity platform, with which 2 my instructing solicitors have considerable familiarity, 3 given it was used at the Hillsborough inquests. 4 So far as the structure of the inquiry is concerned, 5 and the phases, we would respectfully adopt entirely all 6 that was said by Mr Walsh QC on behalf of the London 7 Fire Authority, and in particular the vital need for 8 phase 1 to include the ability of firefighters to deal 9 with the rationale for their decision-making, in part 10 the stay-put policy. 11 So far as the questioning of witnesses is concerned, 12 looking further forward, sir, we agree that prepared 13 questions should be submitted in advance, but would ask, 14 please, that appropriate flexibility be given in due 15 course. 16 So far as written statements are concerned, we adopt 17 and repeat what was said by Mr Seaward insofar as any 18 supplemental witness statements of key witnesses are 19 concerned. 20 Finally, can I also say we share and endorse 21 Mr Seaward's submission that both firefighting unions 22 will do everything within their power to ensure that 23 your inquiry answers the questions that demand answers. 24 SIR MARTIN MOORE-BICK: Yes. 25 MR BROWNE: Unless I can assist further.</p> <p style="text-align: center;">Page 54</p>	<p>1 said for it, in our view. 2 SIR MARTIN MOORE-BICK: Right, thank you. 3 MR BEER: As for position statements, we do not object in 4 principle to the service of position statements. But 5 when you're considering the request that has been made 6 to you, we would respectfully ask that you bear in mind 7 the following three points. 8 Firstly, of course, these are inquisitorial 9 proceedings, with you as the inquisitor in chief. 10 Pleadings, of which position statements are a species, 11 are not a feature of such proceedings for good reason. 12 That may be why they've not hitherto featured in any of 13 the approaching two dozen inquiries established under 14 the 2005 act and which the 2006 rules apply to. 15 SIR MARTIN MOORE-BICK: Could they not be helpful in 16 clarifying the ground for the benefit of all core 17 participants, and others? 18 MR BEER: Yes, of course they can, and it will be within 19 your section 17 power to require them. I am going to 20 suggest the potential solution in a moment, and this is 21 the run-up to the wicket, effectively. 22 SIR MARTIN MOORE-BICK: Right. 23 MR BEER: Second, an element of realism needs to be brought 24 to bear to the exercise, because the application is made 25 on the basis that the statements will help to narrow the</p> <p style="text-align: center;">Page 56</p>

<p>1 issues and therefore save time and cost as one reason  2 for them. But this inquiry is very much multiparty.  3 And there are no parties, of course, but in litigation  4 equivalent, it's supercharge multiparty litigation.  5 There, of course, what CP A says about an issue is not  6 going to bind CP B, and so the likelihood of being able  7 to take things completely off the table is perhaps more  8 illusory than real.  9 The third point, as others have said already, is  10 that if position statements are to have value and  11 meaning, they must come after disclosure and expert  12 evidence.  13 Indeed, that was one of the reasons why  14 Sir John Goldring in his ruling -- you may look at it at  15 your leisure, it's paragraph 25 of his ruling -- refused  16 the equivalent application that Mr Weatherby made in the  17 Hillsborough inquests. Of course, that was slightly  18 different; the application was made whilst the inquests  19 were on foot, so we were part-way through them, but what  20 he said was, "I couldn't have ordered them before we  21 started, at one of the pre-inquest hearings, because  22 there hadn't been disclosure or expert evidence at that  23 stage."  24 So a potential solution, in particular where you're  25 operating necessarily under a compressed timescale, and</p> <p style="text-align: center;">Page 57</p>	<p>1 submissions we've heard.  2 MR MANSFIELD: Just two points, in fairness to Mr Millett,  3 before he speaks, that we would like to clarify. So  4 it's not additional matters.  5 SIR MARTIN MOORE-BICK: Would you like to come and clarify  6 it from the place where you can be seen on camera?  7 Further submissions on behalf core participants represented  8 by Birnberg Peirce/Saunders Law/Hanover Bond Law  9 by MR MANSFIELD QC  10 MR MANSFIELD: Thank you very much.  11 I am very much obliged for this opportunity, and  12 I think my learned friend Fiona Murphy also wishes to do  13 this. I'll do one point, she has another point relating  14 to our submissions.  15 The point I wish to clarify as far as I'm concerned  16 is the one that you raised with me yesterday, that is  17 the question of a consultative panel.  18 I think I answered it but, in case there's any  19 ambiguity in what has transpired, we maintain the  20 position -- and it's only because the word "panel" crops  21 up twice -- that there should be no confusion that  22 a consultative panel is no substitute for  23 a decision-making panel, of which we are advocates.  24 May I just say I think that makes the position  25 clear, I don't see anybody --</p> <p style="text-align: center;">Page 59</p>
<p>1 therefore there isn't going to be the luxury of building  2 in additional time to allow people to pause for thought,  3 consider all of the disclosure that they have and file  4 a position statement, is to give directions as to the  5 content of rule 10 opening statements.  6 Normally core participants are allowed almost a free  7 rein as to what they may say, but you could, under  8 your section 17 powers, give directions as to the  9 contents of them and make that the occasion on which  10 parties must, in relation to a series of identified  11 issues, set out their position with clarity.  12 That's the solution that we would respectfully  13 propose.  14 So that's all I intended to say.  15 SIR MARTIN MOORE-BICK: Yes. Well, that's helpful. Thank  16 you very much indeed.  17 Now, you have been very economical in your use of  18 time, I must say, all of you. That completes the list  19 of those who I have who are expecting to speak on behalf  20 of core participants.  21 Can I just check there's no one here who thinks he  22 has been overlooked or she has been overlooked because  23 there's something you needed to say?  24 No. Right, thank you very much. In that case,  25 I will ask Mr Millett to respond to the various</p> <p style="text-align: center;">Page 58</p>	<p>1 SIR MARTIN MOORE-BICK: Well, if it's any comfort,  2 Mr Mansfield, there was no ambiguity in my mind about  3 your submissions.  4 MR MANSFIELD: Well, I'm very much obliged.  5 SIR MARTIN MOORE-BICK: But I thought it right, given the  6 particular nature of any consultative panel representing  7 the views, if you like, of the bereaved, residents,  8 survivors and so on, that those who are core  9 participants but not of that body --  10 MR MANSFIELD: Yes.  11 SIR MARTIN MOORE-BICK: -- should just have a chance to say  12 whether they saw any objection to that course if we  13 thought it right to take it forward.  14 MR MANSFIELD: That is understood.  15 SIR MARTIN MOORE-BICK: I am grateful to them for their  16 assurances that they see no objection to that, and that  17 was the reason I raised it.  18 MR MANSFIELD: I'm very much obliged.  19 The final matter on this is that I think -- I can  20 only speak for the ones I represent -- we would need  21 an opportunity to consult with our own families about  22 that particular concept, but I can't take it any further  23 at the moment.  24 SIR MARTIN MOORE-BICK: Well, it's an idea that had occurred  25 to us and we are thinking of taking forward, but it</p> <p style="text-align: center;">Page 60</p>

<p>1 won't happen without consultation.</p> <p>2 MR MANSFIELD: Much obliged. Thank you.</p> <p>3 SIR MARTIN MOORE-BICK: Yes.</p> <p>4 Submissions on behalf of core participants represented</p> <p>5 by Bishop, Lloyd &amp; Jackson by MS MURPHY</p> <p>6 MS MURPHY: Thank you, sir, I'm instructed by</p> <p>7 Mr Jhangir Mahmood of Bishop, Lloyd &amp; Jackson</p> <p>8 solicitors, led by Mr Weatherby, who apologises as he</p> <p>9 has another professional commitment today.</p> <p>10 SIR MARTIN MOORE-BICK: That's all right.</p> <p>11 MS MURPHY: I have two topics I wanted to respond to very</p> <p>12 briefly, sir, both arising from the substantive focus of</p> <p>13 our submissions. The first is with regard to position</p> <p>14 statements, sir.</p> <p>15 Could I ask you to consider our short paragraph,</p> <p>16 paragraph 16, in which we set out what we consider to be</p> <p>17 the appropriate content of the position statements.</p> <p>18 What we say there is that it should set out the parties'</p> <p>19 position as to what happened and what failures, if any,</p> <p>20 they acknowledge as falling within their responsibility.</p> <p>21 So we say a concise but precise form of words there as</p> <p>22 to what is envisaged, and we emphasise the importance of</p> <p>23 that being endorsed with a statement of candour.</p> <p>24 With that run-up to the wicket, as Mr Beer would put</p> <p>25 it, we would support his suggestion that that be</p> <p style="text-align: center;">Page 61</p>	<p>1 about in the course of these hearings underlines for us</p> <p>2 the importance of our request for openness and</p> <p>3 transparency with regard to the process of disclosure.</p> <p>4 Everything we've heard has served to further emphasise</p> <p>5 the importance of that and, in that context, we support</p> <p>6 Mr Catchpole's remarks.</p> <p>7 We also agree that it's important that the process</p> <p>8 is structured, and we commend to you paragraph 10 of our</p> <p>9 instructions in which we set out in some detail our</p> <p>10 understanding on how this process should work.</p> <p>11 We emphasise there, sir, the three</p> <p>12 stages: production to your inquiry, disclosure to the</p> <p>13 core participants and the preparation of bundles, and</p> <p>14 it's only the core bundles that will be relied upon in</p> <p>15 the questioning of witnesses.</p> <p>16 So we strongly disagree that the core participants</p> <p>17 cannot scrutinise 200,000 documents. We are</p> <p>18 experienced, we have that skill set, we've done it</p> <p>19 before. Clearly it has to be supported with active case</p> <p>20 management.</p> <p>21 But finally on disclosure, we emphasise and agree</p> <p>22 with a number of the submissions that early disclosure</p> <p>23 is possible. It doesn't have to be chaotic, we'd much</p> <p>24 prefer it structured, but the sooner we get started the</p> <p>25 better, and the tranche approach is not inconsistent</p> <p style="text-align: center;">Page 63</p>
<p>1 addressed by the means of a direction in the context of</p> <p>2 the rule 14, I believe it is, directions with regard to</p> <p>3 the opening statements.</p> <p>4 But it's important to appreciate, sir, that they are</p> <p>5 different animals and we don't agree that their value is</p> <p>6 more illusory than real in situations in which one party</p> <p>7 is not able to bind another party, because the</p> <p>8 statements, not only are they very meaningful for the</p> <p>9 families to hear, for the bereaved and the residents,</p> <p>10 and those affected by the disaster more generally, it's</p> <p>11 also the case that it will assist your inquiry as to how</p> <p>12 the inquisitorial process is focussed.</p> <p>13 It may be material that each of the state core</p> <p>14 participants appear to support the making of position</p> <p>15 statements, which is perhaps significant progress that</p> <p>16 is learning that has arisen from the Hillsborough</p> <p>17 inquest, and clearly if Mr Catchpole does wish to advise</p> <p>18 his client not make one then it's our proposal that he</p> <p>19 should give reasons for not doing so.</p> <p>20 SIR MARTIN MOORE-BICK: All right.</p> <p>21 MS MURPHY: So secondly and briefly with regard to</p> <p>22 disclosure, a topic that has occupied, quite rightly,</p> <p>23 a significant portion of these hearings, and we would</p> <p>24 like to emphasise that the specificity of the requests</p> <p>25 that your inquiry has made and which we have now learned</p> <p style="text-align: center;">Page 62</p>	<p>1 with good management.</p> <p>2 SIR MARTIN MOORE-BICK: Right.</p> <p>3 MS MURPHY: Thank you, sir.</p> <p>4 SIR MARTIN MOORE-BICK: Thank you very much.</p> <p>5 Well, now, Mr Millett.</p> <p>6 Closing submissions by MR MILLETT QC</p> <p>7 MR MILLETT: Thank you very much, Mr Chairman.</p> <p>8 May I start my very brief response submissions by</p> <p>9 thanking all the core participants and their advocates</p> <p>10 for their helpful, succinct and thought-provoking</p> <p>11 submissions. There is much for the inquiry and for you,</p> <p>12 Mr Chairman, to take away and consider carefully.</p> <p>13 I only want to cover three things in my wrap-up, as</p> <p>14 it were: first, Mr Mansfield's formal application for</p> <p>15 a panel of decision-makers to sit as decision-makers</p> <p>16 with you; second, experts, and just to say something</p> <p>17 very briefly about that; and, thirdly, something even</p> <p>18 more brief about the TMO disclosure of the housing</p> <p>19 files.</p> <p>20 So far as the first of those is concerned,</p> <p>21 Mr Mansfield's application for a panel, our basic</p> <p>22 position is this: we recognise, absolutely, that unless</p> <p>23 the work of our inquiry is collaborative, inclusive and</p> <p>24 empowering of those who were the victims of the fire at</p> <p>25 Grenfell Tower, our work will be in vain. We completely</p> <p style="text-align: center;">Page 64</p>



<p>1 agree with the sentiments expressed by Mr Mansfield and 2 others about public support for and confidence in the 3 work of the inquiry. 4 It is for that reason, among others, that the 5 residents, the survivors and the bereaved have been 6 given automatic core participant status. That has 7 actually brought them right into the heart of the 8 inquiry. They will get access to the disclosed 9 documents. They will get to make submissions. They 10 will get to give evidence. They will get to pose 11 specific questions and see that justice is done at very 12 close quarters. Core participant status brings very 13 significant advantages. It ensures balance, it ensures 14 thoroughness and it ensures openness. 15 As I set out yesterday, Mr Chairman, we do intend to 16 involve the survivors, the residents and the bereaved 17 who are core participants in the process and processes 18 of this inquiry into their tragedy as much as we can, 19 consistently with our duty to control and operate 20 a ruthlessly independent and effective investigation. 21 However, the question of the composition of the 22 panel does give rise to rather different considerations. 23 We would suggest very briefly that it is properly 24 a matter for the Prime Minister, as the sponsoring 25 minister, to decide under the act whether she wishes to</p> <p style="text-align: center;">Page 65</p>	<p>1 inquiry experts' reports and to make any applications to 2 call their own expert evidence than had been indicated 3 in our provisional programme. 4 Beyond that, in terms of whether permission will be 5 granted for any particular core participant to call 6 their own expert evidence, our position remains entirely 7 unchanged from my statement dated 15 November, namely 8 that the guiding principle will be that it is for the 9 inquiry to investigate. Any core participant who wishes 10 to call an expert on any particular topic will have to 11 make out an exceptional case as to why they should be 12 permitted to do so. I reiterated that yesterday. 13 Any such application will need to explain why, in 14 the context of an inquisitorial procedure such as this, 15 the core participant should be permitted to call expert 16 evidence and why the work cannot be undertaken by the 17 inquiry experts or, for example, by putting questions to 18 them. 19 All of that said, we do see force in ensuring as far 20 as we can that there is a equality of arms between the 21 core participant organisations, whether between 22 themselves or not, and individual core participants so 23 far as concerns the assessment of the need to call 24 an expert or the need to apply to do so. There is of 25 course a threshold and preliminary set of work that may</p> <p style="text-align: center;">Page 67</p>
<p>1 appoint other members to sit as decision-makers with you 2 on a panel. 3 We would suggest, respectfully, that it would be 4 wrong for you to express any view either way before she 5 has made that decision since that might be seen as 6 influencing her decision on that matter. 7 You need no reminding, but I'll remind you anyway, 8 Mr Chairman, you must remain wholly independent of 9 government in this inquiry. If she decides not to ask 10 you then the question of your consent under the act does 11 not arise. If she does ask you, then you must, and you 12 will, approach the question of whether to consent with 13 an entirely open mind. 14 So far as the question of experts is concerned, my 15 second wrap-up topic, there is one important point of 16 clarification on expert evidence that I may need to 17 make. Some of the submissions that you heard yesterday 18 from certain of the core participant advocates, 19 including Mr Stein, suggested that the inquiry had 20 accepted that bereaved residents and survivors should be 21 allowed to engage their own experts and their own expert 22 advisors. I quote from the transcript at page 121. 23 What in fact I said in my oral submissions to you 24 yesterday was that the inquiry team were sympathetic to 25 the need to allow more time for all CPs to digest the</p> <p style="text-align: center;">Page 66</p>	<p>1 need to be done in order fairly to allow core 2 participants to arrive at that position. 3 We would suggest, Mr Chairman, that we, the inquiry 4 team, give that further consideration. 5 Thirdly, and finally, so far as the TMO's disclosure 6 of the relevant housing files is concerned, the position 7 is that the memory stick provided by the TMO on 8 28 November was, I'm afraid, very difficult to access 9 and manage. The inquiry team met the TMO solicitors on 10 5 December and informed them of the problems, such as 11 corrupted documents, duplication, unreadability and 12 other matters of that nature. 13 We wrote to them on 8 December asking for hard 14 copies by 12 January. Ms Jarrett has very helpfully 15 told us that those will be produced by Christmas, and so 16 this particular problem has I think now been resolved 17 and I'm glad to be able to tell you of that. We look 18 forward to the TMO's continuing good offices and 19 assistance in that matter as in all others. 20 Mr Chairman, I have nothing else to add by way of 21 reply. I am grateful to you for your attention. 22 SIR MARTIN MOORE-BICK: Thank you very much, Mr Millett. 23 Well, I would like to thank all of you who have made 24 contributions for those contributions, whether they've 25 been written or oral or in many cases both. I would</p> <p style="text-align: center;">Page 68</p>

<p>1 like to thank you also for being so economical in your</p> <p>2 use of time, which means we can now draw this hearing to</p> <p>3 a conclusion.</p> <p>4 It goes without saying that I found your submissions</p> <p>5 very helpful and in many cases, as Mr Millett put it,</p> <p>6 thought-provoking. For that reason I would like</p> <p>7 an opportunity to digest them and to review the</p> <p>8 transcript of the proceedings, so I am going to take</p> <p>9 a little time to do that. I shall respond in writing as</p> <p>10 soon as I can, and in any event I hope by the middle of</p> <p>11 next week, if not a bit sooner.</p> <p>12 I'd also like to thank all counsel for the way in</p> <p>13 which the submissions have been presented. They have</p> <p>14 been forceful and direct, as one might expect, but at</p> <p>15 the same time they've been careful and measured, and I'm</p> <p>16 very grateful for the way in which you have all</p> <p>17 contributed to the conduct of the hearing.</p> <p>18 There have been clear indications, as far as I can</p> <p>19 see, that with the benefit of continuing dialogue it</p> <p>20 should be possible to take the inquiry forward in a way</p> <p>21 that enables the work to proceed as quickly and smoothly</p> <p>22 as possible, while at the same time ensuring that the</p> <p>23 needs of all core participants, but particularly those</p> <p>24 of the bereaved, survivors and local residents, are</p> <p>25 fully met.</p> <p style="text-align: right;">Page 69</p>	<p style="text-align: center;">INDEX</p> <p>Submissions on behalf of the Royal .....1</p> <p style="padding-left: 40px;">Borough of Kensington and</p> <p style="padding-left: 40px;">Chelsea by MR MAXWELL-SCOTT QC</p> <p>Submissions on behalf of .....10</p> <p style="padding-left: 40px;">theKensington and Chelsea</p> <p style="padding-left: 40px;">Tenant Management Organisation</p> <p style="padding-left: 40px;">by MS JARRATT</p> <p>Submissions on behalf of CEP .....15</p> <p style="padding-left: 40px;">Architectural Facades</p> <p style="padding-left: 40px;">by MR CHRISTIE QC</p> <p>Submissions on behalf of Rydon .....18</p> <p style="padding-left: 40px;">Maintenance by MR CATCHPOLE QC</p> <p>Submissions on behalf of the London .....31</p> <p style="padding-left: 40px;">Fire and Emergency Planning</p> <p style="padding-left: 40px;">Authority by MR WALSH QC</p> <p>Submissions on behalf of the Fire .....38</p> <p style="padding-left: 40px;">Brigades Union by MR SEAWARD</p> <p>Submissions on behalf of the Fire .....52</p> <p style="padding-left: 40px;">Officers Association</p> <p style="padding-left: 40px;">by MR BROWNE QC</p> <p>Submissions on behalf of the .....55</p> <p style="padding-left: 40px;">Secretary of State for</p> <p style="padding-left: 40px;">Communities and Local</p> <p style="padding-left: 40px;">Government by MR BEER QC</p> <p>Further submissions on behalf core .....59</p> <p style="padding-left: 40px;">participants represented by</p> <p style="padding-left: 40px;">Birnberg Peirce/Saunders</p> <p style="padding-left: 40px;">Law/Hanover Bond Law</p> <p style="padding-left: 40px;">by MR MANSFIELD QC</p> <p>Submissions on behalf of core .....61</p> <p style="padding-left: 40px;">participants represented</p> <p style="padding-left: 40px;">by Bishop, Lloyd &amp; Jackson by</p> <p style="padding-left: 40px;">MS MURPHY</p> <p>Closing submissions by MR MILLETT QC .....64</p> <p style="text-align: right;">Page 71</p>
<p>1 I look forward to seeing you all on another similar</p> <p>2 occasion before too long.</p> <p>3 Thank you all very much.</p> <p>4 (12.15 pm)</p> <p>5 (The hearing concluded)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 70</p>	

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