Extract from a meeting at the Department for Business, Energy and Industrial Strategy, 3 May 2018.

Present: Terry Edge and Khadijah Mamudu of the Grenfell Fire Forum

DM and JE of the Office for Product Safety and Standards - DM being the lead official on the Furniture and Furnishings (Fire) (Safety) Regulations 1988.

*Extract begins around 10 mins into the meeting*

TE: . . . there's also the Hackitt Review and the [Grenfell] Inquiry. At the moment the issue of toxic smoke is staying under the radar somewhat but it's almost certainly going to come out in the Review or in the Inquiry. The issue is that the majority of toxic smoke in Grenfell Tower was caused by burning furniture not cladding. And almost all the deaths were caused by toxic smoke. Logic suggests you've got something like 30 kilograms of flame retardant chemicals in the average flat, in the furniture, which is far more than would be coming in from outside, especially when the cladding doesn't appear to have contained any flame retardants. So, you have this issue which will come up but you apparently haven't communicated with the Hackitt Review about the Furniture Regs; is that correct?

DM: The Department is in contact with the Hackitt Review. The Hackitt Review has its parameters.

TE: But you haven't told them about the Furniture Regs. We put in a Freedom of Information request asking, 'What communication has BEIS had with the Grenfell Inquiry, the Hackitt Review, the Inquiry Experts Panel on the Furniture Regs' and the answer was, 'None'.

DM: Well, er, well, the Review has its terms of reference and we've been engaging with them on those grounds.

JE: The Hackitt Review is only looking at building regulations.

DM Yes.

TE: No, it's also looking at fire safety regulations.

JE: Everything the Hackitt Review has asked for we have provided.

TE: But you haven't told them about the Furniture Regs, even though their failure was a major cause of death in the Tower.

DM: That will be for the Inquiry to decide.

TE: But if they don't know about the regulations, how are they going to know there's anything wrong with them; why haven't you told them?

JE: The Hackitt Review would know about the [Furniture] regulations.

KM: It's not a trick question. It's straightforward. We know that Dame Hackitt has eliminated quite a few people and groups from her workshops. You have been in contact with them over specific things that they've asked you for but what Terry is saying, is that with regard to the Furniture Regulations there has been no contact between yourselves and the Hackitt Review. That's what the question is about.

DM: Well, actually, I think the question is the Grenfell public Inquiry is looking at all aspects of Grenfell and what happened.

TE: Actually, it isn't.

KM: Not in our experience, no. So the answer then to the question - which was a Yes or No answer - 'Has there been correspondence between yourselves and Dame Hackitt's team about the Furniture Regulations?' I think we all know the answer is No.

JE: We can't speak for the Department.

TE: But you put it in a Freedom of Information response. Your Department said 'None.'

DM: Then that is correct.

JE: We are two members of a team which is charged to look at: what is the evidence that underpins our current understanding of how the furniture and furnishings regulations work. We are not responsible for responding to Freedom of Information requests - and, Terry, you know how the Freedom of Information works within a Department.

TE: Yes, you're supposed to tell the truth. And the truth is 'None.'

JE: I'll think you'll find that putting the two officials who were responsible for that answer on the spot is not helpful. Let's create a positive conversation about what we can do.

TE: Okay. Let's start where we need to start.

DM: Yes, can we go back to what I was saying a little while ago, about what we're doing on the regulations. We're making sure we've got the scientific evidence. Our Ministers are very clear that what they want to do is, in terms of wherever we end up, in terms of regulatory change, is ensuring that we are not in . . . that the Regulations will continue to maintain high levels of fire safety.

TE: Well, let's start where we need to start. Do you agree that the Department's scientific evidence and research in its 2014 consultation document, its technical annex, and its 2016 consultation document prove that the existing match test fails in practice in up to 90% of cases, and that Trading Standards have confirmed that with their work in the field? Do you agree?

DM: I don't think that going down this route is particularly helpful.

TE: It's not going down a route. It's in your own publications and on your own website. If you can't agree with that, you can't go anywhere.

DM: Well, can you just talk us through . . . you're talking through what you would like to see happen.

TE: No. We're talking through what has happened according to the evidence.

DM: But I would like to hear what it is you think . . .

TE: Have you read your 2014 consultation document?

DM: Yes, I have.

TE: Have you read the technical annex?

DM: Yes, I have.

TE: Have you read the 2016 consultation document?

DM: Yes, I have.

TE: Do you agree that they prove that the current match test doesn't work in most cases? Because that's what they prove.

DM So, on the basis of what you've put forward, I'd like to move forward to what is it you want.

TE I want an answer to that question.

DM: Things have moved on since then.

TE: Okay - so what's changed?  
  
DM: We are looking at a wide range of evidence . . . but I want to hear what your ideas are.

TE: Look, you brought out the same [proposed new] match test in 2014 and 2016. It's now four years on, and 18 months since your 2016 consultation. In that time -

DM What's your proposal?

TE: We can't get to our proposal until we've established this fact: that the current test doesn't work.

JE: What is in the consultation is in the consultation and what is out there is out there. What we might be arguing about here is test performance and real world performance.

TE: Those papers were based on real world and test performance.

JE: We want to look at . . . we're really interested in hearing from you - beyond Richard Hull's paper [Chemosphere Dec. 2017 - which established that a UK sofa if three times more toxic than its EU equivalent] - interesting bits of evidence that we can look at which talk about acute toxicity, for example.

TE: No, sorry, but you have to start at that point [that the current match test doesn't work].

JE: Well, we can throw numbers at each other . . .

TE: They're not numbers. I'm asking you to agree with your own documented evidence. If you've got new evidence that says it's no longer valid then please let us have it.

DM: What we're saying is that we're reviewing all of this. I thought the basis of [you] coming today was to hear your ideas about what the way forward is, so please can we do that.

TE: Not until we've established the truth, because without that our ideas don't mean anything. If you're not prepared to accept your own evidence . . .

DM: We're not saying that. What I'm saying is: we will consider the proposition, in the round . . . and we absolutely hear that the point you're coming from is X . . .

TE: No, it's not my point; it's your point.

DM: Okay, the point is the 2014, 2016 consultation said X.

TE: It didn't say X; it said the current match test fails in up to 90% of cases. Do you agree?

DM: So, we are looking at ways to ensure . . .

TE: Do you agree?

DM: We are looking at ways to ensure the Furniture and Furnishings regulations . . .

TE: If you can't answer that question, there's no point in going on with this meeting.

DM: I want to hear your ideas.

TE: We want to hear that you agree with your own evidence.

KM: For me - someone who is not an expert - I'm quite shocked by this conversation because what Terry is asking is a simple question. As a project manager, when I write my PID and I go to my client, I expect them to sign it off on the basis of what has to happen. So if in a couple of years, someone comes back and says to me, 'That document that you produced years ago - this is what it said, do you agree that this is what you wrote?' - or your Department wrote? . . . And rightly or wrongly, that is what we said. And I think it's just a simple question that Terry is asking. Your Department came up with something - you might agree with it, you might not - the question is: do you agree that your Department said it [the current match test] doesn't work? I don't understand - why is that hard to answer?

TE: And the adjacent question is, 'Have you received any evidence since that the findings that you came up with in 2014, repeated in 2016, are not correct?' I know you haven't because I've seen a lot of the 2016 consultation responses and there's nothing there. That technical annex is bullet-proof. It's a brilliant piece of technical work, supported by every leading test expert in the country, by the way, who all said this proves the case. So, that's the first question: do you agree? And if not, what evidence do you have that suggests you shouldn't agree? If we can't get beyond this, there's no point in us giving you a solution, because you're in denial of your own evidence.

JE: I don't think anyone is in denial of evidence. We are bound to agree with what is written down.

TE: So you do agree - that the current match test fails in up to 90% of cases?

JE: But what we have to talk about here, is not only performance against the tests, a simplistic test.

TE: It isn't performance against a test; it's a failure in real world products.

JE: What I'm interested in talking about . . . what Richard Hull was looking at . . . we're looking at different regulatory environments and different products that are in those regulatory environments and how they perform when you set different sets of safety requirements.

TE: That's exactly what was done in the research for the new match test. Exactly what you're talking about.

JE: But what I'm interested in hearing about is to what extent should we be looking to generate new evidence - is there evidence that you guys have?

TE: New evidence for what?

JE: Evidence for performance of various types of products in various types of fires.

TE: Look, the two key pieces of evidence here are first, BEIS's, which proves the current match test doesn't work. The second key piece of evidence is Richard Hull's and Anna Stec's paper in Chemosphere which proves that - even if the regulations work - the conclusion of that paper is that a chemically treated UK sofa is actually more dangerous than an untreated EU sofa, because it releases toxic smoke like hydrogen cyanide very quickly after catching fire.

JE: It is not as clear as you're putting forward, Terry.

TE: It is: that's exactly what it says.