



Grenfell Tower Fire Public Inquiry Terms of Reference consultation

Submissions made on behalf of Justice4Grenfell Campaign

Preamble

Howe & Co, a firm of solicitors specialising in human rights cases, is instructed by Justice4Grenfell Campaign to make the following submissions on its behalf.

Justice4Grenfell Campaign is a not for profit organisation established to assist residents and those adversely affected by the fire at Grenfell on 14 June 2017. Justice4Grenfell Campaign is assisting a significant number of survivors, bereaved families, affected residents in the immediate surrounding area and the wider affected community of North Kensington impacted by the fire; across the various areas of need including housing, death and injury cases, advocacy, inquests and this Public Inquiry. Justice4Grenfell Campaign will be applying for Core Participant status in due course.

The Overarching Purpose of this Public Inquiry

Before turning to its specific submissions on the terms of reference of this Inquiry, we submit that public confidence must be at the heart of every consideration and step taken by the Grenfell Tower Inquiry.

Given the appalling loss of life and suffering caused by the Grenfell Tower fire and the nationwide concern over the safety of tower blocks within the social housing stock, a fundamental purpose of this Inquiry must be to rebuild and restore public confidence in:

1. The safety of social housing nationally;
2. The competence, ability and willingness of public authorities to oversee, regulate and ensure safe housing nationally; and
3. The competence, ability and willingness of public authorities to respond to large scale emergencies; and
4. Requiring that communities (including residents) are listened to, heard and more importantly that there is an effective response when communities/residents raise concerns to public authorities, local authorities, statutory agencies and bodies about matters that impact upon them.

In its First Report (2004–2005 session) the Select Committee on Public Administration set out Parliament’s view of “*What are inquiries for*”¹:

“10. There can be little doubt that inquiries matter greatly to the public, especially those directly affected by the events under investigation.... For the Government ‘the primary purpose of an inquiry is to prevent recurrence’. It is also their view that, ‘the main aim is to learn lessons, not apportion blame’. They believe that inquiries have ‘helped to restore public confidence through a thorough investigation of the facts and timely and effective recommendations to prevent recurrence of the matters causing concern. Many inquiries have helped to bring about valuable and welcomed improvements in public services’. Lord Laming, who carried out the Victoria Climbié Inquiry, told us that inquiries:

‘[...] provide an assurance that the facts surrounding an alleged failure will be subjected to objective scrutiny. They are expected to reach judgements on why terrible events happened. They often make recommendations on how such events might be prevented in future. They may give relief to some and allow the expression of anger and outrage to others. They are often disturbing and painful events. They should improve our understanding of complex issues. At best they change attitudes, policies and practice. That being so they occupy an important place in our society.’”

(Our underlining)

A fundamental purpose of this Inquiry is to seek to rebuild public confidence regarding the provision of safe social housing nationally and to change attitudes, policies and practices to housing and safety; and to act as a catalyst for improvement in the provision of social housing in the future.

Thus far, the Inquiry has not engendered public confidence as a result of matters including, for example:

- The Prime Minister’s selection of Sir Martin Moore-Bick to be the Chair of the Inquiry, when he previously gave judgment in favour of Westminster Council allowing it to re-house a homeless person and her children 50 miles away, in Milton Keynes, and his decision to block Syrian refugees stuck in Calais from entering the UK².
- The Chair’s references to conducting a narrow and “limited” Inquiry³.
- The currently unrepresentative and non-diverse make-up of the Chair’s advisory panel⁴.

¹ Public Administration – First Report, Chapter 2, Background. Paragraph 10 (see: <https://publications.parliament.uk/pa/cm200405/cmselect/cmpubadm/51/5102.htm>)

² Times, 29 June 2017, (see: <https://www.thetimes.co.uk/article/may-picks-controversial-judge-sir-martin-moore-bick-for-grenfell-inquiry-0k8xt3wpb>).

³ Guardian, 29 June 2017, quoting Sir Martin Moore-Bick as stating, “I’ve been asked to undertake this inquiry on the basis that it would be pretty well limited to the problems surrounding the start of the fire and its rapid development, in order to make recommendations as to how this sort of thing can be prevented in the future...” (see: <https://www.theguardian.com/uk-news/2017/jun/29/grenfell-inquiry-chairman-martin-moore-bick>).

The Terms of Reference adopted by the Inquiry will be a key indicator of the Inquiry's intentions. Justice4Grenfell Campaign submits that the terms of reference must be sufficiently wide in order to address the immediate and wider issues raised by the Grenfell Tower tragedy and thereby command public support and confidence.

Furthermore, victims and survivors must be placed at the heart of this Inquiry so that all findings and recommendations are grounded in the experiences and accounts of those victims and survivors. The Inquiry should not have a focus solely on the traditional legal "facts and judgment" process. Instead, it should carefully consider the emotional needs of all the key stakeholders, particularly the survivors and bereaved families. The survivors and bereaved are objectively the real "victims" who from the outset have lost most in this disaster, and should be the central focus of the Inquiry's remit.

Additionally, the Inquiry must also include a diverse range of voices of those living in the immediate surrounding area and the wider North Kensington Community who have also been affected by this disaster. Only with this crucial stakeholder focus will the Inquiry be able to search for answers and find acceptable solutions. The Terms of Reference need to state that these voices will be involved to the utmost. Central to this is that the bereaved families, survivors, and affected residents should be permitted to put questions to witnesses and cross examine them, directly, during the Inquiry hearings.

The Inquiry must have suitable access to interpreters and translators to assist the victims in understanding the proceedings and to ensure that any persons giving evidence can clearly and accurately provide information to the Inquiry in circumstances where English is not their first or their most competent language.

The Inquiry's Terms of Reference should not inhibit exploration of the historical context for the disaster, the wider institutional failings, and the appalling treatment of the bereaved and survivors during the immediate aftermath of the disaster.

It is of paramount importance that the Chair is assisted by a group of ordinary members of the local community from around the Grenfell Tower to act as panel members and/or assessors. Such persons should hold the necessary relevant expertise and the confidence of bereaved people, survivors, affected residents and the wider community. The panel should be a diverse group, to ensure that the experiences of the wide range of people affected by the fire are included at the earliest opportunity. This is essential to ensure community trust, confidence, and the continued and full participation of survivors and the bereaved families in the Inquiry process.

Justice4Grenfell Campaign believes that the causes of this disaster need to be tracked to those at the highest levels of central government, and not restricted to just those at Local Authority level, the KCTMO, the contractors, and the sub-contractors. The Inquiry will need to obtain substantial evidence from all branches of Government and from Parliament, regarding their handling of social housing policy, community cohesion, fire safety policy and

⁴ Guardian, 21 July 2017 (see: <https://www.theguardian.com/uk-news/2017/jul/21/lawyers-for-grenfell-survivors-call-for-diverse-inquiry-panel>).

any other relevant policies or laws touching on the Grenfell Tower disaster. As examples, the government departments who should be investigated by the Inquiry are: the Home Office, the Department for Communities and Local Government, the Office of the Deputy Prime Minister and the Prime Minister's Office along with other government departments. The Inquiry must uncover the correspondence and documents within these departments that go to the heart of the failed housing and social policies that caused or exacerbated the fire, along with the appalling response in the aftermath. From Parliament, the Inquiry should receive the reports of previous relevant Select Committees and here evidence from Committee Members and/or Select Committee witnesses as regards housing fire safety matters, housing policy and other relevant matters. The Inquiry should seek and obtain internal communications between government ministers, MPs, councillors and civil servants on matters relating to the Grenfell Tower disaster and the issues related to it.

Terms of Reference

Justice4Grenfell Campaign strongly opposes any form of limited Inquiry.

They endorse the position of the Leader of HM Opposition, the Rt Hon Jeremy Corbyn MP, set out in his letter to the Prime Minister on 17 July 2017, in which he stated:

"I strongly welcomed your [the Prime Minister's] promise that 'no stone will be left unturned in this inquiry...'"

(Our underlining)

In the same letter the Mr Corbyn continued:

"... that the information already in the public domain points to a series of systemic failures that may extend from local to national government and beyond. We would be disrespecting the memory of those who died in the Grenfell Tower fire, and putting further lives at risk, if we fail to fully learn these lessons. It is therefore our view that an immediate inquiry into the proximate causes of the Grenfell Tower fire should be supplemented by a longer-term, more wide-ranging inquiry into the underlying causes of what went wrong and the extent to which they are replicated on a national scale."

Staged Inquiry and Reporting

Justice4Grenfell Campaign submits that the Terms of Reference should be:

"To examine:

- (a) the immediate causes of the fire at Grenfell Tower on 14 June 2017, including the reasons for the rapid spread of the fire throughout the tower block and the emergency services' response, and
- (b) the structural and systemic failures in the management and development of the block preceding the fire which increased the risk of injury or death, and

(c) whether regulations in place to provide for safe building design, materials and construction etc were appropriate to prevent a fire at Grenfell Tower and/or whether the practical mechanisms of enforcement of such regulations were adequate or sufficient; and

(d) the national resources and capacity of resources of the rescue services to respond to a fire or disaster of this scale; and

(e) the response of local and central government in the aftermath of the fire to the disaster; and

(f) whether local and national housing and/or safety policy and/or the approach of national and local government towards social housing has increased risks to residents.”

Justice4Grenfell Campaign submits that the Inquiry’s report should be published in two parts.

The Part One Report should quickly address what were the immediate and originating causes of the Grenfell Tower fire and why it spread so quickly and catastrophically. This part of the Inquiry should examine:

1. The cause and origin of the fire;
2. How the fire was able to spread beyond the origin, given that the flats are supposedly designed to compartmentalise a fire;
3. The building itself, and whether its design and/or construction contributed to the spread of the fire;
4. The type of cladding installed at Grenfell Tower and its contribution to the spread of the fire;
5. Is such cladding inherently unsafe when balancing the insulation/environmental benefits against fire safety risks;
6. Was the method of installation of the insulation and/or cladding at fault;
7. The type of insulation used and whether it released toxic fumes that endangered the health and lives of residents;
8. Had the combination of cladding and insulation used on the Grenfell Tower been tested together prior to installation and, if so, had the testing looked at the effect of combining materials, particularly in relation to any increased combustibility and any increased risk relating to the nature and volume of toxins produced during a fire;

9. Whether fire stops were installed in the cladding system and whether they were installed correctly;
10. Whether such a system of fire-breaks was effective in the particular combination of materials used in Grenfell Tower;⁵
11. The installation of gas pipes in the stairwell and whether the failure to cover them with fire retardant material contributed to the spread of the fire;
12. Was there an adequate fire risk assessment, and were those who undertook it adequately qualified;
13. Were there insufficient fire suppression and fire warning systems/procedures in place at the time of the fire;
14. Why were the systems and procedures for fire suppression and warning insufficient to prevent death and injury in this fire;
15. Why were the escape stairwells not numbered the same as the residential floors of the building (for example a resident who escaped from the twenty first floor, as marked by the number in the lift lobby, entered the escape stairwell but it was marked as floor eighteen);
16. Did the lack of alignment between floor numbers in the stairwell and floor numbers in lift lobbies (which residents understood to be the correct floor numbers) hamper escape and/or rescue efforts and/or did this misalignment cause confusion for residents and rescuers;
17. Were there dry risers and in-situ fire hoses available on every floor and were they used by the Fire Brigade and if not, why not;
18. Why did the smoke extraction system fail to work on every floor;
19. Were the recommendations of the coroner in the Lakanal House Inquest acted upon by local and national government and, if not, why not;
20. Did any failure to implement fully those recommendations have any impact on the outcome of the Grenfell Tower fire;
21. If these deficiencies existed, why were they not addressed as part of the refurbishment of Grenfell Tower;
22. Who was ultimately responsible for fire safety at Grenfell Tower;

⁵ *The Fire Research Establishment conducted a test using the specific materials used in Grenfell Tower including PIR foam and properly installed fire-breaks, and the test was a complete failure (BBC Newsnight, BBC 2, 27.7.17).*

23. Were there adequate training and resources available to the persons with responsibility for fire safety at Grenfell Tower;
24. Was there an emergency action plan in place, including a plan to evacuate vulnerable, elderly, disabled and non-English speaking residents;
25. What consideration was given to the rationale of housing such a high proportion of elderly residents on the upper floors of the Grenfell Tower, when escape for them would be considerably more difficult following the outbreak of a significant fire;
26. If there was an emergency action plan, was it adequate;
27. If there was an emergency action plan, had this plan been tested, and was it available in other languages relevant to the residents who lived at Grenfell Tower;
28. What was the Local Authority's housing allocation policy, with particular regards to fire safety issues, for residents with a physical disabilities, elderly people and those with mobility issues housed on the higher floors of the Grenfell Tower;
29. Had safety concerns been raised by residents and others, in advance of the fire and, if so, what were they;
30. Were those safety concerns ignored and, if so, why were they ignored;
31. Did the racial background, ethnic background or financial status of the residents of Grenfell Tower, alongside the fact that the building contained social housing, have any bearing on public authorities' responses to concerns from residents and others about safety, or impact on the quality of the work and materials used in and the costs expended on refurbishing the building;
32. The factors that hampered the response of the emergency and rescue services' attempts to save individuals trapped in the tower, including any lack of resources, manpower and/or equipment relevant to fighting high-rise fires;
33. Whether there was adequate access by road to the Grenfell Tower site and the area surrounding the base of the building in order to enable rescue and emergency services, including large tall turntable rescue vehicles, to conduct adequate rescue operations at the scene;
34. Were the air tanks/canisters supplied to fire fighters suitably sufficient in the case of a fire on the twenty third floor of a large high-rise building, where access to floors was made by climbing a stairway, and was the capacity of air sufficient thereafter to allow fire fighters to put out the fire at that height, search for survivors and also bring survivors to the ground floor within a reasonable period of time;

35. The capacity and resources available to the emergency and rescue services, nationally, to deal with a fire/disaster of this scale;
36. The instructions given by the Fire Brigade to 'stay put' and whether this contributed to any deaths.

The Part One Report should make findings on the above and make recommendations as to:

- a. Immediate improvements to the fire safety of persons living in high-rise accommodation including:
 - i. Fire alarm systems;
 - ii. Fire suppression systems;
 - iii. Efficacy of the 'Stay Put' protocol;
 - iv. Evacuation procedures including for children, the elderly and disabled persons;
 - v. Alerting persons in languages other than English,
- b. The safety of cladding and/or cladding installation, including all materials used.
- c. The equipment and resources, including manpower, required by the emergency and rescue services when dealing with a large high-rise fire involving a residential building.

The Part Two Report should address the wider and more complex issues. This part of the Inquiry must examine:

1. What part did funding play in the decision making of the Royal Borough of Kensington & Chelsea regarding the commissioning of works and services for the Grenfell Tower;
2. What part did the racial and ethnic make-up and/or financial status of the residents at the Grenfell Tower play in the decision making of the Royal Borough of Kensington & Chelsea regarding the commissioning of works and services for the Grenfell Tower;
3. Was cost given a higher importance than safety;
4. What factors influenced the choice of materials for the refurbishment of Grenfell Tower;
5. What factors influenced the choice of contractors for the refurbishment of Grenfell Tower;
6. Did those choices affect safety;
7. During the planning of the refurbishment did the Royal Borough of Kensington & Chelsea ensure that the proposed materials and works would meet all fire safety standards and/or would provide a safe residence to those living at Grenfell Tower;

8. What fire safety standards were the Royal Borough of Kensington & Chelsea working to;
9. Had those standards changed in recent years; if so, in what way and why;
10. The method and ease by which the Fire Brigades are able to input into the modification of those standards;
11. What were the supervisory procedures (Building Regulations and inspections, for example) in place during the refurbishment;
12. What were the fire inspection procedures for granting a fire safety certificate for the Grenfell Tower after the refurbishment, and how were these carried out, by whom, and what was the expertise of those carrying out the inspection/s, including the access that they had to technical specifications and information detailing the materials and form of construction used;
13. Were those supervisory procedures adequate;
14. Were any safety issues identified during the refurbishment;
15. The adequacy of existing building regulations for high-rise residential accommodation, in particular regarding the use of polyethylene and polyisocyanurate-based cladding materials;
16. The adequacy of enforcement of Building Regulations;
17. Have changes in policy and in funding affected Building Regulations and numbers of enforcement officers, so that there has been an impact on safety;
18. How widespread is outsourcing and subcontracting in the delivery of local government and housing safety responsibilities;
19. To what extent does the length of the supply and/or sub-contracting chain potentially impact on safety, or remedial action when safety breaches/issues arise or are discovered;
20. Should there be a limit upon the number of parties in the supply chain and/or the number of sub-contractors used on a project, in order to optimise safety and any options for redress when things go wrong;
21. Has the use of outsourcing and subcontracting to deliver local government and housing responsibilities impacted standards and accountability, particularly as regards safety;

22. Are Tenant Management Organisations (TMOs) accessible to tenants and do they impact on safety;
23. Do TMOs provide a reliable and responsive forum for tenants to raise safety issues;
24. Are there sufficient structures and bodies in place which give a strong voice to the concerns and needs of tenants?
25. Should tenants have a separate, independent, regulator who can be approached with regards to complaints and/or concerns (including safety concerns) when they believe that they have been ignored or let-down by a TMO or Local Authority;
26. Do the bodies that conduct fire safety testing of materials used in residential buildings have any conflicts of interests, for example via direct or indirect financial support from manufacturers, that is not consistent with best practice or the public's confidence in the adequacy of materials' testing.

Evidence

All documents, correspondence and digital files, alongside any other evidence relating to any of the above matters, must be made available to the Inquiry. This must include all evidence held by public bodies as well as the complete range of contractors and subcontractors involved in the refurbishment of Grenfell Tower. All witness statements must be taken under oath and the Inquiry must be able to summon any witness.

Corporate Manslaughter

Additionally, Justice4Grenfell Campaign calls for the Terms of Reference to review whether the current law relating to corporate manslaughter is fit for purpose, in light of a tragedy such as that which occurred at the Grenfell Tower.

Sadly, there have been many occasions in recent years when significant numbers of persons have lost their lives in circumstances where it appears that a corporate or institutional body has, through its actions or inactions, caused those deaths.

It would appear that since the law was introduced there has never been a successful prosecution for corporate manslaughter in large scale disasters in the UK.

It appears that, under the current law, corporations and institutions are practically immune from prosecution and that ordinary people, killed by the actions/inactions of corporate or institutional bodies, do not enjoy the adequate protection of the law.

Given this history, it appears highly likely that the victims and survivors of the Grenfell Tower fire are unlikely to be able to hold a corporate or institutional body to account under the criminal law, regardless of the strength of the evidence.

The Inquiry is asked to enquire into the current law relating to corporate manslaughter and to make recommendations that allow victims of corporate killing, and wider society, to properly and adequately hold powerful institutions to account.

For Justice4Grenfell Campaign

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