

# Firms responsible for covering Grenfell in flammable cladding demand immunity from prosecution

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1 February 2020

Within 48 hours of the second phase of the Grenfell fire inquiry opening this week, the entire rotten process was exposed.

Lawyers for the main corporations involved in covering the high rise building in dangerous flammable cladding effectively demanded immunity from future prosecution.

On Tuesday evening, an application was made to Inquiry chair Sir Martin Moore-Bick by lawyers for the Grenfell tower refurbishments main contractor, Rydon, architects Studio E, external wall subcontractor Harley Facades, and the Kensington and Chelsea Tenant Management Organisation (KCTMO). The association managed the tower on behalf of the Conservative-run Royal Borough of Kensington and Chelsea (RBKC).

The lawyers requested that Moore-Bick ask Attorney General Geoffrey Cox QC for an undertaking that “nothing said by a witness in answers to questions in the inquiry will be used in furtherance of a prosecution against them.”

Gasps broke out from long-suffering bereaved and survivors attending the inquiry as Moore-Bick explained, “Very recently I’ve been advised that, when they are called to give evidence, which of course will start next week, many of the witnesses who were involved in the decision and choice of materials are likely to claim privilege against self-incrimination as a reason for not answering questions.”

Moore-Bick expressed his concern that the fraudulent nature of the inquiry was being exposed before all: “[T]his application has come very late in the day and at a most inconvenient time. It’s very disappointing, I might even use a stronger word,” he declared. He would decide on whether to notify the Attorney General next Monday, after hearing representatives from residents, bereaved, and survivors.

Lawyers for the families are to consider their position on the application over the weekend. On their behalf, Michael Mansfield QC said, “The timing of this application... is highly reprehensible and highly questionable coming on the eve of evidence... It has caused immense anxiety, distress and anger.” The Grenfell community had been wanting to “get to the point of accountability,” and now they felt “almost thwarted at the doors of the court.”

In making their demand for immunity from prosecution, the entities responsible for turning the tower block into a death trap—that allowed a small kitchen fire to destroy a 24-story block

within hours—are relying on the stipulations of the 2005 Inquiries Act.

Under the Act, those giving evidence in an Inquiry have the right to withhold information which might incriminate them. This is not enough for those making the application, who want the Attorney General to use his power to rule that no evidence given by witnesses will be used against them in criminal proceedings. This would make them immune, except if they are subsequently charged with conspiring to or giving false evidence to the Inquiry.

Attempting to justify their request, the corporations stated that their employees could face life sentences as it was likely, based on the experience of some of those already interviewed by the police, that further investigation “will include gross negligence manslaughter where applicable.”

Harley Facades lawyer Jonathan Laidlaw QC said a number of the firm’s employees had been interrogated. “Right through the course of phase two [of the inquiry] these individuals will remain suspects in respect of whom there is a real and appreciable danger of self-incrimination.”

He threatened that if they did not receive legal assurances that any statements they made during the inquiry would not be used subsequently to prosecute them, then their employees would simply refuse to answer any questions.

Laidlaw said it was “impossible to get to the answers the bereaved, survivors and residents are plainly entitled to” unless they received such protection.

This is a cynical ruse by corporations whose main concern is not about the fate of their employees. The fire and deaths were not merely the responsibility of individuals immediately involved with the refurbishment. The demand for immunity from future prosecution is about ensuring that those in senior positions and therefore the corporations themselves avoid prosecution for terrible crimes.

They know they are assured of the kid gloves treatment by the tried and trusted inquiry set up. The *Guardian* noted, “Similar undertakings had been made in the Stephen Lawrence inquiry, the Bloody Sunday inquiry, the Ladbroke Grove inquiry, the Baha Mousa inquiry, the al-Sweady inquiry, the Azelle Rodney inquiry and the undercover policing inquiry, lawyers for the corporates said.”

Families responded with dismay and outrage at the move, with

their counsel scathing about the applications for immunity. Samuel Stein QC said his clients were furious and, “outraged by an application which has all the appearance of looking like an attempt to pull a fast one...”

Stephanie Barwise, representing 280 members of the Grenfell community said, “The behaviors of arrogance and complacency which caused the disastrous fire at Grenfell still rage unchecked in many of the core participants.”

Exactly why the Grenfell refurbishment firms and KCTMO felt it necessary to make their move was evident in the first two days of the second phase, during which emails and other damning evidence were revealed, as they indulged in mutual finger pointing and recriminations. They showed that the firms knew the cladding put on Grenfell would simply burn off in the event of a fire.

Barwise introduced emails from an executive of Celotex, maker of the combustible synthetic insulation, admitting to a distributor that it was “clearly wrong” to think it proper to use flammable insulation on any building, regardless of height. Adrian Williamson QC, speaking for the families, said: “From the start (the project) was bedevilled by a culture which was cost cutting which put cost over every other consideration.”

Sessions from Monday to Wednesday featured counsels for the corporate participants. Rydon Maintenance claimed cladding maker Arconic knew their polyethylene panels fell below the minimum required for facades under European legislation. They noted that internal emails from Arconic in 2011 revealed that although their panel fire ratings had dropped from Class B to Class E, an Arconic official insisted, “we can still work with regulators who are not as restrictive.” In 2018, the BBC spoke to a source in the building industry who had worked on major cladding projects and said of Class E cladding, “To be blunt... you wouldn’t put E on a dog kennel.”

As part of attempts by companies to pass the buck, Rydon’s counsel released a 2013 email from Celotex citing a concern that their material could be dangerous when used with aluminium composite cladding. “We cannot seem to find or design a suitable barrier in which we have confidence that it can be used behind a standard ACM [Aluminium Composite Material] panel which we know will melt and allow fire into the cavity.” The company decided to enter into the “lucrative” high-rise business later that year.

In 2015, Neil Crawford, from architects Studio E emailed a fire engineer writing that “metal cladding always burns and falls off.” The idea of using cheaper cladding first emerged in March 2013 when the council began worrying that the cost of the refurbishment was too high. When Harley Facades said it could save £454,000 by switching from fire resistant zinc to ACM, the KCTMO approved the new cladding in October 2014.

Counsel for Celotex provided evidence from an engineer at Harley writing about the possible building of a fire-stopping into the facade: “There is no point. As we all know, the ACM will be gone rather quickly in a fire.”

Another email exchange between Celotex and one of its distributors, Celotex firm’s head of technical, Rob Warren, wrote it was “clearly wrong” when an inspector “said it was OK to use any insulation up to 18 metres (59ft), and only above 18 metres did

it have to be non-combustible.” He added: “The fire hasn’t got a tape measure and if it starts at the ground floor it will love to race up the first 18 metres. Just shows the smoke of confusion out there.”

On Thursday, a representative for the families, Balvinder Gill, made the accurate statement that “We and our clients have been genuinely shocked at hearing the corporate core participants seeking to defend the indefensible and trying to justify the unjustifiable.” Gill added, “Each of these corporate core participants had blood on its hands and it cannot be washed off by the blood of others.”

Stein observed that those responsible for the refurbishment at Grenfell had killed residents “as sure as if they had taken careful aim with a gun and pulled the trigger.” He added, “Those companies involved killed when they criminally failed to consider the safety of others. They killed when they presented their unsuitable dangerous products in the pursuit of money and they killed when they entirely ignored their ultimate clients, the people of Grenfell Tower. They knew they were all literally playing with fire.”

What is being said is that the 72 who were killed in the Grenfell fire inferno were victims of the heinous crime of social murder.

This term was coined by Frederick Engels in his seminal work, *The Condition of the Working Class in England* in 1845. He wrote, “When society places hundreds of proletarians in such a position that they inevitably meet a too early and an unnatural death, *one which is quite as much a death by violence as that by the sword or bullet*; when it deprives thousands of the necessities of life, places them under conditions in which they cannot live—forces them, through the strong arm of the law, to remain in such conditions until that death ensues which is the inevitable consequence—knows that these thousands of victims must perish, and yet permits these conditions to remain, its deed is murder just as surely as the deed of the single individual.” [emphasis added]

The Socialist Equality Party and the Grenfell Fire Forum insisted from the outset that the inquiry, a creature of the Conservative government, would not bring justice and was aimed at protecting the guilty. The request for immunity must serve as a reality check for all those who retain illusions that the inquiry can bring justice.

We repeat our call to families and the Grenfell community to withdraw all co-operation from the inquiry and to instruct their legal team to do likewise. The demand must be taken up for criminal proceedings, with arrests and charges brought immediately, in order to bring those responsible for the deaths of 72 men, women and children to justice.

*For further information visit the Grenfell Fire Forum Facebook page.*



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