

Grenfell Inquiry witnesses granted immunity from prosecution resulting from oral evidence

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The Grenfell Inquiry recommences today with witnesses from the corporations and organisations whose actions caused the deaths of 72 people granted immunity from any prosecution that might result from their testimony.

Phase two of the proceedings were halted on January 29, when representatives of the architects of the Grenfell Tower 2014-16 refurbishment, Studio E, flammable cladding providers and installers Rydon and Harley Facades, and the Kensington and Chelsea Tenant Management Organisation (KCTMO) petitioned inquiry head Sir Martin Moore-Bick to ask the Attorney General's office for an undertaking that they would be given immunity from self-incrimination.

During the intervening period, published letters exchanged between the Attorney General and the Inquiry shed light on how the attempts of the corporate wrongdoers to shield themselves from justice were being facilitated by the Inquiry and government.

Solicitor to the Inquiry, Caroline Featherstone, contacted the Attorney General to express concern that some witnesses were so closely identified with their corporate entity that it might be more expedient to provide corporate immunity as well as individual protection against self-incrimination.

On February 18, the Attorney General's office was forced to ask Featherstone, "How could a witness give oral evidence to the Inquiry in a corporate capacity, rather than in their individual capacity, and why does the Inquiry consider it is necessary to receive evidence in that form? ... In our view uncertainty over these issues has the potential to create practical challenges for the investigation and potential prosecution of any criminal offenses arising out of the events which the Inquiry is considering."

Two days later, Featherstone insisted, "There is a risk that some individuals may be so closely identified with a corporate entity that their answers to questions may be capable of being attributed to the corporate entity itself, which would be entitled to make an independent claim to privilege against self-incrimination." Including companies "would simply ensure that, if and insofar as they could be regarded as having given evidence, they would also be protected against self-incrimination to the same extent as under the general law."

Last Wednesday, new Attorney General Suella Braverman

granted the request for individual witness immunity—under which no oral evidence can be used in any future criminal prosecution. Braverman said this was vital to discover "the truth about the consequences of the fire."

The "fact sheet" by the Attorney General's office explaining the ruling was a damage limitation exercise. Granting such an undertaking of immunity has been central to many other inquiries—and is a tried and tested mechanism of the ruling elite to manage their crises. It names the "the Stephen Lawrence Inquiry, the Bloody Sunday Inquiry, the Ladbroke Grove Inquiry, the Robert Hamill Inquiry, the Rosemary Nelson Inquiry, the Baha Mousa Inquiry, the Al Sweady Inquiry, the Azelle Rodney Inquiry, the Iraqi Fatalities Investigations and the Undercover Policing Inquiry."

The statement declares that "the undertaking does not provide immunity from prosecution against anyone (whether individuals or corporates) and the Attorney concluded it will not jeopardise the police investigation or prospects of a future criminal prosecution."

It concludes, "Only oral evidence is covered by the undertaking. Any documents considered by the Inquiry are not covered and so can be used in any future prosecution. Also, as noted above, the undertaking does not cover corporates which means that oral evidence given to the Inquiry can be used against them in any future prosecution."

The decision applies to critical issues being raised in Phase 2, including the examination of refurbishment and cladding in the combustible panels and accompanying insulation, testing, certifying, and marketing of the cladding, and how the Conservative-run Royal Borough of Kensington and Chelsea and the Kensington and Chelsea Tenant Management Organisation (KCTMO)—that managed the tower on its behalf—communicated and handled complaints.

No-one should accept the weasel words of the Attorney General. Individuals involved in terrible crimes are being made immune from prosecution. That is what it means to rule that "any individual who gives evidence to the Inquiry (in Phase 2, Modules 1 to 3) cannot have that evidence used in any prosecution against them in the future."

Moreover, all reassurances from the Attorney General and Inquiry about not granting corporations immunity, as entities,

are a red herring. A month after the fire in July 2017, the Metropolitan Police sent a letter to survivors saying that “there are reasonable grounds to suspect that each organisation may have committed the offence of corporate manslaughter, under the Corporate Manslaughter and Corporate Homicide Act 2007.”

As the WSWS noted last year, “The police considering charges under the 2007 Act means that no *individuals* responsible will be brought to justice. The Act stipulates that only corporations as an entity can be found guilty of such a charge, not those leading the companies. The most that will happen, if the council and/or KCTMO are found guilty of corporate manslaughter, is that they will receive a fine and carry on with business as usual. As public entities, the taxpayers will foot the bill.”

The use of the 2007 legislation by the police has been critical in allowing the guilty to evade justice. The Met letter made clear that no individuals may *ever* be arrested or charged. It stated, “The legislation under the Corporate Manslaughter and Corporate Homicide Act 2007 does not provide a power to arrest any individual.”

If at some point in the future the police bring any charges against the Grenfell corporations under the Act, the companies will be confronted by some of the most toothless legislation ever committed to the statute books.

The Act was specifically written to protect corporations and individuals within them from being brought to justice. Section 18 of the Act headed “No individual liability” states: “(1) An individual cannot be guilty of aiding, abetting, counselling or procuring the commission of an offence of corporate manslaughter.” It adds: “(1A) An individual cannot be guilty of an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) by reference to an offence of corporate manslaughter. (2) An individual cannot be guilty of aiding, abetting, counselling or procuring, or being art and part in, the commission of an offence of corporate homicide.”

The WSWS warned, “The Corporate Manslaughter Act has had no impact at all on punishing the criminal activity carried out by major corporations in the decade since its introduction. All the prosecutions brought under the Act have targeted small and medium sized firms, resulting in only 21 convictions and the largest fine of just £1.2 million. In December 2013, a firm convicted of the death of a worker who was crushed while trying to repair a street-sweeping truck was fined just £8,000.

“The Act enables corporations to bypass the Common Law offence of gross negligence manslaughter—under which those convicted can go to prison—due to its guarantee of individual impunity.”

Responding to the decision granting immunity, a spokesman for the relatives’ support group Grenfell United observed, “We can’t help worry about how this will impact prosecutions later. It is clear that corporate lawyers are playing every dirty trick from the book.”

The group insisted, “Truth at the inquiry must not come at the expense of justice and prosecution. For our continued participation the government must make sure the inquiry process does not undermine prosecutions. If prosecutions are affected by this decision, we will hold the government accountable.”

“Grenfell was a tragedy, but it was not an accident. The people responsible for knowingly encasing our families in a death trap and the people that allowed them to do it must face the full force of the law. We expect criminal prosecutions at the end of this and will not settle for anything less.”

Fire Brigades Union (FBU) General Secretary, Matt Wrack, said that firefighters who had provided testimony earlier would be “appalled” by the decision. “It seems there is one rule for them and another for those doing the bidding of the profiteers who turned Grenfell into a death trap. The truth must now come out—and those responsible must be finally held to account.”

Yet Wrack and the FBU continue to back and facilitate an inquiry and police “investigation” that are mechanisms through which those guilty of social murder are being protected. Moore-Bick’s Inquiry was convened under the Blair Labour government 2005 Inquiries Act, which states, “An inquiry panel is not to rule on, and has no power to determine, any person’s civil or criminal liability.” Moore-Bick proposed, with former Prime Minister Theresa May rushing to agree, that any issues of a “social, economic and political nature,” should be barred from the inquiry.

The Grenfell families and all those seeking justice must end collaboration with the inquiry and instruct their legal teams to withdraw. The arrests, charging, and criminal prosecutions of all those responsible must begin immediately.

The author recommends:

Inquiry issues cover-up report on Grenfell Tower fire disaster [31 October 2019]

Official inquiry cover-up of Grenfell Fire begins “second phase” [27 January 2020]



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