

PRIVILEGED AND HIGHLY CONFIDENTIAL

THE GRENFELL TOWER INQUIRY

**RYDON MAINTENANCE LIMITED'S
OPENING STATEMENT**

Introduction

1. This is the Opening Statement of Rydon Maintenance Limited ("Rydon"). As indicated in the letter of the Solicitor to the Inquiry dated 26 April 2018, the purpose of this Opening Statement is to provide an outline of Rydon's position at this juncture. As requested, if Rydon does not wish to add to this written outline by way of further oral submissions during the opening week, it will inform the Inquiry by Thursday 31 May 2018.
2. Rydon offers its sincere condolences and sympathy to the bereaved, survivors and those affected by the Grenfell Tower fire.
3. As Phase 1 is to be largely set aside for exploring the facts and events which took place on the night of the fire, Rydon anticipates its role in Phase 1 will be necessarily limited. However, Rydon remains committed to assisting the Inquiry with its investigations during Phase 1 of the proceedings.

Rydon as a Contractor

4. Rydon Group Limited is a privately-owned group which carries out construction, development, maintenance and management works throughout England. The group employs over 750 staff and includes Rydon Maintenance Limited, the only part of the Rydon Group which was engaged in the refurbishment works carried out at Grenfell Tower. Much of Rydon's work is ultimately for public sector clients such as local authorities.
5. In common with most main contractors, Rydon operates with a limited permanent direct labour force. It retains independent professional consultants together with specialist suppliers and sub-contractors (for example, specialist cladding and glazing contractors) as appropriate to provide a project team which is tailored to the particular project in question. In design and build contracts, it is not uncommon for the Employer's consultants responsible for the design and specification of the works pre-contract to have their contracts assigned or novated to the main contractor as a condition of being awarded the contract.
6. The Grenfell Tower refurbishment works followed that normal pattern.
7. Following a procurement and tendering process, by a JCT Design and Build Contract (2011 edition) (as amended) and dated 30 October 2014 ("the Rydon Contract")¹, KCTMO employed Rydon as principal contractor in respect of refurbishment works at Grenfell Tower. In turn, the retainers of the Employer's architect (Studio E) and other consultants were assigned or novated to, or directly appointed by, Rydon, and Rydon then subcontracted the work packages to specialist subcontractors and consultants (as detailed in Rydon's Position Statement²). The works carried out pursuant to the Rydon Contract, were closely supervised and inspected by the Employer's Clerks of Works and were signed off by RBKC Building Control.

¹ RBK00018809

² RYD00094204

Current Status of the Inquiry

Disclosure

8. At the time of writing, since 19 February 2018, the Inquiry has disclosed documents to Rydon's legal team in 14 tranches. The most recent tranche was only disclosed on 11 May 2018. The nature of the documentation disclosed so far appears to be consistent with the phasing of the Inquiry in that the documents are largely limited to dealing with the narrative surrounding the outbreak of the fire. Rydon and its legal team is still reviewing this material.

Phase 1 – The Inquiry Expert Evidence

9. The first of the Inquiry's expert reports was released to Core Participants on 29 March 2018 and the last disclosed report of Dr. Lane was released on 17 April 2018. The volume of expert material which has already been released is substantial. In particular, the expert report of Dr. Lane³ contains lengthy technical material where the main report runs to some 848 pages (and to 1,507 pages, including Appendices A-K⁴).
10. Core Participants are still awaiting the release of the expert report from Prof. Torero who is due to give evidence during Phase 1 on the very significant issue of fire spread throughout Grenfell Tower. Rydon looks forward to receiving the same and will do its best to consider the detail of the Report when it is received. However, Rydon anticipates that it will need time to consider properly this final report. Rydon also notes that Dr. Glover's report on electrical issues and Dr. Hancox's report on gas supply issues are outstanding.
11. Rydon and its legal team have done their best to consider the expert material in the time available, however will require more time in order to review the material properly. As such, Rydon reserves all its rights in respect of the expert evidence (including its right to request permission to ask questions of the experts in respect of their evidence). For present purposes, from its preliminary review, Rydon notes the points set out below.

³ BLAR00000001 – BLAR00000015

⁴ BLAR00000016 – BLAR00000026

12. In the Inquiry's update posted on its website on 27 April 2018, it explains that Phase 1 will focus on the factual narrative of the events of the night of 14 June 2017 and that Phase 2 will address the remainder of the issues identified in the List of Issues.
13. As to the content of the expert reports disclosed so far, Rydon has the preliminary concerns set out below.
14. First, Dr. Lane's Report appears to extend beyond the scope of Phase 1:
- (1) The scope of Dr. Lane's instructions for Phase 1 are contained in Section 2.1.3 of her Report⁵:

"a preliminary report on the identification of the active and passive fire protection measures within Grenfell Tower on 14th June 2017, including preliminary conclusions (where possible) as to the extent to which they
a) Failed to control the spread of fire and smoke; and
b) Contributed to the speed at which the fire spread."
 - (2) The scope of Dr. Lane's instructions for Phase 2 is contained in Section 2.1.4 of her Report⁶. This includes (for example): reporting on the design and construction of Grenfell Tower; compliance with various regulations, legislation and industry practice.
 - (3) However, the Report contains matters which clearly fall outside the scope of Phase 1. This includes, for example, considering and deciding on compliance issues within Sections 11 (Construction of the External Walls)⁷, 15 (Construction of the Common Lobbies)⁸, and 16 (Construction of the Single Protected Stair)⁹ of her Report.
15. Secondly, Mr Todd's Report¹⁰ deals with the regulatory framework. It is currently unclear how the contents of his Report relate to the issues which are due for

⁵ BLAR00000001_0012

⁶ BLAR00000001_0012

⁷ BLAR00000006

⁸ BLAR00000010

⁹ BLAR00000011

¹⁰ CTAR00000001

consideration in Phase 1.

16. Thirdly, in places, the expert reports/forensics appear to reach inconsistent views. For example, this includes:

- (1) As to fire origin: Bureau Veritas (Section 15.1)¹¹ and Key Forensic¹² appear to conclude that it is most likely that the fire started in the fridge/freezer in the kitchen of Flat 16, whereas the Inquiry experts conclude that it is most likely that the fire commenced in or around the fridge/freezer (Prof. Nic Daeid, Section 8.2¹³; and Prof. Bisby, para 892¹⁴).
- (2) As to the fire spread through the window, Prof. Nic Daeid (Section 8.4)¹⁵, Prof. Bisby (paras 575 to 598)¹⁶ and Dr. Lane (Section 9)¹⁷ reach slightly different conclusions.
- (3) Dr. Lane concludes that the AOV system failed to operate on the night of the fire (Section 2.15.32)¹⁸. However, it is not clear how she has reached this conclusion. Further, the leaked Draft BRE Report dated 31 January 2018 concluded that the AOV system (otherwise known as the smoke control system), appears to have been operating on the night (paragraph 190).

17. While Rydon appreciates that there is a need for some degree of flexibility between Phase 1 and Phase 2 of the Inquiry, it is concerned by the extent to which the Inquiry experts have travelled outside the objects of Phase 1. As Rydon understood it, and as previously set out by the Inquiry in November 2017 and more recently in the latest information on the Inquiry's website, the purpose of Phase 1 was to receive the evidence of the victims of the tragic events including relevant

¹¹ MET00007996_0037

¹² MET00005197_0013

¹³ NNDR00000001_0086

¹⁴ LBYR00000001_0210

¹⁵ NNDR00000001_0086

¹⁶ LBYR00000001_0128 – LBYR00000001_0131

¹⁷ BLAR00000004

¹⁸ BLAR00000001_0043 – BLAR00000001_0044

eyewitness evidence, hear the factual evidence from the firefighters and concentrate on those parts of the expert evidence that were relevant to establish, in effect, the nature of the response of the emergency services, the likely origin of the fire and a reasonably clear but preliminary timeline for the spread of the fire and smoke both externally and internally. That would then give a baseline against which the wider evidence that would be given in Phase 2 could be addressed.

18. It would not, in Rydon's submission, be appropriate for the Inquiry in Phase 1 to make findings which go wider than the above. While, for example, there will quite properly be a focus on the extent to which the ACM panels, insulation and other components of the works caused or contributed to the spread of the fire, the Inquiry will no doubt wish to hear evidence from, for example, the manufacturers of those materials and any experts they wish to put forward as well as from those in the industry more generally (not just Studio E) who have routinely specified such materials. This is discussed further below.
19. Similarly, Rydon would be concerned if the Inquiry proceeded to make findings in Phase 1 as to, for example, the meaning and effect of the Building Regulations and the relevant guidance in a vacuum, divorced from other evidence. It is noted, for example, that Mr. Todd has expressed his opinions on the meaning of the Building Regulations (albeit some of his views are not shared, indeed seemingly directly contradicted, by Dr. Lane). The wider point is whether the industry generally, specialist fire consultants and Building Control understood whether cladding systems of the type specified at Grenfell Tower might potentially give rise to a significant risk of fire spread or that the Building Regulation Guidance was to the effect suggested by Mr. Todd.
20. The Interim Report of the Hackitt Review (which is discussed further below) is relevant, additionally there is the Final Report published yesterday, 17 May, but again Rydon submits these are properly matters for Phase 2. It is also the case that, as a result of the BRE tests after the Grenfell Tower fire, there are apparently a very substantial number of high-rise buildings with cladding systems which would fail one of the BRE's full-scale tests. Indeed as has been widely reported this week, there are hundreds of tower blocks with ACM cladding and the Government has announced it will fund a £400M operation for cladding replacement on many such

blocks. Such systems will, presumably, have been, as here, designed and specified by reputable consultants, and considered, inspected and passed by those responsible for ensuring compliance with the Building Regulations. In those circumstances, Rydon imagines that the Inquiry will wish to receive wide ranging evidence from across the industry, including, for example, consultants (including ones who have specified such systems), general contractors, specialist suppliers/contractors, the manufacturers, building inspectors, Exova, the BRE etc. in order to put the evidence relating to Grenfell Tower in its proper context. This is, however, evidence which would come within Phase 2.

21. It is particularly important to consider such issues within their full evidential context not only given the wider industry context set out above but also when, as here, key discussions about the refurbishment and materials to be used were dictated by specialists, prior to Rydon's involvement. Rydon would respectfully suggest that it would be prudent for the Inquiry to make this clear when the experts' reports and the supporting materials are made public in order to reduce the risk that the reports will be perceived as the definitive view of the Inquiry which are unchallenged by any interested party.

Other/Separate Reviews

22. Rydon is aware that there are various other reviews taking place in parallel with this Inquiry. As noted above, this includes the Hackitt Review, which is being carried out by Dame Judith Hackitt DBE FREng. In the Independent Review of Building Regulations and Fire Safety: Interim Report dated December 2017, it was concluded (at p. 10) that:

“The work of the review to date has found that the current regulatory system for ensuring fire safety in high-rise and complex buildings is not fit for purpose. This applies throughout the life cycle of a building, both during construction and occupation, and is a problem connected both to the culture of the construction industry and the effectiveness of the regulators.”

23. The key reasons for this failure were stated to be (at p. 10) that:

“• Current regulations and guidance are too complex and unclear. This can lead to confusion and misinterpretation in their application

to high-rise and complex buildings.

- *Clarity of roles and responsibilities is poor. Even where there are requirements for key activities to take place across design, construction and maintenance, it is not always clear who has responsibility for making it happen.*

- *Despite many who demonstrate good practice, the means of assessing and ensuring the competency of key people throughout the system is inadequate. There is often no differentiation in competency requirements for those working on high-rise and complex buildings.*

- *Compliance, enforcement and sanctions processes are too weak. What is being designed is not what is being built and there is a lack of robust change control. The lack of meaningful sanctions does not drive the right behaviours.*

- *The route for residents to escalate concerns is unclear and inadequate.*

- *The system of product testing, marketing and quality assurance is not clear.”*

24. The final report was published yesterday, and Rydon and its legal team are reviewing this in detail. It seems clear, even on a preliminary review, that the conclusions reached by the Hackitt Review will require careful consideration by the Inquiry. In particular, the conclusions concerning the significant failings of the regulatory regime which existed at the time that the works were carried out to Grenfell Tower are likely to impact on Phase 2 and ties in with the points made by Rydon in paragraphs 19 - 21 above.
25. Rydon is also aware of other reviews including: the independent expert advisory panel chaired by Sir Ken Knight; the MHCLG reviews into social housing and into Approved Document B and desktop studies; the MHCLG consultation launched yesterday on banning the use of combustible materials in cladding systems on high-rise residential buildings only hours after the final Hackitt report did not recommend such a move.
26. It is not clear at present how the Inquiry proposes to take into account the work done (and which will continue to be done) as a result of the other reviews and activities. What is clear is that some of the conclusions apparently reached by some of the Inquiry's experts are not consistent with the reviews published to date and what can be inferred to be the general understanding of the industry given the very large numbers of tower blocks where cladding systems including ACM panels have been constructed.

Conclusion

27. As noted above, Rydon is proceeding on the basis that Phase 1 will be an exercise which is designed principally to achieve some detailed preliminary findings as to the source/origin of the fire, and a timeline for the spread of the fire and smoke, both externally or internally, together with when and where people within Grenfell Tower moved during the course of the night.
28. On that basis, as has been set out above, in the light of its review of the evidence disclosed to date, Rydon anticipates that its involvement in Phase 1 is likely to be limited. It will, however, obviously continue to review the evidence and confirms that it remains committed to assisting the Inquiry with its investigations where possible.

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