
MODULE 6 TESTING AND CERTIFICATION AND GOVERNMENT (INCLUDING FRA)

CLOSING STATEMENT

ON BEHALF OF THE LONDON FIRE COMMISSIONER

1. In Phase 1 of the Inquiry, the London Fire Brigade's (LFB) understanding of the risks posed by ACM materials when used in the cladding of high-rise buildings was the subject of intense scrutiny. Similarly, its reliance on the provisions of the Building Regulations as a bulwark against catastrophic, all-consuming fires in residential high-rise buildings was explored in depth. On these issues, the Phase 1 Report found that:
 - (a) some senior figures within the LFB were aware of a long history of fires involving cladding in both in this country and abroad (*Phase 1 Report para 21.10*); and
 - (b) there was a reluctance at senior levels of the Brigade "to believe that a building could ever fail to comply with the Building Regulations" with a consequence that the "stay put strategy" (for which the Building Regulations provided) had become an "article of faith" (*Phase 1 Report para 28.54*).
2. During Module 6(a) of Phase 2, a number of senior LFB officers (past and present) provided evidence to the Inquiry in which they sought to provide historical context to the Brigade's approach on these issues, within which a number of candid concessions were made. For the purposes of this Statement, the LFC does not resile from those concessions and recognises that the contextual background is of great significance.
3. Module by module, the evidence in Phase 2 has provided a substantial body of essential context from multiple witnesses on a wide range of issues, which were explored substantially with the LFB in Phase 1. The evidence in Module 6(b) has been

of vital importance to a proper understanding of the extent to which ACM PE materials were generally known to be in use on residential high-rise buildings and the effectiveness of the Building Regulations in preventing such use.

4. In light of the evidence given in Module 6(b), it is clear that, in the years leading up to the Grenfell Tower fire (with very limited exceptions), the extent of the Brigade's knowledge of the risks of ACM PE materials and its reliance on the effectiveness of the Building Regulations was broadly shared across the fire sector and by government itself. While the Lakanal House and Shepherd's Court fires had involved spandrel panels connected with the fenestration design, they were not ACM PE making up a rainscreen cladding system.
5. In evidence given by all the witnesses from the responsible government department (DCLG at the relevant time) and from the BRE (most of whom were highly experienced technical advisers in relation to the built environment), the following picture emerged:
 - (a) Notwithstanding the failed test of an ACM panel by the BRE in 2001, which was reported to DCLG in 2002 but not published until after the Grenfell Tower fire, none of those particular witnesses was aware of the use of ACM PE panels on high-rise residential buildings in the UK, save for Dr Sarah Colwell and Brian Martin from 2014. (*Crowder, Colwell, Smith, Burd, Harral, Ledsome, and Martin*).¹

¹ *Dr David Crowder*, Transcript, Day 229, 9 February 2022, page 135, lines 1-19, including: "There was a belief that these fires wouldn't occur in the UK because ACM was not being installed in the UK...Grenfell was the first time I handled an ACM."

Dr Sarah Colwell, Transcript, 16 February 2022, Day 233, page 53, lines 16-25, did not flag up the dangers of ACM PE in a paragraph in the revised BR 135 (published in 2013), because "At that point we genuinely didn't recognise that ACM was being widely used. We hadn't seen it as a product and hadn't picked that up as part of this review process."; Transcript, Day 233, 16 February 2022 page 194, line 22 to page 195, line 1: in 2014, "I was not aware that they were being used in the construction industry."

Dr Debbie Smith, Transcript Day 235, 21 February, page 159, lines 1 to 11; Day 237, 23 February 2022, page 87, lines 18 to 23 and page 123 lines 1 to 12

Anthony Burd, Transcript, Day 238, 24 February 2022, page 195, lines 1 to 19.

Richard Harral, Transcript, Day 243, 7 March 2022, page 139, lines 11 to 23.

Bob Ledsome, Transcript, 9 March 2022, page 58, lines 6 to 14 and page 65, lines 16 to 24

Brian Martin, Transcript, Day 252, 22 March, page 120, lines 14 to 21.

- (b) Although there was an awareness of international fires involving ACM, there was a firm belief that these fires would not occur in the UK, partly because ACM was thought not to be in use on tall buildings and partly because the Building Regulations (including ADB paragraph 12.7) prohibited its use. (*Crowder, Colwell, Smith, Burd, Martin*)²
- (c) David Crowder was of the view that this was an industry wide belief.³
- (d) For example, following the Torch fire in Dubai in February 2015, the Government's Chief Fire and Rescue Adviser was informed by DCLG later that month that the dangers posed by ACM PE cladding should not be a problem in the UK because "there are provisions in the Building Regulations to prevent this kind of problem".⁴ The same broad view was expressed by DCLG in response to queries about the Address Hotel fire in Dubai in January 2016. (*Ledsome, Harral, Upton, Martin*).⁵
- (e) In relation to international fires generally, there was no system in government by which requests for information on foreign fires were made.⁶
- (f) No warnings by government were disseminated more widely of concerns expressed at the CWTC meeting in July 2014 that ACM was in common use, or the expressions of concern from Nick Jenkins of Booth Muirie in February 2016 that confusion over the interpretation of ADB raised a risk of a fire in the UK like those in the UAE. Brian Martin, as the government official in receipt of those concerns

² *Dr David Crowder*, Transcript Day 229, 9 February 2022, page 135, lines 1 to 25, page 136, lines 1 to 13 and 137, lines 10 to 25.

Dr Sarah Colwell, Transcript, Day 232, 15 February 2022, page 130, lines 15 to 18.

Dr Debbie Smith, Transcript, Day 237, 23 February, page 85, line 22 to page 86, line 8.

Anthony Burd, Transcript, Day 239, 28 February 2022, lines 1 to 7.

Brian Martin, Transcript, Day 252, 22 March 2022, page 112, line 23 to page 113, line 7.

³ *Dr David Crowder*, Transcript Day 229, 9 February 2022, page 135, lines 24 to 25.

⁴ {CLG00031073}, email from Peter Holland to various, including Louise Upton and Brian Martin dated 21 February 2015 re: Dubai high rise fire; *Brian Martin*, Transcript, Day 254, 24 March 2022, pages 52 to 55.

⁵ *Bob Ledsome*, Transcript, 9 March 2022, page 54, line 14 to page 59, line 24; *Richard Harral*, Transcript, 8 March 2022, page 146, line 1 to page 150, line 1; *Louise Upton*, Transcript, 15 March 2022, page 58, line 8 to 20; *Brian Martin*, Transcript, 24 March 2022, page 164 lines 3 to page 169, line 1.

⁶ *Brian Martin*, Transcript 22 March 2022, Day 252, pages 106 to 107.

did not escalate them to his superiors or share them more widely, failing to appreciate the extent of the hazard.⁷

6. The net effect of that evidence is that the LFB (and fire and rescue services more widely) was by no means alone in placing a high degree of reliance on the Building Regulations. That is notwithstanding the broader concerns expressed by the LFB in letters to government in regard to the levels of compliance by the building industry with those regulations which concerned fire safety (see paragraph 10). DCLG, the government department responsible for those regulations and the impact which they had upon the use of ACM PE materials, was of the same view. Indeed, the Department expressed views to that effect when asked by multiple parties (including the fire and rescue service sector) for clarification in the light of fires involving ACM PE materials abroad. To the extent that there was a growing awareness on the part of Sarah Colwell and Brian Martin, there was a failure to appreciate the extent of the hazard and/or communicate it more widely to the industry and the fire sector.
7. As a number of witnesses in Modules 6a and 6b have frankly accepted, that level of trust in the efficacy of the Building Regulations was (at least in hindsight) misplaced, with tragic consequences.
8. The historical background is important in understanding how that state of affairs came about. Since the inception of “stay put” high-rise buildings in the late 1950s, there was a generally held view that the Building Regulations which applied to high-rise residential buildings were such that they did not pose a high risk to occupants in case of fire. The statistics appeared to demonstrate that the regulatory system was effective. No significant or catastrophic building-wide fires in high-rise residential buildings with a stay put strategy had occurred for many decades because they had been designed and built in accordance with the regulations, using materials which were widely understood by industry and regulators alike. Latterly, the refurbishment

⁷ *Richard Harral*, Transcript, 8 March 2022, page 157, line 10 to page 162, line 21; *Bob Ledsome*, Transcript, 9 March 2022, page 65, lines 6 to 14; *Brian Martin*, Transcript, 23 March 2022, page 63, lines 6 to 17; page 64, lines 3 to 8; page 131, lines 11 to 23; 24 March 2022, page 60, lines 21 to 25; page 61, lines 1 to 25; page 196, line 21 to page 197, line 5; 25 March 2022, page 5, lines 12 to 19.

of such buildings using modern materials and more complex design features has challenged the interpretation of the regulations.

9. Following the Garnock Court fire in 1999, the report of the Select Committee on Environment, Transport and Regional Affairs recommended that local authorities and registered social landlords should review their existing stock and the cladding systems used, to minimise the risks of a serious fire in which many lives might be lost. The LFC acknowledges that, in the years following the report of the Select Committee, the Brigade wrote to central government (and to housing providers) on a number of occasions (from at least 2009) raising general concerns about materials used in the construction and refurbishments of residential buildings and about levels of compliance with the Building Regulations. While those concerns did not relate to ACM PE materials (because they were not known to be widely used), the LFC also accepts that more could have been done to highlight with government a growing awareness of the possibility that the regulations were not always being adhered to or were being interpreted in a way which impacted on fire safety.
10. However, the LFC is of the view that other factors are of equal, if not greater, significance in relation to the causes of the Grenfell Tower fire. Those factors concern the practices and procedures of those who manufacture and market building materials in the knowledge that they pose risks to life but nonetheless promote them as safe products which conform to UK standards. The Inquiry will have fully in mind the evidence which was revealed in earlier modules in Phase 2, which is not rehearsed here.
11. The DCLG's firmly held views about the robustness of the UK regulatory system may have impacted on broader issues. For example, it may have informed the Department's position, when asked by the LFC for clarity on whether the Regulatory Reform (Fire Safety) Order 2005 was intended to regulate external building envelopes. The response by the Department was that there was no indication that it was so intended. In adopting that position the Department may have had regard to the fact that regulations were designed to prohibit external fire spread and to require that

firefighting, in residential high-rise buildings, should be carried out internally, while residents unaffected by the products of combustion should be safe to stay in their flats. As Brian Martin accepted during his evidence in Module 6(b), nothing in ADB catered for the contingency that “stay put” might have to be revoked and a full-scale evacuation or rescue ensue.⁸

12. It is important to remind the Inquiry that, while the LFB and other fire and rescue services have evacuated *parts* of high-rise buildings which are affected by fire on numerous occasions in the past, such as Adair Tower and Shepherd’s Court, the disapplication of the stay put strategy for the *entire* building at Grenfell Tower on 14 June 2017 was the first time such an approach had been adopted in the UK, as far as the LFC is aware. The emergency evacuation of an entire building during the immediate response to a fire is to be distinguished from the decanting of a building after a fire, as occurred, for example, at Adair Tower and Lakanal House.

Conclusion

13. The evidence adduced by the Inquiry in Module 6(b), in substantial part, necessarily concerned the extent of the government’s knowledge of the risks posed by ACM PE materials and the adequacy of the Building Regulations in the years leading up to the Grenfell Tower fire. However that evidence may be interpreted, it is now essential that a more holistic approach to building safety is taken that fully considers the needs of all residents. All reasonable efforts need to be made to ensure that residents, including those with disabilities, have equal opportunity to evacuate or to be supported in doing so in the event of a fire. Buildings should not be designed, built or refurbished by seeking convenient interpretations or loopholes in guidance and the fire safety measures in a building should offer an appropriate level of resilience.

⁸ Transcript, Day 254, 24 March 2022, page 138, lines, lines 3 to 8

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