

**WITNESS STATEMENT**

Criminal Procedure Rules, r27.2; Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5b

Statement of: MACKOVER, SAM

Age if under 18: OVER 18 (if over 18 insert 'over 18')

Occupation: RBKC COUNCILLOR

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This statement (consisting of page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature:

Date: 30/07/2018

Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

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My name is Sam MACKOVER. I was a Councillor on the Council of the Royal Borough of Kensington and Chelsea representing the Queen's Gate Ward. I was elected in a by-election in the summer of 2011 and retired in May 2018. I was in post for just under seven years. You put yourself forward through a particular party to become a candidate and then you put yourself forward for a Ward.

I take queries from residents in the Ward and no one reports to me and I do not report to anyone. The councillors are individuals. I sat on the Housing and Property Scrutiny Committee where I was the chairman for meetings between July 2016 to March 2018 and the Planning Committee where I was a vice chairman.

My role on the Housing and Property Scrutiny Committee was dictated by the constitution. There are things which are covered by what you can do within the remit of the committee and also what the chairman can and can't do. There is no decision making on the committee itself, it is simply a body that can question key decisions and the role of the chairman is to make sure that everyone has their say and that the summing up in the minutes accurately reflects the view of the meeting.

There is no vote taken at the meeting. It is basically people asking questions within the boundaries of what they can ask and the chairman makes sure that everyone has their time to say what they want.

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Councillor MARSHALL was chairman before me, I think there is a rotation and you move after a particular amount of time. I don't know how long he had been there.

There are up to six meetings with set dates per year and they each run for approximately two to two and a half hours. So with a strictly limited amount of time there are limits to what a scrutiny committee does. The main job is to examine key decisions, which are made by the leadership group or lead member for the areas that we are responsible for. Those key decisions are flagged in advance so that the committee can see what it wants to discuss. Each meeting has a forward calendar of key decisions and one of the standard items on a scrutiny committee is to look through that and any councillor on the committee can ask for that decision to be discussed or they can ask for information about it. So, the decision will either come to the committee or the committee can ask for it to be discussed. The key decisions are taken at the leadership level and it excludes decisions made by officers unless they are related to a key decision. The constitution will dictate what is in and out of scope for a scrutiny committee. It typically will look at all housing and all property relating to the council and so that is approximately ten thousand homes managed by the Tenant Management Organisation (TMO) but it also looks at any private housing issues and any corporate property, such as town halls, libraries and leisure centres. Typically it will look at overall issues such as, this is the proposal for the level of rent or this is the proposal for the level of fuel charges for next year. So it's broad decisions, it doesn't have any experts that work for the committee. We are just looking at what we are presented with as overall decisions.

As a committee each member is equal in being able to ask about the decisions and its implications to make sure that it is understood. There are about ten councillors on the committee but it does vary over time depending on the structure. They are all elected councillors.

I don't know the exact process as to how key decisions are made, but there is a system and I imagine that its governance has a set of rules that will determine what factors in. So as an example, replacement of all the air conditioning at the town hall and boiler systems or something like that, if its above a certain level or has a certain impact then it would be a key decision, if it's a maintenance issue it would never come to us.

We have no power to stop key decisions, we can ask questions about the decisions and if there are

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concerns about the project we can ask for it to be looked at again by the relevant decision maker but we can't stop it or change it. This committee has an oversight of a process but it is not actually able to change anything, there is no vote and no decision. Its different from other committees like a licensing committee where councillors will vote yes or no on something. There is no executive function of the committee.

If a decision concerned the committee it is noted in the minutes that the committee is asking for a relevant decision maker to look at it again and for other options to be considered. The committee will form a view from the questions and comments that people make. It will usually be quite apparent if there is another option that needs to be discussed about something. But there is nothing the committee can do to make something happen or not make something happen, we do not make recommendations. It is all backbenchers who sit on the committee not frontbenchers. There is no report back to us but if we raise concerns, we can ask for someone to update us at the next meeting or future meetings.

I do recall meetings during the Grenfell Tower programme of works. I don't remember the dates but the best references are the documents and the minutes of the meetings that came to the committee. I was not chairman during this time. I recall a proposal for refurbishment and improvement and the paper that was presented referred to the sort of operations that would be done, that there had been periods of consultation and where the money had been made available for the TMO to undertake the plan. You can check the paperwork but the paper would have said that the decision is that the council would give this particular sum of money for the TMO, whose responsibility it is to choose what they want to do in terms of refurbishment and to create the extra homes that needed to be created. We would not see the specific details of the refurbishment, but we would see for example things, like to appoint an overall contractor to undertake the creation of homes and the improvement of facilities, we would see one overall number of what the anticipated cost would be and to open up a boxing club and a creche/nursery. We see various proposals like this about buildings, some are in the councils control like a library or leisure centre and some are in the TMO's control and it would say, this is the objective, this is the contractor, this is the amount of money, this is the consultation process and there would be a discussion or any questions. The key decision would have been to award a sum of money to the TMO to do the works, I can't remember the exact wording. So the committee was not being asked to review what to do there. It may have been in meetings before my time. I don't know at all the process of who decided what to do there. The decision was that the council would put the sum of money forward for them to do the works.

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I don't know who makes the decision as to whether buildings are to be refurbished, in the case of Grenfell Tower it may have been before my time, but its not something that I recall seeing at the scrutiny committee and its not something that in any other role I would have seen discussed. I don't recall exactly who attended the meeting to present the decision but its likely to have been the lead member for housing and property and probably the director of housing for the council and potentially someone from the TMO. They attend a couple of times a year. It's a council/lead member decision to put the money in and that was the thing that we were being asked to look at. The minutes are kept on the website, they would always come to the next meeting as an agenda item for the minutes to be discussed for any member to make any correction or clarification. That is the record I would rely on and see what any actions were from the previous meeting to see that they were correct. I think there could be more committee meetings during the year so that you wouldn't have to wait so long to see the decisions, but it wouldn't change the detail and I don't think it would make any difference to the scrutiny that we do. If the subject matter required it, then the meetings could go on longer than the allocated time. So I believe that we do have sufficient time to ask necessary questions and I can't recall an incident where on any scrutiny committee, someone was unable to ask their questions.

There is a review of governance services going on at the moment but I think one should always look at feedback and specialist advice from the review of governance to say how scrutiny committees can do better and engage with people better. The scrutiny committee is a process that none of us designed and when I first came in as a new councillor I saw this as just the process and I don't have a redesign in my mind, but I think it's still worth reminding anyone that looks at the committee, that it is not a decision making body and does not have an audit function and also there is no research facility. It can't do a lot of things that people think it can do and we took it as members of doing what we could within the constitution and the system as it was.

Residents can raise concerns and I do know that in December 2015 residents raised concerns in a petition to the council and they were brought to the January 2016 committee meeting and residents were able to come. There was a full discussion and all this was captured in the minutes. It was not something that was common and I don't recall any other residents from other estates doing that.

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The committee is not a complaints procedure against the TMO as there is a complaints procedure there and its not a complaints procedure against the Council as they also have a procedure with the ombudsman. Any matters that go to the ombudsman do not come to the scrutiny committee. The committee is looking at overall policy but when that petition was heard it was naturally a concern and a major item for the housing and property scrutiny committee to hear. I wasn't chairman at the time but I was there with other members and there was a clear discussion so that we could understand the nature of the complaints.

From what I recall it was towards the end of the project and there were various issues including the noise and disturbance which was very aggravating for the residents and the points that were made were instances of how difficult they were finding it to be there during the works and the compensation that the residents sought for disturbance and for radiators and curtains needing to be different sizes.

The meetings are always open and public, the agenda is on the website and anyone can attend. But in my time as a councillor I had not seen an example of this level of concern of the disturbance being caused.

Officers run the Council and there are thousands of them if you take all the employees as well. The councillors, typically backbenchers come in a couple of evenings a week, you come in for meetings and you will review something or if it's a licencing or planning committee you will have a case that you will make a decision on and then there will be overall council meetings where the biggest issues are voted on across the whole council. So councillors are non-executive, you can see what's going on but you don't have anyone reporting into you and you do not report to anyone. Your main function is to look after the concerns of your own ward residents and to sit on different committees. The leadership group which did not have cabinet members but now have lead members have the decision making powers and they sign things and consider policy options with officers. I have never been to a leadership team meeting and so don't really know what goes on there but that's where I think the key decisions are decided as a whole. You get a yearly allowance as a councillor, it's not a salary and it's to cover such things as printing and travel and all expenses, I can't recall how much it is but it is paid by governance services.

I can't recall an occasion when a key decision has been changed as a result of comments made by the scrutiny committee. If the committee feels that an option has not been explored then the most that I have

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seen happen is that the officer responsible will say that they will look at that option as well. So they might present two or three options for a particular building and if members of the scrutiny committee feel that some of it could be used for housing or a community meeting space then that option is put back through the system. We are not there to look at the detail of key decisions. We are not an internal audit function. We are saying is the recommendation sensible and does anyone else have any other ideas? The technical experts will have already reviewed and signed off what's coming to us. I don't know whether there are any audit committees that can scrutinise the decisions. I don't know what happens outside of the committee.

The scrutiny committee consists of Councillors. Officers present papers, the public attend and on occasions there are other invitees e.g. a housing association who may be asked to give us an overview of how they operate their association within the Borough and a couple of times a year the TMO will attend to present their annual monitoring report. The housing scrutiny committee would be looking at overall trends as to how the estate is managed.

My understanding is that the TMO has responsibility for the management of Grenfell Tower and I am not a stakeholder in them and I am not linked to any properties managed by them.

The TMO are responsible for the health and safety, fire checks and fire safety at Grenfell tower. To my knowledge this was not asked about in the committee meetings and not discussed. The TMO monitoring report would have had sections to my recollection that would have said what would have been done with improvements to the fire system and who they would have been reviewed by. I think it referred to a fire safety audit committee, I don't know whether that is a TMO fire safety audit committee or someone else. It would be in the late 2016 monitoring report. I don't have any material relating to Grenfell Tower

I don't know whether its specific to Grenfell Tower but the scrutiny committee throughout the time that I have been on it has been extremely vigilant and very concerned by any reports of fires across the estate and finding out what the cause was. Also scrutiny committee members have been following up on fire doors and continuing to push officers or the TMO or whoever was in front of us as to the progress of the replacement of fire doors across the estate and that would be in the minutes. This was the only fire issue that I was aware of, if there were any fires in the estate and if it was reported to us, this would prompt us

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to confirm that everything was being done that could be done. We were not aware of any risks to residents at the time of the fire. I think the last we heard was that the programme was complete apart from a few leaseholders who did not want to change their doors. Certainly in the big discussion in Jan 2016 there was no mention of fire and fire safety at all. I didn't deal with any fire safety issues and if there had of been a complaint this would have gone through the complaints procedure. From a scrutiny point of view we would have pursued very rigorously any reports on the progress or non-completion of the fire door issue and that was across the estate. We were not made aware of any recommendations about fire safety apart from the fire doors issue. We would be updated about other fires in the Borough and we would have the opportunity to ask questions and we would be looking at implications across the estate. There would be no detailed review about fires from other boroughs but we would consider whether the issues impacted upon our estate.

If we had a concern within the committee we could raise it with an officer or the TMO in the meeting and if they couldn't answer it straight away they would say that they would get back to us with a report or if there was an individual case the Councillor could write to me and then I would pass this to an officer to get an answer. I wasn't aware of any health and safety/fire safety concerns at Grenfell Tower. The TMO report in 2016 said that everything was satisfactory. If it had raised concerns then we would have picked that up. The TMO was responsible for the project and employed the experts. The name in my head as the contractor is Rydon but I am not sure whether they were responsible for project management, there were so many different teams of specialists that were part of the work. I have never seen any of those companies or how they linked together. I or the scrutiny committee was not involved in the planning / refurbishment of Grenfell Tower in any way including any decision making or materials used. I have no knowledge of the cladding apart from what I have read in the media. Grenfell Tower works have never come back to the committee since the fire. I am not aware of any testing carried out in relation to the refurbishments but the TMO monitoring report in 2016 stated that they had shown the functions of the system to the fire brigade. I don't know what functions they were referring to. I am not aware of who signed off the external cladding that was used on the building.

I am unaware of what fire advice was given to residents apart from what I have heard in the media and that there was a stay put policy in place which was advised by the fire brigade and that was what the TMO advice was to the people, but that was not just specific to Grenfell. I am not aware that the fire

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advice changed after the refurbishment it is not something that would come to us as it is not a key decision.

My only knowledge of the windows was that they were to be better insulated and more sound efficient. I was not aware that there were large gaps between the window frames.

Apart from the January 2016 meeting the only other concern from residents that I recall was when I first joined the committee. I have a basic recollection that residents were concerned about power surges and I think the committee at the time asked the TMO what was happening with it. My recollection was that the TMO got experts involved and they reviewed it and did something and a report was made that said the issue was resolved and we never heard about that issue again. I was a member not the chairman at that time. I don't recall a second meeting where residents attended about the matter, there could have been one but I don't recall. I don't know who the experts were.

When I saw the complaints in January 2016 meeting I asked questions of the TMO and whoever else was presenting then as I wanted to get to the bottom of it and the answers that I heard back to me didn't answer the questions raised by the residents and that's why the committee felt that the TMO had to provide a deep investigation into it and come back with detailed responses. I don't recall meeting with any residents groups, I don't see or review any blogs and thus the interaction would have been at the meeting itself. I have no interaction with resident group forums or blogs. I am not aware of anyone publishing material in relation to Grenfell Tower. Early on I recall seeing emails addressed to Councillors about things. I would not have interacted with any of those and the only knowledge I have is from being on the scrutiny committee and any issues that were brought up there.

I am also a member of the planning committee and became a vice chairman after a several years. I am not sure who was in post before me but you do it for a term. Planning matters are not included in the housing and property scrutiny committee. I get an allowance for being on the planning committee and do not report to anyone. We make the decisions based on the information in front of us.

The planning committee looks at individual cases where there has been a sufficient number of objections by members of the public that they would come to a committee of councillors to decide rather than be

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decided by officers. So the planning committee has a decision making power unlike the housing scrutiny committee. You receive a detailed report from officers of the precise policies and any conflicts or where any application agrees with policies. You get trained so that you can understand the policies but you are obviously not going to be as expert as an officer. It's not technical / legal training but just an understanding e.g. what's the difference between a listed building and a non-listed one. A typical case would be someone building a roof extension or building a basement underneath their home. You would look at construction traffic and noise as an issue but principally whether the application is policy compliant or not. The meetings are held every three weeks or so on a rota basis, you don't get called on all of them. The councillor's are told to reserve the dates but we don't know what cases are coming up until the week before. We read them and officers and the applicant or their representative give evidence in front of the committee and we have to decide. The objector may hire someone on their behalf to put their case or they may represent themselves. So the attendees are the officers who present the case and a senior person in planning to make sure everything is right at the meeting in terms of technical advice and on the interpretation of policy. There will always be a lawyer present to make sure that any of the decisions are taken correctly, the person who is chairing the meeting that evening and three or four other councillors who jointly make the decision. There is a vote every single time after the discussion. The chair will say what is the officer recommendation, do people agree with that and if they don't the reasons are minuted. The meeting is open and in public. An applicant who is refused can go to the government inspector. All meetings are minuted by officers.

The Grenfell refurbishment never went to the planning committee to my recollection and if it did I was not sitting on it. I think there was either none or only one objection to it and the things that would come to the committee are those with three or more objections, below that the decision would be taken by officers and the councillors would not be involved in it. In a typical planning application the objections would most likely be neighbours or an amenity society for example where the building may change the nature of the neighbourhood. There is no emotion, its all about whether it meets the planning objectives or not. The objections are all made on the website and are public, you can also send a letter which would be uploaded. The vast majority of cases do not come to the planning committee they are dealt with by officers under what's known as delegated powers.

I got involved in the planning side of things as people in my ward were writing to me about planning

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applications. So to understand it better I signed up for full training, which was given in a series of sessions where each of the policies were explained and the decisions that you could or couldn't involve yourself in. I became a member I think sometime in 2012. Once a month they also hold a planning committee for bigger projects separate to the smaller planning application meetings where I am on the rota. All planning committee members are invited to the bigger meetings.

My training involved sessions that were a couple of hours and covered different topics like conservation areas, roof extensions, basement policy and the appeals process. A senior officer would explain how the factors are weighed. The trainers were one or more senior officers but there were also other planning councillors there and you cannot sit on a planning committee until you have been through the training. There are about twelve sessions and thereafter, specific top up training such as the impact of trees on buildings.

The documents that I have referred to in the statement will clarify any points that I cannot recall clearly and by that I mean the constitution that governs what the housing and property scrutiny committee can and can't do and the agendas and minutes of each of the scrutiny committees, that is the record that we go on.

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