

APPENDIX 1

LETTER OF INSTRUCTION

Grenfell Tower Inquiry

15 October 2018

Mr Paul Hyett
HKS Architects Limited
Elsley House
24–30 Great Titchfield Street
London, W1W 8BF

By email only

Dear Mr Hyett,

Letter of Instruction - Grenfell Tower Inquiry

This letter confirms the terms of your instruction, by the Grenfell Tower Inquiry (“**the Inquiry**”), to act as an expert witness for the purposes of its investigation into the fire at Grenfell Tower on 14 June 2017.

The Inquiry’s Terms of Reference

The Inquiry’s Terms of Reference have been approved by the Prime Minister and have been published on the Inquiry’s website.

The Inquiry has also published on its website a detailed provisional List of Issues which identify the matters with which its investigation will be concerned. This provisional List (“**the provisional List**”) may be revised in due course.

You are advised to read both the Terms of Reference and the provisional List of Issues so that you are aware of the precise nature and scope of the Inquiry’s investigation.

Structure of the Inquiry

In his Opening Statement, the Chairman indicated that he intended to conduct the Inquiry in two phases. In the first phase, the Inquiry will investigate the development of the fire itself, where and how it started, how it spread from its original seat to other parts of the building and the chain of events that unfolded during the course of the hours before it was finally extinguished.

The Inquiry will also be looking into the response of the emergency services and the evacuation of residents. It is necessary to address these questions first for two reasons: first, there is an urgent need to identify what aspects of the building’s design and construction played a significant role in enabling the disaster to occur; secondly, unless the chain of events is understood in some detail, it will not be possible to pinpoint the critical decisions that had a bearing on the exposure of the building to the risk of an uncontrollable fire.

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Grenfell Tower Inquiry

Phase 1 of the Inquiry started on 21 May 2018 with a period of two weeks devoted to commemorating the deceased. Opening statements by Counsel to the Inquiry and core participants commenced on 4 June 2018 and the Phase 1 hearings are currently ongoing. Please see the provisional programme for phase 1 evidence which has been published to the Inquiry's website.

The second phase of the Inquiry will be concerned with the balance of issues identified in the provisional List of Issues.

Your report

You are instructed to develop your report in two parts:

1. Part One: Commentary on the Architect's Appointment and Service.
2. Part Two: Recommendations

Part One: Commentary on the Architect's Appointment and Service. Where we have asked you to report and/or comment on matters set out below, please express your opinion with reference to the standards of service to be reasonably expected of an architect who had agreed to undertake a commission of this type, complexity and scale at the relevant time.

1. As far as reasonably practical investigate and familiarize yourself with the original design, specification and 'as executed' original construction, as well as any subsequent alterations to the building as carried out prior to the 2012-2016 refurbishment.
2. Investigate and comment upon the Architect's initial terms of appointment for the 2012-2016 refurbishment, including the scope of services and any subsequent variations thereto. To the extent relevant and insofar as it falls within your expertise, investigate and comment upon services carried out by others that would normally fall within the scope of an architect.
3. Investigate and report on the development of the design as prepared by the Architect from concept through to the final design:
 - a. the Planning Application(s);
 - b. the Building Regulation Application(s);
 - c. the Tender Stage documents (Main Contractor);
 - d. the Sub-Contractor 'Package' Documentation;
 - e. the design and specification that was ultimately adopted;
 - f. Any relevant variations during the course of the works; and
 - g. Any advice given by the architect during the course of the works.

In particular, please comment upon the selection and specification of materials and construction systems and their incorporation into the overall design.

4. Advise as to whether the documentation as 'issued to contract' (including any variations as issued by/authorised by the Architect) and any ad hoc advice given during the course

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Grenfell Tower

Inquiry

of the 2012-2016 refurbishment complied in technical terms with the requirements of all relevant construction regulations, relevant guidance documents and with the standards of service to be reasonably expected of an architect who had agreed to undertake a commission of this type, complexity and scale.

5. Establish as far as is possible from the available information whether the ‘as built’ condition of the building complied with the documentation as ‘issued to contract’ by the Architect (including any variations as issued by/authorised by the Architect). In this respect you are to comment both in terms of the standards of the workmanship, and the compliance of the work with the Architect’s documentation as issued, and with subsequent variations as may have been instructed by the Architect.
6. Insofar as any departures to the required standards are identified give your opinion as to whether such irregularities should have been identified by the Architect under the scope of his appointment and in the context of the standards of service to be reasonably expected of an architect who had agreed to undertake a commission of this type, complexity and scale.

Part Two: Recommendations - Make recommendations about what, if any, changes could be made to the relevant legislation, regulations, guidance, and/or industry practice to address any shortcomings you may find as a result of your work on the above issues.

Your general obligations

It is your duty to help the Inquiry on the matters within your expertise. This is an overriding duty.

You are also subject to the following general obligations:

- 1) You owe the Inquiry a duty to exercise reasonable care and skill. You must also comply with any relevant professional code of ethics;
- 2) You should provide independent opinions. You should not act as an advocate for particular arguments. A useful test of ‘independence’ is that an expert would express the same opinion if given the same instructions by another party. You should not take it upon yourself to promote the point of view of your instructing party or engage in the role of an advocates or a mediator;
- 3) You should not trespass on the role of the Inquiry in deciding facts;
- 4) You should confine your opinions to matters which are relevant to the issues upon which your assistance is sought and your opinions should be confined to matters within your expertise. If you consider that any question or issues are beyond your expertise, you should communicate this immediately;
- 5) You should take into account all relevant facts before you. You should set out those relevant facts and any literature upon which you rely;
- 6) You should indicate whether any opinion you express is provisional or qualified and whether any additional information is required; and

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Grenfell Tower Inquiry

- 7) You should inform the Inquiry immediately should you change your opinion and give the reasons for any change.

Whilst the Inquiry's work will be inquisitorial and not (as in civil litigation) adversarial, in understanding the obligations of an expert you may be assisted by reading Part 35 of the Civil Procedure Rules and the supporting Practice Direction as well as by considering the Guidance for the instruction of experts in civil claims published by the Civil Justice Council (dated August 2014) (copies of which are attached).

You are also asked to read and, at all times, have regard to the Document-handling protocol which has been published by the Inquiry on its website.

Acceptance of instructions

The Inquiry would be grateful if you could confirm, without delay, whether you accept these instructions.

The Inquiry would also be grateful if you could confirm (whether on initial instruction or at any later stage) without delay if the instructions are not acceptable because, for example, they require work that falls outside your expertise, impose unrealistic deadlines, or are insufficiently clear.

Content of your report

The content of your report shall be governed by your instructions, the general obligations (which are set out above), any directions the Chairman may make and your overriding duty to the Inquiry.

In preparing your report, you should maintain professional objectivity and impartiality at all times.

Your report should be addressed to the Inquiry. In relation to the form and content of the report, your report must:

- 1) Give details of your qualifications;
- 2) Give details of any literature or other material which has been relied on in making the report;
- 3) Contain a statement setting out the substance of all facts and instructions which are material to the opinions expressed in the report or upon which those opinions are based;
- 4) Make clear which of the facts stated in the report are within your own knowledge;
- 5) Say who carried out any examination, measurement, test or experiment which the expert has used for the report, give the qualifications of that person, and say whether or not the test or experiment has been carried out under your supervision;

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Grenfell Tower Inquiry

- 6) Where there is a range of opinion on the matters dealt with in the report –
 - a) summarise the range of opinions; and
 - b) give reasons for your own opinion;
- 7) Contain a summary of the conclusions you have reached;
- 8) If you are not able to give an opinion without qualification, state the qualification; and
- 9) Contain a statement that the expert –
 - a) Understands their duty to the Inquiry, and has complied with that duty; and
 - b) Is aware of the requirements of Part 35, this practice direction and the Guidance for the Instruction of Experts in Civil Claims 2014 if and insofar as they are relevant to the Inquiry.

You find it helpful to know that model forms of experts' reports are available from bodies such as the Academy of Experts and the Expert Witness Institute.

Statement of truth

Your report should be verified by the following statement of truth:

"I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer."

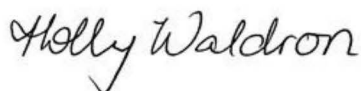
Your report should also contain the following statement:

"I confirm that I have no conflict of interest of any kind, other than any which I have already set out in this summary of findings. I do not consider that any interest which I have disclosed affects my suitability to give expert evidence to the Inquiry on any issue on which I have given evidence and I will advise the Inquiry if, between the date of this summary and the Inquiry hearings, there is any change in circumstances which affects this statement."

Generally

If you have any questions relating to this letter, please do not hesitate to make contact.

Yours sincerely,



Holly Waldron
Assistant Solicitor

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