

GRENFELL TOWER INQUIRY
POSITION STATEMENT ON BEHALF OF RBKC

Introduction

1. This Position Statement is prepared on behalf of RBKC in response to a request made by the Deputy Solicitor to the Public Inquiry in a letter dated 2 January 2018.
2. The construction of Grenfell Tower was completed in 1974. RBKC is, and was at all relevant times, the owner of Grenfell Tower. As at 14 June 2017, there were 14 leaseholders of flats within Grenfell Tower. The remaining flats in the tower were provided to social housing tenants.

The management of Grenfell Tower and the relationship between RBKC and the Kensington & Chelsea Tenant Management Organisation Ltd

3. The Kensington & Chelsea Tenant Management Organisation Ltd (“the TMO”) is a company limited by guarantee incorporated on 20 April 1995. It was at all relevant times a separate legal entity to RBKC. The key documents relating to the relationship between RBKC and the TMO were, in chronological order, as follows.
 - (i) A Management Agreement entered into on 28 February 1996 under which RBKC appointed the TMO to carry out certain housing management functions.
 - (ii) A Deed of Variation dated 7 November 2002.

- (iii) A Modular Management Agreement (“MMA”) with a start date of 1 April 2006¹, entered into on 12 June 2006, under which RBKC appointed the TMO to carry out certain housing management functions.
 - (iv) A Deed of Variation dated 1 April 2010.
 - (v) A Modular Management Agreement with a start date of 1 December 2015², entered into on 26 November 2015, under which RBKC appointed the TMO to carry out certain housing management functions.
4. Under the terms of both the 2006 MMA and the 2015 MMA (in particular at Volume 1, Chapter 2) RBKC delegated all of its management responsibilities in respect of Responsive and Planned Maintenance Repairs to the TMO. Both the 2006 MMA and the 2015 MMA further provided (in particular at Volume 1, Chapter 2) that Major Works were to be initiated by the TMO with funding to be approved by RBKC, and that the TMO would enter into contracts for agreed Major Works and supervise such works. The TMO had first taken on responsibilities for Major Works at the time of the 2002 Deed of Variation.
5. At all relevant times, the TMO’s housing management functions included housing management functions in respect of Grenfell Tower.
6. RBKC monitored the TMO’s performance of its obligations under the MMA.

¹ Document 1, Modular Management Agreement with a start date of 1 April 2006

² Document 2, Modular Management Agreement with a start date of 1 December 2015

The refurbishment of Grenfell Tower

7. The TMO's responsibilities for Major Works referred to in paragraph 4 above applied to the refurbishment of Grenfell Tower which was completed in 2016.
8. In 2011, RBKC generated capital receipts from the sale of redundant Housing Revenue Account ("HRA") assets. RBKC sought guidance from the TMO as to how the money, which was ring-fenced for use by RBKC for housing regeneration, should be spent. In March 2012, the TMO identified Grenfell Tower as a top investment priority³.
9. At a meeting held on 2 May 2012⁴, following receipt of a report⁵ from the Director of Housing, RBKC's Cabinet⁶ approved a proposal that the capital receipts from the sale be used for investment in new affordable homes and major improvements to existing affordable homes, in particular refurbishment works to Grenfell Tower.
10. Planning Application PP/12/04097 was submitted on behalf of the TMO on 18 October 2012⁷. On 10 January 2014, RBKC's Executive Director, Planning and Borough Development, granted the application, subject to certain conditions⁸.

³ Document 3, Report for TMO Board – 29 March 2012

⁴ Document 4, Minutes of Cabinet meeting held on 2 May 2012

⁵ Document 5, Report by the Director of Housing to Cabinet - 2 May 2012

⁶ Cabinet met approximately 10 times per year. At all relevant times, Cabinet was defined in Part 2 Article 7.01 of RBKC's Constitution which provided: "7.01 **The Executive** (a) The Executive is responsible for undertaking all of the Council's functions, except for those functions (specified in Article 4 and Part 3 of the Constitution) that are reserved to the Council and that are undertaken by the full Council or delegated by the Council to committees, sub-committees (if any) or officers. When the Executive meet collectively, it is known as 'the Cabinet'. Individual Councillors that are members of the Executive are known as 'Cabinet Members'. (b) The Cabinet currently comprises eight Councillors (including the Executive Leader) but can comprise up to a maximum of ten if the Leader so decides."

⁷ Document 6, Covering letter dated 18 October 2012 enclosing planning application

⁸ Document 7, Letter from RBKC Building Control granting conditional permission for development – 10 January 2014.

11. The Housing and Property Scrutiny Committee⁹ regularly received updates on a wide range of issues including the Grenfell Tower refurbishment project and the performance of the TMO.
12. On 18 July 2013, following receipt of a report¹⁰ from the Director of Housing, Cabinet resolved to increase the budget for the refurbishment project to £9.7m¹¹.
13. Following an invitation to tender issued by the TMO, tenders were submitted to the TMO by potential contractors including Rydon. Artelia prepared a Final Tender Report for the TMO dated 17 March 2014¹². The TMO appointed Rydon as the preferred contractor. A Contractor Introduction meeting took place on 1 April 2014¹³. It was attended by representatives from the TMO, Rydon and Artelia. On 22 May 2014, the TMO and Rydon entered into a Pre-Construction Agreement¹⁴. Rydon took possession of the site on 2 June 2014. On 13 June 2014, a Pre-Start Meeting took place. It was attended by representatives from the TMO, Artelia and Rydon.
14. On 19 June 2014, following receipt of a report¹⁵ from the Director of Housing, Cabinet resolved that the budget for the refurbishment project be increased to £10.3m¹⁶. The report noted that the TMO had confirmed that it had the staffing resources to carry out the work.

⁹ The Housing and Property Scrutiny Committee met approximately 6 times per year. As a Scrutiny Committee, it had no executive decision making power. Full details of the Scrutiny Committee's powers were set out in Part 2 Article 6 of RBKC's Constitution. These included powers to review, scrutinise, recommend and report.

¹⁰ Document 8, Report by the Director of Housing to Cabinet – 18 July 2013

¹¹ Document 9, Minutes of Cabinet meeting held on 18 July 2013

¹² Document 10, Final Tender Report by Artelia to TMO dated 17 March 2014

¹³ Document 11, Minutes of Contractor Introduction Meeting held on 1 April 2014

¹⁴ Document 12, Pre-Construction Agreement between TMO and Rydon – 22 May 2014

¹⁵ Document 13, Report by the Director of Housing to Cabinet – 19 June 2014

¹⁶ Document 14, Minutes of Cabinet meeting held on 19 June 2014

15. The contract for the refurbishment of Grenfell Tower was signed on 30 October 2014¹⁷.

The contract was between the TMO (employer / client) and Rydon (principal contractor). Artelia was identified as the employer agent, the CDM Coordinator and the Quantity Surveyor. Max Fordham LLP was identified as the Client Technical Adviser (M&E Services).

16. On 4 July 2016, Artelia issued a Certificate of Practical Completion¹⁸. Thereafter, RBKC's Building Control Manager issued a Completion Certificate¹⁹ under the Building Regulations 2010; the Certificate gave a final inspection date of 7 July 2016.

¹⁷ Document 15, Contract Documents for Grenfell Tower Works – 30 October 2014

¹⁸ Document 16, Certificate of Practical Completion issued by Artelia to TMO – 18 July 2016

¹⁹ Document 17, Completion Certificate under the Building Regulations 2010