

GRENFELL TOWER INQUIRY

Position Statement on behalf of the Royal Borough of Kensington and Chelsea Tenant Management Organisation (“TMO”).

No words can ever express the feelings of sympathy, remorse and sorrow felt by all staff associated with TMO for the horrific tragedy that occurred at Grenfell Tower on 14 June 2017.

TMO welcomes the Public Inquiry and is fully supportive of its objective to obtain clear, reliable evidence and to learn all possible safety lessons so as to minimise the chance that such a tragedy will ever be repeated.

TMO is committed to providing full and frank evidence to the Inquiry in an open and transparent way. It has offered to the Inquiry all of its documentation without reservation or exception. This documentation was captured within four days of the fire occurring and was locked down and fully captured by independent IT specialists. A copy in both its raw state and processed state (making it fully searchable) was provided to the police and offered to the Inquiry.

All TMO staff employed at the time of the fire and those who are former staff have fully committed themselves to providing whatever evidence the Inquiry seeks from them and do so in an open and transparent way.

Whilst incomparable to the grief suffered by the victims and bereaved families, this tragedy has traumatised and devastated the TMO staff and community who had dedicated themselves to providing support and services to the tenants and leaseholders they served.

Nature of the TMO; involvement of the different departments and committees of the TMO

Section 27 of the Housing Act 1985 gave tenants the right to establish tenant management organisations. Section 27AB was added to the Housing Act 1985 by s.132 Leasehold Reform, Housing and Urban Development Act 1993 and section 27AB came into force on 1 August 1994. It is this provision which conferred on TMOs the right to manage local authority stock.

This legislation was aimed at empowering local communities and TMO was set up to provide services on behalf of residents within housing stock owned by Royal Borough Kensington and Chelsea Council (RBKC). It is a resident-led organisation with a majority of local tenants on its Board. It managed the Council’s housing stock. The Board of TMO is empowered independently of RBKC with an internal audit process conducted by RBKC Audit department on behalf of TMO, except on matters relating to the Housing Revenue Account.

The TMO company was incorporated on 20 April 1995 with a Memorandum and Articles of Association that has been developed over time, with a current version dated 11 November 2014. Its principal objective is to manage and maintain the housing stock and ancillary properties of the Royal Borough. It is expected to manage its affairs in accordance with the Modular Management Agreement (“MMA”) dated 28 February 1999 between the RBKC as amended from time to time.

TMO is a separate company to RBKC. It is a not-for-profit company that provides housing services on behalf of RBKC and it was set up by RBKC to manage and improve all or part of its housing stock. Ownership of the housing stock remains with RBKC.

TMO is a company limited by guarantee owned by its 5,600 Members, not shareholders, who are residents of the RBKC housing stock.

TMO manages the housing under the Right to Manage legislation and its roles and responsibilities are set out in the MMA with RBKC. The MMA content is in standard form following Regulations set by the Secretary of State.

TMO is a non-specialist organisation and typical of social housing provider of its size, it engaged specialist contractors and consultants in a range of areas to enable delivery of its roles and responsibilities

The Company is made up of its Members permitted to vote on TMO’s decision-making via the TMO Board consisting of up to 15 Board Members.

By its constitution, the TMO Board is required to consist of 6 Council Tenant Board Members and 2 Leasehold Board Members, or 5 Council Tenant Board Members and 3 Leasehold Board Members plus 4 Council Nominated Board Members and 3 Independently Appointed Board Members.

Resident Board Members qualify as such by having been a tenant for one year or more and are eligible for election to the Board. All Resident Board Members are required to retire from the Board after a three-year term. They may be re-elected to the Board after serving a three-year term but may not serve for longer than nine years in total.

The 4 Council Nominated Board Members are nominated by RBKC and the appointed Board Members are not otherwise Members and are regarded as “independent” Board Members. They usually come from successful businesses to bring their experience and expertise to assist resident and Council nominated Members’ decision-making.

The Chairman of the Board is required to be a resident of RBKC and the resident Board Members as elected by tenants must form the majority of the Board for voting purposes.

All Members of the Board are unpaid. There is a small expense allowance which many Board Members do not take. It is in every sense a Board that operates for the benefit of the community with no financial reward.

The role of a Board Member is therefore aimed at reviewing proposals and making decisions that represent the best interests of the Members they represent.

Board Members also participate in sub-committees, such as Operations and Finance Audit and Risk to consider various discrete operational and financial topics under the chairmanship of a Resident Board Member and with a constitution that has a majority of Resident Board Members.

All day to day operations of TMO were managed by an Executive Team headed by a Chief Executive supported by three teams concerned with Operations, Financial Services and ICT, and People Performance and Governance. The heads of those teams have the title "Executive Director". Each of those teams is supported by a Senior Management Team headed by "Directors" "Assistant Directors" and "Heads". Although the title "Director" is used for Executive and Senior Management positions, none of the holders of these positions is a statutory Director. Organisational Charts identifying each of the positions making up TMO have been provided to the Inquiry.

The Executive Team and its supporting staff managed the housing stock pursuant to decisions made by the Board and its Business Plan.

Kensington and Chelsea TMO Repairs Direct Ltd ("Repairs Direct") was at material times a wholly-owned subsidiary of TMO. It was incorporated in January 2013 with the objective of carrying out repairs to the RBKC housing stock as directed by TMO. The Company was set up with the objective of replacing outsourced suppliers to provide a more efficient and cost-effective means of conducting repairs and maintenance to the RBKC's housing stock.

TMO is for all intents and purposes the Managing Agents of the RBKC housing stock dealing on an agency basis with such matters as rent collection, tenant repairs and maintenance via Repairs Direct Ltd as well as managing communal issues such as community environmental matters, anti-social behaviour. It does so on behalf of RBKC and its tenants.

TMO does not in any way manage the statutory utility companies providing water, gas and electricity to the housing stock nor does it manage the Fire and Rescue Services.

TMO had a Health and Safety policy in place at the time of the fire signed on the organisation's behalf by its Chief Executive. TMO had a specific fire strategy in place which was reviewed and updated during its existence. This was reported to the Finance, Audit and Risk Committee and Board on a regular basis. Health and safety was an identified risk in the Board's Risk Register.

TMO sought to comply with its health and safety and fire safety duties by adopting safety management systems involving policies and strategies, monitoring its safety performance, conducting audits and reporting its safety performance.

Health and Safety performance was monitored by the TMO's Health and Safety Committee attended by a number of its Executive Directors. Health and Safety,

including fire safety, was also a standing item in the Chief Executive's report to the Board meetings.

TMO was responsible for procuring fire risk assessments of the communal areas of the properties it managed. TMO employed a qualified safety professional as its Health, Safety and Facilities Manager to manage this process. This led to TMO engaging C S and Associates Ltd to conduct the fire risk assessments of its stock and give technical advice in relation to fire safety generally. Mr. Carl Stokes from C S and Associates Ltd conducted fire risk assessments on behalf of TMO. Mr. Stokes is a very experienced fire safety professional, properly qualified and fully competent to conduct fire risk assessments of the type requested.

The Regulatory Reform (Fire Safety) Order 2005 requires fire risk assessments to be reviewed regularly so as to keep them up to date, particularly if there was a reason to suspect they are no longer valid or there has been a significant change such as a material alteration to a block of flats. TMO's policy initially required properties to be risk assessed at least every three years but the documentation disclosed to the Inquiry demonstrates that Mr Stokes conducted fire risk assessments at Grenfell Tower on a far more regular basis than that, including a number in quick succession in 2016 when the refurbishment was reaching a conclusion.

Mr Stokes' initial engagement was to conduct fire risk assessments but the documentation disclosed to the Inquiry demonstrates that over time his role extended to looking at discrete issues at the request of TMO. For example, he was asked to look at issues such as the positioning of HIU Units in 2015 and work being conducted by National Grid Gas in 2016/7. Mr Stokes attended in relation to each of these issues at the request of TMO to give technical expertise to respond to concerns raised by residents. These reports were regularly shared with the specific residents who had raised concerns.

TMO held a two-monthly liaison meeting with the London Fire Brigade ("LFB") attended by the local LFB Station Manager and members of the Kensington and Chelsea and Hammersmith and Fulham fire inspection teams. Grenfell Tower was a regular item on the agenda of those meetings with TMO reporting progress of the Tower refurbishment. TMO encouraged the LFB to attend the Tower regularly for the purposes of familiarisation and inspection. The minutes of the Liaison Committee make reference to numerous visits by the LFB to Grenfell Tower prior to the fire.

LFB would also conduct audits of properties in the stock managed by TMO. They would be supplied with copies of the fire risk assessments prepared by Carl Stokes Associates in advance of these audits and had received numerous examples of his risk assessments.

TMO was also required to report its health and safety performance to RBKC as a condition of the MMA for scrutiny by RBKC who also conducted a regular audit of TMO's health and safety performance. At the time of the fire RBKC had given TMO a rating of "Substantial Assurance" for its health and safety performance. Internal Audits were commissioned by the TMO Board using RBKC Audit services covering areas including health and safety and reported to RBKC and its Scrutiny Committee.

Relationships between the TMO and the Council and between the TMO and the commercial core participants and any other relevant external bodies involved in the Grenfell Tower Refurbishment

TMO through its Operations and Assets and Regeneration function managed regeneration works on behalf of RBKC. This included the refurbishment of Grenfell Tower.

In relation to the refurbishment of Grenfell Tower, TMO's role was that of "Client" as defined under the Construction, Design and Management Regulations 2007 (CDM), which were in force when the project commenced. The role of "Client" is outlined in the HSE's Approved Code of Practice and includes making suitable arrangements for managing their project and enabling those carrying it out to manage health and safety risks in a proportionate way. These arrangements include appointing a CDM Coordinator (CDMC) and a principal contractor who have the requisite skills, knowledge, experience and organisational capability; providing all pre-construction information; ensuring that the CDMC prepares a health and safety file for the project and that it is revised as necessary and made available to anyone who needs it for subsequent work at the site. TMO fulfilled its obligations in this regard.

TMO itself has no expertise or role in relation to the works that were undertaken, their design or specification. TMO is not a contractor, architect or technical specialist in respect of any of the construction matters for the project.

As Client, TMO's role was to monitor and manage progress of the refurbishment work against budget to ensure delivery of the programme on behalf of RBKC, the tenants and leaseholders. Its role was also, together with contractors, to liaise with residents, who remained in situ during the works, to facilitate works within residential areas.

The short history of the refurbishment is that RBKC had taken a decision to refurbish Grenfell Tower and allocated money to that project.

The rebuilding of the Kensington Area Leisure Centre ("KALC") was being undertaken directly by RBKC using their contractors Leadbitter and Architects Studio E. It was determined by RBKC that those same contractors and consultants should be engaged for the proposed Grenfell refurbishment works. As of July 2013 RBKC had allocated an overall budget of £9.7m (inclusive of fees) for the regeneration works to Grenfell Tower.

RBKC's decision to refurbish Grenfell was to improve the internal living conditions for the tenants and leaseholders, the communal domestic hot water and central heating systems and other services to be upgraded and renewed including thermal installation, to make the building warmer in winter and cooler in summer. It was a RBKC planning requirement under their Policy Core Strategy CE1 that the refurbishment received a BREEAM rating of 'Very Good'. This was considered to be ambitious and would require a substantial increase in the thermal installation by way of over cladding.

The regeneration works ultimately included:

- Window renewal
- Thermal external cladding to the building
- New entrance lobby
- Communal decoration
- New communal heating system (with individual control)
- Hidden homes - seven new flats
- Relocation of boxing club, nursery, and office accommodation
- Fire safety and ventilation works
- Environmental enhancements

The proposals put forward by Leadbitter for the regeneration works were subsequently considered to be unacceptable by reason of cost and quality and TMO was then invited to put the work out to tender via the Official Journal of the European Union (OJEU) arrangements.

The procurement exercise was conducted under independent consultant overview with the benefit of Artelia Cost Consultant's review of costings and quality. Based on their findings, the contract for the work was awarded to Rydon as Principal Contractor.

Artelia reviewed and scored each of the tenders in full. They concluded that Rydon offered the best balance in terms of quality and value for money. Rydon achieved an overall score for quality assessment of 36.32 against the second best being Durkin at 31.22. As part of their review, Artelia also identified further savings which could be made. One of which was to change the cladding material from zinc to aluminium.

The refurbishment work was a Design and Build contract meaning that all works were to be designed and built by the Principal Contractor with support from its preferred consultants.

Principal Members of the Project Team reporting to the Principal Contractor were known to be:

Studio E	Architect
Taylor Young	Planning Consultant
Appleyards (later Artelia)	Costs Consultant, Employer's Agent and CDM Co-Ordinator

Churchman	Landscape Architect
Curtins	Structural Engineering Consultant
Max Fordham	Services Engineers
Exova Warrington Fire	Fire Engineers

The works themselves were conducted by Rydon, and their sub-contractors and specialist advisers and all were co-ordinated by Artelia and their CDM co-ordinator.

TMO's operational role was to monitor progress and budget in order to pay contractors appropriate to the works completed and to report progress on budget to the TMO Board and to RBKC.

TMO engaged a Clerk of Works from John Rowan and Partners to monitor the site work and report upon progress and quality against budget and to report this to the TMO Board and RBKC.

Residents remained in situ during the refurbishment works and it was TMO's role to keep them informed of progress and, together with Rydon, to liaise with them to accommodate the works being undertaken. TMO kept residents informed primarily by means of monthly Newsletters but also by information leaflets, public meetings, exhibitions with models of the various proposals, drop-in sessions and by personal contact.

TMO played no part in relation to technical decisions concerning cladding, insulation and fire breaks. TMO does not have any technical expertise in this regard and it reasonably relied on the specialist contractors appointed to undertake the project.

Over cladding, insulation and fire breaks were designed and installed by the specialist contractors under the control of Rydon as part of the Design and Build contract and were carried out with approval from RBKC's Planners and Building Control.

TMO is aware that prior to submitting the formal planning application, Taylor Young attended a number of design team meetings and arranged a pre-application meeting with the Planning Department of RBKC. Meetings followed at which representatives of Studio E, Max Fordham and Taylor Young met with RBKC's Planning Department to consider in particular matters relevant to the over cladding comprising rain screen, fire breaks and thermal insulation.

TMO understood that zinc rain screen panels had initially emerged as the preferred choice but following input from the RBKC Architectural Advisory Panel, Studio E reconsidered the Scheme and a redesign was submitted. TMO is aware that in January 2013 the RBKC Planning Department notified Studio E that their proposal was rejected because of the colour of the zinc rain screen. It seems RBKC had a preference for natural materials such as copper.

RBKC's preferred material was more expensive and it was necessary to review the costings.

Studio E reported in their Stage D Report of August 2013 that there was an impasse on the colour and more significantly this led to doubts about the overall affordability of the Scheme.

Consultants convened a number of value engineering meetings aimed at achieving the project within budget and a range of options was considered.

It was part of this exercise that Artelia reviewed costings for the work and identified a number of potential savings. The largest saving was in relation to cladding but this was made conditional upon RBKC Planning Department approval under the reserved matters.

This prompted a reconsideration of choices, including design, colour and specification. All of these matters were determined as between Rydon, Studio E, Artelia and RBKC Planners and Building Control. TMO played no role in this other than to report on the proposals to the residents and the TMO Board.

Discussions centred upon durability and appearance of the over cladding. No issues were ever brought to TMO's attention regarding the specifications of cladding, insulation and its installation, and all were presented as being compliant with relevant Standards and Regulation.

Discussion and debate ensued regarding the colour and method of fixing. TMO had no input into these discussion except where appropriate to seek tenant opinion.

It was reported that the RBKC Planning Department would not accept face fixing and required cassette, and were also continuing to look at possible colours. It was said that lower levels where damage from impact could occur would utilise a different and more robust product. Plans were subsequently submitted by Rydon to RBKC Planners and a final choice of colour and type of fixing was eventually decided with planning permission granted in January 2014, with a series of reserved matters. Condition 3 required that drawings or samples of materials for the external faces of the building be submitted prior to the work on that section commencing.

By July 2014 the issue of the type of fixings was concluded. TMO is aware that face fixing proposals on behalf of Rydon were rejected by RBKC Planning Department. TMO is aware that the decisions in relation to use of a particular style of cladding and its colour were made by RBKC Planners from information provided to them by Studio E, Max Fordham and Taylor Young.

TMO is aware of reports that RBKC Planners and RBKC Building Control visited the refurbishment works regularly to approve the cladding works, the fixing, insulation and fire breaks.

In keeping with its role in managing Fire Safety, TMO engaged the services of C S Stokes and Associates to inspect Grenfell Tower following the refurbishment works there. Mr Stokes reported following his inspection and upon analyses of documents made available to TMO that new fire-rated cladding was fixed to the outface of the building by metal fixings and the whole process was overseen by RBKC Building Control and Officers who had approved and accepted the fixing system and cladding used. He also reported that a “stay put” evacuation policy was in place whereby residents could remain in their own dwelling during a fire incident in the building, unless the fire was in their dwelling or their dwelling was otherwise affected by the fire. He referred to information for Londoners living in high rise properties provided on LFB’s website as provided by the London Fire and Civil Defence Service.

TMO understands that Studio E took their fire safety advice from Exova to formulate fire safety strategies in conjunction with LFB.

TMO is aware that at the outset of the refurbishment work Exova advised Studio E that the proposed building alterations would be subject to The Building Regulations 2010 and in light of the proposed changes a fire risk assessment would be required to meet the requirements of The Regulatory Reform (Fire Safety) Order 2005.

Exova also advised Studio E that to comply with section B3 of the Building Regulations 2010, all new elements of structure will be constructed to have the same standard of fire resistance as that of existing elements and noted that compartment walls and/or floors will be provided between apartments and as between apartments and common areas with 60 minute standard of fire resistance unless they form part of the structural frame of the building where they will have a 120 minute standard of fire resistance.

It was also noted that doorways within compartment walls will be fitted with self-closing doors having a 60-minute standard of fire resistance except where a different standard will be necessary to satisfy B5.

Exova also noted that the proposed changes would have no adverse effect on the building in relation to external fire spread but this was to be confirmed by future analysis. TMO believes that Exova conducted that further analysis and gave such confirmation to Studio E although the precise terms of that confirmation are not known to TMO.

TMO took its own advice from LFB and from C S Stokes and Associates Ltd. The fire risk assessment set out the detail of the approach to fire safety and when required the LFB’s view was sought on specific issues or concerns. Central to those considerations was the LFB’s “stay put” policy and assurances as to the integrity of the compartmentalisation of the units. If it is shown that this integrity was compromised as a consequence of the content or construction of the cladding, insulation and fire breaks then from TMO’s perspective, it was advised that all relevant materials and installation met with applicable Standards and Regulation and had been selected and installed with the approval of RBKC Planners and Building Control.

At no time did TMO advise, nor was it in a position to advise upon, the use of aluminium rain screen or the over cladding as specified being unsuitable. In this regard TMO reasonably relied upon the guidance and recommendations of the experts engaged to consider such matters in conjunction with RBKC Planners. The workmanship, including the fire stopping, was praised by Building Control and the Scheme was completed and the Building Control Certificate was issued following inspections by that department.

TMO operated a formal process for the recording and processing of reports of defects, requests for repairs and such like within tenanted units. The process required these to be logged on a Customer Relationship Management database known as "CRM" and prior to the existence of that database on a system known as "W2". All entries for all properties in Grenfell Tower from both databases have been downloaded and presented to the inquiry by reference to each property.

"Complaints" in TMO terminology is not a report of defect or repair request but a formal "complaint" identified under its policy as an 'expression of dissatisfaction about a service provided' aimed at complaints about the conduct or performance of TMO or Repairs Direct. The process for dealing with these under TMO's Complaints Policy provides for a 3-stage process ahead of any reference to the independent Ombudsman. All documents recording all complaints relevant to Grenfell Tower have been presented to the Inquiry.

All issues, whether described as reports of defects or requests for repairs or complaints and concerns, were processed through formal and authorised procedures made known to the residents. TMO had no formal process for reviewing issues raised other than through these formal channels and/or by direct communication. For reasons of good management TMO intentionally did not formally process public comments made outside of these channels.

All resident issues arising during the refurbishment works were directed to Rydon. The Newsletters to residents in particular identified that if residents had any issues in relation to the refurbishment works then these were to be directed to Rydon's Resident Liaison Officers whose identities and contact details were shown on the Newsletters.

All issues raised by residents were therefore logged, monitored and responded to by Rydon and ultimately their records and responses etc. were reviewed and audited by the Clerk of Works as part of their role in reporting to TMO that quality standards had been met to authorise payment. Any issues arising were dealt with directly between the Clerk of Works, the Principal Contractor and Employer's Agent.

Dated this 9th day of February 2018

**Kennedys Law LLP
Solicitors for Royal Borough of Kensington and Chelsea Tenant Management
Organisation**