

IN THE MATTER OF THE GRENFELL TOWER PUBLIC INQUIRY

CLOSING STATEMENT

of

CS STOKES & ASSOCIATES LIMITED

INTRODUCTION

- 1 The courage and fortitude shown by the bereaved, the survivors and the relatives of the deceased (“BSRs”), as well as those otherwise directly affected by the fire of 14 June 2017 at Grenfell Tower (“Fire”) is humbling; both in respect of their actions on the night of the Fire and when giving evidence to the Grenfell Tower Public Inquiry (“Public Inquiry”).
- 2 CS Stokes & Associates Limited (“CS Stokes”) continues to express its sympathies and condolences to the BSRs.
- 3 CS Stokes appreciates the challenges and circumstances faced by the London Fire Brigade (“LFB”) and ‘on-the-ground’ firefighters who entered Grenfell Tower (“Tower”) on the night of the Fire. The LFB were required to manage the fire ground in an all but unique fire fighting and rescue operation. The Public Inquiry, through evidence, has examined that operation in great detail and heard evidence of the bravery and commitment of all the emergency services that attended.
- 4 As stated in CS Stokes’ Opening Statement, CS Stokes is committed to assisting the Public Inquiry as best it can, particularly in relation to the Regulatory Reform (Fire Safety) Order 2005 (“FSO”) and Fire Risk Assessments (“FRAs”) carried out under that legislation.

- 5 In order to do that, as well as following the evidence to-date and raising questions where it is hoped it has been helpful, CS Stokes has to-date:
- 5.1 Provided a Position Statement;
 - 5.2 Provided significant disclosure;
 - 5.3 Provided an Opening Statement and given accompanying Oral Opening Submissions;
 - 5.4 Visited Grenfell Tower since the Fire; and
 - 5.5 Provided an extensive Rule 9 Witness Statement (yet to be disclosed to Core Participants (“CPs”) by the Public Inquiry) to answer various questions posed to it by the Public Inquiry.
- 6 In Oral Opening Submissions, Counsel for CS Stokes raised the following 3 issues for consideration by the Public Inquiry:
- 6.1 The interpretation of ‘Stay Put’ advice;
 - 6.2 The consideration of ‘external walls’ within the context of the FSO; and
 - 6.3 The reference within FRAs prepared by CS Stokes in April and June 2016 to ‘Fire Rated Cladding’.
- 7 Those issues remain equally important for consideration by the Public Inquiry, albeit they have to some extent been explored in Phase 1. CS Stokes would invite the Public Inquiry to continue to consider these issues in Phase 2.
- 8 In order to continue to assist the Public Inquiry, this Closing Statement contains further comments on those issues, and Counsel for CS Stokes will similarly further address the Chairman in Closing Oral Submissions.

AN OBSERVATION ON THE PARAMETERS OF THE PHASES

- 9 The Public Inquiry has sought to identify the questions to be answered by Phase 1 by reference to what was said by Leading Counsel to the Public Inquiry in Opening on 4 June 2018, and by reference to a letter to CPs dated 30 July 2018. Unusually, there are

not to be any closing submissions to the Public Inquiry by the Public Inquiry legal team, either in writing or orally – the topics therefore remain as they are identified in the hearing of 4 June 2018.

- 10 As to Phase 2, and compliance in the context of active and passive fire protection measures within the building, ‘pre’ and ‘post’ fire interpretations of the Building Regulations may differ and it is important not to use hindsight to determine compliance. Matters should not be allowed to be explained by a post-fire shift in interpretation.

STAY PUT

- 11 As set out in CS Stokes’ Opening Oral Submissions, ‘Stay Put’ is a well recognised strategy for residential buildings, as has been attested to by the evidence before this Public Inquiry to-date; both expert and lay.
- 12 It is however important to appreciate that although it is based on building design, as far as residents are concerned, ‘Stay Put’ is **advice** and not an order.
- 13 It is also important to appreciate that the opposite of ‘Stay Put’ **advice** (notwithstanding how it may have been communicated or understood on the night of the Fire), is **not** ‘*wait in your flat, the fire service are on their way to rescue you*’ **but rather**, ‘*you are now best advised to self evacuate (without waiting for rescue)*’.
- 14 In brief, ‘Stay Put’ advice is predicated on the basis that internal compartmentation is maintained such that fire spread is contained within a compartment, so as to comply with the Building Regulations and supported by the guidance in Approved Document B (“ADB”). The theory, then, is that this would allow enough time either for the Fire Service to arrive and extinguish the fire, or for fire to burn out.
- 15 At the same time, ‘Stay Put’ is intended to maintain the integrity of other fire protection measures such as escape stairs. As noted by Prof. Torero in his recent Oral Evidence (see pages 13 and 14 of the Transcript for 20 November 2018):

“...the backbone of the fire safety strategy is the concept of no spread, external spread, of the fire. So we make this assumption that the fire will be boxed in within one floor, and on the basis of boxing in the fire within one floor – even

beyond that, within one unit – we make this assumption that the fire is boxed in, and on the basis of that, we construct the whole fire safety strategy”.

- 16 In practice, the LFB seems to anticipate the possibility of fire spreading to a compartment above the fire floor; not because fire spread has been promoted by the external walls, but through external flame projection (and in through a window above) – referred to in evidence as the ‘Coanda’ effect (see, for example, SM Andrew Walton at pages 13 and 36 of the Transcript for 20 September 2018).
- 17 CS Stokes does not intend to repeat the contents of its Opening Oral Submissions here, however the content of the same remains relevant for the Public Inquiry’s consideration in Phase 2. During Phase 1, however, there have been a number of aspects of ‘Stay Put’ which have been raised, to which CS Stokes would ask the Public Inquiry to give further consideration in Phase 2.

‘Stay Put’ as a ‘safety condition’

- 18 In her most recent report, and confirmed in her recent oral evidence, Dr Lane has described ‘Stay Put’ as the ‘single safety condition’ (see, for example, Section 2, paragraph 2.9.24 of Dr Lane’s Supplemental Report and pages 182-183 of the Transcript for 22 November 2018), by which Dr Lane is understood to mean that ‘Stay Put’ is incorporated into the underlying conceptual design of the building.
- 19 Subject to ‘Stay Put’ being **advice** to residents, CS Stokes would agree with such a formulation of ‘Stay Put’ in the context of ‘Stay Put’ being understood as a ‘safety condition’.
- 20 Indeed, CS Stokes would observe that, because ‘Stay Put’ was the ‘safety condition’ adopted at construction, this to a large extent dictated the safety measures at the time of initial construction and at all times thereafter, including the refurbishment.
- 21 The interplay between ‘Stay Put’ as a ‘safety condition’ and various fire safety measures will no doubt be of interest to the Public Inquiry in Phase 2.

‘Stay Put’ as an ‘evacuation strategy’

- 22 In CS Stokes’ FRAs for the Tower, ‘Stay Put’ is described as an ‘evacuation strategy’. It is also described as an ‘evacuation strategy’ in the LGA Fire Safety in Purpose Built Flats Guidance from May 2012 (see paragraph 18 on page 27 and the definition of ‘Stay Put’ on page 180 – Public Inquiry Ref: CTAR00000033).
- 23 As noted in CS Stokes’ Opening Oral Statement, however, it is not a strategy which requires immediate evacuation, nor indeed does it necessarily rely on a pre-determined phased evacuation. On this, please see further below from paragraph 28.
- 24 Conversely, ‘Stay Put’, as an ‘evacuation strategy’, should not be considered a strategy that requires residents to ‘Stay Put’ in all or any circumstances.
- 25 CS Stokes makes it clear in the FRAs for the Tower that the residents remain (or can remain) in their dwellings during a fire incident unless the fire is in that dwelling or it is otherwise affected, in which case they should immediately evacuate and call the Fire and Rescue Service. In addition, the FRAs note that the Fire Service or KCTMO employees would arrange for a general evacuation if this is appropriate and at all times residents can leave if they so wish.
- 26 Phase 2 disclosure will make it plain that the 2012 FRA in particular was seen by the LFB with this wording and no issue with it was raised.
- 27 Built into ‘Stay Put’ as an ‘evacuation strategy’, therefore, is:
- 27.1 The requirement that residents self-evacuate if the fire is in the flat or the flat is otherwise affected by the fire;
 - 27.2 The choice to self evacuate at any time of a resident’s own volition; and
 - 27.3 If, for operational reasons, a general evacuation is required, this will be for the Fire Service and/or the KCTMO.

Changing the ‘Stay Put’ advice as an ‘operational decision’

- 28 Much evidence has been given to the Public Inquiry involving the factors considered, and events leading up to, the point when the Fire Service ‘ended the Stay Put’. Much

exploration has also gone into the question of why that operational decision to end ‘Stay Put’ was not made sooner by senior members of the Fire Service, as well as the content and timing of the advice given directly to the residents by the Control Room.

29 These are matters for the Public Inquiry.

30 By way of observation:

30.1 The LFB were fighting a fire, in broad terms, that they never anticipated having to fight and were also having to give fire survival guidance on an unprecedented scale;

30.2 The Tower’s active and passive fire safety measures were being asked to address a fire they were never designed or installed to address;

30.3 However, it may be thought that, as a matter of operational fire fighting strategy on the night, the emphasis should have changed earlier from attempting to extinguish the Fire, to fighting it to the extent necessary to manage, as an absolute priority, an LFB **assisted** phased evacuation of the Tower. Although the CPs are not yet in receipt of a report from Mr McGuirk, the Public Inquiry’s fire fighting expert, it is apparent that some senior officers arriving on the scene (such as DAC O’Loughlin and AC Roe – before he even left his home to get to the Tower – see pages 213-214 of the Transcript for 25 September 2018) realised the fire could not be extinguished externally;

30.4 An LFB **assisted** evacuation would not have necessitated a change of the **advice** to residents to ‘Stay Put’, but would have put into place (by way of example) a floor by floor clearance of the Tower subject to identified emergency priority;

30.5 Operationally, an **assisted** evacuation of the Tower as a whole necessitated a focus on EDBA for fire fighters, at the very least, as a matter of priority and also on the need for residents to be able to access air when descending to the ground, particularly from the upper floors;

30.6 Changing the **advice** from ‘Stay Put’ advice to advice to **self evacuate** was, and remains, a matter for operational fire fighting decision making. The

implications of doing so were / would be profound and required consideration of whether residents were in more danger in the compartments than they would be facing (potentially in significant numbers) the dangers of compromised lobbies and the compromised stairs;

30.7 Despite the complexities of ‘Stay Put’, both as specified and in terms of the factors requiring consideration when contemplating a change in operational decision making, ‘Stay Put’ does seem on the night to have been perceived by the LFB, operationally, as a binary choice between ‘in’ or ‘out’; and

30.8 On one view of the evidence, when ‘Stay Put’ was changed, the alternative employed was a sporadic call to self-evacuation which relied on residents calling into the LFB, rather than the LFB having an operational means of contacting them:

30.8.1 The Public Inquiry will of course have to consider the implications of these issues, whilst noting that the construction of the Tower did not require the necessary infrastructure required to communicate the need for self-evacuation to residents; and

30.8.2 Whether other means could have been used on the night, or at least tried (for example the intercom facility), is a matter for the Public Inquiry to consider.

31 GRA 3.2 (Public Inquiry Ref: LFB00001255) has been referred to extensively in the evidence:

31.1 The evidence suggests that GRA 3.2 was a document that would or should inform local fire authorities how to develop their own policies rather than a document that applied in original form across every Fire Service;

31.2 Thus GRA 3.2 would or should contribute to the basis for, as a minimum, LFB Policy 633 (High Rise Fire Fighting – Public Inquiry Ref: LFB00001256), LFB Policy 800 (Management of Operational Risk Information – Public Inquiry Ref: LFB0000705), and thus the ORD for the Tower (Public Inquiry Ref: LFB 00003116);

- 31.3 There can be no doubt that GRA 3.2 (see page 17) required the LFB to have an operational contingency plan in the event that the ‘Stay Put’ policy became untenable; and
- 31.4 It is perhaps therefore not surprising that the ORD template (see page 4 – Public Inquiry Ref: LFB00003116) has a space for the ‘Operational Contingency Plan’, which it seems, for the Tower, was not completed. No evidence about the existence of an Operation Contingency Plan has been given.
- 32 Whilst it is a matter for the Public Inquiry to consider:
- 32.1 Even if the LFB had formulated an Operational Contingency Plan for the Tower, CS Stokes asserts that such a Plan would never have contemplated a need to evacuate (in any form) the Tower on the basis that residents on multiple floors would no longer be safe to ‘Stay Put’ by 01:26 (see, for example, Section 2, Paragraph 2.12.14 of Dr Lane’s Supplemental Report) on the night of the Fire;
- 32.2 Despite cladding being referred to in GRA 3.2, and despite evidence given about previous fires in High Rise buildings, in the immediate aftermath of a refurbishment involving multiple expert contractors and approval from Building Control, the LFB, from an operational point of view, would never have contemplated a fire spreading so quickly or so extensively; and
- 32.3 If the LFB **had** contemplated the fire spreading so quickly or so extensively, the only logical conclusion would have been to have had the means of effecting an immediate complete or phased evacuation of the entire building. It is extremely unlikely that the active and passive fire safety systems within the building (based on ‘Stay Put’ as they were) could have allowed for such an evacuation.
- 33 This reasoning feeds into Dr Lane’s expressed view that, because of the cladding system installed on the Tower, it should not have been occupied and it should not have been ‘handed over’ in that condition post the refurbishment (see for example pages 170 and 183 of the Transcript for 22 November 2018).

34 On the basis that a fire in a kitchen of one of the flats is always possible, and foreseeably could result in external flame projection onto the cladding system:

34.1 CS Stokes takes Dr Lane's view to mean that there were no active or passive fire measures (including an evacuation strategy – contingent or otherwise) that could have been applied to the Tower sufficient to mitigate (reduce) the risk of harm posed by the potential speed and extent of fire spread within the cladding system as constructed, to an acceptable level.

34.2 CS Stokes does not dispute that proposition.

35 However, a safe inference to draw from the evidence given by the first fire fighters present in Flat 16 is that:

35.1 The first fire fighters were in the flat at or about 01:07 (see, for example, page 15 of the LFB Operational Response Document v.4 – Public Inquiry Ref: LFB00024393);

35.2 The original fire inside the flat was extinguished at or about 01:21 (see, for example, Section 2, Paragraph 2.10.15 of Dr Lane's Supplemental Report);

35.3 By that time the cladding system on the outside of the Tower had caught fire, perhaps through the fan vent, or through an open window, or via the uPVC surrounds compromised by heat;

35.4 If the cladding system had not ignited in the way it did, for the reasons it did, and if the fire had not spread in the way it did, and at the speed it did (because of the materials used and/or method of construction), there is no evidence to suggest that:

35.4.1 Compartmentation would have been compromised by the original fire in Flat 16 externally, or internally in the Tower; and/or

35.4.2 'Stay Put' (as an evacuation strategy and/or advice to residents) would have been compromised by the original fire in Flat 16 at all; and/or

35.4.3 Relevant active and/or passive fire measures present in the Tower would have been engaged outside the Flat 16 compartment within the Tower; and/or

35.4.4 Relevant active and passive fire measures present in the Tower would not have coped as intended with such fire and/or smoke as would have been generated by a fire extinguished internally by c. 01:21.

EXTERNAL WALLS

36 CS Stokes maintains that it will be important for the Public Inquiry to consider the issue of whether or not the ‘external walls’ fall, and/or should fall, within the remit of the FSO. As set out in more detail in CS Stokes’ Opening Oral Submissions, CS Stokes’ position is that the external walls of the Tower do not form part of the ‘common parts’ of the building for the purposes of the FSO. CS Stokes does not intend to repeat those submissions here, and will make further submissions in this regard in Phase 2 when this issue falls to be considered further.

CLADDING AND OTHER FAÇADE MATERIALS

37 As has become apparent from the evidence given to-date, and the views of the experts as currently expressed, the Tower was clad in ACM panels and insulation which were seemingly entirely unsuitable for use on a residential block of flats. Enquiry into ‘how’ and ‘why’ the façade came to be selected or installed will no doubt form a major part of the Public Inquiry’s work in Phase 2, and CS Stokes will make further submissions on this point if and when necessary.

38 Dr Lane’s view is that the external walls of the building did not adequately resist the spread of fire over the walls and thus did not comply with Requirement B4 of the Building Regulations 2010 (see, for example, Dr Lane at page 109 of the Transcript for 22 November 2018). CS Stokes does not dispute that proposition.

39 In its Opening Oral Submissions, CS Stokes commented on references to ‘Fire Rated Cladding’ within its FRAs, and further discussion of this can be found in CS Stokes’ Witness Statement. Again, CS Stokes does not intend to repeat its former submissions,

but would repeat (paraphrased below) its contention in its Opening Oral Submissions that:

*“if a cladding system **was** passed as compliant, [it] **should** be capable of being taken as true, [that] the system with approval did not present a risk to health and safety”.*

- 40 CS Stokes maintains that proposition but extends it to observe that a building passed as compliant by Building Control should also be capable of being regarded as compliant with the Building Regulations and, in particular, Requirement B4; namely that it would adequately resist the spread of fire over the external walls of the building.

CONCLUDING REMARKS

- 41 CS Stokes hopes that this Closing Statement further assists the Public Inquiry as it reaches the end of Phase 1 and begins the transition into Phase 2. As noted above, Counsel for CS Stokes, James Leonard, will expand further on matters in CS Stokes' Closing Oral Submissions.
- 42 Should this Statement, or Counsel's Closing Oral Submissions, raise matters which CS Stokes can assist the Public Inquiry with further in Phase 2, CS Stokes would be pleased to assist further at that stage.
- 43 For the time being, however, that concludes this Closing Statement on behalf of CS Stokes.

Dated 6 December 2018