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Rt Hon Sir Martin Moore-Bick
Chairman, Grenfell Tower Inquiry

www.gov.uk/ago

By email

28 May 2020

Dear Sir Martin,

Re: Grenfell Tower Inquiry – Request for an extension of Attorney General's undertaking

Thank you for your letters of 22 April 2020 and 23 April 2020.

I have taken into consideration the content of those letters and all representations received by your office and by mine, and the observations of the Director of Public Prosecutions, the Metropolitan Police Service and the Health and Safety Executive. The bereaved, survivors and their relatives have been very much in my mind in making my decision. I know that they seek truth and accountability, and I am clear about the importance of that both in terms of your Inquiry and also the criminal process.

In reaching my decision, I have had regard to the same six factors to which I had regard in my original decision namely:

- The likelihood of the privilege against self-incrimination being engaged/raised in Modules 1, 2 and 3 of Phase 2 of the Inquiry.
- The alternative options to mitigate this risk.
- The Inquiry's terms of reference.
- The wider public interest in the Inquiry.
- The impact (if any) on both the criminal investigation and any potential criminal prosecutions;
- The overall public interest.

I have concluded that there has been a material change of circumstances which means that it is right for me to consider your request to revisit my original decision. Previously, no legal person had sought the protection of an undertaking. Indeed, this prospect had been expressly disavowed in oral submissions to you. I have now received representations from those who seek this legal protection which set out why the undertaking is sought and I have considered those representations in my reassessment of the six factors above.

There is a strong public interest in the Inquiry receiving full and frank answers to the important questions it has from all of those called to give evidence and, in due course, being able to make properly considered recommendations in the interests of public safety, and to do so as soon as it reasonably can. I am satisfied that granting an extension to the undertaking to include legal persons will assist the Inquiry in that regard. I am further satisfied that the extension will not jeopardise or unduly hinder any criminal investigation or prosecution and I have given particular thought to the terms of the extension to the undertaking which may best serve the public interest overall. Those considerations lead me to conclude that the provision of an undertaking in the following terms is now in the public interest:

- “1. No oral evidence given by a natural or legal person before the Grenfell Tower Inquiry (“the Inquiry”) in Modules 1, 2 and 3 of Phase 2 will be used in evidence against that person in any criminal proceedings or for the purpose of deciding whether to bring such proceedings save as provided in paragraph 2 herein.
2. Paragraph 1 does not apply to:
 - (a) a prosecution in which that person is charged (however charged) with having given false evidence in the course of the Inquiry or with having conspired with or procured others to do so; or
 - (b) a prosecution in which that person is charged with any offence under section 35 of the Inquiries Act 2005 or with having conspired with or procured others to commit such an offence.”

Whilst I accept that, as a matter of legal principle, a legal person can invoke the privilege against self-incrimination, I make clear that the grant of this extension to the undertaking does not in any way constitute or reflect any acceptance or agreement on my part that any such right (on the part of a legal person) may arise during the course of the oral evidence being given by any of the individual witnesses in Modules 1, 2 and 3 of Phase 2. For example, whether and to what extent any individual witness has given or will give evidence in anything other than a personal capacity may have to be determined subsequently. As the Inquiry has already stated, it is not seeking evidence from corporate entities in their own right and it considers that it can obtain all the evidence it needs from individual witnesses. A legal person will only have the protection of this undertaking if and to the extent that, as a matter of law, it would have had a relevant right to invoke such privilege. Accordingly the terms of the extension to the undertaking reflect, and go no further than, the protection a legal person has according to law.

*Yours sincerely
Jill Braverman*

**RT HON SUELLA BRAVERMAN QC MP
ATTORNEY GENERAL**