**IN THE GRENFELL TOWER INQUIRY**

**IN THE MATTER OF SECTION 7 OF THE INQUIRIES ACT OF 2005**

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**SUBMISSIONS ON BEHALF OF THE BEREAVED, RESIDENTS AND SURVIVORS REPRESENTED BY BIRNBERG PEIRCE, SAUNDERS LAW, DUNCAN LEWIS, DEIGHTON PIERCE GLYNN, RUSSELL COOKE AND SAUNDERS SOLICITORS**

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## Introduction

1. These submissions are made on behalf of the Bereaved, Residents and Survivors (BSRs) represented by the firms Birnberg Peirce, Saunders Law, Duncan Lewis, Deighton Pierce Glynn, Russell Cooke and Saunders Solicitors, and address the Inquiry's human rights and equality duties to investigate the issues of race and discrimination during phase 2 by an appropriately qualified and diverse panel, with the assistance of similarly qualified and diverse assessors and experts. It adopts and expands the submissions on race and discrimination made on behalf of the BSRs by G11[1] and IKP[2] and by the Equality and Human Rights Commission (EHRC)[3].

2. The duties upon public bodies to manage the risk to life posed by fire are duties that engage Article 2 of the European Convention on Human Rights (ECHR), which protects the right to life. The Chairman has accepted that Article 2 is engaged in this Inquiry. Article 14 prohibits discrimination in the ambit of any of the rights protected by the ECHR. The Article 2 procedural duty, read with Article 14, requires the Inquiry to investigate whether racial discrimination was a contributing factor to the Grenfell fire.

3. Where, as here, multiple deaths of Black Asian and Minority Ethnic ('BAME') people occur in circumstances engaging clear and incontrovertible structural inequalities, the Inquiry into those deaths must consider those inequalities in fulfilling its Terms of

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[1] See further Opening Submissions, Transcript-of-Procedural-Hearing-11-December-2017.pdf; in particular at page 57 – 78; 98 – 109; 130 – 138; 138 - 143.

[2] 18 June 2018 Oral Opening Submissions – Brief Written Outline; and Transcript-of-Procedural-Hearing-11-December-2017.pfd, page 143 – 148.

[3] Submissions of EHRC dated 25 January 2019.

Reference (TOR) if it is to discharge the Article 2 obligation, considered together with Article 14.

4. Given the inextricable link between fire safety, risk and the ability to safely evacuate, particularly in high-rise housing, this Inquiry must as a matter of law establish how it was considered reasonable to, for example, accommodate disabled people, elderly people, pregnant women or those with children or otherwise needing assistance in a high rise building and on upper floors from which they could not self-evacuate and consider appropriate recommendations.[4] These submissions will focus on race, but there are clearly a number of inequalities engaged in this Inquiry that the panel must take into account to discharge the investigative burden that falls upon it by virtue of Articles 2 and 14 and by the Equality Act.

**The facts and numbers known to date of injuries or deaths in the fire**

5. Annex A to these submissions outline the known BAME figures of people who were either injured or died in Grenfell, or who were rendered homeless as a result of the fire.

6. According to the 2011 Census, the total population of England and Wales was 56.1 million, and 86.0% of the population was White. People from Asian ethnic groups made up 7.5% of the population, followed by Black ethnic groups at 3.3%, Mixed/Multiple ethnic groups at 2.2% and Other ethnic groups at 1.0%[5].

7. London was the most ethnically diverse region in England and Wales, where 40.2% of residents identified with either the Asian, Black, Mixed or Other ethnic group[6].

[4] See further, for example, *§118 .EHRC Phase 1 Submissions 25. 01.19.*
[5] https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/national-and-regional-populations/population-of-england-and-wales/latest
[6] https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/national-and-regional-populations/regional-ethnic-diversity/latest

8. In 2012, Kensington and Chelsea had a population of 154,000. 70.1% of the population was White (108,000); 8.4% was Asian (13,000); 7.2% was Black (11,000); and 14.3% was Mixed/Other (22,000). In 2017, Kensington and Chelsea had a population of 153,000: of which 63.4% were White (97,000); 7.8% were Asian (12,000); 11.8% were Black (18,000) and 17.0% were Mixed/Other (26,000)[7].

9. BAME households are disproportionately represented in rented social housing: In 2016-18, 17% of households (3.9 million) in England lived in rented social housing. 44% of Black African households were in rented social housing; 40% of Black Caribbean households; and 32% of Arab households[8].

10. 4 of the 72 people who lost their lives were visiting the Tower[9]. Baby Logan Gomes was stillborn. Of the remaining 67, 57 were from BAME communities[10].

11. In 2017, the Royal Borough of Kensington and Chelsea had a population of 153,000, of which 63.4% of residents were White[11]. And yet of the 67 residents of Grenfell Tower who died in the fire, 57 (85%) were BAME[12].

12. In the English Housing Survey 2017-2018, it was found that 40% of those living in high rise buildings in the social rented sector are Black, Asian or other. This, compared to the percent of the population (14%), is high.[13] The danger to those living in high rise buildings is significantly higher, especially to those living on higher floors. Most of those who died in the Grenfell Tower fire were from higher floors.

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[7] https://data.london.gov.uk/dataset/ethnic-groups-borough

[8] https://www.ethnicity-facts-figures.service.gov.uk/housing/social-housing/renting-from-a-local-authority-or-housing-association-social-housing/latest

[9] See Annex A

[10] See Annex A

[11] London Datastore: Ethnic Groups by Borough https://data.london.gov.uk/dataset/ethnic-groups-borough

[12] See Analysis of those who died at the end of this document

[13] https://www.gov.uk/government/statistics/english-housing-survey-2017-to-2018-households

Chapter 1 Annex Table 1.3 . Non White= 40.11 percent of persons dwelling in high rise flats.

**The human rights framework**

13. In the context of killings where there is evidence of racial discrimination, the Strasbourg Court has repeatedly held that there is a duty on the State not just to investigate the killing but to investigate racist motives for the killing. See *Nachova v Bulgaria* (2006) 42 EHRR 43; *Angelova and Iliev v Bulgaria* (2008) 47 EHRR 7 at [107]-[118]; *Secic v Croatia* (application no 40116/02, 31 May 2007); and *Fedorchenko and Lozenko v Ukraine* (application no 387/03, 20 September 2012) at [58]-[71].

14. As the Grand Chamber held in *Nachova* at [160]-[161]:

> "... [W]hen investigating violent incidents and, in particular, deaths at the hands of State agents, State authorities have the additional duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the events. Failing to do so and treating racially induced violence and brutality on an equal footing with cases that have no racist overtones would be to turn a blind eye to the specific nature of acts that are particularly destructive of fundamental rights. A failure to make a distinction in the way in which situations that are essentially different are handled may constitute unjustified treatment irreconcilable with Article 14 of the Convention (see, *mutatis mutandis*, *Thlimmenos v. Greece* [GC], no. 34369/97, § 44, ECHR 2000-IV). In order to maintain public confidence in their law enforcement machinery, Contracting States must ensure that in the investigation of incidents involving the use of force a distinction is made both in their legal systems and in practice between cases of excessive use of force and of racist killing.
>
> Admittedly, proving racial motivation will often be extremely difficult in practice. The respondent State's obligation to investigate possible racist overtones to a violent act is an obligation to use best endeavours and not absolute (see, *mutatis mutandis*, *Shanaghan v. the United Kingdom,* no. 37715/97, § 90, ECHR 2001-III, setting out the same standard with regard to the general obligation to investigate). The authorities must do what is reasonable in the circumstances to collect and secure the evidence, explore all practical means of discovering the truth and deliver fully reasoned, impartial and objective decisions, without omitting suspicious facts that may be indicative of a racially induced violence."
>
> 161. The Grand Chamber would add that the authorities' duty to investigate the existence of a possible link between racist attitudes and an act of violence is an aspect of their procedural obligations arising under Article 2 of the

> Convention, but may also be seen as implicit in their responsibilities under Article 14 of the Convention taken in conjunction with Article 2 to secure the enjoyment of the right to life without discrimination. Owing to the interplay of the two provisions, issues such as those in the present case may fall to be examined under one of the two provisions only, with no separate issue arising under the other, or may require examination under both Articles. This is a question to be decided in each case on its facts and depending on the nature of the allegations made."

15. And as the Chamber held in *Angelova* at [114]:

> "The Court reiterates that States have a general obligation under Article 2 of the Convention to conduct an effective investigation in cases of deprivation of life, which must be discharged without discrimination, as required by Article 14 of the Convention. Moreover, when investigating violent incidents State authorities have the additional duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the events. Failing to do so and treating racially induced violence and brutality on an equal footing with cases that have no racist overtones would be to turn a blind eye to the specific nature of acts that are particularly destructive of fundamental rights. A failure to make a distinction in the way in which situations that are essentially different are handled may constitute unjustified treatment irreconcilable with Article 14 of the Convention. Admittedly, proving racial motivation will often be extremely difficult in practice. The respondent State's obligation to investigate possible racist overtones to a violent act is an obligation to use best endeavours and not absolute; the authorities must do what is reasonable in the circumstances of the case (see *Nachova and Others*, cited above, § 160)."

16. These cases all concerned acts of violence. However, there is no doubt that the substantive and procedural limbs of Article 2 can also be engaged by deaths arising from disasters: see *Budayeva v Russia* (2014) 59 EHRR 2; *Oneryildiz v Turkey* (2005) 41 EHRR 20. There is no reason, therefore, why the authorities above would not be applicable to deaths arising from a disaster in which racial discrimination was suspected to have played a role.

17. It is submitted that this is a case in which there is evidence sufficient to raise a *prima facie* case of racial discrimination. The Strasbourg Court has recognised that a difference in treatment may take the form of disproportionately prejudicial effects of

a general policy or measure which, though couched in neutral terms, discriminates against a group; and that such a situation may amount to "indirect discrimination", which does not necessarily require a discriminatory intent: *Biao v Denmark* (2017) 64 EHRR 1.

18. As the Strasbourg Court held in *DH and Others v Czech Republic* (2008) 47 EHRR 3, a case about the dramatic overrepresentation of Roma children in special schools:

> "175. The Court has established in its case-law that discrimination means treating differently, without an objective and reasonable justification, persons in relevantly similar situations (*Willis v. the United Kingdom*, no. 36042/97, § 48, ECHR 2002 IV; and *Okpisz v. Germany*, no. 59140/00, § 33, 25 October 2005). However, Article 14 does not prohibit a member State from treating groups differently in order to correct "factual inequalities" between them; indeed in certain circumstances a failure to attempt to correct inequality through different treatment may in itself give rise to a breach of the Article (*"Case relating to certain aspects of the laws on the use of languages in education in Belgium" v. Belgium (Merits)*, judgment of 23 July 1968, Series A no. 6, § 10; *Thlimmenos v. Greece* [GC], no. 34369/97, § 44, ECHR 2000-IV; and *Stec and Others v. the United Kingdom* [GC], no. 65731/01, § 51, ECHR 2006 ...). The Court has also accepted that a general policy or measure that has disproportionately prejudicial effects on a particular group may be considered discriminatory notwithstanding that it is not specifically aimed at that group (*Hugh Jordan v. the United Kingdom*, no. 24746/94, § 154, 4 May 2001; and *Hoogendijk v. the Netherlands* (dec.), no. 58461/00, 6 January 2005), and that discrimination potentially contrary to the Convention may result from a *de facto* situation (*Zarb Adami v. Malta*, no. 17209/02, § 76, ECHR 2006 ...).
>
> 176. Discrimination on account of, *inter alia*, a person's ethnic origin is a form of racial discrimination. Racial discrimination is a particularly invidious kind of discrimination and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction. It is for this reason that the authorities must use all available means to combat racism, thereby reinforcing democracy's vision of a society in which diversity is not perceived as a threat but as a source of enrichment (*Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 145, ECHR 2005 ...; and *Timishev v. Russia*, nos. 55762/00 and 55974/00, § 56, ECHR 2005-...). The Court has also held that no difference in treatment which is based exclusively or to a decisive extent on a person's ethnic origin is capable of being objectively justified in a contemporary democratic society built on the principles of pluralism and respect for different cultures (*Timishev*, cited above, § 58).
>
> 177. As to the burden of proof in this sphere, the Court has established that once the applicant has shown a difference in treatment, it is for the Government to show that it was justified (see, among other authorities, *Chassagnou and*

*Others v. France* [GC], nos. 25088/94, 28331/95 and 28443/95, §§ 91-92, ECHR 1999 III; and *Timishev*, cited above, § 57).

178. As regards the question of what constitutes prima facie evidence capable of shifting the burden of proof on to the respondent State, the Court stated in *Nachova and Others* (cited above, § 147) that in proceedings before it there are no procedural barriers to the admissibility of evidence or pre-determined formulae for its assessment. The Court adopts the conclusions that are, in its view, supported by the free evaluation of all evidence, including such inferences as may flow from the facts and the parties' submissions. According to its established case-law, proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact. Moreover, the level of persuasion necessary for reaching a particular conclusion and, in this connection, the distribution of the burden of proof are intrinsically linked to the specificity of the facts, the nature of the allegation made and the Convention right at stake.

179. The Court has also recognised that Convention proceedings do not in all cases lend themselves to a rigorous application of the principle *affirmanti incumbit probatio* (he who alleges something must prove that allegation – *Aktaş v. Turkey (extracts)*, no. 24351/94, § 272, ECHR 2003 V). In certain circumstances, where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation (*Salman v. Turkey* [GC], no. 21986/93, § 100, ECHR 2000-VII; and *Anguelova v. Bulgaria*, no. 38361/97, § 111, ECHR 2002 IV). In the case of *Nachova and Others*, cited above, § 157), the Court did not rule out requiring a respondent Government to disprove an arguable allegation of discrimination in certain cases, even though it considered that it would be difficult to do so in that particular case in which the allegation was that an act of violence had been motivated by racial prejudice. It noted in that connection that in the legal systems of many countries proof of the discriminatory effect of a policy, decision or practice would dispense with the need to prove intent in respect of alleged discrimination in employment or in the provision of services.

180. As to whether statistics can constitute evidence, the Court has in the past stated that statistics could not in themselves disclose a practice which could be classified as discriminatory (*Hugh Jordan*, cited above, § 154). However, in more recent cases on the question of discrimination, in which the applicants alleged a difference in the effect of a general measure or *de facto* situation (*Hoogendijk*, cited above; and *Zarb Adami*, cited above, §§ 77-78), the Court relied extensively on statistics produced by the parties to establish a difference in treatment between two groups (men and women) in similar situations.

Thus, in the *Hoogendijk* decision the Court stated: "[W]here an applicant is able to show, on the basis of undisputed official statistics, the existence of a prima facie indication that a specific rule – although formulated in a neutral manner – in fact affects a clearly higher percentage of women than men, it is for the respondent Government to show that this is the result of objective factors

unrelated to any discrimination on grounds of sex. If the onus of demonstrating that a difference in impact for men and women is not in practice discriminatory does not shift to the respondent Government, it will be in practice extremely difficult for applicants to prove indirect discrimination."

181. Lastly, as noted in previous cases, the vulnerable position of Roma/Gypsies means that special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases (*Chapman v. the United Kingdom* [GC], no. 27238/95, § 96, ECHR 2001 I; and *Connors v. the United Kingdom*, no. 66746/01, § 84, 27 May 2004)."

19. On the facts of *DH,* the Court found that the statistics gave rise to a presumption of indirect discrimination:

"192. In their reports submitted in accordance with Article 25 § 1 of the Framework Convention for the Protection of National Minorities, the Czech authorities accepted that in 1999 Roma pupils made up between 80% and 90% of the total number of pupils in some special schools (see paragraph 66 above) and that in 2004 "large numbers" of Roma children were still being placed in special schools (see paragraph 67 above). The Advisory Committee on the Framework Convention observed in its report of 26 October 2005 that according to unofficial estimates Roma accounted for up to 70% of pupils enrolled in special schools. According to the report published by ECRI in 2000, Roma children were "vastly overrepresented" in special schools. The Committee on the Elimination of Racial Discrimination noted in its concluding observations of 30 March 1998 that a disproportionately large number of Roma children were placed in special schools (see paragraph 99 above). Lastly, according to the figures supplied by the European Monitoring Centre on Racism and Xenophobia, more than half of Roma children in the Czech Republic attended special school.

193. In the Court's view, the latter figures, which do not relate solely to the Ostrava region and therefore provide a more general picture, show that, even if the exact percentage of Roma children in special schools at the material time remains difficult to establish, their number was disproportionately high. Moreover, Roma pupils formed a majority of the pupils in special schools. Despite being couched in neutral terms, the relevant statutory provisions therefore had considerably more impact in practice on Roma children than on non-Roma children and resulted in statistically disproportionate numbers of placements of the former in special schools.

194. Where it has been shown that legislation produces such a discriminatory effect, the Grand Chamber considers that, as with cases concerning employment or the provision of services, it is not necessary in cases in the educational sphere (see, *mutatis mutandis*, *Nachova and Others*, cited

above, § 157) to prove any discriminatory intent on the part of the relevant authorities (see paragraph 184 above).

195. In these circumstances, the evidence submitted by the applicants can be regarded as sufficiently reliable and significant to give rise to a strong presumption of indirect discrimination. The burden of proof must therefore shift to the Government, which must show that the difference in the impact of the legislation was the result of objective factors unrelated to ethnic origin."

**Application to the facts**

20. Just as in *DH,* here the statistics as set out in paragraphs 7-11 above give rise to a presumption of indirect discrimination, which the burden is on the State to justify. The statistics show that BAME people were substantially over-represented among the Grenfell tenants, and among those who were injured or killed in the disaster, relative to their proportions in the general population and in the Royal Borough of Kensington and Chelsea.

21. This is more than sufficient to engage the State's duty under Article 2, read with Article 14, to investigate the possible racial angle in these deaths.

22. A failure to consider to investigate this, we submit, would be a violation of the State's investigative duty and potentially its substantive duty under Article 2, in terms of the ongoing risk of future deaths.

23. It is important to appreciate that this is a positive <u>duty</u> on the State which forms part of its Article 2 investigative duty, read with Article 14. The State <u>must</u> investigate these matters – and if this Inquiry is the principal means through which the State chooses to discharge its investigative duty, then this Inquiry <u>must</u> investigate them. A failure to do so would leave the State open to a finding in Strasbourg that it had not discharged its investigative duty.

24. The Inquiry must, in particular, ask itself whether there is any link between the failure to maintain Grenfell to an adequate standard, and the fact that Black and Minority

Ethnic people were disproportionately concentrated in Grenfell Tower and in other social housing in the borough.

25. In this regard, it must look not just at direct racially discriminatory motivations, but also at the wider context – the residualised role of social housing in the UK today as housing for the poor, in the context of the erosion of social housing stock since 1980 – and how this affects the way that social housing is treated by local authorities and central government. If Grenfell Tower was neglected not specifically because of the race of its tenants but because they were poor, this is still capable of amounting to indirect racial discrimination given that, on average, BAME people in the UK are more likely to be poor than white people. (See *Biao v Denmark* (2017) 64 EHRR 1 at [91]: *"A general policy or measure that has disproportionately prejudicial effects on a particular group may be considered discriminatory even where it is not specifically aimed at that group and there is no discriminatory intent."*)

**Public Sector Equality Duty**

26. Further, there is a separate duty under the Public Sector Equality Duty (PSED). The PSED is a duty focused on the decision-making process, requiring public authorities to show that they have had due regard to the specified matters when making decisions. Article 14, by contrast, is a duty focused on the result, requiring the State to secure Convention rights to all without discrimination. In this context, the two duties complement one another and must both be given full effect.
27. Regard must also be had to the PSED under s149(2) A of the Equality Act, which applies to all bodies exercising public functions. This means it applies both to the substantive duties of the public authorities responsible for events prior to and leading to the fire *and* to the administrative and organisational functions of the Inquiry.

28. We refer to and adopt the submissions of the EHRC dated 18 December 2017 in relation to the PSED. In particular:

    a) Adapting paragraph 30 of the EHRC submissions, as regards race the PSED requires a public authority to have due regard to the need to (i) eliminate race

discrimination and other conduct prohibited by the EA 2010; (ii) advance equality of opportunity between persons of different ethnicities; and (iii) foster good relations between persons of different ethnicities. Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to (i) remove or minimise disadvantages suffered by Black and minority ethnic people; (ii) take steps to meet their different needs; and (iii) encourage them to participate in public life or in any other activity in which their participation is disproportionately low. Having due regard to the need to foster good relations involves having due regard, in particular, to the need to (i) tackle prejudice, and (ii) promote understanding.

b) The PSED applies to all aspects of a public authority's work, including decisions it makes about individuals, policies and the allocation of resources, and it can require consultation and engagement with those affected by a public authority's decisions, policies or actions.

c) A proper investigation of the performance of the PSED functions of public authorities involved with residents before the fire (and with residents and bereaved after the fire) is likely to be an important part of the Inquiry's discharging of its Article 2/14 obligation to investigate the role played by race in events culminating in the fire and thereafter.

d) As also pointed out in the EHRC submissions, the PSED will also apply to the organisation[14] and administration of the Inquiry, as will the procedural or investigative obligation under Article 2 when considered together with Article 14, as regards the proper and effective participation of the survivors, bereaved and former residents of Grenfell Tower and surrounding blocks. That the Prime Minister accepted the application of the PSED to her decisions in relation to the Inquiry were confirmed in the evidence provided to the Administrative Court in the judicial

[14] Adopting paras 30 - 36 of the EHRC submissions dated 18 December 2017 as regards the interpretation of 'judicial function' and how the PSED applies to the Inquiry,

review brought on the issue of a panel *R (Daniels) v Prime Minister* [2018] EWHC 1090.

**Immediate and pressing issues arising from the engagement of Article 2/14 and the PSED: panel, assessors and experts**

29. The resumption of phase 2 of the Inquiry on 6 July 2020 in the absence of a full panel member, with one of the two assessors missing, and without a key expert in place as described below, risks breaching the Article 2 procedural obligation and the PSED. The Grenfell Tower fire has adversely affected very large numbers of people who fall within protected categories of the Equality Act 2010. Proceeding with phase 2 evidence in the absence of a second panel member with the requisite diversity of background and experience risks compromising its ability to perform adequately its investigative function, as well as eroding the BSRs' and affected community's trust in the Inquiry's work.

30. In relation to the panel issue, following a legal challenge to the lack of a panel, in May 2019 the Prime Minister notified the Chairman of her decision to appoint two panel members. One of those, Professor Hamdi, was described in the Prime Minister's letter to the Chairman dated 19 May 2019 as 'a widely respected and accomplished academic with an international reputation in housing and *participatory* design and planning' [our emphasis]. Professor Hamdi was then unable to take up his appointment. An alternative proposed appointee was not accepted on conflict grounds, but significantly lacked the 'participatory' expertise of Professor Hamdi.

31. As regards assessors, on 10 August 2017 the Chairman wrote to the Prime Minister informing her of his plans in that regard, stating:

> *'I think it likely that I shall wish to appoint a diverse group of people whose experience extends to the occupation and management of social housing and*

*the administration of local government more generally, as well as to matters of a more technical scientific nature*.'

32. One of the three assessors subsequently appointed, Joyce Redfearn, has since stood down and has not yet been replaced. The Inquiry had stated her particular expertise was to assist the panel 'in identifying best practice among local authorities in relation to matters such as the management of finances and the procurement of services relating to the design and construction of residential buildings' and also 'in investigating the arrangements made by the local authority and Tenant Management Organisation for receiving and acting on information relevant to the risk of fire at Grenfell Tower, as well as the response of local government in the days immediately following the fire'. This is expertise that is clearly relevant to the substantive pre-and post- fire duties of the public authorities concerned, both under Articles 2 and 14 and under the PSED. It is also relevant to the Inquiry's obligations in that regard, both substantively and procedurally.

33. In the Chairman's response to submissions made on 11 and 12 December 2017, he announced his decision to appoint an expert on the issue of how the complaints of the residents of the Tower and the surrounding area were dealt with. The panel is reminded of paragraph 8 of the Chairman's response, which we cite in full:

> 'It is clear that many of those who lived in Grenfell Tower and the surrounding area are strongly of the view that in the years preceding the fire the TMO received many complaints about the condition of the building and (among other things) warnings about matters affecting safety, including the risk of fire, to which little heed was paid. Investigation of those complaints and the responses to them will form an important part of the Inquiry's work and it is necessary to examine carefully whether they were handled by RBKC and the TMO properly and in accordance with good practice. The Inquiry has not as yet instructed an expert to give evidence specifically on how complaints and warnings of that kind ought to be handled, and although two of the

> assessors who have already been appointed, Ms. Joyce Redfearn and Mr. Joe Montgomery, have extensive experience of the management of local authorities, I am persuaded, after discussing the matter with them, that neither of them has the recent experience of dealing with matters of that kind that is necessary to provide the Inquiry with the help it needs. I shall therefore seek to identify someone who has the necessary standing and expertise in such matters with a view to instructing him or her to provide an expert report and in due course to give evidence to the Inquiry.'

34. It is submitted that the instruction of an appropriate expert with an understanding of the history of social housing, the role of tenant voices and tenant participation, as well as an understanding of how inequality and discrimination can hinder such participation, is crucial if the Inquiry is to discharge the investigation obligation and the PSED, as addressed in these submissions. To date, no such expert has been identified and instructed, and the BSR core participants have not had the benefit in turn of a shadow expert on these issues.

**Conclusion**

35. On 14 June 2020 a spokesperson for the inquiry was quoted as saying:

> "The inquiry recognises that there are those who feel strongly that factors such as social background and race played a significant role in the Grenfell Tower fire. When the inquiry was being set up there were calls for its terms of reference to include national and local policy on the provision, allocation and funding of social housing, which would no doubt have included an investigation into the influence of race and social background.
>
> "Although the chairman shared the concerns of those who felt these were important questions which required urgent examination, on careful reflection he came to the conclusion when recommending the inquiry's terms of reference that the inquiry was not the best way to answer them. However, if in the course of its investigations the panel finds that factors of that kind

played a part in any of the decisions under consideration, it will make that clear in its report."[15]

36. Issues of discrimination are unlikely to be adequately investigated in its current form because its process is flawed and will not satisfy the requirements of Article 14.

**3 July 2020**

**Michael Mansfield QC**

**Leslie Thomas QC**

**Allison Munroe QC**

**Thalia Maragh**

**Birnberg Peirce**

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**Duncan Lewis**

**Deighton Pierce Glynn**

**Russell Cooke**

**Saunders Solicitors**

[15] https://www.theguardian.com/uk-news/2020/jun/14/calls-grow-for-grenfell-inquiry-to-look-at-role-of-institutional-racism

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**ANNEX A**

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## Analysis of the ethnicity of those who died

1. 4 of the 72 people who lost their lives were visiting the Tower – Abufars Ibrahim, visiting his mother in Flat 206; Gary Maunders, visiting his friend Deborah Lamprell in Flat 161; Amna Mahmud Idris, visiting her family in Flat 166; and Fatemeh Afrasiabi visiting her sister Sakina Afrasiabi in Flat 151. Baby Logan Gomes was stillborn[16].

2. Of the remaining 67:

    a. **32** were from the **Middle East and North Africa**: There were 2 people from Afghanistan[17], 6 from Egypt or of Egyptian heritage[18], 2 from Iran[19], 6 from Lebanon or of Lebanese heritage[20], 11 from Morocco or of Moroccan heritage[21], 4 from Sudan or of Sudanese heritage[22] and 1 from Syria[23].
    b. **9** were from **East Africa**: 3 from Eritrea or of Eritrean heritage[24] and 6 from Ethiopia or of Ethiopian heritage[25].
    c. **7** were of White British or White Irish heritage[26].
    d. **5** were from **West Africa**: 2 from the Gambia or of Gambian heritage[27], 1 from Nigeria[28] and 2 from Sierra Leone[29].
    e. **5** were from **Bangladesh** or of Bangladeshi heritage[30].

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[16] And accordingly hasn't been included in the total number of residents in the Tower prior to the fire.
[17] Ali Yawa Jafari, Flat 86 and Mohamed 'Saber' Amied Neda, Flat 205
[18] Eslah and Mariem Elgwahry, Flat 196; Rania Ibrahim, Fethia and Hania Hasan, Flat 203; and Hesham Rahman, Flat 204
[19] Sakina Afrasehabi, Flat 151 and Hamid Kani, Flat 154
[20] Sirria Choucair, Flat 191 and Bassem Choukair, Nadia, Mierna, Fatima and Zainab Choucair from Flat 193;
[21] Abdeslam Sebbar, Flat 81; Khadija Khalloufi, Flat 143; Omar Belkadi, Farah Hamdan, Malak and Leena Belkadi, Flat 175; Abdulaziz, Faouzia, Yasin, Nur Huda and Mehdi El-Wahabi, Flat 182
[22] Amal Ahmedin & Amaya Tuccu Ahmedin, Flat 166 and Fethia Ali Ahmed Elsanosi and Isra Ibrahim, Flat 206
[23] Mohammed Alhaj Ali, Flat 112
[24] Berkti & Biruk Haftom, Flat 155 and Mohamednur Tuccu, Flat 166
[25] Nura Jemal, Hashim Kedir, Yaqub, Yahyah and Firdaws Hashim, Flat 192; Isaac Paulos, Flat 153
[26] Denis Murphy, Flat 111; Steve Power, Flat 122; Sheila, Flat 132; Deborah Lamprell (Flat 161); Victoria King and Alexandra Atala (Flat 172); and Tony Disson (Flat 194).
[27] Khadiya Saye and Mary Mendy, Flat 173
[28] Vincent Chiejina, Flat 144
[29] Zainab & Jeremiah Deen, Flat 115
[30] Rabeya Begum, Kamru Miah, Mohammed Hamid, Mohammed Hanif and Husna Begum, Flat 142

f. **3** were from the **Caribbean**: 2 from Dominica[31] and 1 from Trinidad[32].
g. **3** were from **Europe**: 1 from Spain[33] and 2 from Italy[34].
h. 1 was from the **Philippines**[35].
i. 1 was of **Colombian** heritage[36].
j. And 1 was of unknown BME heritage[37].

[31] Marjorie and Ernie Vital, Flat 162
[32] Raymond Bernard, Flat 202
[33] Maria Del Pilar Burton, Flat 165
[34] Marco Gottardi and Gloria Trevisan, Flat 202
[35] Ligaya Moore, Flat 181
[36] Jessica Urbano Ramirez, Flat 176
[37] Joseph Daniels, Flat 135.