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Grenfell: the legal tasks ahead

Determining who is responsible is likely to involve a public inquiry and group civil action. Jonathan Ames reports

Little more than a week since fire tore through a west London tower block, killing at least 79 people and making hundreds homeless, lawyers are already having to advise insurers and others on the ramifications of the catastrophe. As one experienced insurance law expert says, it is going to be a difficult task unpicking legal responsibility for the events at Grenfell Tower. "The liability chain will be long and complex," predicts Nigel Teasdale, the president of the Forum of Insurance Lawyers and a partner at DWF.

Another predicts that a class action lawsuit for damages is bound to follow once the wider public investigations have finished.

The first issues specialists will need to wrestle with are the most fundamental, and they will be high on the agenda of any public inquiry. What were the origins of the fire? How did it spread so quickly? And who failed to do what they were supposed to do in relation to fire safety? Theresa May has already announced that a judge-led public inquiry will focus on those issues, a point that has caused controversy. Some lawyers argue that public inquiries lack the clarity and speed of a traditional coroner's inquest. There are also concerns that residents could be carved out of questioning witnesses at a public inquiry, something they have an absolute right to do at an inquest.

However, as the prime minister is committed to a public inquiry, lawyers forecast that several bodies and individuals could face some uncomfortable questions. According to Ruth Lawrence, an insurance law partner at Hill Dickinson, the main witnesses in the frame at an inquiry will be the tower's owner, the London borough of Kensington and Chelsea, and its



Volunteers handling donations. Survivors are expected to pursue lawsuits

devolved management organisation. "They will face questions about fire safety measures and general management of the building," says Lawrence. "As well as issues around whether there were fire extinguishers on every floor, whether the fire exits were kept clear, whether a sprinkler system was considered and why it was rejected."

The inquiry chairman is not likely to stop with the owners and their management agents. Oversight of contractors will be an issue, as will the contractors' performance in carrying out a recent upgrade. Perhaps the most important issue for contractors will be whether they conformed to British Standards requirements when conducting the works. If they can demonstrate that they have adhered to British Standards they will not be found to be liable, Lawrence says.

Council fire safety officers could also be in the frame over how often fire assessments of the building were conducted and whether recommendations were made and implemented.

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Lawyers envisage that procurement law specialists will also be involved. Michael Bowsher, QC, of Monckton Chambers, acknowledges that discussion is speculative at present, but highlights several likely issues. The inquiry and lawyers involved in any subsequent legal action on behalf of residents will want to investigate the contractual arrangements for the tower's management and whether there were any financial incentives for "key performance indicators".

Other core issues, predicts Bowsher, include "has public procurement been

so fixed on pursuing the agenda of social value and environmental goals that we have failed to give enough weight to basic performance factors such as safety? And if — and it's a big if — the root of this tragedy is in the use of prohibited products, defects or poor workmanship, do we need to see if procurement systems are still incentivising short cuts or unduly prioritising procurement law compliance?"

The most emotive legal action that could emerge from the disaster would be criminal charges under the Corporate Manslaughter and Corporate Homicide Act 2007. Pavlos Panayi, QC, of 7 Bedford Row, explains that in practice any local authority is likely to argue that it relied on third parties to meet building regulations and to conform to health and safety legislation.

The silk predicts that "any investigation for corporate manslaughter will focus on the recent refurbishment works", and specifically the Building Regulations 2010 and guidance approved by the secretary of state on those regulations. "The key challenge in a case like this will be in fixing responsibility for any failure to follow the building and health and safety regulations," says Panayi. "There are large teams responsible for different parts of the decision-making on construction and refurbishment projects of this size and the investigation will want to identify who reported to whom, where the decisions ultimately were made and what information was provided by the various parties to others involved in the refurbishment project."

Lawyers are confident that any potential criminal charges will wait until the conclusion of the public inquiry, and, says Panayi, "the charging decisions will be determined by the facts that emerge during that inquiry and the ongoing investigations".

The legal fallout will run for years. Lawrence is confident that once the inquiry and any criminal issues are resolved, a group civil action will be launched. "That is inevitable," she says. "There are bound to be some really significant claims."