

Following Grenfell:

The Human Rights and Equality Dimension

Statement from the Equality and Human Rights
Commission

Introduction

The Grenfell Tower fire caused catastrophic loss of life for which the State may have been responsible. More than 70 people died in homes managed by the State. These people should have been safe and they were not. The people who died and others affected by the fire come from diverse backgrounds. They include children, elderly people, disabled people and migrants.

The events surrounding the fire, the loss of life and the harm to individuals and the wider community, raise serious human rights and equality issues. As one of the National Human Rights Institutions for Great Britain, the Equality and Human Rights Commission has a statutory responsibility to promote awareness, understanding and protection of human rights. We have therefore decided to examine the circumstances of the fire, focusing on issues around the protection of human rights and equality.

Our work will consist of public submissions and commentary on the evidence heard by the public inquiry. We will draw on a variety of resources including research already available from the Commission's other projects, such as our formal inquiry into housing and disabled people and from our Triennial Review ('Is Britain Fairer?').

We will publish our contributions on a dedicated section of our website and we will invite others with expertise and experience to contribute through blogs, articles and interviews.

At the end of our work, we will publish a summary report. This will include any recommendations we believe will help prevent similar tragedies from occurring.

We are not replicating the work of the Grenfell Tower Inquiry. While there will be some overlap between the inquiry and our own work, we will be focusing on our areas of expertise to ensure the human rights and equality dimensions of the fire and surrounding circumstances are not overlooked. We will concentrate on those areas that we believe are not being explored in the public inquiry or elsewhere and we will prioritise those areas where our contribution is likely to have the most impact

Some of the issues and themes we intend to address are outlined below.

The duty to investigate

The State has an obligation to investigate deaths and incidents of ‘inhuman and degrading treatment’ where the State may be implicated, to ensure proper accountability. An investigation must reach conclusions on the central issues that arise from any such deaths or treatment, and ensure that victims’ families and survivors are able to adequately participate.

We will look at how the State must discharge its investigative obligations following an event such as the Grenfell Tower fire and whether the current arrangements, including the public inquiry, satisfy its obligations.

The right to life

We will examine the extent to which various State bodies discharged their positive duties in human rights law to protect life. This will include reviewing the laws in place that ought to have ensured the safety of Grenfell Tower residents. It is critical for the State to ensure that residents’ concerns about safety are heard and acted upon. We will consider whether there were proper arrangements for ensuring that residents’ voices were heard by those in positions of power.

We will also look at concerns raised at previous inquests that might be relevant to the events at Grenfell. This will include reviewing relevant ‘preventing future deaths’ reports made by coroners. We will look at whether lessons are being learnt from these reports.

In addition, we will be asking public authorities what they are doing to alleviate any continuing risk to residents of other blocks.

Inhuman and degrading treatment

The survivors of the fire and many of those who witnessed it, or were otherwise affected by it, will have suffered great harm, potentially reaching the threshold of ‘inhuman and degrading treatment’. People’s experience after the fire may have increased the harm they suffered. We will therefore be exploring what the victims of such events can expect from the State, in terms of immediate and longer-term support, including medical treatment, counselling, care and housing.

Adequate and safe housing

International human rights law requires the State to take steps towards ensuring everyone has adequate and safe housing. We will examine the adequacy of the housing provided to Grenfell Tower residents. We expect the fabric of the building to be closely considered by the public inquiry and we will draw on the evidence explored in the inquiry to consider whether the State met its international obligations.

We will also explore whether the rights of specific groups of residents, in particular children, disabled people and older people, all of whom might have encountered particular difficulties in exiting Grenfell Tower, were properly understood and respected in the fire safety arrangements. In doing so, we will review the application of international human rights conventions, including the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities, among others.

Access to justice

We will look at the availability of legal advice for tenants and residents wanting to obtain advice about the condition of Grenfell Tower. We will look at whether adequate legal advice was provided before and after the fire, including through local free legal advice services and legal aid. We will also consider whether the absence of legal advice may have affected residents' ability to progress complaints about the risk of fire.

Children

We will examine the specific rights of children and how affected children have been treated since the fire, including the provision of psychological support, housing and education.

Equality

All public authorities have a duty under the Equality Act 2010 not to discriminate against a person on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation (known as 'protected characteristics'). Public authorities are also obliged to make reasonable adjustments for disabled people. This means they must take reasonable steps to

adjust their policies and practices and, sometimes, the physical features of property.

Human rights law also prohibits all forms of unjustifiable discrimination and it protects children and migrants (among others) from discrimination, too. It imposes positive duties on the State to prevent discrimination: we will be examining whether these positive duties were met.

We will be exploring whether there were policies and practices in place that disadvantaged any protected group and whether adjustments were made to policies or to the fabric of Grenfell Tower, including to escape routes or auxiliary aids provided for safety. We will also examine whether proper accommodations were made to take account of children's particular needs and the needs of pregnant women and women with small children.

The Equality Act 2010 requires public authorities to comply with the Public Sector Equality Duty when they exercise public functions. The Public Sector Equality Duty requires public authorities to have 'due regard' to the need to eliminate discrimination and advance equality of opportunity for people with protected characteristics.

The courts have said that public authorities must fulfil the Public Sector Equality Duty when carrying out all aspects of their work – including when making decisions about individuals, developing policies and allocating resources. They have also said that the Public Sector Equality Duty can require consultation and engagement with those affected by a public authority's decisions, policies or actions.

We will review whether the Royal Borough of Kensington and Chelsea complied with the requirements of the Public Sector Equality Duty when it formulated its policies on allocating homes and distributing resources. We will also be asking what is being done to ensure that the Public Sector Equality Duty is now being discharged in relation to decisions about the residents of Grenfell Tower.

Section 1 of the Equality Act 2010 contains a 'socio-economic duty'. However, this has not been brought into force. The duty states that when central and local government make decisions of a strategic nature, they must have 'due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.' We will examine whether this duty, if in force, would have made any difference to what happened, and whether a stronger socio-economic duty is required.

About the Equality and Human Rights Commission

The Equality and Human Rights Commission is a statutory body established under the Equality Act 2006. We operate independently to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote human rights. We contribute to making and keeping Britain a fair society in which everyone, regardless of background, has an equal opportunity to fulfil their potential. The Commission enforces equality legislation on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Our statutory duties include the duty to promote equality, the duty to promote understanding of the importance of human rights and the duty to encourage public authorities to comply with their duties under the Human Rights Act 1998.¹

We are an accredited National Human Rights Institution, which means we are formally recognised by the human rights treaty bodies of the United Nations. The Commission plays an active role, together with the equality and human rights bodies in Northern Ireland and Scotland, in monitoring the implementation of the UK's human rights and equality duties in international law and reporting to the United Nations treaty bodies.

We have a range of general and enforcement powers at our disposal to discharge our statutory responsibilities. These include powers to undertake research, publish opinions on the outcome of that research, and to provide guidance, including on equality and human rights law and practice.

¹ Section 9(1), Equality Act 2006.

Contacts

This publication and related equality and human rights resources are available from the Commission's website: www.equalityhumanrights.com.

Questions and comments regarding this publication may be addressed to: correspondence@equalityhumanrights.com. The Commission welcomes your feedback.

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