

28 July 2017

## Submission to the Grenfell Tower Inquiry Consultation on Terms of Reference

1. This submission is made by Just Fair, an organisation that monitors and advocates economic and social rights in the UK, and Peter Roderick, barrister and Principal Research Associate in the Institute of Health and Society at Newcastle University.
2. We consider it critical to the public credibility of the inquiry to address the Grenfell Tower tragedy as a human rights issue. We therefore submit that the Terms of Reference should include the following: **“In investigating the causes of the fire and its effects, and in making recommendations for the future, the inquiry shall consider the extent to which implementation of the human right to adequate housing would have helped to prevent the fire and its effects, and could help to prevent such fires and effects in the future.”**
3. The right to adequate housing is recognised in several international human rights treaties ratified by the UK.<sup>1</sup> However, unlike other countries, and despite the UK’s significant contribution to the formation and development of the international human rights system over many years, we have not yet incorporated the right to housing into our national law.
4. In accordance with international law, the UK has been obliged for over 40 years to take all necessary measures making use of all available resources to realise the right to housing progressively and without any discrimination, including on socio-economic grounds.<sup>2</sup>
5. The right to housing means the right to live in security, peace and dignity and the guarantee of physical safety.<sup>3</sup>
6. The inclusion of a human rights perspective will enable the inquiry to draw on specific obligations underlying the right to housing when formulating many of the questions that the inquiry will need to address. For example:
  - (a) Obligation to respect: Public authorities must not interfere directly or indirectly with the enjoyment of the right to adequate housing. Did policy, legal, financial and administrative measures adopted by the government, including local government, Parliament and other relevant public bodies contribute directly or indirectly to the fire?
  - (b) Obligation to protect. Did the government (and others, within their powers, as above) prevent third parties from contributing directly or indirectly to the tragedy? Given the number of contractors involved in the refurbishment, and

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<sup>1</sup> These include Article 11(1) of the International Covenant on Economic, Social and Cultural Rights, Article 27(4) of the Convention on the Rights of the Child, Article 5(e) of the International Convention on the Elimination of All Forms of Racial Discrimination, and Articles 13 and 14 of Convention on the Elimination of All Forms of Discrimination Against Women.

<sup>2</sup> Article 2 of the International Covenant on Economic, Social and Cultural Rights.

<sup>3</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 4: The right to adequate housing*, 1991, para. 7 and 8(d), UN doc: E/1992/23.

the complex procurement processes and contractual arrangements we assume were in place, we imagine this will be a particularly important part of the inquiry's work.

- (c) Obligation to fulfil. Did the government (and others, within their powers, as above) adopt appropriate legislative, administrative, budgetary and other measures to improve the housing conditions of the residents? We would expect this to be an important aspect of the inquiry's work, involving, for example, the adequacy and progressive advancement of fire and building regulations and materials, and the sufficiency of financial resources.
7. A human rights perspective will also enable the inquiry to investigate and assess issues which go beyond the proximate cause/s of the fire, and to make future recommendations, to consider:
- (a) The extent to which housing policies at all levels “reflect extensive genuine consultation with and participation by all those affected, including the homeless, the inadequately housed and their representatives.”<sup>4</sup>
  - (b) The need, in times of severe resource constraints, to prioritise protection of the most vulnerable members of society.<sup>5</sup> These may include people on low incomes, people who face discrimination because of their ethnicity or race, unemployed people, single-parent families, young people and people with disabilities. Public authorities must be attentive to the impact of their policies on all groups but in particular the most disadvantaged groups. The right to adequate housing includes sufficient construction of housing, especially social housing, particularly targeted to most vulnerable households, the adoption of effective measures to reduce waiting times in social housing, and the existence of appeal procedures against excessive ones.<sup>6</sup>
  - (c) The requirement for housing to be affordable. The authorities must not only ensure that the average cost of housing corresponds to average income. They must also make sure the burden on the most disadvantaged households is compatible with their limited resources. States should increase their expenditure on housing to circumvent the adverse impacts of crises on the housing sector.<sup>7</sup>
  - (d) The need for security of tenure, which is crucial to determine adequacy of housing. “Legal security of tenure takes various forms, including, rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure [...]. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such

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<sup>4</sup> CESCR, *General Comment No. 4: The right to adequate housing*, 1991, para. 12, UN doc: E/1992/23.

<sup>5</sup> CESCR, *General Comment No. 3: The nature of States Parties' obligations*, 1990, para. 12, UN doc: E/1991/23.

<sup>6</sup> European Committee of Social Rights (ECSR), *Feantsa v. France, Complaint No. 39/2006*, 2007, para. 56, 125, 145-146.

<sup>7</sup> Special Rapporteur on adequate housing, *Report to the General Assembly*, 2012, para. 71(n), UN doc: A/67/286.

protection, in genuine consultation with affected persons and groups”.<sup>8</sup>

- (e) The way gender impacts how men and women experience their housing situations, which must be made visible within housing policies.<sup>9</sup> States must guarantee the right of women to security of tenure, independently of their relationships with men and other members of the community.<sup>10</sup> Authorities must ensure that women are able to meaningfully participate in the design, planning, implementation, monitoring and evaluation of housing laws, policies, programmes and budgets. The implementation requires the collection of gender-sensitive and gender-disaggregated data to evaluate and measure women’s actual enjoyment of their right to adequate housing.<sup>11</sup>

We wish the inquiry well and would like to be kept informed of its work.

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<sup>8</sup> CESCR, *General Comment No. 4*, para. 8(a).

<sup>9</sup> Special Rapporteur on adequate housing, *Women and adequate housing*, 2011, para. 4, UN doc: A/HRC/19/53.

<sup>10</sup> Special Rapporteur on adequate housing, *Guiding principles on security of tenure for the urban poor*, 2013, para. 61, UN doc: A/HRC/25/54.

<sup>11</sup> Special Rapporteur on adequate housing, *2011 Report*, para. 63.