

BPF Construction Legal Update

28 February 2020

Grenfell Tower Fire

The Attorney General has reached [a decision](#) in relation to the immunity from prosecution of witnesses to the Inquiry. The AG's conclusion was that neither individuals nor corporates are immune from prosecution. However, oral evidence given by individuals cannot be used in any prosecution against them in the future. The same position does not extend to corporates. The Inquiry will now resume on 2 March.

Fire Safety Bill and Building Safety Bill

New legislation is expected in the next few months. The upcoming Fire Safety Bill will respond to the Public Inquiry Phase 1 report by clarifying the Regulatory Reform (Fire Safety) Order 2005. It will require multi-occupied, residential building owners – irrespective of the height of the building – to fully consider and mitigate the risks of any external wall systems and front doors to individual flats. The Building Safety Bill responds to the Hackitt review of Building Regulations and fire safety, and will implement all of the recommendations made in that review in respect of high-rise residential buildings. A briefing on the proposals can be found [here](#).

New Building Safety Regulator

The Building Safety Bill will legislate for the new [Building Safety Regulator](#) but in the interim the HSE has been asked to set up the planned regulator immediately with a view to it beginning work in "shadow form". Judith Hackitt has been asked to chair a board overseeing the set-up, transition and running of the regulator.

Cash Retentions

The Government has published a [summary of responses](#) document to its consultation on the practice of cash retention under construction contracts. Unsurprisingly, the responses indicate a lack of consensus on the way forward.

Covid-19 Coronavirus: Impact on Contractual Obligations

The impact of the coronavirus on the UK construction sector looks set to increase and parties to construction contracts are starting to examine their contracts to understand the business risks. Under English law, contracts that require ongoing performance are, in principle, absolute, i.e., a party affected by the Covid-19 outbreak is required to perform its obligations and will be potentially liable to its counterparty for a failure to do so. However, contracts with force majeure clauses may offer relief from performance. See our full briefing [here](#).



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