[2025] EWHC 3276 (KB)

IN THE GRENFELL TOWER LITIGATION
IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Claim No.: QB-2020-004516
Claim No.: KB-2024-003250
Claim No.: KB-2024-003251
Claim No.: KB-2024-003253
Claim No.: KB-2024-003255
Claim No.: KB-2025-000483

Before: The Honourable Mrs Justice Jefford DBE & Senior Master Cook

B E T W E E N :

(1) THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
(2) THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA TENANT MANAGEMENT ORGANISATION LIMITED

Claimants

-and-

BEKO POLAND MANUFACTURING sp. z o.o and 14 others

Defendants

-and-

EXOVA (UK) LIMITED and others

Part 20 Defendants

HEARING BEFORE MRS JUSTICE JEFFORD AND SENIOR MASTER COOK
9 December 2025

David Turner KC, Clare Dixon KC, Isabel Barter and Matthew Thorne (instructed by DWF LLP) appearing on behalf of the Claimants

Laura John KC and Charlie Thompson (instructed by Macfarlanes LLP) appearing on behalf of Arconic Architectural Products and Howmet Aerospace Inc

Benjamin Strong KC and Douglas James (instructed by Reed Smith LLP) appearing on behalf of Appleyards Limited and Artelia Projects UK Limited

Edward Harrison KC and Georgina Petrova (instructed by Cooley (UK) LLP appearing on behalf of Beko Poland Manufacturing Sp.z.o.o., Beko Italy Manufacturing S.r.l. and Hotpoint Uk Appliances Ltd

Craig Orr KC and Sophie Weber (instructed by Linklaters LLP) appearing on behalf of Celotex Limited and Saint-Gobain Construction Products UK Limited

Simon Henderson (instructed by Clyde & Co LLP) appearing on behalf of CEP Architectural Facades Limited

Catherine Piercy KC (instructed by Gunnercooke LLP) appearing on behalf of Harley Facades Limited

Andrew Rigney KC and Julian Field (instructed by DAC Beachcroft LLP) appearing on behalf of Rydon Maintenance Ltd, Rydon Group Holdings Ltd, Rydon Holdings Ltd and Rydon Group Limited

Sean Brannigan KC and Caroline McColgan (instructed by Simmons & Simmons LLP) on behalf of the Part 20 Defendants

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RULINGS

(Approved)

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RULING

1. **THE JUDGE:** As we said at the end of yesterday, we will deal first with the order of proceedings in relation to ADR and disclosure; then with trial date. We are not prescribing the form of ADR, or any stay for ADR, in the directions that we make, but it is common ground that there should be a mediation over a period of a week with at least two mediators. All the parties, and indeed the court, are agreed that such a mediation should take place. There is a large measure of agreement that the sooner the better and there is further agreement that any effective mediation should involve all the parties, not least because of the extent to which there are claims for contribution amongst the parties.

2. In short, the issue between the parties is whether ADR can constructively take place before full disclosure and, in particular, quantum disclosure.

3. Almost all of the parties have already given and received a measure of disclosure in the context of the Inquiry. But there has been no disclosure of quantum documents which are largely, if not exclusively, the claimants' documents. It is, in our view, relevant that quantum is not simply a question of figures. Some or all of the defendants advance cases that the claimants caused or contributed to their losses by unreasonable decisions taken as to the expenditure of costs following the fire as a result of their own mismanagement of the building and mismanagement of the consequences of the fire.

4. The claimants have relatively recently, by letter dated 19 November, indicated that they will provide a measure of further information and disclosure on a without prejudice basis and for the purposes of ADR. The letter includes the following at paragraph 9(c):

"So far as the quantum of our client's claim is concerned, subject to agreement being reached by all parties in relation to confidentiality, by 24 February 2026, our clients will provide on a without prejudice basis and for the purposes of ADR:

(i) an Appendix providing a breakdown of the sum claimed, as set out in the Schedule of Loss (or Updated Schedule of Loss) as set out below;

(ii) an Explanatory Note setting out how the Appendix has been compiled and a factual explanation for the head of loss claimed; and

(iii) where relevant, a pack of documents referred to in the Explanatory Note."

5. It is said with some justification by the defendants that the first two of those ought already to have been provided as part of the statements of case.

6. Be that as it may, the claimant's position is that against that background, and that further information and disclosure, a mediation could and should take place some time in the summer of 2026, followed by disclosure on liability and quantum by the end of October 2026.

7. So far as quantum is concerned, Mr Turner KC submits that the issue is bookended by the fact that the Tower after the fire was uninhabitable, and that the primary claim is for the costs of the alternative accommodation. The parties will have sufficient information on quantum, including that primary claim, to take a broad brush approach to quantum for the purposes of mediation.

8. The Arconic defendants, the Celotex defendants, the Beko defendants and the Exova Part 20 defendants all agree to that proposal. Mr Turner KC makes the point that these include some of the defendants with the deepest pockets and that that ought to carry some weight with the court. It does, but it does not meet the point that all the parties need to be involved and constructively involved in a successful mediation.

9. Celotex and Exova's position is also slightly more nuanced and assumes the provision of satisfactory information in accordance with the claimants' proposal, that is satisfactory in the sense that it is sufficient to facilitate a successful mediation.

10. The remaining parties, Rydon, Harley, CEP and Artelia, more or less forcefully, submit that an effective mediation cannot take place until after disclosure, particularly disclosure relating to quantum. We say "more or less forcefully" because the key point is not that there is some magic in ADR after disclosure, but rather that, in this case, these defendants' position is that they need to know more about quantum before

an effective mediation can be conducted. If what is provided by the claimants' proposal is what the defendants want or, in their view, need to see, all, with the possible exception of Rydon, say that an effective mediation in the summer of 2026 might be viable.

11. The concern that these defendants express, however, is that at present they simply do not know what will be provided by the claimants, and that this proposal, constructive and welcome though it is, was made far too late in the day and with far too little detail.

12. One of the primary drivers for mediation before the completion of disclosure is the potential saving in costs. That affects all the parties but particularly the claimants, who have a wholly new disclosure exercise to undertake in relation to quantum.

13. We do not propose to recite Mr Thorne's submissions on behalf of the claimants in any detail, but it was clear from those helpful submissions that there is a necessary front loading of costs in putting in place the AI assisted disclosure. We accept his submission that on the basis of what is to be done, it is unrealistic to expect disclosure to be completed before the end of October 2026.

14. Mr Strong KC submitted that most of the claimants' costs case would have been incurred in any event by June 2026, so that there would be little saving in an early mediation. We do not entirely accept that submission. If a mediation were to take place before disclosure in October 2026, and bring about a settlement, not all the costs would be saved but there would inevitably be a significant saving, both in the giving of disclosure and disclosure review.

15. Balanced against that cost saving must, however, be the cost of a mediation itself and, most importantly, the prospect of settlement.

16. In our view, some of the submissions as to the relevance of the claimant's quantum disclosure are overstated. In particular, the issue of the value of the building has already been addressed, as Ms Dixon KC said, in correspondence identifying the insured value, and no defendant has sought to put forward a positive case as to the value of the building. The issue of third party funding could easily be addressed by

a Part 18 request or voluntary information from the claimants. It does not require full disclosure prior to mediation. The more complex issues as to the claimants' decision making are different but are unlikely to be the subject of a smoking gun on disclosure.

17. Nonetheless, these are plainly matters of concern to some of the defendants, and we have, with some reluctance, come to the view that, before disclosure, successful mediation is likely to be inhibited by the lack of clarity as to why what was done was done.

18. We return to the point that all parties must participate in a mediation and participate effectively. The court and some of the parties have observed that mediation is often not a one-stop shop and that the parties may return to ADR on more than one occasion in the course of the life of the proceedings, but we consider that it is not in accordance with the overriding objective or the spirit of mediation to put the parties in the position where some are, for understandable, if to some extent overstated, reasons concerned that they lack the information which will underlie a successful mediation and that there is, as a result, a real risk that the costs of the mediation itself may be wasted. We also have taken into account Ms Piercy's point that a party with less deep pockets, such as her client, could quite probably not afford to participate in multiple mediations.

19. We will therefore make orders in relation to disclosure that lead to the completion of disclosure, on both liability and quantum, by the end of October 2026. We do so on the basis that we do not anticipate any mediation before that.

20. To be clear, we will hear Ms John KC's submissions on the timing of Howmet's disclosure, but we do not consider that even if that is at a later date it will have any material impact on a potential mediation.

21. We will also give directions for the claimants to provide the appendices, explanatory note and documents that were offered for the purposes of ADR but as a form of early disclosure. We can see nothing objectionable in that. If the proceedings were in the Technology and Construction Court, the claimants would already have had to give Initial Disclosure. We consider that this would assist both in relation to disclosure and in focusing consideration of disclosure in due course and in advance of mediation. In

other words, this will now form part of the disclosure process and with that in mind, we will also direct that at the same time, the claimant should set out, as they have started to do in the letter of 25 November 2025 to which we were taken, the proposed methodology for full disclosure. We do not see why any of that should be done on a without prejudice basis. Nothing disclosed can be used outside the litigation and any privacy issues can be addressed before any documents are relied upon publicly.

22. We should, however, make clear that we do not consider that anything the claimants have done to date in respect of provision of information as to quantum or changes in figures reflects some reluctance to provide information or some reticence in doing so or some other negative aspect of the claimants' case, as a number of the defendants asked us to infer. We do, however, consider that the provision of more information can only have a positive impact.

23. If there is any possibility of earlier mediation following this process, to which a number of the defendants were open, then we would encourage that, but we will not give further directions on the basis that this is what the court anticipates.

24. We have considered Mr Rigney KC's suggestion that there should be alongside this, or otherwise, some kind of rolling disclosure process. This suggestion was first made yesterday and has not been the subject of any detailed proposal as to how that should be carried out. It seems to us that to try to articulate some sort of rolling programme would add a layer of complexity which is unnecessary and would not be efficient or promote settlement.

25. We appreciate that we have not heard from anyone other than Mr Orr KC on the terms of the order in respect of mediation, but we are minded, subject to any further submissions, to include the whole of paragraph 3.1 from the claimants' draft. The requirement for a party to explain why it does not accept a proposal for ADR is not intended to be and is not onerous. It does not invite lengthy witness statements, merely a brief explanation of the party's position. It focuses the party on the issue and, if it ever becomes relevant, provides the court with contemporaneous information.

26. The exception we will make to that order is that it should only apply to any proposal for ADR to take place after 30 October 2026. In other words, it will not apply to any suggestion that there should be an earlier mediation prior to disclosure.

27. It seems to us that what follows from our decision as to the relationship between ADR and disclosure is that no mediation is likely to take place before the end of 2026, or even the beginning of 2027. We have therefore considered whether, allowing for the fact that the litigation will continue in parallel with any alternative dispute resolution -- that is there will be no formal stay -- the trial date of April 2028 remains realistic.

28. We have come to the conclusion that it does not and that the trial should instead be listed to commence in October 2028, with a time estimate equivalent to nine sitting months, with four day weeks and including time for judicial reading. We can return to the precise detail of that in due course.

29. In setting that date, we take account of the fact that the timetable needs to build in time for mediation. If witness statements are to be served shortly after the completion of disclosure, followed by extensive expert evidence, there is very little float in the timetable to allow for mediation and there will be further steps that incur significant costs on the horizon. Those cost considerations are what drives us to our conclusion as to the appropriate trial date, allowing time for mediation and further steps in the proceedings thereafter.

30. Having said that, we are very conscious that to list a trial in October 2028 -- nearly three years from now -- is remarkable, even for a case of this complexity and particularly against the background of the already lengthy Inquiry. However, with the settlement of the personal injury claims, what is left, as the parties have observed, is a commercial dispute, and it is in all the parties' interests that it is a dispute that does not reach a contested trial.

31. In the circumstances of this case, and our decision on disclosure/mediation, we consider that allowing somewhere between 18 and 24 months from the first likely mediation is the best way to achieve that.

32. We also take account of the helpful analysis of Ms John to the effect that it makes rather less difference in the departure from the largely agreed start of trial in the last week of April 2028 than might at first appear.

33. If the trial started at the end of 2028, just after the Easter vacation and dictated by the date of Easter that year, the proposed time estimate was one year, equating to nine hearing months, allowing for court vacations, including the two months of the summer 2028. That would lead to an end date towards the end of April 2029. If the trial starts instead at the beginning of October 2028 the difference is only three months of time during which the court would normally be sitting. On a very rough calculation, a nine month hearing would then conclude at the end of July 2029 -- in other words, three months later than would have been the case with the April start date. If the precise calculation involves a run over into court vacation, that can undoubtedly be accommodated. What therefore sounds like a start date six months later than had been proposed is actually only three months later, as is the end date, and we consider that that is a small price to pay for the promotion of the prospects of a mediated settlement of this litigation.

RULING

34. **THE JUDGE:** The issues next to be dealt with are the manner in which disclosure is to be given, including whether there should be the direction of case management hearings in respect of disclosure or disclosure hearings, whatever title is given, before or after disclosure or both.

35. As we see it, there is in fact a substantial measure of agreement amongst the parties in relation to disclosure. Firstly, it is common ground that there needs to be clarity as to the structure of disclosure; secondly that it is not necessary to re-invent the wheel so far as disclosure within the Inquiry is concerned; thirdly, that the identification of issues for disclosure is appropriate; and fourthly, that transparency and discussion about searches and particularly electronic search methodologies, are necessary. The issues are how those matters should best be addressed.

36. It has not helped that the dividing line seemed to be drawn between "liability" and "quantum," when that was not an easy line to draw. Mr Turner KC has explained that what the claimants actually propose is a different approach to documents which were disclosed in the Inquiry and which relate to the issues in the Inquiry and those that have never previously been searched for or featured.

37. In the course of the hearing, I made a suggestion which was not leapt upon with enthusiasm, as to how that distinction might be articulated, but, as Mr Turner said, it is to be hoped that the parties can find a form of words that does reflect that distinction and the distinction should, in any event, be clear from the orders that are made.

38. For the time being, I will continue to use the expressions "liability" and "quantum" but in the sense that I have already indicated.

39. It is common ground that in respect of liability, in the sense of the issues considered and related to those considered in the Inquiry, there should be standard disclosure. But the claimants propose a process leading to that in which witness statements are exchanged, setting out what the Core Participants have done and what they now propose to do, although it is now submitted by the claimants that their intention was that the Core Participants would only be required to say what they had done in the Inquiry if they intend, prospectively, to rely on their previous disclosure.

40. We agree that it is helpful to provide that explanation by witness statements and more helpful than to do so by responses to the questions at an EDQ, which will not necessarily provide the same level of information and transparency. It may be, as Mr Orr KC suggested, that a party will say in answer to the relevant question that it intends to review its disclosure within the Inquiry in a particular way and take further steps to fulfil its obligations of disclosure in the litigation. But that does not necessarily follow. As Ms Barter submitted, the EDQ is designed for prospective electronic disclosure: it does not necessarily capture past disclosure, whether electronic or in hard copy.

41. Transparency is important at this juncture because it is likely to avoid disputes in the future as to whether searches, past and prospective, have been sufficient. By the

making of witness statements, each party will know what has been done and what will be done. The commonality of structure and formality that would come from the completion of EDQs is not a sufficient reason to prefer that method and, for the reasons we have already given, would not necessarily result in parallel information.

42. If in the course of the process proposed by the claimants - which we intend to order subject to the "tweaks" in the terms of order discussed in the course of the hearing - any issues arise, they can be resolved by the court and we have no doubt that a disclosure hearing should be listed in about April 2026 to resolve such issues and any issues that arise in relation to the proposed quantum disclosure.

43. One submission made is that the timetable to reach this point is too tight and overlaps with the provision of an Updated Schedule of Loss. That is a speculative submission. It is likely that the Updated Schedule of Loss will simply update figures, rather than heads of claim, and will not in any material way affect disclosure. It is also submitted that the period overlaps with updated pleadings, but these are all "tail end" pleadings. In any event, there are substantial teams on each party's side to deal with all such matters.

44. A further argument is that such a hearing encourages parties to take issues rather than focus on whether an issue is sufficiently contentious to require resolution by the court. That should not be the approach adopted and, if it is perceived to be the approach adopted, then it may, in due course, sound in costs.

45. The position is that there will only be a hearing if a party makes an application and a listing will only be an available date, not a date on which there will necessarily be a hearing.

46. We have already allowed substantial time in the progress to trial and since we are sure that there should be such a hearing, it must be accommodated within the timetable which we have so far set for disclosure and ADR.

47. So far as quantum is concerned, it seems to us that there are two issues. The first is whether to order standard disclosure, in common with liability disclosure, and to make

no distinction from liability disclosure, other than in respect of the directions relating to Inquiry disclosure. The second is which form - an EDQ or a DRD - is likely to be the most efficient in setting out the issues, the searches and the electronic methodologies. On balance, we have come to the conclusion that the adoption of the DRD template is preferable. It focuses on disclosure issues and requires the parties, at the outset, to identify the issues for disclosure and it brings all matters as to issues, search methodologies, and forms of disclosure together.

48. That there is a draft list of issues in circulation does not fulfil the function of issues for disclosure. Further the DRD provides all the information that the EDQ would provide in respect of proposed methodologies. Where the defendants do not anticipate giving much, if any, disclosure, the completion of the DRD by the defendants, other than in respect of their commenting on the claimant's proposals, will not be particularly onerous and will allow any disclosure that might be given to be offered, for example, by reference to Model A.

49. We recognise that all parties at present appear to contemplate that the claimants will provide search-based disclosure and that there may be little functional difference between Model D and standard disclosure. But the DRD allows the claimants to offer other models which may be appropriate and which would not be considered if the court ordered standard disclosure without any modification.

50. We will therefore make the orders as sought by the claimants, as I have said, with the tweaks discussed, in respect of both aspects of disclosure, treating the two slightly differently in the respect set out in those orders.

51. For the avoidance of doubt, there is no wholesale adoption of PD57AD in respect of the "quantum" disclosure, if indeed there could be that wholesale adoption, but we exercise our powers under Part 31 to provide the form in which the issues should be identified and the proposed search methodologies identified. We exercise our powers to provide that that should be in the form of a DRD and also, prospectively, to order disclosure other than the default of standard disclosure, if that is what is agreed between the parties. If that is not agreed, it will be considered at the future disclosure hearing.

52. We also accept the submission of Ms John, which I think finds some support at least elsewhere in the courtroom, that it will be appropriate to put a date in the diary now for a further directions hearing, after disclosure has taken place. That is not to encourage further dispute about disclosure but to ensure that, if there is such further dispute, a date has already been accommodated within the timetable.

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