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**A Response to the Consulation on the Royal Borough of Kensington and Chelsea’s Draft Rehousing policy: Barandon Walk, Hurstway Walk, and Testerton Walk.**

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**Contact Details:** Marina Sergides (HLPA Executive Committee Member & Chair of HLPA subgroup on the Grenfell Tower fire)

**Address:** Garden Court Chambers, 57-60 Lincoln's Inn Fields, London WC2A 3LJ

**Telephone No:** 020 7993 7600

**Email:** marinas@gclaw.co.uk>

**Web:** [www.hlpa.org.uk](http://www.hlpa.org.uk/)

**About HLPA**

The Housing Law Practitioners Association (HLPA) is an organisation of solicitors, barristers, advice workers, independent environmental health officers and others who work in the field of housing law. Membership is open to all those who use housing law for the benefit of the homeless, tenants and other occupiers of housing. HLPA has existed for over 20 years. Its main function is the holding of regular meetings for members on topics suggested by the membership and led by practitioners particularly experienced in that area, almost invariably members themselves.

The Association is regularly consulted on proposed changes in housing law (whether by primary and subordinate legislation or statutory guidance. HLPA’s Responses are available at [www.hlpa.org.uk](http://www.hlpa.org.uk).

Membership of HLPA is on the basis of a commitment to HLPA’s objectives. These objectives are:

* To promote, foster and develop equal access to the legal system.
* To promote, foster and develop the rights of homeless persons, tenants and others who receive housing services or are disadvantaged in the provision of housing.
* To foster the role of the legal process in the protection of tenants and other residential occupiers.
* To foster the role of the legal process in the promotion of higher standards of housing construction, improvement and repair, landlord services to tenants and local authority services to public and private sector tenants, homeless persons and others in need of advice and assistance in housing provision.
* To promote and develop expertise in the practice of housing law by education and the exchange of information and knowledge.

**The HLPA Grenfell Subgroup has prepared this communication. This group meets regularly to discuss issues arising out of the Grenfell fire. The Convenor of the subgroup reports back to the Executive Committee and to members at the main meetings which take place every two months. The main meetings are regularly attended by up to 100 practitioners.**

1. This is the response of HLPA to the consultation by the Royal Borough of Kensington and Chelsea (“RBKC”) on the draft Rehousing policy for Barandon Walk, Hurstway Walk, and Testerton Walk (“the Walkways”).
2. We will now respond to the key issues raised by the consultation.

**Issue 1. The draft policy is to apply only to the Walkways and not to the wider Lancaster West Estate or surrounding area.**

1. HLPA are not in agreement with this proposal. HHLPA do not consider there to be a rational basis for not extending the policy to the wider Lancaster West estate. There are many in the wider Lancaster West estate who were at least as affected by the Grenfell fire as those in the Walkways. HLPA submit that treating the residents differently based simply on their address, ignores (a) the proximity of some of those in the Lancaster West estate and (b) the impact on them.
2. For example, the proposed draft policy excludes residents of Treadgold House and Bramley House, some of which were more affected. HLPA consider this to be a tragedy affecting the whole community, and provision should be made to ensure that all residents affected by the tragedy have the opportunity to obtain priority to secure a move to alternative accommodation if that is appropriate. HLPA do not consider it possible to cherry pick which residents are eligible. This is a sensitive and highly political issue. It is almost impossible to say one persons need is greater in circumstances where the fire has affected an entire community. Accordingly, HLPA consider that RBKC should be committed to ‘bringing the community together’ rather than dividing it further.

**Issue 2 . The draft policy is to apply only to Council tenants and statutorily homeless households placed in temporarily accommodation on the Walkways.**

1. HLPA does not agree with this proposal. The proposals only apply to secure and introductory tenancies. HLPA are unaware whether any of the residents on the Walkways have flexible tenancies or any other form of Council tenancy with RBKC. However, HLPA submit that if any residents have such tenancies then the policy should be extended to these persons also.
2. HLPA note that RBKC plan to exclude private tenants from the policy. However, HLPA note that there is a subcategory of people who have applied to RBKC as homeless but we're not accepted under part 7 and were diverted into private sector accommodation under tenancies with leaseholders. HLPA consider that if homeless applicants in temporary accommodation in the Walkways are entitled to benefit from the draft policy then people placed in private sector accommodation in the Walkways as an alternative to pursuing a homeless application should be treated the same as homeless applicants who have been placed in temporary accommodation.
3. There is also the position of private sector tenants in the Walkways who have become statutorily homeless (for example where it is no longer reasonable for them to occupy their accommodation). HLPA submit that any private tenants living in the Walkways who have become statutorily homeless as a result of the fire should be treated the same as those person placed in temporary accommodation in the Walkways pursuant to a housing duty under Part VII of the Housing Act 1996.
4. The policy also ignores adult dependents, subtenants or lodgers of the residents of the Walkways who have become homeless as a result of the fire.
5. HLPA do not object to leaseholders being excluded provided there is a separate policy for leaseholders, which RBKC state will be forthcoming.

**Issue 3. The draft policy is to award 900 Housing Register points to Walkways households eligible under the policy who wish to be rehoused elsewhere.**

1. HLPA does not agree with this proposal. Grenfell Tower and Grenfell Walk residents are to be awarded 3000 points. HLPA has concerns that 900 points, whilst affording an increased priority to Walkways residents, may not be sufficient to ensure that Walkways residents have sufficient priority over other RBKC residents to secure alternative permanent accommodation. It is not clear whether RBKC will have sufficient housing stock to ensure that all people in the Walkways will be able to secure an offer of alternative accommodation. Given the insistence by RBKC that Walkways residence will only be eligible to benefit from the policy if they move out of hotel accommodation into temporary accommodation. The concern would be that Walkways residents would be forced to leave hotel accommodation and their Walkways homes by moving into temporary accommodation but with no guarantee that they would be able to secure permanent alternative accommodation with the 900 points awarded.
2. There is also a concern that if the points are set at a maximum of 900 this might to conflict with how a Walkways resident could be assessed under the main scheme; i.e a resident could achieve a higher priority under the main scheme versus this. This would be unfair, as the draft policy provides that if a person is eligible for priority under the Walkways priority they are not entitled to any other priority under the Allocation scheme. There is a fundamental issue as to where setting priority by address without giving priority to highest need is actually lawful under the statute. It is not clear that this element of the policy is rational.
3. It is also unclear how RBKC would plan to re-house the Walkways residents. Is there a going to be any redevelopment of the walkways? It is also unclear how RBKC adjusting their housing quotas to reflect the re-housing schemes.
4. HLPA note that the following awards of points apply under the current housing allocation scheme:
* Exceptional priority 2,000
* Emergency health and independence 2,000
* At serious risk of harm 1,900
* Supporting health and independence 900
* Redevelopment of homes 900
* Vacating homes 700
* Supporting adoption and fostering 700
* Overcrowding 200
* Contractual duties 200
* Move-on priority 100
* Homeless duty 100
* Paid work 50
* Armed Forces 50
* Homeless 10
* Locality hardship 10
1. Under the above policy numerous groups of people would be able to obtain similar or more points than the residents of the Walkways. Whilst residents of the Walkways would be provided some enhanced allocation rights under the draft policy HLPA consider that RBKC owe a duty to all persons made homeless as a result of the fire.

1. HLPA submit that the Walkways residents should be awarded 3000 points, the same as those in residents in Grenfell Tower and Grenfell Walk.
2. Alternatively, if RBKC consider that it is necessary and reasonable to award a higher priority to those resident in Grenfell Tower and Grenfell Walk, due to their immediate proximity to the fire, HLPA submit that the Walkway residents should be awarded 2000 exceptional priority points. This is an exceptional case and HLPA submit that the Walkway residents should as a minimum be awarded 2000 exceptional priority points. This would ensure that such persons could effectively secure alternative accommodation and avoid the uncertainty of remaining in temporary accommodation for an unspecified and potentially lengthy period of time.
3. Another option that could be considered is some form of priority banding between Walkways residents to reflect the different level of needs between them. This is something that has been implemented in relation to the Grenfell Tower and Grenfell Walk residents.
4. Finally, HLPA are concerned regarding clause 6.1 of the draft Policy. This provides that properties advertised and offered on the Housing Register will be from both the Council and registered providers. Given the policy that RBKC will make up to 2 direct offers there is the risk that a secure tenant could be forced to accept an offer of an assured tenancy. Clearly this would be disadvantageous to the resident, who would consequently have less security of tenure and a different statutory system in relation to rent calculation. HLPA submit that where direct offers are made the Walkways resident should not be offered any accommodation that affords less security than they presently have.

**Issues 4. Walkways households eligible under the draft policy will not be able to apply for the additional points until they move out of hotels into self-contained accommodation.**

1. HLPA are concerned by this proposal and do not agree. Residents are highly reluctant to be ‘forced’ to move out of hotel accommodation. There is deep mistrust amongst many residents with RBKC and a policy of this nature is unlikely to heal wounds at this difficult time for the community. HLPA notes that the leader of RBKC confirmed during a BBC interview in December 2017 that RBKC would not force people out of hotels because they understand the ‘trust’ issue’. A link is attached here: <http://www.bbc.co.uk/news/uk-42304266>
2. HLPA agree that hotel accommodation is not suitable long term and that families should be encouraged to move out. However, tying eligibility to the draft policy to leaving the hotel accommodation is a blunt tool for achieving this aim. Further, there could be good reasons why a family fails to move from hotel accommodation. RBKC may have failed to find or secure suitable temporary accommodation to a family who have complex needs.
3. As noted above, the concern for Walkways residents would be that there would be uncertainty over how long they would be in temporary accommodation waiting for a permanent offer, based on the award of only 900 points. A Walkways resident would be in the difficult position of having to give up their accommodation in the Walkways to move into temporary accommodation with no guarantee of when or if an offer of permanent accommodation would be made, or to move back to the accommodation in the Walkways which is no longer suitable or reasonable to occupy.
4. Having regard to the above, HLPA do not consider it reasonable to make eligibility to the policy contingent on the residents of the Walkways moving out of the hotel accommodation into temporary accommodation or into the Walkways homes. Alternatively, if there is to be a requirement of acceptance of temporary accommodation or a return to Walkways homes before a resident is eligible under the policy then HLPA submit that there should be a time limit set on offers being made, especially if they are to be by direct offers and not bidding. This would ensure that Walkways residence will have certainty that they would only be placed in temporary accommodation for a specified period of time before they would receive offers of suitable permanent accommodation from RBKC by way of a direct offer.

**Q5. Walkways household eligible under the Policy who wish to be rehoused will receive up to two offers of suitable accommodation through the Housing Register.**

1. HLPA has no specific objection to this element of the draft Policy but refers once more to the comments made at paragraph 16 of this response.

**Housing Law Practitioners Association**

**5 January 2017**