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# Webinar

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**Fire Safety in Tall Buildings:  
The Technical and Legal issues**

Start time: 12:01pm (BST)

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# Fire Safety in Tall Buildings: The Technical and Legal Issues

23 July 2020

Jon Miller, Partner, Fenwick Elliott LLP  
Glenn Horton, Director & Founder, H+H Fire

# Today's Agenda

- The Legal Issues: Jon Miller, Fenwick Elliott LLP
- The Technical Issues: Glenn Horton, H+H Fire
- Q & A

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# Fire Safety in Tall Buildings: The Legal Issues

Jon Miller  
Partner, Solicitor, Adjudicator, Mediator & Arbitrator  
Fenwick Elliott LLP

# Introduction

*First Port Property Services Limited v  
The various long leaseholders of Cityscape*

## The Defective Premises Act 1972

*“every person who acquires an interest  
(legal or equitable) in the building”*

*“fit for habitation”*

*The Lessees and Management  
Company of Heron Court v Heronslea  
and Others*

*Wharfside Regeneration (Ipswich)  
v Lang O'Rourke Construction  
South Limited and Others*

*Sportcity 4 Management Limited  
and Others v Countryside  
Properties (UK) Limited*

The Leases

The Defective Premises Act – Limitation

Tort

# COVID-19 should have no impact

Remedial works to continue

Building inspections to continue as well

Remote inspections

## Conclusions



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# Fire Safety in Tall Buildings: The Technical Issues

Glenn Horton  
Founder, Director  
H+H Fire

# Content

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- Fire Safety Bill
- Building Safety Bill
- EWS1
- Industry challenges
- The future

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# Fire Safety Bill

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- Confirm external envelope should be part of fire risk assessments inc. cladding and balconies
- Entrance doors to flats
- Secondary legislation to take forward Grenfell Tower Inquiry, Phase 1 recommendations

# Post Grenfell Other Actions

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- Announcement by MHCLG new **Building Safety Regulator**
- Introduction **Building Safety Bill**, clearer accountability and stronger duties on those responsible for high rise buildings
- £1.6 billion fund to tackle unsafe cladding systems on high-rise residential buildings over 18m private & social
- The relaunch of the government's Fire Kills campaign

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# Building Safety Bill (draft)

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- The **Building Safety Regulator** to introduce better safety system and to enforce
- Introduction of **Duty Holder** for every building stage and **Gateway**
- **Building Safety Managers** must be appointed for every high-rise
- Increased Sanctions – **unlimited fines/2 years in jail**
- **Costs to Leaseholders** – managed through Building Safety Charge

# Building Safety Bill (draft)

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- **Costs to Leaseholders** – managed through Building Safety Charge
- New Committees
  - Building Regulations Advisory Committee
  - Industry Competence
  - Residents Panel
- **New Homes Ombudsman**

# EWS1 Forms

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- Lenders concerned about potential remediation costs
- RICS lead industry initiative, MHCLG, UK Finance, mortgage lenders, developers, fire engineers
- EWS1 is a reporting mechanism - 2 options
  - non-combustible cladding – suitably experienced/qual (Surveyor)
  - Combustible cladding – Chartered Fire Engineer
- ‘Building safety certificate’ ??

# The Future

## Impact on existing buildings

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- MHCLG non-acm tests
  - Esp - Standard HPL combined with combustible insulation
- Buildings less than 18m
  - Requirement B4 does not mention height - therefore potentially any building may fall into consideration for combustible cladding, irrespective of height (n.b. Requirement 7(2) does refer to relevant buildings/18m)



# The Future Impact on industry

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- RICS c.50k Chartered Surveyors, UK
- IFE c.280 Chartered Fire Engineers, Worldwide
- Buildings less than 18m
  - C.10,000 buildings over 18m in height which may require EWS1 form.
  - C.100K over 11m which if required will be a huge burden to the fire/surveying industry.

# The Future

## Impact on industry

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- Difficulty of gaining PI cover for anything related to fire??
- Potential civil claims - combustible cladding
- Increased interest in fire safety:
  - ACM PE
  - ACM FR panels
  - HPGL Boards
  - Render systems
  - Open state cavity barriers – intumescent materials
  - Fire stopping
  - Mitigation measures

# The Future Impact on industry

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- Potential Criminal Liability
  - Fire risk assessments – failures to identify risks appropriately
  - Incorrect mitigation measures
  - Increased enforcement activity – Fire Safety and Building Safety Bills

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Thank you.  
Questions?

Jon Miller  
Partner, Fenwick Elliott LLP

Glenn Horton  
Director & Founder, H+H Fire

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## Next week:

# ADR head-to-head: dispute boards and arbitration

Thursday, 30 July 2020

12pm (30mins + 10mins Q&A)



**Sana Mahmud**  
Senior Associate



**Robbie McCrea**  
Senior Associate

Register at [www.fenwickelliott.com/events](http://www.fenwickelliott.com/events)