

The Cameron House fire – questions that need to be answered

Description

In April the Crown Office and Procurator Fiscal Service announced that they had decided not to hold a Fatal Accident Inquiry into the Cameron House fire ([see here](#)) after *“a thorough investigation and criminal prosecution leading to the conviction of two parties”*. In truth, the investigation had been limited to the immediate reasons for the fire which killed two people: the failure to have safe systems for storage and disposal of ashes and embers from open fires; the failure to train staff appropriately; and storing combustibles in cupboards. After pleading guilty to these failures, the owners were fined £500,000. The wider issues about how the fire spread so quickly through what was supposed to be a Five Star hotel were not considered. The U-turn by the Crown Office last week and its decision to hold a Fatal Accident Inquiry is therefore welcome.

The legal questions that a Fatal Accident Inquiry needs to consider

Under the Fire Scotland Act 2005 ([see here](#)), passed after the disastrous fire at Rosepark Care Home which killed 14 older people, a person who has control of premises (like the owners of the Cameron House hotel) have a legal duty to:

(a) carry out an assessment of the relevant premises for the purpose of identifying any risks to the safety of relevant persons in respect of harm caused by fire in the relevant premises; and

(b) take in relation to the relevant premises such of the fire safety measures as in all the circumstances it is reasonable for a person in his position to take to ensure the safety of relevant persons in respect of harm caused by fire in the relevant premises.

The first questions that an FAI needs to consider was whether the owners of Cameron House had undertaken an adequate Fire Risk Assessment, whether they had implemented all the fire safety measures it was reasonable to take in the circumstances and whether they had asked the Scottish Fire and Rescue Service for advice about this.

The second set of questions relate to the role of Scottish Fire and Rescue Service (SFRS) and whether they had taken a sufficiently broad view of its duties under Section 8 of the Fire Scotland Act to promote fire safety, in particular *“in respect of the steps to be taken to prevent (i) fires; and (ii) death or injury by fire.*

While we know from the Criminal prosecution that the SFRS had warned Cameron House about some of the immediate failures that led to the fire (the disposal of ashes and storage of combustibles), what we don't know is why they did not use their enforcement powers when the owners of Cameron House failed to act promptly or whether they had made wider recommendations about how to prevent fire spreading through the building and whether these had been acted on.

The Cameron House death trap

After my post about the outcome of the criminal prosecution in January ([see here](#)), I was contacted by someone who used to work in the fire service. He made two points. The first was that the legal duty on owners of premises to conduct fire risk assessments and take appropriate action has been accompanied by a weakening of the regulatory role of the fire service and local authority building control departments in both Scotland and the wider UK. Hence the Grenville Tower fire and the general lack of progress since then to remove inflammable cladding from buildings.

His second point is worth quoting: *“One might have expected a fire warning system to be of the very best standard & to provide for a detector in every room & space. Detection should then have been immediate. The internal construction should have provided for escape routes to be enclosed with materials with a fire resistance of one hour (doors with a fire resistance of 1/2 an hour). Everyone should have had ample time to escape from the building before being hampered by smoke, let alone the spread of fire, & this should have been achievable in minutes. There should have been emergency lighting (independent of the mains supply). Basically it should have been inconceivable that in a modern hotel that is being properly used and managed that anyone should need to be rescued, let alone lose their lives.”*

So how much of this was in place? A statement by Peter Gray, QC, acting for Cameron House after the court case ([see here](#)) suggests very little:

“As a result of the fire, the building required to be rebuilt to a substantial extent.

“As a result, the building now has a steel structure, and extensive fire-stopping and compartmentalisation works have been undertaken, none of which was achievable within the previous structure.” [My emphasis].

This claim needs to be scrutinised at the FAI. The Court Case indicated that fire spread up through the building through voids above the cupboard where the fire started. Could these really not have been sealed off or did the owners not want to spend money on doing this? If fire prevention measures really were unaffordable, why were open fires allowed, why weren't prospective visitors to the hotel warned about the risks and how come the hotel was award five star status?

The position of the Crown Office

All the indications are that the Crown Office has buried its head in the sand when it comes to its responsibility to obtain answers to these wider questions about fire safety. Despite stating in April that:

“The purpose of an FAI is to determine the cause of death and to establish what lessons can be learned for the future in order to minimise the risk of future deaths in similar circumstances” [My emphasis]

it went on to claim:

“Crown Counsel are satisfied that the reasons for this tragedy have been established and that the circumstances of the deaths were publicly identified during the prosecution process.”

That is far from the case. The immediate circumstances that resulted in the deaths of these two guests are not the same as the underlying failures in building design and fire safety systems that are ultimately responsible for what happened.

The U-turn announced by the Crown Office last week, after pressure from the families of the men who died, appears very grudging:

“During two prosecutions, information on the causes and circumstances of the deaths of Mr Midgley and Mr Dyson were presented in court. Meaningful changes have been made and lessons have been learned from the events.”

Comment: how can the Crown Office know that meaningful changes have been made and lessons learned when the hotel has not yet re-opened? (Its due to do so on 1st August ([see here](#))).

“Nonetheless, a review by independent Crown Counsel with no previous involvement in this case has concluded that there are wider public interest issues around the safety of guests and building fire safety which ought to feature in a Fatal Accident Inquiry”.

Let’s hope that the Sheriff appointed to lead the FAI has a more inquiring mind and is more determined to establish the truth than the Crown Office has been to date. I would expect any inquiry worth its name to come up not just with fuller answers about what went wrong at Cameron House and who was responsible for this but also with recommendations for changes in the current regulatory regime to ensure that the tourist industry values the lives of visitors before profit.

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Author

nickkempe