

THE ICL INQUIRY

Chairman: The Right Honourable Lord Gill

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15 January 2009

Dear Professor Taylor

Lord Gill has asked me to thank you for your letter of 8 January and to reply in the following terms.

Firstly, in relation to your concern about the handling of your letter dated 12 November by the Inquiry Team, I have previously apologized for the delay that arose in your letter being brought to the attention of the Chairman and explained the circumstances. Our IT support colleagues investigated the matter and we are unable to give any further explanation as to why your email was recorded as received at 14.53, but was not visible to us on the day it arrived in our system. No other emails were received by the email address concerned that day. I can assure you that your letter was passed to the Chairman as soon as the Inquiry Team became aware of it. You are invited to withdraw the insinuation you make that there was a conscious and deliberate delay by the Inquiry Team before doing so. Your two letters have been publicly acknowledged, as will be this exchange.

You express concern that the scope of the Inquiry has been “far narrower in practice than was initially promised by the UK and Scottish governments” and refer to an extract from the official statement made by the Lord Advocate for Scotland and the Secretary of State for Work and Pensions on 1 October 2007 as representing an “emphatic declaration of a broad remit”. You go on to assert that the Chairman’s approach in respect of Phase 2 has been inconsistent with a “broad interpretation, consistent with the spirit and intention of the Inquiry announcement”. I do not agree. I refer you to the Terms of Reference¹, the full statements made on 1 October and the

¹ *The terms of reference are:*

- *To inquire into the circumstances leading up to the incident on 11 May 2004 at the premises occupied by the ICL group of companies, Grovepark Mills, Maryhill, Glasgow.*
- *To consider the safety and related issues arising from such an inquiry, including the regulation of the activities at Grovepark Mills.*
- *To make recommendations in the light of the lessons identified from the causation and circumstances leading up to the incident.*
- *To report as soon as practicable.*

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statements made on the announcement of the terms of Reference on 5 December 2007 (copies are annexed for a reader's ease of reference). You have either not been aware of these latter statements, or have overlooked them. The Secretary of State stated on 5 December ".....now we have a Chair in place, and an agreement on the terms of reference, we can ensure that the inquiry will be focussed on the events, and the families will not have to wait unduly for answers". The Lord Advocate said "The Public Inquiry will provide an opportunity, not only to fully air the circumstances which led up to that incident, but also to make sure that lessons are learned to help prevent another tragedy like this occurring".

As stated in my letter of 26 November, the Chairman appreciates that your interests as academic researchers extend beyond the narrow questions of the causation of the tragic explosion and the regulatory environment relating to LPG installations in industrial and commercial premises. You made it clear in your Research Report that you considered any inquiry should be a "*full public inquiry into the circumstances surrounding the ICL/Stockline tragedy that has a remit to explore more generally the management and regulation of health & safety in Scotland*" and referred to this remit in your submissions of 20 May 2008 when stating that "you welcomed the decision by Peter Hain to hold such an inquiry under the Inquiries Act". With the benefit of hindsight, it is clear that you had presumed the remit set by Ministers reflected your own recommendation. Your desire has been for more general considerations to be taken into account, including your interest in the position of workers and employees generally in relation to Health & Safety legislation, the regulation of companies and the possibility of criminal sanctions.

The concern of the Chairman, Ministers, those bereaved and injured and the Core Participants more widely, including HSE, has been clearly expressed during the course of the Inquiry, and in the media, as being to seek to ensure that such an event does not recur by identifying the pertinent circumstances, considering the relevant regulatory environment and ensuring the lessons are identified and learned without delay. That is what the Chairman has sought, and is seeking, to do.

The concluding observations of Mr. MacAulay, instructed by Thompsons on behalf of a number of injured survivors and bereaved families, a number of whom had attended throughout the public hearings was as follows:

24 "The Inquiry will note that a number of the core participants who we represent were in attendance at the Inquiry on a regular basis. Although the evidence was frequently upsetting to them, they were able to gain a clear insight into the cause of the disaster. We have been instructed to advise the Inquiry that they do feel that the truth of what has happened has come out.

25 It is a matter of extreme importance to those we represent that this must not be allowed to happen again"

You remain concerned that your team and Mr. Laurence Connelly were not called to give evidence before the Inquiry. Lord Gill regrets you are unable to accept his considered position on these matters, despite the clear explanation given, with his agreement, in my letter of 26 November.

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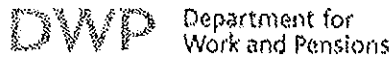
Lord Gill has also asked me to say that it would be quite wrong to assume that he has not taken into account the research report prepared by the Universities of Strathclyde and Stirling. On the contrary, Lord Gill has read the Report carefully and is fully aware of its contents. All core participants were given the opportunity to make representations and submissions and apply to ask questions. None applied for evidence to be heard based on the Research Report.

In the case of Mr. Connelly, I have been asked to point out that Mr. Connelly's written statement of case has been received and therefore forms part of the evidence to the Inquiry. His statement of case was placed on the Inquiry website on 6 June.

The Chairman notes your continuing concern as to the scope of the remit of the Inquiry. If you should have any factual evidence further to your Report, that you wish to put before the Inquiry, he renews his invitation to you to do so. If you could submit such evidence by 30 January, that would be appreciated.

Yours sincerely

JILLIAN GLASS
Solicitor to the Inquiry



Media centre

05 December 2007 – Chair and Terms of Reference for Glasgow factory inquiry announced

Lord Gill, the Lord Justice Clerk, has been appointed Chairman of the public inquiry into the plastics factory explosion in Glasgow on May 11 2004, announced Secretary of State for Work and Pensions, Peter Hain and Lord Advocate, Elish Angiolini QC today.

The terms of reference for the inquiry will include:

- To enquire into the circumstances leading up to the incident on 11 May 2004 at the premises occupied by the ICL group of companies, Grovepark Mills, Maryhill, Glasgow
- To consider the safety and related issues arising from such an inquiry, including the regulation of the activities at Grovepark Mills
- To make recommendations in the light of the lessons identified from the causation and circumstances leading up to the incident
- To report as soon as practicable

Peter Hain said:

"I am pleased Lord Gill has agreed to Chair the inquiry into the tragic and terrible events in Glasgow. Now that we have a chair in place, and an agreement on the terms of reference, we can ensure that the inquiry will be focussed on the events, and the families will not have to wait unduly for answers."

The Lord Advocate, Elish Angiolini QC, said:

"The events of the 11 May 2004 have a continuing impact on the lives of many people, on all those who were working in the factory that day, on the dozens of people who were injured, and especially on those who lost a loved one.

"This public inquiry will provide an opportunity, not only to fully air the circumstances which led up to that incident, but also to make sure that lessons are learned to help prevent another tragedy like this occurring."

Notes to Editors

- The decision to hold a joint public inquiry was announced on 1 October 2007.
- On 11 May 2004 there was an explosion at a plastics factory operated by ICL Plastics Ltd and ICL Tech Ltd in Maryhill, Glasgow. As a result 9 people died and 33 were injured.
- The Health and Safety Executive and the police, working closely with staff from the Glasgow Procurator Fiscal's Office, began a painstaking investigation into the circumstances surrounding the tragedy. As a result both ICL Plastics Ltd and ICL Tech Ltd were prosecuted for various health and safety breaches over a number of years.
- On 17 August 2007 both companies pled guilty to all charges and were subsequently fined £200,000 each on 28 August.
- The Lord Advocate has sole jurisdiction for the investigation of deaths in Scotland, following the conclusion of criminal proceedings she considered the form and remit of the inquiry, and in particular

whether the issues could be properly addressed at a Fatal Accident Inquiry or another form of public inquiry.

Biography:

The Right Hon Lord Gill, the Lord Justice Clerk

Lord Gill practised at the Scottish Bar from 1967 to 1994 and at the English Bar from 1991 to 1994. He was appointed to the Bench in 1994. He was Chairman of the Scottish Law Commission from 1996 to 2001 when he was appointed Lord Justice Clerk.

When he was in practice at the Scottish Bar he was counsel in the inquiries into the Clarkston Disaster and the Lockerbie Disaster, and in several nuclear inquiries, including the lengthy inquiry into the proposed reprocessing plant at Dounreay (1987). Between 1996 and 2001 Lord Gill dealt with all 239 of the civil actions in the Court of Session relating to the Braer oil-spill in Shetland. He was one of the appeal judges in the litigation arising from the Piper Alpha disaster.

Lord Gill is Chairman of the Civil Courts Review which will be reporting to the Scottish Government in 2009.

He is the author of the standard textbook on agricultural holdings in Scotland and is founder and General Editor of the Scottish Planning Encyclopedia.

Lord Gill was chairman of the Royal Scottish Academy of Music and Drama from 1999 to 2006. He is a Fellow of the Royal Society of Edinburgh and of the Royal Scottish Academy of Music and Drama. He holds five honorary doctorates.

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NEWS RELEASE

CROWN OFFICE AND
PROCURATOR FISCAL SERVICE

DWP Department for
Work and Pensions



Reference

Date

1 October 2007

HSC – 040

Glasgow factory inquiry announcement

Secretary of State for Work and Pensions, Peter Hain MP and the Lord Advocate, Elish Angiolini QC today announced their agreement that there should be a public inquiry into the tragic plastics factory explosion which occurred in Glasgow on 11 May 2004.

This is the first public inquiry under the UK Inquiries Act 2005 in mainland Britain. The full remit and schedule will be finalized in the coming weeks, and will be announced shortly.

Nine people died and many more were injured when the factory in Maryhill, owned and operated by ICL Plastics Ltd and ICL Tech Ltd, was destroyed in an explosion caused by a leaking Liquid Petroleum Gas pipe. At the end of August the two companies were fined £200,000 each after admitting a series of health and safety breaches.

Speaking today Peter Hain said:

"Having taken the opportunity to meet with the families of the victims I am convinced that a full public inquiry is necessary to understand the facts that led to this tragic accident. I welcome the opportunity to ensure that lessons are learned from this tragedy.

"The findings of the inquiry are likely to have significance across the United Kingdom. It is vital for Ministers to work together to establish a full inquiry into the events leading to the explosion and the lessons which we can learn for the future.

"When talking to the families they told me their key concerns are to establish the facts, provide an explanation of why this happened, explain where the failures were and ensure we do not allow this to happen again. They also raised particular concerns over the qualifications of the pipe installers, the approach to risk assessment and the availability of advice on these matters – all these issues can and should be examined.

"They have also made it clear to me that they want to see the role that the Health and Safety Executive (HSE) played in regulating these premises prior to the incident is fully investigated. I fully support them on this point. No issue relevant to the circumstances should be out of bounds.

"It is essential that the inquiry is thorough, transparent and exhaustive but not protracted. The families have suffered already and we do not want them to have to wait unduly for answers."

The Lord Advocate said:

"At the conclusion of criminal proceedings in Scotland I confirmed my commitment to holding an inquiry in public into the circumstances surrounding this tragedy. I met members of families of the victims, and other interested parties, to consider their views on what it was hoped that the inquiry would achieve.

"In light of these helpful discussions and the matters uncovered by the investigation team in the course of the preparation for the criminal trial, I concluded that the best outcome would be a full public inquiry which comprehensively investigates the events leading up to the tragic explosion, and the issues arising out of that.

"I have been able to discuss the options with Lord McKenzie, the United Kingdom Minister with responsibility for Health and Safety at Work and with Peter Hain, the Secretary of State for Work and Pensions, and we have concluded that the best option for a public inquiry is one established jointly by Scottish and United Kingdom Ministers under the Inquiries Act 2005.

"I welcome the Secretary of State's agreement to hold the first public inquiry between the two governments, and the first inquiry under the Inquiries Act to be held on mainland Great Britain. We intend to hold the inquiry in Scotland.

"As health and safety legislation is reserved to the United Kingdom Parliament, and the investigation of deaths in Scotland fall solely under my jurisdiction as the Lord Advocate, only a joint inquiry could truly address all of the issues which arise as a result of this case.

"I am conscious of the anxiety that the families of those who died and the survivors have continued to suffer and both the Secretary of State and I wish to ensure that the Inquiry takes place as quickly as possible, and should not be unduly lengthy."

The full terms of reference for the inquiry will be agreed in the coming weeks, and will be announced as soon as the details are finalized.

Notes to Editors

1. On 11 May 2004 there was an explosion at a plastics factory operated by ICL Plastics Ltd and ICL Tech Ltd in Maryhill, Glasgow. As a result 9 people died and 33 were injured.
2. The Health and Safety Executive and the police, working closely with staff from the Glasgow Procurator Fiscal's Office, began a painstaking investigation into the circumstances surrounding the tragedy. As a result both ICL Plastics Ltd and ICL Tech Ltd were prosecuted for various health and safety breaches over a number of years.
3. On 17 August 2007 both companies pled guilty to all charges and were subsequently fined £200,000 each on 28 August.
4. The Lord Advocate has sole jurisdiction for the investigation of deaths in Scotland, following the conclusion of criminal proceedings she considered the form and remit of the inquiry, and in particular whether the issues could be properly addressed at a Fatal Accident Inquiry or another form of public inquiry.

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