

1 THE HEARING CONTINUED, AS FOLLOWS, ON WEDNESDAY
2 12TH NOVEMBER 2025

3
4 SUBMISSION BY MR. GREANEY

5
6 CHAIRMAN: Mr. Greaney, good morning.

7 MR. GREANEY: Good morning, Sir. The hearing has been
8 listed today initially also with the prospect of
9 tomorrow also to address three distinct issues; first,
10 the primary purpose of the hearing was to enable you to
11 hear argument about the process the Inquiry proposes to
12 adopt to the handling of operationally sensitive
13 material, although, as I will explain, Sir, that
14 argument has dropped away, at least in very substantial
15 part.

16
17 Secondly, the hearing has been listed to enable Inquiry
18 Legal Team to update you, the Core Participants and the
19 general public about the scope of Chapter 3 of the
20 Inquiry's oral evidence hearings. Chapter 3, as
21 everyone knows, will address the events immediately
22 surrounding the bombing and is due to commence on the
23 9th of March of next year.

24
25 The third reason why the hearing has been listed, Sir,
26 is to enable Inquiry Legal Team to provide Core
27 Participants and the public with an update about a
28 number of procedural issues but principally about
29 disclosure.

1
2 The order in which we propose to address those topics
3 is this; I will make some short introductory remarks
4 about the first topic, namely the approach to
5 operationally sensitive material, and then Mr. Pleeth 10:16
6 Mr. Pleeth will develop the situation.

7
8 Sir, this topic, the first topic, is an issue upon
9 which we considered it appropriate to invite
10 submissions from Core Participants. So once Mr. Pleeth 10:16
11 has finished explaining the Inquiry's legal team's
12 position on the first topic, we will ask Core
13 Participants to make oral submissions on this issue,
14 but on this issue only, if they continue to wish to do
15 so. 10:16

16
17 Once that stage of the hearing is reached, we will
18 invite submissions in the following order. First of
19 all from Ms. Fee on behalf of His Majesty's Government.
20 Secondly, from Mr. Henry on behalf of PSNI. Thirdly. 10:17
21 From Ms. Smyth on behalf of the BBC. Fourth, from
22 Mr. Southey on behalf of the Fox Law families and
23 survivors. Fifth, from Mr. Kane on behalf of those
24 represented by John McBurney Solicitors now part of
25 Anderson Gillan Barr. Sixth, from Mr. Mansfield on 10:17
26 behalf of the Rush family, represented by Elev8 Law.
27 Seventh, from Mr. McGuckin on behalf of Campbell &
28 Haughey, Roche McBride and PA Duffy. And, finally, if
29 any reply by Inquiry Legal Team is necessary, then I

1 will reply.

2
3 Once we've heard, Sir, from Core Participants on the
4 first topic and once I have replied, if necessary,
5 Mr. de la Poer will deal with topic 2, namely the 10:18
6 outline of what Chapter 3 will cover. What he has to
7 say today is for the purposes of information only and
8 we will not be inviting submissions on this second
9 topic today.

10
11 Then finally, I will deal with topic 3, namely the
12 provision of a brief procedural update. Again, this
13 information provided today is provided for information
14 only and we will not be inviting submissions from Core
15 Participants upon it. 10:18

16
17 So, Sir, the short introductory remarks on topic 1: The
18 Inquiry holds material on its open disclosure database
19 that is relevant to your Terms of Reference and which,
20 therefore, falls to be disclosed to all Core 10:18
21 Participants but which it is considered may not be
22 capable of being made public without redaction of
23 information within it that is operationally sensitive.

24
25 As Mr. Pleeth will explain in a few moments, 10:19
26 operationally sensitive material is material that is
27 not so sensitive as to be said to be closed but which
28 does contain information which, if published, would be
29 capable of assisting those who would wish to carry out

1 future terrorist attacks or undertake other criminal
2 activity and, Sir, that line has been well understood
3 and applied in other processes.

4
5 Inquiry Legal Team considers that a mechanism needs to 10:19
6 be put in place that achieves the following in relation
7 to operationally sensitive material. First, it ensures
8 that terrorists or other criminals who would wish us
9 harm are not assisted. Second, it ensures that Core
10 Participants receive material without undue delay and, 10:20
11 third, it respects the open justice principle.

12
13 Inquiry Legal Team has proposed a three-stage approach
14 which we consider achieves those three aims. Mr.
15 Pleeth will deal with the detail of that approach, 10:20
16 which has widespread support from the bereaved families
17 and survivors and is no longer, as of last night and
18 this morning, the subject of any objection or certainly
19 any substantial objection.

20 10:20
21 In its initial written submissions, HMG expressed
22 concerns about the proposed approach. However, we
23 understand that HMG now accepts, at the very least in
24 large part, that the approach proposed is one that
25 achieves its aims and will work. 10:20

26
27 Sir, we are pleased today's solution has been reached
28 and it seems to us that whenever there is a potential
29 disagreement with an approach proposed by Inquiry Legal

1 Team, it is important that Core Participants work
2 closely with us to see whether it can be resolved and
3 do so as early as possible, because that will enable
4 the Inquiry to remain focused on its core work and
5 avoid distractions.

10:21

6
7 In its submissions, PSNI did not challenge the overall
8 process that we proposed but made some constructive
9 proposals of its own about the language used in
10 relation to the categories of operationally sensitive
11 material proposed by Inquiry Legal Team and some other
12 Core Participants supported the position adopted by
13 PSNI

10:21

14
15 Inquiry Legal Team has reflected on the submissions of
16 the police and has made some adjustments to the
17 language used in relation to the categories as a result
18 and we now understand that any concerns that PSNI had
19 initially have disappeared.

10:21

20
21 Finally, the BBC had suggested that the press should be
22 able to report contemporaneously on any operationally
23 sensitive material that was heard during the course of
24 a hearing. The position of Inquiry Legal Team was that
25 to do so would defeat the very purpose of the approach
26 we have suggested and that it's process provides
27 appropriate protections for the legitimate and
28 important interests of the press and the public in open
29 justice. And, Sir, Ms. Smyth has been good enough to

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10:22

1 explain to me this morning that the BBC does not now,
2 in light of the further written submissions of the
3 Inquiry legal team, oppose the process that we process
4 and we are grateful to them for the further
5 consideration that they have given to our position.

10:22

6
7 Given that the concerns of HMG and PSNI and of the BBC
8 have been addressed, we doubt that many Core
9 Participants or the media will have much to say orally
10 this morning and as a result, we shall certainly
11 conclude this hearing today, and, indeed, well within
12 the day.

10:23

13
14 However, notwithstanding that agreement has broken out,
15 we consider that it's important that Mr. Pleeth should
16 explain the detail of what the process for handling
17 operationally sensitive material will involve and that
18 is so that process should be understood publicly.

10:23

19
20 Before inviting Mr. Pleeth to develop topic 1, we
21 consider it important to emphasise that the drive for
22 the solution to the issue of operationally sensitive
23 material and the work to achieve it has rested within
24 the Inquiry legal team's Disclosure Team, particularly
25 Gabriella Quick and Niamh Fox. In simple terms, Sir,
26 they identified the issue and they also identified the
27 solution.

10:24

28
29 Sir, having made those remarks, as I indicated, I will

1 now invite Mr. Pleeth to develop topic 1.

2
3 SUBMISSION BY MR. PLEETH

4
5 CHAIRMAN: Mr. Pleeth.

10:24

6 MR. PLEETH: Good morning, Sir. Sir, as Mr. Greaney has
7 explained, the Inquiry holds, on its open disclosure
8 database, material which is relevant to your Terms of
9 Reference and, therefore, falls to be disclosed to all
10 Core Participants, but which is not capable of being
11 made public without redaction of information within it
12 that is defined as operationally sensitive. By that
13 phrase "operationally sensitive", we mean material
14 containing information which, if published, would be
15 capable of assisting those who would wish to carry out
16 future terrorist attacks or other criminal activity.

10:24

10:25

17
18 Examples of operationally sensitive material might
19 include information which sets out details on how to
20 build or maximise the effectiveness of an improvised
21 explosive device or information that explains
22 techniques available to law enforcement agencies to
23 disrupt the activities of those engaged in terrorist or
24 other criminal activity.

10:25

25
26 Faced with information falling within that category on
27 our open disclosure database, we considered how we
28 could facilitate the disclosure of that material to
29 Core Participants and we determined that it was

10:25

1 essential that a practical process was established
2 which ensured that the material was identified, handled
3 fairly and handled in such a way so as to avoid
4 disproportionate delay to the substantive progress of
5 your Inquiry. We considered that it would be both 10:26
6 impractical and would inevitably cause delay if Core
7 Participants were required to make repeated
8 line-by-line or individualised Restriction Order
9 applications over such material. Such a process would
10 take too long and it would, we consider, interfere with 10:26
11 the serious and substantial work which your Terms of
12 Reference require. And it was, in our view, essential
13 that a workable process was therefore developed.

14
15 On 1st September we published a note titled: "Interim 10:26
16 Restriction Order operationally sensitive material".
17 That note was accompanied by an Interim Operationally
18 Sensitive Material Restriction Order which you, Sir,
19 had issued pursuant of Section 19 of the Inquiries Act.
20 That Restriction Order was necessary to facilitate the 10:27
21 disclosure to Core Participants of a sample of
22 operationally sensitive documents and it also served a
23 secondary purpose, demonstrating the proposed purpose
24 and operation of a final operationally sensitive
25 Restriction Order. 10:27
26

27 And so, Sir, at this hearing we are inviting you to
28 take two steps, first, to endorse the proposed process
29 for handling and disclosing operationally sensitive

1 material that we have set out in our note and
2 submissions prepared in advance of this hearing and,
3 second, to issue a final operationally sensitive
4 Restriction Order which implements the proposed
5 process.

10:27

6
7 In our note, we established a timetable for Core
8 Participants and for the media to file written
9 submissions in relation to the proposed process and in
10 accordance with that timetable, we have received
11 written submissions from most of the Core Participants
12 as outlined by Mr. Greaney and from the BBC.

10:28

13
14 Sir, in these oral submissions, I intend to address you
15 on four core areas. First, the Inquiry's commitment to
16 openness. Second, the process of Restriction Orders
17 generally given, Sir, that this is the first time that
18 you were invited to consider issuing what might be
19 described as a substantive Restriction Order.

10:28

20
21 Third, an outline of the proposed process for
22 identifying and disclosing operationally sensitive
23 material which is implemented through the operationally
24 sensitive Restriction Order. Finally, Sir,
25 I propose to respond to the submissions received from
26 some of the Core Participants, although, as Mr. Greaney
27 has alluded to, it does appear that some, if not all of
28 the Government and BBC objections to this process are
29 no longer being pursued.

10:28

10:28

1 Nevertheless, we consider it appropriate to address
2 these concerns publicly, given the derogation from
3 complete openness that this operationally sensitive
4 process would inevitably entail.

5
6 Turning to the first of those topics, the Inquiry's
7 commitment to openness. As our note makes clear, this
8 Inquiry is committed to holding as much of its process
9 as possible in public. Openness, so far as possible,
10 is embedded in Section 18 of the Act and is a core 10:29
11 component of the requirement in Section 17 for you,
12 Sir, to act fairly. That commitment to openness has
13 been a guiding principle of this Inquiry since it began
14 and was expressed in your 21st February 2024 statement
15 on the Terms of Reference, but we recognise that this 10:30
16 commitment to openness must be more than just words.
17 It is, and will be, central to every aspect of this
18 Inquiry. We acknowledge that providing Core
19 Participants with as much information as possible
20 involving the media, conducting public hearings and 10:30
21 acting with transparency are all essential to achieving
22 that stated goal.

23
24 Turning to the second of my topics, Restriction Orders
25 generally. Sir, as I have said, this is the first time 10:30
26 that you are invited to issue a substantive Restriction
27 Order in this Inquiry. The relevant statutory
28 provisions are outlined in our notes and can be
29 summarised in short as follows:

1 Section 17 provides, Sir, that you determine the
2 conduct and procedure of an inquiry. You must act with
3 fairness and with regard to the need to avoid
4 unnecessary cost.

5
6 Section 18 provides the presumption that the Inquiry
7 will be held in public and Section 19 provides the
8 power for you to restrict public access to hearings or
9 evidence where required by any statutory provision or
10 rule of law, where conducive to the Inquiry fulfilling 10:31
11 its Terms of Reference or where necessary in the public
12 interest. In determining whether a Restriction Order
13 should be made, you are required to consider a number
14 of factors set out in Sections 19(4) and 19(5)
15 including, so far as relevant to this Inquiry, the 10:31
16 extent to which any restriction on attendance,
17 disclosure or publication might inhibit the allaying of
18 public concern. Any risk of harm or damage that might
19 be reduced by any such restriction, including that of
20 death or injury, damage to national security or damage 10:32
21 to international relations, or the extent to which not
22 imposing any particular restriction would likely cause
23 delay or impair the efficiency or effectiveness of the
24 Inquiry or otherwise result in additional cost.

25
26 Turning then, Sir, to the third topic of my
27 submissions, the process for managing the disclosure
28 and use of operationally sensitive material by Core
29 Participants and this process is, as Mr. Greaney has

1 alluded to, divided into three stages. Stage 1 relates
2 to the identification of operationally sensitive
3 material. Stage 2 relates to the disclosure of
4 operationally sensitive material. Stage 3 relates to
5 the use of operationally sensitive material at
6 hearings.

10:32

7
8 At Stage 1, once a document is reviewed by the Inquiry
9 on to our disclosure database and has been determined
10 to be relevant by Inquiry Legal Team, we will assess on 10:33
11 a provisional basis whether any content within that
12 document is operationally sensitive as defined by
13 categories which we are inviting you, Sir, to endorse
14 following this hearing. In our note explaining this
15 process, we originally proposed that there should be 10:33
16 three pre-approved categories of operationally
17 sensitive material. We have carefully considered the
18 submissions received from Core Participants and have,
19 in light of those submissions, concluded that the
20 difference between our originally proposed Category A 10:33
21 and Category C is no longer significant or material,
22 making the maintenance of that distinction unnecessary.
23 Accordingly, Sir, we propose, and invite you to
24 endorse, the following two categories of operationally
25 sensitive material. Category A, defined as: "Tactics 10:33
26 and capabilities used by the UK State authorities and
27 others in the investigation and/or disruption of
28 suspected terrorist or other criminal activities". And
29 Category B, defined as: "Methods and strategies used

1 by individuals in the preparation and/or commission of
2 suspected terrorist or other criminal activities."

3
4 The original descriptor for old Category C material
5 included the words that is not currently in the public 10:34
6 domain. A number of submissions were made by Core
7 Participants in relation to the challenges surrounding
8 whether information is or is not in the public domain
9 and, on reflection, we agree that these words may be
10 difficult to apply in practice. Accordingly, these 10:34
11 words are no longer proposed for inclusion in
12 Category A into which the old Category C has been
13 merged.

14
15 That said, it is important to emphasise that we 10:35
16 nevertheless consider that a very relevant
17 consideration as to whether or not material falls into
18 any of the operationally sensitive categories is the
19 degree to which there is already public awareness of
20 that information. As such, we invite you in your 10:35
21 ruling to endorse the principle that when consideration
22 is being given at any stage to whether material is
23 operationally sensitive, a relevant consideration is
24 the degree to which there is already public awareness
25 of that information. 10:35
26

27 Turning back then, Sir, to the process for
28 identification of operationally sensitive material.
29 Once Inquiry Legal Team has determined a document to be

1 relevant, we will, as I say, assess on a provisional
2 basis whether any content within it is operationally
3 sensitive and which of those two categories applies.
4 The material providers, meaning the entity which
5 provided the documents, will then be invited to
6 indicate, in their review of material, whether they
7 agree with the Inquiry legal team or whether they
8 identify any further information within a document
9 which is considered to be operationally sensitive such
10 that it requires provisional redaction.

10:36

10:36

11
12 We envisage that following a period of constructive
13 discussion, if any material provider's final position
14 is that information within a document is considered to
15 be operationally sensitive such that it requires
16 provisional redaction, then that redaction will be
17 applied before disclosure to Core Participants. In
18 this way, Core Participants will not be delayed from
19 seeing material any more than is absolutely necessary.

10:36

20
21 This would be the case even where Inquiry Legal Team
22 disagrees with the provisional redaction, although we
23 hope that such an occurrence would be rare. That said,
24 where this does agree and we disagree with the material
25 provider, we envisage that the material provider would
26 then, in short order, be required to make a bespoke
27 Restriction Order which you, Sir, would then determine.
28 In this scenario, and any other scenario where there is
29 not complete agreement from the Inquiry legal team over

10:36

10:37

1 material which a provisional Restriction Order is
2 sought, falls squarely within one of the two
3 pre-approved categories, then a bespoke Restriction
4 Order would be required.

5
6 Finally, Sir, if it is asserted by material provider
7 that a document or content of a document is so
8 sensitive that it cannot be disclosed to a Core
9 Participant, then there will be the opportunity for
10 that to be addressed through a closed Restriction Order 10:37
11 process which will be set out in due course. Through
12 that process, a material provider's assertion of such
13 would be rigorously tested.

14
15 Finally, Sir, it goes without saying that there remains 10:38
16 always the opportunity for Core Participants to apply
17 for bespoke Restriction Orders for circumstances which
18 do not fit either of the recognised models.

19
20 Turning then, Sir, to Stage 2 of the process, the 10:38
21 disclosure of operationally sensitive material. Once a
22 document has been identified as containing
23 operationally sensitive material, the provisionally
24 redacted version of the document will be made available
25 to Core Participants in the normal area of the 10:38
26 relativity on-line disclosure system and would be
27 treated like any other document. That version of the
28 document will be referred to as the open redacted
29 document.

1
2 But Core Participants will also have access to an
3 operationally sensitive material area within the
4 disclosure platform. That area will contain documents
5 with the relevant operationally sensitive content 10:38
6 visible. This version will be known as the
7 "operationally sensitive document", or "OS document".
8 That document will be marked with the words
9 "operationally sensitive" and the redactions will be
10 marked with a box containing the watermark 10:39
11 "operationally sensitive". Those documents will only
12 be disclosed to specified individuals, including Core
13 Participants and their legal representatives, and the
14 accompanying Restriction Order places some
15 proportionate limitations on the handling of those 10:39
16 documents including, for example, that they will not be
17 capable of being downloaded or printed, no screen shots
18 or images of those documents will be permitted.

19
20 Turning then, Sir, to Stage 3, the use of the material. 10:39
21 We recognise that access to the documents through
22 Stage 2, as I have outlined, is but the first step and
23 that Core Participants and the Inquiry must be able to
24 use these documents effectively in Inquiry hearings and
25 submissions. 10:40

26
27 Importantly, Sir, I should say that nothing within the
28 operationally sensitive Restriction Order process is
29 intended to inhibit or limit Core Participants' ability

1 to ask Rule 10 questions or make submissions about the
2 open redacted document in any open hearing without any
3 additional restrictions.

4
5 The Restriction Order and process that we propose 10:40
6 relates only to the operationally sensitive material
7 and provides that any questioning about that material
8 would occur during what we have described as a
9 restricted hearing.

10 10:40
11 The following individuals would be permitted to attend
12 such a restricted hearing; Inquiry Legal Team and
13 Inquiry support staff, Core Participants and their
14 legal representatives, relevant witnesses, accredited
15 media and anyone else, sir, that you authorise in 10:40
16 writing. We consider that it is appropriate and
17 necessary to set this default process explaining who
18 may attend a restriction hearing. This, we suggest,
19 has the benefit of ensuring consistency and managing
20 expectations. We recognise that, in exceptional 10:41
21 circumstances, it may be necessary to adopt bespoke
22 arrangements which can be addressed on a case-by-case
23 basis but that possibility does not, we say, detract
24 from the benefits of agreeing a default process which
25 it is reasonably expected to deal with most, if not all 10:41
26 situations.

27
28 A restricted hearing to address operationally sensitive
29 material would, of course, only be necessary if, on

1 cogent grounds, the Inquiry or Core Participant
2 required questions to be asked of a witness about the
3 operationally sensitive material. Of course, we
4 anticipate that some restricted hearings may be
5 inevitable but we believe that in many cases, steps can 10:41
6 and should be taken to make them unnecessary. In
7 particular, legal representatives may be able to frame
8 questions so as to remove the need for the question and
9 answer to refer directly to operationally sensitive
10 material. Of course, a restricted hearing would only 10:42
11 be necessary if these methods were insufficient to
12 allow the relevant evidence to be presented or tested
13 appropriately.

14
15 Finally, Sir, in relation to restricted hearings, the 10:42
16 disclosure, sharing or publishing of anything said in a
17 restricted hearing would be prohibited by the
18 Restriction Order and the hearings would not be
19 broadcast through YouTube. However, Sir, as I have
20 said, accredited media would be entitled to be present 10:42
21 at any restricted hearing and would be able to apply to
22 you, Sir, for permission to report on the evidence that
23 has just been heard during a restricted hearing.

24
25 You, Sir, would then make a ruling on any such 10:42
26 application, having invited submissions from any Core
27 Participants with a direct interest in that issue.
28 Sir, that, I believe, explains the process that we
29 propose to ensure that operationally sensitive material

1 is identified and handled fairly so as to avoid
2 disproportionate delay to the progress of your Inquiry.

3
4 Can I turn finally to address some specific issues that
5 arise from the Core Participants' submissions which
6 have not already been addressed?

10:43

7
8 Turning first, Sir, to the submissions filed by the
9 Bereaved Families and Survivor Core Participants, these
10 submissions, we are grateful, all acknowledge the
11 carefully balanced process that we have set out in our
12 note and submissions. In particular, we are grateful
13 for the indications that, in general, the Bereaved
14 Family and Survivor Core Participants consider that our
15 proposed approach demonstrates as much openness and
16 transparency in this process as possible.

10:43

10:43

17
18 We are grateful to Fox Law for their observation that
19 the procedure we set out in our note did not expressly
20 state that Core Participants will have the opportunity
21 to challenge a decision that material is operationally
22 sensitive whilst also recognising that a challenge is
23 unlikely. Integral to our process is that all
24 operationally sensitive redactions applied under this
25 process are provisional because they will, of course,
26 as you would expect, be kept under review during the
27 life of the Inquiry and may fall to be removed or
28 amended if further information is identified about that
29 redaction.

10:44

10:44

1
2 Further, and any event, any Core Participant who wishes
3 to raise an objection to material being classified as
4 "operationally sensitive" has that opportunity. The
5 starting point, we suggest, would be to raise that 10:44
6 material with the Inquiry legal team and if the issue
7 is not resolved in that way, as with any other aspect
8 of the process, Sir, you could be invited to resolve
9 the dispute.

10
11 Turning then next, Sir, to the submission from HMG
12 which raises concerns about whether the process, the
13 proposed approach is appropriate or practical in the
14 circumstances of the Inquiry. As both Mr. Greaney and
15 I have said at the beginning, we understood recently 10:45
16 that most, if not all, of the concerns raised by HMG
17 are no longer pursued. Nevertheless, Sir, we consider
18 it appropriate to address the issues raised in written
19 submissions in an open hearing.

20
21 In their submissions HMG suggested that any attempt to
22 draw a bright-line distinction between closed material
23 and operationally sensitive material may not be
24 feasible in the circumstances of this Inquiry where
25 operationally sensitive material, they suggest, may be 10:45
26 very sensitive indeed and where disclosure of material
27 in general has the potential to cause a high degree of
28 harm.

1 we do not accept that HMG's concerns are well founded.
2 we consider that the categories based approach that we
3 have established is both lawful, necessary and
4 proportionate methodology for protecting this
5 operationally sensitive material. The HMG written 10:46
6 submissions have made the point that there may well be
7 operationally sensitive material which cannot be
8 disclosed even subject to confidentiality undertakings,
9 given the sensitivity of any harm involved. Our
10 process already envisaged a range of measures which 10:46
11 negate all of the concerns raised by HMG, which, Sir,
12 as I have said, we consider not to be valid.

13
14 First, the operationally sensitive Restriction Order
15 process is only designed to apply to material that can 10:46
16 be disclosed to all Core Participants but which is not
17 capable of being made public without redaction. It is
18 not, and never was, intended to apply to materials that
19 are said to be closed because those materials engage
20 matters of national security. A separate note will be 10:47
21 circulated in due course on the proposed approach to
22 the handling of closed material and the process for
23 seeking Restriction Orders in respect of such material.
24 If HMG perceive that any particular document or text is
25 so sensitive that it cannot be addressed as 10:47
26 operationally sensitive and can only be addressed
27 through the closed process, then they would, of course,
28 be able to indicate this.

1 Second, we would expect that any material which is
2 asserted to be closed on the basis that it engages
3 matters of national security would not have been
4 provided to us through our open disclosure platform
5 and, accordingly, material which might engage this
6 issue, we suggest, should be easily identifiable.

10:47

7
8 Accordingly, Sir, we do not accept HMG's written
9 concerns about the value or utility of this process.
10 There is unquestionably material which we hold which
11 falls to be disclosed to Core Participants but which is
12 not capable of being made public without redaction. It
13 is for this material that this process is intended. If
14 there is material which is so sensitive it cannot be
15 disclosed for national security reasons, that can be
16 addressed through the closed Restriction Order process
17 to be set out in due course. If neither process is
18 appropriate, there remains, as with any aspect of
19 Inquiry's work, an option for Core Participants to make
20 bespoke applications to manage any difficult or
21 unforeseen circumstances.

10:48

10:48

10:48

22
23 Finally, Sir, turning to the submissions from the BBC,
24 which again we understand this morning have fallen
25 away, the BBC suggested in writing that the proposed
26 prohibition on the publication of anything said in an
27 operationally sensitive material, unless permission was
28 sought and granted from you, Sir, amounted to an
29 inversion of the open justice principle. Again, we do

10:48

1 not agree. The starting point is that accredited media
2 are able to attend the whole of an operationally
3 sensitive material. The rebuttable restriction on
4 publication of anything said in an operationally
5 sensitive hearing is essential to give effect to the 10:49
6 operationally sensitive Restriction Order. It applies
7 only to material which has been the subject of an
8 assessment that it's content is sensitive and falls
9 within one of the two pre-determined categories.

10
11 whether the publication of a discussion about that
12 material in an operationally sensitive hearing would in
13 fact reveal sensitive information can only safely and
14 properly be made in light of consideration of what is
15 actually said in the hearing. It would be illogical 10:49
16 and contrary to the purposes of the Restriction Order
17 for the media to be able to report contemporaneously
18 anything said in an operationally sensitive hearing.
19 The process we propose for an operationally sensitive
20 hearing is not novel or ground breaking. Indeed, 10:50
21 similar processes operate in numerous other inquiries
22 and sensitive hearings where there is a risk or
23 likelihood of sensitive material being mentioned. It
24 is envisaged, sir, that at the end of an operationally
25 sensitive hearing, you would, either on your own motion 10:50
26 or by application from the media, indicate which parts
27 of the hearing can or cannot be reported, and
28 experience would suggest that this is an entirely
29 collaborative process which rarely results in any

1 challenge.

2
3 Sir, that concludes all that I wish to address you on
4 and we invite you, as I say, to endorse the proposed
5 process for handling and disclosing operationally
6 sensitive material as set out in our notes and
7 submissions and, Sir, to issue the final operationally
8 sensitive Restriction Order which facilitates that
9 process.

10:50

10
11 The proposal now, as Mr. Greaney has set out, Sir, is
12 to hear first from HMG, then from PSNI and then from
13 the BBC and then to hear from any of the Bereaved
14 Family and Survivor Core Participants who wish to make
15 submissions. Sir, unless I can assist you any further?

10:50

16 CHAIRMAN: Thank you, Mr. Pleeth, that's most helpful.

10:51

17 MR. GREANEY: Sir, we would, therefore, invite Ms. Fee
18 to come forward and to make any submissions that she
19 wishes to make.

20
21 SUBMISSION BY MS. FEE.

10:51

22
23 CHAIRMAN: Good morning, Ms. Fee.

24 MS. FEE: Good morning, Sir, thank you. Sir, as you
25 know, I act on behalf of His Majesty's Government.
26 I am assisted today by Junior Counsel, Mr. Reid, and I
27 am instructed by the Government Legal Department and
28 The Crown Solicitor's Office.

10:51

1 I wish to say at the outset, Sir, that HMG is grateful
2 to the Inquiry for what has clearly been a careful and
3 thorough consideration of the written submissions made
4 by HMG and, indeed, by all Core Participants on the
5 difficult issue of operationally sensitive material.
6 As I will explain, the Inquiry's helpful recent note
7 dated 4th November 2025 clarifying and refining the
8 proposed procedure has answered many of the questions
9 posed in HMG's written submission and has alleviated
10 key concerns.

10:52

10:52

11
12 As the Inquiry is aware, HMG has been working
13 diligently to progress disclosure and has been working
14 closely with the Inquiry to ensure that relevant
15 material is provided as efficiently as possible, with a
16 significant volume of material provided to date. HMG
17 recognises the challenge which the Inquiry faces in
18 analysing and processing large volumes of material,
19 some of which is not capable of provision in open.
20 HMG accepts that clear, robust and effective processes
21 for dealing with disclosure are in the interests of all
22 Core Participants.

10:52

10:52

23
24 The Inquiry has HMG's detailed written submissions on
25 the proposed process set out in the Inquiry's note
26 dated 29th of August 2025. This process, of course,
27 relates to material which is not capable of being made
28 public without redaction due to its operational
29 sensitivity. At paragraph 2 of its August note, the

10:53

1 Inquiry described that material as:

2
3 "Material which, if published, would alone be capable
4 of assisting those who would wish to carry out future
5 terrorist attacks or other criminal activity and/or 10:53
6 would, in combination with other material already in
7 the public domain, or contained within other
8 disclosure, be capable of assisting those who would
9 wish to carry out future terrorist attacks or other
10 criminal activity." 10:53

11
12 The Inquiry's August note proposed dealing with
13 operationally sensitive material in a manner different
14 to other sensitive material and HMG's written
15 submissions dated 6th October 2025 raised a number of 10:54
16 questions and concerns about how the proposed process
17 would work in practice. Many of those questions, Sir,
18 have been helpfully answered by the Inquiry's recent
19 note from October 2025.

20 10:54
21 The Inquiry has explained at paragraph 9(C) of its
22 November note that material providers, or those with
23 equity in the content, will indicate, in their review
24 of materials, whether they agree with the
25 identification of the operationally sensitive material 10:54
26 and whether any other information within a document is
27 considered to be operationally sensitive and to require
28 redaction.
29

1 The Inquiry explains that through this process, the
2 material providers are able to identify material which
3 they consider unsuitable for the operationally
4 sensitive process. And, helpfully, the note explains
5 that if the ILT disagree with the material provider's
6 assessment then, as with any aspect of the process,
7 there remains the opportunity for applications to be
8 made to the Chairman for a bespoke approach.

10:55

9
10 HMG's concerns about the use of the phrase
11 "operationally sensitive", which is explained at
12 paragraph 10 of the written submissions and "in the
13 public domain", which is at paragraph 11, have also
14 been helpfully addressed in the Inquiry's November
15 note. In short, HMG's concern about the principle of
16 seeking to draw a bright-line distinction between
17 "operationally sensitive" and "closed" material is
18 considerably alleviated by the potential to apply to
19 the Chairman for bespoke approach, should it be
20 necessary in some specific instance.

10:55

10:55

10:55

21
22 Similarly, the refinements proposed by the Inquiry in
23 its November note in relation to the wording and
24 formulation of the proposed categories have helped to
25 address HMG's practical concerns about the working of
26 the process. HMG has given careful attention to the
27 written submissions of the families and Core
28 Participants, and the Inquiry's November note, and does
29 not now propose to take up any further time at this

10:55

1 hearing by rehearsing the points made in the October
2 submission. The difficulty of the issue is recognised
3 by HMG and thanks are again extended to the Inquiry for
4 its careful consideration of all of the written
5 submissions and its helpful note in response. Thank
6 you, Sir.

10:56

7 CHAIRMAN: well, thank you for your constructive
8 approach, Ms. Fee.

9 MR. GREANEY: Sir, could we next invite Mr. Henry to
10 make any submissions that he wishes to make on behalf
11 of PSNI.

10:56

12
13 SUBMISSION BY MR. HENRY.

14
15 CHAIRMAN: Good morning, Mr. Henry.

10:56

16 MR HENRY: Good morning, my Lord. I will be relatively
17 brief. As you know, I appear on behalf of the PSNI
18 attended this morning by Miss Kelly and assisted by
19 Mr. Thompson. We approached this issue by agreeing in
20 principle with the value it would add to the Inquiry
21 and also, in an attempt to be helpful, we made a number
22 of constructive suggestions which I'm grateful to have
23 learned were considered carefully not only by Inquiry
24 Legal Team but also by my learned Friends who appear
25 for the various Core Participants and the suggestions
26 that we have made have been taken up and incorporated.
27 The only change, therefore, Sir, which has manifested
28 since we provided our written submissions is the new
29 form of words for the combined or merged category and

10:57

10:57

1 we have no issue with that form of words at all. So
2 that's all I would like to say this morning other than
3 to extend our thanks again to my learned Friends for
4 the Core Participants and also to the Inquiry legal
5 team.

10:58

6 CHAIRPERSON: Thank you then, Mr. Henry.

7 MR. GREANEY: Sir, next on the list is Ms. Smyth on
8 behalf of the BBC.

9
10 SUBMISSION BY MS. SMYTH.

10:58

11
12 CHAIRPERSON: Good morning, Ms. Smyth.

13 MS. SMYTH: Good morning, sir. I appear on behalf of
14 the BBC this morning instructed by Carson McDowell
15 solicitors, sir. At the outset, the BBC would like to
16 note that it is recognised that at the core of the
17 written submissions certainly made by the families that
18 there is a desire for delay to be minimised in these
19 proceedings and, by extension, for a pragmatic approach
20 to be taken to issues that could potentially cause
21 delay. In that context, it is important to state that
22 the BBC intends to work collaboratively with the
23 Inquiry and where issues do arise, we will aim to
24 resolve those issues in a manner that avoids any
25 unnecessary delay to proceedings.

10:58

10:58

10:58

26
27 Sir, these remarks will happily be relatively brief as,
28 notwithstanding the concerns expressed in our written
29 submissions, as a result of the clarification and

1 refinement brought by way of the updated Inquiry legal
2 team note, the BBC can indicate that, broadly speaking,
3 it does not oppose the final order in the terms
4 proposed by the Inquiry Legal Team. However, as a
5 result of a number of the remarks made this morning by 10:59
6 Inquiry Legal Team insofar as it characterised the
7 submissions of the BBC, it is important first of all to
8 clarify what the BBC's position was.

9
10 Dealing first with the categorisation of "operationally 10:59
11 sensitive material", in the first instance, it will
12 have been clear from the outset that the BBC does not
13 oppose the restriction on reporting of operationally
14 sensitive material on principle and it was, in fact,
15 content with the categorisation of material that would 10:59
16 fall within the remit of the order as initially
17 proposed by Inquiry Legal Team. In this respect, it
18 was the submission of HMG and the PSNI that caused
19 concern for the BBC and, in particular, the concerns
20 that were raised in respect of the concept of the 11:00
21 public domain insofar as it may affect the description
22 of Category C material. The BBC made the point that
23 the concept of the public domain is one that is applied
24 regularly by Courts and Tribunals when asked to
25 consider the imposition of an Anonymity or a 11:00
26 Restriction Order. It is well settled that whether
27 information is already in the public domain is a highly
28 material factor which can weigh against the imposition
29 of a reporting restriction.

1 whilst the BBC is now content with the Inquiry legal
2 team's amended approach whereby the Chairman will
3 endorse the principle that when consideration is being
4 given at any stage to whether material should be deemed
5 officially sensitive material, a relevant consideration 11:00
6 in that decision is the degree to which there is
7 already awareness of that information. It should be
8 noted that the content of the submissions made by HMG
9 and PSNI remain a matter of concern. In particular,
10 insomuch as they alluded to the idea that journalistic 11:00
11 material may indeed, nevertheless, fall outside matters
12 that is considered to be material in the public domain
13 already, and point to the need for the inquiry, when
14 conducting this exercise, to pay particular and
15 cautious attention to any submissions made by the 11:01
16 parties in that respect. In addition, from the BBC's
17 perspective and certainly probably from the media at
18 large, insofar as material already in the public domain
19 may be deemed to fall within the scope of the order, it
20 must be clearly confined, this order, to material that 11:01
21 is derived from operationally sensitive material
22 documentation shared with the Inquiry and must be
23 prospective in nature. It should not, for the
24 avoidance of any doubt, capture any pre-existing
25 publication of material that is already in the public 11:01
26 domain including, for example, archive material or the
27 inadvertent republication of that material.

28
29 Sir, the primary concern of the BBC in respect of the

1 approach to be adopted to operationally sensitive
2 material was the approach that was proposed in respect
3 of the reporting of material of matters that had been
4 outlined in the course of an operationally sensitive
5 hearing. It has been suggested to you twice at least 11:02
6 this morning that the BBC had initially contended that
7 it should be permitted to report contemporaneously from
8 an operationally sensitive hearing. Sir, that
9 submission has never been made by the BBC. Rather, the
10 concern was how the issue of reporting restrictions 11:02
11 should be determined following an operationally
12 sensitive hearing. The BBC was particularly concerned
13 with the proposal that the Inquiry intended to prohibit
14 the publication of anything said in an operationally
15 sensitive hearing unless permission was sought and 11:02
16 granted by the Chair by those who sought to report on
17 it. The BBC had pointed out that the Inquiry had no
18 means of knowing how any particular witness would
19 respond to questions posed in advance and it appeared
20 to the BBC, certainly, that it could not be said that 11:02
21 everything said or anything said in the course of an
22 operationally sensitive hearing would necessarily
23 disclose the operationally sensitive material issue.
24 It seemed to be the BBC, and it appears to be agreed by
25 the Inquiry Legal Team this morning that that is a 11:03
26 question only be determined based on the particular
27 facts of a specific hearing on the day.

28
29 The primary concern was, however, that contrary to

1 legal authority, the burden was being placed not on the
2 party seeking restriction to persuade the Inquiry that
3 it was justified to make such an order but, instead, on
4 the media to apply for permission to report on anything
5 said, even if what was sought to be reported on did not 11:03
6 disclose the operationally sensitive material at issue.
7 The approach contained within Inquiry Legal Team note,
8 in our position, rendered restriction default position
9 and required the media to discharge the burden of
10 demonstrating why open justice should be restored in 11:03
11 relation to those specific matters that it sought to
12 report.

13
14 As a result of the clarification and refinement of this
15 position brought by the recent updated note of the 11:03
16 Inquiry Legal Team, we have now been advised that it
17 is, in fact, envisaged that at the end of any
18 operationally sensitive hearing, the Chair himself
19 would either, of his own motion, or on the application
20 of those present, indicate which parts of the hearing 11:04
21 can and cannot be reported openly. It is in light of
22 this clarification that the BBC no longer takes issue
23 with the proposed approach to be adopted to reporting.
24 The position, it appears now, where the Chair will
25 himself consider of his own motion whether what matters 11:04
26 can or cannot be reported to be in keeping with
27 principles of open justice and to facilitate the timely
28 reporting of matters in the public interest where
29 reporting is permitted. The BBC looks forward, as I

1 have indicated, to working collaboratively with the
2 Inquiry if and when issues arise, but it is indeed
3 hoped that issues will not even arise in the first
4 instance given the stated commitment to avoid
5 operationally sensitive hearings wherever possible.

11:04

6
7 Unless I can assist the Chair, those conclude our
8 submissions.

9 CHAIRMAN: Thank you, Ms Smyth.

10 MR. GREANEY: Sir, we will try to finish topic 1 before
11 we take a break, if that would be convenient to you,
12 and that means that we turn next to any submissions
13 that those representing the Bereaved Families and/or
14 Survivors wish to make and we will invite Mr. Southey
15 first of all to make his submissions.

11:05

11:05

16
17 SUBMISSION BY MR. SOUTHEY

18
19 MR. SOUTHEY: Thank you. Chair, I have some very brief
20 remarks to make. On behalf of the Core Participants
21 that I represent, we firstly welcome obviously the fact
22 that agreement seems to have broken out and there is,
23 as a result, a pragmatic approach agreed. In that
24 context, we thank the Inquiry Legal Team for its hard
25 work in seeking to come up with a pragmatic approach.
26 We agree with what I think was said this morning that
27 it is important that issues like this do not become a
28 distraction.

11:05

11:05

1 There are just a couple of brief things I would want to
2 say. Firstly, I just want to emphasise again one thing
3 that was clear from the evidence of the Core
4 Participants who I represent at the commemorative
5 hearings and the evidence of those hearings more 11:06
6 generally. Two principles, we submit, came across
7 absolutely clearly from that evidence -- well, two
8 matters came across absolutely clearly from that
9 evidence. Firstly, Core Participants want to ensure
10 that issues are fully investigated. As was said, they 11:06
11 feel this is likely to be their last opportunity to get
12 to the truth. That is relevant because an important
13 part of this process that will ensure that matters are
14 fully investigated are that Core Participants should be
15 able to participate as fully as possible in the 11:06
16 process.

17
18 Secondly, it is also important that delay is avoided.
19 That is important as there is clearly a need to ensure
20 that any procedure doesn't result in delay. 11:07

21
22 Over-complication can create delay. In light of this,
23 we welcome the note, particularly the one dated 4th
24 November 2025 prepared by the Inquiry Legal Team. It
25 appears to us the two notes from the Inquiry Legal Team 11:07
26 seek to reflect the principles and concerns of the Core
27 Participants that I have just identified.

28
29 In particular, we agree it is important that Core

1 Participants see material as soon as practicable, as
2 was said in paragraph 2(B) of the note of the 4th
3 November. That minimises the risk of delay and ensures
4 Core Participants can play their role as soon as
5 possible. It also recognises that Core Participants 11:08
6 are in a different position to the general public, not
7 least because of the undertakings that they have
8 offered.

9
10 We also welcome what is said at paragraph 7 of the 11:08
11 note, which is that parties will be able to object to
12 the treatment of material being treated as
13 operationally sensitive. We always assumed that was
14 the case, and obviously Core Participants do have an
15 important role to play in testing whether or not 11:08
16 material can be made public. Ultimately, the Core
17 Participants do want as much public as possible.

18
19 One issue that I should highlight that we have been
20 able to discuss this morning in fact with the Inquiry 11:08
21 Legal Team is a concern we had about the earlier note
22 dated 29th of August 2025 where it was said cogent
23 grounds need to be identified before a witness is
24 questioned about operationally sensitive material.

25 11:09
26 We always understood that this was intended to link,
27 effectively, to what was said at paragraph 36 of that
28 note, which is that questions should, as far as
29 possible, essentially, be asked in a manner that avoids

1 the need to reference operationally sensitive material.
2 That seems to us important and we have no objection to
3 that. However, our concern about the reference to
4 "cogent grounds" was that we wanted to make it clear
5 that we understood that not to mean that there was some 11:09
6 different test, essentially, to relevance of issues,
7 essentially, where those issues were based on
8 operationally sensitive material. Whether or not an
9 issue is based on operationally sensitive material
10 cannot, in our submission, change the need for full 11:10
11 investigation of that issue if it is relevant.
12

13 Having now spoken to Mr. Greaney in particular, we
14 understand that our understanding of what was said
15 about cogent grounds is correct and it is not 11:10
16 suggesting that there is some different test to the
17 relevance of issues is simply an indication that, as
18 far as possible, people should avoid referencing
19 operationally sensitive material so that as much as
20 possible can be investigated in open. Thank you. 11:10

21 CHAIRMAN: Thank you then, Mr. Southey.

22 MR. GREANEY: Thank you, Mr. Southey, and, Sir, to
23 reassure him and reassure everyone else, the view of
24 the Inquiry Legal Team is that there is a single test
25 for relevance and not some different test to apply to 11:10
26 the operationally sensitive material. Could we next,
27 please, invite Mr. Kane to make his submissions on
28 behalf of the Bereaved Families and Survivors that he
29 represents.

1 SUBMISSION BY MR. KANE.

2
3 CHAIRMAN: Good morning Mr. Kane.

4 MR. KANE: Good morning, Sir. Very briefly, having
5 regard to all that has taken place since the original 11:11
6 written submissions were made, can I just say in
7 general terms in respect of the clients who we
8 represent, we would reiterate our client's desire, as
9 we expressed in our opening statement, that within the
10 context of the Inquiry, the imperative must be that 11:11
11 there will be full and open disclosure of material in
12 recognition of the need for as much open material as
13 possible to be disclosed to the bereaved families and
14 injured survivors as Core Participants. That should be
15 the starting point and should not be deviated from 11:11
16 unless there is clear and compelling reason established
17 with evidence for material to become closed or
18 restricted. And we have strongly already urged the
19 Inquiry, and we repeated that in our written
20 submission, that when applying the relevant test that 11:12
21 the Inquiry should take a robust approach in support of
22 the interests of the bereaved family and injured
23 survivors, and to disclose material or parts of
24 material whenever it is possible to do so, and, again,
25 we reiterate that finely balanced judgments which have 11:12
26 to be made should fall in their favour.

27
28 We were happy in the initial note from the Inquiry
29 Legal Team at paragraph 5 to read that there was

1 recognition and acceptance of the wishes of the
2 bereaved families and injured survivors as Core
3 Participants, that they should have maximum access to
4 relevant material and, indeed, we welcome the
5 indication that their concerns were held in due regard. 11:13

6
7 Then very briefly, Sir, arising from the submissions
8 which were made in writing, can I just make one or two
9 very brief points?

10 11:13
11 As far as His Majesty's Government's submission was
12 concerned, we reiterate what we said in our written
13 submission that the statutory powers given to you, Sir,
14 as Chairman under the Inquiries Act ensure that all
15 relevant material, subject to your perusal, subject of 11:13
16 course to any objections raised by any Core
17 Participants, and we note the similar view taken now by
18 other family representatives and that it is shared by
19 the Inquiry Legal Team as they stated in their updated
20 note at paragraphs 7 and paragraph 11. Likewise, in 11:14
21 paragraph 6 of the HMG submission where it raised
22 concern about "bright-line", as it was described, being
23 drawn between closed material and operationally
24 sensitive material, we also welcome the approach which
25 now has been taken by the Inquiry Legal Team and which 11:14
26 has not been dissented from at paragraph 8 of the
27 updated note.

28
29 Continuing on, we did, in our written submissions, urge

1 the Inquiry to resist the suggestion from HMG at
2 paragraph 9 to introduce a new non-statutory definition
3 based on sensitivity, and again we welcome the
4 resistance of the Inquiry Legal Team on that issue, as
5 they have explained at paragraph 10 of the updated 11:14
6 note, and we consider that wholly appropriate.

7
8 On the issue of material in the public domain, we
9 highlighted again this is potential problem and to
10 having indicated the need for clarification on that 11:15
11 issue, we did express an option within a binary context
12 but again, Sir, we are content with the solution now
13 being suggested by the Inquiry Legal Team and the
14 approach being adopted at paragraph 27.

15 11:15
16 HMG, at paragraph 11, regretfully used rather extreme
17 language what they described as "rampant speculation".
18 we felt that this introduced the possibility of
19 legitimate issues being dismissed through some form of
20 deflective criticism and on behalf of the families whom 11:15
21 I represent, we considered that such subjective and
22 dismissive terminology as a crutch, as it were, to
23 resist providing the disclosure sought by the Omagh
24 families ill-served His Majesty's Government and,
25 indeed, tended only to deepen any suspicion which the 11:16
26 Omagh families might have as to the degree of readiness
27 that HMG is demonstrating to properly assist and
28 co-operate with the work of this Inquiry.

1 However, we do welcome now the recognition on behalf of
2 the Government that this approach should not be pursued
3 and an acceptance now of the position set out by the
4 Inquiry Legal Team as a proper way forward on this
5 issue.

11:16

6
7 Other than those remarks, Sir, we have no other
8 observations to make. We are pleased to support the
9 updated Inquiry Legal Team paper and we extend our
10 thanks to them for the work which they have engaged in
11 and, indeed, to other parties in reaching an
12 accommodation and an agreement which hopefully will
13 prevent any delay and assist in our joint purpose in
14 moving this Inquiry forward

11:17

15 CHAIRMAN: Thank you Mr. Kane.

11:17

16 MR. GREANEY: Sir, next we will hear from Mr. Mansfield
17 on behalf of the Rush family.

18
19 SUBMISSION BY MR. MANSFIELD.

11:17

20
21 MR. MANSFIELD: I just ask permission, if I may, to
22 remain seated, not out of disrespect for what has been
23 said.

24 CHAIRMAN: Of course.

25 MR. MANSFIELD: There is a reason; I don't have
26 anything to add other than to say thanks to your team,
27 we support all that has been put forward, as we did in
28 writing so I don't repeat that, and we particularly
29 welcome what I am going to call a convergence of

11:17

1 agreement. Thank you.

2 CHAIRMAN: Thank you Mr. Mansfield.

3 MR. GREANEY: Sir, that means that finally we will hear
4 from Mr. McGuckin if he has any submissions on behalf
5 of the bereaved families and survivors that he
6 represents.

11:18

7
8 SUBMISSION BY MR. McGuckin

9
10 CHAIRPERSON: Good morning, Mr. McGuckin.

11:18

11 MR. McGuckin: Good morning, Chair, and thank you.
12 I appear on behalf of the Core participants represented
13 by PA Duffy, Campbell & Haughey and Roche McBride as
14 you know. You have our written submissions, which I
15 know you have read. By virtue of that, you will be
16 aware that our submissions are aligned with your
17 Inquiry Team and virtually the same as the CP victims
18 and survivors teams that have preceded us. So I adopt
19 those submissions, Chair, and I will provide a brief
20 precis of what we state.

11:18

11:18

21
22 Our position centres on one principle; the Inquiry must
23 be able to work in the open as much as permissible
24 while maintaining the structure that is practical, fair
25 and efficient. It is our belief that the Inquiry
26 Team's proposal for handling operationally sensitive
27 material achieves that balance and we are heartened by
28 the Government's constructive approach that will no
29 doubt alleviate many of the concerns our clients held

11:19

1 with regards to their suggested approach.

2
3 we respectfully endorse the Inquiry model on foot of
4 meeting three essential requirements, we say, Chair.
5 Firstly, it preserves openness as a starting point. It 11:19
6 accepts that operational sensitivity is real but does
7 not allow that concept to become a "catch-all" barrier
8 or to be bled into the closed material category. The
9 approach aligns with Section 17 to 19 of the 2005 Act
10 and with the principles reflected in the authority is 11:19
11 that openness is the default but it is subject to
12 context and risks.

13
14 Secondly, but of the utmost importance, we believe the
15 Inquiry model avoids unnecessary delay. 11:19
16

17 Thirdly, fairness requires that Core Participants see
18 the same evidence the Inquiry sees, subject to limited,
19 proportionate redactions, and the Inquiry model meets
20 with that requirement positively and fairly and with CP 11:20
21 engagement when necessary.

22
23 We respectfully say that the Inquiry approach draws a
24 clear and defensible boundary, closed material remains
25 subject to its own established process, operationally 11:20
26 sensitive material is managed through a structured
27 system that protects the public interest without
28 sacrificing transparency or participation, and we
29 extend our gratitude for the Inquiry's thoughtful

1 approach in relation to this.

2
3 As has been previously submitted, and to finalise,
4 Chair, the families we represent want an inquiry that
5 moves at pace, engages openly and commands public 11:20
6 confidence and we believe that the Inquiry's model will
7 achieve that equilibrium. Thank you

8 CHAIRPERSON: Thank you, Mr. McGuckin.

9 MR. GREANEY: Sir, I believe that we have now heard
10 from all of those who had made submissions in writing. 11:20
11 I will be corrected if I am wrong.

12
13 So, sir, finally, may we thank the Bereaved Family and
14 Survivor Core Participants for their support throughout
15 the course of this process and we'd like to thank also 11:21
16 the State Core Participants and the media for showing
17 flexibility of response and not simply entrenching.

18
19 where we seem to have reached is as follows; that all
20 either support or, at the very least, do not oppose the 11:21
21 proposed process for handling and disclosing
22 operationally sensitive material, including the
23 categories of such material described by Mr. Pleeth.
24 And, furthermore, all either support the making of the
25 final operationally sensitive Restriction Order which 11:21
26 facilitates the proposed process or, again, at the very
27 least, do not oppose it.

28
29 we would, therefore, invite you in due course, if, Sir,

1 you also agree to provide a short ruling explaining why
2 and to make the final order. The Interim Order will
3 remain in force until you do so. So, Sir, at this
4 stage, unless you have anything that you would wish to
5 ask, we would invite you to rise and we will take a
6 short break before turning to the second topic, namely
7 an update on Chapter 3.

11:22

8 CHAIRMAN: Yes. Before doing that, Mr. Greaney, I
9 think I'd like to observe that the hearing today, which
10 has concerned how to effectively and expeditiously
11 manage significant quantities of documentation, is one
12 in which might otherwise, and in the absence of a work
13 in process, have impacted on the Inquiry in a very
14 demanding and challenging way. But the collaborative
15 approach taken by all participants today appears to
16 have led to an agreed outcome which will enable the
17 Inquiry to adopt an effective and a practical approach
18 and to proceed with disclosure of the material under
19 discussion.

11:22

11:22

20
21 That outcome appears to me to demonstrate the value of
22 the process of written submissions, exchanged and then
23 revised with a constructive approach and with an open
24 mind. That is a model which, having shown success
25 today, might be utilised, if necessary, to address any
26 future issues, and I think we've seen that that's a
27 course which we should give consideration to adopting
28 in the future.

11:23

11:23

29 MR. GREANEY: Sir, thank you very much and we agree.

1 CHAIRPERSON: As you suggest, I'll deliver a ruling in
2 writing on the issue in due course.

3 MR. GREANEY: Thank you, Sir.

4 CHAIRPERSON: Shall we rise and sit again in about 15
5 minutes or so?

11:24

6 MR. GREANEY: Yes, please, Sir.

7
8 THE HEARING RESUMED AFTER A SHORT BREAK AS FOLLOWS:

9
10 CHAIRMAN: Mr. de la Poer.

11:43

11 MR. DE LA POER: Sir, good morning. Chapter 3 of the
12 Inquiry's oral evidence hearing is entitled:
13 "The Bombing of Omagh." It will be focused on the
14 events immediately surrounding the bombing on the 15th
15 August 1998. As the Inquiry Legal Team's note
16 published on the website in March of this year
17 explained, Chapter 3's purpose is two-fold; to examine
18 how the bombing was carried out and to develop an
19 understanding of who was involved.

11:44

20
21 Before turning to the way in which the Chapter 3
22 evidence will be structured, it is worth briefly
23 explaining why Chapter 3 has the purpose it does.

11:44

24
25 The Inquiry's Terms of Reference require an answer to
26 one question:

11:44

27
28 "Could the detonation on the 15th of August 1998, which
29 killed 29 people and two unborn children and injured so

1 many more, have been prevented by the UK State
2 authorities?"

3
4 Prevention in this context is not an abstract idea but
5 a real-world question focused upon whether those people 11:45
6 responsible for the atrocity could have been disrupted
7 at any stage up to the point of detonation. That
8 ultimately, Sir, is the issue which your report will
9 address and make findings of fact in relation to. And
10 so a necessary part of answering the preventability 11:45
11 question is to understand which people were responsible
12 for the bombing.

13
14 Possessed of a provisional understanding of this, the
15 Inquiry will be able to investigate events before the 11:45
16 bombing and consider what, if any, opportunities there
17 were to disrupt those people.

18
19 Connectedly, one way better to understand who was
20 responsible is through the methodology used to carry 11:46
21 out the bombing. By methodology of those who carried
22 out the bombing, we mean to include the way the bomb
23 was constructed and its components, the communication
24 between those people as the bomb made its journey
25 north, the approach taken to transporting the bomb and 11:46
26 the warning calls, as they have sometimes been
27 described, which were made. Once established, these
28 elements can be compared with previous terrorist
29 incidents with a view to identifying earliest terrorist

1 activity in which that same group engaged.

2
3 As such, a key component of Chapter 3 and an important
4 step towards understanding who was involved will be
5 examining how the bombing was carried out. This 11:47
6 knowledge will allow focus to be brought on the
7 previous incidents which have been identified as being
8 of potential relevance and which are listed in the
9 provisional list of issues, an updated version of which
10 was published on the Inquiry's website on 31st October 11:47
11 just gone.

12
13 Chapter 3, Sir, represents an important step within
14 your investigation. However, we are confident that you
15 will endorse the principle that no determination of 11:47
16 fact will be made during Chapter 3 as to who
17 perpetrated the Omagh bombing. Instead, what will
18 happen is that evidence relevant to this issue will be
19 led and, where appropriate, tested. By the conclusion
20 of Chapter 3, a working hypothesis within this Inquiry 11:47
21 process of who was involved will, we anticipate, have
22 emerged.

23
24 That working hypothesis will draw on the evidence
25 publicly presented during the Chapter 3 oral evidence 11:48
26 hearings, which will include material prepared for the
27 criminal proceedings and will build upon what was
28 established during the Breslin civil proceedings.

1 However, that working hypothesis will not be the end
2 point. Rather, it will be kept under review as the
3 Inquiry progresses its investigation and it may change
4 should additional evidence emerge or later evidence
5 justify reconsideration. It will form the starting 11:48
6 point for the Chapter 4 phase of the investigation,
7 namely, the part of the Inquiry's oral evidence
8 hearings which will consider the previous incidents
9 with a view to establishing which were carried out by
10 those who were involved in the Omagh bombing, what 11:48
11 overt investigations took place into those incidents,
12 what conclusions were reached as a result of that overt
13 material and what other steps, if any, ought to have
14 been taken which would have led to the disruption of
15 that group, or any of its members, before the Omagh 11:49
16 bombing took place.

17
18 Having set out what the objective of Chapter 3 is, we
19 turn to provide some further detail in relation to the
20 way in which the oral evidence hearing will be 11:49
21 structured. What I am about to say is not intended to
22 be an exhaustive recitation of all of the evidence the
23 Inquiry will hear at this stage of its investigation
24 but rather is intended by way of overview.

25 11:49
26 Core Participants have received an Inquiry Legal Team
27 note in relation to the purpose, structure and
28 formalities concerning Chapter 3. What I am about to
29 say is intended to complement that note and increase

1 public understanding about Chapter 3.

2
3 The Chapter 3 oral evidence hearing will be divided
4 into ten parts. In Part 1, Counsel to the Inquiry will
5 introduce the evidence which will be heard during this 11:50
6 chapter.

7
8 Part 2 will comprise in introductory evidence, namely
9 that relating to (A) the attribution of key telephone
10 numbers, (B), evidence explaining how cell site 11:50
11 analysis works and how this important technique can
12 contribute to an investigation and, (C), evidence
13 introducing areas of forensic science relevant to the
14 Inquiry's investigation. Dr. Matthew Tart and
15 Prof. Angela Gallop will be called in relation to the 11:50
16 latter two areas of evidence. Dr. Tart is an expert in
17 cell site analysis. Prof. Gallop leads a team of
18 forensic scientists instructed by the Inquiry and
19 herself has a particular specialism in DNA evidence.

20 11:50
21 Part 3, this part will focus on the period 12th to the
22 14th August 1998 during which time the bomb car was
23 stolen and prepared. In relation to any cell site
24 evidence which may be relevant to this period, Dr. Tart
25 will be in a position to assist. 11:51
26

27 The events of 15th August 1998 have been divided into
28 three time periods; the period before the first warning
29 call, the period which includes the warning calls up to

1 the point of detonation and the explosion and its
2 immediate aftermath. During Chapter 3, these time
3 periods will be addressed by Parts 4, 5 and 6
4 respectively.

5
6 In the course of Parts 4, 5 and 6 the Inquiry will have
7 the benefit of a hearing from three distinguished
8 experts. Dr. Tart will be recalled to assist in
9 relation to the important cell site analysis evidence
10 which, among other things, demonstrates the movement of 11:51
11 the car containing the bomb across the border and into
12 Omagh, and also reveals the existence of a second scout
13 vehicle which accompanied the bomb car from the
14 Republic of Ireland.

15
16 Next, Prof. Heather Hamill is an academic and expert in
17 warning calls made in connection with terrorist
18 activity. She will be called during Part 5 when other
19 evidence relating to warning calls will also be heard.

20
21 Finally, Hazel Hutson is employed by the Defence
22 Science and Technology Laboratories' Forensic Explosive
23 Laboratory and is an expert in explosives and bomb
24 making. She has been instructed to assist the Inquiry
25 in relation to the construction of the bomb and its 11:52
26 components. She will be called during Part 6 which
27 will be the point at which the Inquiry will be
28 considering the explosion itself and its immediate
29 aftermath.

1 Part 7 will consider what the post explosion
2 investigations and processes subsequent to the bombing
3 uncovered. We make clear that this will not be a
4 review of the efficacy of these processes as that would
5 be beyond the Terms of Reference, but instead will 11:53
6 identify information which arose from them and which
7 may be of assistance to the Inquiry's investigation.

8
9 During this part, under the heading of the "Post
10 Explosion Investigations" we will hear from 11:53
11 Prof. Gallop and members of her team who will assist in
12 relation to the forensic science findings.

13
14 Part 8 will be the point at which the Inquiry hears
15 about a number of important criminal and civil cases 11:53
16 which arose directly out of the bombing or which may be
17 of potential relevance of the Inquiry's understanding
18 of who perpetrated it.

19
20 Part 9 will be concerned with terrorism legislation 11:53
21 which is or may be of relevance to the Inquiry's
22 investigation, including the timing and nature of
23 legislative change, such as the specifying of the Real
24 IRA and Continuity IRA for sentencing purposes.

25 11:54
26 Finally, in Part 10, the strands will be drawn together
27 with a view to forming the working hypothesis of those
28 who were responsible.
29

1 Having provided an outline of the structure and having
2 mentioned the expert evidence the Inquiry will hear in
3 Chapter 3, I will briefly draw attention to three other
4 features of the evidence.

5
6 First, the Inquiry Legal Team is grateful to An Garda
7 Síochána, the PSNI and the Ministry of Defence, all of
8 whom have provided sequence of events evidence and
9 presentational material on behalf of their
10 organisations. This evidence will be adduced within 11:54
11 the part structure I have identified.

12
13 In relation to the An Garda Síochána material,
14 Mr. Greaney will say something more about the Inquiry's
15 contact with the Government of Ireland in his 11:55
16 procedural update which will follow.

17
18 In terms of the PSNI sequence of events evidence, Core
19 Participants have already had disclosed to them the
20 substantial work of Detective Chief Inspector 11:55
21 Billingsley supported, as I understand it, by a team.
22 The other sequence of events evidence has recently been
23 received by the Inquiry and is in the process of being
24 prepared by the Inquiry Legal Team for onward
25 disclosure to Core Participants. 11:55
26

27 The second facet of evidence that I draw attention to
28 is summaries of the detail of factual evidence which
29 are being prepared by Inquiry Legal Team. These will

1 be circulated to Core Participants before Chapter 3
2 with an invitation to make proposals for inclusion, if
3 required.

4
5 Third, and in the same vein, the Inquiry Legal Team is 11:55
6 also preparing for circulation to Core Participants
7 summaries concerning the many processes which followed
8 the bombing and the legal cases to which I have already
9 referred. Again, the Inquiry Legal Team will invite
10 the contribution of Core Participants to these 11:56
11 documents. We are acutely aware that many Core
12 Participants had direct experience of these processes
13 and proceedings at the time and, indeed, were involved.

14
15 As has been said previously by Mr. Greaney, but which 11:56
16 bears repetition in this context, the Inquiry Legal
17 Team values the contribution Core Participants have to
18 make. The approach which has been adopted is intended
19 to ensure that all relevant evidence is efficiently
20 managed and accessibly presented and, for this, we 11:56
21 welcome all contributions from all Core Participants
22 aimed at achieving this goal.

23
24 Finally, Sir, may I conclude this update on Chapter 3
25 with three short observations? The first of those is 11:56
26 this; the Inquiry Legal Team is grateful for the
27 support and contribution from all Core Participants in
28 the preparation which has taken place to date. A lot
29 of work has been done for Chapter 3 but there remains

1 much still to do.

2
3 My second concluding observation is this; Chapter 3
4 will commence on the 9th of March next year. As that
5 date approaches, the intensity of preparation will only 11:57
6 increase. It will be important for all of the
7 deadlines that are set, aimed at achieving this date,
8 are adhered to by all.

9
10 Thirdly, and finally, the Rule 10 protocol published 11:57
11 earlier this year, and which can be found on the
12 Inquiry website will be essential to the success of
13 Chapter 3. As I have said, the protocol can be found
14 on the Inquiry website and it sets out the process by
15 which all Core Participants can apply to ask questions 11:57
16 of witnesses if they wish to do so.

17
18 Sir, unless there is any other matter that I might deal
19 with to help you, that was all that I was proposing to
20 say. 11:58

21 CHAIRMAN: Thank you. I am grateful, Mr. de la Poer.

22 MR. GREANEY: Sir, we'll deal finally, as I said we
23 would, with Topic 3, which is, at a high level,
24 a procedural update.

25 11:58
26 On the 2nd October, so about six weeks ago now, the
27 Inquiry Legal Team provided its eighth update note to
28 Core Participants. That note ran to 37 pages and it
29 provided considerable detail.

1 So what I am going to say now will, in large part, not
2 be news to Core Participants but it is important that
3 we should provide of a summary of what we have done and
4 where we are for the benefit of public and, moreover,
5 some of what we have to say will be new to Core
6 Participants as well.

11:59

7
8 The focus of what we have to say is on the work done by
9 the Inquiry to gather in the documentation that you,
10 Sir, need in order to fulfil your Terms of Reference.

11:59

11
12 Since the Inquiry was formally established, the Inquiry
13 Legal Team has issued a large number of requests
14 pursuant to Rule 9 of the Inquiry Rules 2006 for the
15 disclosure of material and evidence which may touch
16 upon the Inquiry's Terms of Reference and its
17 provisional list of issues which, of course, was
18 recently updated.

11:59

19
20 These requests have been made to Core Participants and
21 to material providers both in the United Kingdom and
22 The Republic of Ireland.

11:59

23
24 Sir, we don't intend to detail every person or
25 organisation that has received such a request, let
26 alone describe the content of those requests, because
27 to do so would require us to have that second day of
28 hearing. Instead, what we will do is simply provide an
29 indication to the world at large of the breadth and

12:00

1 scale of the work that has been undertaken.

2
3 Comprehensive Rule 9 requests have been made of the
4 Government of Ireland. That has included a request for
5 the provision of materials for the purposes of the 12:00
6 Inquiry's work in preparing for Chapter 3 of its oral
7 evidence hearings.

8
9 As Mr. de la Poer explained a few moments ago, this
10 involves an evidence presentation focused on events 12:00
11 within the Republic of Ireland that are relevant to the
12 period from the 12th to the 15th August 1998, and that
13 will support similar pieces of work which have been
14 prepared and provided to us by PSNI and by the Ministry
15 of Defence. 12:01

16
17 The Government of Ireland presentation and an
18 accompanying narrative explanation have now been
19 received very recently from the government of Ireland.
20 And, Sir, you and the Core Participants can be assured 12:01
21 that we will continue to work with the Government of
22 Ireland, we meet with their officials regularly, to
23 establish how their materials will be presented in
24 Chapter 3 and how other Government of Ireland officials
25 are to give evidence in due course, and we will provide 12:01
26 an update on those matters once we are able to.

27
28 The Government of Ireland has also responded to other
29 Rule 9 requests, although not yet completely, and has

1 recently made regulations under its data protection
2 legislation specifically designed to support the Omagh
3 Bombing Inquiry. We are grateful to the Government of
4 Ireland for what it has done so far, but we have to add
5 that there remains much work to be done.

12:02

6
7 Turning away from the Government of Ireland, many
8 Rule 9 requests, indeed I might say very many Rule 9
9 requests, have been made of His Majesty's Government in
10 its various parts. We welcome the constructive
11 dialogue that we have had with the legal team
12 supporting HMG, which includes regular meetings to
13 discuss progress on requests for disclosure and
14 information.

12:02

15
16 At the risk of stating the obvious, it's important that
17 HMG, along with all material providers, should work to
18 deadlines set by the Inquiry and adhere to systems for
19 disclosure established by the Inquiry, particularly
20 where such systems have been tried and tested in other
21 processes.

12:02

22
23 We are not going to seek to identify every part of the
24 UK State to which requests have been directed, let
25 alone detail every Rule 9 request or its content.
26 However, what we can say is that requests have been
27 made, often repeated requests of the following; the
28 Home Office, the Cabinet Office, including the former
29 Chair of the Joint Intelligence Committee, the UK

12:03

1 intelligence community, the Northern Ireland Office,
2 the Foreign Office, the Ministry of Defence, his
3 Majesty's Revenue and Customs, the Department for
4 Science, Innovation and Technology, the Defence Science
5 and Technology Laboratory (DSTL), The National Crime 12:03
6 Agency (NCA), the Investigatory Powers Commissioner's
7 Office, the UK Accreditation Service, the Forensic
8 Science Service of Northern Ireland (FSNI), and the
9 Intelligence and Security Committee of Parliament,
10 (ISC). 12:04

11
12 Furthermore, as will surprise no-one, extensive Rule 9
13 requests have been made of policing or policing-related
14 bodies. Many requests have been made of PSNI. We, the
15 Inquiry Legal Team, have worked closely with PSNI and 12:04
16 its lawyers to ensure that the extensive disclosure
17 that is required of it is progressed and that the most
18 urgently required material is prioritised in accordance
19 with our priorities.

20 12:04
21 The relationship has been one of co-operation and, Sir,
22 as you will recall, we have previously expressed our
23 thanks for the "surge in resources", as it was
24 described, given by PSNI to support the work of the
25 Inquiry. However, as with HMG, the scale of the task 12:05
26 cannot be overstated and much work remains to be done.

27
28 Furthermore, within the policing sphere, requests have
29 been made of the following; the Police Ombudsman for

1 Northern Ireland, the Northern Ireland Policing Board,
2 His Majesty's Inspectorate of Constabulary Fire and
3 Rescue, the Metropolitan Police Service, Counter
4 Terrorism Policing Headquarters, The National Police
5 Chief's Council, the College of Policing, the National 12:05
6 Source Working Group, Essex Police and Greater
7 Manchester Police.

8
9 Sir, pausing for a moment so that my submission doesn't
10 become just reading out one long list. Those listening 12:06
11 might wonder why requests have been made of Essex
12 Police and Greater Manchester Police and these are the
13 reasons; it is widely known that there came a point in
14 time at which mobile telephone numbers were attributed
15 by the authorities to a number of those believed to 12:06
16 have been responsible for the Omagh bombing and
17 potentially earlier attacks too.

18
19 We, your team, are determined to establish what the
20 capabilities were within the UK State in relation to 12:06
21 cell site analysis in 1997 and 1998 in order that we
22 can then explore whether that tactic may have been
23 utilised to expose the activities of the bombers before
24 the Omagh bombing and disrupt their activities.

25 12:06
26 Sir, this is just one of many strands of our work. To
27 that end, we are investigating, with Essex Police,
28 whether they utilised cell site analysis in their
29 investigation into the murders of three men on the 6th

1 of December 1995, murders that are sometimes referred
2 to as the "Rettendon murders" or the "Range Rover
3 murders", and we are investigating with GMP whether
4 they utilised that capability, cell site analysis, in
5 their investigation into the Provisional IRA attack on 12:07
6 the Arndale Centre in Manchester on 15th June 1996.

7
8 Sir, to complete the picture in terms of requests made
9 pursuant of Rule 9 of policing bodies, a request has
10 also been made of Merseyside Police in respect of the 12:07
11 review that they conducted into the RUC's investigation
12 of the Omagh bombing. Sir, as you know, that is a
13 review that was conducted by Deputy Chief Constable
14 Michael Tonge of Merseyside Police.

15 12:08
16 The Telecommunications, as I have just highlighted, is
17 an important strand of the Inquiry's work and as a
18 result, Rule 9 requests of have been made of all
19 relevant telecommunication providers in relation to
20 relevant telecommunications in 1997 and 1998, and 12:08
21 requests have been also been made of the Regulator,
22 Ofcom, and of key individuals and, Sir, we have had a
23 good deal of co-operation in those regards.

24
25 Requests have also been made of various archives and 12:08
26 museums in order to ascertain whether they have
27 relevant material and if they do, to obtain it from
28 them.

1 Bearing in mind the other criminal, civil and coronial
2 proceedings that have followed on from the Omagh
3 bombing and to or which Mr. De La Poer made reference a
4 little earlier, requests have been made of prosecuting
5 agencies and Court bodies. Those requests have 12:09
6 included requests of the Crown Prosecution Service in
7 England and Wales. That request was in relation to the
8 successful prosecution of men named Anthony Hyland,
9 Darren Mulholland and Liam Grogan in 1999 in relation
10 to a conspiracy to cause explosions in England in July 12:09
11 1998.

12
13 Requests have been made of the Public Prosecution
14 Service of Northern Ireland here in Belfast for
15 materials relating to the prosecutions of names that 12:09
16 will be very well known to people in this room; Sean
17 Hoey and Seamus Daly. Requests have also been made of
18 Northern Ireland Courts and Tribunal Service and
19 Coroner's Service of Northern Ireland for reasons that
20 will be obvious. 12:09

21
22 Rule 9 requests have additionally been made of
23 important individuals such as Kevin Fulton, and the
24 Inquiry is in touch with significant figures such as
25 David Rupert, John Ware, and Martin Bridger, and is 12:10
26 taking steps to secure their evidence.

27
28 Finally, while reminding everyone that while this list
29 is long, it is not intended to be an exhaustive list.

1 The Inquiry has taken steps to secure evidence from the
2 Northern Ireland Affairs Committee (NIAC). Sir, we
3 say it is worth saying a little bit more about this
4 particular request.

5
6 Norman Baxter was appointed the Senior Investigating
7 Officer for the investigation into the Omagh bombing in
8 May 2002 following, as you will recall, Sir, a critical
9 report by the Police Ombudsman for Northern Ireland.

10 The Inquiry is in touch with Norman Baxter. He has
11 been very helpful and we are taking steps actively to
12 secure his account.

13
14 Norman Baxter gave evidence to NIAC on 11th November
15 2009. The transcript of his evidence reveals that in
16 addition to giving evidence in public, he gave evidence
17 in what was described as "private session."

18
19 In order to obtain access to a transcript of that
20 private session, it was necessary for a petition to be
21 presented to Parliament. On the 9th of July of this
22 year, the Chair of the Northern Ireland Affairs
23 Committee, Tonia Antoniazzi MP presented a petition to
24 the House of Commons from Tim Suter, the solicitor to
25 this Inquiry, in which he asked the House to make
26 arrangement to supply the Inquiry with the unreported
27 oral evidence taken by the Northern Ireland Affairs
28 Committee on the 11th November 2009, that is to say the
29 evidence of Norman Baxter.

1 On the 14th of July, so very promptly indeed, the House
2 of Commons ordered that the petition be referred to the
3 Committee of Privileges, and the House Terms of
4 Reference for the Committee in that regard. In due
5 course, the Committee made recommendations, including 12:12
6 that the transcript that we were seeking, be released
7 to the Inquiry. That was debated in the House on the
8 29th of October, so two weeks ago now, and the
9 recommendation of the Committee was adopted and, Sir,
10 I can say that, happily, the Inquiry does now have the 12:12
11 transcript of the evidence given in the private session
12 by Norman Baxter.

13
14 we believe that this is the first time the process we
15 have described has ever been used. That the Inquiry 12:13
16 has been prepared to petition Parliament,
17 notwithstanding the novelty and complexity of the
18 process in order to obtain relevant documentation is,
19 we hope, an indication of the determination of, Sir,
20 your Inquiry to obtain the materials it needs in order 12:13
21 to fulfil its Terms of Reference.

22
23 The upshot of all of that is that the Inquiry has
24 received what I hope I can describe, without hyperbole,
25 as a vast amount of documentation which it continues to 12:13
26 work through to identify that which is relevant in
27 order that that which is relevant can be disclosed on
28 to Core Participants.

1 Sir, to put some numbers on that, to date, a total of
2 nearly 4000 documents have been disclosed to Core
3 Participants in 14 tranches. That totals nearly 65,000
4 pages. It is, of course, an ongoing process and it's
5 also a massive process to which many within the Inquiry 12:14
6 Legal Team have made a significant contribution.

7
8 Sir, that's all we have to say about disclosure. We
9 hope what we have said will be of assistance to Core
10 Participants and of interest to the public at large. 12:14
11

12 The last hearing before today, as everyone will recall,
13 was convened, Sir, to enable you to hear submissions on
14 whether there is a power to appoint Special Advocates
15 in a statutory public inquiry and if there is, whether 12:14
16 that power ought to be exercised in the circumstances
17 of this Inquiry, the Omagh Bombing Inquiry. And our
18 understanding, Sir, is that you anticipate being in a
19 position to hand down your ruling on those issues at
20 some stage next week. 12:15
21

22 That concludes all we, the Inquiry Legal Team, assess
23 that we need to say today. We will next all meet,
24 unless anything unexpected intervenes, on the 9th of
25 March next year for Chapter 3 of the Inquiry's oral 12:15
26 evidence hearing, and that hearing will take place at
27 what will then become the Inquiry's permanent home at
28 Bradford Court.
29

1 Sir, thank you very much to all of those who have
2 attended to and made a contribution to your process.

3 CHAIRMAN: Thank you, Mr. Greaney.
4
5

6 THE HEARING WAS ADJOURNED UNTIL MONDAY 9TH MARCH 2026.
7
8
9
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