

IN THE UNDERCOVER POLICING INQUIRY

NOTE OF FOUR MEDIA ORGANISATIONS in response to the Chairman's statement of 29th May 2020

1. This note is provided on behalf of Guardian News and Media Limited ("GNM"), Independent Television News ("ITN"), the British Broadcasting Corporation ("BBC"), and PA Media in response to the Chairman's statement of 29th May 2020.
2. The starting point should be openness.¹ This is a public hearing and the public must be able to follow the evidence that is given in this inquiry. For openness to be a reality, the media must be permitted live access to the evidence in the UCPI.
3. Even before the COVID-19 pandemic, live-streaming of witness evidence was the norm in public inquiries (such as the Leveson inquiry), even where there is contested evidence from state agents (the Grenfell inquiry) and sensitive, anonymous evidence (the Independent Inquiry into Child Sexual Abuse).
4. The COVID-19 pandemic has posed further problems for media access to legal proceedings. By and large this problem has been addressed through live-streaming hearings. By way of example, the Manchester Arena Inquest has set up its own *youtube* site;² the Family Court has moved towards remote or hybrid hearings, with specific consideration for media access;³ most, if not all, Administrative Court hearings are being conducted by Skype or phone;⁴ and planning inquiries and hearings are being heard in a virtual manner.⁵ The media can access all of these live streams, even though these hearings can and frequently do involve sensitive matters and anonymous witnesses.
5. There is no justification for adopting a different approach in Tranche 1 of the UCPI. The Chairman's statement, at §6, provides for real-time viewing of evidence by the Chairman, counsel to the Inquiry, and the recognised legal representative of the witness. The evidence will be heard in real time (but not, it appears, seen) by core

¹ "Restriction Orders: Legal Principles and Approach Ruling", at §§82-29

² <https://www.youtube.com/channel/UCdWYYDnEbLUOyFsCaVhqlxw>

³ Sir Andrew McFarlane P, "The Family Court and COVID 19: The Road Ahead", 9th June 2020, §49B(v).

⁴ HMCTS, "Administrative Court office guide – COVID-19 measures", §5.

⁵ Planning Inspectorate: "Coronavirus (COVID-19) - Planning Inspectorate guidance," 28th May 2020.

participants (and their legal representatives) with a direct interest in the evidence being given. But it will not be heard or seen in real time by the media. The UCPI has suggested the “*possibility*” of live-streaming of the evidence, with a five-minute delay, to a room in which a “*limited number of people*” could be accommodated. Given the importance of core participants and their legal representatives following the evidence, it seems unlikely that there will be any significant space for the media in this room.

6. This poses obvious problems. Which media representatives (if any) will be permitted to access the live-streaming room, and which will not? What will happen if a representative of the media is unable to attend this room because they are unwell or required to self-isolate? The likely result is that the media will be unable to access a live stream and, as a result, the public will be less well-informed of real-time developments in the evidence. A “*public*” inquiry will not be accessible to the public.
7. So as to ensure accountability and accessibility in practice, it is vital that justice is seen to be done by as many people as possible. Live-streaming should be the starting point in this inquiry and steps can be taken to mitigate any risks posed by it. Live-streaming with a five-minute delay will avoid the inadvertent revelation of material covered by a restriction order. Even if it does not, the media is well-used to complying with reporting restrictions and will report the UCPI responsibly and fairly. If it is “*technically feasible*” for the UCPI to set up a live-stream to such a room, with a five-minute delay, it is technically feasible to provide accredited media representatives with a live-stream that they can access from their homes or their offices.
8. The UCPI is respectfully invited to ensure that this inquiry is as open as possible and to order that the evidence hearings in Tranche 1 will be accessible to the media by way of live-stream video.

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Doughty Street Chambers

19th June 2020