Counsel to the Inquiry's Note for the Tranche 1 Phase 2 Directions Hearing to be heard on 26 January 2021

Introduction

1. The purpose of the forthcoming directions hearing is to consider submissions relating to the arrangements for and conduct of the Inquiry's Tranche 1 Phase 2 ("Phase 2") hearing currently due to commence on 21 April 2021. At the time of writing, written submissions on behalf of the following persons have been received by the Inquiry and posted on its website.

    1.1. The Category F Core Participants (Relatives of Deceased Individuals).
    1.2. The Category H Core Participants (Individuals in Relationships with Undercover Officers).
    1.3. The Non-State Core Participants represented by Saunders Solicitors (including supplementary submissions).
    1.4. Audrey Adams, Richard Adams and Ken Livingstone.
    1.5. The Non-Police, Non-State Core Participants ("NPNSCP") (through the co-ordinating group).
    1.6. The Commissioner of Police for the Metropolis.
    1.7. The Secretary of State for the Home Department.
    1.8. The National Police Chiefs' Council.
    1.9. The National Crime Agency.
    1.10. The UCPI Designated Lawyer Officers Core Participant Group.
    1.11. The Slater and Gordon Core Participants (including two supplementary submissions).
    1.12. The Media (Times Newspapers Limited, Guardian News and Media Limited, Associated Newspapers, The British Broadcasting Corporation, Telegraph Media Group, Independent Television News and PA Media).

The Hearing Dates

2. The Commissioner of Police for the Metropolis ("the Commissioner") suggests that the Phase 2 hearings might best be postponed until after vaccinations against COVID-19 have taken place. There can be no doubt that preparing for and hearing Phase 2 in the current environment is, and will continue to be, very challenging. Our capacity and, we believe, that of those upon whom we rely to

prepare for and hold the hearings is fragile because of the pandemic[1]. However, it is important that the Inquiry makes progress if it can do so safely, fairly and without unlawful discrimination. Many core participants remarked in their opening submissions on the time that it has taken the Inquiry to commence its hearings and their desire for progress. Our terms of reference require the Inquiry to report as soon as practicable. The Inquiry has demonstrated in Phase 1 that it can provide a socially distanced facility with a viewing room and virtual access for the Chairman, witnesses and advocates. It may now also be appropriate to provide greater remote access for those who cannot or are reluctant to attend the hearing venue during the pandemic.

Venue

3. The Inquiry's current planning for Phase 2 is on the basis that opening statements will be given remotely and live-streamed, as in Phase 1. When evidence is being given, the Chairman will connect remotely. Witnesses will give their evidence remotely. A socially distanced viewing room will be provided for core participants, the media and members of the public[2]. Counsel to the Inquiry ("CTI") and those recognised legal representatives participating in Phase 2 (a subject to which we return further below) will be accommodated in the same building but in separate socially distanced rooms with virtual connections to the hearing. In other words, a venue such as the Amba Hotel.

Access to the Phase 2 Proceedings

Legal Obligations – the Inquiries Act 2005

4. Subsections 18(1) & (2) of the Inquiries Act 2005 ("IA") provide as follows.
"(1) Subject to any restrictions imposed by a notice or order under section 19, the chairman must take such steps as he considers reasonable to secure that members of the public (including reporters) are able:
(a) To attend the inquiry or to see and hear a simultaneous transmission of proceedings at the inquiry;
(b) To obtain or to view a record of evidence and documents given, produced or provided to the inquiry or inquiry panel."

[1] For example, state bodies who have a role in security checking documents and contractors necessary to run the hearings.
[2] Subject to any COVID-19 related restrictions imposed at national or local level.

"(2) No recording or broadcast of proceedings at an inquiry may be made except:
(a) at the request of the chairman, or
(b) with the permission of the chairman and in accordance with any terms on which permission is given."

"Any such request or permission must be framed so as not to enable a person to see or hear by means of a recording or broadcast anything that he is prohibited by a notice under section 19 from seeing or hearing".

5. The wording of section 18 calls for some examination.

5.1. We note immediately that the duty imposed on the chairman of an inquiry by section 18(1) is "*Subject to any restrictions imposed by a notice or order under section 19*". In this inquiry, there are relevant restriction orders, notably those restricting the publication of the real names of all of the Phase 2 former UCOs. The restriction orders include the following provision:

"*There shall be no disclosure or publication made of any evidence or document given, produced or provided to the Inquiry which discloses [the officer's] real identity (including any description or image capable of identifying [the officer])".*

5.2. The duty imposed is not absolute. It requires the chairman to take such steps as he considers reasonable.

5.3. The duty relates to members of the public, including reporters. Core participants, witnesses, RLRs and their legal teams are not referred to. If preferential arrangements are to be made for them, such arrangements would seem to fall within the scope of section 17(1) IA. That subsection provides that the procedure and conduct of an inquiry are to be such as the chairman of the inquiry may direct.

5.4. The Phase 2 proceedings will be virtual to the extent that the Chairman, witnesses and counsel are all linked remotely over an internet based platform. Therefore, anyone attending the physical venue is not so much attending the inquiry as attending a place at which they can see and hear a simultaneous transmission of the inquiry's virtual proceedings.

5.5. Section 18(2) concerns the broadcasting of an inquiry's proceedings by others and is, therefore, irrelevant to the question whether this Inquiry should itself live stream its proceedings.

Legal Obligations – Equality Laws

6. Turning to equality laws, consideration should be given as to whether, as a matter of law, the Chairman is providing a service for the purposes of section 29 Equality Act 2010 ("EA") or whether he is exercising a public function, which is not a service within the meaning of section 29(6) EA? If the latter, then do the decisions which the Chairman will make about whether or not to live stream the proceedings (with a short delay) fall within the judicial functions exception provided by paragraph 3 of Schedule 3 to the EA? This exception provides as follows.

> "(1) *Section 29 does not apply to (a) a judicial function; (b) anything done on behalf of, or on the instructions of, a person exercising a judicial function*.
> *"(2) A reference in sub-paragraph (1) to a judicial function includes a reference to a judicial function conferred on a person other than a court or tribunal".*

7. Unless exempt, then the duty not to discriminate indirectly in breach of section 19 EA applies (via section 29 EA). The pandemic has the effect that some persons with protected characteristics will be at a particular disadvantage for the purposes of section19 EA 2010, if the Inquiry's proceedings are not streamed on the internet: in particular, such disadvantage can arise on grounds of age and/or race and/or sex and/or pregnancy and/or disability. It arises from the elevated risk of severe illness in the event that they contract the COVID-19 virus, which may deter attendance[3]. Consequently, any decision which does not involve streaming audio and/or video would need to be justified.

8. Similarly, unless exempt, then the duty to make reasonable adjustments for disabled persons applies (via section 29(7) EA).

[3] We appreciate that even without the pandemic there will be some persons whose protected characteristics may put them at a particular disadvantage in accessing the Inquiry's proceedings. However, we have concentrated on the effects of the pandemic because they are the focus of the submissions that have been made to the Inquiry.

9. Even if section 29 IA does not apply to a decision by the Chairman about streaming, then the adverse impact of the pandemic on the ability of those who would otherwise be protected by the EA to attend the hearings is a relevant factor which must be taken into account under ordinary decision making principles. Moreover, in relation to those who are the victims of a breach of their rights under Article 3 ECHR (i.e. deceived women), there is a separate duty not to discriminate arising from section 6 Human Rights Act 1998 read with Article 3 and Article 14 ECHR. Any indirect discrimination must be objectively and reasonably justified.

10. A similar point of construction arises in relation to the Public Sector Equality Duty ("PSED"), under section 149 EA. Does the decision which will follow this hearing fall within the exception provided by paragraph 3 of Schedule 18 to the EA, which is worded in like terms to paragraph 3 of Schedule 3 to the EA? If not, then the Chairman's decision as to arrangements for the Phase 2 hearings, whether in relation to public and media access under section18 IA, or for other persons, pursuant to section17(1) & (3) IA, must comply with the PSED.

Facts

11. In normal times, an inquiry such as this would host an in person hearing to which participants, members of the public and the media would, in substantial numbers, have access. However, these are not normal times. Social distancing requirements will limit the numbers who can so attend. Depending upon the national or local restrictions which are in place when the hearings take place, members of the public may, or may not, be at liberty to travel to the Inquiry. Some core participants and members of the public may, if they are lawfully allowed to travel to the Inquiry, be unable or reluctant to do so.

12. In these circumstances, the Chairman should decide whether the Phase 2 evidence should be streamed over the internet (with a 10 minute delay) and, if so, whether the stream should be audio only or audio-visual.

13. All of the former undercover officers due to give evidence in Phase 2 are the subject of restriction orders prohibiting publication of their real names. In each case, those restriction orders were granted on privacy grounds[4]. An audio-visual

[4] HN45 (ruling), HN80 (ruling), HN96 (ruling), HN126 (ruling), HN200 (ruling), HN298, HN304 (ruling), HN347, HN353 (ruling), HN354 (ruling).

feed of these witnesses, streamed onto the internet, would undermine those restriction orders. Although the Chairman has the power to vary or revoke a restriction order, the privacy grounds on which the orders were made continue to apply. They should, therefore, not be revoked lightly, notwithstanding the challenges to access to the Inquiry's proceedings that are posed by the pandemic.

14. Whether the Inquiry will obtain the best evidence from witnesses if their evidence is streamed must also be considered. Although some other public inquiries have streamed oral evidence, the circumstances of each inquiry differs and it remains the case that in the court system the oral evidence of witnesses is not broadcast. We are calling former undercover police officers and those affected by their activities. We are eliciting evidence about interference with the latter's private lives (political, social and in some cases sexual). Unlike some inquiries which investigate at a generalised systemic level, we are fact finding at a more detailed level. Our experience of the Phase 1 hearings was that the arrangements meant that witnesses were able to give their evidence effectively and to assist the Inquiry. We are concerned that live audio visual streaming, in particular, might impose a pressure upon witnesses that would result in our not obtaining the best evidence from them.

15. The Inquiry is taking extensive steps to provide a safe physical venue for Phase 2 to mitigate the risk of catching COVID-19. By April it is expected that large numbers of people, amongst the more vulnerable, will have been vaccinated against COVID-19. It is hoped, but not assumed, that the current lockdown will have been eased sufficiently to permit public access. It was particularly unfortunate timing that a lockdown was imposed less than a week before the commencement of the Phase 1 evidence taking sessions.

16. Steps are being taken to ensure that people who either cannot or are understandably reluctant to attend can follow proceedings at home. It is only the extent of those measures that is for decision. They will include as a minimum the live streaming of the opening statements, a near-live transcript of the evidence taking sessions (capable of being paused and replayed) and the publication of documents on the Inquiry's website as the hearings progress. Ultimately, the entire hearing bundle will be online.

17. We welcome the Commissioner's qualified acceptance that streaming of an audio feed could be adopted in Phase 2 and suggest that time would be well spent at

the directions hearing examining and testing each of the Commissioner's caveats (including the caveat that streaming should only be contemplated if public access is impossible). Are they necessary? Are they practicable?

18. The Commissioner's proposal to make bespoke submissions, within 14 days, of any decision to provide an audio stream of the Inquiry's Phase 2 evidence taking sessions, in the event that it considers that the audio streaming of any given witness' evidence would give rise to an unacceptable risk of identification, appears to us to be a proportionate response. We observe that it may be necessary to support submissions with evidence if they are to be accepted. Consideration should also be given as to whether those who might oppose witnesses being exempted from audio streaming can, or cannot, play a meaningful role in the decision making process.

19. In Phase 1, the Chairman considered applications, on an individual basis, for live streaming to be provided in order to afford access to the Inquiry's proceedings. This was an important safeguard capable of addressing specific issues, or exceptional cases, not accommodated by the general arrangements. It should extend to Phase 2 unless rendered otiose by the Chairman's decision on live streaming. Those applications which were deferred to Phase 2 will be determined by the Chairman, if and insofar as that remains necessary following the outcome of the directions hearing. As with a number of the Inquiry's procedures (e.g. applications for core participant status, or decisions as to whether medical evidence is sufficient to justify not calling a witness), they can be dealt with by the Chairman without inviting submissions from other core participants.

20. In the event that the Chairman concludes that it would not be lawful to proceed without audio-visual streaming because of the access difficulties presented by the pandemic, it does not follow that the Inquiry must provide audio-visual streaming. The Chairman may instead reluctantly postpone hearings until they can be held in person.

The Phase 2 Bundle

21. Core participants understandably wish to see documents as soon as possible. The Inquiry has divided its work into tranches in order to be able to start hearings and disseminate documents earlier than if a single hearing was held. Further, it

has subdivided Tranche 1 into three phases in order to enable it to circulate and start hearing Tranche 1 evidence sooner than if the whole tranche had been prepared for hearing.

22. The Inquiry's approach is to prepare the Phase 2 bundle as soon as possible and then to commence the Phase 2 hearings on the earliest convenient date thereafter, allowing a reasonable period of time for the recipients of the bundle (including CTI) to prepare for the hearing. We are already committed to releasing it as soon as it is ready. Our current expectation is that this will be on, or shortly after, 1 March 2021. To meet that date, it is likely to contain most but not all of the Phase 2 documents. We anticipate that approximately 10% of the content will follow as soon as possible thereafter.

23. We continue to look for opportunities to release discrete sections of the bundle in advance, where it is possible, in a meaningful form, and can be done without delaying the preparation of the remainder of the bundle. Current indications are that it is likely to be possible to release the annual reports for the years 1975 to 1984 to those who will receive the Phase 2 bundle in approximately two weeks' time.

24. The Chairman is persuaded by the submissions that the Category F and H core participants should have advance sight of the bundle given the importance of the evidence to be adduced in Phase 2 about the start of the practice of using aspects of the identities of deceased children in SDS cover identities and the first evidence of instances of SDS undercover police officers having sex and intimate sexual relationships with activists and members of the public whilst in their undercover identities. In this regard, we note the important commitment of the 27 Category H core participants and their 7 RLRs to work together in order to ensure both that the work done is proportionate: only a small proportion of the documents that will be in the Phase 2 bundle are relevant to the issue of relationships; and to avoid submitting duplicate proposals for lines of questioning. It appears to us that this would best be achieved if the Category H core participants are represented by leading and junior counsel who propose lines of questioning on behalf of all Category H core participants. Heather Williams QC is instructed for the purposes of the directions hearing in relation to both Category F and H core participants. The Inquiry seeks confirmation that she will be able to represent the interests of all Category F and H core participants at the Phase 2 hearings. The Solicitor to the Inquiry would welcome further discussion with the Category H RLRs on the detail of representation and funding.

25. The Chairman is also persuaded that the Media (i.e. the media organisations on behalf of whom submissions have been made) should be provided with advance sight of the Phase 2 hearing bundle and opening statements, subject to a restriction order prohibiting publication before the Inquiry puts the content into the public domain. It is proposed to provide them a few days before the hearings commence.

26. Dr Eveline Lubbers and Dr Donal O'Driscoll will be provided with a copy of the Phase 2 bundle, subject to a restriction order, in advance of the hearing.

27. The Phase 2 bundle will contain evidence not published in Phase 1. The Phase 1 bundle will be available on Opus to all those to whom the Phase 2 bundle is provided so that it can be referred to as necessary. The Phase 2 bundle will be tabbed in a very similar way to the Phase 1 bundle. It will be indexed in the same way (which provides a document number, reference, title and date). It is, unfortunately, necessary for technical reasons to retain the additional tier in the Opus folder structure which we understand is being referred to at paragraph 68(ix) of the NPNSCPs' submissions. The Phase 2 bundle will contain a small number of general documents which are relevant to Phase 1, but which were unavailable for publication when the Phase 1 bundle was disclosed. It is not anticipated that this will lead to the need to recall any of the Phase 1 witnesses.

Decisions to call Witnesses to give Oral Evidence

28. Decisions as to which of the witnesses in the Phase 2 hearing will give oral evidence are made individually by the Chairman, in the light of the documents and witness statements that have been obtained. The purpose of the hearings is to establish what happened to a level sufficient to discharge the terms of reference. It is neither necessary nor proportionate, for that purpose, for every deployment to be investigated exhaustively or for all witnesses to give oral evidence. The Inquiry has gone to considerable efforts to investigate every former SDS officer and to obtain witness statements from as many of them as it reasonably can. Doing so provides evidential breadth to the investigation. It does not follow that they all need to be called. The Inquiry has not invited submissions on the selection of witnesses and does not do so now. The Chairman would change a decision in the event that sufficiently important fresh evidence emerged such as to justify calling a witness.

Representation and attendance

29. In addition to those legally represented non-state witnesses who will be giving evidence, and the Category F and H core participants, it is proposed that the NPNSCP coordinator, Ms Dagostino and her counsel should also receive the Phase 2 bundle and appear at the hearing. Ms Dagostino and her counsel played a valuable role in the Inquiry's Phase 1 proceedings. It is accepted that a little time will be needed to decide on the size and composition of the Phase 2 team. The Solicitor to the Inquiry will be happy to discuss such arrangements with Ms Dagostino.

30. Funding will be granted for attendance during the evidential hearings, or following any near-live-steam provided, by RLRs and counsel for those giving evidence, on the day that they give evidence, one coordinating solicitor and one counsel for each of Cat H and Cat F CPs, and Ms Dagostino and one counsel.

Opening Statements

31. CTI anticipate requiring half a day to open Phase 2. It is proposed to allow up to 1 hour for each core participant, or core participant group to make an oral opening statement in addition to submitting a written opening statement for publication on the Inquiry's website. We anticipate that the following may wish to make opening statements and would be grateful if they could confirm whether or not they wish to do so to the Solicitor to the Inquiry. Anyone else who wishes to make an opening statement in Phase 2, should please indicate their wish to do so either at the directions hearing or promptly in writing, with brief reasons.

    31.1. Commissioner of Police for the Metropolis.
    31.2. The Secretary of State for the Home Department.
    31.3. The Designated Lawyer's Core Participant Group.
    31.4. The Category F Core Participants (Relatives of Deceased Individuals).
    31.5. The Category H Core Participants (Individuals in Relationships with Undercover Officers).
    31.6. Non-State Core Participants represented by Hodge Jones & Allen and Bhatt Murphy.
    31.7. Diane Langford.
    31.8. Richard Chessum.

31.9. Piers Corbyn.

31.10. Other Non-Police, Non-State Core Participants (through the co-ordinating group).

32. It will not be possible to circulate CTI's opening statement for Phase 2 any earlier than occurred in Phase 1. It is not until we have the redacted and security checked bundle that we know what can and cannot safely be referred to in a public opening statement.

33. As with Phase 1, opening statements will be circulated to RLRs upon provision of their clients' statements by a deadline to be set. RLR's will be funded to watch live-streamed opening statements from CTI and state CPs as before.

Questioning and Rule 10

34. Questioning of witnesses is focused on discharging the Inquiry's terms of reference. The Inquiry does not need to pursue every possible line of inquiry to do so. Nor does it need to resolve every dispute of fact. It would delay an already lengthy public inquiry, if we were to do so and incur unnecessary cost. Witnesses will not be cross-examined unless there are grounds for doing so. A great deal of information is being put into evidence on paper in Tranche 1 including witness statements. Its evidential status is not, in any way, inferior for that and it is being assimilated by a Chairman who is a former High Court Judge. It is not necessary to refer to such evidence in oral questioning, unless it needs to be explored further or tested.

35. We agree with those who advocate strict adherence to the timetable for rule 10 pro formas and our responses to them. We add that it is important that all those submitting rule 10 pro formas do so on time so that CTI can consider and respond to them efficiently in one go.

36. We agree with the proposal for a meeting with advocates so that we can better understand their and their clients' points. The Solicitor to the Inquiry will be making arrangements for such a meeting and RLRs can discuss details with him. This is likely to be by video conference and only involve those counsel that have submitted rule 10 questions before the meeting. We believe that a single meeting with all relevant counsel for the NPNSCPs and a single meeting with

counsel for state CPs shortly before the Phase 2 openings is likely to be the most practical option.

37. We also agree that the mechanism adopted in the latter part of Phase 1, whereby RLRs were given time to confer with their clients before deciding whether to apply for permission to ask further questions, by waiting for at least 10 minutes, was helpful in facilitating CP participation and should continue in Phase 2.

38. We agree that the Chairman should (insofar as is technically possible) remain visible to viewers whilst evidence is being received and submissions made.

39. If RLRs wish positive allegations to be raised with witnesses, by CTI, for which there is no evidential basis in the bundle, then the evidence in support of the proposed line of questioning should be submitted to the Inquiry at the earliest opportunity. We can then consider how to proceed fairly. Similarly, if an RLR considers that it is necessary and appropriate for questions to be put that would undermine a redaction or gist then early notice should be given to CTI so that the matter can be considered in good time.

40. Under the current model, RLRs (other than the witness' own RLR) may apply for permission to question after CTI. This facility is important to give effect to rule 10 and ensures that if an unexpected point arises, or if there is some other unforeseen occurrence it can be dealt with. It is a necessary safeguard in addition to those circumstances when an RLR needs to cross-examine a witness, as outlined previously by the Chairman, permission for which we anticipate will ordinarily be agreed in advance.

41. We have concerns about the proposal for automatic permission for NPNSCP RLRs to question witnesses for up to 30 minutes, with an option to apply for more time. It is important in this inquiry that CTI and the Chairman retain oversight of proposed lines of questioning so as to ensure that restriction orders are not undermined and that proceedings are fair. Advance notice of proposed lines of questioning helps to ensure that these aims are met.

42. We have reservations about the proposal that RLRs should automatically be permitted to contest applications for permission to question their clients. There is value in keeping the procedure quick, simple and streamlined. Maintaining the current system treats all witnesses in the same way and is therefore fair.

43. We recognise that the RLRs and their legal teams are put under pressure of time between receipt of the bundle and the deadline for rule10 pro formas. However, for the reasons set out earlier in this note, it will not be possible to circulate the bundle any earlier.

44. We note Slater and Gordon's submissions relating to cross-examination by RLRs in circumstances which have yet to arise. We suggest that any such issues are dealt with on a case-by-case basis when they arise.

45. As for the division between open and closed hearings, the Inquiry put into the public domain redacted statements of two fully anonymous witnesses in Phase 1 (HN333 and HN349). That comprised their open evidence. Neither is being called to give closed oral evidence. The redacted passages will be taken into account by the Chairman as closed evidence received in writing. In Phase 2 the open evidence of fully anonymous witnesses will take the form of a group gist. Some of those witnesses will be called to give closed oral evidence. Others will not. The purpose of closed hearings is for evidence to be received, that cannot be given at an open hearing. In the event that evidence is given which could be made public the Inquiry will consider what steps it needs to take in the interests of openness in all the circumstances of the case.

Oral Summaries of the Police Witnesses not giving Oral Evidence

46. It is intended that in Phase 2 the NPNSCPs will have the opportunity to put forward a single generic checklist for the oral summaries by CTI of police witnesses not giving oral evidence. This is expected to be produced by the NPNSCP group coordinator and her counsel without the need for funding of the wider RLRs to provide extensive input. The same facility will be afforded to the Phase 2 state core participants (i.e. they may agree and submit a single generic checklist). Additionally, a short bulleted list may be provided for individual officers (should that be necessary in addition to the generic list), three weeks before the evidence hearings begin. Funding is granted for the NPNSCP group coordinator and her counsel to spend a short period of time on such a list, with limited funding to other RLRs with a direct interest in a particular witness to contribute if necessary. Security checking of CTI's speaking notes will be conducted internally by the Inquiry.

Matters Outside the Scope of this Hearing

Selection of Documents

47. A number of points have been raised in the submissions of the core participants which are outside the scope of the directions hearing. As to how the Inquiry has investigated and selected necessary documents, the position is as set out previously in the Inquiry's publications, most recently the Tranche 1 Disclosure Note. A brief supplementary note will accompany, or follow shortly after the release of the Phase 2 bundle.

Redactions

48. The approach taken to privacy redactions is as published previously by the Inquiry on its website including the Chairman's privacy statements[5], the Restrictions Order Protocol and the Inquiry's own internal guidance.

49. The late applications for redactions to Phase 1 documents to be lifted, contained within the written submissions for the directions hearing, will be dealt with in correspondence.

Witnesses

50. It is neither necessary to discharge the terms of reference, nor practicable, for the Inquiry to attempt to contact every person who was reported on by the SDS. The Inquiry has made judgements about who proactively to contact for evidence in cases where individuals have not come forward. The object is not exhaustive investigation but sufficient investigation to discharge the terms of reference.

Contact with potential witnesses and others

51. The Solicitor to the Inquiry is engaging with the NPNSCP group about improving aspects of the way in which the Inquiry contacts people. The Inquiry has and will continue to approach people in the course of its work, usually to request a witness statement. It is neither necessary nor appropriate to make public a full list of those so contacted.

[5] Dated 11 April 2019 and 21 August 2019.

Timing of disclosure of documents

52. Steps are being taken to accelerate the provision of documents to non-state witnesses in future tranches of the Inquiry. In most cases, the fact that they will give evidence has been known at an earlier stage of the investigation than was the case for the majority of civilian witnesses in Tranche 1. This enables the documents which should be included in their witness packs to be identified and begin the redaction process earlier. This approach is being adopted across the board and not just for any particular category of core participant. However, it is still going to be some time before non-state witnesses in forthcoming tranches receive their witness packs. The process is being slowed by the consequences of the pandemic.

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25 January 2021