

Coroner's Inquests into the London Bombings of 7 July 2005

Pre-Inquest Proceedings - 23 June 2010 - Morning session

1 Wednesday, 23 June 2010

2 (10.30 am)

3 LADY JUSTICE HALLETT: Yes, Mr Keith?

4 MR KEITH: Good morning, madam.

5 Madam, subject to your approval, I do not propose to  
6 read out or to provide you with a list of the legal  
7 representatives here this morning. Many of them, if not  
8 all, will be familiar to you from the last occasion.

9 Submissions re 21 May ruling

10 Madam, may I commence with a matter to which  
11 reference is not, in fact, made on the agenda, which is  
12 no doubt in the forefront of everybody's minds which is  
13 the question of whether or not any party intends to  
14 challenge your ruling of 21 May. Madam, you will recall  
15 that at paragraph 22 of your ruling you urged any party  
16 thinking of challenging you to do so as a matter of  
17 urgency, to consider doing so as a matter of urgency and  
18 to inform you within two weeks of their position,  
19 effectively by 4 June.

20 On 25 May, a few days later, the Treasury Solicitor  
21 wrote to Mr Smith asking for a further week to Friday,  
22 11 June, and requested him to pass that application on  
23 to yourself and, as you will recall, they were granted  
24 that further week.

25 Subsequently, on 4 June, in accordance with your

1 request, all those parties who might reasonably have  
2 been considered to have a view as to whether or not they  
3 would challenge you all indicated that they had no  
4 present intention to commence judicial review  
5 proceedings but, understandably, they wished to reserve  
6 their position in the light of any decision made by the  
7 Secretary of State on behalf of the Security Service.  
8 Then, on 11 June, the date on which their extension  
9 expired, that is to say the one-week extension that they  
10 had been granted from 4 June, the Treasury Solicitor  
11 wrote to Mr Smith again acknowledging that they had made  
12 a serious mistake because they had erroneously believed  
13 that they had an extension, in fact, to the following  
14 week on account of the letter which Mr Smith had written  
15 to all the parties in relation to the quite separate  
16 issue of the disclosure process and the practical steps  
17 that you had ordered be put in place.  
18 Mr Smith responded to the letter, pointing out,  
19 quite correctly, of course, that they had acknowledged  
20 themselves that they had made a serious mistake and  
21 expressing his surprise that they could have believed  
22 that 18 June was the final date to indicate their  
23 position to you, given that they had themselves asked  
24 for the original extension of one week to 11 June.  
25 Mr Hall is in attendance before you today and will

1 no doubt explain how that position came about and what  
2 the Secretary of State intends to do.

3 In the light of the fact that he is here and will no  
4 doubt address you on those subjects, it is perhaps  
5 appropriate that I say no more at this stage, but of  
6 course remain available to address you in relation to  
7 any matter that you feel should be addressed by myself  
8 in the light of what he has to say.

9 LADY JUSTICE HALLETT: Mr Keith, I think this is such an  
10 important matter, we need to pause here and hear from  
11 Mr Hall.

12 MR KEITH: By all means.

13 LADY JUSTICE HALLETT: Yes, Mr Hall?

14 MR HALL: Madam, what you will want to know is when the  
15 Secretary of State will reach a decision.

16 LADY JUSTICE HALLETT: I do.

17 MR HALL: There are two separate matters that are being  
18 considered. Firstly, whether to challenge by judicial  
19 review your ruling on scope, and I should add that my  
20 clients are considering that which is within all  
21 reasonable alternatives in preference to a legal  
22 challenge, which they see very much as a last resort.  
23 So that's the first decision.

24 The second decision is whether, given the  
25 difficulties of dealing with the extremely sensitive

1 material which Mr Garnham outlined to you in the April  
2 hearings, the Lord Chancellor should exercise his powers  
3 under section 17A and transform the inquest into  
4 a public inquiry.

5 At present, the inquest remains the government's  
6 preferred form, but very detailed consideration is being  
7 given to the second option. Now, I don't want to  
8 overstate the position, but both of these issues --  
9 that's judicial review and the question of a public  
10 inquiry -- are extremely difficult and require very  
11 careful consideration at the highest level.

12 The Treasury Solicitors recently wrote to you and to  
13 your team on 17 June in an attempt to advance the issues  
14 which are extremely important for the government and the  
15 Security Service and which are relevant to those. We  
16 took the view that it was appropriate to raise these  
17 issues and put them out in the open as early as  
18 possible, and the particular issue which you recall  
19 which was raised by Mr Garnham, is what happens if there  
20 is truly relevant material which simply cannot be  
21 disclosed on which you would need to form a judgment.

22 LADY JUSTICE HALLETT: The answer to that, Mr Hall, is  
23 simple: we face that problem when we reach it. It's not  
24 a matter that needs to be resolved before the decisions  
25 you've just referred to can be taken. They are matters

1 of law.

2 MR HALL: I accept that, but given that any challenge by way  
3 of judicial review would have to be as a last resort,  
4 the government is obviously exploring whether there are  
5 other ways of coping with the consequences of your  
6 ruling on scope.

7 Can I remind you of what the final proposed question  
8 or issue is? It is whether any of the above  
9 intelligence failings were causative of the events of  
10 7 July 2005. That brings the question of fairness very,  
11 very much to the fore and that was why the letter was  
12 sent on 17 June. I appreciate that, on the following  
13 day, Mr Smith, on your behalf, wrote to say it is  
14 premature, but the 17 June letter was an attempt to  
15 gauge how you, as a coroner, were going to deal with  
16 these issues, and that did inform us, and is informing  
17 us, on the decisions we're having to make.

18 LADY JUSTICE HALLETT: I intend to deal with these issues  
19 being as fair as I possibly can to everybody. I do not  
20 intend to act unfairly towards the families or towards  
21 members of MI5.

22 MR HALL: I understand that.

23 LADY JUSTICE HALLETT: Or the police.

24 MR HALL: The issue is extremely pressing and that is why  
25 these are difficult submissions. Can I also add that

1 there has been a change of government. That has  
2 happened obviously since the hearings in April. There  
3 are new ministers who have to get on top of their briefs  
4 generally and have to be briefed in respect of this  
5 particular issue, which is, as I say, a difficult one  
6 and one that's very much in the public eye.  
7 They are having to have the opportunity to consider  
8 these matters and I'm instructed that my clients are not  
9 anxious to jump into judicial review proceedings.  
10 It's an attempt to explore those reasonable  
11 alternatives which led, as I say, to our letter, and  
12 which is still informing our consideration.  
13 The date I'm going to suggest that my clients can be  
14 committed to is the week commencing 12 July. So by  
15 18 July, at the latest, my clients would have reached  
16 a conclusion on whether they would be seeking permission  
17 to challenge your decision on scope by judicial review.  
18 Now, that would be a full eight weeks since your  
19 ruling was handed down formally on 21 May, and that  
20 period in short will have encompassed considering your  
21 ruling, a change of government, briefing of new  
22 ministers, a meeting which took place with your team at  
23 our request, digesting that, an exchange of  
24 correspondence which I've already addressed in June, and  
25 takes place in the context of what the rules permit by

1 way of judicial review, which, of course, is as soon as  
2 practicable, and we are working at it, but in any event,  
3 within three months.

4 That is why, although eight weeks could seem a long  
5 time, that is the period that my clients are committed  
6 to.

7 LADY JUSTICE HALLETT: Mr Hall, I totally understand the  
8 difficulties, the complexities and, of course, the added  
9 complication of a change in government.

10 The problem is that the prospect of a Jamieson  
11 inquest must have been on the horizon for a number of  
12 parties who haven't been involved in the change of  
13 government, and so all these possibilities should have  
14 been being discussed for months, if not years, and every  
15 week that goes past without MI5 or those others for whom  
16 you act, engaging with my inquest team, risks the  
17 timetable being extended. That has two very grave  
18 possible consequences. One is increasing the anguish of  
19 the families and the survivors. The other is increasing  
20 the costs, which, of course, will be of concern, not  
21 just to everybody here, but to the public in general.  
22 So I really must seek your assurance, not only that  
23 this decision will be forthcoming within the timetable  
24 set, because, as you know, as a matter of law, I can't  
25 impose a timetable on you other than making my own

1 comments as to the promptness of any application.

2 But the other thing I seek from you is, can we get  
3 an assurance that de bene esse those whom you represent  
4 will engage with the inquest team on disclosing the  
5 material with which they have to get on and work?

6 MR HALL: Yes.

7 LADY JUSTICE HALLETT: Because if this material doesn't come  
8 forward -- as I say, it doesn't need to prejudice the JR  
9 application, but you are in a position to give me that  
10 undertaking.

11 MR HALL: I have told Mr Keith precisely what I'm prepared  
12 to say, which is that we would be content for your team,  
13 you, to go to Thames House, headquarters  
14 Security Service, to inspect the unredacted ISC report  
15 so far as it relates to Security Service material -- if  
16 there's other agencies' material, I can't give that  
17 assurance at the moment -- plus the speaking notes that  
18 were prepared for the witnesses who gave evidence to the  
19 ISC on behalf of the Security Service. That would have  
20 to be, I'm afraid, on the very clear understanding that  
21 no disclosure could be made, even if you disagreed and  
22 thought that it wasn't sensitive when you saw it; that  
23 no disclosure would be made to the properly interested  
24 persons and, of course, without prejudice to any PII  
25 application that might in due course be made.

1 This is simply to enable you -- because we do  
2 understand the pressure your team is under -- to start  
3 looking at the scope of the material and start preparing  
4 in a practical way.

5 LADY JUSTICE HALLETT: We can do that when we want to?

6 MR HALL: You can do that within seven days.

7 LADY JUSTICE HALLETT: Mr Hall, you've now offered me the  
8 kind of reassurance I required, and, therefore, I have  
9 no power, as you know, but I am content with the  
10 timetable you envisage, on the basis that we, my team  
11 and I, will have access to the material you've just  
12 described. Thank you very much.

13 Yes, Mr Keith?

14 MR KEITH: Madam, in those circumstances, unless you wish me  
15 to do so, I shan't advance any more submissions on that  
16 point.

17 LADY JUSTICE HALLETT: Right.

18 MR KEITH: Madam, I hope you have -- I know you have a copy  
19 of the list of matters to be considered at the  
20 pre-inquest review today. That document has been copied  
21 to all the parties. May I address the matters set out  
22 there, commencing with the general question of  
23 disclosure?

24 Submissions re issues arising out of the letter of 27 May  
25 Following the handing down of your ruling on 21 May,

1 Mr Smith -- who, as we all know, is the solicitor to the  
2 inquest -- wrote to all the parties setting out your  
3 views on certain consequential issues in order to detail  
4 more clearly the process by which you intend to  
5 investigate, search for, gather and disclose the  
6 relevant evidence, and in particular, the letter  
7 enclosed a list of provisional factual issues.  
8 Mr Smith properly emphasised that the list was  
9 a provisional list, and of course, at that stage, the  
10 parties hadn't received copies of all the reports that  
11 they now have. Indeed, on Monday this week, they would  
12 have received by way of access to Lextranet, the latest  
13 batch of reports which include or consist of four  
14 reports detailing the background of the four men and  
15 a report entitled "Travel to London".  
16 Mr Smith's letter invited comment on the general  
17 procedures which you've set out in that letter, and  
18 those who responded, primarily Kingsley Napley, Lovells,  
19 Oury Clark, Russell Jones Walker, Sonn Macmillan,  
20 West Yorkshire Police, the Met Police and  
21 British Transport Police, have indicated that with two  
22 exceptions they are completely content with the  
23 procedures which you set out.  
24 They made the general point, which we entirely  
25 accept of course, that that was subject to the point

1 that, as time unfolds and more factual matters may come  
2 to be disclosed, the list of factual issues may have to  
3 be refined.

4 Kingsley Napley, in particular, indicated a handful  
5 of additions by way of an enclosure to their letter of  
6 18 June and, without detailing each of them, perhaps  
7 I could indicate that the view of your team, and of  
8 course entirely a matter for you, is that most, if not  
9 all, of their comments are well-founded.

10 In relation to paragraph 5, we are content and we  
11 would support for your consideration of the amendment by  
12 way of insertion of the words "contributed to".

13 We suggest that in relation to the subsequent  
14 proposed amendments that, for the sake of consistency,  
15 the references to "MI5" be, in fact, references to the  
16 "Security Service".

17 At paragraph 15(d), where they suggest that you  
18 might consider inserting a new head, or a new factual  
19 issue, namely, of alleged failure of the  
20 Security Service and/or the Metropolitan Police Service  
21 to investigate the meeting on 21 March, we would invite  
22 you to insert instead the word "possible" meeting.

23 Madam, if you give your consent to those proposals,  
24 then might I suggest that the reformulated list be sent  
25 out, or rather be made available, on Lextranet, through

1 the offices of Mr Smith, so that all the parties have  
2 access to the up-to-date, revised list of factual  
3 issues?

4 LADY JUSTICE HALLETT: Are there any submissions to the  
5 contrary?

6 MR COLTART: No, thank you.

7 LADY JUSTICE HALLETT: Thank you very much. Very well, I do  
8 approve those amendments and that should be done as you  
9 suggest.

10 MR KEITH: Thank you very much.

11 Lovells, for their part, submitted written comments  
12 through Mr Patterson and they make two proposals at  
13 paragraph 8 of their written submissions of 1 June 2010.

14 At 8(a), they invite you to consider whether or not  
15 the issue should be revised in such a way as to  
16 emphasise the issue of whether or not injured passengers  
17 received medical treatment in a timely fashion.

18 Our view, with respect, is that the way in which the  
19 factual issues have been identified by you makes that  
20 issue absolutely clear already. Indeed, we would invite  
21 their attention to look at paragraphs 5, 5(a) and 5(g)  
22 of the proposed factual issues.

23 In relation to (b), they invite you to consider  
24 calling an expert in how bomb blast victims should be  
25 treated medically.

1 For our part, we have a slight concern in relation  
2 to that proposal, because we are not presently persuaded  
3 that calling one particular witness in relation to that  
4 sole topic will be of great assistance to you, and that  
5 that is an issue that will inevitably form part of the  
6 wider medical considerations which arise in this case  
7 which address, as we know they do, the broad issue of  
8 whether or not victims were treated properly and  
9 timeously.

10 We are sure, with respect, that that issue will  
11 therefore be addressed as part of the medical evidence  
12 that you will call in due course, and, therefore, it may  
13 not make sense at this stage to identify specifically  
14 a single person to address the point that they raise.  
15 It is, of course, open to them to return to you with  
16 further submissions if, as the evidence unfolds, they  
17 are of the view that that evidence does not sufficiently  
18 address the point that they've raised today.

19 I'll return, if I may, in due course to the issue of  
20 blast a little later in these submissions.

21 Turning back to the disclosure process --

22 LADY JUSTICE HALLETT: Sorry, just before we go on,  
23 Mr Patterson, are you content with that approach?

24 MR PATTERSON: I am content with that. May I simply make it  
25 clear what the position was? In terms of timeliness of

1 treatment, it's one thing delays in the emergency  
2 responders getting to the scene, it's another thing  
3 delays in injured victims being removed from the scene  
4 to hospital. But a distinct and very important issue  
5 is, what were the delays before individuals actually  
6 received treatment at the scene?

7 I am assured by Mr Keith that that will be covered.

8 It simply seemed to us that it was such a central issue  
9 on the emergency response that it should be discretely  
10 identified, given that it has been identified in another  
11 other two respects.

12 As to the second point, I'm grateful for the  
13 opportunity to liaise directly with Mr Smith. I have  
14 spoken to him about this this morning and, as the  
15 disclosure continues, we will consider what material is  
16 available.

17 It seems to us, however, that a very real issue for  
18 you, madam, is the avoidability of the deaths. So for  
19 the -- I think it was 17 who did survive, one of the key  
20 issues is how appropriate was the treatment and how can  
21 we judge that if we don't have a benchmark? Because my  
22 understanding is, particularly in the military field,  
23 there are very helpful techniques in relation to  
24 stemming blood loss. Perhaps we can simply leave it  
25 that we will review the material and perhaps correspond

1 directly with Mr Smith.

2 LADY JUSTICE HALLETT: As far as your first point is  
3 concerned, you're absolutely right, it is central. I'm  
4 afraid I thought it was so central I didn't realise it  
5 would be necessary to specify it. But we'll certainly  
6 look at that.

7 The second matter we can revert to, if you feel it's  
8 not been covered in the way that my team intended to  
9 cover it.

10 MR PATTERSON: Certainly pathologists, I know from  
11 experience on homicide cases, often say they deal with  
12 dead bodies and, therefore, there are limits on what  
13 they can say in relation to survivability and best  
14 practices for the treatment of injured victims in bomb  
15 blasts.

16 LADY JUSTICE HALLETT: It depends on the pathologist, in my  
17 experience, Mr Patterson.

18 MR PATTERSON: Yes, certainly from a recent homicide case,  
19 I know that one pathologist takes the view that  
20 tourniquets can save lives, if properly used, but, if  
21 badly used, they can cause difficulties. That's the  
22 sort of issue we will probably end up looking at.

23 LADY JUSTICE HALLETT: Very well, bring it back to me, if  
24 you feel that you need to.

25 MR PATTERSON: Thank you very much.

1 LADY JUSTICE HALLETT: Yes, Mr Keith?

2 MR KEITH: Madam, returning to Mr Smith's letter, may  
3 I describe it in a little more detail for the benefit in  
4 particular of those who are unrepresented?

5 The letter of 27 May observed that the scene  
6 reports, as well as the other reports which have  
7 subsequently been made available, prepared by your  
8 coroner's offices, make reference naturally to a number  
9 of documents and exhibits, but the letter emphasised  
10 that those matters -- those statements and exhibits --  
11 are only part of the picture, and they are, in fact,  
12 only a small part of the potentially relevant evidential  
13 material that exists.

14 The Metropolitan Police Service, by way of example,  
15 hold a very large number of documents, some 30,000  
16 witness statements in all, and approaching 40,000  
17 exhibits, both real and documentary.

18 West Yorkshire Police, it transpires, also hold  
19 a large number of documents in the many thousands, and  
20 City of London Police have also been good enough to  
21 contact Mr Smith to inform him they hold some 900  
22 documents in all, and it is obviously expected that the  
23 emergency services themselves will have retained a great  
24 deal many documents relating to the events of 7 July.

25 Your letter, therefore, put in place a system for

1 collating and examining that material, in order to allow  
2 your team to determine the relevancy of that material to  
3 the issues that you have identified.

4 Mr Smith invited all the organisations who might be  
5 in possession of potentially relevant material to  
6 produce to you, or to make available by way of  
7 inspection, all the documents which might reasonably be  
8 considered as touching upon the provisional issues.

9 The letter also put in place procedures for public  
10 interest immunity, and for the redaction of irrelevant  
11 personal information from documents sent to or made  
12 available to the inquest team, and it's important that  
13 I say openly that your team is already redacting from  
14 statements and documents received from the police, among  
15 others, material that is reasonably considered not to be  
16 relevant but is also sensitive, such as dates of birth,  
17 home addresses, credit card details, Oyster card  
18 information, telephone numbers and so on.

19 But I emphasise that your team is not redacting from  
20 the material that it receives any information relating  
21 to either the physical injuries suffered as a result of  
22 the events of 7 July, or psychiatric trauma identified  
23 by any witness.

24 That process of redaction will, of course, continue.

25 The letter set out your expectation that the

1 authorities would immediately commence the process of  
2 collating and listing material in their possession, and  
3 that process has commenced, and Mr Smith has received  
4 a number of helpful letters from some of the parties in  
5 which they've identified some of the difficulties that  
6 they have faced, but also their determination to proceed  
7 with the exercise that you have invited them to do.  
8 One party, the West Yorkshire Police, confirmed that  
9 it has instructed additional counsel to assist with the  
10 disclosure process, and so it is to be hoped, with that  
11 encouraging start, that the process will continue.  
12 It is plainly going to be a lengthy process, and  
13 it's a rolling process, because, over time, the factual  
14 issues will undoubtedly vary, and disclosure of  
15 particular areas may have to be revisited and reassessed  
16 in the light of variations in the factual issues.  
17 We hope, madam, that that process will be  
18 substantially completed by the end of July. We don't  
19 envisage, however, that it will be complete. The amount  
20 of the documentation itself poses particular problems,  
21 certainly in relation to the Metropolitan Police  
22 Service, but in relation to that organisation, we are  
23 attempting to put into place a system for identifying  
24 material located on the HOLMES system that the  
25 Metropolitan Police operates in a way that will flag up

1 and highlight potentially relevant material rather than  
2 spending months going through, on an item-by-item basis,  
3 every single document or exhibit in their possession.  
4 In relation to the Security Service, obviously there  
5 are particular issues that arise there, not least, of  
6 course, because, as a result of the offer today for  
7 access to be given unconditionally to material that they  
8 possess and which they are prepared to allow us to see  
9 at the moment, there may be further enquiries that have  
10 to be made, and plainly there will obviously have to be  
11 a debate in due course, assuming there to be no  
12 challenge, as to whether or not public interest immunity  
13 is claimed in respect of some or all of that material  
14 and, if so, on what basis.

15 May I mention one discrete issue as far as  
16 photographs --

17 LADY JUSTICE HALLETT: Before you move on to that, Mr Keith,  
18 you haven't sought, as I understand it, a direction from  
19 me that the disclosure process should be completed by  
20 the end of July. I'm a great believer in focusing minds  
21 as well as being understanding.

22 Now, what I was considering -- and I'd welcome your  
23 submissions and those of your colleagues -- is what if  
24 I were to make a direction that the relevant material  
25 was to be disclosed by the end of July, but that there

1 should be liberty to apply informally, we don't need to  
2 come back into court, for any party that -- I understand  
3 the complexities and the amount of material involved  
4 so -- so that any party could just say to Mr Smith,  
5 "Could you please tell the coroner these are the  
6 problems, could we have a bit more time?"

7 MR KEITH: Madam, I would certainly welcome that direction.  
8 For our part, we recognise, as I think you said, that  
9 there are plainly going to be differences between the  
10 particular parties and some parties will encounter very  
11 much greater difficulties than others. But in the light  
12 of your direction that they have liberty to apply any  
13 inconsistencies in their positions, or unique  
14 difficulties, can be addressed by way of written  
15 application to you.

16 So certainly I would welcome that direction.

17 LADY JUSTICE HALLETT: Mr Hill, you're probably one of those  
18 most affected, if I make such a direction.

19 MR HILL: Yes.

20 LADY JUSTICE HALLETT: I know that those whom you represent  
21 have been doing everything possible to provide this  
22 material on a timely basis.

23 MR HILL: Yes.

24 LADY JUSTICE HALLETT: Would you have any objection,  
25 provided, of course, I personally undertook to be

1 understanding of the difficulties, if I made a direction  
2 with liberty to apply?

3 MR HILL: I'd resist a formal order insofar as the  
4 Metropolitan Police are concerned, and it may be,  
5 notwithstanding your understandable intention to make an  
6 order for other interested persons, that you could find  
7 room to avoid that insofar as the MPS are concerned.  
8 The basis for distinguishing, of course, would be that  
9 the Metropolitan Police enjoy a unique position in these  
10 proceedings: namely, designated interested person, and  
11 also coroner's officers.

12 If I, therefore, am seen to resist a formal order,  
13 it's not on the basis of any lack of cooperation,  
14 because we would say there's been far greater  
15 cooperation, as is necessary, for a coroner's officer,  
16 than for any other party hitherto.

17 Our concern about the making of a hard-edged  
18 direction today is that we'd like a two-way process to  
19 start to develop. It's been one-way, I'm not suggesting  
20 that we should submit the coroner or her team to  
21 directions. But what I mean -- I was going to come on  
22 to it --

23 LADY JUSTICE HALLETT: You can try, Mr Hill.

24 MR HILL: I'm not even going to try. Under the matters to  
25 be considered -- we haven't come to it yet -- one that's

1    been identified by Mr Smith and your team is  
2    a provisional list of scene witnesses.  
3    Now, it occurs to us that on material already  
4    provided through the various scene reports, bombers'  
5    reports, travel reports, it will become apparent to all  
6    interested persons where the focus of interest is going  
7    to lie, and the sooner that focus is applied, the  
8    greater assistance -- can I put it this way -- we could  
9    gain, as could your team, as to completing the  
10   disclosure exercise.  
11   May I give one example of that, which I would have  
12   come on to later, but I'll come to it now? When we are  
13   considering the category of preventability that is  
14   restricted to post-detonation survivability, there are,  
15   we can well understand, individuals who, it will be said  
16   by other legal teams, come into that category of  
17   requiring an intense focus on potential survivability.  
18   There are others who will not. That is because,  
19   sadly, of the gross nature of the horrible injuries that  
20   were suffered as a result of the detonation.  
21   The sooner there could be an identification of  
22   a list, however broad, of those witnesses who come into  
23   that potential survivability bracket, the easier it will  
24   be for us, and indeed for your team, to manage the  
25   ongoing disclosure exercise where it relates to those on

1 the list as opposed to those not on the list.  
2 So, for that reason, and for a host of other  
3 reasons, I'm not to be taken as saying for a moment that  
4 we're seeking to restrict access to the HOLMES account  
5 on the part of your team, nor that there is any sense of  
6 disorganisation. On the contrary, there's a very large  
7 operational team, at New Scotland Yard, and I've been to  
8 the operations room and it's staffed by a hive of  
9 officers who work all day, every day, on cooperation  
10 with your team. We're going to continue to do that.  
11 But the sooner -- if you're minded to make any  
12 directions at all today -- you could possibly focus  
13 interested persons' minds on issues such as which of the  
14 deceased in particular are to be looked at against  
15 the -- or through the prism of survivability, the more  
16 help we'll all have with the disclosure exercise.  
17 So I would ask that you don't make a formal order to  
18 complete the disclosure process. Frankly, if you do,  
19 I suspect the Metropolitan Police would simply have to  
20 apply for liberty, as a matter of course. But it may be  
21 that you don't feel that you need to do that insofar as  
22 the Metropolitan Police are concerned. Others may be in  
23 a different category.  
24 LADY JUSTICE HALLETT: I know my team -- as Mr Keith is  
25 about to tell me -- are working hard on the very issues

1 you've just raised.

2 MR HILL: Yes.

3 LADY JUSTICE HALLETT: Mr Keith, any comments on Mr Hill's  
4 submissions?

5 MR BEGGS: Just before Mr Keith responds, may I just,  
6 I hope, not rudely stand up, Mr John Beggs for  
7 West Yorkshire Police.

8 We have indicated that we are confident of starting  
9 the process by the end of July and, unlike the England  
10 football team on Friday, we will do our best to complete  
11 it as soon as we humanly can, but, like Mr Hill, I have  
12 to, as a matter of courtesy, tell you that we certainly  
13 would not be able to finish it or anywhere near finish  
14 it, by the end of July, for a number of reasons, one of  
15 the most prominent of which is we will have to liaise  
16 with other parties in respect of certain issues which we  
17 set out in our letter and which I have also told  
18 Mr Keith about.

19 So we will certainly start the process, we would  
20 hope to get you some materials, but like Mr Hill, if  
21 there is a hard-edged order, we'll inevitably have to  
22 come back within a few weeks and set out some details to  
23 our difficulties.

24 LADY JUSTICE HALLETT: I don't like the word "start" the  
25 process, when my aim is to keep to this timetable,

1 which, as you know, is very tight.

2 MR BEGGS: Yes.

3 LADY JUSTICE HALLETT: I have tried to assure the families  
4 that I'm going to get them answers as soon as possible,  
5 and if we are talking about starting the process by the  
6 end of July and then we have intervening summer holidays  
7 for many people and other matters come along, it is  
8 imposing a considerable burden upon my team, which --  
9 I wonder if we have enough of them to survive, if  
10 everything is coming in a flurry, towards the end of the  
11 summer. I just don't see how we're going to be ready  
12 and keep to the timetable. That's my query about the  
13 use of your word "start".

14 MR BEGGS: Can I redefine it? By "start" I mean start the  
15 process of physically giving you access to documents.  
16 We have already started for several months now,  
17 retrieving and collating, but it's simply pointless me  
18 suggesting that we will have finished by the end  
19 of July, because we will not have done, however hard we  
20 try, I'm afraid.

21 In terms of focusing minds -- and it may be later in  
22 the agenda we come back to the point -- it would  
23 certainly help us, and I'm certain one or two other  
24 parties may have the same view, if West Yorkshire Police  
25 knew when the preventability issues, so far as the

1 pre-bombing intelligence, were going to start in the  
2 hearing, because that would give us some focus and it  
3 would enable us to say to our clients "We may need to  
4 deploy greater resources and you now have a more clear  
5 timetable".

6 As it stands at the moment, we're slightly uncertain  
7 as to when that aspect of the case may start and so, if,  
8 later in the day, we're able to give you clarity on  
9 that, that would certainly assist the process. That's  
10 all I think I can usefully add for the moment.

11 LADY JUSTICE HALLETT: Thank you. Anybody else who wishes  
12 to say anything before I return to Mr Keith on this  
13 particular point?

14 MR GIBBS: We believe we could comply with such an order.

15 LADY JUSTICE HALLETT: Thank you very much.

16 MS BARTON: The same applies to City of London Police.

17 LADY JUSTICE HALLETT: Thank you.

18 MR O'CONNOR: Madam, may we offer, as hopefully typical of  
19 all bereaved families, that we really within a week --  
20 in fact, we could do it today, but let us say seven  
21 days -- are quite happy to indicate, from our point of  
22 view, where a real survivability issue arises.  
23 Hopefully that will assist.

24 LADY JUSTICE HALLETT: That's helpful, Mr O'Connor, thank  
25 you.

1 MR O'CONNOR: Madam, my second indication is this. I sense  
2 by implication from what my learned friends Mr Hill and  
3 Mr Beggs have said, that they may come across areas of  
4 potential disclosure where they need to consult with the  
5 Security Services whether on a belt and braces basis or  
6 not, because there may be a real sensitivity concern.  
7 Thus, the role of the Security Services here, in  
8 facilitating keeping to our date and an effective and  
9 efficient inquest, is not confined to their current  
10 dilemma over judicial review and challenge, but extends  
11 even more critically to their facilitating and dealing  
12 efficiently with such communications, and all we suggest  
13 is that, because of one's experiences with the  
14 Security Services, the possibility that you may at some  
15 stage in the future request a record and the timetable  
16 of enquiries from police services of this nature to the  
17 Security Services and tracking the promptness of their  
18 responses is something about which they should be warned  
19 in advance as an encouragement.

20 LADY JUSTICE HALLETT: What you've said has been heard,  
21 Mr O'Connor. I suspect that Mr Hill and Mr Beggs will  
22 be doing just that, because they'll have to be  
23 justifying any delays on the part of the people they  
24 represent, so I suspect if they can pass the -- try to  
25 attribute responsibility elsewhere, they'll tell me.

1 But thank you.

2 May I extract from other counsel representing  
3 bereaved families the same undertaking; that within  
4 seven days they'll indicate where a real survivability  
5 issue is raised?

6 MR COLTART: Of course, yes.

7 LADY JUSTICE HALLETT: Thank you, Mr Coltart. Mr Saunders?

8 MR SAUNDERS: Can I just point out that there is one  
9 difficulty of course, that, as yet, our team -- and  
10 I think others are the same -- haven't gone into the  
11 detail of the statements.

12 As you know from the last hearing, some of the  
13 families for years believed that their loved one died  
14 immediately. It was only through the scene reports  
15 prepared by the Metropolitan Police that they learnt for  
16 the very first time that may not be the case.

17 Whilst I hear what Mr O'Connor says, we're not in  
18 a position at the moment to have gone through all of the  
19 material, bearing in mind the number of families we  
20 represent, to satisfy ourselves that, in fact, that is  
21 accurate or not.

22 So that's the only concern I have.

23 I know already that there are two in particular who  
24 would be on that list.

25 LADY JUSTICE HALLETT: Of course, Mr Saunders. If, as you

1 read through more of the material that has not yet been  
2 disclosed, you find there are other people to whom this  
3 issue would apply, then of course it will be understood.  
4 But I think what Mr Hill is seeking, is some kind of  
5 indication at this stage that would assist the process.  
6 It won't necessarily be exhaustive, but anything you can  
7 do.

8 MR SAUNDERS: Of course.

9 LADY JUSTICE HALLETT: Subject to anything else, I would  
10 give a direction that that should happen, but  
11 understanding, of course, that you may come back and say  
12 "On further reflection and further consideration, we  
13 also have this issue in respect of this particular  
14 person".

15 MR SAUNDERS: Of course we're able to do that.

16 LADY JUSTICE HALLETT: Thank you very much. Ms Sheff?

17 MS SHEFF: In respect of our clients, I am aware that one is  
18 out of the country at the moment on a holiday and  
19 another one, as Mr Smith is aware, lives abroad and  
20 requires an interpreter in order to take instructions.  
21 That may take us a little bit longer with regard to  
22 those issues, but we will do our best within the  
23 timetable provided.

24 LADY JUSTICE HALLETT: Thank you very much.

25 Anybody else on that particular issue?

1 MR PATTERSON: No difficulty, madam.

2 LADY JUSTICE HALLETT: Thank you. Yes, Mr Keith?

3 MR KEITH: Madam, on that last point, thank you very much,  
4 we welcome the assistance of the families in that  
5 regard. I am bound to say that we respectfully adopt  
6 what you say in relation to difficulties that it may  
7 pose, because we are aware, we acknowledge, that the  
8 families, at this stage, have only had access to the  
9 primary witness statements and the primary exhibits and  
10 a final decision in relation to whether or not they  
11 would wish to raise an issue on survivability will, of  
12 course, depend on a more minute examination of the  
13 underlying medical position, much of which has not yet  
14 been made available to them, and is not likely, in fact,  
15 to be made available until we have had in all the  
16 disclosed material from the other interested parties,  
17 persons, in particular, of course, hospitals and the  
18 like.

19 LADY JUSTICE HALLETT: What I could say is where known --

20 MR KEITH: Please.

21 LADY JUSTICE HALLETT: -- at present on the present  
22 material.

23 MR KEITH: Madam, returning to the first question in these  
24 submissions, the points raised by Mr Hill, may  
25 I acknowledge, of course, that the Metropolitan Police,

1 as I've acknowledged before, are in a unique position  
2 and have offered a great deal of assistance by way of  
3 their coroner's officers and the preparation of the  
4 reports.

5 It's fair to say that they are in a unique position  
6 because of the vast amount of material on the HOLMES  
7 system, and, therefore, in my submission Mr Hill's  
8 observations have some force.

9 May I invite you perhaps to adopt a middle path,  
10 much beloved in the civil courts, of inviting the  
11 parties to use their best endeavours to complete the  
12 disclosure process, perhaps not by the end of July, but  
13 by 23 July, because in a moment or two I'm going to  
14 advance submissions in relation to whether or not you  
15 would consider perhaps taking out of your list the  
16 provisional dates currently booked for the week of  
17 13 July which might, on one view, be too soon, in light  
18 of all that has to be achieved, and to refix that  
19 hearing in the week commencing 19 July, perhaps at the  
20 end, namely, 23 July, and that might afford you a proper  
21 opportunity to enquire of the properly interested  
22 persons how far the disclosure process has proceeded and  
23 whether or not they have encountered substantial  
24 difficulties in meeting the best endeavours direction  
25 that we would invite you to impose today.

1 LADY JUSTICE HALLETT: Right.

2 MR KEITH: Turning back, finally, to the disclosure process,  
3 may I raise one discrete issue which concerns the  
4 photographs?

5 The Metropolitan Police Service, as well as the  
6 Fire Brigade, have in their possession deeply  
7 distressing photographs as well as detailed descriptions  
8 and schedules of body parts.

9 We've considered the issue of photographs very  
10 carefully and we've invited the Metropolitan Police  
11 Service, with your approval, to catalogue the  
12 photographs that they possess in a particular way  
13 determined by relevancy in order to facilitate the  
14 review of those photographs by your legal team with  
15 a view subsequently to determining what ought to be  
16 disclosed in due course to the properly interested  
17 persons.

18 It's unlikely that all or indeed a substantial  
19 number of the photographs will be relevant. Some  
20 photographs will of course be relevant to setting the  
21 overall scenes in all their horror and some photographs  
22 may be relevant to individual cases where, it may be  
23 suggested, there was a lack of timely medical  
24 intervention. It's difficult at this stage to say with  
25 any degree of certainty.

1 But we've taken the view for your consideration that  
2 multiple photographs of the dead and the dying will  
3 serve no useful purpose and are likely only to cause  
4 distress and anguish. But I wanted to assure the  
5 parties, through you, that it is a matter to which we  
6 give anxious consideration and we'll continue to do so.  
7 Secondly, may we also, through you, assure the  
8 families that there will be no question of any  
9 distressing photographs being made available to the  
10 public by way of the Lextranet website, where, of  
11 course, these proceedings, including the relevant  
12 evidence, will in due course be recorded.

13 Madam, if you are minded to make a best endeavours  
14 direction in relation to the disclosure process and its  
15 substantial conclusion by the end of July, by 23 July,  
16 may we invite you to invite the parties to address two  
17 other matters?

18 It would be of huge assistance to the team if, when  
19 relevant parties are making their disclosure of  
20 documents, having reviewed by way of their origin or  
21 subject matter whether or not they are to be relevant,  
22 whether they're regarded to be relevant, they could  
23 expressly identify when communicating with Mr Smith  
24 witnesses, the names of the witnesses and their location  
25 that they deem are potentially relevant.

1 In addition, we would be very grateful if they could  
2 identify a short precis of the areas that they envisage  
3 by reference to the provisional factual issues, that the  
4 witness might be able to address.

5 Although we will, of course, ourselves, be examining  
6 all the disclosed material, a route map provided by the  
7 properly interested persons who in the first instance  
8 will be in the best position to assess the relevancy of  
9 that material, because of course they will of necessity  
10 have had to undertake the obligation imposed on them by  
11 you, will be of great assistance.

12 Secondly, we would be very obliged if the relevant  
13 parties could provide, when they provide the documents,  
14 a full index of those documents and provide the  
15 documents that they intend to disclose electronically.  
16 That was the point raised by Mr Smith in his letter of  
17 27 May.

18 If you are minded to agree with that submission and  
19 with those requests, then Mr Smith will be in a position  
20 to repeat your order in a letter to the relevant  
21 entities after this hearing so that there is no doubt  
22 about what needs to be done.

23 LADY JUSTICE HALLETT: I think we'll again deal with these  
24 matters as they arise.

25 Does anybody have any comments about my having the

1 next directions hearing on 23 July? Right, in which  
2 case that will be the date of the next directions  
3 hearing.

4 Does anybody wish to add to their comments about my  
5 directing that all parties should use their best  
6 endeavours to complete the disclosure process by  
7 23 July? I have, of course, taken very much into  
8 account the submissions of Mr Hill, and Mr Hay's.

9 I suspect Mr Hill would have submissions, but I don't  
10 need to hear them, because I understand the  
11 complications. It is a best endeavours order.

12 Does anybody wish to comment also as to the added  
13 nuances that Mr Keith has mentioned as to disclosure;  
14 for example, the question of the index and the short  
15 precis?

16 MR HILL: I was going to raise photographs. I don't know  
17 whether you're coming to that?

18 LADY JUSTICE HALLETT: Yes, we can go back to that, Mr Hill,  
19 certainly.

20 MR HILL: Can I just say that we would like to take the  
21 opportunity to suggest that there is a question of  
22 principle and there's a question of practicability with  
23 regard to scene photographs.

24 As Mr Keith has already inferred, this is just about  
25 the most difficult topic on which to remain

1 dispassionate, because the photographs are of the utmost  
2 gravity and horror.

3 I have discussed with Ms Boyd, who's here for the  
4 LFB today, what stance we think possibly, on principle,  
5 might attract you, because, for the avoidance of doubt,  
6 we would submit that it would not be right in all the  
7 circumstances for photographs of the scenes, in  
8 particular those where bodies are still in situ, to be  
9 made available, either on the website as to which  
10 obviously not, or through Lextranet, and we would submit  
11 that Lextranet, albeit in a sense a closed facility to  
12 those engaged in this process, would still be a step too  
13 far in respect of graphic scene photographs.

14 We wonder whether, in the same way that there is to  
15 be an iterative process as to witnesses, as to  
16 survivability, as to issues, which you're clearly  
17 engaging in, there should also be a consideration by all  
18 interested persons as to which of them think, as  
19 a matter of principle, it will be necessary for them to  
20 inspect original photographs.

21 If it's not necessary, then really, let's identify  
22 that now, because it's only upon principle where those  
23 interested persons identify that they really need to see  
24 the images, that we then need to go on to practicability  
25 as to which our opening stance would be that, where

1 albums of photographs are held by the  
2 Metropolitan Police, we will of course facilitate  
3 inspection, visiting and inspection, upon request, and  
4 to your order.

5 We are anxious about a prospect of copying images of  
6 such horror, albeit, if we were ordered, we would submit  
7 to, for example, sealed copies being made available to  
8 those legal teams who had identified on principle a need  
9 to view.

10 I'm saying all of that of course against the  
11 background of a later matter on the agenda for today  
12 entitled "Body mapping of injuries to the deceased".

13 Mr Smith, having drafted that, knows, as I'm sure you do  
14 as well, that considerable thought is being given, work  
15 is being done at the moment, to computer-generated  
16 images, simulations, which can and no doubt will include  
17 graphic representations of bodies, which would avoid the  
18 need on that basis alone for individuals to view  
19 original photographic albums.

20 I'm not saying any of this with a mind to  
21 restricting anybody who really identifies the need, and  
22 the Metropolitan Police, let me say it, would of course  
23 not stand in the way of making available to any  
24 interested person, for example, images taken at the  
25 scenes post-detonation by Metropolitan Police Service

1 personnel. That's not the point of the submission.  
2 Equally, in the fullness of time, albeit that  
3 original images we would submit would never need to be  
4 aired in open court, there may be individuals engaged in  
5 this process -- and you, madam, would be the principal  
6 person we'd have in mind -- who will sadly need to view  
7 the original images, but we think that that should be  
8 restricted as much as it possibly can be, and I am  
9 afraid I'm speaking as someone who has viewed, for  
10 example, the first images taken by the London Fire  
11 Brigade.

12 So we say there mustn't be a confusion as between  
13 website and Lextranet. Even having got the distinction  
14 clearly in mind, we'd say Lextranet, to put it shortly,  
15 is a step too far for images of this gravity.

16 So we encourage a discussion and a principled  
17 approach to the need to view.

18 LADY JUSTICE HALLETT: The parties you're talking about who  
19 may or may not require production of these dreadful  
20 photographs of the scene are -- it's not just, of  
21 course, the families. We are talking about a number of  
22 the responders who may have an interest in explaining  
23 the scene as they encountered it.

24 MR HILL: Can I say, given the opportunity, that I'm  
25 mindful, representing Metropolitan Police, that there

1 are, for want of a better phrase, first responders,  
2 namely, police officers, who attended the scene, and  
3 albeit that the impact on them, one might readily  
4 imagine, is less than the impact upon a bereaved family  
5 of seeing images, nonetheless there is an impact, and we  
6 act under a duty of welfare towards any  
7 Metropolitan Police officer.

8 For that reason, in addition to what I've said thus  
9 far, the prospect of requiring police officers,  
10 traumatised by their own efforts at the scene, to have  
11 to relive and go through the images again is one that we  
12 would want to be approached with extreme care and  
13 caution, and so it may well be that Metropolitan Police  
14 officers, whilst they give evidence, and have statements  
15 as to what they did, can describe it, those who have  
16 a job of making decisions at the culmination of this  
17 process and possibly legal submissions see the original  
18 images, but it's not necessary for witnesses to relive  
19 in that sense.

20 LADY JUSTICE HALLETT: Ms Boyd, was there anything you wish  
21 to add?

22 MS BOYD: I don't think I can usefully add anything to that.  
23 The London Fire Brigade remain very concerned, madam,  
24 given the severity of the images.

25 LADY JUSTICE HALLETT: Mr Keith, any proposals? Two

1 matters, really: one, the Lextranet point, and the  
2 other, the parties identifying where original  
3 photographs or video recordings are likely to be  
4 required.

5 MR KEITH: Madam, yes, really in relation to the two points  
6 identified, the first one, the point of principle.  
7 We would be concerned at any step that directly or  
8 indirectly limited access, even potentially, to  
9 documentary evidence that might be in due course  
10 admitted at the inquests.

11 The statutory provisions that govern inquests, in  
12 particular rule 37(1), provides properly interested  
13 persons with a right to object to documentary evidence  
14 being admitted and, of necessity, there is, therefore,  
15 an implied right to access to material that may be  
16 adduced in due course in evidence.

17 In any event, it is, I think, probably too soon to  
18 determine what will be relevant and what will not be  
19 relevant by way of photographic evidence. Much again  
20 will depend on whether or not we receive notification of  
21 persons who wish to argue that a particular bereaved  
22 might have survived, which will engage the need to  
23 adduce photographic evidence.

24 In relation to the practicalities, the fault may  
25 perhaps be mine, I think I made reference to Lextranet,

1    whereas I should have made reference to the public site  
2    of the website.

3    LADY JUSTICE HALLETT: I think Mr Hill knew that  
4    distinction.

5    MR KEITH: I think I should make it doubly clear, because  
6    there is a great difference between Lextranet and the  
7    public website. The Lextranet system is secure. It has  
8    a disabling function on it that prevents it from  
9    allowing material to be printed. But more particularly,  
10   it enables unrepresented families, particularly those  
11   living abroad, to have access, as they are entitled, to  
12   material which is disclosed to the properly interested  
13   persons and, therefore, it provides a very valuable tool  
14   to ensuring that the inquest which you are conducting is  
15   conducted properly with due regard to the rights of all  
16   the families.

17   We readily understand that there is a need to  
18   restrict use of the photographs and it is to that end  
19   that I have advanced my original submissions in relation  
20   to whether or not all the photographs would be relevant  
21   and why we wish to assure the families that there will  
22   be no question of any distressing photographs being  
23   displayed on the public website, but it is, as I've  
24   said, too soon to rule out the use of such photographs.  
25   In relation to Mr Hill's offer by alternative that

1 the photographs should be examined at Scotland Yard, we  
2 note what he has to say, but it would mean I think very  
3 considerable administrative difficulties because it  
4 would require the Metropolitan Police to make  
5 arrangements for all the properly interested persons to  
6 make individual arrangements for viewing of those  
7 photographs, and there are a lot of photographs.

8 One of the benefits of the Lextranet process is, of  
9 course, it allows you to have your team place on the  
10 Lextranet system material which has already been  
11 determined is going to be relevant to the issues that  
12 will arise in the course of the inquests.

13 If, by contrast, you were to invite the Metropolitan  
14 Police Service to make the photographs physically  
15 available instead, it would require your team to divide  
16 out, for the purposes of that process, all the  
17 photographs that might be potentially relevant and those  
18 that might not be, and then to adhere to that process  
19 for the purposes of each individual examination by the  
20 properly interested persons.

21 I fear that it will simply lead to a greater use of  
22 time and resources, both of which may become in short  
23 supply in the summer.

24 LADY JUSTICE HALLETT: Do I detect that you don't want me to  
25 deal with Mr Hill's point as to about whether these

1 photographs go on Lextranet at the moment, because we  
2 have no idea, really, what photographs we're talking  
3 about?

4 MR KEITH: We don't. I think I would be grateful for your  
5 indication that this is a matter that we can discuss  
6 further between ourselves administratively and, if we  
7 can't reach a proper solution, or if a solution exists  
8 but it is one that should be properly notified to all  
9 the other parties, then may we bring it back before you  
10 in due course?

11 LADY JUSTICE HALLETT: Certainly.

12 As far as the second point Mr Hill was making, again  
13 appreciating that, following Mr Saunders' point, it may  
14 not be possible at this stage to identify those scenes  
15 where it is known that original photographs will be  
16 necessary, is there any point in making a similar best  
17 endeavours order to say that, by the time of the next  
18 hearing, the parties should have used their best  
19 endeavours to identify those scenes where they know now  
20 original photographs may be necessary?

21 MR KEITH: Madam, I think that if the parties, as I am sure  
22 they will, respond to your direction that they do notify  
23 us of those bereaved in relation to where there is an  
24 issue of survivability, then of course we will of  
25 necessity be required to look at the photographs

1 relevant to those persons and to form a judgment as to  
2 whether or not they will be relevant.

3 LADY JUSTICE HALLETT: Very well.

4 MR KEITH: I think the second part will follow necessarily  
5 from the first, and, therefore, doesn't require  
6 a specific direction.

7 Looking more widely, because over the next three or  
8 four weeks we will start and, I hope, complete, in  
9 relation to the primary witnesses, the identification of  
10 the provisional batting list of witnesses that are  
11 likely to be called, we will of course also become  
12 engaged in a process of starting to examine what  
13 exhibits might also be necessary for the purposes of  
14 calling those witnesses, and, therefore, I think that  
15 there is an inevitability about examining what  
16 photographs will be relevant and what photographs will  
17 not.

18 LADY JUSTICE HALLETT: So you seek no direction from me?

19 MR KEITH: No direction, please.

20 LADY JUSTICE HALLETT: Does anybody have any other comments  
21 on those particular issues? Thank you very much.

22 Right, the next point is reports, Mr Keith, I think.

23 Submissions re scene reports

24 MR KEITH: Madam, yes. The scene reports and the further  
25 reports.

1 The four scene reports, as you know, were served  
2 before the last hearing. On Monday this week, as I've  
3 mentioned, five more reports were uplifted into the  
4 Lextranet system, four into the backgrounds of the four  
5 men and one concerning the travel to London, and may  
6 I record once again our gratitude to your coroner's  
7 officers for preparing those reports.  
8 We anticipate that one more report will follow  
9 addressing the forensic aspects of the bombs.  
10 At this stage, may I say that it's unlikely that  
11 there will be more reports, essentially because neither  
12 the evidence relating to the emergency response, nor  
13 that relating to preventability easily admits itself to  
14 being summarised in the way in which the matters which  
15 have already been summarised have been.  
16 One or two of the survivors have written in to the  
17 inquest team kindly pointing out what they view as  
18 inaccuracies in the reports, so may I emphasise once  
19 again that those reports are only the starting point by  
20 way of a route map to the evidence that may in due  
21 course be called, and it is, as you have emphasised in  
22 your ruling, the evidence that will matter, not the  
23 reports.  
24 The witness statements which underpin the four scene  
25 reports have been made available on Lextranet, as have

1 most of the exhibits to which reference is made, and  
2 Mr Smith and his colleagues are in the process of  
3 reading and cataloguing the further witness statements  
4 that relate to the reports which have most recently been  
5 served, and they hope to complete that task in the next  
6 two or three weeks or so, at which point they will be  
7 added to Lextranet.

8 There is a specific point, however, which arises in  
9 relation to the most recent reports, and it's this: five  
10 witnesses whose evidence is summarised in the reports  
11 have had their names provisionally anonymised. They are  
12 witnesses A, B, C, D and E. I don't think I need detail  
13 where they appear in the reports because all the parties  
14 will have read the reports and seen those references.

15 I say "provisional anonymisation" because those five  
16 witnesses either have expressed subjective concerns as  
17 to their own safety were their identities to be  
18 revealed, or the nature of their position is such that  
19 the Metropolitan Police Service feel that they owe  
20 a duty of care to those witnesses which requires them to  
21 undertake a process of investigation as to whether or  
22 not a claim for anonymity or screens, generally public  
23 interest immunity, may have to be made in their cases.  
24 Risk assessments have started but they're not yet  
25 complete. Rather than hold up the service of reports,

1 we took the view, subject to your approval, that it  
2 would be better for them to be provisionally served in  
3 this way with the names anonymised, rather than waiting  
4 for the process of risk assessment and any consequential  
5 application to you to be concluded. It plainly is not  
6 appropriate to reveal their names now, because that  
7 would defeat the object of any future application that  
8 is made, but we have sought and received the agreement  
9 of the Metropolitan Police Service, quite properly, that  
10 this provisional position is conditional on their  
11 completing that process of risk assessment and either  
12 withdrawing, in due course, the objections to disclosure  
13 or to make any necessary application for anonymity or  
14 screens.

15 That process, as Mr Smith's letter has made clear,  
16 will permit the interested parties to forward general  
17 submissions in relation to public interest immunity and  
18 in particular whether or not applications for anonymity  
19 screens are justified, without, of course, knowing the  
20 detail, necessarily, of the grounds for any such  
21 application.

22 LADY JUSTICE HALLETT: Unless anybody has any comments, it  
23 seems to me that that is a perfectly sensible approach.

24 Mr Hill, I don't suppose you have anything much to add,  
25 have you?

1 MR HILL: Only so that all hear it, the risk assessments are  
2 necessary and we have taken the stance that, where  
3 a duty of care is owed, it's owed in respect of the  
4 current proceedings, given the likely public focus on  
5 these proceedings when they reconvene in terms of the  
6 giving of evidence.

7 But the risk assessments are being completed now,  
8 without -- unless you wish to make an order,  
9 can I indicate that we do think that by next week, the  
10 end of next week, the risk assessments will be complete.  
11 Of course, it goes without saying that your team has not  
12 had restricted access to the identities of the  
13 anonymised witnesses, they know who they are, we'll  
14 complete the risk assessments and then the matter will  
15 be in your team's hands.

16 LADY JUSTICE HALLETT: I think that's a perfectly proper  
17 approach, Mr Hill, and I will make the order in respect  
18 of it, thank you.

19 MR HILL: Can I just go on? I was going to touch on the  
20 next report, the forensic issues report.

21 LADY JUSTICE HALLETT: Mr Coltart?

22 MR COLTART: Madam, may I make a brief observation before we  
23 move on? Whilst I can see that the course undertaken to  
24 date in relation to anonymity is a perfectly proper one,  
25 I have no objection to it at all, can I ask that insofar

1 as the risk assessments are produced and any evidence is  
2 garnered from the anonymous witnesses, insofar as that  
3 can be served on an inter partes basis, even if there  
4 has to be some redaction or whatever it might be, it  
5 will enable us to take an informed view as to what our  
6 stance should be on any application for PII which  
7 follows.

8 LADY JUSTICE HALLETT: I think you'll find that is the plan.

9 MR COLTART: I'm grateful.

10 LADY JUSTICE HALLETT: Thank you.

11 MR HILL: Yes, forgive me, I was just going to say as to the  
12 next envisaged report on forensics, given that the next  
13 hearing is proposed on 23 July, without being categoric  
14 about it, my instructions are that that report is likely  
15 to be complete before that hearing and so we will be in  
16 a position to provide it to your team at some stage  
17 between now and 23 July.

18 LADY JUSTICE HALLETT: Thank you very much.

19 Yes, Mr Keith?

20 MR KEITH: Madam, may I respond very briefly to Mr Coltart's  
21 point?

22 Mr Smith in his letter of 23 May made plain at  
23 paragraph 16 that:

24 "Where any organisation that seeks to rely upon  
25 public interest immunity shall provide a summary of the

1 reasons for the claim in a manner that may be disclosed  
2 to interested persons and published."

3 So the concern that is expressed has already been  
4 met by the procedure that you authorised through  
5 Mr Smith's letter.

6 LADY JUSTICE HALLETT: Well, our aim, as everybody I hope  
7 knows by now, is to be as open as we can without  
8 endangering the lives of anyone concerned.

9 MR KEITH: Indeed.

10 Madam, may I then turn to the subject of contacting  
11 witnesses which is on your agenda?

12 Submissions re contacting witnesses

13 There are, of course, not an inconsiderable number  
14 of witnesses. The total number -- I emphasise "total"  
15 because this figure includes witnesses who we are  
16 already certain we would not be calling -- of witnesses  
17 in connection with the four scenes alone amounts to some  
18 thousand witnesses.

19 By contrast, for those in the court who have been  
20 following the proceedings in the Baha Mousa Inquiry,  
21 there were some 247 witnesses called and 101 witnesses  
22 read, over 95 hearing days.

23 Before heads droop in despair, may I say that Mr Hay  
24 has already reviewed for relevancy a great deal many  
25 more witness statements, in essence all the witness

1 statements which have some bearing on the scenes, but to  
2 which no direct reference was in fact made in the scene  
3 reports prepared by your coroner's officers.

4 That total amounted to some 4,000 to 5,000 witness  
5 statements. But the majority of those statements  
6 address issues with which we anticipate you would not  
7 wish to be concerned, such as cordons, continuity, as  
8 well as the accounts of passengers who were not  
9 immediately connected to the scenes.

10 However, even on the most narrow approach, there is  
11 likely to be over 500 witnesses, although, of course,  
12 the nature of that witness evidence is likely to be that  
13 the witnesses can give evidence fairly shortly because  
14 many, of course, will have only a fragmentary or a short  
15 recollection of the events of which they will be asked  
16 to give evidence and, of course, a great deal many  
17 statements will be read.

18 Nonetheless, contacting and scheduling poses very  
19 real, but we hope, not insurmountable difficulties.

20 We recognise that many of the witnesses will have  
21 very real mental or physical difficulties associated  
22 with their attendance before you.

23 I should add at this point that Mrs Anckorn,  
24 Secretary to the Inquest, has procured and arranged for  
25 the installation of a wheelchair lift to the courtroom

1 to allow access to the witness-box, and arrangements are  
2 also being made for witnesses to give evidence via  
3 videolink, if you deem it appropriate. But many of the  
4 witnesses will be difficult to locate, and we are aware  
5 that we must start, as soon as we can, the process of  
6 contacting them, and, as Mr Hill has observed, quite  
7 rightly, that requires us to identify as soon as we can  
8 the list of witnesses who we deem suitable to be called,  
9 subject to your approval.

10 The Metropolitan Police Service have already sent  
11 out letters to all the witnesses who are mentioned in  
12 the scene reports explaining that reference has been  
13 made to their evidence, that their witness statements  
14 have been handed to your team, and that in due course  
15 those statements may be disclosed in the proceedings.  
16 It's something that they felt they had to do, as, of  
17 course, they took the original statements, but at our  
18 suggestion, they asked those witnesses to complete and  
19 return a form confirming their current contact details.  
20 Without going into the figures in detail, the  
21 response rate has been, so far, fairly low. There is no  
22 real difficulty in relation to those witnesses who work  
23 for organisations and entities who have payroll or  
24 tracking information which allow those witnesses to be  
25 located, but in relation to private, civilian witnesses,

1 it's clear that a great deal will have to be done in  
2 order to locate them and, once located, to persuade  
3 them, or invite them, to attend to give evidence.  
4 The task, as I've said, will, however, be eased if  
5 we are able to refine as soon as possible the list of  
6 witnesses who realistically will need to be called, and  
7 so we propose to serve, early next month, a preliminary  
8 list of witnesses selected from those identified in the  
9 scene reports whom we should propose should be called to  
10 give evidence, subject to, of course, availability and  
11 medical considerations.  
12 Once that list has been served, subject to your  
13 approval, we'll then invite all the properly interested  
14 persons who indicate their views on that list and, in  
15 particular, whether there are other scene witnesses who  
16 they would wish us to call or whether certain witnesses  
17 are unnecessary.  
18 We don't invite you to make any order but we would  
19 ask you instead to permit us to set that date  
20 administratively in the letter that Mr Smith proposes  
21 sending out, subject to your approval, to which I've  
22 already made reference.  
23 Then there will, of course, need to be a similar  
24 rolling process in relation to those witnesses who are  
25 relevant to the further reports served this week, and

1 then, of course, those additional witnesses identified  
2 by the properly interested persons in the course of  
3 meeting your direction that they indicate possibly  
4 relevant witnesses together with the precis of the  
5 evidence that they might be able to give.

6 Those two latter stages are, I'm afraid, unlikely to  
7 be completed before August, simply because of the amount  
8 of material which can be expected to flow in  
9 during July.

10 There is one particular issue in relation to  
11 witnesses that I should draw to your attention. It  
12 concerns background evidence.

13 The Metropolitan Police took a great deal of  
14 evidence from friends and families and work colleagues  
15 of the deceased, which set out, but only for the limited  
16 purposes of the possible criminal trial then envisaged,  
17 some evidence relating to the last movements of the  
18 deceased, their personal background and their travel  
19 arrangements, and in some cases they also took victim  
20 impact statements from the families.

21 You are, of course, enquiring into 52 separate  
22 inquests, and in your ruling you identified that it was  
23 an important facet of the inquest process that each of  
24 the families were involved as much as possible and, if  
25 you were to allow evidence to be adduced in relation to

1 each of the deceased, this general aim would be  
2 supported.  
3 It's also right to say that the purposes and  
4 functions, of course, of your inquest differ greatly  
5 from the limited purpose and functions which were in the  
6 minds of the Metropolitan Police officers who took the  
7 statements originally, and, therefore, as you know, you  
8 indicated through Mr Smith that you were minded to  
9 adduce evidence dealing with the personal background of  
10 each of the 52 deceased, which, although distressing,  
11 will help to set the context to ensure the proceedings  
12 give an appropriate focus to each of the deceased as  
13 individuals.  
14 We propose, subject to your approval, that the  
15 inquest team take the views, however, of individual  
16 witnesses as to whether or not they would wish to give  
17 evidence orally and whether they would prefer their  
18 statements to be read, and plainly we will we will have  
19 to invite you in due course to give some direction both  
20 as to the time when that evidence is to be called and as  
21 to any limit in relation to the giving of individual  
22 evidence in each case. But plainly, with such a large  
23 number of deceased, a fair amount of time will have to  
24 be set aside for that background evidence to be called.  
25 But Mr Smith has asked the bereaved families to

1 provide additional witness statements dealing with  
2 personal matters such as the backgrounds to the  
3 deceased, their personal qualifications, their qualities  
4 and the future plans that they had and he's asked them  
5 to respond by the end of July.

6 Those who are represented will of course be assisted  
7 by their lawyers in acceding to Mr Smith's request.

8 Those who are not will, as ever, be assisted by the  
9 Inquest team, and Mr Smith and his colleagues are  
10 available to assist them in that process. That will  
11 then give enough time, we hope, for those witnesses to  
12 be contacted and arrangements to be made for their  
13 attendance in the autumn.

14 LADY JUSTICE HALLETT: Does anybody have any comment?

15 I should say that I will of course ensure that those who  
16 are unrepresented -- indeed, if there are any survivors  
17 here who wish to make any comments, at a later stage  
18 I will be asking if you have any comments. At the  
19 moment, I am just checking whether any of the lawyers  
20 have any comments on those particular issues?

21 Thank you.

22 Submissions re discrete issues

23 MR KEITH: Madam, turning back to the list of matters, there  
24 are a number of discrete issues, the first of which is  
25 body mapping.

1 Madam, as you've heard, in relation to a number of  
2 deceased, perhaps 17 or so whose names were set out in  
3 our main written submissions for the purposes of the  
4 last hearing, there will be an issue as to whether or  
5 not they might have survived if they had received more  
6 prompt or different medical attention.  
7 It will, therefore, become necessary for the extent  
8 of the injuries suffered by those persons to be explored  
9 in some detail.  
10 Theoretically, it is of course open to you to  
11 receive evidence, photographic evidence, exhibiting the  
12 nature and extent of the injuries that they suffered.  
13 It might also have been necessary for you to receive  
14 photographs of the body parts as well as post-mortem  
15 photographs, but that process would, of course, be  
16 deeply and needlessly distressing, and, therefore, you  
17 will recall that you commissioned Mr Smith to approach  
18 the Metropolitan Police Service to see whether or not  
19 computer-generated images of the bodies could be  
20 constructed in such a way that the actual injuries that  
21 they suffered prior to death could be identified from  
22 those computer-generated images rather than through  
23 examination of the actuality of the photographs.  
24 That process is continuing and we await  
25 a provisional preliminary report from the department

1 that is dealing with that, but I wanted to raise it at  
2 this stage, lest, as a result of the issues that have  
3 been addressed today, there is a concern on the part of  
4 the families that the exploration of that factual issue  
5 will require any kind of examination of the injuries of  
6 their loved ones.

7 The fact is that we will do what we can to avoid any  
8 such exploration and using body mapping is one such  
9 route.

10 A similar process underpins steps taken by Mr Smith  
11 to identify and put before you for your consideration  
12 evidence showing the entrances to the stations. Also  
13 where, following the explosions, bodies lay. It will of  
14 course be necessary, in due course, to explore the  
15 aftermath of the explosions, but again, if that can be  
16 done in a way which avoids needless distress, then it  
17 will be done so, and that process will, we anticipate,  
18 involve computer-generated images in the way that I've  
19 described.

20 The agenda also makes reference to an expert witness  
21 on the effects of the blast. It seems to us that an  
22 important issue in relation to the explosions will be  
23 how it was that certain people died, whereas others, who  
24 might be thought to have been closer and to have had  
25 less chance of surviving the blast, in fact lived.

1 We would invite you to ask Mr Smith to identify and  
2 instruct an expert to produce a report and to give oral  
3 evidence on the effects of explosive forces in confined  
4 spaces to help explain what's meant in the post-mortem  
5 reports and the interim death certificates by the cause  
6 of death being described as injuries caused by  
7 explosion, and that impacts upon the issue that  
8 Mr Patterson has raised through his written submissions  
9 in relation to the effects of the blast and what steps  
10 can be taken by way of medical treatment to ameliorate  
11 the effects. We will await the outcome of that  
12 exploration, if you deem it appropriate.

13 The next issue concerns further applications for  
14 properly interested person status. An application for  
15 such status has been made on behalf of the  
16 Barts & London NHS Trust, which operates the helicopter  
17 emergency service, and which was, in fact, the first  
18 receiving hospital.

19 I believe, although I've not had a chance of  
20 speaking to them today, that they are represented by  
21 counsel.

22 MR FURNISS: Yes, I'm here, Richard Furniss.

23 LADY JUSTICE HALLETT: Thank you.

24 MR KEITH: Madam, I have no wish to add to my submissions by  
25 replicating anything that might be said on their behalf,

1 but if I might jump the gun for one moment, it seems to  
2 us that their application is well-founded.  
3 We understand that they deployed some 16 doctors in  
4 over 20 relays, and it's very likely that we will be  
5 inviting you to call some of them as witnesses, as they,  
6 of course, form part of the integrated emergency  
7 response.

8 To the extent that they have a separate corporate  
9 identity to the London Ambulance Service or the London  
10 Fire Brigade, it seems to us, with respect, that they  
11 fall within the same category of emergency response and  
12 are, therefore, entitled to status, if you deem it  
13 appropriate.

14 LADY JUSTICE HALLETT: Mr Furniss, I've had an opportunity  
15 of reading the application and I am presently of the  
16 same mind as my Inquest team, so unless there's anything  
17 you wish specifically to add?

18 MR FURNISS: Thank you.

19 LADY JUSTICE HALLETT: Very well, thank you.

20 MR KEITH: Madam, I've said two applications, because  
21 I think you received this morning or late last night  
22 a further application from Great Ormond Street  
23 Hospital --

24 LADY JUSTICE HALLETT: I did.

25 MR KEITH: -- for PIP status under Rule 20(2)(h). The

1 letter on their behalf makes plain that their staff  
2 provided medical treatment both at the scene and, of  
3 course, at the hospital itself. They provided a great  
4 deal of care and some of their staff went back to the  
5 hospital in order to get medical supplies to take back  
6 to the scene.

7 They also took on patients afterwards, even though  
8 that was contrary to the standard operating procedures,  
9 which didn't identify Great Ormond Street as a first  
10 responder.

11 Madam, as far as we're aware, none of the patients  
12 that they received died in that hospital and their  
13 response was by way of an informal first responding  
14 response, and it seems to us unlikely that Great Ormond  
15 Street would be the subject of any criticism in relation  
16 to the steps that they took that day.

17 They do, however, identify a number of witnesses and  
18 it's likely that we will be calling a number of them.

19 May I invite you, rather than determining that  
20 application today, to permit Mr Smith to respond to  
21 their application inviting a little more detail as to  
22 why they suggest that they're entitled to PIP status  
23 under Rule 20(2)(h).

24 Because they had no formal role, and because there  
25 is no question that they could have done more than they

1 did, it seems to us that further material might be  
2 required in order to justify such an application and, if  
3 they respond with further detail, perhaps Mr Smith could  
4 be permitted to put that application before you for your  
5 response administratively.

6 LADY JUSTICE HALLETT: I've read the letter, Mr Keith. It  
7 was, I felt, a very thoughtful and considered letter,  
8 but I think you're right, I think that I need to know  
9 more. Conscious as I am of having restricted other  
10 parties, I think I need to check that I am really  
11 satisfied that they fall into the appropriate category.

12 MR KEITH: Thank you very much.

13 Submissions re legal aid

14 There remain two final issues: legal aid and order  
15 of play.

16 In relation to legal aid, we understand that no  
17 agreement has yet been reached between the lawyers  
18 representing the families and the Legal Services  
19 Commission as to funding for phase 2, that is to say the  
20 phase of the inquests that followed on from your ruling.  
21 Mrs Anckorn was in touch with the Legal Services  
22 Commission on 17 June and, so that everybody is aware,  
23 she communicated to the Commission your concern that the  
24 lack of agreement as to funding may start to impact upon  
25 the timetable that you have set.

1 So may I today simply flag up this issue for you to  
2 make enquiries of the lawyers for the families where we  
3 are with legal aid?

4 It doesn't seem to us with respect that there should  
5 be any insuperable bars to an agreement being reached,  
6 but we acknowledge that there are obviously difficult  
7 issues concerning funding to be circumnavigated.

8 The way in which the reports have been served,  
9 however, is such that the lawyers, as well as the Legal  
10 Services Commission, now have available not only the  
11 list of provisional factual issues, but also the vast  
12 majority of the witness statements relating to the  
13 scenes. That, of course, is the matter which most  
14 engages the Legal Services Commission, because it forms  
15 such a huge part of the funding requirements going on.  
16 Therefore, it does seem to us that there's no reason  
17 why agreement cannot be reached and we would invite you  
18 to make enquiries as to how long it's anticipated such  
19 agreement -- or how much time would be needed before  
20 such an agreement may be reached.

21 LADY JUSTICE HALLETT: Who's going first? Mr Coltart, are  
22 you going first?

23 MR COLTART: I'm very happy to go first, madam.

24 We don't know how long it's going to take,  
25 unfortunately. That's a question, really, which perhaps

1 only Mr Baker could answer at the Legal Services  
2 Commission.

3 LADY JUSTICE HALLETT: It's not just Mr Baker, to be fair.  
4 Mr Baker, of course, has certain responsibilities, but  
5 everybody has to get together, don't they?

6 MR COLTART: Yes, they do. I respectfully agree. I don't  
7 seek to attribute any criticism at all to Mr Baker,  
8 who's been highly cooperative in his dealings with us to  
9 date. A detailed proposal was put to him by way of  
10 letter on 11 June, which --

11 LADY JUSTICE HALLETT: Dividing labour, as it were?

12 MR COLTART: Yes, suggesting a division of labour, at least  
13 in principle, as to different topics which could be  
14 dealt with by different firms and different  
15 representatives, although the attribution of firm to  
16 a particular task hasn't yet been decided upon, the  
17 principle of the matter has been put to the Legal  
18 Services Commission.

19 We've been told that that proposal is being  
20 considered sympathetically by the Legal Services  
21 Commission in correspondence which has since been  
22 received from them.

23 LADY JUSTICE HALLETT: Was that a letter from  
24 Kingsley Napley or was that an agreed letter on behalf  
25 of all solicitors?

1 MR COLTART: It was a letter that was sent by  
2 Kingsley Napley, certainly agreed by Hogan, Lovells,  
3 Russell Jones Walker and Sonn Macmillan Walker, and in  
4 fairness to Oury Clark, which was the fifth firm  
5 involved, Mr Tibber who is the principal partner from  
6 that firm, as you know, madam, he was away from the  
7 office at the time that that letter was sent, but  
8 I don't know whether he may be in a position, through  
9 counsel today, to indicate his agreement to the approach  
10 which has been suggested. I'm not aware of any  
11 difficulty with it.

12 It's that letter to which a substantive response is  
13 now awaited.

14 LADY JUSTICE HALLETT: Is it permissible for me to see the  
15 letter?

16 MR COLTART: Yes, of course.

17 MR O'CONNOR: We have agreed it, madam, since.

18 LADY JUSTICE HALLETT: You have? Thank you, Mr O'Connor.  
19 (Handed).

20 Well, skim-read, Mr Coltart, but it appears to be  
21 a sensible approach, if I may say so.

22 MR COLTART: I'm grateful, and Mr Baker, in fairness to him,  
23 has been in touch since this letter was sent to clarify  
24 one or two points of detail by email which have been  
25 clarified for him, and we hope now to receive

1 a substantive response from the LSC shortly.

2 LADY JUSTICE HALLETT: But you then have another major  
3 problem. Just supposing -- as I say, I haven't really  
4 had an opportunity to assess the way you've categorised  
5 the issue, so it may be the LSC would have comments  
6 about it, I know not, and I'm not giving my stamp of  
7 approval because, as I say, it's only skim-read. But  
8 just supposing the LSC accepted the categories you set  
9 out, you then have the big problem, do you not, as to  
10 which firm leads on which issue?

11 MR COLTART: Yes. That's a matter to be discussed, of  
12 course, between the firms as well as in correspondence  
13 with the LSC.

14 LADY JUSTICE HALLETT: When is that going to happen?

15 MR COLTART: Madam, would you forgive me for one moment  
16 because there has been some discussion on this topic  
17 this week, I just want to make sure I have the most  
18 up-to-date position?

19 LADY JUSTICE HALLETT: Please.

20 MR COLTART: Madam, there was some talk of a meeting taking  
21 place this week to discuss that topic. The decision  
22 which was taken for the time being, at least, was that  
23 it may be premature to be discussing and dividing up  
24 between the firms the relevant topics before we know  
25 whether the LSC will agree, even in principle, to the

1 approach which has been suggested.

2 LADY JUSTICE HALLETT: Mr Coltart, I've made my views plain  
3 to Mr Hall about anything that may impact upon my  
4 timetable. I think it's only fair that what's sauce for  
5 the goose is sauce for the gander.

6 MR COLTART: Yes.

7 LADY JUSTICE HALLETT: If we wait until we have firm  
8 decisions on -- this is all going round and round.  
9 Everything becomes circular.

10 MR COLTART: Yes.

11 LADY JUSTICE HALLETT: The material is being disclosed by my  
12 team, ready for the interested parties to consider, and  
13 if we don't at least have some agreement between the  
14 firms, I can see my coming back on 23 July and being  
15 told, "Well, we're fighting over who's going to deal  
16 with such and such an issue, because we don't want to  
17 have the X issue, we want to have the Y issue", and I'm  
18 just not going to put up with it, to be honest.

19 I appreciate you're receiving my comments only  
20 because you were brave enough to stand up first, but  
21 this matter has to be resolved.

22 MR COLTART: Yes, I'm grateful for those observations.  
23 They're clearly received, of course, by all the parties  
24 present in court on behalf of the families and we will  
25 expedite that issue as quickly as we can.

1 LADY JUSTICE HALLETT: It's your lay clients' interests that  
2 are at the heart here --

3 MR COLTART: Yes, of course.

4 LADY JUSTICE HALLETT: -- because, if you can't all agree,  
5 and of course with the LSC, and I appreciate you have to  
6 negotiate with them, but if this isn't agreed, the  
7 people who are truly going to suffer are going to be the  
8 people whom you all represent.

9 MR COLTART: Yes, of course.

10 LADY JUSTICE HALLETT: Hence my anxiety to keep matters  
11 proceeding apace.

12 MR COLTART: Thank you.

13 LADY JUSTICE HALLETT: Everybody has heard what I've said.  
14 Mr O'Connor?

15 MR O'CONNOR: Madam, we proposed that there should be  
16 a meeting this week and that we shouldn't wait for  
17 a response from the Legal Services Commission, and we  
18 hope that everyone will now agree with that under your  
19 encouragement.

20 LADY JUSTICE HALLETT: If they don't agree with it and if  
21 there's no progress by the 23rd, I shall be asking some  
22 even sterner questions.

23 Yes, Mr Saunders?

24 MR SAUNDERS: Can I correct one matter? Because I'm not  
25 sure, madam, whether you are aware there is

1 a fundamental problem. Mr Baker's original view was  
2 only four firms should continue and that's why I think  
3 the rest of the team said "Until Mr Baker deals with the  
4 principal position of will five continue, it is going to  
5 be impossible to consider issues as is set out in  
6 Mr Chapman's letter on behalf of all the parties until  
7 we've got to that stage".

8 So that's why, madam. I don't want you or anybody  
9 else to be under the impression that it's not  
10 a willingness by the five firms to try to proceed; it is  
11 because we haven't had the decision from Mr Baker yet on  
12 the fundamental issue: can five continue?

13 LADY JUSTICE HALLETT: I note that Kingsley Napley have been  
14 able to identify five specific issues or main headings,  
15 so surely the first matter that the parties have to do  
16 is to persuade the LSC that these are truly five  
17 headings of issues. As I say, I haven't had an  
18 opportunity to consider myself whether, if I were  
19 responsible for funding, I would agree they were, but  
20 surely that's the first matter?

21 But in the meantime, can there not be discussions  
22 between the parties as to whether there's any particular  
23 heading here that any particular group of lawyers are  
24 best able to deal with, given their experience and  
25 background?

1 MR SAUNDERS: There is, of course, the other difficulty that  
2 some of the firms have more than one site. So there are  
3 things, I can promise you, that have been discussed  
4 between both the solicitors and counsel over the months  
5 that we've all now been engaged, so we are moving and  
6 trying as best as we can to reach some agreement before  
7 Mr Baker comes back to us.

8 LADY JUSTICE HALLETT: Well, Mr Saunders, you have said it,  
9 the "months" that everyone has now been engaged. As  
10 I say, what I said to Mr Hall applies to everybody else.  
11 I want progress and I intend to keep making progress.  
12 So would the parties please ensure -- you're all  
13 here today, we've had two days set aside for this  
14 hearing, can we please make sure that progress is made  
15 before people leave this building?

16 MR SAUNDERS: Thank you.

17 LADY JUSTICE HALLETT: Thank you. Does anybody else have  
18 anything to say in relation to legal aid?

19 Right. Mr Keith, is there anything else we can do  
20 on that front?

21 Submissions re provisional order for calling evidence

22 MR KEITH: Madam, no. The next point, which is the order of  
23 play, might have some indirect impact, because it may be  
24 that, whatever funding structure is put into place may  
25 depend upon the order in which you call evidence, and it

1 may be that one way of breaking the log jam is to put  
2 into place funding for the first part without prejudice  
3 to what might come thereafter.

4 But in any event, Mr Beggs, in the course of  
5 submissions this morning, invited you to clarify the  
6 provisional order in which the various issues would be  
7 addressed.

8 For our part, we would not wish to express  
9 a definitive view at this early stage, because it might  
10 be counterproductive lest parties with disclosure  
11 obligations start concentrating upon the areas that  
12 I have identified might be addressed first to the  
13 neglect of later areas, and it's important in principle  
14 and practically that the disclosure process is  
15 substantially complete, of course, before we call any  
16 evidence at all.

17 But to the extent that I can, perhaps I can  
18 indicate, subject to your approval, that it's likely  
19 that we would call witnesses relating to the issues of  
20 the travel to London followed by the evidence in  
21 relation to the scenes. Each of those areas would also  
22 include the question of background evidence, to which  
23 I've already made reference in relation to each of the  
24 52 deceased, and then, only when the historical picture  
25 is established, would we then turn, it's likely, to the

1 background to the four men and to the issue of forensics  
2 associated with the explosion of the bombs. The generic  
3 issues concerning preventability and emergency response  
4 would, we provisionally anticipate, be dealt with after  
5 that, but I'm afraid, further than that, I can't really,  
6 with respect, go at this stage.

7 LADY JUSTICE HALLETT: Right.

8 Does anybody have any comments on -- yes, Mr Hill?

9 MR HILL: I make two comments: one is an observation and the  
10 other, I'm afraid, rather rudely, is going to be  
11 a question I will put on a hypothetical basis.

12 The observation is: emergency response, of course,  
13 we all understand is the post-event preventability  
14 issue, as I think we were calling it in April. But  
15 given that the scene evidence, unless we misunderstand  
16 the proposal, is going to include a detailed  
17 consideration of the tragedy in respect of the 52  
18 innocent lives lost, we wonder -- we simply raise this  
19 for further consideration -- whether preventability in  
20 terms of medical response will come naturally at the  
21 time at which each of the 52 deceased and events  
22 surrounding their deaths is being considered.

23 So although we completely understand how the generic  
24 issues currently appear at the end of the list, we  
25 wonder, on further reflection, and subject to disclosure

1 and further preparation, whether the emergency response  
2 part of the generic issues might actually be promoted up  
3 the order to come at, say, the conclusion of the scene  
4 evidence. Otherwise, we beg to question, it may be the  
5 case that we will all have to focus our attention on  
6 particular lost life. We'll then come back to that  
7 particular lost life, hypothetically times 52, at  
8 a later stage, where it might be better to deal with it  
9 at one time.

10 Now, that's a first brush approach, and it may be  
11 that, on reflection, it's not sensible, but we thought  
12 it right to raise it.

13 That's the first point, and that's hiding the second  
14 point, which it may be I am the first to raise, but,  
15 frankly, I suspect we all want to know, and that is we  
16 are very grateful to have a provisional order. It will  
17 all be going from a fixed point. We would be very  
18 grateful to know what that fixed starting point is, if  
19 indeed there is one.

20 So if, for example, travel to London was the first  
21 evidence to be called, and if, for example, taking what  
22 I think is the first full and unencumbered week at the  
23 start of next term, that was putatively 11 October and  
24 following, without in any way giving a cushion for  
25 considering disclosure issues which we, for one,

1 wouldn't take it to mean, that would mean in terms of  
2 planning and representation for the evidence phase of  
3 this hearing we might know if working from, say,  
4 11 October on travel and scene evidence, that  
5 preventability pre-event, pre-detonation, is not  
6 something on any view that could be reached before, say,  
7 1 November.

8 I don't know whether you and your team are yet in  
9 a position to confirm the start date from which we can  
10 then all extrapolate, but we'd like to know, if we can.

11 LADY JUSTICE HALLETT: If I were in a position to confirm  
12 the start date, Mr Hill, I would have been making the  
13 observations I have made to Mr Coltart, Mr Saunders and  
14 Mr Hall.

15 MR HILL: Yes.

16 LADY JUSTICE HALLETT: That is my concern at the moment, the  
17 start date, but, Mr Keith, any comments on Mr Hill?

18 MR KEITH: Madam, yes. It is plainly important that the  
19 start date be identified as soon as possible, and nor  
20 can it be sensibly suggested otherwise.

21 In our view, it's not yet possible to confirm the  
22 start date, because we have not yet had back  
23 a sufficient number of responses in relation to  
24 contactability -- if I may use such a word -- of the  
25 witnesses who are likely to be the witnesses called at

1 the start of the inquest.  
2 Nor, of course, have the properly interested persons  
3 responded yet, quite understandably, in respect of their  
4 disclosure obligations, and only when the substance of  
5 that process is complete will we know whether or not  
6 there are a substantial number of additional witnesses  
7 who might be relevant to the factual issues which would  
8 be addressed at the start of the inquests.  
9 So it is, in short, just too early to say. But we  
10 do hope -- in fact, we strongly hope -- that the answer  
11 to the question on Mr Hill's lips will be clear by the  
12 date of 23 July, and I have no doubt that you would wish  
13 to address that point in any event then.  
14 In relation to the first point raised by Mr Hill, in  
15 general terms, as I've already said, I don't know that  
16 much can be achieved by detailing further the order in  
17 which evidence might provisionally be called. It is  
18 just too soon. But I made no mention, in fact, of the  
19 potential medical evidence in relation to the potential  
20 survivors.  
21 The last point, generic issues, concerns the generic  
22 issues surrounding the emergency response, but it's  
23 likely that we would call specific medical evidence in  
24 relation to those specific deceased in relation to whom  
25 it might be said that they might have survived if

1 medical attention had been more promptly provided at the  
2 time that we call the evidence in relation to the  
3 explosions at the scenes, rather than as part of any  
4 generic issues which will arise at the end.

5 In that way, Mr Hill's concerns that particular  
6 deceased are addressed both in relation to background  
7 evidence, tragically their death and the issue of  
8 whether or not they might have survived, all at the same  
9 time, but any other issues relating to the emergency  
10 response would be dealt with under the generic heading  
11 at the end. But I'm afraid I can't commit any further  
12 than that at this stage because it is just too soon, as  
13 I've said.

14 LADY JUSTICE HALLETT: Any other comments on that matter?

15 MR MORTON: Madam, on behalf of Transport for London, may  
16 I make one observation about the order of issues?

17 LADY JUSTICE HALLETT: Yes, of course.

18 MR MORTON: While appreciating entirely the point my learned  
19 friend makes about not making a final decision at this  
20 stage, may I just observe this: that preventability in  
21 the sense set out in the list of issues at items 13  
22 through to 22, broadly speaking the role of the  
23 Security Services, that's an entire area in which we  
24 anticipate we will have no role to play at all. I also  
25 anticipate that there will be other interested persons

1 who similarly take the same view.

2 That being so, it would certainly help us, I think,  
3 and I suspect others, if that was dealt with as  
4 a discrete issue and preferably at the end, that's to  
5 say after everything else, so that we can simply absent  
6 ourselves from that part of the hearing.

7 I simply raise that at this stage for consideration.

8 It would certainly help us, if that were the case.

9 LADY JUSTICE HALLETT: We're very conscious of the effect  
10 upon everybody of knowing -- West Yorkshire Police, for  
11 example, presumably only want to be involved in that  
12 part, so we're very conscious that the parties will wish  
13 to know exactly where they stand and I think all we can  
14 do is assure you that we'll get decisions to you as soon  
15 as we possibly can.

16 MR MORTON: Thank you very much.

17 LADY JUSTICE HALLETT: Mr Keith, as people have been  
18 speaking, I've just been casting my eye over  
19 Mr Chapman's letter in relation to funding. I'm just  
20 wondering if there's any way we can assist the process  
21 before people leave.

22 I haven't had an opportunity to consider  
23 Mr Chapman's proposed groupings or categories of issues.  
24 I'm not immediately persuaded that they necessarily are  
25 the correct way to describe them. It may be that if

1 I discussed it with Mr Chapman, I would find we do have  
2 in mind the same things. I'm just looking at the  
3 headings and I'm not quite sure.

4 I was just wondering whether there's any way the  
5 Inquest team could assist the other parties before they  
6 leave in whether or not -- or what groups of issues at  
7 the moment you are all working towards to see if that  
8 might then assist them in their negotiations with the  
9 LSC.

10 MR KEITH: Madam, yes. In principle, you have previously  
11 taken the position, as have your team, that it would not  
12 be appropriate for yourself, or it, to engage in the  
13 substantive issues between the Legal Services  
14 Commission --

15 LADY JUSTICE HALLETT: I'm not talking about engaging in  
16 whether or not they get funding. What I'm suggesting is  
17 that you have a preliminary, without prejudice  
18 discussion on: if you had to group the issues, how you  
19 might group them and how you might well be grouping them  
20 as you prepare for the inquest yourself.

21 MR KEITH: Madam, yes.

22 We found, in truth, when we became aware of the  
23 correspondence between the lawyers for the families and  
24 the Legal Services Commission, that it was impossible to  
25 comment upon the propriety and sense of the decisions

1 expressed in Kingsley Napley's letter of 11 June without  
2 becoming engaged, perhaps unwisely, in a full debate as  
3 to how responsibility should be divided between the  
4 teams and, indeed, as to how many lawyers' firms should  
5 be engaged.

6 It might perhaps be thought to be invidious if we  
7 were to lend any support to any argument which directly  
8 or indirectly led to the exclusion from these  
9 proceedings of one of the lawyers.

10 LADY JUSTICE HALLETT: I'm not seeking that, Mr Keith, I'm  
11 just trying to see whether we can get things going.

12 MR KEITH: Madam, perhaps I can invite you to do this: if  
13 the parties themselves feel able to identify discrete  
14 points arising out of the proposed division of evidence  
15 and the way in which evidence might be called that they  
16 feel is amenable to expression of views by your team or  
17 by yourself, in a way that doesn't engage us in a more  
18 deadly debate about the wider issues, then perhaps you  
19 could invite us to consider those issues. But I think  
20 further than that I would be very unwilling to tread,  
21 lest it had undesirable consequences.

22 LADY JUSTICE HALLETT: Wise words, Mr Keith. I wonder if  
23 I could ask you and the rest of the team and indeed all  
24 other parties who are interested in this particular  
25 topic to stay behind. This courtroom has been set aside

1 for our use. The time has been set aside. Just to see  
2 whether or not you and Mr O'Connor and Mr Hay and  
3 Mr Smith feel that, with propriety, you can in any way  
4 assist on how the issues may or may not conveniently be  
5 categorised without in any way offering a view as to how  
6 many lawyers should be involved or who should be doing  
7 what issue.

8 MR KEITH: Certainly.

9 LADY JUSTICE HALLETT: If you can assist. If you can't, of  
10 course I'll understand. You must plainly maintain your  
11 independence.

12 MR KEITH: Of course, we would be delighted to do so.

13 Madam, one final matter arises out of the  
14 submissions this morning.

15 In the course of my submissions, I referred to your  
16 team being granted unconditional access to the material  
17 at Thames House. I did so meaning that we should be  
18 granted access to the material that was offered, namely,  
19 the ISC report in an unconditional way, that is to say  
20 with full access to that report, and the redacted  
21 material --

22 LADY JUSTICE HALLETT: But on conditions.

23 MR KEITH: But on the condition that it doesn't go further.

24 Indeed I had made plain, I thought, in the course of my  
25 submissions, that it had to be subject to any future PII

1 process. Mr Hall is troubled by my reference to  
2 "unconditional" in that context, so let me assure him  
3 that I did not intend to suggest that we would take that  
4 report and disclose it onwards without any further PII  
5 applications.

6 LADY JUSTICE HALLETT: No, Mr Hall, I'm sure you are aware,  
7 I did note your conditions, and I am grateful to you and  
8 to those who instruct you for the approach that you have  
9 adopted in relation to that material. I think it will  
10 help considerably in getting the process moving.

11 MR KEITH: Madam, that's all that I intended to raise.

12 LADY JUSTICE HALLETT: Right, first of all, I'll ask --  
13 before I turn to the lawyers, I don't know if there are  
14 any unrepresented families, bereaved families, present  
15 who wish to say anything, wish to make any comments.  
16 I don't know whether there are any survivors present  
17 who wish to say anything, because I wish to emphasise,  
18 as I hoped I had in my ruling, that in ruling that there  
19 shouldn't be interested persons, I did not intend in any  
20 way to exclude them, and if they have any lines of  
21 enquiry or any questions they wish to propose, then they  
22 are always free to send their comments to Mr Smith and,  
23 indeed, if anybody is here today who wishes to say  
24 anything, I'll hear them now.

25 Thank you very much. Right, as far as the lawyers

1 are concerned?

2 Mr Coltart, are you going first again?

3 MR COLTART: Madam, only one matter. Can we assume, madam,  
4 that you have heard no further communication from those  
5 representing the bombers in this matter?

6 LADY JUSTICE HALLETT: Not that I'm aware of, no. The last  
7 I think we heard -- Mr Smith will confirm -- is I think,  
8 as everyone knew the public funding had been refused,  
9 they were considering whether an attempt could be made  
10 to challenge that, but I don't think we've heard  
11 anything since.

12 MR COLTART: I'm grateful, thank you.

13 LADY JUSTICE HALLETT: Thank you.

14 Anything further, Mr O'Connor?

15 MR O'CONNOR: Nothing to say, madam.

16 LADY JUSTICE HALLETT: Mr Patterson?

17 MR PATTERSON: No thank you, madam.

18 MS SHEFF: No thank you, madam.

19 MR SAUNDERS: Nothing, thank you.

20 LADY JUSTICE HALLETT: Very well. Thank you all very much.  
21 I shall be in the building obviously for the rest of the  
22 day, so if there are any other matters that require my  
23 attention, I'm perfectly happy to return. Thank you  
24 all.

25 (12.15 pm)

1 (The hearing adjourned until 23rd July)

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