SUPPLEMENTARY RULING ON REDACTION OF HMG NAMES

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1. This short ruling concerns HMG's application for a restriction order in respect of the names of its staff and contractors where such names appear in documents that the inquiry intends to disclose to Core Participants. HMG's application was issued in 2022. I received written and oral submissions on the application (alongside submissions on a similar application from Operation Verbasco), which were the subject of a Ruling I gave on 19 August 2022 ("the 2022 Ruling").

2. The background to and the contents of the HMG application are set out in the 2022 Ruling. Save where necessary, I do not repeat those matters here.

3. As noted at [2] of the 2022 Ruling, it was apparent from an early stage of these proceedings that I would need to address the question of the redaction of names. It was for that reason that I asked for applications to be made on this issue by HMG and Operation Verbasco at an early point in the disclosure exercise. The 2022 Ruling was, of necessity, made at the level of principle. The disclosure exercise had not then developed far enough to have a concrete understanding of exactly how this issue was likely to arise in practice. Matters have now moved on considerably. The relevance review has been completed and the question of the redaction of names now arises not as a hypothetical, but as a matter that requires determination on a large number of documents that are otherwise ready (or almost ready) for onward disclosure to Core Participants.

4. The question which I addressed in the 2022 Ruling was when the redaction of names would be necessary in the public interest, having regard in particular to any risk of harm or damage (s 19(3)(b) and 19(4)(b) Inquiries Act 2005). There was no occasion then to address the separate limb of s 19(3)(b), ie whether a restriction order relating to names would otherwise be conducive to the Inquiry fulfilling its terms of reference.

5. As to necessity in the public interest arising from the risk of harm, I was satisfied that the risks identified by HMG as being consequent on disclosure were real ones – see in particular the twin risks described at [11] of the Ruling. But I considered that the scope of the HMG application (summarised at [4] of the 2022 Ruling), which essentially sought the blanket redaction of the names of all HMG employees and contractors, was too broad. I considered that that group would be likely to contain within it either (i) those who were already sufficiently identified publicly in connection with the events of 2018, and/or (ii) those who were necessarily sufficiently resilient to risks inherent in their posts for a restriction order not to be justified because it would serve little or no purpose (see 2022 Ruling at [11]), and/or (iii) those whose involvement in the events surrounding Ms Sturgess' death would have been too peripheral to attract the twin risks that I accepted were capable of applying to others – see 2022 Ruling at [15].

6. I concluded that I would keep the question of the redaction of HMG names under review as the disclosure process progressed. For the reasons explained, I indicated (2022 Ruling at [16]) that as to the question of necessity in the public interest to reduce the risk of harm, "I shall be content to make a restriction order in relation to names if, but only if, one or more descriptors can be devised which identify government staff who attract one or both of the twin risks identified above."

7. By a letter dated 8 September 2022, those acting for HMG proposed the following descriptor "all HMG staff and advisors to HMG who have held at any time and/or who currently hold security clearance [which HMG intends to cover DV, SC and BPSS] that allowed or allows them access to material classified at Secret or above [including only by supervised access], unless the individuals in question have already been officially publicly linked with the events of 2018".

8. As indicated above, the disclosure process has now reached the stage where it is necessary for me to progress the issue. I am now also in a position, which I was not in 2022, to consider this issue in the context of a large number of documents that have been deemed relevant and that are otherwise ready for disclosure.

9. I am not satisfied that the descriptor proposed by HMG in the 8 September 2022 letter provides a satisfactory test for the existence of one or other of the twin risks which I identified in the 2022 Ruling. The BPSS ('Baseline Personnel Security Standard') applies, according to the latest update to *National Security Vetting: clearance levels* (Gov.uk 22.12.23), to all individuals with "any access to government assets"; this means, as the Guidance says, "all civil servants, members of the armed forces, temporary staff in departments and government contractors generally." I am not persuaded that a descriptor that includes everyone with BPSS clearance would exclude those whose involvement in the events of 2018 amounted to no more than (as I put it at [15] of the 2022 Ruling) carrying out "entirely innocuous and mundane functions". Nor would the proposed descriptor exclude those discussed in para [11] of the 2022 Ruling, for whom a restriction order would serve no purpose. That latter category of person is appreciably wider than those who have been "officially publicly linked with the events of 2018".

10. However, two additional factors are now apparent. First and foremost, a firm timetable for the fulfilment of my Terms of Reference has now been directed. The hearing of evidence is set for October 2024, and if this timetable is to be met, disclosure to core participants needs to be substantially accomplished by early in May 2024. This Inquiry stands in place of an Inquest into a death which occurred in July 2018; even on the directed timetable, more than six years will have passed since then by the time the evidence begins to be heard. Secondly, it is possible now to see from the documents which I have examined, the numbers of people in government service of one kind or another, whose names appear on them. It is apparent from reading those documents that the identity of a large majority of those names will be of marginal or no significance to the issues which the Inquiry has to determine. Just by way of example, documents may typically list those to whom reports are circulated, or who attended meetings without making any recorded contribution.

11. The extra perspective on these two factors that the progress of the disclosure exercise now being carried out provides demonstrates to me that to attempt to determine individually the issue of the redaction of every name which appears on every document (many of whom will be of marginal or no significance to the issues the Inquiry must decide) carries a marked danger (indeed the probability) of frustrating the fulfilment of my Terms of Reference by preventing my concluding the work of this Inquiry within a reasonable time. Even if it were possible to identify a descriptor that reliably tested for

the existence of everyone subject to one or both of the 'twin risks', whilst excluding all others, the task of determining which individuals fall within the descriptor would be extremely lengthy, would occupy time which ought to be used to prepare for the hearing, and would jeopardise the Inquiry.

12. Accordingly, on 9 January 2024, I issued a provisional ruling indicating that I was minded to conclude that a restriction order in relation to myriad government names generally appears to be justified as conducive (indeed necessary) to fulfilling my terms of reference. I was minded to make such orders subject to three qualifications;

    a. Where, an individual is likely to be a witness, it will remain necessary to consider separately whether any application for anonymity ought to be granted; if yes, then ciphering may be necessary, and if no, then any decision on redaction of the name will need to be re-examined.

    b. If any core participant seeks to have disclosed the identity of any person whose name appears redacted in initial disclosure, then providing a prompt written application is made to me for individual consideration of the case, that consideration will be given. Such an application might, in principle, be receivable if a particular person assumes greater significance as the Inquiry progresses.

    c. There may be some names of whom it is apparent from reading the document(s) in question that the individual concerned is one within the category mentioned at para [11] of the 2022 Ruling, for whom a restriction order can serve no useful purpose; in such instances I am minded to refuse redaction at initial consideration.

13. My provisional ruling was circulated to core participants and representatives of media organisations inviting any written submissions to be lodged within 14 days of receipt. The Inquiry received no submissions that I ought not to make such a Ruling. Therefore, in Directions dated 5 February 2024, which followed the OPEN preliminary hearing on 2 February 2024, I confirmed my decision to finalise the Ruling. Accordingly, this is my ruling.

14. For the reasons set out above, I make a Restriction Order in relation to all names in respect of which the application is made, subject to the qualifications mentioned in para [12] above.

12 February 2024

THE RIGHT HONOURABLE LORD HUGHES OF OMBERSLEY