

**IN THE WILTSHIRE AND SWINDON CORONER'S COURT**  
**BEFORE THE RIGHT HONOURABLE THE BARONESS HALLETT DBE**  
**IN THE MATTER OF THE INQUEST TOUCHING THE DEATH OF DAWN**  
**STURGESS**

**WRITTEN SUBMISSIONS ON BEHALF OF HER MAJESTY'S GOVERNMENT  
FOR THE PRE-INQUEST HEARING ON 22 SEPTEMBER 2021**

1. In written submissions dated 24 August 2021, Counsel to the Inquest (CTI) identified the following issues as matters to be considered on 22 September 2021 at the second Pre-Inquest Review Hearing ("PIR") into the death of Ms Dawn Sturges:
  - a. Inquest/Inquiry
  - b. Disclosure process
  - c. Scope
  - d. Substantive hearings – venue/timing
  - e. Next PIR.
  
2. Her Majesty's Government (comprising here the Home Office, the Cabinet Office, the Foreign, Commonwealth and Development Office, the Ministry of Defence (including the Defence Science and Technology Laboratory), the security and intelligence agencies, the Department for Environment, Food and Rural Affairs, the Department of Health and Social Care (including Public Health England) and Government Office for Science) advances the following submissions in response to those issues identified.

**Inquest/Inquiry**

3. The Home Secretary has considered with care the Coroner's clearly stated reasons for believing that an Inquiry under the Inquiries Act 2005 will be required. As CTI have observed, the Home Secretary has felt unable to provide to the learned Coroner a

provisional view as to whether a statutory inquiry should be established to take over the work of the inquest. This is for two principal reasons:

- (i) Like the Coroner, the Home Secretary wishes to take into account the views of Interested Persons, and in particular those of the family of Ms Sturgess; and
- (ii) The decision to establish a public inquiry is not a decision for the Home Secretary alone.

4. The position in respect of the Manchester Arena Inquiry was wholly different. In Manchester, the Home Secretary gave the indication that she did in the context of a formal PII application, in which she had given express consideration to the nature, content and relevance of specific sensitive material, and had also considered how, if at all, that material could be used in an inquest. The decisions on a PII application are ones that the minister signing the PII certificate must take in person. In the present inquest, the formal marshalling of the material that would be needed for a PII application has not taken place (priority having been given to the practicalities of providing disclosure to the Inquest Legal Team (“ILT”)) and so the Home Secretary has not reviewed all of the sensitive material in detail, nor received advice from officials in respect of it. Secondly, in Manchester the issues affecting Her Majesty’s Government were largely the responsibility of the Home Office, and the Home Secretary was therefore in a position to indicate that she was minded to establish an inquiry. In the present inquest, the issues affect a large number of government departments and agencies, all of whom the Home Secretary should consult. Further, as set out in paragraph 4.12 of the Ministerial Code, the Prime Minister must be consulted in good time about any proposal to set up a public inquiry under the

Inquiries Act 2005; this can be done only once views of Cabinet colleagues are known. It would be premature at this stage for the Home Secretary to seek the views of her Cabinet colleagues (and the Prime Minister); this is something that she should do only once in receipt of a formal request from the Coroner for establishment of a public inquiry. The Home Secretary can reassure the Coroner and the Interested Persons (“IPs”) that she will address as swiftly as possible any such request from the learned Coroner, and will take as soon as she can the steps needed to consult her Cabinet colleagues, taking into account the points made by the Coroner and the submission of the other IPs.

### **Disclosure Process**

5. HMG agrees with and endorses CTI’s observation that significant progress has been made since the first PIR but that the special sensitivities require an unusually complicated and time-consuming process for Stage 1 and Stage 2 disclosure.

#### *The Risk*

6. Disclosure in this Inquest has not been – and will not be – straightforward for a combination of reasons. As the then-Prime Minister Theresa May made clear in her 5 September 2018 statement to Parliament, alongside the police investigation the security and intelligence agencies carried out a thorough covert intelligence investigation into the attack in Salisbury and the subsequent poisoning of Dawn Sturgess and Charlie Rowley which led to Ms Sturgess’ death. A large amount of material is held by HMG arising from this investigation, covering the full spectrum of security classifications. There is a wealth of documentation about matters arising from the attack that currently clearly fall outside of the scope of this inquest. As the

Coroner, the ILT and all IPs will appreciate, much of this material is highly sensitive. Disclosure of material relevant to the Inquest must be carefully handled to avoid risks to national security.

7. This consideration applies to documents across HMG and the police and may even apply to documents held and disclosed by others. It applies too to material that may, on its face, seem innocuous and may not currently bear a security marking. Disclosure of the ways in which HMG responded to the attack in Salisbury and the subsequent Amesbury poisonings could inform others how best to mount future attacks in the UK.

### ***Efforts to Reduce the Risk***

8. To reduce this risk, each document needs to be weighed carefully (in many cases checking line-by-line) both for what it may reveal of itself and/or as part of some cumulative mosaic effect. These reviews often need to be undertaken by more than one government department or agency, sometimes with the assistance of subject matter experts.
9. Active efforts are underway to explore ways to streamline such processes. Discussions with the ILT have started and further discussions are anticipated in the coming weeks and months. HMG is acutely conscious that IPs – and Dawn Sturgess’ family in particular – must be able to see all relevant material unless protected by PII. HMG is also sensitive to the fact that the time required to undertake disclosure may give rise to understandable concerns by the family; HMG will seek to minimise that

time. HMG is grateful for CTI's understanding, as they set out in paragraph 20.c. of their written submissions, that "the range of security sensitivities relating to this inquest" will have a significant impact on the pace at which the disclosure exercise can be conducted.

### *Stage 1 Disclosure*

10. At paragraph 21.d., CTI have outlined the sources of material that they have reviewed. The material itself is often of a high security classification; it is fair to add that material has also been disclosed by organisations within those Departments including DSTL and security agencies.
11. HMG has conducted a complicated process, identifying and providing for inspection of a selection of overarching reports and of key and core documents to the ILT. These documents have included material from a number of sources. Search processes to locate these documents have been individually devised by each government department or agency to reflect the different ways in which their material was captured, retained and stored. In some cases, especially where key decision makers have moved on from their roles, it has involved an arduous process of searching inboxes and archived material. There has been careful inter-departmental cross-checking to ensure as far as possible that everything relevant is captured.
12. While searches focussed on such items as reports and minutes of meetings, a broad and constructive approach was taken so that, where a document came to light that appeared highly relevant but was not such an overarching document, that document

was provided. Where, in the course of the searches, documents revealed additional material that could be of interest, further targeted searches were conducted.

13. The ILT too were invited to request additional material where, on the face of a document offered for inspection, there was further material which appeared to be of interest. Much of this secondary material has already been inspected or gathered and offered for inspection. This is an ongoing process.

14. Three GLD solicitors, three junior counsel and leading counsel have worked on the task of reviewing material. They have visited material at client offices across the country where there were issues about security that prevented large quantities of material being transported. Several thousand documents were reviewed and relevant material identified for disclosure.

15. In conducting this work, HMG applied a low threshold of relevance to ensure that everything which might assist the Coroner was disclosed. To ensure that all relevant material was captured, where particular peripheral themes emerged which did not appear to be pertinent to the issues in scope, these themes were flagged to the ILT and are the subject of ongoing discussions. This process aims to ensure that no potentially relevant issue is overlooked.

### ***Current Handling Protocols***

16. CTI fairly report at paragraph 20.c. of their written submissions that they have been asked to inspect/handle documents in accordance with protocols that are far more demanding than the documents' classification would ordinarily require.

17. HMG recognises the additional challenges that this has presented to the ILT, and has therefore arranged for a secure room to be provided for the sole use of ILT. All government material disclosed to ILT is now available in that room so that ILT can work as and when they wish to do so in a secure environment.

***Further Disclosure***

18. The nature of Dawn Sturgess' poisoning and death makes this a particularly challenging disclosure exercise to conduct. In other inquests for example, it may be possible to use search terms featuring the name of the perpetrator/s to capture all meaningful documents. That approach would obviously fail to capture all relevant material here. Similarly, using the name "Dawn Sturgess" would produce mostly material that followed Ms Sturgess' death, little of which would go to the matters in scope. A universal disclosure plan would not therefore be appropriate. Consequently, careful thought is being given to how best to capture the remaining relevant material in a timely and proportionate manner.

19. HMG is now devising bespoke plans for further disclosure by each department and agency involved. These plans will reflect discussions with the ILT following their review of the material already disclosed to them, the different roles of each department, the activities that they carried out in relation to the Inquest's scope, the quantity of material and the way in which that material is held. Methods that we are working on include targeted searches, provision of witness statements and close liaison by GLD with those involved. Each of these plans will be discussed with the ILT. It is worth recording too that much of this substantive work is already underway.

## ***Stage 2 Disclosure***

20. HMG is embarking on a process of checking all ostensibly non-sensitive material that has been disclosed to the ILT so far to allow as much as possible to be placed on Relativity. Where a document is entirely relevant and no PII application is to be made, it will become available for Stage 2 disclosure as soon as it has been checked and cleared. Where, however, a document is only partially relevant, HMG is working with the ILT to develop a process to allow for maximum safe disclosure. HMG is sensitive to the fact that normally such material would be disclosed unredacted and that disclosing large swathes of redacted material can be unhelpful. Possibilities that are being explored include disclosure protocols specific to categories of documents, and/or the provision of witness statements summarising and gisting material<sup>1</sup>. Active efforts to resolve this issue are underway.

21. HMG agrees with CTI's assessment that it is unrealistic that Stage 2 disclosure will be nearing completion by Christmas (paragraph 25 of CTI's written submissions). HMG will continue its disclosure work; if a public inquiry is established, it is likely that some areas of disclosure may be slightly delayed while the list of issues and Terms of Reference are finalised.

## **Scope**

22. HMG agrees that it is unnecessary to review scope at this PIR. It may be in due course that representations are made following Stage 1 and/or Stage 2 disclosure if

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<sup>1</sup> One such sample statement is already in a late stage of drafting in order to explore with the ILT whether such a process can assist.



appropriate. It is appreciated that issues of scope may be substituted with Terms of Reference and a List of Issues if a statutory inquiry is established.

23. The Terms of Reference proposed by CTI for a statutory inquiry appear to reflect those of the Litvinenko Inquiry. Those Terms of Reference in themselves reflected the indication given in the judgment of the Administrative Court on judicial review of the Home Secretary's refusal to establish a statutory inquiry into the death of Alexander Litvinenko. The Terms of Reference of any inquiry must be tailored to the circumstances of that particular inquiry, and the situation in the present inquest is a very different one. For example, Terms of Reference might need to take into account any revisions to the scope of the investigation that may emerge following disclosure. There may be a need for specific inclusion or exclusion of particular issues.

#### **Substantive hearings – venue/timing**

24. HMG is grateful for the indication that hearings may be “split” between Salisbury and London.

#### **Next PIR**

25. HMG agrees that a PIR on 17 December 2021 would assist in progressing the Inquest as efficiently as possible. Meanwhile, HMG will continue its work to facilitate the investigation; the Home Secretary will consider any formal request from the Coroner for the establishment of a public inquiry with care and in a timely manner.

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GEORGINA WOLFE

8 September 2021

