

INQUIRY INTO THE DEATH OF DAWN STURGESS

SUBMISSIONS ON BEHALF OF THE FAMILY FOR OPEN PRELIMINARY HEARING ON 11 NOVEMBER 2022

1. These submissions are made on behalf of the family of Dawn Sturgess and also her partner, Charlie Rowley. They will be referred to collectively as ‘the family’. These submissions address the agenda items set out at §4 of the CTI submissions dated 17 October 2022.

Disclosure update

2. We note the improvements to the disclosure process to which CTI refer in their submissions (§7). Nonetheless, very limited Stage 2 disclosure has been made to date, and if the current progress is maintained, there will be a very lengthy delay before the Inquiry hearings can take place. The family repeat without rehearsing that delay in the Inquiry reaching its conclusions causes significant risks and harm, for a number of reasons.¹
3. CTI observe that the July preliminary hearing has resulted in “very significant progress in speeding up the disclosure exercise” (§7). That is welcome. But the family invite CPs, CTI and the Chair to use this preliminary hearing as far as possible to seek further significant improvements to the process. The family have previously raised a number of suggestions with the aim of achieving such improvements. They do so again in light of CTI’s update:
 - a. Can further resources be added to ILT in order to increase the speed of ILT’s relevance assessment? The relevance assessment evidently takes some time (see CTI submissions §§7-8), and is likely to lead to substantial delay.

¹ Family submissions dated 4 July 2022 for 15 July 2022 preliminary hearing, §§2-6.

- b. Can greater resources be provided to the Operation Verbasco and HMG disclosure teams²?
- c. Because we do not know the detail of the disclosure process (since it is a CLOSED issue) it is difficult for the family to make other practical suggestions for speeding up the process. However, we invite the Chair and CTI, as they did at the last hearing, to carefully scrutinise the process in order to consider whether changes can be made to reduce delay.
- d. CTI invite Operation Verbasco and HMG to provide updates on Stage 1 disclosure and CTI state that they will invite the Chair to direct further written updates from Operation Verbasco and HMG to STI in December 2022 and January 2023. The family support those proposals. They invite CTI to disclose any updates to CPs, so far as it is possible to do so.

Restriction Notice

- 4. As the Chair is aware, the family have raised concerns with both CTI and HMG in relation to the restriction notice. HMG have stated as follows³:

“Whilst we understand your clients’ concerns, we wish to reassure you that the need for a Restriction Notice and the exact terms of that Notice were carefully considered by the Minister and HMG. The answer to both your questions of clarification is therefore no: the Notice does not impede or prevent the Chair’s ability to investigate the matters contained within the Schedule Material or hear evidence regarding it, nor does it affect his ability to include the Schedule Material in his report should he require. The handling restrictions simply control how the Schedule Material and any CLOSED report (or section of a CLOSED report) which refer to the Schedule Material should be handled in CLOSED and limits the readership of the material (and therefore excludes disclosure of it to those who do not already know the information contained in the Schedule Material).”

- 5. Having seen HMG’s response, STI have confirmed as follows:

² An equivalent proposal by the family was addressed at, and not adopted following, the July preliminary hearing. But given the ongoing delays caused by disclosure, we would urge that the most careful consideration be given to these proposals again now.

³ GLD have confirmed that they are content for the family to provide their letter to other CPs.

“CTI and STI had previously interpreted paragraph 6 of the Restriction Notice as being subject to an implicit proviso that the Minister will agree to any request from the Chair to refer to the Schedule Material in a Closed report, provided only that appropriate security measures are taken. The GLD letter to which you refer has confirmed us in the view that that is the correct reading of paragraph 6.

We are content for you to refer to this reply in the submissions you are due to lodge today as you think appropriate.”

6. We are grateful for the exchange of correspondence summarised above. In its light we do not invite the Chair to hear submissions about this issue at the preliminary hearing.

‘The way ahead’

Sample restriction order applications

7. CTI indicate at §18(a) that “There is now available a substantial (and growing) body of documentation that has passed through the Stage 1 disclosure process and has been deemed relevant, but which has not yet been disclosed to CPs under Stage 2 because of unresolved sensitivity issues.” The family consider that any issue that will further delay the provision of Stage 2 disclosure to CPs should be addressed as soon as possible. That plainly applies to the restriction order applications anticipated by CTI.
8. The family note the outline proposal at §18 of CTI’s submissions and look forward to informal discussions with CTI prior to the preliminary hearing. At this stage the family make the following observations:
9. First, it is essential that if adopting a sample-based approach – and the family understand the reasons for that proposal without confirming their agreement to it until further details have been provided – then the sample selection must include not only all the species of security sensitivities that are likely to be relied on, but also (if applicable) a range of documents engaging differing degrees of such sensitivity. That is important in order to avoid a situation in which documents engaging the highest degrees of sensitivity are advanced in the sample application, with the outcome of that sample application then being applied to later documents that do not engage the same degree of sensitivity.

10. Second, we understand the reason for CTI's suggestion that restriction order applications be dealt with in stages, with later applications made as needed (§18(b)). That has the benefit of allowing progress to be made urgently now; the family support that approach. However, we would urge that restriction order applications are made – as far as possible – together and as speedily as possible, to avoid any further delay. All involved in these issues will be aware of other inquiry processes in which ongoing, rolling restriction order applications have resulted in very significant delays. That must be avoided.
11. Third, we would invite CTI and the Chair to add a further direction between stages 18(b) and (c) (CTI may well have intended to add these points in later): (i) a date for written responses from CPs, which should include any application for the Chair to exercise the power in rule 12(3) of the Inquiry Rules 2006 (which enables the Chair to disclose potentially restricted material in advance of determination of restriction order applications); and (ii) provision in the timetable for the Chair to make a decision about any application made to exercise the power in rule 12(3).
12. Fourth, the Inquiry has already published a detailed restriction order protocol.⁴ The Chair may wish to remind any CP applying for a restriction order to follow the terms of that protocol. That will assist in ensuring that as much as possible of the grounds and supporting evidence are provided in OPEN and by providing a framework for consideration of Rule 12 (as the Inquiry's protocol anticipates the use of Rule 12: §§5(b) and 6(c)). The family invite the Chair to make a clarification of the protocol. This is to clarify that in §5, as much of the supporting evidence in §5(c) should be provided in OPEN. We anticipate this was intended, but it is not entirely clear on the face of the protocol.

Restriction order applications in respect of names

13. The family agree with CTI's proposal at §28 that this matter should be addressed, if needed, when Stage 1 disclosure is at or nearing completion and the ILT has completed the substantial part of its relevance reviews of the Stage 1 material.

⁴ <https://www.dawnsturgess.independent-inquiry.uk/wp-content/uploads/2022-04-14-Protocol-on-Applications-for-Restriction-Orders.pdf>

Venue for substantive hearings

14. The family's preference would be for option (a) or (b). The reason for this is that they will be able to attend in Salisbury, but most of the family will be unable to attend hearings in London. However, the family do not wish to cause harm to the process of the Inquiry. They have not yet been given any clear reason why hearings in Salisbury will cause practical problems to the Inquiry, but if that would be the case, they would be happy to consider it and consider their position as to the most appropriate venue.

Next hearing

15. The family agree with CTI that a further preliminary hearing should be set for February or March 2023.

Michael Mansfield KC

Adam Straw KC

Jesse Nicholls

31 October 2022