

## INQUIRY INTO THE DEATH OF DAWN STURGESS

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### SUBMISSIONS ON BEHALF OF HIS MAJESTY'S GOVERNMENT FOR THE THIRD OPEN PRELIMINARY HEARING ON 11 NOVEMBER 2022

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1. These submissions address the issues identified in the submissions of Counsel to the Inquiry (CTI), dated 17 October 2022.
2. It is not anticipated that CLOSED submissions will be filed and HMG respectfully submits that a CLOSED preliminary hearing is unlikely to be required. Regular meetings are held between the ILT and HMG legal representatives (as described at paragraph 11 of CTI's submissions) and any outstanding queries about disclosure processes that may arise are most appropriately addressed in that forum.

#### **Disclosure Update**

3. Across HMG, approximately 80,000 documents (including emails) have been identified and located as potentially relevant for review by counsel. In order to identify these documents, many more have been internally reviewed. This was the most time-consuming part of the entire disclosure process and it is substantially complete.
4. Further, HMG agree with CTI that the preliminary inquiry hearings in July have achieved very significant progress in speeding up the disclosure exercise. Considerable headway has also been made by HMG, working closely with the ILT, and further progress is underway and advancing rapidly. In particular, HMG would note that the preliminary security review has been removed; HMG has increased its reviewing counsel team (from four to eight junior counsel); and that all counsel have continued to work on the substantial task of reviewing the documents identified.
5. As might be anticipated, while this process is underway HMG is always considering ways in which the process may be streamlined. By way of example, there are document stores that HMG has committed to review in its strategies but which, once reviewed, it transpires

are irrelevant or duplicative. In those circumstances, with the agreement of ILT, HMG will propose instead a process of ‘dip sampling’ before considering whether to discontinue that part of the review. This will allow HMG to focus resources into areas where they are needed<sup>1</sup>.

6. HMG has also begun the process of drafting witness statements, again with the involvement of ILT, in order to streamline the disclosure process. The intention is that such statements will set out relevant information in a clear and comprehensible way, while reducing the number of underlying documents that have to be subject to sensitivity reviews and redactions. Two such statements have already been drafted and HMG intends to continue with this process as Stage 1 disclosure progresses. The intention is that the production of statements and Stage 1 disclosure will continue, where possible, alongside each other, with the statements being finalised once the ILT’s review of Stage 1 disclosure has been completed.
7. HMG has also undertaken security checking work on drafts of the Operation VERBASCO report. It would help HMG considerably if further work on this report could be limited to work on a final draft, to avoid time-consuming duplication of effort.
8. It is important to record, though, that – in addition to the unique challenges which have been ventilated in previous CLOSED submissions and hearings and meetings with the ILT – a number of factors have operated to undermine the pace of HMG’s disclosure efforts, including for example:
  - a. Further lines of enquiry have arisen as the thirteen disclosure strategies have been implemented. It was inevitable that this would occur; the strategies themselves require HMG to consider and investigate potentially relevant avenues of enquiry as

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<sup>1</sup> While most of the disclosure strategies are being implemented without significant changes, there is one government department which is reviewing its disclosure strategy. The UKHSA has conducted its searches and junior counsel is reviewing the material. The quantity of material that has been located – some 27,000 documents – far outstrips the amount that was anticipated (around 10,000 documents). Urgent work is underway to establish why this is the case and to reduce the material in need of review where possible. Nonetheless, counsel has now reviewed several hundred documents within this material and the original disclosure strategy now appears disproportionate given the relevance (or more pertinently, lack of relevance) of the material under review. Counsel are therefore meeting with the ILT the week commencing 7 November 2022 to agree a sensible way to streamline the reviewing work that is proportionate and timely but which captures the material that will assist the Inquiry. We hope that this will cut through the volume of material to be reviewed and will lead to this work being completed by the end of the year or early in the New Year. Considerable efforts are being made to prioritise this work including bringing in Counsel from the Attorney General’s A Panel to lead the junior team.

- they emerge during disclosure reviews. Some of these lines have been identified by the ILT; some have been identified by HMG staff and reviewing counsel. HMG is responding to these as they arise which inevitably leads to further work to locate, review and disclose additional material. By way of generic example, while scoping work was undertaken at the outset to identify those individuals who played the most key roles, inevitably as work progresses across departments, more individuals are identified, leading to new inboxes being searched for material. In addition, efforts to recover inboxes previously thought to be inaccessible have been successful, again leading to further inbox reviews being required.
- b. It had been hoped that provision of the key and core documents in 2021 would lead to a narrowing of the relevant issues. The only indication as to the scope of the Inquiry remains the Provisional Scope from the inquest which was necessarily high level. HMG staff and counsel (often in liaison with the ILT) have therefore been proactive in devising disclosure strategies and identifying material that is likely to assist the Inquiry. We have sought to err on the side of candour and caution in casting the disclosure net wide.
  - c. The war in Ukraine has required (and continues to require) work to be undertaken by many of the same individuals and resources who are working on disclosure. Many of those working on disclosure are subject matter experts. While disclosure to the Inquiry is a priority, there have been times when this has had to take second place behind live, ongoing issues of national security.
  - d. There are stretched resources and budgets across HMG, which are not trivial, and this is a very real pressure on government departments and agencies.
9. HMG would however emphasise that it remains committed to ensuring that its disclosure is completed thoroughly, to the satisfaction of the Inquiry and without compromise to national security.
10. Having regard to all the above, and with the critical caveat while the disclosure/review processes are ongoing it is impossible to give a cast-iron guarantee as to when those processes will conclude, HMG's best estimate as at today's date is that, having made real progress already, the vast majority of HMG's Stage 1 disclosure will be completed by the end of December, with the remainder likely resolved (subject to complying with additional requests for information from ILT) by the end of February 2023.

## **'The Way Ahead'**

11. We are grateful to the ILT for ensuring that early thought is given to the process of Stage 2 disclosure and future Restriction Order/Notice applications. This is something which HMG has been considering for some time and on which we submitted the 'OPEN Position Statement on Contemplated Applications for Restriction Orders/Notices' dated 31 May 2022 in accordance with the Chair's directions prior to the last hearing.
  
12. As outlined in that document at paragraph 2, HMG would struggle to make such applications without a comprehensive set of documents, identified by ILT as relevant and disclosable, being in existence. HMG will nevertheless continue to engage with ILT in the review and identification process but, until ILT have reviewed more police material and completed their review of HMG material, HMG considers that any such applications would be premature. Once ILT have identified relevant material, it will be possible for HMG to consider both police and HMG material together, and then consider making appropriate applications. It is not however possible to make reliable applications on the basis of incomplete material; a topic or phrase may appear innocuous in, say, a police document but, when viewed in conjunction with another document, may create a real security risk. Also, while it is possible that HMG could identify some areas that will clearly fall within scope, there are many others that are more difficult to determine and/or that might be relevant in part (waste disposal and decontamination might be two such examples). Identification of species of sensitivity claims likely to be advanced will be a time-consuming exercise requiring input from many of those currently deployed on disclosure. Unless it is done with a full (or at least nearly full) set of relevant documents, this could lead to unnecessary work and risk delaying the disclosure exercise.
  
13. Since ILT have filed their submissions, the first of what is to be a series of meetings with counsel and solicitors to discuss these processes has already taken place with a second meeting due to take place before the hearing. These discussions have already proved useful, but further work remains to be done, and HMG would suggest that this matter is reconsidered at the next hearing when Stage 1 disclosure should be complete.

## **Venue**

14. We do not presently know the family's position on this issue, and we recognise that this will form a central part of the Chair's consideration. The following observations should be read in that context.
15. HMG considers that, because of the security concerns, it will be necessary for at least some of the OPEN hearings to be conducted in London and therefore has a preference for CTI's proposed option (b) - some OPEN hearings in Salisbury with remaining OPEN evidence heard in London with a video link to a venue in Salisbury; or option (c) - all OPEN hearings in London with a video link to Salisbury.
16. Finally, the events in 2018 had a devastating effect on Salisbury and Amesbury. They affected the local population and local businesses and tourism. HMG respectfully suggests that the Chair and ILT might consider liaising with Wiltshire County Council and/or another process by which the views of the local population might be canvassed too.

**Next Hearing**

17. HMG respectfully supports CTI's suggestion that there should be a further preliminary hearing in the spring of 2023; HMG suggests that March/April 2023 may provide more time for substantial work to be done in time for that hearing. However, HMG respectfully suggests that it is too early to set timings for consideration of Restriction Order/Notice applications at this stage.

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31 October 2022

