1 Tuesday, 4 October 2011

2 (10.30 am)

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3 LORD JUSTICE LEVESON: We will have a break in the

4 mid-morning to give the pressed shorthand writers

an opportunity to recover their strength.
 This is the second hearing intended to

This is the second hearing intended to identify the way forward for the conduct of this Inquiry. There has been some concern expressed about the adequacy of notice. I am sorry about that and I have no doubt that, as we get into the Inquiry, the dissemination of knowledge will become rather swifter and more timeous, but while we are all trying to find our way it is inevitable that things have to be done at rather shorter notice than might otherwise be desirable.

I am grateful to those who have raised further issues beyond those identified by Mr Jay. What I think we will do is we will go through the issues that he has identified and then deal with anything else that might arise.

I will at some stage want to identify the need for further of these hearings but I am keen to underline that the process, which I am determined should be open, transparent and fair, is not intended to generate satellite issues which, with the greatest of respect, seem more designed to pin me down than really to take

1 nonetheless, wish to receive the same documents as core

- 2 participants at the same time as they receive them.
- 3 So those who fall into that category at the moment
- 4 are Trinity Mirror, Mrs Rebekah Brooks, the Metropolitan
- 5 Police Authority and the Telegraph Media Group.
- 6 We have received correspondence and submissions from
- 7 them and those have been provided to you.
- 8 LORD JUSTICE LEVESON: This refers back to my observation
- 9 that I did not intend there to be a bright line between
- those who were core participants and those who were not.
- 11 MR JAY: Yes.
- 12 LORD JUSTICE LEVESON: What I was there referring to was the
- ability of anyone to suggest questions to you which you,
- 14 as counsel to the Inquiry, might wish to pursue, and the
- ability of others to ask if I will receive submissions
- 16 at the conclusion of the Inquiry --
- 17 MR JAY: Yes.
- 18 LORD JUSTICE LEVESON: -- which I made clear, certainly to
- 19 a number of those who applied for core participant
- status, will likely be received favourably.
- 21 MR JAY: Yes.
- 22 LORD JUSTICE LEVESON: But there is a limit to that if the
- 23 Inquiry is not to become entirely unwieldy.
- 24 MR JAY: Yes. It is clear from the rules that the core
- 25 participants enjoy a certain status, of course they are

Page 3

1 forward the issues with which I have to grapple.

Page 1

In some regards, it may be worthwhile pinning issues down but that is a different matter.

I intend to conduct this Inquiry fairly. I am going to consider the issues fairly. Analysis of previous decisions of mine in the Court of Appeal criminal division, the Court of Appeal civil division or, indeed, the House of Lords will not assist in the ultimate view that I take because I have identified from the outset the issues with which I have to grapple and the way in which I intend to approach them.

Everybody will have to take that on board, and they will then have to see whether the way in which I deal with the evidence and the ultimate report that I write fits the description that I have just provided.

So with that general observation which is not intended to be a prescriptive analysis but merely to reflect my concern as I have read the various letters that have passed between different people, let us start.

20 Mr Jay?

Submissions by MR JAY

MR JAY: Sir, I have circulated a note and some draft
 protocols. I have a checklist, as it were, or agenda

for you today. The first issue is the status of those

who have not been designated core participants but who, Page 2

- 1 designated under Rule 5, but in terms of their status in
- 2 respect of which the rules make this explicit, they have
- 3 certain rights or privileges in the context of oral
- 4 evidence, this is Rule 10, and they also have rights,
- 5 subject to your controlling that right, to make oral and
- 6 closing statements under Rule 11.
- 7 LORD JUSTICE LEVESON: Yes.
- 8 MR JAY: The rules do not state whether core participants
  - can make submissions on draft protocols, whether they
- 10 can see witness statements in advance, whether they can
- see documents in advance, but that is a matter for you.
- There is, as it were, an overriding objective in the Act
- under Section 17 that you act fairly, and that is the
- 14 guiding principle of course.
- 15 It appears --

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- 16 LORD JUSTICE LEVESON: Therefore, do I understand that
- inquiries conducted under this legislation before have
- arranged for core participants to receive all these
- 19 documents in advance --
- 20 MR JAY: Yes.
- 21 LORD JUSTICE LEVESON: -- in order the better to prepare for
- the Inquiry.
- 23 MR JAY: Yes. The question arises, I suppose, whether you
- 24 have power in relation to other persons and entities who
- are not core participants in the strict sense, either

1 1 messenger but the point is made, will you be giving because they haven't applied or because you have already 2 decided that they are not, whether you have power to say 2 advance notice of your intention to seek a report? We 3 3 that they should, nonetheless, receive advance notice of say that is entirely a matter for you. 4 4 Then it is the Guardian, paragraph 7 of their documents, et cetera, and witness statements. 5 It appears too to us, but it is a matter for your 5 submissions, this point: will you be defining the 6 6 specific nature and ambit of an assessor's expertise? discretion, that you are master of your own procedure 7 7 Our only observation on that is that it is a matter for and you could, if you so chose, say, in relation to 8 8 your judgment as to whether an assessor is -perhaps a limited number of persons, "Yes, they may 9 9 LORD JUSTICE LEVESON: This is one of the issues that does receive documents in advance". There is nothing, as we 10 see it, in the rules which prevents that course, but nor 10 cause me concern that I am going to start getting myself 11 11 into all sorts of arguments about whether I have asked is there anything which mandates that course. 12 12 Doubtless, you will receive submissions about it but for something that does fall or doesn't fall within the 13 13 expertise, whereas, actually, at the end of the day, those are, insofar as there are any principles the 14 14 I have to get on with it and be fair. principles which will determine your decision once you 15 15 MR JAY: Yes. have heard those submissions. 16 So that is the first issue which arises today. So 16 LORD JUSTICE LEVESON: When I have sat with other assessor 17 17 in other jurisdictions nobody has ever asked me the the second issue, perhaps more prosaically, the draft 18 18 question about what question I asked an assessor and protocols, because we have received submissions as we 19 19 what answer I gave. Ultimately, provided I am fair and sought them on the protocols, of which there are three 20 now in draft, the assessor's protocol, which was subject 20 I make it clear that if I have received some expert view 21 21 which is different to the evidence, that people have to some debate at the last hearing, but it was expressly 22 22 a chance to deal with it, that seems to me where I ought agreed that it would not be finalised until you heard 23 23 to be going. submissions today. LORD JUSTICE LEVESON: Yes. 24 24 MR JAY: Paragraph 4.3 of the draft protocol specifically 25 contemplates, as must be right, consistent with MR JAY: So you indicated on that occasion that you were Page 5 Page 7 1 minded to make an addition to paragraph 3(b) of the 1 obligations of fairness, that you receive submissions or 2 2 observations on any report submitted by an assessor. assessor's protocol. LORD JUSTICE LEVESON: In an area of their expertise --3 3 There is nothing to stop the party from saying "Well, MR JAY: Yes. 4 you shouldn't have solicited that report because 5 LORD JUSTICE LEVESON: -- which really came into -a particular assessor is simply not competent to provide 6 because 3 is subject to paragraph 2, then it is really 6 it to you." Let us see whether that happens, but 7 for the purpose of avoiding doubt. 7 whether you need to do it in an anticipatory way and 8 MR JAY: Yes. 8 define "nature and ambit of an assessor's expertise" in LORD JUSTICE LEVESON: The proof of the pudding on all this 9 advance, is a matter for you, but your provisional view is that that would probably be unnecessary. 10 10 will be in the eating, won't it? MR JAY: Very much so. News International, paragraph 2 of 11 LORD JUSTICE LEVESON: I am just concerned that, as I say, 11 12 their submissions, they enquire whether advice from 12 we are going to move off the main track --13 assessors includes oral advice? Advice is dealt with, 13 MR JAY: Yes. 14 14 LORD JUSTICE LEVESON: -- into sidings which can be sir, under paragraph 5 of the draft protocol and, as 15 drafted, it certainly does not exclude oral advice. 15 extremely tortious. 16 Then News International raise a point, but they will 16 MR JAY: Yes, with an Inquiry which has to complete within 17 no doubt develop it: will the parties be given advance 17 a year, we need to keep to a motorway but keep to the 18 notice of your intention to seek a report from 18 speed limit because the speed limit will define whether 19 19 an assessor under clause 4 of the protocol? It wasn't we are acting fairly. 20 News International. It may have been the Guardian, 20 LORD JUSTICE LEVESON: That is a very challenging assertion, 21 actually. My note is faulty. It doesn't matter from 21 22 22 whom it emanates. We will hear who makes the MR JAY: If we go at 150 miles an hour we may not be acting 23 submission. 23 fairly but if we, as you rightly say, get diverted, we 24 LORD JUSTICE LEVESON: Yes, well, we will, won't we? 24 will take three years and defeat the purpose of this

25 MR JAY: I am identifying the substance rather than the

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Inquiry. We do have to get on with it.

1 So I move on having identified the issues which 2 others will adumbrate in advance, perhaps in greater 3 detail, to deal with the documents protocol which has 4 excited only one observation on my reckoning and this is 5 uncontroversial really. In paragraph 15 of the 6 documents protocol which is in your bundle page 14D, 7 sir, Associated Newspapers have suggested that we have 8 a third category after the "or", what is going to be 9 a second "or": 10 "Confirm in writing that no redactions in respect of 11 the documents or information provided are sought." 11 That is an acceptable amendment and we will make 13 that amendment subject to your confirmation and anybody 14 else's contrary submission. 15 The funding protocol has 16 LORD JUSTICE LEVESON: Just before you move from that 17 protocol, we did receive a communication which dealt 18 with the document management system. 19 MR JAY: Yes, we did. 20 LORD JUSTICE LEVESON: I have no doubt that has been taker 21 on board. 22 MR JAY: It has. 23 LORD JUSTICE LEVESON: Are you satisfied that the point can 24 be sufficiently addressed of the concerns? 25 MR JAY: I think it can. To be absolutely frank, I haven't Page 9  1 applied my mind to all the technicalities, but I will 2 check during the course of the morning that there is no 3 point I need to specifically draw to your attention 4 about the practical proposals which are there suggested.
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4 about the practical proposals which are there suggested. 4 LORD JUSTICE LEVESON: Yes.
5 I think it is Trinity Mirror, isn't it, who made those 5 MR JAY: So, in answer to News International's question,
6 suggestions? 6 well they can say precisely what they like at that point
7 LORD JUSTICE LEVESON: Yes, but using their expertise from 7 and it need not be limited, of course, to the subjects
8 another Inquiry. 8 covered by the briefings and seminars, it can be as wide
9 MR JAY: So it was the MPA. It is page 108. I am grateful. 9 ranging as they see fit.
10 LORD JUSTICE LEVESON: Thank you very much. Yes, it is 10 You also, it seems to us, have power, at any stage
11 Eversheds. 11 of the Inquiry, to invite submissions from counsel to
12 MR JAY: Yes. 12 the Inquiry or any core participants on any specific
13 LORD JUSTICE LEVESON: I have no doubt that members of the 13 issue.
14 Inquiry team will talk to solicitors who obviously have 14 LORD JUSTICE LEVESON: Let me just give you some thin
15 expertise in the document management system and make 15 that
sure we can take whatever benefit that can be obtained 16 MR JAY: Yes.
17 from their expertise. 17 LORD JUSTICE LEVESON: and test out what I have
18 MR JAY: Thank you. 18 previously said. The purpose of the briefings was to
The next issue, and this time I am sure I have got provide both the background in relation to the general
20 it right, it is News International who have made the 20 law and in relation to the regulatory framework so that
21 point, paragraph 3 of their submissions. They enquire 21 everybody understood the broad situation as it exists
22 as to the time for making submissions on the subjects 22 now.
23 covered by the 23 MR JAY: Yes.
24 LORD JUSTICE LEVESON: We have finished the protocols, have 24 LORD JUSTICE LEVESON: The briefing provided by Mr V
25 we? 25 last week was an example, and there is to be another one
Page 10 Page 12
3 (Pages 9

1 tomorrow, the other of the two, and there are some notes 1 The evidence will be what one hears, actually, 2 2 downstairs, rather than in this room, from the large available and we will doubtless put something out about 3 3 range of witnesses who will be called. it, because it is not just to tell everybody here, most 4 4 MR JAY: Yes. of whom know a great deal about these areas of law and 5 LORD JUSTICE LEVESON: Anyway, we will hear what people say perhaps rather less about regulation, but also the wider 5 6 public, so that people can understand where we presently 6 7 7 MR JAY: The next issue, and this is a further point from 8 8 News International, paragraph 4 of their submissions, The purpose of the seminars is equally to spark off 9 a discussion of the issues. 9 they raise a query as to the level of detail into which 10 MR JAY: Yes. 10 we are going to go in establishing the narrative for the LORD JUSTICE LEVESON: I certainly intend, not only that the 11 purposes of part 1 of your Inquiry. 11 12 LORD JUSTICE LEVESON: Yes. 12 seminars will be capable of being watched subsequently 13 but also the transcripts and summaries are available to 13 MR JAY: I say nothing more about that, save to note that 14 raise the issues and invite what would, I suppose, 14 the Inquiry, at this stage, is into the culture, 15 strictly be the submission of evidence from the public 15 practices and ethics of the press. "Culture" is as 16 but really engage the wider community and journalists 16 detailed or as general as one chooses to make it, but we 17 17 have already indicated we have to have regard to other who aren't involved in this particular Inquiry 18 personally --18 considerations. MR JAY: Yes. 19 19 I have no further submissions to make about that 20 LORD JUSTICE LEVESON: -- in the debate. Therefore, 20 matter. 21 21 LORD JUSTICE LEVESON: We will hear what Mr Rhodri Davies anything that anybody has to say, if anybody suggests 22 that, for example, I don't believe anybody will, but if 22 has to say about that. 23 23 they did, that Mr Warby got the law wrong, then, by all MR JAY: List of issues, this is a point from 24 means, they should do so and they can make a submission 24 Associated Newspapers. They would like a list of issues 25 about that at any time. 25 to clarify and explain the terms of reference. It is Page 13 Page 15 MR JAY: Yes. 1 right that in some inquiries, in many inquiries, indeed, 2 2 LORD JUSTICE LEVESON: If they think that the way in which there has been such a list of issues. Whether it is 3 3 we ultimately invite public views on the seminars is necessary in this particular Inquiry is, we say, 4 unbalanced, without trying to weigh these to a nicety, 4 entirely a matter for you. 5 then again, they can make submissions. LORD JUSTICE LEVESON: But this Inquiry, as I think I have 6 MR JAY: Yes. 6 said before, is different to many inquiries. An Inquiry 7 LORD JUSTICE LEVESON: I have no problem about that at all. 7 might be set up to investigate some disaster, the 8 MR JAY: Yes. Subject to your view, the right time to make 8 King's Cross fire, the Hillsborough, the Mid Staffs, all 9 submissions on the subject of the briefings and seminars 9 these inquiries are generated by events and the Inquiry 10 and more generally is likely to be in the opening 10 will generally be to find out what happened and to learn 11 statement contemplated by Rule 11, so we have them in 11 12 one piece. There is unlikely to be a burning need for 12 The first problem is that a lot of the precise 13 13 anybody to comment in the interregnum between closing detail, which is normally the starting point for 14 seminars and starting the evidence gathering sessions of 14 an Inquiry and is naturally the starting point, is or 15 the Inquiry. 15 may be tied up in the investigation being undertaken by LORD JUSTICE LEVESON: It depends, doesn't it, because 16 16 the police. Therefore, to some extent, as has been 17 people will doubtless listen to the seminars and, if 17 observed and as I have said, the Inquiry puts the cart 18 there is some concern before we put something out, 18 before the horse because, if one were to wait for the 19 I mean the seminars will go out as they are, we can't 19 end of the police investigation, we wouldn't start for 20 change them. 20 a time to be measured in, well, not weeks and probably 21 MR JAY: Yes. 21 not months. I don't know. I simply don't know. That LORD JUSTICE LEVESON: But, as we seek to reflect them, then 22 22 shouldn't be taken as my providing some indication of 23 I don't mind when that comes, because that is not 23 knowledge which I don't have, because I don't have the 24 evidence. It is part of the record of the enquiries, as 24 knowledge. 25 I think I have said before, but will not be evidence. 25 MR JAY: Absolutely.

Page 14

1 LORD JUSTICE LEVESON: Therefore, I am required by the terms 2 of reference, which are far more detailed than in other 3 inquiries, to look at some specific issues now, before 4 the investigation can go into the sort of detail that 5 would be necessary, which would have to await the 6 conclusion of any police investigation. 7 MR JAY: Yes. 8 LORD JUSTICE LEVESON: To try to go into further explanation 9 seems to me to be rather difficult and, to some extent, 10 I have to wait and see what evidence is generated and 11 what I can get to grips with and how far I can go 12 without causing that prejudice. 13 MR JAY: Yes. 14 LORD JUSTICE LEVESON: I think I made clear that I had 15 invited the Director of Public Prosecutions to make 16 submissions as to how far I can go before I run the risk 17 of potentially causing prejudice to a current criminal 18 investigation. 19 MR JAY: Yes. 2 LORD JUSTICE LEVESON: Where are we on respons notices for evidence and the requests for evidence, 2 because there are two things. 3 MR JAY: It would be right to say that all recipients, on understanding of Section 21 notices, have engaged withe languity. Some have asked for an extension of time which have been granted. There are no specific matter which cause us concern and which we need to draw to attention at this stage. 11 LORD JUSTICE LEVESON: Okay. 12 MR JAY: I should say that some newspapers did not as extensions of time and provided their evidence on the date we originally sought and worked extremely hard do so. I am not saying for one moment that other newspapers are not working equally hard. 15 LORD JUSTICE LEVESON: No, let me make it abund investigation. 16 I am very grateful to everybody. I am particularly grateful to those who hit the deadline, not because I and the provided the provid	my h e, es your e for
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18 I am very grateful to everybody. I am particularly	unity crear
	n
The next matter or series of matters concerns the 20 trying to be macho about this, but because we have to	
21 handling of the Inquiry itself and the production of 21 get on and, absent the material, we can't get on.	
witness evidence. I think these points all come from 22 MR JAY: Yes.	
the Guardian. The first point: will there be advance  23 the Guardian. The first point: will there be advance  23 LORD JUSTICE LEVESON: So I am very grateful to t	nose who
24 notice of the order in which witnesses will be called 24 have done so and I am equally grateful to whose who	
25 and, if so, how much notice? Well, the answer is: we 25 working to do so within extended times and I am very	пс
Page 17  Page 19	
2 450 27	
1 will give as much notice as we can. It goes without 1 keen to receive things as and when they are ready,	
2 saying we won't be telling witnesses the night before 2 rather than have it all bundled up in one great pile it	
3 that they are on the stand, as it were, the following 3 that is not inconvenient.	
4 morning. 4 MR JAY: Yes. Unless I hear otherwise, during the co	urse of
5 LORD JUSTICE LEVESON: I don't think we have stands in this 5 the morning, on that specific matter, namely compli	ance
6 country, Mr Jay. 6 with the Section 21 notices, there is nothing I need	)
7 MR JAY: That is true. 7 bring specifically to your attention. It is all being	
8 LORD JUSTICE LEVESON: Nobody should draw inferences about 8 dealt with behind the scenes and on an amicable base	is,
9 the way in which we will try to organise the time from 9 but if that is wrong I will be told.	
10 the way we have organised these hearings. The fact is 10 LORD JUSTICE LEVESON: I hope if it ceases to be	amicable
11 that I will want to set out a broad way forward with 11 I will be told.	
some identification of the time available, not least so 12 MR JAY: Yes.	
that people can understand the restraints that will 13 LORD JUSTICE LEVESON: Everybody has to help.	I am very
inevitably have to follow from that available time. 14 sorry, that is the nature of the beast and it isn't in	
15 MR JAY: Yes. 15 anybody's interests that this takes longer than it nee	l
16 LORD JUSTICE LEVESON: That will include, not merely the 16 take, whatever. There are issues that have to be	
skeleton of how we will break up the next nine months, 17 addressed and we all have to address them and, to the	at
but also, I hope, an identification of the witnesses and last extent, if different groups have different ways of	
19 how long we think they will take, but that inevitably 19 working and want to suggest approaches, then I am	very
20 must wait the collection of the evidence because we 20 prepared to receive them.	
21 can't make decisions until we know where we are. 21 MR JAY: Yes. So thank you.	
22 MR JAY: Yes. Not all the evidence is in, so the precise 22 The next issue is: will there be advance notice of	
23 witnesses who are going to be called to give oral 23 the lines of questions which, in particular, counsel t	)
24 evidence and their sequence although we may have some 24 the Inquiry will be posing of witnesses?	
25 ideas, but those ideas certainly aren't going to 25 Our provisional view, again, subject to further	
Page 18 Page 20	

1			
1 -	submissions and your view, is that there won't. Rule 9	1	of question which counsel to the Inquiry, for whatever
2	of the Inquiry Rules 2006, in Mr Beer's book is at	2	reason, decided not to pursue". So it would be
3	page 477, makes it clear that the areas of evidence must	3	an application made on the hoof which, with the witness
4	be addressed in witness statements. This Inquiry has	4	there, you will have to determine on the hoof. So the
5	chosen to use the Section 21 procedure but the	5	advance notice, which will be given to everyone else in
6	principles are the same.	6	those circumstances, will be very short notice. One
7	Subject to Rule 9, the Inquiry is not presently	7	can't rule out that possibility.
8	minded to give advance notice of lines of questions,	8	LORD JUSTICE LEVESON: No, I understand that, but obviously
9	nor and this is a related point but slightly	9	it would be sensible if, when we have declared who is
10	separate advance notice of documents to be put to	10	going to be called to give evidence and given
11	witnesses.	11	appropriate notice, that, if anybody has any burning
12	•	12	issues that they think you might miss, that they should,
13		13	first of all, alert you: "Will you be dealing with that,
14	documents to be put to each witness, that task is likely	14	this and the other?" You will simply be able to look
15	to prove extremely difficult to the Inquiry as presently	15	down the list and say "yes, no, yes, no, yes, no" or
16	constituted and, frankly, we are going to get bogged	16	"yes, yes, yes" or whatever.
17	down and we need to be fleet of foot, frankly, and we	17	MR JAY: Exactly. So the length of the notice is going to
18	are not minded to submit to you that this is a request	18	be a bit of a movable feast depending on when the issue
19	which should be acceded to.	19	is being addressed, but as I have said, one can't rule
20	LORD JUSTICE LEVESON: Yes. It is always open to anybody to	20	out the possibility of applications being made at the
21	suggest questions to you	21	last moment.
22	MR JAY: Yes.	22	LORD JUSTICE LEVESON: No, I see that.
23	LORD JUSTICE LEVESON: which is a rather different	23	MR JAY: The next issue, and this is likely to be
24	proposition. Equally, it is open to a core participant	24	uncontroversial today, the standard of proof which you
25	to apply for permission to ask questions, although	25	should be applying to your determinations of fact under
	Page 21		Page 23
1	outlines to Dula 10.1	1	section 24 of the Act. I mut formulate come successions
1	subject to Rule 10.1. MR JAY: Yes.	$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	section 24 of the Act. I put forward some suggestions based on what was determined in another enquiry, the
2	LORD JUSTICE LEVESON: Subject to that provision, it makes		Baha Mousa Inquiry, and the ruling of Sir William Gage
3	it clear that only counsel to the Inquiry and the	4	is available on his website, the matter is subject to
	Inquiry panel, which in that case is me and me alone,		is available oil his website, the matter is subject to
5		- 5	
		5	detailed submissions and then a detailed ruling. We
6	may ask questions of that witness.	6	detailed submissions and then a detailed ruling. We have made some suggestions really on the back of that,
6 7	may ask questions of that witness.  MR JAY: Yes, that is right and this leads to the final	6 7	detailed submissions and then a detailed ruling. We have made some suggestions really on the back of that, but a number of people have said it's not necessary or
6 7 8	may ask questions of that witness.  MR JAY: Yes, that is right and this leads to the final point, I suppose, that is made in this context: will	6 7 8	detailed submissions and then a detailed ruling. We have made some suggestions really on the back of that, but a number of people have said it's not necessary or appropriate that you decide that issue today. Let us
6 7 8 9	may ask questions of that witness.  MR JAY: Yes, that is right and this leads to the final point, I suppose, that is made in this context: will there be advance notice of applications by other counsel	6 7 8 9	detailed submissions and then a detailed ruling. We have made some suggestions really on the back of that, but a number of people have said it's not necessary or appropriate that you decide that issue today. Let us return to it another day.
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1	this is another uncontroversial point, is that we said	1	discuss emerging findings. So there will be ample
2	in the note that it was the Inquiry's present intention	2	opportunity for you and the other core participants to
3	that the evidence gathering session will be televised	3	comment on the direction in which I am minded to travel
4	and, subject to the view of the broadcaster,	4	and to make submissions if you think that I need to tilt
5	simultaneously broadcast. We invited submissions and	5	the rudder so many degrees to the left or right or go in
6	observations about that and no one has expressed any	6	the opposite direction. I don't mind that, but to start
7	objection to that proposed course.	7	to unpick otherwise creates a satellite area of work,
8	LORD JUSTICE LEVESON: Yes.	8	which I am sure you will understand, is simply not
9	MR JAY: At that stage and in a neutral and, I hope,	9	practical.
10	expository fashion those are my submissions.	10	MR DAVIES: Yes. As I said, it is a small point.
11	LORD JUSTICE LEVESON: All right. Let us see where we go to		Paragraph 5 is governed by the extent to which you
12	from here. With such a bewildering array of talent,	12	consider it necessary and proportionate and we entirely
13	where to start? I think I am going to leave	13	understand that.
14	Mr Sherborne towards the end because he can hear what	14	LORD JUSTICE LEVESON: Absolutely.
15	everybody else has had to say and then deal with points	15	MR DAVIES: That is the first point.
16	where he may take a different view to some of the other	16	LORD JUSTICE LEVESON: The reason I am saying what I an
17	core participants as it emerges, so that doesn't intend	17	saying is because, the more reassurance I can give
18	to show you any discourtesy.	18	everybody about how I am trying to do this and how
19	MR SHERBORNE: I am grateful.	19	I want to make as much open as I can make open, how
20	LORD JUSTICE LEVESON: Similarly, I think, probably, with	20	I want to be as transparent as I can and how I want
21	the police. Right. Mr Rhodri Davies, you are on.	21	everybody's help and I absolutely will be fair, then the
22	Submissions by MR DAVIES	22	better and then perhaps people will stop chipping away,
23	MR DAVIES: Thank you, sir.	23	but maybe they won't.
24	Could I say at the beginning that, in view of what	24	MR DAVIES: Well, if I move on from that point, sir.
25	you said earlier, we, of course, don't doubt the	25	LORD JUSTICE LEVESON: Yes.
	Page 25		Page 27
1	commitment of the Inquiry to be open, fair and on time	1	MR DAVIES: The next point and, in fact, this goes for quite
1 2	commitment of the Inquiry to be open, fair and on time and it is our hope and intention that we will assist not		MR DAVIES: The next point and, in fact, this goes for quite a lot of the rest, might really be headed "Timetable"
2	and it is our hope and intention that we will assist not	2	a lot of the rest, might really be headed "Timetable"
	and it is our hope and intention that we will assist not hinder that process.		a lot of the rest, might really be headed "Timetable" because the next point we have raised, and I know it is
2 3 4	and it is our hope and intention that we will assist not hinder that process.  If I just take the points that were raised in the	2 3	a lot of the rest, might really be headed "Timetable" because the next point we have raised, and I know it is a point that has been raised by other core participants,
2 3 4 5	and it is our hope and intention that we will assist not hinder that process.  If I just take the points that were raised in the note that we put in.	2 3 4 5	a lot of the rest, might really be headed "Timetable" because the next point we have raised, and I know it is a point that has been raised by other core participants, is the point at which we should make sustained
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1	said this morning as well, the object of the seminars	1	second week in November.
2	and certainly the briefings is not from anyone from one	2	I would be very interested to hear whether anybody
3	of the core participants, certainly not from the	3	thinks that is too soon, too far away or what. The
4	newspaper side anyway, to get up and make a great speech	4	purpose being that five weeks or whatever time that is
5	about how they see the future. It is to stimulate	5	going to be taken up reading, assimilating, preparing
6	debate and get lots of contributions.	6	a detailed plan and ensuring that, when we start, we
7	LORD JUSTICE LEVESON: Absolutely.	7	start and don't stop. In other words, we keep going so
8	MR DAVIES: Nonetheless, there has to come a point at which	8	that we would move straight from opening submissions
9	we say, "This is the way we think it should go".	9	into evidence.
10	LORD JUSTICE LEVESON: Absolutely, and I am happy for tha	t 10	MR DAVIES: Yes.
11	whenever you wish. Certainly, it will be helpful to	11	LORD JUSTICE LEVESON: Now, that is not a timeframe that you
12	have it set out at the beginning, not least because one	12	have been told before because, to some extent, it has
13	can then examine the evidence against the possible	13	been one that I don't say has been forced upon me
14	solutions if there is a problem.	14	because, as those who help me have learnt, forcing
15	MR DAVIES: Yes.	15	things on me doesn't normally work, but it is suggested
16	LORD JUSTICE LEVESON: To the extent that the	16	as a realistic timeframe, so I would be grateful for
17	representatives of the media have a common view about	17	your view about that and indeed, everybody else's view
18	areas, then whether or not I agree with it, that is	18	about that.
19	not quite the point I am very, very pleased to learn	19	MR DAVIES: I think it would be premature for me to comment
20	it, because I am very conscious that, whatever I do come	20	on the hoof on that, except that, certainly, I would be
21	up with, if it is different, has to work and it is not	21	surprised if it was too soon and I am not going to say
22	merely the assessors that will tell me "Well, that idea	22	anything beyond that spontaneously.
23	is hopeless". You also will tell me what you think will	23	LORD JUSTICE LEVESON: In a few minutes I will give the
24	work in the spirit of trying to use the opportunity to	24	shorthand writers a break and you will have the chance
25	protect article 10 but mindful of everybody's	25	to think about that.
	Page 29		Page 31
1	obligations under article 8	1	MR DAVIES: Yes Perhans I could raise another point which
1 2	obligations under article 8.  MR DAVIES: Yes, that is certainly the balance we would want	1 2	MR DAVIES: Yes. Perhaps I could raise another point which is, in a way, related to that which I am afraid is not
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2 3	MR DAVIES: Yes, that is certainly the balance we would want to explore. It sounds as if we should treat opening	2 3	is, in a way, related to that which I am afraid is not in my note, because it hadn't struck me earlier, but you
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1	we were going to start. So there may be some witnesses	1	Now, we would we welcome any guidance that it is
2	but not, I think, many who may be asked to come again.	2	possible to give as to how the Inquiry is intending to
3	What I hope to do, shortly, is to, as it were, start the	3	attain that. Obviously, there is a lot of material
4	next phase off so that there may be some degree of, as	4	already in the public domain in one way or another but
5	it were, concurrent rather than consecutive evidence.	5	putting it all together is an enormous task, but there
6	For the principal, most significant witnesses I would	6	is a lot out there.
7	hope to avoid requesting multiple appearances	7	So at one end, the tribunal can no doubt work with
8	MR DAVIES: Yes.	8	that. At the other end, it could hear fresh evidence of
9	LORD JUSTICE LEVESON: but I do not exclude the	9	primary facts and make findings of primary fact as to
10	possibility because, otherwise, the plan of action will	10	what happened when. Then there is obviously a great
11	just lose its momentum.	11	deal of territory in between. As a party who is
12	MR DAVIES: Yes.	12	necessarily quite closely engaged in some of the history
13	LORD JUSTICE LEVESON: Would that cause your clients any	13	it would help us to know, if at all possible, at what
14	difficulty?	14	level the Inquiry intends to pitch its enquiry into the
15	MR DAVIES: It will cause, I am sure, the obvious	15	narrative.
16	difficulties that busy people would prefer to prepare	16	LORD JUSTICE LEVESON: Your question contains within it the
17	things once and do them once but those are probably not	17	answer to your question. It is impossible to identify
18	difficulties which weigh very heavily in the scales as	18	the level of detail and certainly impossible until
19	against the importance of the Inquiry.	19	I have had submissions from the Director of Public
20	LORD JUSTICE LEVESON: Yes, but the preparation would be	20	Prosecutions as to the extent to which he is concerned
21	different, wouldn't it?	21 22	that what I might do could prejudice proceedings.
22	MR DAVIES: It will.  LORD JUSTICE LEVESON: I take the point and, indeed, people		I think I identified the need for that very early on.  All I can say is that I am mindful of the issue, but
23 24	have busy lives. I am very, very conscious of that and	24	equally until I have the evidence, until I know what is
25	the people who are most concerned with some of these	25	out there and how best I can tell the story, it is quite
23	Page 33	23	Page 35
	1 450 33		Tage 33
1	issues are those at the very top of very important	1	difficult to see the detail. So I take your point.
1 2	issues are those at the very top of very important enterprises.	1 2	difficult to see the detail. So I take your point. I understand it. I do not intend to prejudice any
			• •
2	enterprises.	2	I understand it. I do not intend to prejudice any
2 3	enterprises. MR DAVIES: Yes.	2 3	I understand it. I do not intend to prejudice any criminal investigation or prosecution. That has been
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1	LORD JUSTICE LEVESON: As much notice that can be given wil	   1	five minutes sufficient just to provide a break, and
2	be given.	2	I have taken you quite slowly because a number of the
3	MR DAVIES: Yes.	3	issues are raised by a number of the others, so
4	LORD JUSTICE LEVESON: You can rest assured that my	4	hopefully, the answers that we have discussed, that we
5	expertise may not extend to all aspects of the work of	5	have analysed, help some of them too. We will just take
6	the press but it certainly does extend to the pressures	6	five minutes.
7	of giving evidence in any forum and I well understand	7	(11.35 am)
8	the difficulties that even the most robust might face.	8	(A short break)
9	So such assistance as can be provided to allow witnesses	9	(11.40 am)
10	to prepare appropriately will be given, but there are	10	MR DAVIES: You will be pleased to know I don't have
11	limits to that, obviously.	11	anything to add and there is nothing that I can sensibly
12	MR DAVIES: Then the last point is really the reverse side	12	say now about the date. We will have to discuss it with
13	of that coin. Mr Jay's note at paragraph 18.2, in	13	our clients and see if they have any particular comments
14	relation to witness evidence, raises two objectives: the	14	and, of course, if they do we will come back.
15	need to conduct the Inquiry searchingly and	15	LORD JUSTICE LEVESON: Of course, but there is nothing that
16	expeditiously and overriding considerations of fairness	16	your solicitors say "My God, that's impossible" or "Too
17	to the witness. Now, again, this probably hardly needs	17	late or too soon" for any reason?
18	to be said but, since those two have been singled out,	18	MR DAVIES: Nobody has said it is too soon, but nobody has
19	we were a little concerned that there is a third	19	yet told me that it is impossible.
20	consideration which is fairness to anyone who may be	20	LORD JUSTICE LEVESON: Thank you very much, indeed. That is
21	adversely affected by the evidence given by the witness.	21	very useful, thank you.
22	So I am sure this will happen, but that embraces things,	22	Let us carry on going down the core participants who
23	like suggesting lines of questioning to counsel to the	23	are newspaper groups. Ms Palin?
24	Inquiry and also the opportunity to ask questions	24	Submissions by MS PALIN
25	directly.	25	MS PALIN: Sir, may I first apologise for the late filing of
	Page 37		Page 39
1	LORD JUSTICE LEVESON: Yes, I ought just to deal with that.	1	our written representations yesterday morning and any
2	The rules make it abundantly clear that:	2	inconvenience caused thereby?
3	"If the evidence of a witness directly relates to	3	I am grateful for the guidance that Mr Jay has set
4	the evidence of another witness, the recognised legal	4	out in his note for the clarifications that the Inquiry
5	representative of the witness to whom the evidence	5	has given this morning. In the light of what has been
6	relates may apply to the chairman for permission to	6	said, I am not sure that there is anything that I need
7	question the witness."	7	to add, save perhaps for a small observation in relation
8	I will follow that, but all questioning is going to	8	to our request for a list of issues. I hope that that
9	have to be very tightly curtailed.	9	wasn't seen as an improper or inappropriate pinning
10	MR DAVIES: Yes.	10	down.
11	LORD JUSTICE LEVESON: I won't let unfairness creep in but	11	LORD JUSTICE LEVESON: Ms Palin, if I think you do something
12	the idea that there is going to be a free-for-all should	12	inappropriate there won't be any coded message about
13	not gain credence, because there isn't.	13	that. No, I quite understand why, in this difficult
14		1.4	area, people are trying to pin down a number of issues,
1.5	MR DAVIES: No. We are very conscious that this is	14	
15	an Inquiry not an adversarial litigation.	15	and I don't take that as inappropriate or improper, but
16	an Inquiry not an adversarial litigation.  LORD JUSTICE LEVESON: That is the point and, whereas I will	15	and I don't take that as inappropriate or improper, but everybody has to appreciate the problems that I face
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1 doorstepping. MS PALIN: Yes, sir. I hope it was apparent from my 2 Unless doorstepping is identified as a specific 2 submissions that we recognise that it may be a premature 3 3 exercise, at this stage before you have had topic, it is not covered by your terms of reference, in the sense that doorstepping isn't picked up, it is 4 4 an opportunity to review the evidence. I am not going 5 5 to press it today. I simply flag that it would be plainly included within that. And we respectfully 6 6 submit that it would be helpful if the Inquiry has a document that my clients would find useful or of great 7 7 developed any thinking along those lines to say, it assistance in understanding how you interpret your terms 8 8 would be helpful to address these following points, of reference. 9 9 simply to share that. I think that is, I am afraid that is it, unless 10 10 LORD JUSTICE LEVESON: Let me share my immediate reaction to there is anything else I can assist you with. 11 your question, albeit at the risk of travelling on 11 LORD JUSTICE LEVESON: That is fine. 12 virgin snow, which is to say this: that the Inquiry 12 Submissions by MR DINGEMANS MR DINGEMANS: Sir, can I just address three matters? 13 covers the ethics of the press and, therefore, what is 13 14 14 appropriate and what is not appropriate is very much The first is topics or partly picking up the list of 15 15 within the terms of reference. So you mention issues matter. We entirely accept that this is a wide 16 ranging Inquiry and different in type from those 16 doorstepping. I could mention -- is the phrase 17 "blagging" -- and other mechanisms whereby information 17 investigating a specific incident, but the need, 18 18 is obtained. One might talk about a number of issues, therefore, for parties, especially core participants and 19 19 all of which fall within the code of practice which witnesses to know the topics that are being addressed is 20 20 increased. It is not intended to create further work require to be considered as part of the picture that 21 21 leads to the creation of an approach to the interests of for the Inquiry, but if the Inquiry identifies topics as 22 it goes along, it is then very helpful for those to be 22 the public. 23 23 MR DINGEMANS: Again, sir, we respectfully agree -shared with the core participants because, otherwise, we 24 LORD JUSTICE LEVESON: I am pleased about that. would be like ships in the night and may miss particular 24 25 MR DINGEMANS: -- but the proposition is that it is helpful areas. Page 41 Page 43 LORD JUSTICE LEVESON: That is a different point entirely. 1 to identify, for example, those specific matters which 2 I hope that all those involved in this Inquiry will 2 have occurred to the Inquiry, which has access to 3 liaise very closely with counsel to the Inquiry to 3 materials that the core participants don't, because it 4 ensure that this particular vessel proceeds in 4 is collating all the material, it will then share it, 5 an orderly fashion. I anticipate that there may be real 5 and in those circumstances, the collaboration that you 6 value in meetings outside the formal hearings of the 6 ask for is likely to be more readily available. 7 Inquiry between counsel to try to identify the best ways 7 LORD JUSTICE LEVESON: I quite agree. We will hear what 8 forward in specific areas and I take the view, I hope 8 Mr Jay has to say about that at the end but my immediate 9 accurately, that everybody sees the value in getting 9 reaction is that that is exactly the sort of thing that 10 a result from this Inquiry which moves this debate on 10 I would expect to happen without it being a formal 11 and, therefore, that everybody will work to try to find 11 identification of a list which then everybody has to 12 that solution and, therefore, the more that can be done 12 comment on and grows barnacles. 13 collusively, collaboratively, the better and that 13 MR DINGEMANS: It is not intended to be a hindrance to your 14 14 applies to the Inquiry team, and I hope applies to all discharge of duties. 15 of you and to counsel to the Inquiry. 15 LORD JUSTICE LEVESON: Okay, good. 16 MR DINGEMANS: We respectfully agree but do make the 16 MR DINGEMANS: The second area is lines of questioning. My 17 proposition that knowing topics will certainly assist 17 learned friend Mr Jay said it wasn't proposed to give 18 and that is not, in any sense, meant to require anybody 18 lines of questions to witnesses. We respectfully submit 19 19 to waste time. that there are two overarching principles in the 20 LORD JUSTICE LEVESON: What do you mean by "knowing topics" 20 Inquiries Act 2005. The first is fairness and the 21 MR DINGEMANS: For example, if one is dealing with issues on 21 second is structures designed to elicit the truth. 22 the relationship of the press and the public, then there 22 Not giving notice of lines of enquiry to witnesses, 23 are a number of different issues that are raised. For 23 we submit, would be about as unfair a procedure as could 24 example, there is the phone hacking, which gave rise to 24 possibly be imagined and it was plainly, sir, not your 25 25 the terms of reference but there is the practice of intention to adopt an unfair procedure because when you

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1 were having exchanges with my learned friend for 1 questions on your witness statement, is a substantial 2 News International you immediately said the aim was to 2 comfort and one which, we respectfully submit, is 3 3 give as much notice as possible. implicit in the structures within the Inquiries Act. 4 4 But to call witnesses who receive notices on the How unfair is it for the witness to think that they are 5 8 August, who prepared statements and who are then going 5 coming to give evidence on a detailed witness statement 6 to be put -- and I will come finally to television 6 to be met with a whole series of different questions 7 cameras in a minute -- but they are then put on public 7 about which they have had no notice? 8 display, without any notice of the areas on which they 8 LORD JUSTICE LEVESON: Well, it depends again the level at 9 are going to be questioned, we respectfully submit would 9 which you are talking. 10 10 MR DINGEMANS: Again, I entirely accept that and my aim is be simply wrong and it would not enable you, sir, to get 11 at the truth because you are very likely to have a whole 11 not to add to my learned friend's burdens. It is 12 series of witnesses terrified by the experience, anxious 12 certainly not, but it is to protect people who are going 13 to avoid causing any problems, et cetera, and in 13 to give witness statements and I represent some 14 14 circumstances where they will not know what they are witnesses but my learned friends around the tables will 15 dealing with. 15 represent others, but to call a person who thinks it may 16 LORD JUSTICE LEVESON: I hope nobody is going to be 16 be the witness statement only, even telling them that is 17 terrified by the experience. 17 likely to provide massive reassurance. Then to say, 18 MR DINGEMANS: Sir, you will have seen enough witnesses in 18 "And also topics, for example, doorstepping", if that 19 your time to realise some enjoy it, some play to the 19 has been identified as a topic or something else, we 20 gallery and some are terrified by the experience. 20 respectfully submit is so obvious that it almost goes 21 LORD JUSTICE LEVESON: Yes, I am not suggesting many will 21 without saying, which is why this is my second point. 22 fall into the first category, I will stop anybody 22 LORD JUSTICE LEVESON: Why doesn't it appear in the Act? 23 falling into the second category. Yes, I suppose it is 23 MR DINGEMANS: Because the Act says "fairness". The Act 24 24 a question of the granularity of the information. says "fairness" and the proposition that you would call MR DINGEMANS: If there is to be none and, sir, you are to 25 a person to be subjected to public questioning, without Page 45 Page 47 rule that we are to have none, we respectfully submit 1 any notice, we respectfully submit would infringe all 1 2 2 the principles of -that would infringe all of the principles of the Act and 3 3 LORD JUSTICE LEVESON: It happens all the time in crime. it is plainly not your intention to be unfair and, of 4 course, no one is trying to add to the immense burdens MR DINGEMANS: Even in crime people have at least some idea 5 5 of the broad areas. on my learned friend, but to put a witness up who has 6 LORD JUSTICE LEVESON: They have made a witness statement provided a statement dated 16 September at some stage in 6 7 the future, with no idea about the areas that they are 7 and they are cross-examined on a wide range of issues 8 going to be asked, what might occur overnight in the 8 and, indeed, I was personally involved in an Inquiry, 9 9 bath or might have been suggested informally by someone acting for a witness in that case, in which the word 10 10 I used to describe what had happened to him was else, we respectfully suggest would be plainly wrong. LORD JUSTICE LEVESON: It depends on the level of detail 11 11 12 that one is talking about. If somebody has made a very, 12 MR DINGEMANS: The potential unfairness of that has been 13 13 mitigated by the Criminal Procedure Rules, which require very lengthy statement, covering a wide ranging number 14 14 notice now if your character is going to be assassinated of issues, then it may be -- I am not deciding it, 15 15 I will think about it -- appropriate to say, "Well, and you are a third party. Is it not, in a situation 16 actually, as far as we are concerned, 60 per cent of 16 which is not adversarial, even more important to 17 this statement can be taken as read or 80 per cent of 17 discharge duties of fairness to witnesses? 18 the statement can be taken as read. The areas upon 18 LORD JUSTICE LEVESON: I am actually more interested to make 19 19 sure that I get considered evidence, which is a slightly which we are interested to ask questions are A, B, C, D, 20 the general areas of the statement". I would have to 20 different point. I hear what you say. 21 21 MR DINGEMANS: My third submission is -think about that. On the other hand, some witnesses 22 22 LORD JUSTICE LEVESON: You are going to be told to say will have given very focused evidence on specific 23 23 issues, in which case that isn't going to be necessary. something else now. Hang on. MR DINGEMANS: Sorry, may I just ... (Pause)

MR DINGEMANS: But even to that witness the proposition that 24

you are going to be asked -- I am going to ask you

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My third point has now gone.

1	LORD JUSTICE LEVESON: Splendid. Right. We have a very	1	grateful for the steer that your Lordship will give as
2	interesting submission or representative who no,	2	much notice as possible on that regard.
3	Mr Glen must be next. He is the next core participant,	3	But in terms of lines of questioning and indications
4	Mr Glen.	4	of documents, again, I don't think what we were
5	Submissions by MR GLEN	5	contemplating in our letter was a bulleted list of
6	MR GLEN: I am grateful, sir. I think the Guardian had	6	questions, as one may be prepared by counsel for the
7	three points in our letter on Friday. Several of those	7	Inquiry the night before they come into the hearing, but
8	have fallen by the wayside. The standard of proof	8	we would submit that this is an area where the witness
9	point, I think our concern, at this stage, was this,	9	should be provided with at least the outline areas or
10	that it was potentially premature.	10	subject or issues which he or she is likely to face
11	LORD JUSTICE LEVESON: I am very comfortable to defer that	. 11	questioning on.
12	What I wanted to do was to put on the table some of the	12	Similarly, in relation to documents, particularly
13	issues that are involved, right?	13	given in this case, as I understand it, the witness will
14	MR GLEN: I am grateful. It may be that the civil standard	14	be the document concerned will be flashed up on
15	is appropriate. It is just, at this stage, until the	15	screen electronically, and so, just in terms of
16	level of the detail of the Inquiry	16	recognition of documents, as much as anything else, and
17	LORD JUSTICE LEVESON: It is not just whether it is civil or	17	again, it may not be possible to provide a universal or
18	criminal, it is also to what extent it is appropriate	18	a completely comprehensive list, but if there are
19	for me to be able to approach issues on the basis that,	19	particular documents which the Inquiry wants to speak to
20	without making a finding of fact, that X has happened in	20	a particular witness about or obtain evidence in
21	Y circumstances, it is appropriate for me I am not	21	relation to, we would say that would be helpful, in
22	prepared to say it hasn't happened and it is appropriate	22	these circumstances, as things are said.
23	for me to approach issues, such as recommendations, on	23	It is a relatively pressurised environment for
24	the basis that I must guard against that risk. You see	24	a witness to walk into. A lot of the witnesses, as
25	the different point?	25	your Lordship has said, are busy people. The Section 21
	Page 49		Page 51
1	MR GLEN: Absolutely. Our concern was that the notion of	1	notices themselves are relatively wide ranging in
1 2	suspicion, or the Inquiry were raising concerns based on	1 2	a number of cases. They cover quite a lot of ground.
	suspicion, or the Inquiry were raising concerns based on suspicions should be used in relatively tightly confined		a number of cases. They cover quite a lot of ground. Some of it relatively historical, in terms of it goes
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1 2	on, and indications to whatever level of particularity the counsel to the Inquiry feel able to give, we would	1 2	just said by that word, retains flexibility but equally keeps the momentum of the Inquiry moving forward.
3	say, would be beneficial to the Inquiry as well as the	3	MR GLEN: I am grateful. If it is going to be that flexible
4	witness.	4	in terms of this supplemental questioning process, which
5	The second point in relation to that, sir, is in	5	may not arise very much at all.
6	relation to this idea of suggestions to counsel to the	6	LORD JUSTICE LEVESON: It won't.
7	Inquiry of supplemental areas of questioning, areas	7	MR GLEN: No.
8	which counsel to the Inquiry may not be intending to go.	8	LORD JUSTICE LEVESON: It may arise but I won't necessarily
9	If issues have been provided to the witness and the	9	say it will happen. Not because I am wanting to shut
10	other core participants, as to what the witness is	10	people out. It is because of what we have to cover.
11	likely to face, we would say that process is likely to	11	MR GLEN: I quite understand.
	be enhanced as well, in the sense that you will be able	12	LORD JUSTICE LEVESON: Yes.
12	•		MR GLEN: Sir, I would just reiterate the point about
13	to identify immediately if there is a particular issue	13	
14	which counsel to the Inquiry are not intending to pursue	14	advance notice. If issues can be highlighted, even in
15	but which another core participant considers relevant or	15	their broad sense to witnesses
16	believes would be helpful for the witness to answer	16	LORD JUSTICE LEVESON: I understand the point.
17	questions in relation to.	17	MR GLEN: Sir, I think that is everything.
18	The alternative, I guess, is that	18	LORD JUSTICE LEVESON: Fine. Thank you.
19	LORD JUSTICE LEVESON: One can't have a system whereby		Submissions by MR VINALL
20	everybody is exchanging details about what the witnesses	20	LORD JUSTICE LEVESON: Now, before one moves off from the
21	may deal with because, otherwise, we would never get	21	press, Mr Vinall, you are in the rather interesting
22	anything done. You are not really suggesting, or are	22	position that you are not a core participant, presumably
23	you suggesting, that counsel should be telling all the	23	having taken a decision on part of Trinity Mirror not to
24	core participants, that, "Well, we are going to call	24	be a core participant.
25	this witness on this topic, or these topics", or are you Page 53	25	MR VINALL: That is right, sir.  Page 55
		_	
1	saying that they ought to say, "Well, it's going to be	1	LORD JUSTICE LEVESON: It may be you or it may be anothe
1 2	saying that they ought to say, "Well, it's going to be that area, that area or the other area and these are the	1 2	LORD JUSTICE LEVESON: It may be you or it may be anothe non-core participant has made the point that they relied
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2	that area, that area or the other area and these are the	2	non-core participant has made the point that they relied
2 3	that area, that area or the other area and these are the documents we are going to be referring to", what are you	2 3	non-core participant has made the point that they relied upon my observation that there isn't a bright line and
2 3 4	that area, that area or the other area and these are the documents we are going to be referring to", what are you talking about?	2 3 4	non-core participant has made the point that they relied upon my observation that there isn't a bright line and that was to do with suggesting lines of Inquiry and
2 3 4 5	that area, that area or the other area and these are the documents we are going to be referring to", what are you talking about?  MR GLEN: To a degree on that front, we would say that there	2 3 4 5	non-core participant has made the point that they relied upon my observation that there isn't a bright line and that was to do with suggesting lines of Inquiry and possibly arguing for the right to be able to put in
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- 1 a continuum of degrees of interest that various people,
- 2 various parties and nonparties to this Inquiry have and
- 3 indeed. You did make it clear, sir, in your opening
- 4 remarks that one does not need to be a core participant
- 5 to have one's point of view heard by the Inquiry --
- 6 LORD JUSTICE LEVESON: Yes. That is right.
- 7 MR VINALL: -- which is -- as I am demonstrating now.
- 8 LORD JUSTICE LEVESON: I am not sure how far, but to have
- 9 your point of view in the ultimate issues, of course,
- 10 that's why I say making submissions at the end in
- writing would be fine, but the level of participation is
- 12 a slightly different question.
- 13 MR VINALL: Sir, you asked me how I put it.
- 14 LORD JUSTICE LEVESON: I do, yes I will let you.
- 15 MR VINALL: As both Mr Jay and you have already noted this
- morning, the overriding criteria for this Inquiry is
- fairness and it is my submission that there are certain
- 18 classes of documents, clearly not every document that
- 19 the Inquiry has, but there are certain classes of
- 20 documents where, in my submission, fairness to my client
- does require that it should have notice of what is being
- said by the core participants and by the Inquiry team.
- 23 LORD JUSTICE LEVESON: I am not so sure about that because 23
- you could have applied to be core participants. Now,
- you didn't and that's fair enough, because core
  - Page 57

- 1 you have given and then I will move on to why I say that
- 2 it is both fair to my client and in the interests of the
- 3 official disposal of the Inquiry's business that we
- 4 should be allowed to see the material and have
- 5 an opportunity of commenting on it without having to
- 6 become a core participant.
- 7 The reason we are different from the various
- 8 examples that you have given, sir, is that, plainly, the
- 9 interest of Trinity Mirror doesn't need any further
- 10 elaboration. It goes beyond that. We have an interest
  - not only in the outcome of the enquiry but in the
- 12 Inquiry's processes.
- 13 LORD JUSTICE LEVESON: Then all you are saying, Mr Vinall,
- is very clear. What you are saying is, "We actually
- 15 qualify to be core participants and that makes us
- 16 different." Well, if you do, do it.
- 17 MR VINALL: Sir, it is not so much that we qualify to be
- core participants, that will be a matter for you, sir,
- but what we are undoubtedly, is we have been served with
- 20 Section 21 notices requiring documents to be provided by
- 21 Trinity Mirror. So when there is discussion about the
- 22 protocol for how documents of that kind are to be
- handled, then the interest -- they are our documents
- 24 too
- 25 LORD JUSTICE LEVESON: But there are 130-odd people who have

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- 1 participants don't need to turn up every day. They will
- 2 turn up when they want to turn up and they won't turn up
- 3 when they don't feel it is in their interests to do so.
- 4 I won't be asking everyone in turn, do you want to say
- 5 anything, do you want to say anything? I expect core
- 6 participants, if they have something to say, at some
- 7 stage, to find a way of saying it, which I think they
- 8 will

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- Now, I am a bit concerned as to how far your submission goes because a consequence might be that
- 11 a member of the public says:
  - "Well, I'm also very interested in this. I am
- absolutely fascinated by the problem of the relationship
   between the press and the public or the press and the
- police. Therefore, I would like the opportunity to
- comment on the protocols and to see the documents."
- A reporter could easily take that view. A professor of journalism may take that view. This Inquiry has
- interested a vast range of people, as the press releases
- $20\,$   $\,$  that I read demonstrate, many with very different views.
- Now, are they to say, "Well, we're interested, we
- would like to know"? Am I then to listen to them?
- Where does it end?
- 24 MR VINALL: Let me, first of all, explain why I say that my 24
- 25 client is in a different position from the examples that Page 58

- been served with such notices. Are each one of them
- 2 entitled to come along and say "I want to say something
- 3 about this protocol"?
- 4 MR VINALL: Sir, in my submission, I don't want to deal
- 5 with -- I don't know who the 130 people are.
- 6 LORD JUSTICE LEVESON: No.
- 7 MR VINALL: I am not going to seek to identify where the
- 8 line should be drawn. I simply seek to persuade you,
- 9 that, sir, wherever the line is to be drawn, we are on
- 10 the right side of it.
- 11 LORD JUSTICE LEVESON: You probably need to persuade me
- where the line ought to be drawn, don't you? If you
- want to say that you are on the right side of it?
- 14 MR VINALL: Sir, we -- I have dealt with the question of
- documents and the fact that our documents are going to
- be provided to the Inquiry. Similarly, a number of
- 17 Trinity Mirror's employees are going to be called to
- 18 give evidence, and so whatever -- a number of issues
- 19 have been raised before you today about how witnesses
- are going to be dealt with. Trinity Mirror has
- an interest in how those issues are resolved and it is
- not, it is not -- we are not going to be making
- 23 submissions on every point but there may be points which
- are made, either being raised by the Inquiry team, or
- 25 raised in submissions made to the Inquiry by other Page 60

15 (Pages 57 to 60)

1	parties, which do affect Trinity Mirror's interests and,	1	which has then fed into the submissions that Mr Jay has
2	in my submission, it is appropriate that Trinity Mirror	2	made to you today. Everybody else in the room knows
3	should see those submissions where they affect its	3	what those submissions have been and what that
4	interest.	4	dialogue
5	Sir, if you accept that, there is then a decision to	5	LORD JUSTICE LEVESON: So you want to see the submissions by
6	be made as to whether one considers what fairness	6	other core participants?
7	requires, case by case, document by document, or whether	7	MR VINALL: Yes, sir, certainly we do.
8	it is not easier for everybody, if you simply add my	8	LORD JUSTICE LEVESON: They may have something to say about
9	clients to the list of those parties who are to receive	9	that.
10	the documents, which are provided to core participants,	10	MR VINALL: Perhaps my understanding was, sir, that those
11	so that where there is an issue and it may not arise	11	submissions were being disclosed to other core
12	very often where there is an issue where	12	participants.
13	Trinity Mirror can help the Inquiry, can move the	13	LORD JUSTICE LEVESON: Yes, but they may have something to
14	process	14	say about whether they are disclosed to somebody who
15	LORD JUSTICE LEVESON: So you are saying this doesn't relate	15	isn't a core participant.
16	to evidence because, of course, you won't be involved in	16	MR VINALL: Well, they may be, sir, but certainly, in my
17	that. This relates to issues of procedure.	17	submission, insofar as Trinity Mirror was to seek to
18	MR VINALL: It certainly relates to issues of procedure.	18	make submissions to the Inquiry about how certain
19	LORD JUSTICE LEVESON: Are you saying it relates to the	19	somethings should be done, then we would expect that to
20	evidence as well?	20	be circulated to other interested parties and we don't
21	MR VINALL: It is too early to say but certainly my	21	see why the converse should not apply.
22	application, the examples I have given to you, sir,	22	Sir, going back for a moment to the point about
23	relate to matters of procedure, because those are the	23	floodgates and what is it that makes us different from
24	matters which the Inquiry has been dealing with today.	24	that sort of general point or whatever, I think I noted
25	When it moves on to the evidence, no doubt there will be	25	from Mr Jay's submissions that, so far at least, there
	Page 61		Page 63
1	matters of evidence as well so, yes, the relief I seek	1	are only three other parties who have made a submission
2	from you, sir, does cover	2	to you along the same lines as I am making. Insofar as
3	LORD JUSTICE LEVESON: Then what is the difference between	3	other people want to make that submission then, no
4	you and a core participant?	4	doubt, the Inquiry will consider it.
5	MR VINALL: Sir, the difference is that we are not seeking,	5	But my submission to you would be that this is
6	for example, to make an opening statement. We are not	6	an Inquiry into the press. Trinity Mirror is a very
7	seeking the other benefits of core participation. We	7	significant player in that market.
8	are simply asking to be kept in this loop, so that where	8	LORD JUSTICE LEVESON: I agree. I agree.
9	perusal of the material, what other people are saying	9	
	perusar of the material, what other people are saying	7	MR VINALL: So what you are going to say, sir, is, well, why
10	does raise an issue where we have a distinct perspective	10	MR VINALL: So what you are going to say, sir, is, well, why don't we become a core participant? Sir, certainly the
10 11			
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11	does raise an issue where we have a distinct perspective or a distinct interest, that we are able to bring that	10 11	don't we become a core participant? Sir, certainly the flavour that one gets from reading the opening remarks
11 12	does raise an issue where we have a distinct perspective or a distinct interest, that we are able to bring that perspective to the Inquiry's attention.	10 11 12	don't we become a core participant? Sir, certainly the flavour that one gets from reading the opening remarks that you made at the hearing and also, to some extent,
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- 1 for example, and the individual groups like PEN were
- 2 a very, very good example. They have a very clear
- 3 focus. They have a very important contribution to make
- 4 but it is not a contribution which needs core
- 5 participant status and that is why I was keen to
- 6 emphasise that you would be able to suggest questions to
- 7 counsel when you know who the witnesses are, that you
- 8 would be able to ask to put in written submissions at
- 9 the end, having heard whatever you have wanted to hear
- 10 or read it online.
- 11 That is why there is no bright line, but I just
- 12 wonder whether you are not pushing that to say, "Well,
- 13 actually it is not that there is no bright line, there
- 14 is no line at all".
- 15 MR VINALL: Sir, plainly there is a line and as I say, we
- 16 are not seeking the full panoply of benefits that core
- 17 participation gets. We are not seeking to come along to
- 18 all of these hearings with representation. What we are
- 19 seeking is simply to be informed, not only of the
- 20 material that appears on the website, as and when it
- 21 appears, but to be called on the issues at a time when
- 22 we can meaningfully comment on them.
- 23 LORD JUSTICE LEVESON: I think that is core participant
- status. If you want to be -- do you see? Because the 24
- 25 submissions at the end will be in the light of everybody
  - Page 65

- 1 to a participant: you have to either jump one way or the
- 2 other. You have to either be a core participant with
- 3 all that that entails or essentially be shut out of this
- 4 process entirely.
- 5 LORD JUSTICE LEVESON: It need not entail much at all. It
  - need not entail your coming on every day if you don't
- 7 want to. There won't be any compulsion or register. It
- 8 is simply a matter of how you want to engage in the
- 9 process. Anyway, obviously, once I have decided this
- 10 you will decide whether or not you want to make
- 11 an application depending on how I decide.
- 12 MR VINALL: I am -- those are my submissions.
- 13 LORD JUSTICE LEVESON: Thank you very much indeed,
- 14 thank you. Have I run the line of the media? Before
- 15 I do, does anybody want to say anything from the media
- 16 about submissions being shared with those who are not
- 17 core participants?
- 18 MR CHAWLA: Sir, before that happens can I just raise the
- 19 submission I make, because that may touch upon the view
- 20 that is expressed?
- 21 LORD JUSTICE LEVESON: All right, I will come back and ask
- 22 people again.

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- 23 Mr Chawla, I understand that and maybe I should deal
- 24 with you and Mr Phillips next and see where we are.

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- who has read all the evidence and the evidence will be 1
- 2 going contemporaneously, streamed for people to follow
- 3 and you will listen to such witnesses as you want but
- 4 the extra thing you want to do is to be able to
- 5 proactively to engage, rather than reactively to
- 6 suggest, and I am not sure that is not the difference. 7 I don't rule on it. I am merely saying that is what
- 8 concerns me.
- 9 MR VINALL: Sir, just to summarise really and perhaps put in
- 10 slightly different words the point that I would make.
- 11 I would respectfully adopt the distinction that you have
- 12 drawn between engaging proactively and reactively, but
- 13 also to say that there is the, sort of, public face
- 14 documents that appear on the website, that it is
- 15 becoming increasingly clear that there are also -- the
- 16 inner workings that are going on behind the scenes,
- 17 submissions that are being made and correspondence with
- 18 the Inquiry, the iterative process by which Mr Jay's
- 19 note for this hearing was produced, for example, drafts
- 20
- of documents being circulated, and these are things
- 21 which affect my client, the way its documents will be
- 22 handled, the way its witnesses will be treated and
- 23 which, unless it is given an opportunity to see those
- 24 documents, it has no opportunity of influencing.
- 25 In my submission, you shouldn't, with respect, say Page 66

- Submissions by MR CHAWLA
- 2 MR CHAWLA: Sir, I can be quite short but can I preface my
- 3 remarks with this, this is not a review of your decision
- 4 as to core participation.
- LORD JUSTICE LEVESON: Yes.
- 6 MR CHAWLA: But as a preface, I ought to set out that
- 7 Mrs Brooks, whom I represent, is determined to assist
- 8 this Inquiry, not because she is required to do so but
- 9 because she believes she has both important evidence and
- 10 information which will substantially inform and assist
- 11 this process, and she brings to it a unique and
- 12 important perspective.
- 13 Sir, in the notice that she was served with, she has
- 14 been asked to deal with 19 specific topics. That may be
- 15 a standard list, I don't know. Neither she, nor
- 16 I suspect the Inquiry, regard that as an exhaustive list
- 17 but those are triggers, effectively to assist the
- 18 Inquiry.
- 19 But within part 1 of the Inquiry, which of course is
- 20 what we are concerned with at the moment, and within the
- 21 three -- the first three modules, the public, the police
- 22 and the politicians, there will inevitably be occasions
- 23 when the Inquiry will be making decisions and forming 24 considerations about matters on which Mrs Brooks has
- 25 a direct and substantial interest. For example, the

			4 1 1 1 1 1 1 1 1 1 1
1	proposed approach towards standard of proof may be one	1	the rules and you may make the point, and I haven't
2	of those. I am not going to say anything more about	2	thought about it, that, absent your being present or
3	that at the moment, conscious as I am that the topic is	3	somebody on behalf of your client being present on every
4	going to be deferred. Equally, the question of putting	4	day, how will you know if the witness gives evidence
5	in the report concern arising out of a suspicion is	5	directly relating to your client?
6	another topic upon which we are likely to have	6	MR CHAWLA: The answer, actually, is simple: we wouldn't
7	submissions.	7	know. We wouldn't know until we saw the transcript
8	But equally, there are other areas upon which she	8	unless we were here every day, unless, of course, we had
9	has no special interest or particular contribution to	9	advance notice of issues that may touch upon that. We
10	make, such as broadcasting of these proceedings or	10	have no
11	public funding, being two examples on which she has no	11	LORD JUSTICE LEVESON: The problem is: we won't necessarily
12	representations to make, with the result that our	12	know, will we?
13	request is this and it is not quite the request that	13	MR CHAWLA: No, that is the difficulty, but what I am
14	has just been made but, where issues arise on which	14	seeking to do is frankly, what I am seeking to do is
15	Mrs Brooks has a direct interest, and those will	15	to prevent the needless expenditure on attendance and
16	probably be evident to the Inquiry team, that she is	16	work which is completely unnecessary by trying to focus
17	given the opportunity through us to make whatever	17	on what we need to focus upon, and it is only if we can
18	representations are appropriate and to see the documents	18	do that, and I don't say this in terrorem, and I hope
19	or the classes of documents touching upon that issue.	19	you understand that, that we or she is in the best
20	For our part, we are entirely content	20	position to assist the Inquiry.
21	LORD JUSTICE LEVESON: Are you talking here about procedura	121	On any view, she has significant material to provide
22	issues or evidential issues?	22	to the Inquiry, even of her own recollection of events.
23	MR CHAWLA: I am talking about both, both procedural issues	23	LORD JUSTICE LEVESON: Yes.
24	and evidential issues. So far as procedural issues,	24	MR CHAWLA: But the difficulty that arises is that, unless
25	such as the approach that the Inquiry should take to	25	she or I or my solicitor are present throughout the
	Page 69		Page 71
1	standard of proof, for example, we certainly will have	1	Inquiry or every moment of it, and in a position to say
1 2	standard of proof, for example, we certainly will have a contribution to make. But also, in terms of	1 2	Inquiry or every moment of it, and in a position to say to Mr Jay, "Can we invite you to deal with this or that
2	a contribution to make. But also, in terms of	2	to Mr Jay, "Can we invite you to deal with this or that
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1	participants who, after all, are either, in terms of	1	Trinity Mirror. I now know for example that we were
2	individuals, victims, as they have been described, or	2	given the attachments to the note that Mr Chawla was
3	organisations.	3	not, but the point we are relying on is exactly the
4	LORD JUSTICE LEVESON: Yes. But, I mean, that flows back to		same: fairness. In my submission, our position is even
5	one of the reasons that is relevant to my decision, that	5	more obvious, if I can put it that way.
6	the individual victims provide a perspective which		We came to the last hearing expecting to make
		6	
7	impacts on the wider consideration of the balance		an application for core status and accepted what you
8	between article 8 and article 10, whereas your perspective is rather different and is much more	8	said to me, which that this wasn't the moment for
9	relevant in relation to the individual who did what to	10	module 2. We are then slightly surprised to discover
10			that our regulated force had been given CP status for
11	whom, as opposed to the wider philosophical issues which I have to address.	11	all modules of part 1 but there we go.
12		12	What we did, very clearly, was to flag up, as you
13	MR CHAWLA: Sir, I don't want to go back to the submissions	13	just indicated, that we would be making an application
14	that I have previously made and upon which you have	14	for module 2, because as the regulators the whole issue
15	ruled. I don't quite agree with that approach	15	of the relationship between the police, our force, the
16	LORD JUSTICE LEVESON: No, I know. There it is.	16	Metropolitan Police Service and the press is directly
17	MR CHAWLA: I am afraid, but that is water under the	17	within our sphere of interest.
18	bridge.	18	LORD JUSTICE LEVESON: I understand that, and I recognise
19	LORD JUSTICE LEVESON: Yes.	19	that, but I won't rise to the bait that you should be
20	MR CHAWLA: There has already, and it is unfortunately, in	20	surprised about the position of the police, which is
21	our submission, been a default position adopted, for	21	rather different, but the regulatory position of those
22	example, in relation to today's hearing, which is	22	affecting the police specifically touches the second
23	unfortunate, which is simply this: we were provided with	23	limb. I recognise that and I think the point is well
24	Mr Jay's helpful note for today's hearing very shortly	24	made that, if I am devising protocols that actually
25	before it went on the web yesterday. We asked for the	25	cover the whole Inquiry, then you ought to have a chance
	Page 73		Page 75
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1	attachments to it, the protocols and we were told we	1	to say it. If the likelihood is that you will be
1 2	attachments to it, the protocols and we were told we couldn't have those.	1 2	to say it. If the likelihood is that you will be there
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2	couldn't have those.	2	there
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1	the pail. They are told, however, that their bit or the	1	you are right and, for what it is worth, as I probably
2	bit in which they claim to have a significant interest	2	made clear in our exchanges, I agree with you.
3	might start before the current module has ended and, at	3	MR PHILLIPS: Sir, can I just touch on two specific points
4	that point, they will at least be invited, if they get	4	on the protocols. The first is to repeat the offer we
5	CP status, to make an opening. In other words, sir,	5	made in correspondence, that if we can assist the
6	they will have to run very, very, very fast to catch up	6	Inquiry legal team with the technical issues on the
7	with everybody else, if they have been	7	document management system, we are very ready to do
8	LORD JUSTICE LEVESON: I don't suppose they will be running	8	that, as indeed we are to assist on all aspects of your
9	fast because I think they will be running alongside us,	9	work. But the reason for raising it now is that the
10	given the amount of stuff that will be in the public	10	relevant solicitor with the experience on the Mid Staffs
11	domain, so I don't think you will be having to play	11	Inquiry is here, sitting behind me, and I know she would
12	catch up. But what it may mean, and I am prepared to	12	be happy to talk to your team if that would assist
13	say this, that I think that I ought to revisit the	13	today.
14	moment that I invite people to apply for core	14	LORD JUSTICE LEVESON: That is wonderful.
15	participant status for the other modules, if only so	15	MR PHILLIPS: The second point
16	that there is a degree of clarity in the position, and	16	LORD JUSTICE LEVESON: I will find the person to whom she
17	I do recognise, and I do accept that, in relation to the	17	should speak.
18	protocols, it will be worthwhile having your input into	18	MR PHILLIPS: Thank you, sir.
19	them.	19	The second point, and it is a quick point, again,
20	MR PHILLIPS: Yes. Sir, I have one or two specific points	20	made in Eversheds' email of 30 September, but I don't
21	to make on that, if I may. May I just come back to this	21	think it is something that anybody has mentioned so far
22	point about the timing of any application for CP status	22	and it may be we have simply misread the document, but
23	for module 2, because we were slightly disturbed to be	23	it relates to paragraphs 15 and then 18.2 of Mr Jay's
24	told by one of your legal team that the moment for such	24	note. 15 begins with the words:
25	applications was at the end of module 1. You will see	25	"The chairman will decide which witnesses will be
	Page 77		Page 79
1	already how that would cause very considerable	1	called to give oral evidence and which evidence may be
2	difficulties.	1 2	read out", et cetera.
3	LORD JUSTICE LEVESON: No, I won't embark upon any aspect of		18.2 says:
4	module 2 without making sure that those who may be core	4	"Counsel to the Inquiry will use their judgment on
5	participants in module 2 have had ample opportunity: (a)	5	a case-by-case basis as to whether a witness will be
6	to make applications; and (b) to participate effectively	6	required to give oral evidence to the Inquiry on all or
7	in that part of the Inquiry. That much, I would hope,	7	some of the matters covered in a witness statement. All
8	would be self-evident.	8	of the part of the statement will be taken as read or
9	MR PHILLIPS: Yes. Sir, that's the concern. As I say, in	9	some or all of the statement will be summarised."
10	the intervening period, however long it is, our concern	10	To us, there seemed to be an inconsistency there
11	is to ensure that anything that might affect our	11	between the chairman having the decision on 15 and
12	interests is shared with us, so that we can make our own	12	
		14	counsel to the Inquiry having the judgment decision or
		12	judgment call if I can put it that way under 19.2. It
13	contribution. Now, I am not asking, exactly the same	13	judgment call, if I can put it that way, under 18.2. It
13 14	contribution. Now, I am not asking, exactly the same way as my learned friend Mr Chawla, I am not asking for	14	may be, as I say, that we have misread it but that is
13 14 15	contribution. Now, I am not asking, exactly the same way as my learned friend Mr Chawla, I am not asking for some formal system but I am asking, please, that the	14 15	may be, as I say, that we have misread it but that is the way we saw those two paragraphs and we saw there
13 14 15 16	contribution. Now, I am not asking, exactly the same way as my learned friend Mr Chawla, I am not asking for some formal system but I am asking, please, that the Inquiry and its legal team keep that in mind.	14 15 16	may be, as I say, that we have misread it but that is the way we saw those two paragraphs and we saw there being an inconsistency. If we are right, then some
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1	I should repeat, ready to make that application for	1	LORD JUSTICE LEVESON: No, a club to beat me with, yes.
2	module 2, as and when the Inquiry asks us to. We very	2	MR GARNHAM: I would rather use it as a club to join.
3	much hope that it will be early enough in your process	3	LORD JUSTICE LEVESON: Yes.
4	so that we are not prejudiced when and if, as I hope we	4	MR GARNHAM: So finally, we would have submissions to make
5	will, we join the Inquiry as a CP for module 2.	5	were it to be proposed that material that we submitted
6	But in the meanwhile we ask, please, that there be	6	to the Inquiry was to be circulated other than to core
7	no repeat of what happened in the run-up to this	7	participants. The submission has been made by a number
8	hearing we appreciate that the Inquiry is getting	8	of those making submissions recently to that effect and
9	going, there are many, many things on your agenda and	9	we are a little guarded about the consequences of that.
10	your team's agenda to have in mind fairness in	10	One obvious example is that there may come a time when
11	relation to us, our declared position in relation to	11	you require confidentiality undertakings from core
12	module 2 and to include us if our interests might be	12	participants.
13	affected.	13	LORD JUSTICE LEVESON: There is no doubt that I am going to
14	LORD JUSTICE LEVESON: Yes, I would have to formally ask fo		require confidentiality from everybody who sees anything
15	those who were interested in module 2, because it may be	15	that doesn't enter the public domain.
16	that other police bodies may be, I am not saying there	16	MR GARNHAM: Sir, that then tests this point rather well.
17	will be but there may be.	17	If it is going to be proposed that material goes outside
18	MR PHILLIPS: Sir, all I can say is: I am ready to apply now	18	the confidentiality circle, then that would be of
19	but I can see that that is not what you want. All I am	19	considerable concern to us. It may be, however, that
20	then saying is, if it is to be later, then let it not be	20	you broaden the circle to include some of my learned
21	too late, ie so as to prejudice	21	friends, who anticipate receiving material on a basis
22	LORD JUSTICE LEVESON: I take that point and it may be that	22	other than the fact that they are core participants.
23	there is no harm to be done in getting on with it. But	23	LORD JUSTICE LEVESON: Yes, the question is whether I ought
	I will think about that.		
24		24	to create a new category of, one could call them
25	MR PHILLIPS: Thank you.  Page 81	25	I know the word is used in the Act, but in a different Page 83
	rage of		r age os
1	LORD JUSTICE LEVESON: Thank you. Right. Mr Garnham?	1	context interested parties who can see certain
2	Submissions by MR GARNHAM	2	material but who are not core participants.
3	MR GARNHAM: Sir, we make no submission on the draft	3	MR GARNHAM: It may be that that is what you are being
4	protocols. Save in respect of two matters, we make no	4	invited to do, sir, and I wouldn't want to say anything
5	submission on what Mr Jay said in opening at this	5	about that on my feet off the cuff, but it might simply
6	hearing. Those two exceptions are this: firstly, as to	6	be that we might want to make submissions about that
7	start time for the oral evidence stage. Sir, you	7	because I can see a possibility that such an arrangement
8	suggested a provisional view as to when it might start.	8	would bring with it only benefits and no obligations and
0			would bring with it only benefits and no obligations and
9	We would like to reflect on that and take instructions.	9	we would want to be careful to make sure that that is
10			•
	We would like to reflect on that and take instructions.	9 10	we would want to be careful to make sure that that is
10	We would like to reflect on that and take instructions.  LORD JUSTICE LEVESON: Yes.	9 10	we would want to be careful to make sure that that is not the effect.
10 11	We would like to reflect on that and take instructions.  LORD JUSTICE LEVESON: Yes.  MR GARNHAM: If we have anything to say we will communicate	9 10 11	we would want to be careful to make sure that that is not the effect.  LORD JUSTICE LEVESON: I take your point.
10 11 12	We would like to reflect on that and take instructions.  LORD JUSTICE LEVESON: Yes.  MR GARNHAM: If we have anything to say we will communicate in writing what that is.	9 10 11 12	we would want to be careful to make sure that that is not the effect.  LORD JUSTICE LEVESON: I take your point.  MR GARNHAM: In other words, sir, I simply seek to reserve
10 11 12 13	We would like to reflect on that and take instructions.  LORD JUSTICE LEVESON: Yes.  MR GARNHAM: If we have anything to say we will communicate in writing what that is.  The second exception is the point raised by	9 10 11 12 13	we would want to be careful to make sure that that is not the effect.  LORD JUSTICE LEVESON: I take your point.  MR GARNHAM: In other words, sir, I simply seek to reserve the Met Police's position on that newly floated proposal and it would need to be a two way street, sir, in this
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10 11 12 13 14 15 16 17 18 19 20 21 22 23	We would like to reflect on that and take instructions.  LORD JUSTICE LEVESON: Yes.  MR GARNHAM: If we have anything to say we will communicate in writing what that is.  The second exception is the point raised by  Mr Dingemans about notice of the issues to be covered in questioning. We would respectfully agree with you, sir, that it is a matter of degree or, to use your word, of "granularity", but we would support what Mr Dingemans says as to the need to indicate at least the broad topics upon which witnesses are going to be asked questions, if a fair procedure is to be adopted which we know is your aim.  Finally, sir  LORD JUSTICE LEVESON: I never thought of the use of the word "fair" as a club.	9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	we would want to be careful to make sure that that is not the effect.  LORD JUSTICE LEVESON: I take your point.  MR GARNHAM: In other words, sir, I simply seek to reserve the Met Police's position on that newly floated proposal and it would need to be a two way street, sir, in this sense: that we were given we, like all the core participants, were given sight of the submissions made by other core participants for the purposes of this morning's hearing. We were not given sight of submissions made by non-core participants, so, for example, I was not aware of Mr Phillips's submissions until this morning, nor those from Trinity Mirror and, one can see the logic of that.
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1 participants, but it it is to be something wider than— 2 LORD/USTICE/LEVESON: No. 1 garee with you. That is why 3 I am concerned about the width and the breadth of what 4 Mr. Vinall his suggested. 5 MR GARNIAM: Yes, all I submit is it needs to be thought 6 through carefully and we would want to make submissions 7 on it. 8 LORD/USTICE/LEVESON: Yes, in my effort to want to make sare that I heard all those who were interested in those area where they were interested, I may have created an issue, which I just have to grapple with and say— 12 MR GARNIAM: You may say no, sir but if you are 13 meth. Mr Gamham. I think we have come to Mr Sherborne. 14 LORD/USTICE/LEVESON: All right, I have it, thank you very 15 much. Mr Gamham. I think we have come to Mr Sherborne. 16 Submissions by MR SHERBORNE: I am very conscious of the firm and I am slay it? 17 MR SHERBORNE: I am very conscious of the firm and I may be reconscious of the fact that Mr by needs to speak after conscious of the fact that Mr by needs to speak after put in. 18 MR SHERBORNE: I am sure it has, sir. I am sure it has, a happened to me as well. If I am bety one to be fore? 2 MR SHERBORNE: I am sure it has, sir. I am sure it has a happened to me as well. If I can belp yon, I will try. 24 Sir, you have had the written submissions that I have point in the fact and the written submissions that I have point in the fact and the fact and the point in the fact and the point in the fact and t				
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5 MR GARNIAM: You may say no, sir, but if you are an issue, which just have yet interested, I may have created an issue, which just have to part in the ware that provided through carefully and we would want to make sure that I heard all those who were interested in those areas where they were interested, I may have created an issue, which it pend have the heart of the word in the provided of the sure that I heart all those who were interested in those areas where they were interested, I may have created an issue, which it pend have the heart of the word in the provided of the sure that I heart all those who were interested in those areas where they were interested, I may have created an issue, which it pend have the heart of the part is talken to be organised as well. You don't have to have proved every single one of your clients hefore we can press the betton.  5 MR GARNIAM: You may say no, sir, but if you are contemplating saying yes, then we may have submissions. It is still content to the formation of your clients hefore we can press the sugle one of your clients hefore we can press the betton.  5 MR GARNIAM: You may say no, sir, but if you are contemplating saying yes, then we may have submissions. It is still consider that we have a contemplating saying yes, then we may have submissions. It is still consider that we have a supplied that and we have a spoken to the longitry team. We are putting together a number of individuals. I think a comparatively spoken to the longitry team. We are putting together a number of individuals. I think a comparatively spoken to the longitry team. We are putting together a number of individuals. I think a comparatively spoken to the longitry team. We are putting together a number of individuals in the witten submissions that I have put in .  5 MR SHERBORNE: Can I take you very briefly through a few put in .  5 Page 85  1 LORD JUSTICE LEVESON: So you word to impressed to know that the what we had the written submissions that I have put in .  6 court, as regards warning. I am				
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9 sure that I heard all those who were interested, I may have created 10 areas where they were interested, I may have created 11 an issue, which I just have to grapple with and say - 12 MR GARNHAM: You may say no, sir, but if you are 13 contemplating saying yes, then we may have submissions. 14 LORD JUSTICE LEVESON: All right, I have it, thank you very 15 much, Mr Garnham. I think we have come to Mr Sherborne. 16 Submissions by MR SHERBORNE: 17 MR SHERBORNE: I am very conscious of the time and I am also 17 conscious of the fact that Mr Jay needs to speak after 18 conscious of the fact that Mr Jay needs to speak after 19 Ido. So I will keep this very piref; if I may. 20 LORD JUSTICE LEVESON: If I go over, I will go over. Do yo; 21 know that has happened to me before? 22 MR SHERBORNE: I am user it has, sir, I am sure it has 23 happened to me as well. If I can help you, I will try. 24 Sir, you have had the written submissions that I have 25 put in.  26 Page 85  1 LORD JUSTICE LEVESON: Yes. 27 LORD JUSTICE LEVESON: Yes. 28 MR SHERBORNE: Can I take you very briefly through a few points we have made? There is the familiar cri de 29 cour, as regards warning. I am not going to repeat that, where all dealt with that this morning. But or oral hearing, I am not seeking to pin you down, but I am seeking to deter you from entering the tumnel that you seeking to pin you down, but I am seeking to deter you from entering the tumnel that you referred to, quite as quickly as may be envisaged, 10 because once we are in, I agree, we are in until we get to to the glorious light at the other end. 29 Now, in terms of specific dates, perhaps like other 12 to to glorious light at the other end. 30 you, sir, something I hope is already obvious, which 15 to you, sir, something I hope is already obvious, which 15 to you, sir, something I hope is already obvious, which 15 that we are unique, 10 you, sir, something I hope is already obvious, which 15 that the sum of pericerent, which does create, as you will have 15 that 15 that 16 to the g				
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- 1 So it is easy to say, well, another week here or 2 another week there, but it is the knock on consequences 3 that trouble me.
- 4 The reason I have gone into that is not to be 5 definitive but to encourage everybody to be aware of the 6 reasons for the pressure, to such extent as they are not 7 already aware and to say this is not just a question of
- 8 my wanting to demonstrate that I can do it quicker than
- 9 anybody else. It isn't that at all. There is no doubt
- 10 that if I spend three years on it, I would perhaps do it
- 11 slightly differently, perhaps produce a result that was
- 12 slightly different, probably not extensively different
- 13 but slightly different. If I spent five years on it,
- 14 again, one could turn every single stone over and look
- 15 at everything, but I am not sure that serves the
- 16 interests of the public.
- MR SHERBORNE: No, it is certainly appreciated, as far as my 17
- 18 clients are concerned, that the Inquiry is pressing on
- 19 with this, given the amount of public concern there is
- 20 about the matters which are being inquired into it. All
- 21 I am simply saying is that, whilst I understand the
- 22 principle about one week here and one week there, I do
- 23 know that one week here and there at this stage, before
- 24 we start the process, will certainly assist, as far as
- 25 my clients are concerned, in being prepared. Because Page 89
- 1 once we do start and I presume, without necessarily
- 2 knowledge, that it will be the core participant victims
- 3 who will be giving evidence first.
- LORD JUSTICE LEVESON: That would be my wish, because
- 5 I think it is probably the right way to start.
- 6 MR SHERBORNE: Of course.
- 7 LORD JUSTICE LEVESON: But I am not suggesting that, if they
- 8 don't, they have missed the bus, another one will come
- 9 along, but I am worried about time. 10 MR SHERBORNE: I understand that. I understand that. Shall
- 11 I move on then very --
- 12 LORD JUSTICE LEVESON: I would have thought the opening
- 13 submissions would take some time, in any event, not
- 14 overly. You have heard from what Mr Jay has said, but
- 15 if there are going to be comments on general things,
- 16 then we will have to read things and be elaborated upon
- 17 so there may be a day or so that you will have in
- 18
- 19 MR SHERBORNE: I am sure I will be very busy during that
- 20 day. That moves me very neatly on to the next point
- 21 which was in relation to the briefings and the seminars.
- 22 I think, sir, you and Mr Jay have really addressed this
- 23 in the context of News Group Newspapers or
- 24 News International, whichever corporate body it is,
- 25 which is represented here but we, as you will have seen

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- from the note, wish to make detailed submissions in 1
- 2 relation to various subjects which are covered by the
- 3 briefings and the seminars. I understand that the
- 4 appropriate time to do that will be at the beginning of
- the oral hearing. 5
- 6 LORD JUSTICE LEVESON: That is a perfectly appropriate time
- 7 or at any stage that you could put something into
- 8 writing. I do hope that the voice of those who may have
- 9 criticisms in the way the press has operated will not be
- 10 silent during the seminars.
- 11 MR SHERBORNE: Sir, I hope not but the speed with which they
- 12 have been arranged makes it difficult to gather voices
- 13 as quickly as effectively as one would like. I am not
- 14 going to repeat the familiar refrain.
- 15 LORD JUSTICE LEVESON: No.
- 16 MR SHERBORNE: On the protocol, sir, you will have seen, the
- 17 only point I raise, and I am very conscious, sir, you
- 18 will appreciate I am involved in the litigation in the
- 19 Chancery Division, Mr Justice Vos is conducting in
- 20 relation to hacking claims, again, sir, you raised on
- 21 the 16th -- or I raised on 6 September, sir, that you
- 22 have well in mind that there should be no treatment of
- 23 documents or information in any way inconsistent with
- 24 the way that Mr Justice Vos has dealt with it. I know
- 25 the Inquiry team is very clear on that.

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- 1 LORD JUSTICE LEVESON: I am not --
- MR SHERBORNE: And the protocol certainly reflects that.
- 3 LORD JUSTICE LEVESON: Good.
- 4 MR SHERBORNE: Then finally, I think it is simply the
- 5 question which goes beyond anything that is in Mr Jay's
- 6 note and that is, as you will have seen from my note,
- 7 that there are two further individuals who wish to apply
- 8 for core participant status. I don't know whether you
- 9 wish me to deal with that before the adjournment or
- whether you would rather hear from Mr Jay in response to 10
- 11 everyone's submissions and that I come back once again
- 12 and deal with the point on my own and perhaps with very
- 13 few people here. I leave that to you, sir.
- 14 LORD JUSTICE LEVESON: The applicants for core participant
- 15 status need not be within the wider group because that
- 16 is just a matter for me. Nobody else would have an
- 17 interest in that.
- 18 MR SHERBORNE: I am happy to make that then after Mr Jay has
- 19 responded.
- 20 LORD JUSTICE LEVESON: All right. Is there anything else
- 21 you want to say, Mr Sherborne?
- 22 MR SHERBORNE: No, sir, not unless you wish me to do so.
- 23 LORD JUSTICE LEVESON: Mr Jay, do you have very much to say
- 24 on the various topics that have been raised this
- 25 morning.

- MR JAY: 10 or 15 minutes. 3 2 o'clock then. Thank you very much.
  - LORD JUSTICE LEVESON: I think we had probably better say
- 4 (1.05 pm)
- 5 (Luncheon Adjournment)
- (2.00 pm)
- LORD JUSTICE LEVESON: Right.
- 8 MR DAVIES: I wonder if I could just deal with the point
- 9 which was raised this morning about whether material put
- 10 in by a core participant should go outside the core
- 11 participant's group.
- LORD JUSTICE LEVESON: Yes. 12
- 13 MR DAVIES: So far as we are concerned, we are proceeding on
- 14 the basis that the Inquiry is transparent and anything
- 15 we say to the Inquiry either is or will become public,
- 16 with the exception that there may be things which we
- 17 specifically say we think ought to be confidential to
- 18 the Inquiry team, not to the circle of core participants
- 19 but to the Inquiry team, and there is a model for that
- 20 in the protocol about redacting documents, both in
- 21 relation to the documents themselves and to submissions.
- 22 So our position is that, unless we specifically ask
- 23 for confidentiality for something, we don't mind who it
- 24 goes to. We regard it as public.

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- 25 LORD JUSTICE LEVESON: That is very helpful. Thank you very 25
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- research that does take place on the document.
- much. Does anybody else want to say anything on that 1 2 topic? 3
  - Right. I was going to come back to deal with the question of other applications for core participant
- 5 status later. So, Mr Jay, let us hear what you have to 6
  - say about these various matters. You choose your order
- 7 and then we will see where we get to.
  - Reply submissions by MR JAY
- 9 MR JAY: The big point is prior notice, advance notice, 10 either of questions put by counsel to the Inquiry or by 11 anybody else or documents which are going to be put to
- 12 witnesses. There are two considerations here. First of
- 13 all, what basic standards of fairness require as vouched 14 by the Inquiry Rules 2006 because there are some clues
- 15 there as to what fairness requires and then, secondly,
- 16 what prudence and common sense requires.
- 17 May I deal with the latter first because it may be 18 more straightforward, that one can see that there may be
- 19 difficulties if points are put to witnesses which are
- 20 new to them, in other words, points which have not
- 21 arisen in their witness statements or which do not arise 22
- out of their documents. If a document is put to the 23 witness which is someone else's document, no advance
- 24 notice has been given, time may be taken while the
- 25 witness injests the document.
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- 1 LORD JUSTICE LEVESON: More than that, because it is one
- 2 thing to be required to read a document in the context
- 3 of a room of this size with lots of people watching
- 4 you --
- MR JAY: Yes. 5
- 6 LORD JUSTICE LEVESON: -- and it is quite another to be able
- 7 to consider its ramifications, work out where it fits in
- 8 the great scheme of things and decide what one can say
- of one's own knowledge or otherwise about that document.
- 10 MR JAY: Yes.
- LORD JUSTICE LEVESON: So that would lead you to say that, 11
- 12 if there are documents to be put to a witness which did
- 13 not emanate from the witness, the witness ought to have
- 14 had the opportunity to see them.
- 15 MR JAY: Yes.
- 16 LORD JUSTICE LEVESON: That is fair for the witness but also
- 17 important for a slightly different reason, that the only
- 18 reaction could be "Well, this is very interesting,
- 19 I have seen this document, I will have to go away and
- 20 think about it or research it", or whatever, and it is
- 21 inconceivable that one could say, "I'm very sorry, you
- 22 can't research it, you can't think about it, you have to
- 23 answer now", because, even if one did say that, and I am
- 24 not suggesting that I would, the answer becomes
  - valueless if the evidence is later undermined by
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- 1
- 2 So it is in the spirit of a sensible resolution that
- 3 people do know broadly the areas about which the
- 4 question is being asked and that covers both documents
- 5 then, doesn't it, and areas, not the questions
- 6 themselves, but --
- 7 MR JAY: Yes, topics or areas.
- 8 May I deal with that because there may be
- 9 a difference between topics and areas which are covered
- 10 already in a witness statement and topics and areas
- 11 which have not been covered in a witness statement.
- 12 Matters which are outside the scope of a witness
- 13 statement and which counsel to the Inquiry or anyone
- 14 else wishes to ask a witness about, the rules probably
- 15 require that advance notice of those matters should be
- 16 given to the witness. That is implicit in Rule 9.
- 17 LORD JUSTICE LEVESON: That is an identical point to the
- point you just made about the witness. 18
- MR JAY: Yes. 19
- 20 LORD JUSTICE LEVESON: Because how could you expect the
- 21 witness to be able to deal -- the truth is, I suppose,
- 22 although there might be exceptions, that if the
- 23 statement from the witness doesn't deal with something
- 24 that the Inquiry wishes it to deal with, then the rules
- 25 really provide for the panel to say -- for me to ask the

1 witness, would you like to deal with this topic please? MR JAY: Yes, that is right. So the Inquiry then will be MR JAY: Yes, notice of that should be given. That is what 2 giving advance notice -- how much advance notice is 3 3 the rules require. going to depend, but as much as possible is all I can LORD JUSTICE LEVESON: But you do that, hopefully, in good 4 4 say at this stage -- be giving advance notice on topics 5 time. 5 and areas to be covered by a witness in oral evidence 6 MR JAY: Yes. Matters -- topics or areas which are already 6 arising out of his or her witness statement. If that 7 7 covered in a witness statement, and after all, the model advance notice is also given to the other core 8 8 participants then the other core participants can say which this Inquiry is using under Section 21 of the Act 9 9 whether or not there are other areas which they may wish is to require witnesses to answer a list of questions. 10 10 to be covered with a particular witness. The list of questions constitute the topics or areas. 11 11 LORD JUSTICE LEVESON: Then you have to make a decision, a Basic standards of fairness do not require, in our 12 submission, that the witness be told which paragraphs in 12 I understand the rules, do you want to do it or not? 13 the witness statement he or she is going to be asked 13 MR JAY: Yes. 14 14 about. However, there may be a different reason for LORD JUSTICE LEVESON: If you say not then they have to make 15 warning a witness of matters which will be covered in 15 a decision --16 oral evidence, notwithstanding that they are in 16 MR JAY: Absolutely. 17 LORD JUSTICE LEVESON: -- whether they want to take up the 17 a witness statement. In other words, the witness should 18 be focusing on paragraphs 3, 7 and 9 and should not be 18 time by asking me and explaining why it is so critical 19 19 too concerned about other paragraphs in the witness 20 statement, since that will enable the witness to prepare 20 MR JAY: Yes. Absolutely. There is nothing to stop and, 21 21 more effectively the night before or whenever to answer indeed, I would invite it, core participants at any 22 the questions. But that is not a fairness 22 stage and as early as possible, in relation to any 23 23 consideration. It is a prudential consideration. witness, identifying the topics or areas which, they 24 24 say, should be covered with or by a witness, indicating LORD JUSTICE LEVESON: I take the point, but if you have 25 asked someone to deal, and I take Mr Chawla's example, 25 to us the, as it were, the subject matters which should Page 97 Page 99 1 19 topics, and 15 of them, we are content, simply form 1 be covered because then that will start the ball 2 2 part of the evidence to the Inquiry -rolling. 3 MR JAY: Yes. 3 LORD JUSTICE LEVESON: Yes. LORD JUSTICE LEVESON: -- they may or may not be contentious 4 MR JAY: We won't necessarily come back to them immediately 5 in any way but they are not features upon which the 5 but it will ensure that in good time the relevant ground 6 Inquiry want to focus and "focus" is the watch word for 6 is covered. LORD JUSTICE LEVESON: My concern is that, whether I accept all the reasons that I have been talking about. 7 8 MR JAY: Yes. 8 the language used, I think it was by Mr Dingemans, about 9 LORD JUSTICE LEVESON: Then we get the best value out of the 9 witnesses or not, that for some the giving of evidence 10 10 is, indeed, a difficult exercise and I will want to make witness if we say, actually, the specific topics that we want to ask are going to be topics 13, 15 and 17. 11 that exercise as easy an experience as possible on the 11 12 MR JAY: Yes. 12 basis that this isn't a trial. I am simply looking at LORD JUSTICE LEVESON: So that would not be to say that 13 13 a series of issues to obtain a series of 14 a witness couldn't be asked about other areas, not least 14 recommendations. To that extent, possibly I ought to 15 because another core participant might apply to do so. 15 say that if counsel is aware that a particular witness 16 MR JAY: Yes. 16 is particularly anxious or nervous, although I would not 17 LORD JUSTICE LEVESON: So it couldn't be taken as 17 wish to take very long, I would not have an objection, 18 a guarantee that you should ignore the rest of the 18 whether or not it is within the rules, to a request to 19 19 statement, but that, as far as the tribunal, the Inquiry introduce the witness through his or her own counsel -is concerned, we would be focusing on that. 20 20 MR JAY: Yes. 21 21 LORD JUSTICE LEVESON: -- simply to get used to talking in MR JAY: Yes. 22 LORD JUSTICE LEVESON: If you have learnt that, because you 22 court and answering questions. So I wouldn't have 23 23 have been asked that, actually, we would like to ask a problem about that. It is not a request to make for 24 questions on topic 16 as well, well that can be 24 every single witness but I can well understand there 25 25 transmitted in addition. could be some witnesses for whom that would be Page 98 Page 100

1	an important way of trying to allow the witness to relax	1	That is the advance notice point, and it may be the
2	to such extent, if possible.	2	best way forward is for me to finalise the note which is
3	MR JAY: Yes.	3	still, I suppose, in draft form, to incorporate the
4	LORD JUSTICE LEVESON: I am not unmindful of the pressures	4	advance notice points so that they are made explicit and
5	of giving evidence.	5	then a final version of the note, which was provided to
6	MR JAY: Yes. It is the role of counsel to the Inquiry, to	6	the parties at the beginning of last week can then be
7	the best it can, not to unsettle witnesses.	7	placed on the website. The same will apply, of course,
8	LORD JUSTICE LEVESON: I wasn't for a moment suggesting that	t 8	to the protocol. They will cease to be draft protocols.
9	you would approach it differently, but with the best	9	LORD JUSTICE LEVESON: I will ask everybody about that in
10	will in the world, you will not have quite the same	10	a moment. I think that might be the way forward.
11	relationship with the witnesses	11	MR JAY: It will be understood that the note and the
12	MR JAY: No, no.	12	protocols can always be amended at any stage.
13	LORD JUSTICE LEVESON: as his or her counsel has and I am	13	LORD JUSTICE LEVESON: Yes, I would equally hope it would b
14	not suggesting that it should be taken as a tactic	14	understood that, if there was a particular concern, that
15	MR JAY: No.	15	informal discussions with the Inquiry team should always
16	LORD JUSTICE LEVESON: that as a matter of routine every	16	be used.
17	single witness should be introduced by his own counsel	17	MR JAY: Yes.
18	so that there can be some slow easy runs scored. I am	18	LORD JUSTICE LEVESON: So if a specific problem arose then
19	not saying that.	19	I would hope that it would be resolved within the spirit
20	MR JAY: No.	20	of the concepts we have been discussing without it
21	LORD JUSTICE LEVESON: But I am actually recognising the	21	necessarily having to be considered as a matter of
22	humanity of the position. I am sure that everyone who	22	construction of the document.
23	is acting for a core participant understands the point	23	MR JAY: Yes. The note and the protocols are just guides,
24	I am making. So I would be surprised if Mr Garnham was	24	as you are indicating then, that they shouldn't be
25	making the application.	25	construed as black letter law.
	Page 101		Page 103
1	MR JAY: Sir, I wasn't contradicting what you were saying.	1	Then the point made on behalf of Mrs Brooks, when
1 2	MR JAY: Sir, I wasn't contradicting what you were saying.  I was endorsing it. But I was also hoping to reassure	1 2	Then the point made on behalf of Mrs Brooks, when there is material which touches on her, it is said that
2	I was endorsing it. But I was also hoping to reassure	2	there is material which touches on her, it is said that
2 3	I was endorsing it. But I was also hoping to reassure people that, although searching questions will, I hope,	2 3	there is material which touches on her, it is said that her team should be provided with it. It does place
2 3 4	I was endorsing it. But I was also hoping to reassure people that, although searching questions will, I hope, be posed by counsel to the Inquiry, otherwise one's job	2 3 4	there is material which touches on her, it is said that her team should be provided with it. It does place practical burdens on the Inquiry but we will do the best
2 3 4 5	I was endorsing it. But I was also hoping to reassure people that, although searching questions will, I hope, be posed by counsel to the Inquiry, otherwise one's job will not have been fulfilled, it is fully understood	2 3 4 5	there is material which touches on her, it is said that her team should be provided with it. It does place practical burdens on the Inquiry but we will do the best we can to address
2 3 4 5 6	I was endorsing it. But I was also hoping to reassure people that, although searching questions will, I hope, be posed by counsel to the Inquiry, otherwise one's job will not have been fulfilled, it is fully understood that, with some witnesses, care will be taken, at least,	2 3 4 5 6 7	there is material which touches on her, it is said that her team should be provided with it. It does place practical burdens on the Inquiry but we will do the best we can to address  LORD JUSTICE LEVESON: Is the answer to this there is
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- 1 MR JAY: Of the risk, yes. LORD JUSTICE LEVESON: The point being that that risk does 2 3 not arise if, for example, there is generic evidence of 4 what was happening in a particular news room of which 5 Mrs Brooks was the editor, unless it impacts on her, but 6 if it does impact on her, because somebody says she did 7 something or she authorised something, I am inventing 8 it, I am not making any allegation, then that is 9 something that is specific about which her legal 10 representatives may have a right to apply under 10.3. 11 MR JAY: Yes. 12 LORD JUSTICE LEVESON: Again, as long as that is broadly 13 understood, then I don't want to create a structure 14 which is formalistic, time consuming and potentially 15 difficult to operate. 16 MR JAY: But if, speaking entirely hypothetically, there 17 were a document which touches on Mrs Brooks, which 18 document should be put to her in cross-examination, well 19 then we have already, as it were, agreed that advance 20 notice would be given to her of documents which aren't 21 her own documents. So it is already catered for. 22 LORD JUSTICE LEVESON: That bit is catered for, yes. 23 MR JAY: So the final point is whether there is 24 an inconsistency in the note between paragraph 15 and 25 paragraph 18 and subparagraph 2. There isn't or at
- least there wasn't intended to be because paragraph 15 1 2 is dealing with the issue of whether witnesses will be 3 asked to give oral evidence at all or to whether their 4 witness statements will simply be taken as read or 5 summarised. Paragraph 18 is designed to cater for the 6 situation where the witness is giving oral evidence but 7 how is that oral evidence to be adduced? Because in 8 some witnesses it is being suggested the evidence will 9 be led in the -- if I can say the old-fashioned way --10 with other witnesses, much of their evidence will be 11 taken as read and that will be a judgment call for 12 counsel to the Inquiry. 13 LORD JUSTICE LEVESON: Yes, I hadn't read them as being 14 inconsistent. I had read it as making the broad 15 decision as to oral or not oral, once it is oral it is 16 down to you. 17 MR JAY: Yes. 18 LORD JUSTICE LEVESON: That does raise the question about 18 19 a witness in respect of whom I make a decision "not 20 necessary to give oral evidence". Of course, once it is 21 put on the web and everybody can read it, it would be 22 possible for somebody to say, "Well, actually there are 23 issues that this witness ought to deal with", and then 24 one can deal with those, as and when. 25 MR JAY: Exactly.

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1 LORD JUSTICE LEVESON: All right. MR JAY: Finally, can I endorse from our perspective a point 2 3 you made before lunch, that it already appears to us 4 that this Inquiry could take, in an ideal world in which 5 we do not live, three or four years. That is not what 6 your terms of reference require. Your terms of 7 references, as you know, and have said several times 8 now, quite rightly, mandate that a report is prepared 9 within about a year. The difference between a one year 10 and three year Inquiry, in terms of contents of your 11 report is not likely to add to very much. You are going to be able to do, one would hope, 90 or 95 per cent of 12 13 the job in terms of its quality in one year as you could 14 in three years and the extra 10 per cent. 15 LORD JUSTICE LEVESON: I might disagree with the 16 percentages. 17 MR JAY: The point I am making is that the extra two years, 18 by which time, not merely will we all be exhausted but 19 the drivers -- if change is required -- the drivers for 20 such change may well be diminished. It will render the 21 exercise largely self defeating, so there is that --22 LORD JUSTICE LEVESON: Certainly altered if not diminished 23 MR JAY: So there is that concern. Of course, we understand 24 that fairness has to be a touchstone of this Inquiry and 25 that fairness cannot be ignored or short circuited, but, Page 107 1 again, we don't live in an ideal world and I do ask the

core participants to allow us a degree of latitude. But

against that background we hope that the Inquiry will be

concluded within the timetable which has been ordained.

MR JAY: I suggested an agreed amendment to paragraph 15 of

ought to change something we said in the protocols.

LORD JUSTICE LEVESON: Yes. There was a submission that we

- 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 19 20 21 22 23 24 25
  - the documents protocol and paragraph 3(b) of the assessor's protocol. I wasn't aware that there were any other points which hadn't been covered. We don't think there were any other points. LORD JUSTICE LEVESON: Do you say anything about the position of Trinity Mirror, Mr Vinall's application, specifically? MR JAY: I could but whether I should is another matter. There are no submissions of law which I need make. LORD JUSTICE LEVESON: I am concerned that I am removing the line, not merely seeking to define it as blurred rather than bright. Thank you. Now, this isn't contentious litigation. It might be contentious but it's not litigation, so if anyone wants to add anything to that which we have just said they are free to do so. The area that has been the subject of the greatest discussion just now has been the point that, I think,

1 Mr Dingemans, you raised. Others adopted it and took it MR VINALL: But I would be very grateful, sir, for 2 2 on board. It seems to me that, if we amend the note in an indication whether such a application, if I were to 3 the way that Mr Jay has just suggested, I would not want 3 be expected to make, could be made in writing --4 4 LORD JUSTICE LEVESON: No, that could be made in writing bu to become formalistic about it, but does that 5 5 essentially address the concern that you were raising? everyone will have to understand there is only a certain 6 MR DINGEMANS: My Lord, sir, yes, it does and I am very 6 amount of room in the room downstairs and, therefore, 7 7 grateful to both you, sir, and my learned friend Mr Jay people have to be, work close, cheek by jowl, if we 8 8 increase the numbers, but I am sure that we will manage for addressing our concerns in that way. LORD JUSTICE LEVESON: I want to address everybody's 9 9 whatever we have to do. 10 10 What I said about any new core participant applies concerns. Good. Thank you. 11 11 to any -- nobody need attend at a time when they don't Ruling 12 12 LORD JUSTICE LEVESON: I will make a series of decisions. think it is going to be significant to them. It is just 13 I don't believe this needs a judgment. I will announce 13 not that sort of investigation. I am not sure you will 14 14 that we shall, sooner rather than later, invite be able to miss much, Mr Phillips -- Mr Davies, but that 15 15 is a different point. applications for core participant status in relation to 16 the remaining modules of this part of the Inquiry. 16 Is there anything else that anybody wants to raise 17 17 Where we believe a prenotified direct interest may be generally? I now have some applications to listen to 18 engaged, we will seek to engage with it, but I think in 18 and I will listen to them but if nobody else wants to 19 19 raise anything. relation to Mr Chawla's submissions, in reality now we 20 have moved past the stage of the protocols, that really 20 Yes, Mr Chawla? 21 21 MR CHAWLA: Just this, I raised two issues in terms of what deals with the evidential matters to which we have just 22 been referring. 22 I might generally call disclosure, the evidential and 23 I am grateful to Mr Vinall for Trinity Mirror and, 23 the procedural. We are anxious when any procedural 24 24 indeed, for those representing the Telegraph for writing questions arise, so for example, matters such as 25 25 standard of proof, that we have an opportunity to be about the generic issues which concern them. I do Page 109 Page 111 1 intend to take such steps as it is open to me to ensure 1 heard and if there are draft protocols we would wish to 2 2 be included within those. that those who wish to make closing submissions can at 3 3 LORD JUSTICE LEVESON: Well, what I will do is, as we least put something in to the Inquiry in writing and the 4 Inquiry will also be prepared to engage if specific 4 develop those ideas, I put those on a case-by-case 5 5 requests are made, but I believe that for Trinity Mirror basis. 6 to have the role that it seeks, it is, in all but name, MR CHAWLA: Yes, thank you very much. 6 7 becoming a core participant. I would be prepared to 7 UNKNOWN SPEAKER: I don't know if you are aware, but I have 8 consider an application for that status, accepting that, 8 asked to be a core participant. I didn't know about the 9 by becoming a core participant, any person is not 9 hearing on September 6th until two days before. LORD JUSTICE LEVESON: You want to be a core participant? 10 necessarily required to attend at any time or to take 10 UNKNOWN SPEAKER: Yes. 11 any part in the Inquiry that it does not wish to take. 11 12 But I believe to have the extensive involvement that 12 LORD JUSTICE LEVESON: I will deal with that in a moment but 13 13 not now because there is no need for everybody else to Mr Vinall sought requires the position to be 14 14 attend, because it is essentially a discussion between regularised, not least because, otherwise, I have to 15 create another set of rules in relation to disclosure of 15 the core participant potential and the Inquiry, so it is 16 documents for a third group. That is not the public and 16 not necessary for all the other core participants to be 17 not the core participants and that adds a layer of 17 present to listen to that because they won't have 18 complexity, which I think is appropriate to avoid. 18 a voice in whether I am satisfied within the meaning of 19 19 No pressure, Mr Vinall, but you will just have to the Act. 20 think about that and decide what your clients -- or your 20 UNKNOWN SPEAKER: But because I flew here and I have been in 21 21 correspondence with the Inquiry, I just thought I would clients will decide what they want to do. 22 22 MR VINALL: Sir, I am very grateful. I am certainly not in show myself. 23 23 a position to give you the answer today. LORD JUSTICE LEVESON: Okay. Don't go. Right. Is there -anybody who now no longer wishes to take part or listen 24 LORD JUSTICE LEVESON: I am certainly not expecting you to 24 25 25 That is why I said no pressure. may depart without any discourtesy.

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1	William I I Company	1	TINIZAIOWAI ODEAZED V
1	What can I do for you?	1	UNKNOWN SPEAKER: Yes.
2	Application to become a core participant	2	LORD JUSTICE LEVESON: In England and in America?
3	UNKNOWN SPEAKER: Well, I had submitted evidence to the	3	UNKNOWN SPEAKER: Right, but the litigation in America is
4	press standards Inquiry for the culture that was held	4	over if I just go back for a minute to Scotland where
5	by the Culture, Media and Sport Select Committee, and	5	it started so what happened was, I was taken to court
6	I had hoped because of that I would be made aware of	6	without notice using false allegations and false
7	what was going on here, because I live in Massachusetts	7	evidence by the other parties and it got in the press.
8	and they did have my email but, as I said, I found out	8	LORD JUSTICE LEVESON: Hang on. So I am trying to
9	about the hearing on 6 September only two days before,	9	understand. The person who commenced proceedings
10	otherwise, I would have appeared and asked.	10	against you in Scotland was not a member of the press.
11	I currently don't have a solicitor and your team	11 12	UNKNOWN SPEAKER: No.
12 13	asked me to contact Collyer Bristow to see if they would	13	LORD JUSTICE LEVESON: I see. So it is the way in which it
14	represent me.  LORD JUSTICE LEVESON: On what basis do you seek to be	14	was reported. UNKNOWN SPEAKER: Right.
15	a core participant?	15	LORD JUSTICE LEVESON: Right, I understand.
16	UNKNOWN SPEAKER: Because I have been libelled by nearly al		UNKNOWN SPEAKER: Which was horrible because that is how it
17	of the core participants, with the exception of the	17	got into the public domain and under the rules of the
18	Trinity and the Guardian, and I was first libelled	18	Scottish court, that wasn't meant to happen. I went to
19	across the Scottish press including all the editions	19	Scotland later but, of course, I could get no
20	the Scottish editions of the English papers, over	20	information, but these articles remain on the internet,
21	litigation commenced in Scotland, and then it was in	21	on the Scotsmen, on the Times, on the Telegraph, they
22	England harassment litigation and it was essentially	22	are all over to this day.
23	commenced because the police didn't investigate my	23	Then these people commenced litigation in England
24	allegations about the other parties.	24	here under the Harassment Act 1997.
25	So, actually, my application is a little bit with	25	LORD JUSTICE LEVESON: That is, again, not a member of the
23	Page 113	23	Page 115
1	the police, in that their failure to investigate caused	1	press.
2	me to be defamed and libelled. Also when it started in	2	UNKNOWN SPEAKER: Again, not a member of the press.
3	Scotland the issue was taken under common law, under	3	LORD JUSTICE LEVESON: So your complaint is about the way in
4	harassment common law, and under the rules of the	4	which your proceedings have been reported
5	Scottish court nothing should have gotten in the press	5	UNKNOWN SPEAKER: Exactly.
6	unless the other party was present, so I was taken to	6	LORD JUSTICE LEVESON: in Scotland and England?
7	court without notice and I believed somebody	7	UNKNOWN SPEAKER: Exactly, which were then syndicated to
8	something funny happened.	8	America. I don't know if it is because I am American or
9	LORD JUSTICE LEVESON: In Scotland is this?	9	the other party is well known but that is what my claim
10	UNKNOWN SPEAKER: Yes, this started in Scotland. This does	10	in America is about, because I am in all the databases
11	cover Scotland as well, doesn't it? I think so.	11	in America and there are libellous articles and, because
12	LORD JUSTICE LEVESON: Yes, but only in a very limited way	12	of that, I think the Inquiry I think, what people
13	because Scottish law is different to English law and	13	have to understand here is that wherever the English
14	lots of people have pointed out my lack of expertise in	14	language is spoken around the world, particularly
			because of the internet you know the had precises of
15	relation to media law, if they wanted to include	15	because of the internet, you know, the bad practices of
16	Scottish law I would agree with them.	16	the British press are everywhere.
16 17	Scottish law I would agree with them.  UNKNOWN SPEAKER: It also covers the English law as well.	16 17	the British press are everywhere.  LORD JUSTICE LEVESON: I understand that, and the impact of
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1	the matters to which the Inquiry relates or whether you	1	people who complain they have been libelled in court
2	have a significant interest in the important aspect of	2	proceedings, but the problem about that is what is said
3	the matters to which the Inquiry relates, because I am	3	in court is privileged anyway.
4	not considering specifically the law of libel, as far as	4	UNKNOWN SPEAKER: I don't mean that the privilege.
5	I'm aware, or that you are going to be criticised. I am	5	I mean the outcome of the proceedings, certainly with no
6	sure you are not going to be criticised in the course of	6	right of reply.
7	my proceedings.	7	LORD JUSTICE LEVESON: But my Inquiry is rather different
8	So I understand why you are asking. I am just not	8	from that being conducted by the Department of Culture,
9	sure you fit; do you see?	9	Media and Sport Committee in the House of Commons and
10	UNKNOWN SPEAKER: No, I see, because I know this all started		I am absolutely I have taken over a great part of
11	as a phone hacking issue. However, as, sort of, the	11	their remit but not necessarily all of it.
12	Press Standards Inquiry from the culture minister of the	12	UNKNOWN SPEAKER: But I must say from module 1 that you were
13	Select Committee started at looking at the bad standards	13	looking at the culture standards and ethics to the
14	of the press, it became something about phone hacking	14	press. What has happened to me completely fits.
15	and I have noticed that the core participants aren't	15	LORD JUSTICE LEVESON: All right. But that is not to say
16	just phone hacking victims.	16	you can't submit evidence to the Inquiry and we will
17	There are the McCanns and there's Max Mosley and	17	consider it and, if necessary, if I consider it is
18	I am probably most similar to the McCanns because they	18	sensible, I can require you to come and give evidence
19	have been libelled and they were libelled over	19	and it strikes me that that is probably the better thing
20	an investigation but I have actually been libelled over	20	for you to do. So for you to submit a statement to the
21	court proceedings, which is a very serious matter.	21	Inquiry and we will then decide whether it is worthwhile
22	I mean, you know and I put and I am representing	22	your coming to speak about it.
23	myself most of this time and I put a lot of time into it	23	UNKNOWN SPEAKER: But I don't quite understand then why my
24	and to get libelled over the outcome of proceedings	24	situation is different than the McCanns, for instance.
25	right here in the Queens Bench, which then gets	25	LORD JUSTICE LEVESON: Well, I think there are a number of
	Page 117		Page 119
1	syndicated to America. This is a very serious issue.	1	differences because I think the interplay between the
1 2	syndicated to America. This is a very serious issue.  LORD JUSTICE LEVESON: I understand the point but the	1 2	differences because I think the interplay between the McCanns and the press may very well go beyond the
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2 3	LORD JUSTICE LEVESON: I understand the point but the involvement of the other people you mention strikes me	2 3 4	McCanns and the press may very well go beyond the assertions within certain sections of the press that
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3	1	everybody a right of reply. It doesn't matter who you	1	and I am not enquiring, it doesn't matter. I would have
4 Tget defamed and libelled in my own country. It is really outrageous and I really think the Inquiry has to look at this.  7 LORD JUSTICE LEVESON: I actually repeat what I have said 5 before. I think that you raise an interesting and 9 possibly significant matter. I would suggest that you 10 put your account — I am sure you probably have done—11 into writing in some way and send it to the Inquiry team 11 evidence to the Inquiry and then I will consider it and 11 evidence to the Inquiry and then I will consider it and 14 if I feel that it fits, it fits a hole, then I will ask 15 you to give evidence if I think it right. 16 But your concern is a specific one, which 17 I understand. I have a far more generic series of 18 issues to resolve. 18 So if you need — you have the address of the 10 Inquiry 12 I UNKNOWN SPEAKER: I see, so does that — can I submit something else to the mor are you making a ruling about your application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Not just yet because I will hear Mr Jay 1 my application. Loud I make a ruling about your application on the make a farm o	2	are and in this country I get defamed and libelled, no	2	to consider each case on its merits in relation to the
5 LORD JUSTICE LEVESON: 1 actually repeat what I have said of books at this. 6 Defore. I think that you raise an interesting and possibly spirificant matter. I would suggest that you a possibly spirificant matter. I would suggest that you and possibly spirificant matter. I would suggest that you and possibly spirificant matter. I would suggest that you are comer -1 am sure you prohably have done - into writing in some way and send it to the Inquiry team and, as I have said, anybody is entitled to submit a widence to the Inquiry seam and as I have said, anybody is entitled to submit a side of the first into writing in some way and send it to the Inquiry team and, as I have said, anybody is entitled to submit a widence to the Inquiry seam and as I have said anybody is entitled to submit a side of the first into writing in some way and send it to the Inquiry seam and as I have said anybody is entitled to submit a size of the size of the same and that is a firs it is a shock, then I will always the size of the same and t	3	right of reply and then they syndicate the articles and	3	rules and I am not allowing anything else to influence
6 Look at this 7 LORD JUSTICE LEVESON: I actually repeat what I have said 8 before. I think that you raise an interesting and 9 possibly significant matter. I would suggest that you 10 put your account -1 am sure you probably have done- 11 into writing in some way and send it to the Inquiry team 12 and, as I have said, anybody is entitled to submit 13 evidence to the Inquiry and then I will consider it and 14 if I feel that it fits, it fits a hole, then I will ask 15 you to give evidence if 1 think it right. 16 But your concern is a specific one, which 17 I understand. I have a far more generic series of 18 issues to resolve. 19 So if you need you have the address of the 20 Inquiry? 21 UNKNOWN SPEAKER: (Nodded) 22 LORD JUSTICE LEVESON: Well, I encourage you to make 23 a statement and we will see where it goes from there. 24 UNKNOWN SPEAKER: I see, so does that can I submit 25 something else to them or are you making a ruling about 26 Page 121 2 my application? 2 LORD JUSTICE LEVESON: Yes. I will make a ruling about 27 page 123 3 application. Not just yet became I will hear Mr Jay 28 first, but then I will make a ruling and bent your application. Not just yet became I will hear Mr Jay 39 first, but then I will make a ruling and bent your application. Not just yet became I will hear Mr Jay 40 first, but then I will make a ruling and bent your application. Not just yet became I will hear Mr Jay 41 first, but then I will make a ruling and bent your application on the seem. I will hear Mr Jay 42 first, but then I will make a ruling and bent your application on the seem. I will hear Mr Jay 43 first, but then I will make a ruling and bent your application on the seem. I will hear Mr Jay 44 first, but then I will make a ruling and bent your application on the seem of your application on the second is Jacqui Hames. I can provide further described by the provide further described by the pr	4	I get defamed and libelled in my own country. It is	4	me.
Total District Leves on the control of the Administrative	5	really outrageous and I really think the Inquiry has to	5	UNKNOWN SPEAKER: Do I have a right of appeal?
Be before. I think that you raise an interesting and possibly significant matter. I would suggest that you put your account — I am sure you probably have done—into writing in some way and send it to the Inquiry team and as I have said, analyoby is entitled to submit evidence to the Inquiry and then I will consider it and if I feel that it fits, it fits a hole, then I will ask you to give evidence if I think it right. So you to give evidence if I think it right. But your concern is a specific one, which I understand. I have a far more generic series of issues to resolve. But your oneem is a specific one, which I understand. I have a far more generic series of issues to resolve. So if you need — you have the address of the Inquiry? LoRD JUSTICE LEVESON: Well, I encourage you to make a statement and we will see where it goes from there. UNKNOWN SPEAKER: I see, so does that — can I submit 2 something else to them or are you making a ruling about your application. Not just yet because I will hear Mr Jay first, but then I will make a ruling and then you can supplication. Not just yet because I will hear Mr Jay first, but then I will make a ruling and then you can supplication. Not just yet because I will hear Mr Jay first, but then I will make a ruling and then you can yapplication. Not just yet because I will hear Mr Jay first, but then I will make a ruling and then you can yapplication. Not just yet because I will hear Mr Jay first, but then I will make a ruling about your yapplication. Not just yet because I will hear Mr Jay first, but then I will make a ruling about your yapplication. Not just yet because I will hear Mr Jay first, but then I will make a ruling about your yapplication. Not just yet because I will hear Mr Jay have an interest in an aspect of matters to to which the flungiry relate. Any proposed has to seem the first is a matter for your discretion under Rule 5, in yas submission.  10 MR JAY: Yes, it is a matter for you the leave word, you see. UNKNOWN SPEAKER: I always like to hear what Mr Sherbo	6	look at this.	6	LORD JUSTICE LEVESON: Of appeal?
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10	8	before. I think that you raise an interesting and	8	LORD JUSTICE LEVESON: I have not ruled yet, but you can
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and, as I have said, anybody is entitled to submit vidence to the Inquiry and then I will consider it and if I feel that it fits, it fits a hole, then I will ask you to give evidence if I think it right.  But your concern is a specific one, which I I understand. I have a far more generic series of I sissues to resolve.  But your concern is a specific one, which I I understand. I have a far more generic series of I I should be a core participant.  ILORD JUSTICE LEVESON: No, actually, I don't think that you do need to provide evidence to the Inquiry which we will see where it goes from there. I LORD JUSTICE LEVESON: Well, I encourage you to make to a statement and we will see where it goes from there. I UNKNOWN SPEAKER: I see, so does that — can I submit something else to them or are you making a ruling about your application. Not just yet because I will hear Mr Jay first, but then I will make a ruling and then you can deal with it as you think is appropriate.  MR JAY: It is a matter for your discretion under Rule 5, in my submission.  I LORD JUSTICE LEVESON: Yes. You have heard what I have-said.  MR JAY: Yes. I LORD JUSTICE LEVESON: It is not said this lady — she hasn't played a direct or significant role, it doesn't seems. She may have an interest in an aspect of matters right? Is that analysis fair?  MR JAY: Yes, it is. LORD JUSTICE LEVESON: Thank you. Do you want to say anything else? I will give you the last word, you see. UNKNOWN SPEAKER: It is the last word? I know your team is a ware that my opponent has been Mr Sherborne. So I hope this wint influencing —  Shown and the provide further decision, in a new to reprove the face that there was a reason why the team of core  DINTINGE LEVESON: You don't need to stay if you don page 121  I my application. Not just yet because I will hear Mr Jay first, but then I will make a ruling about your anything the content of the provide further deal with the foundation. Not just yet because I will hear Mr Jay first, but then I will make a ruling and then you can deal with	10	put your account I am sure you probably have done	10	Court by way of judicial review if you consider that
13 evidence to the Inquiry and then I will consider it and   14 if I feel that it fits, it fits a hole, then I will ask   14   15 you to give evidence it I think it right.   15 you to give evidence it I think it right.   16 But your concern is a specific one, which   16 But your concern is a specific one, which   17 I understand. I have a far more generic series of   17 LoRD JUSTICE LEVISON: No, actually, I don't think that you can lead to read to see the subject of think that you do need to provide evidence to the Inquiry which we will then consider, but I don't think that that gives rise to a necessity on your part to be a core participant at all. I think you do need to provide evidence to the Inquiry which we will then consider, but I don't think that that gives rise to a necessity on your part to be a core participant to the enormous number of overarching issues with which this Inquiry is concerned.   22 you don't need to stay if you don Page 123   23   24   25   25   26   27   27   27   28   29   29   29   29   29   29   29	11	into writing in some way and send it to the Inquiry team	11	I have made an error of law or exercised my discretion
14 if I feel that it fits, it fits a hole, then I will ask you to give evidence if I think it right.  15 you to give evidence if I think it right.  16 Bit your concern is a specific one, which  17 I understand. I have a far more generic series of  18 issues to resolve.  18 issues to resolve.  18 issues to resolve.  19 So if you need — you have the address of the  20 Inquiry?  21 UNKNOWN SPEAKER: (Nodded)  21 UNKNOWN SPEAKER: (Nodded)  22 LORD JUSTICE LEVESON: Well, I encourage you to make  23 a statement and we will see where it goes from there.  24 UNKNOWN SPEAKER: I see, so does that — can I submit  25 something else to them or are you making a ruling about  26 Page 121  1 my application?  2 LORD JUSTICE LEVESON: Yes. I will make a ruling about your  2 page 123  1 my application. Not just yet because I will hear Mr Jay  4 first, but then I will make a ruling and then you can  5 deal with it as you think is appropriate.  3 I have said.  3 MR JAY: Yes.  4 I LORD JUSTICE LEVESON: Yes. You have heard what  5 I have said.  4 MR JAY: Yes.  5 LORD JUSTICE LEVESON: It is not said this lady — she  6 hash of played a direct or significant role, it doesn't  7 going to be the subject of explicit criticism. Is that  7 right? Is that analysis fair?  17 MR JAY: Yes, it is.  18 LORD JUSTICE LEVESON: Thank you. Do you want to say  19 anything else? I will give you the last word, you see.  20 UNKNOWN SPEAKER: I his the last word, You see.  21 UNKNOWN SPEAKER: I lam more than happy to do so. We would har  22 done it in advance, except this, unfortunately, had to  23 be done at very short notice, but I can deal with it in  24 wirting.  25 core and to be a core participant at all. I think  26 that there was a reason why the team of core  27 page 123  28 core and to be a core participant at all. I think  29 page 123  29 participant to the neor participant is alone that there was a reason why the team of core  20 UNKNOWN SPEAKER: I nis the last word, you see.  20 UNKNOWN SPEAKER: I nis the last word, you see.  21 page 123  22 page	12	and, as I have said, anybody is entitled to submit	12	in a way in which it could never be reasonable for me to
15    15    15    15    15    15    15    15    15    16	13	evidence to the Inquiry and then I will consider it and	13	exercise it. That is the only basis upon which you can
16 But your concern is a specific one, which 17 I understand. I have a far more generic series of 18 is sues to resolve. 18 is sues to resolve. 19 So if you need you have the address of the 19 So if you need you have the address of the 19 Inquiry? 20 UNKNOWN SPEAKER: (Nodded) 21 UNKNOWN SPEAKER: (Nodded) 22 LORD JUSTICE LEVESON: Well, I encourage you to make 23 a statement and we will see where it goes from there. 24 UNKNOWN SPEAKER: 1 see, so does that can I submit something else to them or are you making a ruling about Page 121  1 my application? 2 LORD JUSTICE LEVESON: Yes. I will make a ruling about to page 123  1 my application. Not just yet because I will hear Mr Jay 1 first, but then I will make a ruling athen you can 2 deal with it as you think is appropriate. 3 deal with it as you think is appropriate. 4 LORD JUSTICE LEVESON: Yes. You have heard what 5 deal with it as you think is appropriate. 5 LORD JUSTICE LEVESON: Yes. You have heard what 6 MR JAY: It is a matter for your discretion under Rule 5, in my submission. 6 MR JAY: Yes. 6 LORD JUSTICE LEVESON: Yes. You have heard what 7 I LORD JUSTICE LEVESON: Yes. You have heard what 8 LORD JUSTICE LEVESON: It is not said this lady she 9 I have-said. 10 MR JAY: Yes. 11 LORD JUSTICE LEVESON: It is not said this lady she 12 hasn't played a direct or significant role, it doesn't to which the Inquiry relates, but she is obviously not to right? Is that analysis fair? 18 MR JAY: Yes, it is. 19 avare that my opponent has been Mr Sherborne. So I hope this isn't influencing 20 LORD JUSTICE LEVESON: No, it is not at all. All I knew was a water that my opponent has been Mr Sherborne. So I hope this isn't influencing 20 LORD JUSTICE LEVESON: No, it is not at all. All I knew was a that there was a reason why the team of core 20 LORD JUSTICE LEVESON: No, it is not at all. All I knew was that there was a reason why the team of core 21 LORD JUSTICE LEVESON: I am not being critical but I think to with the particular details touching upon those two pers	14	if I feel that it fits, it fits a hole, then I will ask	14	challenge a decision if it is adverse to you.
16	15	you to give evidence if I think it right.	15	UNKNOWN SPEAKER: I hope you understand why I believe
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some further and better particulars are appropriate.
   MR SHERBORNE: Yes, sir. Yes, I understand.
3
   LORD JUSTICE LEVESON: Anything else?
4
   UNKNOWN SPEAKER: Can I just ask one thing? The Inquiry --
5
     in the first module for press -- you were looking at the
6
     rights of the press, nearly all of the victims are phone
7
     hacking victims and I know that is how the Inquiry
8
     started but I just, you know, wondered why there isn't
9
     a broader spectrum of victims.
10
   LORD JUSTICE LEVESON: I think there is a broader spectrum
11
     of victims, actually, because not all those who have
12
     been designated core participants are phone hacking
13
     victims. There are none who are simply victims of
14
     libel, I don't believe. I think it goes beyond that but
15
     I have no doubt, as I cast my memory back to the list
16
     that there are, indeed, a number who interplay with the
17
     media in different ways. I haven't declined your
18
     application on the basis that you weren't a phone
19
     hacking victim.
20
       Thank you all very much indeed.
21
   (3.05 pm)
22
            (The hearing concluded)
23
24
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