

<p>1 Tuesday, 30 October 2018 2 (10.30 am) 3 Welcome and opening remarks by THE CHAIR 4 THE CHAIR: Good morning, everyone. I am Alexis Jay and I'm 5 the chair of the Independent Inquiry Into Child Sexual 6 Abuse. Sitting with me are the other panel members of 7 the inquiry, Ivor Frank and Drusilla Sharpling. 8 I should say, Professor Evans is not able to join us 9 today as he is abroad on United Nations business. The 10 decisions today are for me, as chair, rather than the 11 panel as a whole, though we tend to sit together for the 12 preliminary hearings. Professor Evans will review the 13 transcript after today's proceedings so that he knows 14 what was discussed. 15 On behalf of the inquiry, I welcome you all to this, 16 the second preliminary hearing in the investigation into 17 allegations of child sexual abuse linked to Westminster. 18 This is one of 12 investigations currently being 19 conducted by this inquiry. Our task in each 20 investigation is to examine the extent to which public 21 and private institutions in England and Wales have 22 failed to protect children from sexual abuse in the past 23 and to make meaningful recommendations to keep children 24 safe today and in the future. 25 The Westminster investigation will consider evidence</p> <p style="text-align: center;">Page 1</p>	<p>1 relating to allegations of child sexual abuse committed 2 by persons of public prominence associated with 3 Westminster and how these came to light. It will also 4 cover the findings of relevant investigations and 5 whether there is evidence of conspiracy, coverup, 6 interference or tolerance in relation to child sexual 7 abuse committed by persons of public prominence 8 associated with Westminster, whether governmental, 9 political and law enforcement institutions were aware of 10 and took appropriate steps, and whether there are 11 adequate safeguarding and child protection policies in 12 place within political parties, government departments 13 and agencies. 14 A substantive hearing in this investigation is 15 scheduled for March 2019. The purpose of this second 16 preliminary hearing is to provide an update on the 17 investigation and to plan for the future management of 18 the investigation. The structure of the hearing is set 19 out in the agenda. We shall hear first from inquiry 20 counsel, who will provide an update on the progress of 21 the investigation so far, and also deal with timetabling 22 going forward. Item 3 on the agenda is now redundant: 23 there are no renewed applications for core participant 24 status to be dealt with at this hearing. There is one 25 matter under item 4: an application to be made on behalf</p> <p style="text-align: center;">Page 2</p>
<p>1 of Ms Esther Baker. 2 Before we hear from counsel, a couple of points on 3 timing: we will take a 15-minute break at around 4 11.45 am and, if this hearing has not concluded before 5 1.00 pm, we will take a break for lunch. As with all 6 inquiry hearings, any directions arising from this 7 hearing will be published on the inquiry's website 8 shortly after the hearing, as will the hearing 9 transcript. 10 I will now invite the lead counsel for this 11 investigation, Andrew O'Connor QC, to provide us with an 12 update on the investigation. Please go ahead, 13 Mr O'Connor. Thank you. 14 Submissions by MR O'CONNOR 15 MR O'CONNOR: Thank you, chair. As you say, I am lead 16 counsel for this investigation. I am assisted this 17 morning by Ms Beattie, Mr Henderson and Ms O'Byrne. The 18 lead counsel to the inquiry, Mr Altman QC, is not here 19 today, but it is intended that he will be present at the 20 substantive hearings next year. 21 May I start by emphasising the independent role that 22 counsel to the inquiry play. We adopt an entirely 23 neutral role in these proceedings. Our role includes 24 making submissions as to the manner in which the 25 inquiry's investigations should be conducted -- for</p> <p style="text-align: center;">Page 3</p>	<p>1 example, the submissions that we will make today dealing 2 with the scope of the investigation. More generally, we 3 will attempt to assist the inquiry throughout this 4 investigation by making independent submissions on the 5 law and evidence, by presenting the witness evidence at 6 the public hearings in a neutral and nonpartisan manner, 7 and by advising the panel on the conclusions that are 8 available on the evidence. 9 Chair, there are 15 organisations and individuals 10 that have been granted core participant status in this 11 investigation. A full list of all the core participants 12 in the inquiry and in this investigation is available on 13 the website. 14 May I simply introduce those who are present and 15 represented before you today. The Crown Prosecution 16 Service is represented today by Mr Brown QC. The 17 Labour Party is represented by Ms Grey QC. The 18 Independent Office for Police Conduct, formerly known as 19 the IPCC, is represented by Ms Skinner. The 20 Metropolitan Police Service is represented by Mr Dixey. 21 The Wiltshire Police is represented by Mr Moss. The 22 Home Office, who have been granted core participant 23 status in a representative capacity for Her Majesty's 24 Government, are represented by Mr Kark QC. A group of 25 seven complainants, whose ciphers are listed in the list</p> <p style="text-align: center;">Page 4</p>

<p>1 of core participants, are represented by Mr Scorer. 2 Ms Baker is represented by Mr Price. And, lastly, 3 Mr Tim Hulbert is represented by Mr Stein QC. 4 Chair, as you have said, the last hearing in this 5 investigation took place in January this year. The 6 substantive hearings, when we shall call witnesses and 7 hear evidence, are scheduled to take place over three 8 weeks during March next year. To be more precise, 9 evidence will be heard during the first, second and 10 fourth weeks of March, with no hearings taking place in 11 the third week, ie, the week commencing 18 March. 12 A great deal of work has taken place since the 13 hearing last January, and much further work will be 14 needed prior to the hearings next March. I will shortly 15 give an update on the work that has been done in recent 16 months, and I will also outline the steps that need to 17 be taken in preparation for the hearings. 18 Before turning to those practical matters, I need to 19 say a few words about the scope of this investigation. 20 At the hearing in January, we made extensive oral 21 submissions as to the proposed scope of 22 the investigation. At the end of the hearing, you gave 23 directions permitting core participants to file written 24 submissions on scope responding to what we had said at 25 the hearing. Written submissions were duly received</p> <p style="text-align: center;">Page 5</p>	<p>1 and, on 8 May this year, you gave a determination on the 2 scope of the investigation, a document that is available 3 on the inquiry website. 4 The effect of that determination is that this 5 investigation will focus on six largely historical 6 issues that all relate to the way in which institutions 7 have responded, or in some cases have not responded, to 8 allegations of child sexual abuse made against prominent 9 individuals associated with Westminster. In addition, 10 there is a seventh and more contemporary point of focus, 11 which will involve an examination of the current 12 safeguarding policies of government departments and 13 agencies and also of political parties. I propose to 14 say a little more shortly about the evidence that we are 15 likely to hear under each of these seven topics. 16 You will also recall, chair, that at the last 17 hearing we made a series of more general submissions to 18 you about the way in which the inquiry should approach 19 this investigation. We addressed, for example, what we 20 suggested was a change in the nature of public concern 21 about Westminster-related allegations of child sexual 22 abuse. We stressed the focus on investigating 23 institutional failings rather than seeking to determine 24 individual allegations of abuse, and we identified 25 certain factual matters that we said should not form</p> <p style="text-align: center;">Page 6</p>
<p>1 part of this investigation. 2 Those submissions, we submit, are of continuing 3 relevance and importance. To a very large degree, they 4 were accepted by core participants in the written 5 submissions filed following the January hearing. 6 I don't intend to repeat those submissions to you 7 today. I know that you have them in mind and, for 8 others, the transcript of the last hearing is of course 9 available on the inquiry website. I do wish, however, to 10 re-emphasise two of those more general points that we 11 made at the last hearing. 12 The first point to re-emphasise is the fact that the 13 inquiry is, of necessity, taking a highly selective 14 approach to the topics that will be examined at the 15 hearing in March. It is important that everyone, 16 including the public, understands that this is not, and 17 has never intended to be, an exhaustive examination of 18 all Westminster-related child sexual abuse issues. Even 19 focusing on institutional issues, a comprehensive 20 examination of all the allegations that have been made, 21 and all the questions that have been raised, in 22 particular on the internet, would involve hearings 23 lasting months, if not years. We must not forget that 24 this is only one of the inquiry's 12 current 25 investigations: resources, in particular in terms of</p> <p style="text-align: center;">Page 7</p>	<p>1 hearing time, are limited. The hearing time that has 2 been allocated to this particular investigation is three 3 weeks. As is clear from your determination on scope, 4 you have adopted a proportionate approach in deciding 5 which issues will be investigated. As I hope will be 6 clear when I go on to give more detail about the matters 7 that will be investigated, we intend to cover a great 8 deal of ground and to look into matters that we believe 9 are of particular public concern. But, as I have said, 10 it is important, nonetheless, to understand that 11 a process of selection has taken place. In view of 12 the inquiry's limited time and resources, it would be 13 neither possible nor proportionate to investigate all 14 allegations that have been made. 15 The second point that I wish to make at this stage 16 concerns certain matters that are expressly not within 17 the scope of the investigation. The effect of our 18 submissions at the last hearing was that neither the 19 truth or otherwise of the allegations of child sexual 20 abuse that have been made by the individual known as 21 "Nick", nor the conduct of the police investigation into 22 those allegations -- Operation Midland -- should form 23 part of the inquiry's Westminster investigation. We 24 made those submissions on a number of grounds, which 25 I will not repeat now. They were supported by core</p> <p style="text-align: center;">Page 8</p>

<p>1 participants, and it is clear from your determination on 2 scope that you accepted them. I raise this point today 3 only to highlight the fact that there is now a further, 4 and particularly compelling, reason why the inquiry 5 should not engage with these matters. That is the fact 6 that, as has been publicly reported, "Nick" has now been 7 charged with perverting the course of justice and fraud 8 in relation to the allegations to which I have referred, 9 and is currently on remand awaiting trial. It is 10 plainly imperative that nothing that we do as part of 11 this investigation prejudices in any way the fairness of 12 those criminal proceedings.</p> <p>13 That is all I wish to say at present on scope.</p> <p>14 There is an application made on behalf of Ms Baker for 15 you to revisit one of the issues that you addressed in 16 your May determination on scope, and we will come to 17 that in due course.</p> <p>18 Turning to the progress that has been made since the 19 last hearing, may I say immediately that a great deal of 20 work has been undertaken both by Mr Smith and members of 21 the solicitors' team and also by counsel who are 22 instructed on this investigation. All of this work has 23 been directed towards making the hearings in March as 24 detailed and as effective as possible. What follows is 25 no more than a summary of the more important elements of</p> <p style="text-align: center;">Page 9</p>	<p>1 this work.</p> <p>2 No further applications for core participant status 3 have been granted since the last hearing. Most of 4 the work since the last hearing has been devoted to 5 obtaining documents and witness statements.</p> <p>6 We have issued, or are in the process of issuing, 7 approximately 50 requests for evidence. Some of these 8 requests have sought the production of documents, some 9 the production of a witness statement, and many of them 10 have requested both. They have been sent to government 11 departments and agencies, to political parties and to 12 individuals, including a large number of senior 13 politicians.</p> <p>14 Many of these requests for evidence have been sent 15 to former members of the Whips' Offices of all three 16 major political parties. We have received a number of 17 witness statements in response. We have also been given 18 access to archives of Whips' papers held by several of 19 the individuals whom we approached, some stored in their 20 homes and one at the Bodleian Library in Oxford.</p> <p>21 Searches of these archives have elicited useful 22 documentation, which will be disclosed to core 23 participants in due course.</p> <p>24 We have sought and received disclosure of current 25 safeguarding policies from political parties and also</p> <p style="text-align: center;">Page 10</p>
<p>1 from a large number of government departments and 2 agencies.</p> <p>3 As I indicated at the last hearing, we have made 4 disclosure requests to MI5, MI6 and GCHQ. The primary 5 purpose of these requests has been to establish whether 6 those agencies hold documentation that is of relevance 7 to issues relating to Westminster child abuse 8 allegations. We know, both from submissions received 9 from core participants and also from public debate, that 10 the possibility that the security and intelligence 11 agencies may have been involved, in one way or another, 12 in covering up Westminster-related child abuse 13 allegations is a matter of serious public concern.</p> <p>14 Addressing that concern is one of the core tasks of this 15 investigation. I am glad to report that the agencies 16 have given the inquiry their full cooperation. In 17 answer to our requests, they have conducted detailed 18 searches and have made available, both to counsel and 19 solicitors to the investigation -- and also to you, 20 chair -- material that is of potential relevance.</p> <p>21 Following that exercise, they are now in the final 22 stages of putting together statements answering 23 questions and addressing issues that are of relevance to 24 this investigation. We anticipate that evidence will be 25 adduced from each of the three agencies during the</p> <p style="text-align: center;">Page 11</p>	<p>1 hearings in March.</p> <p>2 We have been asked expressly on behalf of several of 3 the core participants whether all of the evidence from 4 the security and intelligence agencies will be given in 5 public hearings, or whether it will be necessary for 6 some of their evidence to be adduced in a closed 7 hearing -- in other words, in secret. The short answer 8 to this is that the position is not yet clear. We very 9 much hope that all the agencies' evidence will be given 10 in public hearings. We know from our discussions with 11 them that the agencies recognise both the importance of 12 this investigation and the need for its work to be as 13 transparent as possible. They have told us that they 14 wish to be as open as possible. However, it is, of 15 course, inherent in the work that the agencies do that 16 some information -- about, for example, records that 17 they do or do not hold -- cannot be given publicly 18 without damaging national security interests. As you 19 know, chair, you have the power, under section 19 of 20 the Inquiries Act, to issue a restriction order, the 21 effect of which is to enable certain evidence to be 22 heard in secret. Because the agencies' witness 23 statements have not yet been finalised, we do not yet 24 know whether they will wish to apply for a restriction 25 order of this type. Decisions in this respect are to be</p> <p style="text-align: center;">Page 12</p>

<p>1 made shortly. It is our hope, I repeat, that such an 2 application will not be necessary. If an application 3 for a restriction order is made, then you will of course 4 consider and determine it on its merits; core 5 participants will be informed of any such application 6 and will naturally be entitled to make their own 7 submissions on it.</p> <p>8 Moving on, we have also worked extensively with the 9 IOPC -- that is, the body that used to be known as the 10 IPCC. They have disclosed to us a large volume of 11 documentation relating to a series of IOPC-managed 12 investigations that have been conducted into potential 13 police misconduct relating to allegations of Westminster 14 child abuse. The IOPC is in the process of drafting an 15 overarching report addressing the outcome of all these 16 investigations, which we have seen and been able to 17 comment on in draft. I will say more about this when 18 I give some further detail about the police 19 investigations topic.</p> <p>20 We have also continued our engagement with the 21 Metropolitan Police and via Operation Hydrant with 22 regional police forces and they have provided disclosure 23 to us.</p> <p>24 Finally, in relation to the process of obtaining 25 documents, we have spent a considerable amount of time</p> <p style="text-align: center;">Page 13</p>	<p>1 inspecting documents at the Cabinet Office, and 2 following that we have requested and now received and 3 reviewed a large number of documents. Many of those 4 documents relate to the operation of the honours system, 5 a subject on which the Cabinet Office has provided, at 6 our request, a freestanding witness statement. Other 7 documents obtained from the Cabinet Office relate to 8 other subject areas, including prosecutorial decisions 9 and political parties.</p> <p>10 We are currently in the process of making final 11 decisions as to the relevance of the documents that have 12 been provided to us, and then preparing the documents 13 for disclosure to core participants.</p> <p>14 As I imagine all involved will be aware, the process 15 of onward disclosure to core participants will take 16 place using Relativity, the inquiry's electronic 17 document management system.</p> <p>18 Core participants will be able to access disclosed 19 documents on the Relativity system, provided they have 20 given the inquiry a confidentiality undertaking. Such 21 documents are held by core participants in confidence 22 unless or until they are referred to in a hearing or 23 admitted into evidence, at which stage copies of 24 the documents will usually be posted on the inquiry 25 website.</p> <p style="text-align: center;">Page 14</p>
<p>1 Chair, since the disclosure process in this 2 investigation is due to commence shortly, this is a good 3 moment for me to stress the very high importance that 4 the inquiry attaches to core participants abiding by the 5 terms of their confidentiality undertakings. Any 6 breaches of those undertakings will be taken extremely 7 seriously and may lead to access to the disclosed 8 documents being removed.</p> <p>9 One of the important steps that needs to be taken in 10 preparing documents for disclosure is the redaction from 11 the documents of certain irrelevant and/or sensitive 12 and/or personal data. The inquiry's approach to 13 redaction is fully set out in version 3 of its protocol 14 on the redaction of documents. That protocol is 15 available on the inquiry's website, and I therefore do 16 not propose to refer now to all of the information that 17 it contains.</p> <p>18 The single point concerning redaction to which I do 19 wish to draw attention, and which is arguably of 20 particular significance in the Westminster 21 investigation, concerns the circumstances in which the 22 names of individuals against whom relevant allegations 23 of child sexual abuse have been made will or will not be 24 redacted in documents to be used by the investigation. 25 This matter is dealt with at paragraphs 3 and 4 of</p> <p style="text-align: center;">Page 15</p>	<p>1 annex A to the protocol.</p> <p>2 In summary, first, where a document refers to an 3 allegation made against a named individual of child 4 sexual abuse and the individual in question has not been 5 convicted of any child sexual abuse offences, the 6 starting point is that the identity of the individual 7 should be redacted and a cipher applied.</p> <p>8 Second, where, however, allegations against an 9 individual are so widely known that redaction would 10 serve no meaningful purpose, the inquiry may decide not 11 to redact the individual's name. The protocol gives the 12 example of a case in which allegations against a named 13 individual have been published in the regulated media, 14 ie, in the mainstream media, such as national newspapers 15 and broadcasters, as opposed, for example, to 16 publication on an internet blog.</p> <p>17 Third, in applying these principles, the inquiry 18 will not distinguish, as a matter of course, between 19 individuals who are alive and those who are dead. 20 However, the fact that an individual is deceased may be 21 taken into account when considering whether or not to 22 apply a redaction in a particular instance.</p> <p>23 That is the inquiry's stated policy, and that is the 24 policy that we will follow in redacting documents for 25 this investigation. It will no doubt mean that the</p> <p style="text-align: center;">Page 16</p>

<p>1 names of at least some individuals connected with 2 Westminster against whom allegations of child sexual 3 abuse have been made will be redacted in the documents 4 disclosed by the inquiry.</p> <p>5 Chair, I have said a great deal on the subject of 6 witness statements and documents, and we appreciate, of 7 course, that the question that will be uppermost in the 8 minds of core participants and their legal teams is that 9 of when this material will be made available to them. 10 The answer is that we intend to start making material 11 available on Relativity before the end of November and 12 to release documents in tranches as soon as they are 13 ready for disclosure. In doing so, we will attempt to 14 prioritise the more important material. We expect that 15 the bulk of the material will be released onto 16 Relativity in January.</p> <p>17 Chair, I said that I would return to the seven 18 topics and provide more information on each of them. 19 The first topic relates to concern that police 20 investigations into cases of possible child sexual abuse 21 linked with Westminster may have been the subject of 22 inappropriate interference. As I mentioned earlier, the 23 IOPC, with the Metropolitan Police, have conducted 24 a series of investigations into allegations of this 25 nature. There are more than 30 IOPC-managed</p> <p style="text-align: center;">Page 17</p>	<p>1 investigations that are of relevance and a number of 2 other similar investigations that have been conducted by 3 the Professional Standards Department of 4 the Metropolitan Police.</p> <p>5 As I also mentioned, the IOPC is preparing an 6 overarching report that will address the outcome of 7 their investigations. We propose to call an IOPC 8 witness to give oral evidence of a general kind about 9 these investigations -- including, for example, common 10 themes that emerge.</p> <p>11 Whilst it will not be possible for us to examine the 12 detail of all of the individual investigations, it is 13 our intention to call oral evidence about the detail of 14 at least some of those investigations.</p> <p>15 To give one example, there is a group of these 16 investigations that are all based, in one way or 17 another, on allegations that police officers may have 18 been "warned off" investigating possible cases of child 19 sexual abuse committed by senior politicians and other 20 establishment figures in the 1960s, '70s and '80s. The 21 politicians who, according to the allegations, were 22 shielded from investigation in this way included 23 Cyril Smith. Our intention is to spend some time 24 in March next year hearing detailed evidence about this 25 category of the cases, including, we hope, calling oral</p> <p style="text-align: center;">Page 18</p>
<p>1 evidence from some of the police officers involved.</p> <p>2 Another category of these investigations concerns 3 allegations relating to Elm Guest House. Those 4 allegations include possible misconduct on the part of 5 the Metropolitan Police in the way in which 6 investigations into goings on at Elm Guest House were 7 conducted, and also allegations that the fruits of those 8 investigations were covered up. The latter allegations 9 include the well-known allegation that evidence relating 10 to Leon Brittan's presence at and/or involvement with 11 Elm Guest House was suppressed. We propose to call some 12 more detailed evidence relating to these cases at the 13 hearings next year.</p> <p>14 Finally under this topic, as I mentioned at the 15 hearing in January, one of the IOPC investigations has 16 focused on the well-publicised account that the 17 journalist Don Hale has given of his office being raided 18 by Special Branch officers who served, or at least 19 purported to serve, a D-Notice on him and seized 20 a dossier containing names of MPs said to be sympathetic 21 to the Paedophile Information Exchange -- a dossier that 22 had apparently been given to Mr Hale by 23 Barbara Castle MP. We propose to look in more detail at 24 this case and also at at least one other case in which 25 it has been said that a D-Notice was used to suppress</p> <p style="text-align: center;">Page 19</p>	<p>1 the reporting of matters of this nature. We are also 2 likely to call evidence from the secretary of 3 the D-Notice Committee.</p> <p>4 The second topic identified in the determination on 5 scope is that of prosecutorial decisions.</p> <p>6 As you will recall, chair, the prosecutorial 7 decision in Cyril Smith's case was analysed in the 8 Rochdale investigation. In this investigation, we 9 intend to conduct a similar analysis of two further 10 cases.</p> <p>11 The first case relates to Victor Montagu, who was 12 a landowner and Conservative MP. Records held by the 13 National Archive, which the inquiry has obtained and 14 will disclose in due course, show that in the early 15 19670s Montagu was reported to the police for, and 16 admitted, indecently assaulting a young boy. Montagu 17 was never prosecuted, however -- the papers indicate 18 that the then DPP himself, Sir Norman Skelhorn, advised 19 that Montagu should receive no more than a caution, 20 apparently on the basis that the offence could be 21 treated as a one-off. In fact, Victor Montagu's son has 22 stated that he himself was abused by his father and, 23 moreover, that he is aware of at least ten other boys 24 who were also abused. We are likely to call evidence 25 from Robert Montagu and also to hear evidence from the</p> <p style="text-align: center;">Page 20</p>

<p>1 CPS about the decision making in this case. 2 The second case relates to Peter Hayman, a career 3 diplomat, and at one time the British High 4 Commissioner to Canada. He was also a member of 5 the Paedophile Information Exchange. There has been 6 longstanding public concern as to whether the decision 7 not to prosecute Hayman in the late 1970s, either for 8 his involvement with the Paedophile Information Exchange 9 or for sending obscene material through the post, might 10 have been politically motivated. Those concerns were 11 first expressed in the House of Commons by 12 Geoffrey Dickens MP, but they continue. In the recent 13 past, one of the police officers in the case, now 14 retired, made a series of allegations to the IOPC to the 15 effect that the prosecution was dropped inappropriately. 16 Those allegations formed the basis of one of the IOPC 17 investigations to which I have already referred. We 18 have obtained the police file in this case, and other 19 relevant documents, including an advice note from the 20 DPP's office. These documents will be disclosed to core 21 participants in due course, and we propose to hear 22 detailed evidence about this matter at the hearings 23 next March. 24 The third topic is the way in which political 25 parties, and in particular the leadership of those</p> <p style="text-align: center;">Page 21</p>	<p>1 parties, have reacted to allegations of child sexual 2 abuse made about individuals within their own parties. 3 Our expectation at this stage is that the evidence 4 that will be heard under this head will focus on three 5 issues. 6 The first of these issues relates to the way in 7 which the leadership of the Liberal Party, subsequently 8 the Liberal Democrat Party, responded to allegations of 9 child sexual abuse made against Cyril Smith. In this 10 regard, we have made detailed rule 9 requests to and 11 have received witness statements from Baroness Brinton, 12 on behalf of the Liberal Democrat Party, and also 13 Des Wilson, Michael Meadowcroft, Lord Alton and 14 Lord Steel. We intend to call at least some of these 15 witnesses to give organisational evidence. We are very 16 conscious of the lines of enquiry that some complainant 17 core participants wish us to pursue in this regard. We 18 had those matters in mind when we drafted the rule 9 19 letters, and we anticipate they will have further 20 submissions to make regarding which witnesses to call, 21 lines of questioning, and so on, once the witness 22 statements have been disclosed. 23 The second issue relates to the way in which 24 allegations of child sexual abuse made against 25 Peter Morrison MP were dealt with, both by the</p> <p style="text-align: center;">Page 22</p>
<p>1 Conservative Party, of which he was a member, but also 2 by the wider political community. We have obtained 3 a number of witness statements and also a number of 4 relevant documents in this regard. Related matters 5 regarding the police are the subject of another one of 6 the IOPC's investigations, and we anticipate that we 7 will call oral evidence from several witnesses on these 8 issues. 9 The third matter relates to the recent episode 10 involving a man named David Challenor and the 11 Green Party. As we presently understand the position, 12 Mr Challenor was permitted to act as the agent for 13 a Green Party candidate, his daughter, in both the 2017 14 general election and also a local council election in 15 2018, notwithstanding that he was awaiting trial on very 16 serious charges of child sexual abuse, for which he was 17 subsequently convicted and sentenced to 22 years' 18 imprisonment. I should say at once that we are still in 19 the process of obtaining evidence about this matter, but 20 our present view is that it would be appropriate to 21 investigate it further at the hearings next March. 22 The fourth topic concerns the activities of 23 the Whips' Offices of the various parties in parliament. 24 At the hearing in January, I read out the now notorious 25 words of the former Conservative Whip Tim Fortescue, in</p> <p style="text-align: center;">Page 23</p>	<p>1 which he appeared to assert that one of the ways in 2 which Whips gained the loyalty of MPs was by helping to 3 cover up scandals, including what Mr Fortescue described 4 as "scandals involving small boys". There is a clear 5 issue for the inquiry to investigate here: is it true 6 that the Whips' Offices of any party failed to report, 7 or, worse, assisted in suppressing, allegations or 8 evidence of child sexual abuse? 9 As I mentioned earlier, we have searched for 10 relevant documents in a number of archives. We have 11 also requested and obtained a number of witness 12 statements from former Whips of all major parties. We 13 propose to call at least some of these witnesses to give 14 oral evidence at the hearings in March. 15 Chair, the fifth topic identified in your 16 determination on scope relates to the honours system, 17 a system separated on behalf of the Crown by senior 18 politicians and civil servants within the Westminster 19 establishment. Concerns have been expressed publicly 20 about honours granted to individuals who had been 21 accused of child sexual abuse or where allegations of 22 this nature were made after the honour had been granted. 23 In the Rochdale investigation, the inquiry did examine 24 concerns of this nature relating to Cyril Smith, but at 25 that stage the inquiry did not have available to it</p> <p style="text-align: center;">Page 24</p>

<p>1 documents relating to the way in which other similar 2 cases had been treated, in relation both to the granting 3 and to the forfeiture of honours. We intend to build on 4 that work in this investigation. At our request, wide 5 searches have been conducted by the Honours and 6 Appointments Secretariat within the Cabinet Office. The 7 Cabinet Office has also provided a witness statement, as 8 I have said, in response to a rule 9 request that we 9 sent. We propose to call the Cabinet Office witness to 10 give evidence at the March hearings in order to address 11 the areas of concern that I have identified.</p> <p>12 The sixth topic that is to be investigated relates 13 to the activities of the Paedophile Information 14 Exchange, which is sometimes referred to as PIE.</p> <p>15 Tim Hulbert, who is a former Home Office employee 16 and a core participant in this investigation has 17 provided the inquiry with a witness statement that goes 18 to the question of whether PIE may have received 19 government funding in the late 1970s. This question has 20 already been examined by an internal Home Office review 21 and also by a further independent review of that work 22 conducted by Peter Wanless and Richard Whittam QC. The 23 original review found no evidence that PIE was funded by 24 the Home Office's Voluntary Service Unit, VSU, and 25 Wanless and Whittam subsequently found nothing in</p> <p style="text-align: center;">Page 25</p>	<p>1 registered files or in testimony offered by 2 contemporaries in and around the VSU that funding of PIE 3 might have taken place with the knowledge of the police 4 or security services as part of an effort to infiltrate 5 PIE. But Wanless and Whittam were not able to dismiss 6 the latter suggestion entirely, and Mr Hulbert has 7 suggested that there is fresh evidence going to this 8 issue that has not previously been considered. This is 9 a matter that we will investigate and on which we 10 propose to adduce evidence.</p> <p>11 We are also considering calling evidence going to 12 the relationship in the 1970s and 1980s between PIE and 13 the organisation now known as Liberty -- at that time, 14 the National Council for Civil Liberties. This matter 15 has already been the subject of a certain amount of 16 public comment and indeed it was the subject of 17 a statement made in 2014 by the then director of 18 Liberty, Shami Chakrabarti. However, some of 19 the documents that we have seen during the disclosure 20 exercise suggest that there are questions for the 21 inquiry to explore on this issue. We have very recently 22 made a rule 9 request to Liberty asking for a statement 23 addressing these issues and the response will of course 24 be disclosed to core participants in due course.</p> <p>25 The seventh and final topic, which looks not to the</p> <p style="text-align: center;">Page 26</p>
<p>1 past, but to the present and to the future, relates to 2 the issue that is defined in paragraph 2.3 of 3 the definition of scope for this investigation, and that 4 is:</p> <p>5 "The adequacy of existing safeguarding and child 6 protection policies in place within political parties, 7 in government departments and agencies, and in the 8 intelligence and security agencies."</p> <p>9 As I have already indicated, chair, we have 10 requested and have received disclosure of current 11 safeguarding policies both from political parties and 12 from a large number of government departments and 13 agencies. We have instructed an expert to consider the 14 policies and to prepare a report addressing their 15 adequacy in various respects. The expert's name is 16 Professor June Thoburn, who is Emeritus Professor of 17 Social Work at the University of East Anglia. 18 Professor Thoburn's teaching and research have 19 encompassed child protection services for children and 20 families in the community and services for children 21 placed away from home and it seems to us that she is 22 well qualified to undertake this work. It is our 23 intention that Professor Thoburn will be called to give 24 oral evidence regarding her conclusions at the hearings 25 in March, and there is likely to be an opportunity for</p> <p style="text-align: center;">Page 27</p>	<p>1 core participants to request that she is asked to cover 2 additional matters in advance of the hearing, perhaps 3 with a view to preparing a short supplementary report.</p> <p>4 Chair, those are the seven topics. Finally, may 5 I turn to a few more practical points about steps to be 6 taken between now and the hearings in March.</p> <p>7 First, may I emphasise again that we fully 8 understand the importance to core participants of 9 getting access to the witness statements and the 10 documents as quickly as possible. We are working hard 11 at this and, as I have said, we intend to start making 12 material available before the end of November and to 13 release documents in tranches as soon as they are ready 14 for disclosure. We will attempt to prioritise the more 15 important material, and we expect that the bulk of 16 the material will be released onto Relativity 17 in January.</p> <p>18 We expect to circulate in the new year a note 19 containing proposals on the witnesses from whom we 20 intend to hear evidence and broad topic areas for the 21 oral hearings. We will of course invite written 22 submissions from core participants on these proposals.</p> <p>23 Chair, item 2 on the agenda refers to a possible 24 further preliminary hearing. It is our hope that there 25 will be no need for any such hearing. If a further</p> <p style="text-align: center;">Page 28</p>

<p>1 preliminary hearing does become necessary, however, 2 there is provision in the inquiry's timetable for you to 3 conduct such a hearing on Thursday, 17 January next 4 year. 5 Looking even further ahead to the substantive 6 hearings themselves, we anticipate that, in accordance 7 with rule 10 of the Inquiry Rules 2006, the majority of 8 the questioning of live witnesses will be conducted by 9 counsel to the inquiry and by the panel. The rules do, 10 of course, entitle the legal representative of a core 11 participant to apply for permission to question 12 a witness. As in other investigation hearings within 13 this inquiry, we will invite you, chair, to order that 14 any such applications must be made, giving reasons, four 15 days before the witness is scheduled to give evidence. 16 We will make detailed proposals in this regard in the 17 evidence document to which I have already referred. For 18 present purposes, may I simply emphasise that experience 19 in other hearings has demonstrated how important it is 20 that applications to question witnesses are made in 21 accordance with this timetable to allow them to be 22 considered fully. 23 Chair, that concludes the updating and timetabling 24 matters under items 1 and 2 of the agenda. The next 25 item for us to deal with is the application made by</p> <p style="text-align: center;">Page 29</p>	<p>1 Esther Baker. As I have said, she is represented this 2 morning by Mr Price. Mr Price has filed written 3 submissions in support of the application. I know that 4 you have a copy of his submissions. I should say that, 5 given the shortness of time, and in light of their 6 sensitive contents, we have not circulated these written 7 submissions to core participants. 8 Before Mr Price speaks, I propose to say a few words 9 of introduction and also to give, in summary form, our 10 response to the application. 11 As you will recall, chair, in written submissions 12 filed following the hearing in January this year, 13 Ms Baker invited you to include her own case amongst the 14 matters to be enquired into by this investigation. 15 In very broad terms, the submission that Ms Baker 16 made earlier this year was that the inquiry should 17 investigate two elements of her case. First, she said 18 that the inquiry should investigate the details of 19 the sexual abuse that she claims to have suffered as 20 a child during the 1990s. Ms Baker claims that 21 politicians and the police were actively involved in the 22 sexual abuse that she suffered as a child and she 23 submitted that the inquiry should investigate the detail 24 of these claims. The second element of her case that 25 Ms Baker invited the inquiry to investigate was the much</p> <p style="text-align: center;">Page 30</p>
<p>1 more recent police investigation into her allegations, 2 an investigation that started in 2015. There were, she 3 submitted, institutional failings in that investigation 4 which the inquiry should examine. 5 In giving your determination on scope dated 6 8 May 2018, you rejected Ms Baker's submissions and 7 ruled that the inquiry would not investigate either the 8 historic element of her allegations or the recent police 9 investigation. Your reasons for reaching that decision 10 are set out at paragraphs 3 to 8 of your determination, 11 which, as I have said, can be found on the inquiry 12 website. 13 The application that is made today is on a narrower 14 basis than Ms Baker's submissions earlier this year. As 15 is clear from Mr Price's written submissions, all that 16 the inquiry is now being asked to investigate is the 17 conduct of, and possible institutional failings in, the 18 recent police investigation. 19 Chair, the general issue of possible institutional 20 failings in the way in which the police have 21 investigated allegations of child sexual abuse is 22 plainly within the scope of this investigation. It is 23 the first of the seven topics that I outlined earlier 24 this morning. 25 However, as I also made clear in my earlier</p> <p style="text-align: center;">Page 31</p>	<p>1 submissions, the inquiry has limited time and resources, 2 and, therefore, must select which factual matters it 3 should investigate. The question that is raised by this 4 application is not, therefore, whether you are entitled 5 to investigate the police investigation into Ms Baker's 6 allegations -- plainly, you are; nor is the question 7 whether you are required to investigate this matter -- 8 equally plainly, you are not. Properly put, the 9 question is whether these are factual matters that, in 10 the exercise of your wide discretion, you think it 11 appropriate to consider as part of the Westminster 12 investigation. It is a question that you should answer 13 by reference to all the circumstances of the case. 14 Taking that approach, chair, we submit that this 15 application should be rejected. In our submission, it 16 would neither be proportionate nor appropriate for this 17 inquiry to investigate the recent police investigation 18 into Ms Baker's allegations. We make two general points 19 in this regard. 20 First, although on this application Ms Baker only 21 invites you to investigate the police investigation that 22 commenced in 2015, the allegations that she has made 23 about the failings in that police investigation are 24 closely linked with her underlying allegations of having 25 been the victim of sexual abuse as a child in the 1990s.</p> <p style="text-align: center;">Page 32</p>

<p>1 This is a point that you made at paragraph 6 of 2 your May 2018 determination, when you said that "the 3 issue of potential institutional failings are very 4 closely bound up with Ms Baker's underlying allegations 5 of abuse". Most simply, many of Ms Baker's allegations 6 about institutional failings in recent years involve 7 John Hemming, who is one of the men who she says abused 8 her when she was a child. For this reason, we submit, 9 it is unrealistic to think that this inquiry could 10 investigate Ms Baker's allegations of recent police 11 failings without hearing evidence on, and perhaps even 12 having to make findings about, what happened to her as 13 a child. That is a factor that militates against 14 selecting this case as one that should be investigated. 15 It is not the primary purpose of this inquiry to 16 determine disputed allegations of child sexual abuse. 17 The particular complexity and sensitivity of these 18 matters means that an investigation into them would, as 19 you said in your May determination, be resource 20 intensive and would distract attention away from the 21 topics for investigation that I have already outlined 22 this morning. And the likely need to hear evidence 23 about the underlying allegations of child sexual abuse 24 would risk a conflict with the civil proceedings that, 25 as we understand it, are still ongoing.</p> <p style="text-align: center;">Page 33</p>	<p>1 The second point is a shorter one. The hearings in 2 this investigation are listed to take place over three 3 weeks next March. The other work of the inquiry means 4 that there is no prospect either of adjourning or of 5 extending the Westminster hearings. Undertaking the 6 type of investigation that Ms Baker invites you to 7 embark upon, even if it is limited in the way suggested, 8 would be a very considerable undertaking. It would 9 involve calling for and then analysing a very large 10 number of documents, taking witness statements, and so 11 on. We do not think that there is any prospect that 12 this work could be undertaken in time for a hearing 13 next March, and even attempting to do so would 14 compromise the work that is under way on all the other 15 topics that I have outlined. 16 Chair, that is all that I wanted to say about the 17 application at this stage. May I suggest that you now 18 hear from Mr Price? 19 THE CHAIR: Thank you, Mr O'Connor. Mr Price? 20 Submissions by MR PRICE 21 MR PRICE: Chair, I'm very grateful for the introduction and 22 for an indication as to counsel to the inquiry's 23 position. 24 I will be reasonably brief. You have some written 25 submissions from me, and I am not going to stray outside</p> <p style="text-align: center;">Page 34</p>
<p>1 those, at least in substance. I will outline the basis 2 of the application. It is necessary to give some brief 3 background. 4 Ms Baker was born in 1982, was abused since the age 5 of a toddler by her father and by others from when she 6 was a few years older than that, mostly in 7 Staffordshire, and relevantly only in Staffordshire. 8 She has suffered since from depression, PTSD, alcoholism 9 and other physical and mental health problems throughout 10 her life. 11 Aged 13, she underwent the unlicensed termination of 12 a pregnancy by her father, rendering her unable to have 13 children since. She has suffered from low self-esteem, 14 she has no self-confidence and has attempted suicide. 15 Many of her relationships of all kinds have since been 16 abusive. 17 Ms Baker has made relevant allegations against two 18 former Members of Parliament, one still living, one now 19 deceased. Those relate to abuse that is said to have 20 taken place from when she was around 8 years old, until 21 she was around 11. So between 22 to 28 years ago, 22 roughly. And her relevant allegations include that the 23 abuse was known about and facilitated by individual 24 members of the police. 25 From around March until September or November 2015,</p> <p style="text-align: center;">Page 35</p>	<p>1 Ms Baker gave extensive testimony to the police, and 2 that was submitted in a report to the CPS. That 3 testimony included the relevant allegations, and in 4 2017, the police decided to take no further action in 5 relation to any of her allegations about her father, or 6 in relation to the relevant allegations. 7 One response to Ms Baker's allegations, to the 8 relevant allegations in particular, has been to label 9 her a fantasist. She is not alone amongst complainants 10 connected to the Westminster investigation in having 11 been labelled a fantasist. It is not clear what role, 12 if any, that perception of her as a fantasist played in 13 the decision not to prosecute her case. 14 Those being the underlying facts of Ms Baker's case, 15 it is clear that the scope of this investigation 16 includes her relevant allegations, and, as has been 17 explained to you, this isn't a question of us seeking to 18 persuade you that you may investigate them; rather, that 19 you should investigate them, with the only factors 20 detracting from that submission being matters of 21 practicality, as has been explained. 22 Ms Baker's position is that the inquiry is doing 23 this in many other cases, and should do so in her case. 24 The allegations that she makes give rise to engagement 25 of the first three of the topics of the six, now seven,</p> <p style="text-align: center;">Page 36</p>

<p>1 topics that this strand is going to investigate, those 2 being adequacy of police investigations, the nature of 3 prosecutorial decisions and the response of political 4 parties. 5 She does not seek to have determined the veracity of 6 the relevant allegations, and it is not clear to her why 7 there is a reluctance to investigate the institutional 8 responses and the investigations of her allegations. It 9 is not the case that there will have to be any findings 10 made in relation to the substantive allegations. It is 11 a point that's been made but not adequately explained, 12 in my submission. 13 There is a considerable distance in time between the 14 original underlying allegations and the investigations. 15 The investigations themselves lasted a matter of several 16 years only and can be relatively neatly encapsulated by 17 the provision by Staffordshire Police, who are the only 18 police involved in the relevant allegations, of the file 19 that they submitted to the CPS, and then the CPS's own 20 file. 21 There is no current police investigation into the 22 relevant allegations, nor into any aspect of how they 23 were handled. She has sought to review the decision not 24 to progress prosecution by using a Victim's Right to 25 Review Procedure, but that has run its course and no</p> <p style="text-align: center;">Page 37</p>	<p>1 further steps are to be taken in that regard. 2 There is only one set of extant civil proceedings. 3 This is a defamation case involving her and one of 4 the accused. That, by contrast, is a case that may need 5 to descend into the underlying allegations, but will not 6 seek to determine the responses to the allegations. It 7 is no part of the libel action that the police did or 8 did not prosecute. 9 So there is a clear distinction between that set of 10 civil proceedings, to which Ms Baker is a party, and the 11 investigation she seeks that the inquiry undertake. 12 She understands, clearly, that the inquiry must 13 allocate its limited resources proportionately. Her 14 wish is to assist the inquiry. She believes that her 15 case offers a useful working example by which a set of 16 institutional responses to highly contentious 17 allegations of politically connected child abuse may be 18 investigated. 19 In terms of practicality, I have already outlined 20 the evidence that Ms Baker submits would need to be 21 obtained. It's said this would be voluminous. Ms Baker 22 queries whether any investigation, or preliminary 23 investigation, has been undertaken to try to establish 24 exactly how voluminous this would be, and Ms Baker 25 requests that, before determining her application,</p> <p style="text-align: center;">Page 38</p>
<p>1 chair, you take at least some -- or direct that there be 2 taken some at least cursory steps to ascertain what 3 material there is, whether it is in one place, as 4 Ms Baker anticipates it may be, or at least one of 5 several places, and how much force there is in the 6 concern that the obtaining of this material may really 7 be disproportionate. 8 I repeat, the minimum that is required is for the 9 Staffordshire Police -- the file sent to the CPS to be 10 obtained and for the CPS to provide their own file. The 11 political party, or parties, relevant to her accused are 12 already going to be providing material, so there doesn't 13 seem to be much of an enlargement in that respect. 14 So, as I said, I won't repeat my other written 15 submissions, and I won't detain you any longer. I'm 16 grateful that you have heard us. 17 THE CHAIR: Thank you, Mr Price. Thank you, Mr O'Connor. 18 I will issue a written determination as soon as possible 19 after this hearing. Thank you. 20 MR O'CONNOR: Thank you, chair. Chair, I am not aware of 21 whether any core participants want to raise any other 22 matters or, indeed, whether they have anything to say in 23 response to what I have said. I did get an indication 24 before we started that they may want to have a break at 25 this stage in order to take instructions. I'm looking</p> <p style="text-align: center;">Page 39</p>	<p>1 around to see if anyone thinks that is a good idea at 2 the moment. 3 MR STEIN: Chair, may I ask for that break? The reason is 4 that we did request that counsel to the inquiry provide 5 a written note setting out the points that were going to 6 be delivered today. I'm afraid that was refused by the 7 inquiry, and so we have listened with care to the points 8 that have been set out, but I'm afraid it has been for 9 the first time. I don't anticipate we would need very 10 long. Looking around the room, 20 minutes seems to be 11 an acceptable time period. It may be an earlier break 12 for you, but, nevertheless, can we have one now? 13 THE CHAIR: Yes. We will return at 11.50 am. 14 MR STEIN: I'm very grateful. 15 (11.28 am) 16 (A short break) 17 (11.51 am) 18 THE CHAIR: Mr O'Connor? 19 MR O'CONNOR: Chair, thank you for that brief recess. 20 I know that Mr Price wants to make a couple of further 21 short submissions about his application. I have 22 indicated we have no objection to that. Once he has 23 done that, I know that Mr Stein has some submissions to 24 make, and it may be that others have submissions to make 25 after that.</p> <p style="text-align: center;">Page 40</p>

1 THE CHAIR: Thank you, Mr O'Connor. Mr Price?
 2 Further submissions by MR PRICE
 3 MR PRICE: Thank you. Chair, there are two points. The
 4 first point is, my client would like me to correct the
 5 impression that her application previously made was to
 6 look at the underlying allegations in relation to her
 7 own case. She has never sought that the inquiry looks
 8 at the underlying relevant allegations.
 9 The second point arises from news that the case of
 10 David Challenor and the Green Party are to be included
 11 in the investigation. My client queries how it has been
 12 possible to accommodate that additional limb in relation
 13 to events that are extremely recent, extremely
 14 contentious, and almost certainly have runoff
 15 implications that will outlive this inquiry, and she is
 16 concerned about the consistency in her own treatment,
 17 and that's all I need to say about that. She asks you
 18 to have that in mind. Thank you.
 19 THE CHAIR: Thank you, Mr Price. Mr Stein?
 20 Submissions by MR STEIN
 21 MR STEIN: Chair, as I mentioned in our request for
 22 20 minutes, which we are very grateful for you allowing
 23 us that time, we had foreshadowed this hearing by
 24 correspondence, requesting that counsel to the inquiry
 25 set out the points that they would be going through.

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1 provided. So that is the starting point.
 2 Next, can we deal, and I will deal, if I can,
 3 please, in the order that submissions have already been
 4 made by counsel, with some of the difficulties that we
 5 have got regarding disclosure.
 6 As of this time, for the Westminster investigation,
 7 we have had no material disclosed on Relativity. We are
 8 being told that some material may be disclosed by, it
 9 seems, the end of November; the bulk of it, we learn
 10 today, in January. The hearing is coming up hand over
 11 fist in March of next year. Many of the solicitors, and
 12 indeed counsel, who are instructed in this particular
 13 investigation are dealing with other modules, other
 14 investigations, before this inquiry.
 15 We cannot be expected, we suggest, to just dance to
 16 the tune that is being played by counsel to the inquiry
 17 when they are setting out the way they wish to deal with
 18 disclosure.
 19 Now, in particular, we suggest, the difficulties
 20 that we have are multiplied in this particular
 21 investigation by points that have already been dealt
 22 with to an extent. Now, there are going to be issues --
 23 there are bound to be issues -- with sensitivity of
 24 material. There is going to be, one can only see or
 25 foresee, problems with making sure that we have adequate

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1 Now, you know, and your colleagues know, that that is
 2 normally what happens when an investigation is going
 3 towards a preliminary hearing, particularly at this
 4 stage.
 5 Sadly, the response that we had from the inquiry,
 6 from solicitors to the inquiry, was that at this time --
 7 it is dated 17 October of this year -- CTI has taken the
 8 view that it is not necessary to provide a note.
 9 Now, considering that this investigation is an area
 10 whereby it might well be said that there is going to be
 11 consideration of sensitive material, I suppose we
 12 thought that, well, it's possible that counsel to the
 13 inquiry may be being sensitive because of the need to
 14 consider how they are dealing with certain material.
 15 Well, clearly, that isn't the position. There is
 16 nothing that has been said today on behalf of counsel to
 17 the inquiry, or by counsel to the inquiry, that has told
 18 us that there is any reason whatsoever that we should
 19 not have had a note setting out the points that they
 20 have gone through.
 21 So we start by saying that this does not appear to
 22 be the way to go ahead; that there is a genuine problem
 23 with not knowing what is going to be said and then us
 24 being asked to respond to it essentially off the hoof,
 25 albeit with the kindness of 20 minutes that you

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1 disclosure of material when it is supplied. This is
 2 bound to happen within this particular module.
 3 Grasping that understanding of what is going to
 4 happen inevitably within the Westminster investigation
 5 means that disclosure must be dealt with ever more in
 6 this investigation in a timely fashion. Getting some by
 7 the end of November and the bulk in January is simply
 8 not doing so.
 9 So the request that we make of the inquiry is that
 10 the inquiry applies a more rigorous timetable for the
 11 disclosure of material than has been set out so far by
 12 counsel to the inquiry.
 13 Now, it may be said I'm being unfair because of
 14 the repeated remarks that have been set out about how
 15 much work has gone into looking at material so far.
 16 I want, first of all, to recognise, I am sure that is
 17 right. May I quote something from August 2017, "Update
 18 note in relation to the allegations of child sexual
 19 abuse linked to Westminster". So this relates very much
 20 to this investigation, and in the August of 2017 update
 21 note -- what are we now? That's well over a year ago
 22 now. What was being said there, at paragraph 8:
 23 "An important element of the inquiry's work will be
 24 to conduct a detailed disclosure exercise. The process
 25 of requesting, inspecting and, where necessary,

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<p>1 obtaining disclosure of relevant documents held by 2 government political parties, the intelligence and 3 security agencies, law enforcement agencies and 4 prosecuting authorities relating to issues within the 5 scope of the investigation is already well under way." 6 August 2017. I don't doubt that that was right at 7 that stage, but that does mean that when we get now to 8 the end of October 2018, that we do have to listen with 9 care as to these repeated comments being made about the 10 amount of work that is being conducted currently. 11 Apparently, that was being conducted at that time 12 in August 2017, and I have got no doubt about it. That, 13 we suggest, means that, when looking at the question of 14 disclosure and how that disclosure should be made to 15 core participants within this investigation, a greater 16 rigour should, we suggest, be applied to the timetable 17 of disclosure that has been set out by counsel to the 18 inquiry. 19 I make the obvious point: you don't have to accept 20 the timetable that has been set out by counsel. It is 21 within your determination and within your powers to look 22 at whether that is acceptable in this investigation or 23 not. We ask you to look at that with great care and 24 come to the obvious conclusion that some disclosure 25 in November and the bulk of it in January is inadequate</p> <p style="text-align: center;">Page 45</p>	<p>1 and unfair to core participants. 2 Next, given the fact that we have had little -- in 3 fact, I suppose "little" is being generous. We have had 4 no notice of the points that have been set out today by 5 counsel, other than of course listening to the points 6 that have been set out orally. We have to look at, 7 then, some of the detail -- not at huge length, you will 8 be pleased to hear. We know that, as an example, 9 requests have been made by way of disclosure requests -- 10 reference I think was made today to roughly 50 documents 11 requesting statements, and documents are in hand. 12 That's what's going on apparently currently. 13 As to that, I am equally sure that over the period 14 of time we have just been looking at, August 2017 before 15 and onwards through to current date, there have been 16 many requests for many documents and statements from 17 individuals. 18 Without disclosure of those requests and those 19 letters detailing what it is that has been sought by the 20 inquiry, we will never see what the responses have 21 actually been in terms of the adequacy of responses from 22 particular institutions. We will not know whether this 23 inquiry has in fact been given wide-scope disclosure of 24 material and that that has been satisfied. 25 Now, to an extent, of course, we can rely upon</p> <p style="text-align: center;">Page 46</p>
<p>1 counsel to the inquiry and solicitor to the inquiry to 2 make sure that institutions have responded properly, but 3 that may be only from a certain vantage point. 4 You have, with Mr Hulbert, someone of considerable 5 experience within the Civil Service who will be able to 6 apply certain other viewpoints and, from his experience, 7 great knowledge as to what has been said and the 8 adequacy of responses, something that counsel to the 9 inquiry and solicitor to the inquiry, with great 10 respect, will not have the experience or knowledge to 11 do. 12 So using Mr Hulbert as my example, he is one 13 individual who can actually assist in the disclosure 14 exercise. So we request, and we will repeat this in 15 writing following this hearing, that we be given copies 16 of the correspondence that detail the requests that are 17 being made. 18 It doesn't seem likely that there is a difficulty in 19 disclosing such material. As an example, there doesn't 20 seem to be any problem, one would have thought, with 21 anything being set out in that correspondence that would 22 be of a sensitive nature. We have not heard that there 23 is a restriction order that has been made by the inquiry 24 in relation to such correspondence. So there seems to 25 be no good reason why we should not have an entitlement</p> <p style="text-align: center;">Page 47</p>	<p>1 to see that correspondence. 2 Let me help a little bit more. Again, this will be 3 set out in more detail in correspondence following this 4 hearing. So far we have heard mention of a number of 5 different institutions. We have heard of MI5, MI6, the 6 Home Office, GCHQ. We haven't heard Special Branch, we 7 haven't heard of the Attorney General's Office. We 8 don't know whether such correspondence has gone to the 9 relevant bodies that would hold such material. 10 The question of Special Branch is particularly 11 relevant to what we are suggesting are the events that 12 are recalled by Mr Hulbert. Our suggestion is, wherever 13 those files are held may be a complex problem in and of 14 itself. The existence of Special Branch as being 15 subsumed in other organisations and whether its work is 16 ongoing is all a bit of a blurred question at the 17 moment, so there needs to be some question raised as to 18 what has happened to Special Branch material going back 19 to the time that in particular Mr Hulbert was referring 20 to. The Attorney General's Office again is an obvious 21 potential missing link in what has been set out. 22 So not only do we need to see the correspondence and 23 see what requests have been made. Who has this inquiry 24 contacted and what responses have they been able to 25 provide?</p> <p style="text-align: center;">Page 48</p>

12 (Pages 45 to 48)

<p>1 Other points have been raised today. There's been 2 a suggestion in relation to Mr Hulbert that he has 3 suggested that there is additional evidence which should 4 be looked at. Now, in the time that you are kindly 5 granting us, we can only guess that that may have 6 related to Alan Davies, who was a principal in the VSU 7 at the time when Mr Hulbert worked there. That is our 8 guess. We don't know because we have only had, I'm 9 afraid, the points raised by counsel today. If, of 10 course, Mr Davis was able to provide a statement in 11 relation to such matters as raised repeatedly by 12 Mr Hulbert through various reviews and investigations, 13 that would have been at a time -- it may have been 14 a difficult time, because of course he died, we 15 understand, some six month ago. We don't know if it 16 relates to Mr Davis, but if it does, then we would 17 suggest that would be material that should be disclosed 18 much sooner than later.</p> <p>19 Again, points are being raised regarding the 20 potential links between the NCCL, now Liberty, and PIE. 21 Those points that we have listened to with care at the 22 moment don't seem to address the question of 23 the Albany Trust. The Albany Trust, at the relevant 24 time, was responsible for counselling gay men primarily. 25 It did have funding by VSU and did have links with PIE.</p> <p style="text-align: center;">Page 49</p>	<p>1 Our understanding is that they provided some 2 accommodation and there certainly have been questions 3 raised in the past as to whether the Albany Trust had 4 provided some funding through to PIE.</p> <p>5 So we emphasise that, of the points that have been 6 raised so far by counsel to the inquiry, we are 7 concerned, given the late notice of this, whether there 8 has been an inadequate investigation into these 9 particular areas. If, of course, we had had notice of 10 the points being raised, all of this could have been 11 detailed in questions and answers before now.</p> <p>12 Because of this, we are going to run into the same 13 problems that we have all experienced in the past. It 14 is obvious. You have listened to me before talk about 15 disclosure. You have listened to me before complain 16 that, through various investigations -- and I consider 17 just in my own recollection that through the 18 Catholic Church investigation that we all took part in 19 the disclosure that was taking place was often overnight 20 and we were having to react the next day and make sure 21 the questions we were seeking to have asked by counsel 22 were asked. All of that tells us that where it is being 23 suggested that we keep to a timetable which is many days 24 before in order to make sure the questions are going to 25 be asked, it may well be inevitably, yet again, for the</p> <p style="text-align: center;">Page 50</p>
<p>1 Westminster module, we may have to truncate that 2 timetable and allow what's happened in the past, which 3 has actually been normally a very good natured exchange 4 of views and discussion between advocates in relation to 5 what questions should be asked, normally through the 6 hearing.</p> <p>7 But you can see that going back to square one, with 8 the lateness of the disclosure that currently is being 9 considered, with the type of material that we are 10 considering that is going to be involved in the 11 Westminster investigation, that will have questions of 12 sensitivity involved, where we may well have to discuss 13 how hearings should take place procedurally before we 14 get to questions of submissions, all of those points may 15 need to be considered.</p> <p>16 If I look across the room, we can see Mr Brown QC 17 here, we can see that Mr Kark is here for the 18 Home Office, Mr Kark QC is here. We know inevitably 19 that what is going to happen when looking at the sorts 20 of issues that are going to arise in relation to the 21 Westminster investigation, that there may well be the 22 ability from such advocates to make representations 23 about non-disclosure and we, on behalf of core 24 participants, will be left looking at what can be given 25 to us by way of some information about the material that</p> <p style="text-align: center;">Page 51</p>	<p>1 might be possibly provided, and then we will be back to 2 talking about the procedure for doing so.</p> <p>3 With respect, I go back to square one: don't in any 4 way stick to a timetable that is being imposed upon you. 5 Impose that timetable upon counsel and make sure that 6 actually we are getting disclosure in a timely fashion 7 rather than what is going to be a belated fashion.</p> <p>8 The preliminary hearing on 17 January. We accept 9 that there is going to be a need to have a second 10 hearing. Rather than it being, at the moment, 11 a pencilled-in hearing, can we not concrete that in and 12 write it in in ink? It is obvious we are going to need 13 to get back to questions of disclosure, how we do it, 14 adequacy of it at that time. Rather than losing the 15 possibility of your being unable to fulfil that time 16 commitment, can we not write that down now and make sure 17 we have it very much firmly in our mind as a target 18 timetable? Those are our submissions. Are there any 19 points I can help on any further?</p> <p>20 THE CHAIR: No, thank you, Mr Stein. Does anyone else wish 21 to address me on any matters?</p> <p>22 Submissions by MS GREY</p> <p>23 MS GREY: If I may simply rise briefly -- Eleanor Grey on 24 behalf of the Labour Party. We would wish to support 25 what's just been said about the timetable for</p> <p style="text-align: center;">Page 52</p>

1 disclosure. In particular, it seems to us that if there
 2 is to be a preliminary hearing and an effective and
 3 useful one on 17 January, that really demands that most
 4 disclosure, if not all of it, should be done by the end
 5 of December or in good time to enable any issues that
 6 arise out of it to be considered on 17 January.
 7 Otherwise, we will end up with a situation in which that
 8 hearing is half effective or ineffective and you, madam,
 9 will be faced with requests either to deal with issues
 10 in writing or somehow to shoehorn yet a further
 11 preliminary hearing in before the substantive hearings
 12 in March.
 13 So I would, on behalf of my clients, echo the
 14 request for greater rigour or determination to be shown
 15 with regards to the timetable for disclosure, for those
 16 reasons. Thank you, madam.
 17 THE CHAIR: Thank you, Ms Grey. Mr O'Connor?
 18 Reply submissions by MR O'CONNOR
 19 MR O'CONNOR: Chair, thank you. I wonder if I might just
 20 make a few remarks in response to Mr Stein's and
 21 Ms Grey's submissions?
 22 First of all, if I may just touch on the question of
 23 the provision of notes from counsel to the inquiry prior
 24 to the hearings, and just to correct, if I may,
 25 Mr Stein's understanding of this inquiry's practice.

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1 But can I just clarify, chair, that although of
 2 course it is you who governs the procedure of this
 3 inquiry, and ultimately you who takes those decisions,
 4 what I said about the disclosure process was not, as it
 5 were, a counsel to the inquiry wish list of how we would
 6 like disclosure to go, but, rather, it was intended to
 7 be an indication of where the inquiry team and those
 8 many people behind the scenes who are working on all
 9 aspects of documentation on the inquiry's 12 current
 10 investigations are, and what we understand to be
 11 achievable for this particular investigation.
 12 Chair, it is perhaps important that I repeat, in
 13 light of what has been said, that your inquiry --
 14 although of course this part of it, this investigation,
 15 is important, it is by no means the only investigation
 16 that this inquiry is conducting, and there is a whole
 17 series of further investigations that are due to be
 18 heard, both before this and following after it, and the
 19 people whose job it is to deal with documents --
 20 analysing them, redacting them, preparing them for
 21 disclosure and then making disclosure -- have to do work
 22 on all of those other investigations as well as this,
 23 and so the question is how to prioritise that work and
 24 how to try to ensure that core participants obtain the
 25 documents in good time before hearings, but core

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1 It is certainly the practice that where, for
 2 example, contested applications or procedural rulings
 3 are to be made at hearings like this, counsel to the
 4 inquiry do provide a note so that core participants can
 5 understand the arguments that are being raised and the
 6 issues that are to be determined, but where, as both at
 7 the last hearing of this investigation and at today's
 8 hearing, really the essence of what we are doing is
 9 updating core participants on the progress that has been
 10 made, then it is not the practice of counsel to the
 11 inquiry to provide that sort of information in advance.
 12 It is better, in our submission, that all core
 13 participants should hear what we have to say at these
 14 hearings at the same time as the public hear them, and
 15 that's the practice that we followed today.
 16 Secondly, as far as disclosure is concerned, I in
 17 fact repeated during my submissions the fact that we of
 18 course understand the priority that core participants
 19 have for getting hold of disclosure, discussing it with
 20 their clients and preparing for the hearings, and it was
 21 not despite that, but because of that, that we
 22 emphasised that we are doing all we can to prepare the
 23 documents. I also indicated that we are attempting to
 24 prioritise the disclosure of the more important
 25 documents so that core participants see those first.

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1 participants in all the investigations receive all of
 2 their documents in good time for all of their hearings.
 3 That was the context in which I said what I said
 4 earlier.
 5 In my submission, we are where we are now. Of
 6 course one understands the desire to have documents in
 7 the next few weeks or before Christmas, but that simply
 8 won't be possible. It was in order to be
 9 straightforward and for core participants to understand
 10 the situation that I said what I said. In our
 11 submission, there really isn't any way of speeding up
 12 the process. We will do what we can to prioritise so
 13 that core participants receive the most important
 14 documents first.
 15 As far as the hearing in January is concerned,
 16 I hope I made it clear that that is a date that has been
 17 set in this inquiry's diary for that hearing to take
 18 place if it is necessary. There is no risk that, for
 19 whatever reason, as time passes, the date will be lost.
 20 We wanted to mention the date so that others could put
 21 it in their diary, but our submission is that, as things
 22 stand, we hope we will not need to have that hearing.
 23 If either you or core participants, as we go, think it
 24 is necessary, then of course you can take a view on it
 25 and core participants can make submissions to you about

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<p>1 it.</p> <p>2 Very briefly, with two other points that my learned</p> <p>3 friend Mr Stein made, as far as the disclosure of rule 9</p> <p>4 letters is concerned, it is not standard practice to</p> <p>5 make general disclosure of the correspondence that the</p> <p>6 inquiry has either with core participants or</p> <p>7 organisations or individuals providing documents. In my</p> <p>8 respectful submission, if, once Mr Hulbert and his team</p> <p>9 have seen the witness statements and documents that we</p> <p>10 have obtained, he thinks there is anything missing, he</p> <p>11 should of course alert us to that, and if there are</p> <p>12 particular reasons why he thinks it necessary to</p> <p>13 understand the content of rule 9 letters, then that is</p> <p>14 a matter that we can take up with him in due course.</p> <p>15 Finally, I think I indicated when I went through my</p> <p>16 summary of the steps that are being taken at the moment</p> <p>17 in terms of obtaining documents that it was only</p> <p>18 a summary, there are other things that are going on</p> <p>19 which would have been too numerous for me to mention,</p> <p>20 and I'm glad, in light of what Mr Stein said about the</p> <p>21 Albany Trust, to be able to inform him that that is</p> <p>22 actually an area that we are pursuing. We have reviewed</p> <p>23 a number of documents relating to the Albany Trust and</p> <p>24 we are in the process of making a disclosure request to</p> <p>25 them.</p> <p style="text-align: center;">Page 57</p>	<p>1 Unless I can assist any further, chair, that's all</p> <p>2 I wanted to say.</p> <p>3 THE CHAIR: Thank you, Mr O'Connor. I will consider</p> <p>4 carefully all of the issues that are raised either</p> <p>5 orally or in written submissions following this hearing.</p> <p>6 If there are no further matters, that concludes today's</p> <p>7 preliminary hearing. Thank you very much.</p> <p>8 MR O'CONNOR: I'm grateful.</p> <p>9 (12.16 pm)</p> <p>10 (The hearing concluded)</p> <p>11</p> <p style="text-align: center;">I N D E X</p> <p>12</p> <p>13</p> <p>14 Welcome and opening remarks by THE1</p> <p>15 CHAIR</p> <p>16</p> <p>17 Submissions by MR O'CONNOR3</p> <p>18</p> <p>19 Submissions by MR PRICE34</p> <p>20</p> <p>21 Further submissions by MR PRICE41</p> <p>22</p> <p>23 Submissions by MR STEIN41</p> <p>24</p> <p>25 Submissions by MS GREY52</p> <p style="text-align: center;">Page 58</p>
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