

Ruling on the start date of the oral hearings

1. The Inquiry's oral evidence hearings were due to start on 15th June 2020. That was not the first date which had been fixed, which was in April 2020, but it became necessary to delay the start in order to accommodate the completion of the trial of Hashem Abedi. The events which I am inquiring into took place more than 3 years ago and, if it were possible, I and everyone else wish the oral hearings to start on 15th June 2020.
2. When it became clear that the effects of Coronavirus/COVID-19 and the Government's guidance made it unlikely that we could keep the 15th June date, I invited the Inquiry Legal Team to produce a document setting out the consequences for the progress of the Inquiry and the options we had. The purpose of that document was to obtain the views of Core Participants ('CPs') to assist me in finding the best solution.
3. I am very grateful for the submissions that I have received. There has been a good deal of agreement and many helpful suggestions. I am grateful for everyone's help.
4. It is clear that there is no solution which will satisfy everyone. My aim is to complete the Inquiry as quickly as is possible without reducing my ability to thoroughly investigate what happened, to reach proper factual conclusions when that is necessary, and to come up with recommendations that will be of value for the future.

Issue 1: Can we start the oral hearings on 15th June 2020?

5. No-one suggests that we can. While nothing appears to be certain about the progress of the virus, it is likely that gatherings of large numbers of people in close proximity will not be permitted by June 2020 as it would cause a significant risk to health. The only way that the hearings could be conducted then would be by video link. There is considerable opposition to that approach as it would limit the active participation in particular of the bereaved families, who wish to have the ability to attend in person if they wish to do so. A number of the bereaved families also raise the importance of the commemorations taking place at the beginning of the Inquiry's evidence hearings through the giving of pen portrait evidence. The bereaved families have a strong preference for their pen portrait evidence being given directly to those who wish to attend the hearing. There is considerable and understandable concern that it will be harder to conduct that aspect of the Inquiry should the hearings only be held by video link.

6. While I agree that there are parts of the evidence, such as the families' pen portrait evidence, which is unsuitable for video link, there are other parts which may be capable of being conducted by video link, should that ultimately prove necessary. Ideally, all the evidence would be given live but we will have to see whether that remains a realistic possibility depending on how the virus continues to affect all of our lives.
7. Some of the suggested limitations of video link evidence are, in my view, overstated in some of the submissions I have received. It should be possible to assess credibility over a video link. The difficulties of dealing with complex evidence and documents over a video link can be overcome. Some video link systems, as has been pointed out, are bedevilled by problems, but that does not have to be the case and we will need to ensure that any system that may need to be used works satisfactorily. As we are going to conduct our next hearing on 7th April 2020 by video link it will enable us to get some experience of using it in practice.
8. That said, I accept that live hearings are preferable but, because the future is so uncertain, I am not prepared to rule out the use of video links in the future, certainly for parts of the evidence. I would not conduct hearings by video link without giving the opportunity to CPs for further submissions to be made.
9. There would also be problems in starting on 15th June because of the restrictions on face-to-face contact which will affect the ability of lawyers to take instructions from clients and witnesses to complete their preparations. Some CPs are currently entirely committed to the response to the virus and I do not intend to do anything that will interfere with their work.
10. For all those reasons, and with considerable regret, I have decided that the start date of 15th June will have to be vacated.

Issue 2: Do we adjourn the hearing now and wait until more is known before fixing a start date or do we fix a start date now?

11. Again, there is no perfect answer. If I fix a date now, there can be no certainty that it will be met. If I decide not to fix a date now but wait for more information, when will I have sufficient information to be able to identify a more definite date? More may be known about the containment of the virus at a later date but it is likely to be a long time before there can be certainty that there will not be a further outbreak of the virus which will disrupt the hearings.
12. While I understand completely the logic of those who say that I should not attempt to identify a date now, experience suggests that the sooner you make everyone aware of the preferred date, the more likely it is that people will work towards it. It is vital that we keep the impetus of our preparations going so that the Inquiry can start as soon as it is safe and possible to do so.
13. For those reasons I have decided to fix a provisional date now. That means a date that will be kept unless the medical emergency continues or restrictions, including self-

isolation and the prohibition on non-essential travel, are still in place which make it impossible to start. I shall keep the start date constantly under review and will invite further submissions if I consider that would be of assistance.

Issue 3: What start date should I fix?

14. The suggested start dates put forward in the submissions are this Autumn (September or October), or the Spring of next year. The suggestion of Spring of next year comes from NHS England and I understand the reasons for their submission, but there are in my view serious risks involved in such a delay. The Inquiry will lose all momentum and will effectively have to be mothballed for several months. That is likely to cause real problems. There is a risk that critical personnel may not be available to participate in the Inquiry by that time. We owe it to the families to complete the Inquiry as soon as possible. Further, if there are lessons to be learned, the sooner they are learned the better. On my present consideration of the papers, I do not anticipate that the part played by NHS England in the Inquiry will be so central that it is necessary to delay the hearings until next Spring.
15. I prefer therefore to aim for an Autumn 2020 date. That has a reasonable amount of support from CPs. There is no guarantee that we will be able to hold oral hearings in September but our preparations should be geared to start on the date I fix.
16. Because there may be a risk of a further outbreak, we should aim to start as early in September as we can. As the first week in September includes the Bank Holiday, we will aim to commence the hearings on 7th September 2020. This is a provisional date which will be kept under continual review.

Issue 4: Should I extend the current deadlines?

17. Again there is no simple answer to this. There are some CPs who are fully committed to dealing with the health crisis, who will find it impossible to meet the current deadlines. There should be latitude given to them to provide the information that I have required. Equally, it is vitally important that preparation continues at a reasonable speed so that we are completely prepared for the start of the oral hearings in September. More than that, we should use the additional time to make further preparations which will clarify the issues at the hearings, reduce the necessity for some witnesses to be called and ensure the identification of certain lines of questions to be pursued when witnesses do give evidence. While it will be difficult in some cases to get instructions from those who are in the front line fighting the virus, some of the lawyers may have more time to devote to the Inquiry at the moment than they would otherwise have had. Where the deadlines concern the statement addressing post 22nd May 2017 changes, most of that information should already have been obtained. Most of the CPs held inquiries after these events to understand and take on board the lessons learned. In those cases, the majority of the work may be drafting for the lawyers, although what they produce will have to be checked by their clients. This should be capable of being achieved within the current time limits, despite the crisis.

18. I have invited the Inquiry Legal Team to prepare a further schedule of suggested dates to take into account the new start date and the difficulties which have already been identified. I will consider representations from those who consider that they cannot comply with that revised timetable. Once that timetable is set, I will only vary it for exceptional reasons.
19. The effect of the above is that the deadlines will be extended but not to such an extent that it will hinder proper preparation for the start date in September.

Issue 5: Should the other hearings scheduled for April and May 2020 be adjourned?

20. Everyone is agreed that the April hearing can be held by video link and that will go ahead on April 7th as planned. That will deal with the single issue of whether some of the survivors of the Arena attack should be designated as CPs. It is important that that is decided at an early stage in case the decision I make affects the Inquiry timetable.
21. It is generally agreed that the hearing scheduled for May is not suitable, at least at present, to be dealt with by video link. It is not necessary for that hearing to take place at the moment and adjourning it will not affect the progress of the preparations. It will therefore be adjourned to a date to be fixed closer to the start date of the hearings.

Other matters

22. I am very keen that we should all use the additional time that we have to progress preparations as far as we can. This will be difficult, I accept, where this requires input from those on the front line dealing with the virus but there are a number of people who may have time in their diaries that they may not otherwise have had which they could use on preparatory work. It is possible to carry out this work at home and mostly without face-to-face contact with others.
23. In order to keep track of what is happening, the Inquiry Legal Team will provide a monthly update of progress to which I would be grateful if CPs would respond so they can keep me informed of progress. I will be assisted in the preparation of those updates by information from NHS England and the Secretary of State for the Home Department on the current situation with responding to the COVID-19 crisis and future implications, in particular the safety of conducting a large court hearing.
24. I have also asked the Inquiry Legal Team to come up with ways in which we can use this time to enhance our preparations. They will be making suggestions to CPs as to how this can be achieved and I would ask that CPs provide suggestions of their own.
25. The lawyers involved in this Inquiry have a wealth of experience and it would be helpful to me to have the benefit of that experience to help me advance the Inquiry as productively as we can despite the difficult circumstances that we find ourselves in.

Sir John Saunders

30 March 2020