

Ruling on application by six media organisations for disclosure of GMP Annex A

1. This is a narrow issue and does not require a lengthy ruling.
2. GMP have made an application for a restriction order (RO) under s.19 of the Inquiries Act 2005 in relation to evidence to be presented to the Inquiry relating to the ongoing police investigation into the Manchester bombing.
3. The material sets out the names of a number of people who the police would wish to interview as suspects and contains details of the matters that they would like to interview them about. The names of the suspects, matters relating to the investigation and matters of particular interest concerning each suspect are set out in Annex A to the application.
4. I am due to hear argument as to whether to make an order under s.19 in relation to that material on Monday 12th October.
5. The media have a legitimate interest in being able to consider and, if there are grounds to do so, opposing the order. There is a considerable amount of public interest in the evidence given at this Inquiry and the media are keen to be able to report as much as is possible subject only to considerations of national security or other restrictions under s.19.
6. Evidence which may not be reportable in this Inquiry falls into two categories. There is evidence which has been disclosed to Core Participants ('CPs') and will be given in their presence and in the presence of the media but, if made subject to a RO, cannot be

reported. Then there is evidence which is subject to a PII ruling which I made prior to conversion of the Inquest into an Inquiry which will only be heard in closed session and on the basis of my present rulings will not be heard by the media who will therefore not be in a position to report it.

7. Annex A, the subject of this application, comes into the first category. The media will get to hear that evidence but, as I understand GMP's application, if the RO that GMP seek is made, the media will not be able to report it.
8. In relation to other material which comes within the first category, for pragmatic reasons the following procedure has been adopted. I have made ROs in relation to operationally sensitive ('OS') material contained in the statements and documents collected by the Inquiry team. The basis for making the order was that the OS material was capable of assisting a terrorist to carry out a successful attack or would enable them to cause greater harm as the result of an attack. The media did not see that material prior to the RO being made because to do so would have involved handing over to them all the material in the Inquiry's possession prior to the hearing (the pragmatic reason). Instead the media will be able to argue that they should be able to publish the material subject to a RO after it is given in evidence at a restricted hearing. In effect they can argue at that stage that the material should not be subject to a RO with full knowledge of the content that has been adduced in evidence. I will then reconsider my ruling in the light of any submissions that are made.
9. In this case the application covers a discrete subject and it is possible for the media to have such material as they need to understand the reasons for the application, and so make submissions on it, as it is limited in amount.
10. At present the media have not been supplied with Annex A but have been provided instead with a gist. The gist does not include the names of the people to be interviewed nor the information which will form part of the basis of the interviews that GMP envisage.
11. The media argue that the gist is insufficient and without the full detail of Annex A they cannot properly consider whether the whole or parts of it should be subject to a RO.

They submit that they need to be able to consider how much of the information in Annex A is already in the public domain. We have already had examples in the Inquiry of an unwillingness to disclose what is already in the public domain. There may, on an individual basis, be a justification for such a response but it is a matter about which the media would be entitled to make submissions. It may be that it could quite properly be argued that the justification put forward for the order would not apply in a particular case. Without knowing the details, that argument would be difficult for the media to make.

12. CPs have been invited to indicate their position on the media's application. GMP oppose disclosure of Annex A to the media. One family team supports disclosure to the media. No other CP has expressed a view.
13. If I were to make the RO without permitting the media to see Annex A, they would still get to know the contents when that evidence was given but it would be subject to an RO so it could not be published nor disseminated to the public in any other way.
14. Having considered the arguments on both sides and submissions from CTI, I consider that the media do have a valid argument and accordingly, in principle, I think that Annex A should be disclosed to their lawyers and to the limited number of journalists that they would need to consult in order to take instructions and acquire any information that they needed to support any argument they put forward.
15. It has been recognised by the media in previous submissions that there should be no public disclosure of material the subject of a RO application which is supplied for the purposes of enabling the media to argue whether such an order should be made covering that very material.
16. It seems to me to be self-evident that material which is supplied for the purposes of submissions on whether to make a RO has to be subject to adequate guarantees against onward disclosure.
17. All CPs have had the material subject to confidentiality undertakings. GMP are entitled to expect that adequate protections will be put in place to prevent the information

supplied to the media for the purposes of making submissions being publicly disclosed until after I have decided whether to make an RO. The media have indicated that they would be willing to provide undertakings in order to receive Annex A. Undertakings were required from the media's lawyers prior to disclosure of the gist of Annex A (but not from journalists who received it on a not for reporting/not for publication basis and solely to allow the media to make submissions on GMP's application).

18. The media have indicated concerns about journalists being required to sign undertakings. I understand from recent correspondence with the media that a significant number of journalists are not prepared to give undertakings and that this gives rise to practical concerns, including that taking instructions and providing submissions on the application will be made more difficult.

19. Whilst the reasons that journalists will not sign an undertaking are not entirely clear to me, I am concerned to ensure that the media can access, on a confidential not for publication basis, the GMP Annex. In those circumstances, I direct that Annex A be disclosed to the media on the same basis as the gist of Annex A was provided. I emphasise that the information contained in the GMP Annex is said to be sensitive and public disclosure would risk prejudice to any future prosecutions. It is therefore being provided on a strict not for reporting/not for publication basis and solely to allow the media to make submissions on GMP's application. It must be treated accordingly and I trust this will be understood by all who receive it.

Sir John Saunders

7th October 2020