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3 The IOPC is represented by Danny Simpson, and the NCA is
4 represented by Anthea Brookes, also present are the
5 stenographers.
6 This hearing is also being livestreamed, as you have
7 already said, sir, so that members of the press and the
8 public can follow proceedings if they so wish. You have
9 already set out, sir, the three items that are on this
10 morning's agenda, and so may I turn, please, to give an
11 update on the provision of material.
12 Initially, and regrettably, the inquiry was not able
13 to start its work at full speed as soon as it was
14 established. The COVID-19 pandemic slowed matters to
15 some extent.
16 The Home Office was required to fix a budget and
17 make available sufficient resources, including the
18 appointment of a secretary to the inquiry and the formal
19 instruction of solicitors to the inquiry. Time was required
20 for the procurement of a document management system
21 and a website. The former was required before
22 documents could be returned to material providers for
23 checking and before documents could begin to be
24 disclosed to core participants.
25 The website, sir, is yet to be established but in the
meantime the inquiry is using a page on the
government's website as a temporary measure. This has

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3 been done to ensure that the inquiry has a public
4 platform, in circumstances where the establishment of
5 its own independent website is taking a little longer to
6 complete.
7 On 30 March of this year the inquiry legal team
8 issued an update note and you, sir, gave a series of
9 directions.
10 The first direction was that the IOPC and the MPS
11 should complete their disclosure to the inquiry of
12 electronic material within 14 days. To date, the
13 inquiry has received and uploaded to our electronic
14 document management system, Relativity, over
15 23,000 pages of potentially relevant documentation.
16 The inquiry has already identified at least 1,000 pages
17 which are duplicated in material obtained from each of
18 the IOPC and the MPS, but needs to carry out further
19 work to de-duplicate the documents.
20 The inquiry legal team has not yet identified any
21 specific material at this stage which the IOPC, the MPS
22 or the NCA appear to have omitted in their disclosure to
23 the inquiry. But following on from a consideration of
24 the material so far provided, the inquiry legal team has
25 made a series of requests for information, additional
information under Rule 9 of the public inquiry rules
2006 to core participants and other potential providers

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<p>1 2 of material, including the Ministry of Justice, 3 Her Majesty's Prison and Probation Service, Her 4 Majesty's Inspectorate of Constabulary and Fire & Rescue 5 Services, the College of Policing, the National Police 6 Chiefs' Council and Serco, as well as individual MPS 7 officers involved in Operation Anchor. 8 The purpose of these requests as you will know, sir, 9 was to invite recipients to provide any potentially 10 relevant material which has yet to be received. The 11 inquiry legal team intends to issue further Rule 9 12 requests as appropriate once the material already in its 13 possession has been reviewed. 14 In light of those Rule 9 requests, and the burden 15 which they place on all recipients, we do not consider 16 that it is necessary at this time for you, sir, to issue a 17 direction that the MPS and the NCA prepare witness 18 statements describing the searches that they have 19 carried out as requested in the submissions on behalf of 20 Mr Baker's family at paragraph 5. 21 The disclosure process is not yet complete and the 22 team may well make further requests to those agencies. 23 But we would invite you, sir, to keep this under review. 24 In addition to any other direction that you may make in 25 relation to the provision of material we will be inviting you, sir, to direct each organisation to</p> <p style="text-align: center;">Page 5</p>	<p>1 provide disclosure statements when the disclosure 2 3 exercise is more advanced. These statements will 4 5 provide details of the processes followed and 6 7 undertakings that the organisations do not hold any 8 9 further relevant material that has not been disclosed to 10 the inquiry. 11 To complete the update on the directions made by you 12 on 30 March of this year, you also directed that core 13 participants provide further information relating to 14 resourcing, the likely effect of COVID-19 on their ability 15 to comply with inquiry directions and lists of security 16 sensitivities, all of which have been received by the 17 inquiry, and for which we are grateful. On 8 July of 18 this year the inquiry legal team provided a first batch of 19 just under 500 pages of material to the MPS for security 20 checking. This process is in compliance with paragraph 21 19 of the inquiry's protocol on the redaction of 22 documents. Since that date a second batch has been 23 provided to the MPS and a third batch will be shared this 24 week. Once the inquiry legal team has reviewed and 25 responded to any comments made by the MPS on the provisional redactions, we will then share the batches of material with the NCA, so that they may review and comment on the proposed redactions before the material is disclosed.</p> <p style="text-align: center;">Page 6</p>
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<p>1 2 3 4 We may be in a position to disclose the first batch 5 of core participants' material by the second week of 6 August and we very much hope that that is a date that 7 will be kept to. 8 From that time, we will disclose batches of material 9 on a regular basis as and when it is reviewed. This 10 process is likely to last for the rest of the calendar year. 11 We anticipate that making regular batches of material 12 available to material providers and core participants will 13 be convenient for them, as opposed to the receipt of 14 fewer and larger tranches later in the process. Although 15 the inquiry legal team will seek to prioritise documents 16 which appear at this stage to be of the greatest 17 importance, such as witness evidence and 18 contemporaneous records, we cannot give assurances that 19 all such material will be disclosed to core participants in 20 the earlier batches, therefore it may be that important 21 documents are not identified until the end of the process. 22 The family of Mr Baker have provided extensive 23 submissions on the scant nature of disclosure so far 24 provided to them. We understand the frustration and 25 anxiety that this has caused. Once the Home Office declared that proceedings were to be reconstituted as a public inquiry, as you are aware, sir, a new set of</p> <p style="text-align: center;">Page 7</p>	<p>1 2 rules and regulations then applied and, as I have 3 already made reference to, solicitors to the inquiry and 4 a new legal team were then appointed and disclosure had 5 to begin afresh. 6 We don't expect this explanation will ease the 7 frustration of Mr Baker's family, but we do ask that the 8 family put their trust in the inquiry legal team. We 9 will strive to ensure that, as soon as possible, all of 10 the material that the family can possibly see is 11 provided to them. We will work as quickly as we can 12 and as carefully as we can and we are dedicated to 13 ensure that justice is done and seen to be done 14 throughout this process. 15 Within the same document, the family of Mr Baker 16 requested an update on the itemised list of electronic 17 communications data which was partially answered by the 18 MPS in October of last year, in a statement obtained 19 from a Detective Inspector McPhee. Since that time the 20 MPS has provided a signed statement setting out its 21 position regarding the ability to access certain historical 22 communications data. 23 We are currently in the process of redacting this, 24 and it will be disclosed to core participants as soon as 25 possible. The inquiry legal team also understands that the MPS</p> <p style="text-align: center;">Page 8</p>
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is currently making further enquiries into additional means of securing data of which Detective Inspector McPhee was unaware at the time of making his statement in October of last year.

An update on progress has been requested. So far, the MPS has confirmed that it is possible to obtain certain historical phone records concerning MPS officers and staff. In respect of landlines, these are records of both incoming and outgoing calls. However, for mobile phones, this would only be outgoing call data. We understand that the records are stored for up to seven years, and so it is to be expected that call data relevant to this inquiry should be available.

A discussion with the MPS will take place in order for the organisation to obtain and provide all such relevant data to the inquiry.

In addition, and as mentioned above, the inquiry legal team has sent a further Rule 9 request to the MPS for any additional documentation which may be relevant to the scope of this investigation to be provided to us. This should capture any other potentially relevant material, including email correspondence within the MPS's possession or control.

May I now turn, sir, to deal with the time and the logistics for the hearings for the inquiry.

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At the preliminary hearing on 13 February, you expressed your wish to fix the oral hearings to commence as soon as possible, whilst mindful to ensure that the date was achievable and should not slip subsequently. On 29 June, all core participants were informed of your provisional view in respect of such listings. Those being that hearings in respect of applications for restriction or anonymity orders should be held in March of next year, with a possible time estimate of five days, and that the inquiry's oral hearings should commence on 14 June next year. Submissions were then invited from core participants in relation to those proposals.

The family of Mr Baker described the proposal to defer the commencement of the hearings until June of next year as being almost unbearable. We understand that sentiment. We have been anxious to progress matters as swiftly as possible, whilst being realistic about the amount of work to be done by the inquiry legal team and core participants in order to ensure that those hearings are comprehensive and fully informed. Whilst we know that the availability of counsel is not a priority for any inquiry, you, sir, have been keen to be as accommodating as possible in relation to keeping on board those counsel who are currently briefed to

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<p>1 2 represent all parties, including within the inquiry 3 legal team. All other core participants were content 4 that the fixtures indicated by you, sir, should be 5 followed. 6 Further submissions were also invited in response to 7 the question of whether the hearing date should take 8 account of any further appeal in the case of the 9 recently heard Court of Appeal matter involving W80 10 and the IOPC, or any consequential misconduct 11 proceedings. The family of Mr Baker submits that the 12 inquiry hearings can be listed as planned and without 13 regard to any future hearings in any appeal, any judicial 14 review or in any misconduct proceedings. That the 15 inquiry will have to come to its own view on the relevant 16 issues so there is no need for its hearing to await the 17 outcome of other proceedings. 18 Moreover, there is no reason that any disciplinary 19 hearing needs to take place before the inquiry hearings. 20 Finally, if the inquiry hearings were to await any 21 Supreme Court and/or disciplinary hearings, it would 22 result inevitably in a very long delay to the 23 commencement of the inquiry hearings, which would be 24 completely unacceptable for the family, for reasons that 25 have been already set out. W80 made the following submissions. The Court of</p> <p style="text-align: center;">Page 11</p>	<p>1 2 3 Appeal, having concluded on 9 July with judgment 4 reserved, leaves open the possibility of the issue being 5 litigated to the Supreme Court and, if that was to happen, 6 that could be approximately 12 months from now. W80 7 does not think that this situation should have any impact 8 on the inquiry, which will have to examine the incident 9 whichever way the Court of Appeal decision goes, and 10 whether or not the losing party appeals to the Supreme 11 Court. 12 The inquiry legal team shares the chairman's view 13 that 14 June of next year is the earliest achievable 14 date for the oral hearings. We invite you, sir, to fix 15 that date for a number of reasons. 16 First, we recognise that the hearing should take 17 place without undue delay. The family of Jermaine Baker 18 make clear their understandable distress in written 19 submissions filed for this hearing, and that distress 20 should not be unduly increased. The wishes of the 21 family are an important factor in listing the hearing. 22 However, you should be slow to list the hearings to start 23 unrealistically soon. It would be undesirable, both for 24 the family of Mr Baker and for other core participants, 25 for a date to be fixed and then later postponed. Second, it is anticipated that the inquiry legal</p> <p style="text-align: center;">Page 12</p>
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3 (Pages 9 to 12)

<p>1</p> <p>2</p> <p>3</p> <p>4 team will receive all potentially relevant material and</p> <p>5 based on current resources, will complete the task of</p> <p>6 reviewing and redacting that material around the end of</p> <p>7 this calendar year. It is impossible to predict that date</p> <p>8 precisely. The electronic documentation received to</p> <p>9 date, as I have already said, runs to more than 23,000</p> <p>10 pages and clearly raises many complications of</p> <p>11 security sensitivities and potential restriction orders.</p> <p>12 In addition to the evidence that is classed as "Open"</p> <p>13 the inquiry has already received and is considering a</p> <p>14 quantity of potentially closed material from the NCA.</p> <p>15 Third, expert witnesses are being instructed and</p> <p>16 will need time to consider the material to meet with the</p> <p>17 inquiry legal team and to prepare their reports.</p> <p>18 Following an exchange of emails between the inquiry</p> <p>19 legal team and core participants during recent weeks,</p> <p>20 preliminary instructions have now been issued to</p> <p>21 Ian Arundale and Colin Burrows. The experts have first</p> <p>22 been invited to consider the IOPC report and its</p> <p>23 appendices, which total 1,710 pages, before meeting with</p> <p>24 the inquiry legal team for an initial discussion.</p> <p>25 Following that meeting, a detailed letter of instruction</p> <p>will be prepared on which core participants will be</p> <p>invited to comment. This process will be</p> <p style="text-align: center;">Page 13</p>	<p>1</p> <p>2 unavoidably time consuming.</p> <p>3 Fourth, it will be necessary to invite, consider and</p> <p>4 resolve various applications for restriction orders, in</p> <p>5 accordance with the Inquiries Act 2005, some time before</p> <p>6 the inquiry begins to hear evidence.</p> <p>7 Whilst some documentation was provided to the</p> <p>8 coroner relating to risk assessments and some general</p> <p>9 submissions are made on anonymity, this took place under</p> <p>10 the inquest procedure and rules. In addition to a</p> <p>11 significant number of applications in respect of the</p> <p>12 anonymity of witnesses, applications will need to be</p> <p>13 determined as to what evidence will be heard in open and</p> <p>14 closed. These hearings will not be effective if they take</p> <p>15 place before the disclosure has been substantially or</p> <p>16 fully completed.</p> <p>17 In order for the applications to be determined in</p> <p>18 appropriate detail and efficiency, exchange of witness</p> <p>19 arguments will be required from all of those who wish to</p> <p>20 make applications and/or submissions on those</p> <p>21 applications. As a result of these hearings, and your</p> <p>22 decisions, sir, it will be necessary for further disclosure</p> <p>23 to be made to the inquiry core participants. And if</p> <p>24 applications are refused, further disclosure in respect of</p> <p>25 the open material.</p> <p style="text-align: center;">Your ruling will have an effect on timetabling and</p> <p style="text-align: center;">Page 14</p>
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<p>1 2 the extent to which closed hearings are required. It is 3 neither realistic for these hearings to take place 4 immediately before the inquiry starts to hear evidence, 5 or for these legal hearings to take place any earlier 6 than March 2021. 7 Fifth, whilst the availability of counsel comes low 8 down in the list of relevant factors, it does 9 nevertheless fall to be considered. Notwithstanding the 10 position of the inquiry legal team, leading counsel for 11 both the MPS and the NCA are known to be committed to 12 the Fishmongers' Hall inquests, which are currently 13 expected to be listed to commence on 6 or 12 April next 14 year. Like these inquiry hearings, and all other in- 15 person court hearings which have been listed as the 16 COVID-19 pandemic progresses, all listings may be 17 subject to change. 18 However, as matters stand, it appears that three 19 counsel will be unavailable to start these inquiry 20 hearings before 14 June 2021. Moreover, we understand 21 that new leading counsel had been instructed by W80 with 22 the provisional March and June dates specifically in 23 mind. 24 The inquiry team will continue to progress 25 preparations for the hearings and will require the prompt assistance of all core participants and material</p> <p style="text-align: center;">Page 15</p>	<p>1 2 3 4 providers in ensuring that deadlines are met. Any 5 significant slippage in the timetable for providing 6 comments on provisional redactions to disclosure 7 material is likely to have a detrimental effect on all 8 parties' preparations for the legal and oral hearings. We 9 are grateful to all those involved in this process for their 10 ongoing and timely assistance. Sir, we do not invite 11 you to fix a further preliminary hearing now. But 12 anticipate that further hearings may be required to 13 consider matters such as the effect of the pending Court 14 of Appeal hearing in the case of W80 and the IOPC. 15 Any additional directions on the service and cross- 16 service of expert's reports and the livestreaming of the 17 inquiry hearings. In our recent written submissions 18 which we circulated to core participants last week, we 19 set out, sir, a series of proposed directions which we 20 now invite you to make. I don't propose to go through 21 the detail of those now, but I simply flag up that they 22 relate to the hearing dates, the timetable for the 23 restriction and anonymity order applications, expert 24 evidence and applications for core participant status. 25 THE CHAIRMAN: Thank you. Ms Kaufmann. MS KAUFMANN: Good morning, sir.</p> <p style="text-align: center;">Page 16</p>
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4 (Pages 13 to 16)

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 2 THE CHAIRMAN: Good morning.
 3 MS KAUFMANN: I know that you have our submissions, and I am
 4 not going to repeat them. Before I start, can I just
 5 let you know, because you cannot see, that I am here
 6 together with Margaret Smith, Jermaine's mother, and
 7 Ms Murphy, junior counsel.
 8 THE CHAIRMAN: Thank you.
 9 MS KAUFMANN: Who has been listening, both of whom have been
 10 listening very, very carefully.
 11 Submissions by MS KAUFMANN
 12 MS KAUFMANN: As I said, I am not going to repeat
 13 our written submissions. You saw from those, having
 14 read them, you will have understood the extent of the
 15 distress that the prospect of yet further delay is having
 16 upon the family and Mrs Smith in particular. It
 17 remains the position -- we have obviously carefully
 18 read counsel to the inquiry's submissions, and we
 19 understand why the inquiry feels it is where it is - that
 20 for the family that is simply not acceptable. The
 21 family is in the position it is because we are now
 22 looking at an inquiry that is intended to start a full six
 23 years or so, almost six years, after Jermaine died.
 24 Irrespective of whether or not, as is the case, this
 25 inquiry engages Article 2 and the family's right to have
 a full state-led investigation of the death that is

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 3 conducted within a reasonable time, irrespective of
 4 that, to wait five and a half years for a full
 5 investigation to take place of a state shooting is just
 6 unimaginable.
 7 That is the position they start from, and as we made
 8 clear in our submissions, the blame does not lie, as far
 9 as the family are concerned with the inquiry and with
 10 you the chairman of the inquiry. We recognise, we are
 11 grateful, to you for having, ever since you came on
 12 board, tried incredibly hard to move this process on as
 13 quickly as possible, but you came on board when matters
 14 should have been and were not -- they were in terms of
 15 time, but should have been in terms of process, very,
 16 very far down the line. This was before my time but I
 17 understand that, for example, Andrew Walker, the
 18 coroner, was himself played along by the NCA when, as
 19 was obvious to you from the outset, this could not be an
 20 inquest, it had to be an inquiry. It was action or inaction
 21 on the part of the NCA that meant that it took as long as
 22 it did in part for this matter to proceed to an inquiry.
 23 We provided you, in January, and we have appended
 24 it to our submissions now, a very, very detailed account
 25 of the failings in the disclosure process, which have put
 us in the position where today, despite many steps

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<p>1 2 3 having been taken by yourself to try and push that 4 process along, to try and get the Met and the NCA to 5 make disclosure in suitably redacted forms of the 6 documentation they had, many, many months if not years 7 ago, we still have nothing. So we are where we are 8 today, in circumstances where the family have literally 9 no trust whatsoever in the good faith of the NCA or the 10 Metropolitan Police in terms of how they are engaging 11 with this process. 12 While, for example, we are very pleased to see that 13 there has now been some further material that has been 14 found in relation to phone records, and that from what I 15 understand Ms Blackwell said, there may be some 16 further material in relation to email disclosure. That has 17 come about because we had to chase for it. In our 18 submissions in January we made absolutely clear that we 19 did not accept the response thus far from the Met about 20 its inability to look for and find any further documents 21 because they had all been destroyed. We hope that it is 22 because of our submissions that now further 23 documentation has been found. But at all times it is a 24 question of chasing, chasing, chasing, in the face of 25 either delay or simply a brick wall. It is this process that has led to a complete loss of faith, and that is not a good starting point for this inquiry, and</p> <p style="text-align: center;">Page 19</p>	<p>1 2 3 I understand it is going to make it very difficult for 4 you, the chair, moving forward, because we are where we 5 are for very good reason. 6 To then be faced with the prospect of yet further 7 delay to June is, as we said in our written submissions, 8 almost unbearable. 9 We cannot accept it. We simply cannot accept that 10 this inquiry cannot take place before June of next year 11 and, moreover, we absolutely cannot accept that a delay 12 can be justified for the convenience of counsel and for 13 the Fishmongers' Hall inquiry to take place before this 14 one does. The death of Jermaine Baker preceded by many 15 years the tragic deaths arising from Fishmongers' Hall. 16 The convenience of counsel who are already instructed in 17 that inquiry simply cannot justify any further delay and 18 any further breach of the Article 2 rights of the family. 19 Insofar as that is put forward as any justification, 20 it is insulting to the family and it is extremely 21 painful for them to think that counsel's convenience 22 could possibly justify waiting any longer. 23 Those are our submissions on further delay. 24 On the question of whether or not there should be a 25 statement on the part of the NCA and on the part of the MPS, setting out a detailed account of the steps</p> <p style="text-align: center;">Page 20</p>
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5 (Pages 17 to 20)

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3 that have been taken thus far in relation to disclosure,
4 we hear what Ms Blackwell has said. We understand her
5 to be saying, "Not now but yes there will come a time".
6 If we are wrong about that, then we would, again, make
7 the most strident submissions that that statement should
8 be given at some point in time because we are where we
9 are because of the delays that have arisen to date and we
10 want to know, and we want the MPS and the NCA to
11 account for precisely why no disclosures had been made
12 until the disclosure started to be made following your
13 directions on 30 March.
14 We want an explanation for the resources --
15 THE CHAIRMAN: Ms Blackwell's position is clear on that.
16 MS KAUFMANN: We are right in understanding that the
17 statement will come at some point and it will provide
18 those sorts of details?
19 THE CHAIRMAN: In her closing submission, she will confirm
20 the position.
21 MS KAUFMANN: I am grateful. I am grateful.
22 THE CHAIRMAN: That is helpful.
23 MS KAUFMANN: If we will get those, albeit with a delay
24 because the disclosure process is ongoing, then we are
25 satisfied with that.
Can I just, as it were, ask a question, because it
is not entirely clear to me what the inquiry's position

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4 is in relation to the disciplinary proceedings that W80
5 may or may not be facing depending upon the outcome of
6 the Court of Appeal and any subsequent proceedings.
7 Our position is clear, W80's position accords with that --
8 THE CHAIRMAN: My view is this. That if everybody agrees
9 that we can proceed along parallel lines, that will be our
10 intention, but when I give directions and fix dates, I will give
11 liberty to apply to any core participant to seek to vacate the
12 dates fixed within a period of time following any decision by
13 either the Court of Appeal or the Supreme Court to grant
14 permission to appeal, because attitudes may change and I
15 can't obviously -- nor would I wish to -- shut out any further
16 submissions on that.
17 MS KAUFMANN: Yes.
18 THE CHAIRMAN: But certainly at this stage, everybody
19 I think believes that this inquiry should and can proceed
20 without waiting for the ultimate decision in W80's civil
21 disciplinary litigation.
22 MS KAUFMANN: I am grateful.
23 Sir, those are the submissions on behalf of the
24 family. Unless there is anything else, those are my
25 submissions.
THE CHAIRMAN: Thank you very much indeed.
Mr Butt.

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 2 Submissions by MR BUTT
 3 MR BUTT: Sir, yes, thank you very much. May I just
 4 make six brief points in response to the matters raised by
 5 Ms Kaufmann on behalf of the family.
 6 The first is all core participants will be well aware
 7 that anyone watching this feed may not be aware that
 8 both the inquest into Jermaine Baker's death and this
 9 inquiry into Jermaine Baker's death was preceded by an
 10 independent investigation by the Independent Office
 11 for Police Conduct. The IOPC, the IPCC, as they then
 12 were, made wide-ranging requests for disclosure of
 13 material from the police and from the National Crime
 14 Agency. All of that material, relating to a huge volume
 15 of both used, referred to in the report and unused
 16 material, was provided to the IOPC. It is our
 17 understanding that all of that material has been
 18 provided to you, sir, as part of this public inquiry and
 19 that subject to security requirements, the vast majority
 20 of it was provided during the inquest proceedings.
 21 Secondly, sir, you will be aware that when these
 22 proceedings were previously taking place by way of the
 23 inquest procedure, a very large quantity of material was
 24 provided to you by the IOPC and by the
 25 Metropolitan Police Service, and a great deal of work
 was done by your then counsel and yourself, working with

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 2 the police, to see whether that material could be put
 3 into a format that could be disclosed to the family.
 4 Thirdly, sir, you will be aware that the establishment
 5 of this public inquiry has meant a wholesale change
 6 in the approach to disclosure. It has required all of
 7 the material to be redisclosed by core participants to
 8 the inquiry team. Because of the meticulous
 9 approach that has been taken by the inquiry team,
 10 which is going to be of great benefit to you and to all
 11 core participants in future, that has required that
 12 material to be uploaded by way of clean copies on to
 13 a computer database.
 14 That process began on 11 March of this year. That
 15 of course coincided with the current public health crisis.
 16 Notwithstanding that public health crisis, the
 17 Metropolitan Police Service ensured that sufficient
 18 officers were available to complete the work. There
 19 were discussions at the highest appropriate level within
 20 the police to ring-fence officers despite huge demands
 21 on policing resources during the coronavirus pandemic
 22 and the height of the lockdown. That coincided with
 23 both government advice and with the need for officers to
 24 be deployed and lead counseled and for large number of
 25 sickness among officers. Despite Government advice and
 the risk to health, officers continued to go into work

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6 (Pages 21 to 24)

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 2 at a location in London in order to upload documents.
 3 That has to be done in person. It cannot be done
 4 remotely. Because of the meticulous demands of the
 5 computer system used to upload the documents, only 50
 6 can be uploaded at a time. It has been time consuming
 7 and painstaking, but the work has been completed in line
 8 with the requests from the inquiry team.
 9 My understanding is all of the initial disclosure has
 10 been made to the inquiry team and has been completed
 11 some time ago. There is then the process of redactions.
 12 We have significant resources dedicated to ensuring that
 13 we can either meet the very demanding timescales from
 14 the inquiry team or where necessary we can obtain short
 15 extensions to ensure the work is done. We have
 16 completed the first tranche of disclosure with very little
 17 between us and the inquiry team. It has been disclosed
 18 back to the inquiry team.
 19 Everything that can possibly be done by my client
 20 has been done to ensure these matters proceed as quickly
 21 as possible.
 22 In terms of the phone records, it is right to say
 23 that before the family made a request for electronic
 24 disclosure early this year, there had been no request
 25 for, for instance, phone records from the IOPC or from
 the inquest team or from the inquiry team. It is

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1 correct that initial inquiries were made and confirmed
 2 that the Met do not hold the phone records requested.
 3 Subsequent inquiries were being made however and
 4 those revealed that the phone service provider does in
 5 fact retain those records. As soon as we learned that
 6 might be the case, your team was notified of this in
 7 February 2020. As your counsel has said, a statement
 8 has been provided to the inquiry team dealing with the
 9 phone records aspect and dealing with enquiries that
 10 have been made in relation to other key disclosure, what
 11 can and cannot now be retrieved and that will be
 12 available to the family once the IT have been able to
 13 security check it. As you will understand, sir, the
 14 inquiry team has been focused upon ensuring that the
 15 initial disclosure can be made to the family.
 16 Fifthly, can I raise the question of convenience of
 17 counsel. It has never been the position of the
 18 Metropolitan Police Service that these proceedings
 19 ought to be delayed for reason of the convenience of
 20 counsel. You, sir, will be aware that former leading
 21 counsel for my client had to return this case due to
 22 dates, as did former junior counsel for my client. You
 23 will also be aware, sir, that I have on a number of
 24 occasions returned work in order to ensure that I have
 25 been available at pre-inquest hearings and for the
 original

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<p>1 2 3 listings of this inquiry. 4 Professionally I am obliged to highlight diary 5 clashes to the inquiry team, and that is what I have 6 done, but these proceedings are an absolute priority for 7 this client and for the counsel that my client has 8 instructed. 9 Finally, sir, in terms of the question of a disclosure 10 statement. It is, as you will know, standard practice in 11 public inquiries to require core participants and material 12 providers to submit a witness statement from a 13 sufficiently senior member of staff to the inquiry team, 14 satisfying them that all relevant disclosure has been 15 made and all relevant searches have been made. You, 16 sir, have on a number of occasions, when this was an 17 inquest and when this was a public inquiry, stated that 18 you will be requiring such a statement from my client 19 and other government core participants and material 20 providers. The family will also be aware from recent 21 submissions from the inquiry team that there is currently 22 before the IT a statement from the Met dealing with the 23 disclosure and a statement dealing with phone records. 24 We are focusing all of our resources on ensuring that, at 25 present, the redactions to the material we provided can be agreed and can be disclosed to the families. Once that process has been</p> <p style="text-align: center;">Page 27</p>	<p>1 completed, my client has known for a considerable 2 period of time that a statement from a sufficiently senior 3 member of the police will need to be made confirming 4 that disclosure has been established. 5 Sir, all I can say in conclusion is that my client 6 has done and will continue to do all that it can to 7 assist you in this inquiry and we fully understand the 8 concerns of the family and the anguish the delay has 9 caused in this case. 10 Sir, those are my submissions. 11 THE CHAIRMAN: Thank you, Mr Butt. 12 Mr Ingram. 13 MR INGRAM: Thank you, sir, and good morning. 14 THE CHAIRMAN: Good morning. 15 MR INGRAM: Can I be heard okay? 16 THE CHAIRMAN: You can. 17 MR INGRAM: Good. 18 Submissions by MR INGRAM 19 MR INGRAM: No submissions, sir, but if I may just 20 very briefly, it will be recognised that the ongoing 21 delay has a detrimental impact on W80. He has 22 accepted reluctantly the need to change his originally 23 instructed Queen's Counsel to be sure that the counsel 24 instructed is available for the proposed dates, and that 25 was done once those proposed dates were made known.</p> <p style="text-align: center;">Page 28</p>
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7 (Pages 25 to
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3 W80 himself is ready and has been ready for some
4 time to give evidence about his actions. He is
5 available for the proposed dates, so that is all we have
6 to say. Thank you.
7 THE CHAIRMAN: Thank you very much indeed.
8 Ms Brookes.
9 Submissions by MS BROOKES
10 MS BROOKES: Thank you, sir. I think I can keep the
11 submissions on behalf of the NCA very brief. The
12 NCA are supportive of the counsel to the inquiry's
13 submissions that the hearing be listed for June next
14 year, and we agree with the reasons that counsel
15 gave for that.
16 In relation to the submissions made on behalf of the
17 family in respect of delay, the NCA has always provided
18 information to the inquiry in a timely manner and has
19 always provided prompt assistance and cooperation. I
20 don't believe there has been any suggestion from the
21 inquiry that that has been otherwise. In those
22 circumstances, it is the NCA's position that a statement
23 of the kind that the family request is not necessary, at
24 this time, and we confirm that we have allocated
25 resources, appropriate resources, to dealing with
assisting the inquiry.
The NCA will of course be happy to provide
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1
2
3 a disclosure statement at the appropriate juncture when
4 the disclosure process has completed.
5 Sir, that concludes the submissions on behalf of the
6 NCA.
7 THE CHAIRMAN: Thank you.
8 Mr Simpson.
9 MR SIMPSON: Good morning, can you hear me?
10 THE CHAIRMAN: Yes, thank you.
11 MR SIMPSON: Thank you.
12 Submissions by MR SIMPSON
13 MR SIMPSON: Yes, I think I may sound a bit like a stuck
14 record but the position of the IOPC is that it is a core
15 participant because it investigated the incident, but it
16 sees its role as being limited to assisting the inquiry by
17 making available the material it collected during its
18 investigation for the inquiry's use. I understand that all
19 material has now been provided to the inquiry, although
20 of course if the inquiry does have any further questions,
21 we will attempt to deal with those. Because we don't
22 intend to take an active part in the inquiry itself, other
23 than to provide that assistance, we make no submissions
24 in relation to the dates of the hearings or in relation to
25 the other topics that have been discussed. I anticipate
that the requirement for a statement concerning
disclosure will
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<p>1 2 3 apply to us also and we will of course provide that 4 statement in due course, when requested. 5 THE CHAIRMAN: Thank you very much indeed. 6 Ms Blackwell. 7 MS BLACKWELL: Thank you, sir. 8 Further submissions by MS BLACKWELL MS 9 BLACKWELL: I have listened very carefully to the 10 submissions made by my learned friend, Ms Kaufmann, 11 which expand upon the submissions that she made in 12 writing on behalf of the family. The inquiry legal team 13 is sensitive to the effect that this additional delay is 14 having upon Mr Baker's family. But we remain of the 15 view that the dates proposed are the first date that these 16 matters can properly be ready and comprehensively 17 ready to be heard in the way in which they need to be. 18 In relation to Ms Kaufmann's question of the disclosure 19 statement, I would like to make clear that the purpose of 20 the disclosure statements is twofold. The first is for 21 the material providers to disclose details of the processes 22 that have been followed in seeking out, obtaining and 23 then providing the material to the inquiry. That, by 24 implication, includes the dates upon which those 25 processes have been undertaken. The second reason for requiring the material providers and core participants to provide such</p> <p style="text-align: center;">Page 31</p>	<p>1 disclosure statements is that, within them, there will 2 be an undertaking from each organisation that they do 3 not hold any further relevant material which has not 4 by that date been disclosed to the inquiry. 5 I hope that that is now clear. 6 THE CHAIRMAN: Thank you. 7 Is there anything else you wish to say? 8 MS BLACKWELL: No, thank you. 9 THE CHAIRMAN: Thank you very much indeed. 10 Remarks and directions by THE CHAIRMAN 11 THE CHAIRMAN: Before I determine the matters that are 12 on the agenda, I just want to make certain observations 13 about some of the matters raised by Ms Kaufmann. 14 May I say that I am grateful to all the legal 15 representatives for their helpful submissions. My 16 principal task has been to listen to progress reports and 17 criticism thereof and is now to fix dates for the future 18 conduct of this inquiry. 19 With the exception of the family of Jermaine 20 Baker, who's position I respect, understand and fully 21 sympathise with, all parties are agreed or have no 22 observations to make on the directions and dates which 23 I should fix. 24 As far as the timing of statements from the MPS or 25 the NCA to explain the delay in disclosure is concerned,</p> <p style="text-align: center;">Page 32</p>
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8 (Pages 29 to
32)

<p>1</p> <p>2 in my view, this would be counterproductive to the</p> <p>3 ongoing disclosure process at this time. I am</p> <p>4 comforted, as I am sure is Ms Kaufmann and Mr Baker's</p> <p>5 family, that any organisation which has provided me with</p> <p>6 disclosure will be asked in due course to provide a</p> <p>7 statement to explain the process which was adopted to</p> <p>8 search for and provide that material and to give the</p> <p>9 undertakings referred to by Ms Blackwell.</p> <p>10 For the moment, we must, I believe, concentrate on</p> <p>11 moving forward and not looking back. I do not consider</p> <p>12 that directing time to be spent on such a task at this</p> <p>13 point is a good use of time of the officers, of the MPS</p> <p>14 and the NCA, who are, I am satisfied, busy in ensuring</p> <p>15 that we make progress.</p> <p>16 My task is to ensure achievement and my overarching</p> <p>17 target is a just conclusion.</p> <p>18 Ms Kaufmann asked rhetorically why it was that there</p> <p>19 had been a lack of compliance with directions for</p> <p>20 disclosure. As far as the MPS is concerned, there is no</p> <p>21 doubt that material was not all served within timetables</p> <p>22 which were laid down, but in the current climate I am</p> <p>23 not prepared to proceed on the basis that this was down</p> <p>24 to bad faith. Progress at the moment is good. I accept</p> <p>25 that the progress which is now being made may be due to</p> <p>chasing on the part of the family and should not have</p> <p>Page 33</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 been necessary, but the family and its legal team are to</p> <p>6 be commended for the efforts that they have made to</p> <p>7 ensure that such progress as has been made is now</p> <p>8 ongoing.</p> <p>9 In my view, there was and continues to be timely and</p> <p>10 commendable disclosure from the NCA and criticism cannot</p> <p>11 justifiably be laid in any real measure at their door. As far</p> <p>12 as the question of why it is taking so long to get material to</p> <p>13 the core participants is concerned, there is no doubt that the</p> <p>14 disclosure process is time consuming. For that, I can make</p> <p>15 no apology. It is necessarily thorough, there are data</p> <p>16 protection and sensitive security issues which, if rushed, may</p> <p>17 well lead to costly mistakes being made. This could mean</p> <p>18 the breaching of data protection legislation and/or the</p> <p>19 placing of people's lives in danger and is something with</p> <p>20 which I will not take any risk and which I am determined to</p> <p>21 avoid. We are using an electronic document system which</p> <p>22 takes longer to set up, but will, I am sure, provide a more</p> <p>23 efficient and safe way of working. And what we lose now</p> <p>24 we will, I believe, gain as the inquiry progresses.</p> <p>25 Much has been said, and properly said, about whether</p> <p>it is right for me to consider the availability of counsel in</p> <p>fixing the dates for hearings. Although it</p> <p>Page 34</p>
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<p>1 2 3 is far from being my prime concern, it is undoubtedly 4 a relevant factor. Changes in counsel unsettle an 5 inquiry and the core participants to it. Changes lead to 6 additional financial burden on the state in work having 7 to be repeated. Under section 17(3) of the Inquiries 8 Act of 2005, in making any decision as to the 9 procedure or conduct of this inquiry, I must act with 10 fairness and with regard to the need to avoid any 11 unnecessary cost, whether to public funds or to 12 witnesses or to others. Every core participant is 13 entitled to security of representation if reasonably 14 possible. That is what I have striven throughout and 15 continue to strive to achieve. 16 Nevertheless, if I thought that this inquiry could 17 be held significantly earlier than the dates proposed by 18 counsel to the inquiry and acceded to by others 19 concerned, I would so order. 20 In my judgment, the work which remains to be done is 21 of such magnitude that any savings in time by ordering 22 earlier hearings would be marginal at best and give rise 23 to the risk of an even worse scenario of further 24 adjournment. To that extent, having regard to the very 25 limited benefit which could or might possibly be gained, it is right and proper to reflect the availability of instructed counsel in which, of course, I include</p> <p style="text-align: center;">Page 35</p>	<p>1 2 3 Ms Kaufmann and Ms Murphy. 4 I therefore propose to give the following directions 5 for compliance and for hearings. 6 Hearings in respect of applications for anonymity 7 and restriction orders and other protective measures 8 will be listed for 15 March 2021, with a time estimate 9 of up to five days. 10 The inquiry's oral hearings will commence on 11 14 June, with an estimated length of up to eight weeks. 12 There will be liberty to apply to vacate those dates 13 within 14 days of any decision by the Court of Appeal or 14 the Supreme Court to grant permission to appeal in the 15 W80 civil litigation, if I may so describe it. I set the 16 following timetable for restriction or anonymity order 17 applications. 18 By 4.00 on 7 December 2020 the inquiry legal team 19 will provide a provisional witness list to all core 20 participants. 21 By 4.00 on 4 January 2021, all core participants 22 will provide to the inquiry legal team, first, any 23 comments or submissions on the provisional witness list, 24 especially on those identified by the inquiry legal team 25 to give evidence, and, second, an anonymity schedule. Next, by 4.00 on 11 January 2021, all witnesses' anonymity applications will be made to the inquiry</p> <p style="text-align: center;">Page 36</p>
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9 (Pages 33 to 36)

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3 comprising three parts: first, an open section, pursuant
4 to paragraph (a) of the inquiry protocol on applications
5 for restriction orders; second, a closed section pursuant
6 to paragraph (b) of the same protocol; and, third,
7 supporting evidence pursuant to paragraph 4(c) of the
8 protocol.
9 Next, by 4.00 on 25 January 2021, the inquiry legal
10 team will distribute the open and, where necessary or
11 appropriate, some closed applications to all core
12 participants and representatives of the media in
13 accordance with paragraph 5 of the inquiry protocol.
14 By 4.00 on 8 February 2021, all core participants will
15 serve on the inquiry legal team open short written
16 submissions relating to each application.
17 Next, by 4.00 on 22 February, the ILT will serve its
18 submissions on all core participants.
19 Having ruled that the oral hearings will commence on
20 15 March, and conclude by the end of that week, the
21 final ruling in that regard is that my rulings will be
22 distributed to all core participants by 12 April, giving a
23 clear two months before the inquiry hearings proceed in
24 earnest.
25 I turn now to the question of expert evidence. By
4.00 on 7 December, the inquiry legal team will serve on
all core participants any expert report on which it

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1
2 intends to rely.
3 Next, by 4.00 on 1 December 2020, any core
4 participant seeking to rely upon any additional expert
5 will serve any report on the inquiry legal team.
6 Finally, any further application for me to consider
7 granting core participant status must be received by the
8 ILT no later than 28 days from today, which is I think
9 25 August.
10 What I have not dealt with in this series of
11 directions is a timetable or a specific direction in relation
12 to the provision of the statements identified by Ms
13 Kaufmann and confirmed by Ms Blackwell as being
14 ultimately forthcoming. I am going to leave that for the
15 moment in your respective capable hands, but if a
16 further direction is required from me, I will of course
17 give it.
18 Apart from the specific liberty to apply in relation
19 to the consequences of the W80 civil proceedings, I have
20 not specified any provision for liberty to apply. I hope
21 that my approach is sufficiently well known by all
22 parties to indicate that where reasonable and provided
23 in good time I am likely to look
24 sympathetically on any modest extension of time for
25 compliance, but not, and I emphasise this, one which
will in any way impact on the hearing dates which have

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<p>1 2 3 now been fixed and are fixed in stone for 15 March and 4 14 June of next year, and will not, I hasten to add, in any 5 way be impacted upon should any subsequent decision 6 be made in relation to the Fishmongers' Hall inquests. I 7 have already liaised with the chief coroner who is 8 hearing the Fishmongers' Hall inquests. He knows that 9 I am fixing these dates and if for any reason 10 Fishmongers' Hall has to go back, then it is not this 11 inquiry which will suffer as a result. 12 I would like to conclude this ruling, if I may, by 13 expressing my thanks to Ms Kaufmann, Queen's Counsel, 14 for her unnecessary but welcome acknowledgment of the 15 efforts made by the inquiry team and myself to push and 16 push again. 17 I cannot undo or lessen the resentment felt by 18 Jermaine Baker's family at the undue delay which 19 preceded the request for and eventual establishment of 20 this inquiry. I hope that the sentiments of all of us have 21 been clearly enough expressed and sincerely enough 22 expressed that we will be able to regain and thereafter 23 retain the confidence of Jermaine Baker's mother and 24 family. 25 That is all I propose to say at this stage, and I thank everybody for their attendance and contribution. I think that concludes this hearing.</p> <p style="text-align: center;">Page 39</p>	<p>1 2 3 Thank you all very much. 4 (11.10 am) 5 (The hearing concluded) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">Page 40</p>
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