

<p>1 Wednesday, 9 March 2016 2 (10.30 am) 3 THE CHAIR: Yes, good morning, everybody. I will commence 4 by inviting Mr Emmerson, Senior Counsel to the Inquiry, 5 to make an opening statement. 6 Mr Emmerson. 7 MR EMMERSON: Thank you, Madam Chair. 8 Opening statement by COUNSEL TO THE INQUIRY 9 MR EMMERSON: This is the first preliminary hearing held by 10 the Independent Inquiry into Child Sexual Abuse. Its 11 purpose is to consider the next steps in the Inquiry's 12 investigation into institutional responses to 13 allegations of child sexual abuse relating to the 14 politician Lord Greville Janner. 15 Madam, may I begin with introductions? 16 To my left, Liz Dux is here on behalf of 17 Slater & Gordon -- 18 THE CHAIR: Ms Dux. 19 MR EMMERSON: -- to represent a series of core participant 20 complainants in relation to whom you have given 21 provisional anonymity. 22 To my right, immediate right, is Peter Garsden of 23 Abney Garsden Solicitors, who represents another group 24 of complainants to whom you have given provisional 25 anonymity.</p> <p style="text-align: center;">Page 1</p>	<p>1 THE CHAIR: Ms Canby, thank you. 2 MR EMMERSON: To your far right, for the Labour Party, 3 Mr Gerald Shamash and Ms Eleanor Grey QC. 4 THE CHAIR: Mr Shamash, Ms Grey. 5 MR EMMERSON: Sitting next to them for the Secretary of 6 State for Education is Cathryn McGahey QC. 7 THE CHAIR: Ms McGahey. 8 MR EMMERSON: Finally, for the Home Office, on the opposite 9 side of the aisle, Amelia Walker. 10 THE CHAIR: Ms Walker. 11 Yes, thank you, Mr Emmerson. 12 Thank you, counsel. Thank you, Mr Emmerson. 13 MR EMMERSON: Madam, it may be sensible if I just say a word 14 at the outset on the role of Counsel to the Inquiry for 15 those who are not familiar with the responsibility. 16 CTI's responsibility is to advise on the Inquiry's 17 investigations, to assist the Inquiry apparently by 18 making independent submissions on the law and on the 19 evidence to present witness evidence at public hearings 20 in a neutral and non-partisan manner and to assist the 21 panel where necessary by advising them on the 22 conclusions that are open to them on the evidence. 23 Madam, on 29 April 2015, in light of the Director of 24 Public Prosecution's decision not to prosecute 25 Lord Janner, you announced that the Inquiry would</p> <p style="text-align: center;">Page 3</p>
<p>1 THE CHAIR: Mr Garsden. 2 MR EMMERSON: To my far right is Mr Sam Stein, who 3 represents Nigel O'Mara, an applicant for 4 core participant status, in relation to whom you have 5 issued a decision that you are minded to refuse. 6 THE CHAIR: Mr Stein. 7 MR EMMERSON: Mr Stein is here today to renew that 8 application orally. 9 Madam, just turning the map around, in the row 10 behind me and to your right we have 11 Leicestershire County Council first of all, who are 12 represented today by Peter Steel from Bevan Brittan and 13 by Alex Verdan QC. 14 THE CHAIR: Mr Verdan, Mr Steel. 15 MR EMMERSON: Next to them Leicestershire Police, who are 16 represented by their head of legal services and by 17 Samantha Leek QC. 18 THE CHAIR: Ms Leek. 19 MR EMMERSON: On the opposite side of the aisle, the 20 Crown Prosecution Service are represented today by my 21 learned friend Mr Edward Brown QC. 22 THE CHAIR: Mr Brown. 23 MR EMMERSON: The IPCC -- I do regret I have not been given 24 representation. 25 MS CANBY: It's Ms Fiona Canby for the IPCC.</p> <p style="text-align: center;">Page 2</p>	<p>1 investigate the allegations against him and the related 2 questions of alleged institutional failure. 3 The overall purpose of the investigation is to 4 determine the extent to which public and private 5 institutions may have failed in their duty to protect 6 children from sexual abuse or failed in their duty to 7 ensure accountability for offences allegedly committed 8 by Greville Janner and others associated with him. 9 The Janner investigation -- and I mean no disrespect 10 by using that term -- has been identified for an early 11 hearing, partly in recognition of the length of time the 12 complainants in this matter have had to wait before 13 their allegations could be heard. The Janner 14 investigation is one of four investigations in which 15 preliminary hearings are being heard this month and in 16 which early public hearing of the evidence are expected. 17 Madam, there are a number of specific matters on the 18 agenda for this morning's hearing that will require 19 short oral submissions from most, if not all, of the 20 parties. I'm going to address them in a slightly 21 different order from the published agenda in order to 22 clear some of the general issues first. 23 The direction will be first of all the scope of the 24 investigation and issues that have arisen in relation to 25 that in correspondence from the parties; the designation</p> <p style="text-align: center;">Page 4</p>

<p>1 of core participants; thirdly, applications for 2 anonymity and the approach to be taken to those; 3 fourthly and relatedly, questions of broadcasting or 4 live-streaming of the proceedings; and lastly 5 a timetable for applications, including funding 6 applications and for the public hearings in this 7 investigation.</p> <p>8 Before I develop those submissions under each 9 heading, it might be appropriate just to say a little 10 about the broader context in which this hearing takes 11 place so as to help those following the proceedings to 12 better understand the Inquiry's approach to individual 13 investigations such as this one and to appreciate the 14 place that they occupy in the Inquiry's overall work.</p> <p>15 Madam, the inquiry was established on 12 March 2015. 16 Its terms of reference are wide-ranging and unlimited by 17 time. Together with panel members Malcolm Evans, 18 Ivor Frank, Alexis Jay and Dru Sharpling, you are 19 required by the terms of reference to examine the extent 20 to which public and private institutions in England and 21 Wales have failed to protect children from sexual abuse 22 and to make recommendations.</p> <p>23 In fulfilling that challenging mandate, the Inquiry 24 will have to examine allegations of institutional 25 failures to protect children in school, in children's</p> <p style="text-align: center;">Page 5</p>	<p>1 Alongside the public hearings, the Inquiry's 2 Research Project is conducting rapid evidence 3 assessments of all relevant available information and is 4 commissioning new research to better understand a range 5 of issues central to the Inquiry's task. At the same 6 time, the Inquiry's Truth Project is hearing in private 7 sessions the accounts of victims and survivors of child 8 sexual abuse.</p> <p>9 On the basis of the evidence and information 10 received in all three projects, you have committed to 11 publishing reports that find facts and reveal the truth 12 of institutional failures to protect children from abuse 13 in the past and you have committed to making effective 14 practical recommendations to better protect children in 15 future.</p> <p>16 Today, then, marks the start of public hearings in 17 the Inquiry's 13 investigations. To provide some 18 context, I'm going to set out a bit of background to 19 those investigations as a whole.</p> <p>20 The Panel has published a policy setting out the 21 three principal criteria for selecting a case for 22 investigation. A case may meet one or more of them, but 23 the Janner investigation, in our submission, satisfies 24 all three.</p> <p>25 First, it is a case in which it appears to the Panel</p> <p style="text-align: center;">Page 7</p>
<p>1 homes, in churches and other religion institutions, in 2 custodial institutions, in voluntary organisations and 3 online, and it will examine how those institutions and 4 others, including the police, prosecuting authorities 5 and the civil and criminal justice systems, may have 6 failed to respond adequately to reports of child sexual 7 abuse.</p> <p>8 The task is vast, but critically important. Between 9 April 2012 and March 2014 more than 50,000 children in 10 England and Wales were identified by statutory agencies 11 as victims of child sexual abuse. The 12 Children's Commissioner estimates that the true number 13 of victims, including the unreported victims in that 14 period, was as high as 450,000. Those figures should 15 answer the doubts of anyone who questions the need for 16 this Inquiry.</p> <p>17 The terms of reference laid down by the 18 Home Secretary are, as I have said, of unprecedented 19 breadth, making this the largest statutory Inquiry ever 20 held in this jurisdiction. In your opening statement of 21 9 July 2015, you set out a strategy for tackling those 22 terms. You committed the Inquiry to 23 a multi-disciplinary approach in which public hearings 24 are only one of several mechanisms for receiving and 25 considering evidence.</p> <p style="text-align: center;">Page 6</p>	<p>1 that the allegations of child sexual abuse in an 2 institutional setting are made or allegations by 3 a person who has exploited an official position in order 4 to perpetrate child sexual abuse; secondly, it is 5 alleged that an institution or institutions have 6 facilitated or failed to prevent child sexual abuse; and 7 thirdly, institutions or those acting in an official 8 capacity are alleged to have failed to respond 9 appropriately to allegations of child sexual abuse.</p> <p>10 Madam, the published policy also indicates that, in 11 making its selection of cases, the Panel will consider, 12 among other things, whether the situation in issue is 13 practically capable of being investigated through 14 written and oral evidence; whether there is any risk of 15 interference with an ongoing police investigation or 16 prosecution; and whether it appears capable of resulting 17 in currently relevant conclusions or recommendations.</p> <p>18 In selecting the alleged institutional failures 19 surrounding the allegations against Greville Janner, the 20 Panel has, of course, taken all of those factors into 21 account.</p> <p>22 As I have sought to underline -- and this is 23 relevant to the approach to be taken to the assessment 24 of evidence -- this is only one of 13 investigations 25 announced. The Inquiry will be conducting thematic</p> <p style="text-align: center;">Page 8</p>

<p>1 investigations into broad issues of concern where 2 multiple institutions have played a role or should have 3 played a role in protecting children from sexual abuse. 4 These thematic investigations focus on child sexual 5 abuse facilitated by the internet, institutional 6 responses to the sexual exploitation of children by 7 organised networks, the extent to which institutions in 8 England and Wales are effectively discharging their 9 responsibilities to protect children abroad and the 10 adequacy of existing services for providing support and 11 reparations to victims and survivors of childhood sexual 12 abuse. 13 Secondly, you have announced a series of 14 institution-specific investigations. In this category 15 the Inquiry team is investigating alleged failings to 16 protect children in the care or supervision of 17 Lambeth Council, Nottinghamshire Councils and 18 Rochdale Council; it is investigating child sexual abuse 19 in the Anglican and Catholic churches. It is 20 considering the extent to which custodial institutions 21 have failed to protect children from sexual abuse and it 22 is conducting a wide-ranging investigation into sexual 23 abuse in residential schools. 24 Finally, you have announced an overarching Inquiry 25 into allegations of child sexual abuse and exploitation</p> <p style="text-align: center;">Page 9</p>	<p>1 authorities to apply an objective mind when faced with 2 charging decisions involving politicians; and alleged 3 failures by politicians, by political parties, by 4 Parliament and by successive government departments to 5 take seriously the State's responsibility to protect 6 children. 7 Madam, notwithstanding that institutional focus, in 8 many cases it is likely to be necessary for the Panel to 9 make findings of fact relating to the underlying 10 allegations of abuse. While it is right that some 11 institutional failings could be examined irrespective of 12 the truth of the underlying allegation, the consequences 13 of those failings will often depend on whether the 14 allegation turns out to be true. For instance, while it 15 is of course possible to criticise a police force for 16 dismissing a complaint purely on the basis that he or 17 she had a criminal record, the consequences of that 18 failing are far more serious if the reported allegation 19 was true. 20 So although the Inquiry is precluded by section 2 of 21 the Inquiries Act 2005 from formally determining 22 criminal or civil liability, it will often be required 23 to make findings of fact on allegations which, if true, 24 may amount to the commission of a criminal offence. 25 This may seem to some to be a rather fine</p> <p style="text-align: center;">Page 11</p>
<p>1 involving people of public prominence associated with 2 Westminster. This will include allegations of grave 3 crimes against children allegedly committed by people in 4 public life at Dolphin Square in Pimlico and at 5 Elm Guest House in Barnes. The Inquiry team is also 6 examining issues related to an organisation called the 7 Paedophile Information Exchange, as well as a series of 8 specific and discrete allegations against a number of 9 people prominent in public life and associated in one 10 way or another with Westminster or Whitehall. 11 Alongside this overarching Westminster 12 investigation, you will consider allegations relating to 13 two particular people of public prominence associated 14 with Westminster, namely Greville Janner and 15 Cyril Smith. Collectively I'm going to refer to this 16 final category as the "Westminster-related 17 investigations". 18 Consistent with the Inquiry's terms of reference, 19 the Westminster investigations will consider 20 institutional failures rather than simply individual 21 abuse. They involve, for instance, investigations into 22 alleged failures by local authorities to protect 23 children from abuse by people of public prominence; 24 alleged failures by police to investigate allegations 25 against the powerful; alleged failures by prosecuting</p> <p style="text-align: center;">Page 10</p>	<p>1 distinction, but it is expressly set out not only in the 2 2005 Act, but also in the Inquiry's terms of reference. 3 No one should be in any doubt, therefore, that where the 4 evidence justifies it and where it is necessary for 5 fulfilling the Inquiry's terms of reference, the Panel 6 will make findings of fact on allegations of child 7 sexual abuse. That, as I say, is confirmed by 8 paragraph 10 of the Inquiry's terms of reference, which 9 state that: 10 "It is not part of the Inquiry's function to 11 determine civil or criminal liability ... [but that] 12 this should not ... inhibit the Inquiry from reaching 13 findings of fact relevant to its terms of reference." 14 As will be obvious, Madam, the Westminster 15 investigations take place in a highly charged media 16 environment. Allegations of the involvement of 17 politicians in child sexual abuse are reported, on the 18 one hand, as evidence of a paedophile conspiracy at the 19 heart of Westminster and, on the other hand, as evidence 20 of a modern-day witch-hunt. It is the role of this 21 Inquiry to move from the realms of rumour and 22 speculation, allegation and counter-allegation, to the 23 assessment of objective facts. 24 The Inquiry must consider all relevant documents, 25 take evidence from witnesses and publish a report which</p> <p style="text-align: center;">Page 12</p>

<p>1 sets out in clear terms what the evidence shows. In 2 doing so, the Inquiry will need to remain sensitive to 3 the particular needs of vulnerable complainants without 4 unduly privileging their testimony. The Inquiry will 5 also need to recognise the damage that can be caused by 6 false accusations of sexual abuse, without hesitating to 7 make findings against individuals and institutions if 8 justified by the evidence.</p> <p>9 Against that general background, I would like to 10 turn now, if I may, to the Janner investigation itself 11 and give you a brief description of the background to 12 the allegations.</p> <p>13 Greville Janner was the Labour Member of Parliament 14 for Leicester North between 1970 and 1974 and then 15 Leicester West between 1974 and 1997, after which he was 16 given a peerage and sat in the House of Lords until his 17 death on 19 December 2015.</p> <p>18 In 1991 he was publicly accused of child sexual 19 abuse during the trial of Frank Beck, the former 20 officer-in-charge of a number of children's homes in 21 Leicester, but police investigations into that 22 allegation did not lead to his arrest or charge.</p> <p>23 The allegations were first made in May 1990, by 24 witness A31, a minor, who reported a sexual relationship 25 with Janner. During a police interview in January 1991,</p> <p style="text-align: center;">Page 13</p>	<p>1 2002, further allegations of child abuse were made by 2 a number of individuals against Greville Janner. Again, 3 no criminal proceedings were instituted. Finally, in 4 2006, Leicestershire Police once again investigated 5 allegations against him, made this time by witness B1. 6 On this occasion, the Crown Prosecution Service advised 7 that there was insufficient evidence to provide 8 a reasonable prospect of conviction.</p> <p>9 In January 2013, Leicestershire Police commenced 10 a new investigation into allegations that Janner had 11 sexually abused a number of children. More than a dozen 12 individuals gave statements to the police and since then 13 a significant number of further witnesses have come 14 forward. The allegations in summary are that 15 Greville Janner exploited children and perpetrated 16 a full range of sexual offences against them, including 17 what would now be termed in English law as "rape".</p> <p>18 The offending was alleged to have taken place at 19 children's homes, hotels and at the Janner family home. 20 The earliest offence allegedly occurred in 1955 and the 21 latest in time is alleged to have occurred in 1984. In 22 relation to a number of the complainants it is alleged 23 that Janner abused his position as an MP by arranging 24 for children in whom he had a sexual interest to be 25 brought to the Houses of Parliament.</p> <p style="text-align: center;">Page 15</p>
<p>1 witness A31 gave a detailed account in which he alleged 2 that Janner had abused him in a number of locations, 3 including at hotels and the Janner family home.</p> <p>4 Greville Janner was interviewed under caution on 5 13 March 1991, but made no comment to the questions put 6 to him and no further action was taken. On 4 December 7 of that year he was informed that he would not be 8 charged. The same month, once that decision was made, 9 Greville Janner spoke in the House of Commons, 10 strenuously denying the allegations against him, and 11 several members of Parliament also spoke out in support 12 of Janner's denial.</p> <p>13 At the conclusion of the Beck trial, the then 14 Secretary of State for Health, William Waldegrave, 15 announced the Kirkwood Inquiry into the abuse of 16 children in Leicestershire children's homes.</p> <p>17 Greville Janner gave evidence to the Kirkwood Inquiry, 18 but for reasons which are so far unexplained, he was 19 permitted to do so in private. The report which was 20 published in 1992 recorded that Janner had been 21 a witness and published his written evidence. It did 22 not, however, contain any reference to the testimony 23 that he gave in private.</p> <p>24 During the course of a Leicestershire Police 25 investigation into two children's homes between 2000 and</p> <p style="text-align: center;">Page 14</p>	<p>1 Moving forward to last year, on 16 April 2015 the 2 Director of Public Prosecutions announced that the 3 evidential test for charging and prosecuting Janner in 4 relation to a number of these offences was met for 5 a range of sexual crimes against a number of children. 6 However, a decision not to prosecute was taken on 7 account of his advanced dementia, which rendered him 8 unfit to take any part in the proceedings. The Director 9 decided against pursuing the matter to trial on the 10 facts on the ground that the court would be unable to 11 impose any significant penalty. But following a review 12 of the case by independent counsel, the DPP's decision 13 not to prosecute was reversed and the CPS proposed to 14 proceed to a trial on the facts.</p> <p>15 Of more than 30 alleged victims who made contact 16 with police, twelve were selected to give evidence at 17 trial and a trial window was set in April 2016. But as 18 I have said, on 19 December, Greville Janner died. 19 There was initially some perhaps surprising public 20 speculation that the proceedings might continue despite 21 his death, however, on 15 January 2016, the CPS 22 confirmed that it was discontinuing the criminal 23 prosecution. All of these events and the operational 24 decisions taken by the local authority, the police and 25 the CPS from start to finish in this matter fall</p> <p style="text-align: center;">Page 16</p>

<p>1 squarely within the Inquiry's terms of reference.</p> <p>2 Madam, can I digress for a moment to say that, for</p> <p>3 the purposes of this Inquiry, I propose to refer to</p> <p>4 those who have alleged sexual abuse by Greville Janner</p> <p>5 as "complainants" at this stage. This reflects their</p> <p>6 status as individuals whose complaints were investigated</p> <p>7 by the police and considered by the CPS in a case where</p> <p>8 the criminal proceedings were inconclusive. It is not</p> <p>9 intended to imply any assessment one way or the other of</p> <p>10 the veracity of all or any of their complaints.</p> <p>11 In April 2015, when she first announced that</p> <p>12 Greville Janner would not be prosecuted, the DPP also</p> <p>13 announced an internal review of all CPS decision-making</p> <p>14 in relation to Janner. She appointed a retired</p> <p>15 High Court Judge, Sir Richard Henriques, to carry out</p> <p>16 the review and make recommendations. In January of this</p> <p>17 year, Sir Richard Henriques published his report, in</p> <p>18 which he concluded that there was sufficient evidence to</p> <p>19 prosecute Janner for indecent assault and buggery, as it</p> <p>20 then was, following the police investigations in 1991,</p> <p>21 2002 and 2006, and he described each of these failures</p> <p>22 as a "lost opportunity". The report was critical of the</p> <p>23 conduct of the Crown Prosecution Service and also made</p> <p>24 criticisms of the police.</p> <p>25 Turning to the scope of the Inquiry's investigation,</p> <p style="text-align: center;">Page 17</p>	<p>1 Lord Janner in the Kirkwood report was appropriate.</p> <p>2 Again, for the sake of those following these</p> <p>3 proceedings, I should make it clear that the</p> <p>4 Inquiry Panel is bound only by the terms of reference</p> <p>5 for the Inquiry itself, as published by the</p> <p>6 Home Secretary, and not by the descriptions of scope</p> <p>7 that it has published in order to delimit and focus its</p> <p>8 operations.</p> <p>9 The descriptions of scope for specific</p> <p>10 investigations were adopted as a working guide by the</p> <p>11 Panel to the direction of the investigation and in order</p> <p>12 to help individuals and organisations decide whether to</p> <p>13 apply for core participant status. These descriptions</p> <p>14 are not, however, set in stone. They may be amended as</p> <p>15 the evidence develops. Where a formal amendment is</p> <p>16 necessary, this will be published on the Inquiry's</p> <p>17 website. In the Janner case, there are no amendments to</p> <p>18 be made at this stage, but there are a number of matters</p> <p>19 I want to address by way of explanation and</p> <p>20 clarification.</p> <p>21 First, the Inquiry must determine whether some or</p> <p>22 all of the allegations against Greville Janner are</p> <p>23 well-founded. The allegations range from the general to</p> <p>24 the specific. Generally it is alleged, for instance,</p> <p>25 that Janner was involved in the sexual abuse of children</p> <p style="text-align: center;">Page 19</p>
<p>1 on 29 April and in light of the DPP's initial decision</p> <p>2 not to prosecute, this Inquiry announced its intention</p> <p>3 to investigate the Janner allegations and the related</p> <p>4 questions of institutional failure.</p> <p>5 The published scope of the Inquiry's investigation</p> <p>6 is available on the website. Madam, it is at tab 3 of</p> <p>7 the bundle of papers before you. Essentially it</p> <p>8 indicates that the Inquiry will investigate the</p> <p>9 allegations of child sexual abuse involving Lord Janner</p> <p>10 and goes on to say that, to the extent that the Inquiry</p> <p>11 finds that some or all of those allegations are well</p> <p>12 founded, it will consider a number of matters.</p> <p>13 Firstly, the adequacy and propriety of law</p> <p>14 enforcement investigations and prosecutorial decisions.</p> <p>15 Secondly, the extent to which Leicestershire Council</p> <p>16 was aware of the allegations of abuse and the adequacy</p> <p>17 of its response.</p> <p>18 Thirdly, the extent to which the Labour Party,</p> <p>19 government departments and/or the security and</p> <p>20 intelligence agencies were aware of the allegations of</p> <p>21 abuse and, if so, the adequacy of their response.</p> <p>22 Fourthly, the extent to which any other public or</p> <p>23 private institution may have failed in its duty.</p> <p>24 Fifthly, whether the Kirkwood Inquiry was conducted</p> <p>25 adequately and whether the omission of any mention of</p> <p style="text-align: center;">Page 18</p>	<p>1 and that he may have materially misled a range of people</p> <p>2 about his conduct. Specifically, there have been</p> <p>3 allegations of his abuse of particular individuals, some</p> <p>4 of whom have core participant status.</p> <p>5 The Panel is entitled to make findings on both the</p> <p>6 general and the specific allegations, insofar as the</p> <p>7 evidence allows it, however we would respectfully</p> <p>8 emphasise that this investigation is not and should not</p> <p>9 become a quasi-criminal trial so that it may not be</p> <p>10 necessary for you to reach conclusions on each and every</p> <p>11 specific allegation.</p> <p>12 Secondly, in order to determine whether some or all</p> <p>13 of the allegations are "well-founded", it is necessary</p> <p>14 to be clear about what that expression means. It is not</p> <p>15 a term of art and it does not reflect any strict legal</p> <p>16 test, nor does it imply any particular standard of</p> <p>17 proof. The Panel may find that an allegation is</p> <p>18 well-founded because, as a matter of fact, it finds that</p> <p>19 allegation to be true. Equally, although the Panel may</p> <p>20 conclude that the evidence is not sufficient to justify</p> <p>21 a finding that an allegation is true, it may reach the</p> <p>22 conclusion that there was sufficient evidence at the</p> <p>23 time to have engaged a duty on a relevant institution to</p> <p>24 investigate the allegation or take effective</p> <p>25 child protection measures. In that way an allegation</p> <p style="text-align: center;">Page 20</p>

<p>1 can be well-founded and it might be a finding of 2 particular facts or it might be a gateway to 3 investigating the adequacy of institutional responses. 4 Everything will depend on the context. 5 Thirdly, the Inquiry must examine the extent to 6 which Leicestershire Council and others were aware of 7 allegations of abuse. Awareness, in this context, 8 encompasses both actual and constructive knowledge. If 9 the County Council or, for example, the Department of 10 Health were to provide evidence that they were not in 11 fact aware of any allegations of abuse, you would be 12 justified in asking why. The familiar question will be 13 whether the relevant authorities knew or ought to have 14 known of the abuse and whether that amounted to an 15 institutional failure. 16 Fourthly, Ma'am, it will be important to interpret 17 the scope of this investigation and indeed all 18 investigations conducted by the Inquiry in a highly 19 targeted and strictly proportionate way. This is one of 20 13 investigations so far announced and there are others 21 to follow. As I have indicated, they form part of the 22 Public Hearings Project which is only one-third of the 23 operations of the Inquiry, so the Inquiry and those 24 engaging with it must take care not to lose sight of the 25 bigger picture.</p> <p style="text-align: center;">Page 21</p>	<p>1 and in the report, but, on the information presently 2 available, you need not conduct a wide-ranging review of 3 the entire conduct of the Kirkwood Inquiry. 4 Madam, before I turn to the question of 5 core participants, can I just briefly digress and invite 6 you turn to in your bundle to tab 10 and to 10B, which 7 is an opening note on behalf of Leicestershire County 8 Council. 9 THE CHAIR: Yes. 10 MR EMMERSON: Now, in the second page of that document, from 11 paragraph 7 on, the County Council raises a number of 12 questions of fact relevant to the scope of the Inquiry 13 and in particular to the issues that I have touched 14 upon. Can I just take this opportunity to deal with 15 those briefly and on the record because I think many of 16 them will have been clarified by some of the comments 17 that I have made, but others perhaps need a direct 18 answer. 19 Paragraph 7 raises the question of awareness of the 20 allegations and the adequacy of the council's response. 21 We are asked to clarify whether this means its immediate 22 response or its long-term response, to which the answer, 23 we would submit, is both. 24 Paragraph 8 asks whether the description, when it 25 uses the language of "allegations of abuse", is meant to</p> <p style="text-align: center;">Page 23</p>
<p>1 It is, of course, essential that fact-finding must 2 be thorough and fair, but it must also remain 3 proportionate to the challenges facing the Inquiry as 4 a whole. It may not be necessary, for example, to reach 5 findings on all disputed facts and it may not be 6 necessary to investigate all lines of inquiry in order 7 to satisfy your terms of reference and act fairly to 8 those affected. 9 Can I just give one example? The description of 10 scope speaks of the need to look in detail at the way in 11 which the Kirkwood Inquiry was conducted and the reasons 12 or manner in which Lord Janner's evidence in private 13 came to be omitted. This could be taken by some to 14 imply a commitment to conduct a complete and detailed 15 review of the Kirkwood Inquiry and all of the evidence 16 available to it, but that would not, in our submission, 17 be a proportionate use of the Inquiry's resources. 18 As evidenced by the recent Macur Review of the 19 Waterhouse Inquiry, a complete and detailed review of 20 a previous public inquiry can take a very long time to 21 complete. In the context of this investigation, such 22 a review would not add substantially to your 23 understanding of the wider questions. So we submit that 24 you should make focused inquiries into the manner in 25 which Greville Janner was treated in the Inquiry process</p> <p style="text-align: center;">Page 22</p>	<p>1 be confined to child sexual abuse. The answer is "Yes". 2 That is the overarching qualifying requirement of the 3 Inquiry's terms of reference. 4 Paragraph 9 asks whether or not the general area of 5 inquiry into whether institutions have failed in their 6 duty to protect from sexual abuse was intended to convey 7 individuals beyond Lord Janner, to which the answer is 8 it is intended to refer to Lord Janner and other 9 individuals allegedly associated with him in his 10 offending. 11 Paragraph 10 raises the question of the measures 12 that have been taken within the County Council to 13 significantly, it is said, improve safeguarding 14 arrangements and asks whether there will be an 15 opportunity for that information to be provided to the 16 Inquiry and, if so, when. Again, Madam, we would submit 17 that the answer to that question is "Yes, there will", 18 and that the Janner investigation is the appropriate 19 point at which that information ought to be put forward. 20 THE CHAIR: Just pause for a moment, will you? (Pause) 21 Yes, and the answer is ...? 22 MR EMMERSON: The answer is that it is material that the 23 Inquiry would want to consider because you are enjoined 24 by the terms of reference to look at the extent to which 25 changes have been made since the dates of the relevant</p> <p style="text-align: center;">Page 24</p>

<p>1 incidents and the extent to which there remain problems 2 to be addressed. So, in our submission, the answer to 3 that question is that information is relevant to this 4 investigation, but we would just emphasise this: there 5 are with the County Council outstanding some specific 6 requests for disclosure directly relevant to the core of 7 the Janner investigation and we would not wish to see 8 those requests delayed by the production of this broader 9 material which can usefully follow the provision of 10 material in response to the specific requests. 11 Paragraph 11 asks for a date reference for the 12 County Council's focus. All that can be said at this 13 stage is that the Inquiry's terms of reference contain 14 no cut-off date, but that the County Council should be 15 guided by the subject matter of the investigation in 16 determining the scope of its inquiries. 17 Over the page, at paragraph 12, Leicestershire seeks 18 clarification on whether it is intended that the Inquiry 19 would confine its investigations connected to the 20 Kirkwood Inquiry to the allegations in respect of 21 Lord Janner. I have already answered that question and 22 we would submit, Madam, the answer to that question 23 ought to be "Yes", that it is confined to Lord Janner 24 and those associated directly with him. 25 Finally, at paragraph 13, we are asked to clarify</p> <p style="text-align: center;">Page 25</p>	<p>1 Madam, a "core participant", as you are aware, is 2 a person designated by the Chair under rule 5 of 3 the Inquiry rules. The decision whether to make 4 a designation is for you alone. The principal effect of 5 designation is to bestow on the core participant the 6 right to make an opening and closing statement under 7 rule 11 and, if legally represented, to seek leave under 8 rule 10 to ask questions of a witness. 9 Although there is no statutory right to disclosure, 10 fairness is likely to lead to a core participant being 11 granted disclosure of relevant documentation in relation 12 to those parts of an inquiry in which they have a clear 13 interest. 14 It is worth noting that you have previously 15 indicated that it will be rare to permit 16 core participants to ask questions directly, having 17 regard in particular to the need to protect vulnerable 18 witnesses. However, core participants have a right to 19 seek permission to ask questions and you have not 20 excluded the possibility of granting permission in 21 appropriate cases. 22 In exercising your power to designate a person as 23 a core participant, there are factors set out in 24 the rules, but that list is not exhaustive and other 25 relevant matters may be taken into account. The</p> <p style="text-align: center;">Page 27</p>
<p>1 that questions relating to scope could, if necessary, be 2 addressed at a stage subsequent to this hearing. 3 Can I reiterate for all those present that the 4 definitions of scope are not set in stone and can be 5 revisited at any time prior to the conclusion of the 6 evidence. 7 THE CHAIR: Thank you for that. 8 Mr Emmerson, perhaps I should just ask Mr Verdan 9 whether he would care to be heard on any of those 10 matters of clarification at this point. 11 MR VERDAN: Madam Chair, no. Thank you very much. We have 12 listened very carefully to what Mr Emmerson has said and 13 he has answered our preliminary questions on the issue 14 of scope. Thank you for the opportunity. 15 THE CHAIR: If anything does occur to you, do not hesitate 16 to say. This is the opportunity. 17 MR VERDAN: Thank you. 18 THE CHAIR: Yes, Mr Emmerson. 19 MR EMMERSON: Madam, can I now move to the other agenda 20 items and those which are likely to engage submissions 21 from those present today. 22 The first issue is the question of core participant 23 status. I will just outline a few words on this issue 24 for the benefit of those following before you hear from 25 Mr Stein on behalf of Mr O'Mara.</p> <p style="text-align: center;">Page 26</p>	<p>1 decision must, of course, be guided by the principles of 2 fairness, reasonableness and consistency and with regard 3 to the overarching need under the Act itself, in 4 section 17, to avoid incurring unnecessary cost. 5 Madam, in your opening statement, you set out some 6 general indications of your intended approach to the 7 designation of core participants, including three key 8 points. 9 First of all, the core participants would only be 10 designated in relation to individual investigations and 11 not designated across the Inquiry as a whole. 12 Secondly, that victims and survivors of abuse and 13 alleged victims and survivors are likely to be granted 14 core participant status, particularly if they are likely 15 to give direct evidence on matters to which the Inquiry 16 relates. 17 Thirdly, that individuals and organisations that are 18 potentially open to criticism or otherwise meet the 19 rule 5 criteria, including those organisations that are 20 not the direct subject of particular investigations, may 21 also be designated. 22 Having opened applications for core participant 23 status in this investigation in mid-January, the Inquiry 24 received 17 applications on behalf of 26 individuals or 25 organisations. Applying the principals that have been</p> <p style="text-align: center;">Page 28</p>

<p>1 set out, you granted core participant status to 2 Leicestershire County Council, Leicestershire Police, 3 the Crown Prosecution Service, the IPCC, the 4 Home Office, the Department for Education, the 5 Labour Party and 17 complainants in relation to abuse by 6 Greville Janner. 7 In relation to each application you have designated 8 a recognised legal representative under rule 7 of 9 the rules and the Inquiry has received core participant 10 applications in relation to those 17 individuals. 11 At the time of Greville Janner's death, 12 30 individuals had been in contact with 13 Leicestershire Police to allege that they were abused by 14 him. Consequently, it is possible that further 15 applications may be made in relation to other alleged 16 victims and survivors. When and if you receive those 17 applications, you will need to consider whether there 18 are good reasons for granting them out of time. 19 Madam, the Inquiry has not so far received an 20 application for core participant status from the family 21 of Greville Janner. The time limit for making 22 applications has expired, but I should make it clear on 23 the record that it remains open to the Janner family, if 24 so advised, to make an application out of time, 25 providing reasons for the delay, which will, of course,</p> <p style="text-align: center;">Page 29</p>	<p>1 application made on his behalf. 2 You will recognise, as Mr Emmerson QC has set out, 3 that the designation of core participant status brings 4 with it a real opportunity to engage with the 5 investigation and Inquiry. As has already been set out, 6 that includes making opening statements, submissions as 7 to the breadth of the Inquiry, disclosure, suggestions 8 as to lines of cross-examination or indeed potentially 9 applications to cross-examine on behalf of Nigel O'Mara 10 within the terms of the Inquiry. 11 Now, without core participant status being granted, 12 Nigel O'Mara will be outside this particular aspect of 13 the investigation. He won't have the opportunity to 14 make those representations. He won't have the chance to 15 look at the material that will be provided. 16 Today to a limited extent -- and this is said with 17 no criticism at all intended -- there has been 18 a demonstration of that, in that Mr Emmerson has 19 referred a couple of times to a bundle that has been 20 provided for today's purpose, but because I suspect we 21 have not achieved on behalf of Mr O'Mara -- 22 MR EMMERSON: I'm only interrupting just to dispel any 23 misconceptions. The bundle is solely available for the 24 Chair in order to have the material at her disposal. 25 All of the documents within it that are critical to your</p> <p style="text-align: center;">Page 31</p>
<p>1 be considered on their merits. 2 Madam, you have indicated the provisional decision 3 to refuse application for core participant status for 4 applicant Z1 and for Nigel O'Mara. 5 Applicant Z1 has indicated that the application is 6 not to be renewed, but Mr O'Mara renews his applications 7 orally today through Mr Stein. I don't propose to say 8 anything about the renewed applications at this stage. 9 You have the decision that was made available to you in 10 the bundle. 11 THE CHAIR: Just let me turn to that, please. I have it 12 here. 13 Well, it may be convenient to hear -- 14 MR EMMERSON: 7B, ma'am. 15 THE CHAIR: Yes. It is probably convenient to hear from 16 Mr Stein at this point. 17 Yes, Mr Stein. 18 MR STEIN: On behalf of Nigel O'Mara, may we first of all 19 express our gratitude for this opportunity to renew the 20 application for core participant status. 21 The material that you have, Madam Chair: first of 22 all the application that was made on behalf of 23 Nigel O'Mara; secondly, then, the refusal in principle, 24 a decision made by you dated 29 January; and then, 25 finally, more recently, dated 6 March, the renewal</p> <p style="text-align: center;">Page 30</p>	<p>1 client's position are either known to you or on the 2 website. 3 MR STEIN: I am grateful for that explanation. 4 THE CHAIR: No, perfectly proper enquiry, Mr Stein. 5 MR STEIN: So what we have on behalf of Nigel O'Mara is an 6 inability to address the points that relate to the grant 7 of core participant status. 8 Now, you know that Nigel O'Mara is someone with 9 a significant background and involvement as a campaigner 10 in the area of child abuse. He himself was abused in 11 three out of the four homes in which he was placed as 12 a child. Significantly, we suggest on his behalf, we 13 can understand the depth of his involvement as 14 a campaigner when we realise that he started his work as 15 a campaigner, at least in part, with seeking to ensure 16 that male rape was in fact a recognised criminal offence 17 in and of itself. That tells you quite a bit about 18 Nigel O'Mara. 19 Today, he runs the East Midlands Survivors' Hostel 20 in Nottingham for survivors of abuse. Essentially his 21 life has been dominated first of all by his own abuse 22 but then his work and the work that he has done in 23 support of others who have been abused and the 24 counselling that he provided both in the past and to 25 this very date.</p> <p style="text-align: center;">Page 32</p>

<p>1 In the 1990s, Madam Chair, as you are aware, 2 Mr O'Mara, working with others, set up Survivors UK, as 3 he recognised, with others, that there was effectively 4 no specialist organisation that was coping with 5 survivors of male sexual abuse. As part of that, there 6 was set up the first helpline dedicated for survivors of 7 male sexual abuse. 8 Nigel O'Mara was one of the individuals who staffed 9 that helpline. During the early 1990s, he learnt, 10 through repeated calls to the helpline, that 11 Greville Janner was being accused of abusing children. 12 The details were both of the abuse and the taking of 13 those children out of children's homes. It was 14 a significant and highly unusual step for those involved 15 with Survivors UK to decide to report this abuse to the 16 Home Office. That was done on two occasions. No reply 17 was ever received. 18 Nigel O'Mara was also interviewed by the well-known 19 investigative reporter at the time, Roger Cook, for the 20 TV series "The Cook Report", and as part of that 21 interview process also set out the information that he 22 had both about Greville Janner and about Cyril Smith. 23 Sadly that Cook Report was never broadcast. 24 What did happen is that Mr O'Mara and his partner 25 were attacked in their home and warned off their work.</p> <p style="text-align: center;">Page 33</p>	<p>1 children. 2 Nigel O'Mara's account is that he brought forward 3 allegations of abuse. He tried to get the information 4 to the relevant authorities. He and his organisation, 5 set up to deal directly with this type of abuse, we 6 suggest on his behalf, was ignored. Was Nigel O'Mara 7 beaten? Was he attacked because he had raised the alarm 8 to the establishment? He doesn't know. All he can say 9 is that the timing of it was potentially of 10 significance. 11 Now this investigation into Greville Janner will 12 need to look at what was said to the authorities about 13 Greville Janner's abuse of children. This investigation 14 will need to look at why information presented to the 15 highest levels of government were ignored. We suggest 16 that Mr O'Mara has the right to be present and make 17 submissions, to read and digest, be assisted by legal 18 advice and consider the material that would be provided 19 on a confidential basis as part of that investigation. 20 He is, perhaps, in that unusual and potentially 21 unique position before this Inquiry regarding 22 Greville Janner and his activities in that he was 23 a representative of a serious and dedicated organisation 24 which learnt of these complaints, that was targeting 25 itself at supporting and aiding those people who had</p> <p style="text-align: center;">Page 35</p>
<p>1 Mr O'Mara does not know whether that attack was 2 coordinated as a direct result of his report of the 3 abuse that he had learnt was taking place by 4 Greville Janner or indeed Cyril Smith. All he can say 5 was that the attack on himself and his partner appeared 6 planned. That attack was reported to the police; 7 nothing was done about it. 8 Madam Chair, it used to be that suggestions of 9 cover-ups and endemic failures by the authorities were 10 regarded as wild and unbelievable claims. In the 11 current climate we have seen and read Dame Janet's 12 report into Savile and the BBC and we have learnt there 13 that in her report she considered that there was 14 a culture that failed to recognise abuse and failed to 15 deal with it. 16 Recently we have heard, on the Australian Royal 17 Commission investigation, Cardinal Pell blaming others 18 and rarely himself for abuse perpetuated by priests and 19 the Catholic Church failing to do anything about it and 20 arguably covering it up. 21 Yesterday the Essex Police Commissioner announced 22 that as a result of courageous former employees of the 23 Essex Council, there will be an investigation into why 24 Essex social workers failed to properly tackle abuse and 25 in some cases were actively involved in offences against</p> <p style="text-align: center;">Page 34</p>	<p>1 been sexually abused, and both as an individual in 2 reporting them, but also representing a significant 3 organisation, he was ignored. 4 We add that there is also potential for a more 5 sinister side to the way that he was treated. We 6 respectfully suggest that the only way that a refusal to 7 grant core participant status to a survivor and 8 a campaigner in this area of sexual abuse is that there 9 is a tendency yet again for survivors to be ignored. 10 May we assist you, Madam Chair, in considering the 11 areas within which Nigel O'Mara has a significant 12 interest within the core participant principles 13 rule 5(2). 14 He had, as a result of direct reports of victims, we 15 suggest, of Greville Janner's abuse, awareness of 16 Greville Janner's abuse of young people. He had 17 reported that to the highest level, the Home Office. 18 Those warnings and that information provided by 19 Mr O'Mara would have demonstrated that Greville Janner 20 was an abuser and would potentially have provided new 21 leads to any investigation that may have taken place 22 regarding Greville Janner. The timing of when 23 information was provided to Nigel O'Mara through 24 Survivors UK and the helpline that he and others staffed 25 is significant.</p> <p style="text-align: center;">Page 36</p>

<p>1 Mr Emmerson QC has set out in his opening today that 2 survivors of Greville Janner's abuse started to set 3 out -- or started to state what had happened to them in 4 1991. Investigations were ongoing and investigations 5 were not proceeded with. At that same time, 6 Nigel O'Mara received these reports and unsurprisingly, 7 we suggest, those reports were ignored. These are 8 considerable and weighty factors that should pray on the 9 mind of the Inquiry when considering what was going on 10 at the time in the substantial failures to investigate 11 Greville Janner.</p> <p>12 Nigel O'Mara does not achieve a higher status before 13 this Inquiry and would not wish to be just because he 14 has had the breadth and extent of his work recognised as 15 campaigner for so many years. He, generally speaking, 16 is an unassuming man who find himself in an unusual 17 position. But the Inquiry may view Nigel O'Mara as 18 someone who has worked extremely hard in this area and 19 has supported many. In Mr O'Mara and others setting up 20 Survivors UK, they put before the community an 21 organisation that was dedicated to this type of abuse. 22 It is peculiar and reasons need to be considered during 23 this investigation as to why such a campaigner and such 24 an organisation was ignored.</p> <p>25 Mr O'Mara also repeated his information to a team of</p> <p style="text-align: center;">Page 37</p>	<p>1 to the work of this investigation. He would, through 2 his knowledge, be able to also provide proper respectful 3 submissions concerning the outcome of this aspect of the 4 Inquiry so that organisations of which he is part, that 5 he has set up over the years, can have a voice in 6 ensuring that there is a connection between their work 7 and the way that investigations are carried out into 8 potential abusers in the future.</p> <p>9 Madam Chair, you have seen our renewal application 10 on his behalf that sets matters out in greater detail. 11 Other than just taking one moment -- thank you very 12 much -- obviously we can answer any other queries that 13 the tribunal may have.</p> <p>14 THE CHAIR: Yes, of course. Thank you, Mr Stein.</p> <p>15 Mr Emmerson, do you wish to be heard in reply? 16 MR EMMERSON: If I may just briefly, Madam.</p> <p>17 In your provisional refusal decision, you 18 recognised -- and I think we probably all recognise -- 19 the clear commitment and the dedicated work that 20 Mr O'Mara has done over the years, campaigning on behalf 21 of survivors of sexual abuse, but it does not, in our 22 submission, follow that his own interest in this 23 particular investigation -- and it may be different in 24 other investigations that the Inquiry is conducting -- 25 is necessarily sufficient to justify his designation as</p> <p style="text-align: center;">Page 39</p>
<p>1 investigators working with television. We don't know 2 why The Cook Report wasn't broadcast and we don't know 3 what happened to that information, but there appears to 4 have been a failure across the board when dealing with 5 the information being provided by Mr O'Mara that 6 suggested without any doubt that Greville Janner was an 7 abuser. I have touched upon the more sinister aspect.</p> <p>8 Nigel O'Mara does not himself claim because he can't 9 know whether there was a clear connection between his 10 report of the abuse perpetuated by Greville Janner and 11 the beating that he and his partner suffered, but the 12 timing is significant. There is the potential for not 13 only reports being ignored and a culture existing at the 14 time, but the potential for a deliberate cover-up in 15 relation to those individuals that were brave enough to 16 make such reports.</p> <p>17 This Inquiry and this aspect of the Inquiry in terms 18 of the investigation will be considering how significant 19 public figures were dealt with, whether they were dealt 20 with in a way that was unique or special and the reasons 21 why. We suggest that Nigel O'Mara, not only through the 22 information that he could provide clearly as a witness, 23 but also through his overall work in the decades that he 24 has been a counsellor and survivor himself and 25 campaigner in this area, would contribute significantly</p> <p style="text-align: center;">Page 38</p>	<p>1 a core participant.</p> <p>2 I simple point out to you, Madam, that Mr O'Mara is 3 not, in effect, applying for core participant status on 4 the basis that he has first-hand experience relating to 5 the allegations against Lord Janner or any institutional 6 failures relevant to that, but, rather, that he has 7 received information from three individuals who alleged 8 that they were abused by Lord Janner.</p> <p>9 I will return to the question of the beating in 10 a moment, if I may.</p> <p>11 On a general level, of course it seems very much as 12 though Mr O'Mara is a witness from whom the Inquiry will 13 want to hear. It seems that he may well have relevant 14 evidence to give, but of course not every witness is 15 necessarily a core participant in the proceedings.</p> <p>16 I think it is right, if I may, just to record one 17 matter of significant disagreement. That relates to the 18 suggestion that a refusal of core participant status to 19 Mr O'Mara would somehow betoken a decision to ignore the 20 interests of victims and survivors. That suggestion was 21 wrong and it probably shouldn't have been made. There 22 are 17 complainants who do have a direct relevant 23 interest in this investigation in relation to whom you 24 have granted core participant status, so the suggestion 25 that there is anything other than an entirely objective</p> <p style="text-align: center;">Page 40</p>

<p>1 judicial decision-making process applying the rules is, 2 in our submission, wrong. 3 So if I can just draw the threads together. Whilst 4 of course Mr O'Mara has potentially relevant evidence to 5 give and whilst it remains open to him to provide the 6 Inquiry with written submissions in addition, it is 7 entirely a matter for you, but you may doubt whether or 8 not his interest goes to the statutory test or enables 9 him to overcome that threshold. 10 So far as the beating allegation is concerned, we 11 will want to look carefully as to whether or not there 12 is any evidence to support a link between that incident 13 and the matters under investigation in this Inquiry. 14 I don't know if that would be a convenient moment or 15 whether Mr Stein wants to reply. 16 MR STEIN: Only briefly. We don't resile from the 17 suggestion we made. The difference is, on behalf of 18 Mr O'Mara, not only was he a campaigner, but he 19 represented an organisation. It is that aspect which 20 there is a dangerous tendency that could be ignored 21 within this part of this investigation into the 22 activities of Greville Janner. 23 The question my learned friend -- falling into court 24 tendencies, apologies -- the suggestion being made by 25 Mr Emmerson QC that there is no evidence to link the</p> <p style="text-align: center;">Page 41</p>	<p>1 thought this was a good moment for an adjournment. 2 THE CHAIR: Yes, I think so. 3 (11.38 am) 4 (Break taken) 5 (11.59 am) 6 THE CHAIR: First of all, my apologies. I understand that 7 people at the back of the room are having difficulty 8 hearing. I did not realise that the microphone is not 9 in fact a microphone, it is a recording device, so 10 I will speak in my normal voice. 11 Mr Emmerson? 12 MR EMMERSON: Madam, arising out of that, I have been asked 13 to clarify two things that I said which people were not 14 able to hear at the back of the room. 15 The first was the date period during which it is 16 alleged that Lord Janner committed these offences, which 17 is 1955 to 1988. The second is the number of 18 individuals who have come forward to make allegations of 19 sexual offending by Lord Janner was more than 30 -- 30, 20 not 13 -- which I think some people heard. 21 Before we move on from the question of 22 core participant status -- 23 THE CHAIR: I need to get back to Mr Stein, first, I think. 24 Mr Stein, I have not really been able to give your 25 application the attention I feel it deserved during the</p> <p style="text-align: center;">Page 43</p>
<p>1 beating with a complaint made about Greville Janner, the 2 difficulty is that, without having access as 3 a core participant to the material that may be provided 4 and without the ability, whilst looking at that 5 material, to make targeted submissions as to disclosure, 6 Mr Emmerson would sadly be right because he would be 7 denied the opportunity of properly engaging with the 8 investigation into Greville Janner's activities and 9 looking at that material and that would be, we suggest, 10 an outcome that this Inquiry would not wish. 11 THE CHAIR: Yes, thank you, Mr Stein. 12 Mr Emmerson, I will just finish addressing Mr Stein 13 for a moment. 14 Mr Stein, you have given me a great deal to consider 15 in your very careful and thorough and detailed 16 submissions. I'm going to take an adjournment now in 17 any event and I will take the time over that adjournment 18 to see whether I am able to reach any firm decision 19 today. But it may be that I will want to really 20 consider quite carefully all that you have said and the 21 history of the submissions. 22 MR STEIN: Yes. 23 THE CHAIR: Thank you. 24 Mr Emmerson? 25 MR EMMERSON: No, I was simply going to ask whether you</p> <p style="text-align: center;">Page 42</p>	<p>1 adjournment. By the time I walked to the chambers and 2 back, there was little time for reflection. So I will 3 reserve my decision for now and let you have that in 4 writing as soon as possible. 5 MR STEIN: Thank you, Madam Chair. 6 MR EMMERSON: So, Madam Chair, before we park the question 7 of core participant status, I thought it might be 8 helpful to you and also to those following these 9 proceedings if the institutional core participants were 10 to explain very briefly what their interest is in the 11 process and the reason why they are here. 12 THE CHAIR: These are those who have been granted 13 core participant status? 14 MR EMMERSON: Exactly. The organisations starting from your 15 right to left, front row, and then the second row. 16 THE CHAIR: Ms Dux? 17 MR EMMERSON: I think the position of Ms Dux is clear. 18 She's representing a group of survivors who have been 19 given anonymised core participant status. I'm simply 20 interested to hear the position -- and I thought you 21 might be interested to hear the position -- of the 22 institutional core participants. 23 THE CHAIR: Right. So who would like to go first? 24 Mr Verdan? 25 MR VERDAN: I am Mr Verdan for Leicestershire</p> <p style="text-align: center;">Page 44</p>

<p>1 County Council, Madam Chair. Leicestershire County 2 Council were the relevant local authority that were 3 responsibility for the children's homes at the relevant 4 times. 5 THE CHAIR: Thank you. Ms Leek or Ms Woolf? 6 MS LEEK: Madam, the Chief Constable of 7 Leicestershire Police investigated the allegations 8 against Lord Janner in 1991 and on subsequent occasions. 9 THE CHAIR: Yes, thank you. 10 Now, Mr Brown? 11 MR BROWN: We are very grateful for being allowed 12 core participant status here. The Crown Prosecution 13 Service were plainly closely involved in some important 14 decisions in at least 1991 and 2006 and, as you know, 15 more recently also. As you know, the importance the CPS 16 places on an examination of these past decisions is 17 perhaps reflected by the decision by the present 18 director to ask Sir Richard Henriques to report as he 19 did and make representations as he did. We will, on 20 behalf of the Crown Prosecution Service, play as 21 positive a part in this Inquiry as we possibly can. 22 THE CHAIR: Yes, thank you very much, Mr Brown. 23 Ms Canby? 24 MS CANBY: Madam Chair, Ms Canby for the IPCC. The IPCC is 25 currently conducting an independent investigation under</p> <p style="text-align: center;">Page 45</p>	<p>1 MS GREY: Madam, as you know, I'm here on behalf of the 2 Labour Party and we are grateful for the grant of 3 core participant status, which will enable us to 4 participate and we hope contribute to your work. Our 5 interest in this matter, of course, arises out of the 6 announced scope of your investigation, which proposes to 7 investigate the extent to which there was a knowledge 8 within the party of the allegations against Lord Janner. 9 Can I just take this opportunity to state clearly, 10 Madam, that the Labour Party is here to assist the 11 Inquiry in its investigation of these issues, including 12 those of any institutional failures, and we will 13 cooperate fully with the Inquiry and are committed to 14 working with it to ensure to enable and assist the 15 Inquiry in conducting a complete and full investigation 16 and to answer the questions that it has posed in its 17 module. 18 THE CHAIR: Thank you, Ms Grey. I anticipate these matters 19 will be put on our website for the public to know who 20 has core participant status and the basis of that. 21 MR EMMERSON: I think there is one more and that is the 22 Home Office. 23 THE CHAIR: I do beg your pardon. 24 MS WALKER: Madam Chair, it's Amelia Walker representing the 25 Home Office today.</p> <p style="text-align: center;">Page 47</p>
<p>1 the Police Reform Act 2002 into the response of 2 Leicestershire Police from 1991 to 2006 in relation to 3 allegations of child abuse by Janner. 4 THE CHAIR: Yes, thank you very much. 5 Do we go next to the Secretary of State for 6 Education? So Ms McGahey, Madam. 7 MS MCGAHEY: Madam, the Department for Education is 8 responsible for education and children's services in 9 England. It has responsibilities at a national level 10 for both legislation and policy concerning child 11 safeguarding and protection. It also oversees the 12 provision of education and children's services at 13 a local level by local authorities, faith organisations 14 and others. 15 Of particular relevance to this Inquiry, the 16 Kirkwood Inquiry was a statutory inquiry set up under 17 the direction of the Secretary of State for Health. The 18 Department of Education's national policy and 19 legislative responsibilities were, until 2003, held by 20 the Department of Health. That department has not 21 applied for core participant status, but it will work 22 closely with the Department of Education to assist the 23 Inquiry. 24 THE CHAIR: Yes. Thank you very much indeed. 25 Ms Grey?</p> <p style="text-align: center;">Page 46</p>	<p>1 THE CHAIR: Yes, Ms Walker. 2 MS WALKER: The Home Office is the government department 3 responsible to Parliament for law and order and 4 considers that its interests are engaged by, in 5 particular, paragraphs 2.1, 2.3 and 2.4 of the scoping 6 document for this investigation. Those paragraphs have 7 already been set out by Mr Emmerson QC. Thank you, 8 Madam. 9 THE CHAIR: Yes thank you. 10 Yes, Mr Emmerson. 11 MR EMMERSON: Thank you, Madam. This might be just a moment 12 to return to my team, who I realised that I failed to 13 introduce at the outset. 14 So I appear with my learned friend Toby Fisher to my 15 right -- 16 THE CHAIR: Mr Fisher. 17 MR EMMERSON: -- and my learned friends Alexandra Felix and 18 Abigail Bright to my left. 19 THE CHAIR: Yes. 20 MR EMMERSON: Can I deal with one or two short matters first 21 of all? 22 THE CHAIR: Do you seek leave to withdraw, Mr Stein, or are 23 you happy to stay? You have permission to withdraw 24 should you -- 25 MR STEIN: Considering that the status on behalf of</p> <p style="text-align: center;">Page 48</p>

<p>1 Mr O'Mara is at the moment uncertain, I think it would 2 be best if we stayed -- 3 THE CHAIR: Of course. 4 MR STEIN: -- so that we can at least be informed as to the 5 full extent of this particular aspect of the preliminary 6 hearing. 7 THE CHAIR: Yes, of course. 8 MR EMMERSON: Madam, as you are aware, core participants and 9 in some circumstances witnesses and others may be 10 entitled to funding of their legal representation at 11 public expense under the scheme established under the 12 Act and the rules. 13 As you indicated in your opening statement, it's not 14 expected that institutional core participants will be 15 making applications for legal funding. They will rather 16 be expected in almost all circumstances to bear their 17 own legal costs. But it is likely that there will be 18 applications for funding on behalf of individual 19 complainants and others. 20 The Inquiry has published a costs protocol setting 21 out guidance on the principles that will apply to 22 applications for funding. You will need to receive 23 applications from any party interested in receiving 24 funding in the near future. I'm going to suggest that 25 applications should be made by 24 March of this year.</p> <p style="text-align: center;">Page 49</p>	<p>1 purposes of both the investigation and the determination 2 of the core participant application. Where an alleged 3 victim or survivor has indicated a desire for anonymity, 4 the Inquiry has anonymised their identity for the 5 purposes of the core participant process and given them 6 a cipher. That is what I have referred to as 7 "provisional anonymisation". 8 However, in order for you to grant anonymity going 9 forward, an application must be made by the alleged 10 victim for a restriction order under section 19(2)(b) of 11 the 2005 Act. Many of these alleged victims are likely 12 to be entitled to statutory anonymity under the 13 Sexual Offences (Amendment) Act 1992, nevertheless it 14 will be still necessary for each application for 15 anonymity to be individually determined with regard to 16 its own facts. 17 The task of getting at the truth in a public inquiry 18 does not necessarily require that the identity of 19 everyone who gives evidence at the Inquiry should be 20 disclosed in public. The Panel will know the identity 21 of the witness and, unlike the court, would itself take 22 responsibility, through Counsel to the Inquiry, for 23 investigating their credibility if there is reason to 24 think that such an investigation is necessary. That 25 said, Madam, you will wish to consider carefully whether</p> <p style="text-align: center;">Page 51</p>
<p>1 24 March 2016. That is the suggestion put forward. 2 I don't know whether you would like to hear or whether 3 there are submissions from anybody else as to the 4 practicalities of that. 5 THE CHAIR: Does anybody wish to be heard on this? 6 No, sir. 7 MR EMMERSON: Madam, can I turn to the question of 8 anonymity, special measures and broadcasting? 9 Whilst of course anonymity and special measures are 10 separate questions from broadcasting, the way in which 11 they have been dealt with by the parties and indeed 12 logically, they interact, the one with the other, since 13 the granting of protective measures may diminish any 14 impact adversely on individuals that would otherwise 15 follow from public broadcasting. 16 Anonymity first. In your opening statement, Madam, 17 you said that victims and survivors who wish to give 18 evidence without their identity or appearance being made 19 public would be able to do so if they wish. It might 20 also be appropriate in other limited circumstances to 21 offer anonymity to potential witnesses who are not 22 victims or survivors. 23 A number of the alleged victims who have applied for 24 core participant status in this investigation have 25 requested that the Inquiry grants them anonymity for the</p> <p style="text-align: center;">Page 50</p>	<p>1 all or some of core participants should be entitled to 2 know a particular witness's identity, subject to 3 obligations on them to keep it confidential. In some 4 cases, it might be unfair to make a restriction order 5 which prohibits the disclosure of a witness's identity 6 to a core participant against whom that witness gives 7 direct evidence. 8 In your opening statement, Madam, you also committed 9 to offering a full range of special protective measures 10 to alleged victims and survivors who give evidence, 11 including the use of screens, face and/or voice 12 distortion and the use of video-links or video-recorded 13 testimony. 14 In order to provide any of these measures as part of 15 the Janner hearings, further applications will need to 16 be made in due course. In the case of a particularly 17 vulnerable witness, it might be necessary to consider 18 the appointment of an intermediary. However we don't, 19 subject to your views, Madam, consider that it would be 20 useful to invite applications for special measures at 21 this hearing or at this stage or indeed until such time 22 as we have identified the full list of witnesses from 23 whom we are intending to call oral evidence. 24 So again, I will pause if I may just to see if 25 anybody wishes to rise and address you on that. But our</p> <p style="text-align: center;">Page 52</p>

<p>1 submission is that it is premature to be considering 2 applications at this stage. 3 THE CHAIR: Well, you are signalling. 4 MR EMMERSON: Yes. 5 May I then move on to the question of broadcasting, 6 on which I do anticipate that there will be submissions. 7 Indeed, we have encouraged submissions to be made orally 8 because some of the submissions that have been made in 9 writing raise important issues that would benefit from 10 a brief disciplined public airing. 11 Madam, in your opening statement you said the 12 Inquiry Panel will invite representations from all 13 core participants about media coverage at the relevant 14 time and then determine the applications on their 15 merits. You emphasise that particular attention would 16 need to be paid to the views of victims and survivors, 17 alleged victims and survivors, so that they are able to 18 testify under conditions in which they feel safe. 19 We have, Madam Chair, submitted to you and to the 20 Panel a generic written submission on the factors that 21 may be relevant to your decisions in relation to 22 broadcasting and the extent to which broadcasting or 23 live-streaming should be allowed in any particular 24 hearing. This has been disclosed and made available to 25 the core participants and to the media, the broadcast</p> <p style="text-align: center;">Page 53</p>	<p>1 been done in other inquiries, providing designated media 2 seating in the hearing room and, if necessary, in an 3 overflow annex showing a live video-feed; granting 4 permission to use live text-based communications from 5 the Inquiry room; providing live transcription of the 6 proceedings visible within the Inquiry room; and posting 7 all transcripts and evidence to the Inquiry website. 8 Broadcasting or live-streaming would clearly go 9 further to satisfy the public interest in transparency, 10 however there may be compelling reasons to refuse or 11 restrict it in this Inquiry. Most, if not all, of the 12 witnesses who are victims or survivors of child sexual 13 abuse or alleged victims or survivors will have 14 a statutory right to anonymity by virtue of section 1 of 15 the 1992 Act. That right makes it an offence for any 16 still or moving picture of that person to be shown on 17 any programme for reception in England and Wales if it 18 is likely to lead members of the public to identify that 19 person as a person against whom a sexual offence has 20 alleged to have been committed. Consequently, any 21 decision to allow broadcasting of the proceedings would 22 need to take this into account and would need to devise 23 methods to preserve anonymity. 24 An important factor which might be thought to weigh 25 against the broadcasting is the risk that it could in</p> <p style="text-align: center;">Page 55</p>
<p>1 media, who are participating in writing in this hearing. 2 In those submissions, Madam, we have not taken any 3 position on whether proceedings should or should not be 4 broadcast or live-streamed, but we have sought simply to 5 set out the factors that will need to be considered by 6 you after receiving submissions from media 7 representatives and core participants. 8 In summary, the way that we have put it is that the 9 public interest in this Inquiry demands that it receives 10 the widest publicity possible. The need for 11 transparency in the investigation of institutional 12 failures to protect children from sexual abuse weighs 13 strongly in favour of ensuring that the evidence and 14 findings of this Inquiry are given wide exposure. 15 A decision to allow broadcasting or live-streaming would 16 serve that objective. 17 In relation to the Janner investigation, there is 18 a particularly strong public interest in the 19 broadcasting of proceedings, not least because one of 20 the key allegations of part of the investigation is that 21 previous inquiries were subject to insufficient public 22 scrutiny. 23 We have suggested that there are a range of 24 uncontroversial measures that will go some way to 25 addressing the need for publicity. They are, as has</p> <p style="text-align: center;">Page 54</p>	<p>1 some cases have an adverse effect on the willingness of 2 victims and survivors to give evidence and, if they do 3 give evidence, they may be inhibited from speaking 4 frankly or find the experience otherwise stressful or 5 difficult. 6 Finally, there is a risk that some witnesses could 7 use the opportunity provided by live broadcast to make 8 public allegations of criminal conduct against named 9 individuals who are not involved in the Inquiry process, 10 have no advance warning of the allegations and no legal 11 recourse for defamation. 12 These concerns can, we submit, be met to some extent 13 by a range of protective measures which we have outlined 14 in our submissions. So that includes protective 15 measures within the hearing room, special broadcasting 16 measures where appropriate, including interrupting 17 a video-feed where necessary, and introducing a delay in 18 transmission. 19 None of those measures might be thought to be 20 fundamentally objectionable, but, Madam, you will need 21 to consider, having heard submissions, whether their 22 cumulative effect might render broadcasting ineffective, 23 unworkable or, in practical terms, undesirable. 24 Whatever the arguments for or against broadcasting, 25 the decision must, we submit, be taken in relation to</p> <p style="text-align: center;">Page 56</p>

<p>1 each individual investigation and not in relation to the 2 Inquiry as a whole. Core participants in each 3 investigation must have the opportunity to make 4 submissions on broadcasting in that investigation and it 5 would be unfair and wrong in principle to bind the 6 core participants in other investigations to a decision 7 made in Inquiry proceedings which they were not a party 8 to or a core participant in.</p> <p>9 Individual assessments will be necessary for each 10 complainant and any other witness to be called in order 11 to inform the exercise of your discretion. I should say 12 that the solicitors who represent victim/survivor -- 13 alleged victim/survivor -- complainant core participants 14 in today's proceedings have very helpfully, in their 15 written submissions, taken initial instructions from the 16 clients they currently represent in order to give 17 a feeling for what the likely response is. It is fair 18 to say that the responses, as one would expect, vary 19 from individual to individual, but I will leave them to 20 develop those matters if I may.</p> <p>21 My point is simply that we can't make final 22 decisions -- you cannot make final decisions -- until 23 you have available to you a mature assessment of the 24 position of each witness. That can only be achieved 25 once we know precisely who the witnesses are.</p> <p style="text-align: center;">Page 57</p>	<p>1 consider adopting alternative measures rather than 2 a suspension of broadcasting.</p> <p>3 Essentially, Madam, they, in outline, agree with the 4 approach adopted by Counsel to the Inquiry in our 5 generic submission, whilst emphasising the public 6 interest in open broadcasting.</p> <p>7 Quality solicitors, that is Mr Peter Garsden from 8 Abney Garsden, have provided a written submission on 9 behalf of the eight complainants they represent. Very 10 briefly, it is submitted that, in the light of the risks 11 of non-attendance and the inhibiting effect of 12 broadcasting, any evidence by alleged victims should be 13 held in camera and not the subject of any form of 14 reporting at the time of the hearing at all.</p> <p>15 The position of the Chief Constable of 16 Leicestershire was set out in an email from his 17 representative to the Inquiry on 1 March. The 18 Chief Constable has expressed concerns about the 19 potential for inappropriate material to be broadcast 20 that might prejudice ongoing police investigations.</p> <p>21 Leicestershire County Council have indicated they 22 are neutral on the question of broadcast, but reiterate 23 the points raised in Counsel to the Inquiry's generic 24 submissions, that decisions should be made on 25 a case-by-case basis and protective measures provided</p> <p style="text-align: center;">Page 59</p>
<p>1 It is a process that is likely to take a little 2 time, but, on the other hand, has to be resolved well in 3 advance of the substantive hearings. So we are going to 4 suggest in timetabling terms that the matter is listed 5 for a determination with the benefit of informed 6 submissions at a further preliminary hearing prior to 7 the summer recess. I will come back to that on 8 timetable, if I may.</p> <p>9 I'm going to conclude the points that I want to make 10 about broadcasting and then invite you to hear from 11 other parties, if I may. A number of the parties have 12 provided written submissions on the issue and those have 13 been circulated to all core participants; that is to say 14 those submissions or parts of submissions that deal with 15 broadcasting.</p> <p>16 The broadcast media in the form of BBC, BSkyB and 17 ITN have put a written submission in, but are not 18 represented here today. Nonetheless, of course, their 19 submissions will form part of the material that you will 20 want to consider before reaching your decision. Their 21 case or their position, if I can put it in very brief 22 summary, is that permission should be granted for 23 broadcasting unless there are compelling reasons to the 24 contrary. They suggest this should be assessed on 25 a case-by-case basis and that the Inquiry should</p> <p style="text-align: center;">Page 58</p>	<p>1 where appropriate.</p> <p>2 Slater & Gordon -- Ms Dux appears today -- who 3 represent nine of the complainants, have raised concerns 4 about live broadcasting and suggest specific measures to 5 protect their clients' anonymity.</p> <p>6 The CPS endorse the position taken by Counsel to the 7 Inquiry in the generic submission and have recommended 8 a flexible approach to broadcasting, depending on the 9 factual context of each investigation. They suggest 10 a delay of a few minutes to transmission could be made 11 to allow unexpected and inappropriate evidence to be 12 edited. That is a brief and, I am sure, inadequate 13 summary of the written submissions that have been filed.</p> <p>14 May I just say that these particular submissions, 15 concerning, as they do, public access to the proceedings 16 in this Inquiry, will be lodged on the Inquiry's website 17 as soon as they reasonably can be, though that does not 18 indicate an intention on the part of this Inquiry to 19 publish every document or every submission it receives 20 in due course. But this particular submission or series 21 of submissions will in due course be uploaded onto the 22 website. Nonetheless, given that they are not on the 23 website at the moment, I thought it might be helpful for 24 you to hear from those who are present as to their 25 position.</p> <p style="text-align: center;">Page 60</p>

15 (Pages 57 to 60)

<p>1 THE CHAIR: Yes, thank you, Mr Emmerson. 2 Who would wish to be heard on the issue of 3 broadcasting? 4 Yes, Ms Dux. 5 MS DUX: Madam, I represent nine of the complainants. We 6 have had the opportunity, as learned counsel has said, 7 of speaking to all of them and obtaining their 8 instructions on the issue of broadcasting. 9 They face a difficult dilemma in this matter, Madam. 10 They wholly support the aims of the Inquiry in terms of 11 transparency, openness and full and frank investigation 12 and they very much want to participate as fully as 13 possible and they wholly support that there should be 14 public scrutiny. 15 Having said that, we have to balance the need to 16 protect vulnerable complainants and protect their 17 statutory right to anonymity. Many have told us that 18 they would feel very, very nervous indeed and that, in 19 fact, it might stop them coming forward and giving 20 evidence at all. The main issue they have is their 21 identity being disclosed. 22 These people largely came from the Leicestershire 23 area. Many of them still live there and some of them 24 have been threatened in the past. Some of them have not 25 told their families about what has happened and are very</p> <p style="text-align: center;">Page 61</p>	<p>1 say something about that. Some of them did so a long 2 time ago without realising exactly what was happening. 3 Some of them have done so in very broad terms to 4 highlight what was happening, particularly when the 5 decision not to prosecute was made, but they feel very 6 differently about the sensitive and very deeply personal 7 nature of their evidence being broadcast and have been 8 quite vociferous about that. 9 There has been a massive level of media interest. 10 Some of them have had the press turn up on their 11 doorstep on numerous occasions. They have already been 12 identified by the media. Some of them report to us that 13 they feel prisoners in their own homes and that is of 14 great concern to them. So we are more than happy to 15 provide detailed statements from all of them and the 16 issues that they have all raised have been highlighted 17 in our submissions. 18 THE CHAIR: Thank you, Ms Dux. 19 Yes, Mr Verdán? 20 MR VERDAN: Madam Chair, on behalf of Leicestershire 21 County Council you have our written note. I think it is 22 at tab 10. Mr Emmerson QC has summarised our position 23 accurately and fairly. 24 Leicestershire County Council agree with the 25 approach of the Inquiry, agree that there should be the</p> <p style="text-align: center;">Page 63</p>
<p>1 nervous about their anonymity being revealed. 2 Most of them very much want to give evidence in 3 person and want to look at the tribunal in the face. 4 They do not particularly want to be in a separate room. 5 They are quite happy to be screened off. They are 6 worried about the repercussions of being identified. 7 They are particularly worried about their voices being 8 recognised and this is an issue which you will need to 9 consider. 10 They are also very worried about jigsaw disclosure. 11 What I mean by that is, where their age and the home 12 that they were at is disclosed, that they are then 13 clearly identifiable to their families or to their 14 community by virtue of where they were at a certain 15 time. So those issues of redaction may need to be 16 considered. 17 They are very much of the view that there shouldn't 18 be less protection in the Inquiry than they would have 19 had in a criminal court. They are giving evidence of 20 a highly, highly sensitive nature and, although there 21 has been live broadcasting of many other inquiries, none 22 as sensitive as this, and it is highly sensitive 23 personal evidence that they will be giving. 24 I should point out that some of them have waived 25 their anonymity in the press already. I just want to</p> <p style="text-align: center;">Page 62</p>	<p>1 widest possible publicity, but obviously understand 2 that, on a case-by-case basis, special protective 3 measures will be needed. 4 Thank you. 5 THE CHAIR: Thank you very much. 6 Yes, Ms Leek. 7 MS LEEK: Madam, Leicestershire Police entirely accept the 8 approach adopted in paragraphs 12 to 22 of Counsel to 9 the Inquiry's submissions. We would only add this: as 10 you are aware, there are ongoing police investigations 11 and you and Counsel to the Inquiry will need to ensure 12 that there should be a restriction on the broadcasting 13 or reporting of any material which could prejudice or 14 jeopardise any ongoing criminal investigation. 15 THE CHAIR: Yes. 16 MS LEEK: We have nothing more to add. 17 THE CHAIR: Yes, thank you, Ms Leek. Does anyone else wish 18 to be heard? 19 MR GARS DEN: Yes, please. 20 THE CHAIR: Yes. 21 MR GARS DEN: Madam, I act on behalf of eight core 22 participants who, like Ms Dux's victims, are alleged 23 victims of abuse by Lord Janner. 24 It is fair to say that we have received instructions 25 from more than eight, but some of them have not applied,</p> <p style="text-align: center;">Page 64</p>

<p>1 but probably will do so in the near future because they 2 are presently uncontactable.</p> <p>3 We have not been able to take instructions from all 4 our clients for various reasons. Details are set out in 5 our written submissions. But those we have been able to 6 take instructions from vary in their attitude to both 7 anonymity and broadcasting.</p> <p>8 I think it is fair to say that we have not been able 9 to take instructions from four, but of the four that we 10 have taken instructions from, one of them wishes to make 11 an application to waive his anonymity, and that will 12 take place in due course. The reason he says that is 13 because he has been identified in the national press.</p> <p>14 Whether that application is appropriate is a matter 15 obviously for the tribunal in due course. The remainder 16 want to remain anonymous for the same reasons as 17 Ms Dux's clients, namely that their family do not know 18 about these allegations, and they are very sensitive and 19 nervous and anxious to remain confidential.</p> <p>20 I thought it might assist you, Madam, if I outline 21 the sort of mental state that these individuals are 22 presently in. There is no doubt that they are on the 23 fringes of mental health, if not being treated for 24 various psychiatric and psychological disorders. Mental 25 injury is very difficult to identify and recognise, but</p> <p style="text-align: center;">Page 65</p>	<p>1 which victims of abuse suffer as they are specific 2 instructions from the clients from whom we have been 3 able to take instructions. There is no doubt that, once 4 abused, particularly at an adolescent age, at times of 5 puberty, the individual descends into psychological 6 freefall, indulges in various techniques to stop the 7 effect of that harm being manifested, such as drink, 8 drug, attempts at suicide, self-harming and many other 9 features which I am sure you are all too familiar with.</p> <p>10 Therefore what they tend to do is put those dreadful 11 memories behind them until some time later in life, and 12 in this case obviously there have been several police 13 investigations which have gone nowhere until the most 14 recent one. Certainly the media and publicity which has 15 taken place, understandably as a result of all this, 16 impacts upon them deeply, turns them to depression and 17 various different disorders of numerous types, which 18 psychiatrists and psychologists can no doubt address you 19 on. So therefore to expect that type of person to give 20 evidence in public is almost a step too far.</p> <p>21 We are in a classic state of conflict here in that 22 one of the things they are most angry about is the 23 allegations of cover-up, the attempts at prosecution 24 which have failed, the feeling that they have been 25 ignored, and therefore they are very anxious for</p> <p style="text-align: center;">Page 67</p>
<p>1 I think it is fair to say that all our clients have had 2 in the past or are having presently various types of 3 treatment for the psychological harm from which they are 4 suffering.</p> <p>5 That takes various forms: typically depression of 6 a severe nature; a failure to trust authority. They do 7 not trust anybody in authority, whether it be this 8 Inquiry, the police or other public bodies such as local 9 authorities. Therefore, to encourage them to come 10 forward and give evidence in public is almost an 11 impossible task.</p> <p>12 They are all victims of abuse in childhood by 13 usually somebody in a position of authority. Certainly 14 in these cases obviously this involves Lord Janner, but 15 care-workers typically, and they generally come from 16 a care background. They have generally had very poor 17 upbringings and that is the reason they are in care, and 18 they are suddenly abused by somebody who perhaps they 19 have trusted for the first time. They spend the rest of 20 their life wishing that they had spoken out about it at 21 the time and that is what leads to deep psychological 22 harm.</p> <p>23 I have been representing the victims of abuse now 24 for the last 22 years, so the submissions that I make 25 are as much from my experience of the typical symptoms</p> <p style="text-align: center;">Page 66</p>	<p>1 transparency and for this Inquiry to be broadcast. They 2 are very enthusiastic about it and want to help.</p> <p>3 However, my submission and I think that of Ms Dux is 4 that, whilst the remainder of the Inquiry should be 5 broadcast, when it comes to their evidence, the audio- 6 and video-feeds should be switched off and their 7 evidence given in camera. Whether or not that involves 8 the clearing of the public gallery -- I suspect it 9 does -- there has not been mentioned evidence in 10 a separate room, but that is a usual facility special 11 measure offered. I understand from Mr Emmerson that the 12 Inquiry would not be opposed to that suggestion, but 13 whether it would be possible, I know not.</p> <p>14 I agree with Ms Dux that if these witnesses have to 15 give evidence in public on a live-stream broadcast, they 16 would probably suffer psychological harm, worry, 17 anxiety, stress. They may turn back to anaesthetic 18 measures, such as drink or drugs, and have to resume 19 whatever treatments or perhaps be drugged to help them 20 relax. That is not something that I personally would 21 like to put them through and I don't think the Inquiry 22 would either.</p> <p>23 So, my submissions are that, if one looks at the 24 submissions of the broadcasting authorities, they 25 mention article 10 of the Human Rights Act. They</p> <p style="text-align: center;">Page 68</p>

<p>1 conveniently do not mention article 8, which of course 2 is the right to privacy, and privacy, I say, extends not 3 just to anonymity, but to being identified in any way 4 when this Inquiry takes place. 5 I think that our clients are in a very special 6 position. They are some of the most vulnerable and 7 badly damaged members of society. They have usually not 8 worked, are unable to trust an employer, have very low 9 self-esteem, and should be put in a very special 10 position and protected from suffering further harm. 11 That involves them feeling as safe as they can and 12 feeling as safe as they can, in my submission, means 13 giving evidence in camera. 14 I think there is some precedent, Madam, in that the 15 Australian Commission has held a very similar Inquiry. 16 I wish I could tell you knowledgeably what arrangements 17 they have, but I am sure you know better than I, and 18 that if evidence in camera was permitted in Australia or 19 is being permitted, as it is currently running, then 20 I would commend whatever decisions it has made to this 21 Inquiry and ask you to follow that. 22 I don't think I have any further submissions. 23 I hope that has been helpful. Thank you. 24 THE CHAIR: It has been very helpful, thank you. 25 MR STEIN: Madam Chair, I wonder whether, in anticipation,</p> <p style="text-align: center;">Page 69</p>	<p>1 identification. 2 THE CHAIR: Yes, thank you, Mr Stein. 3 Does anyone else wish to be heard? 4 Mr Emmerson. 5 MR EMMERSON: I didn't propose to go in any detail in reply 6 unless there are particular matters on which you would 7 require my assistance. May I simply ... I am so sorry. 8 MS WALKER: Madam, I'm slightly late to come to my feet. 9 THE CHAIR: That's perfectly all right. 10 MS WALKER: I just wanted to make some submissions about the 11 Home Office's position in respect of broadcasting. 12 The Home Office is keen to encourage full openness 13 and transparency in the operation of the Inquiry and in 14 principle is supportive of proceedings being broadcast, 15 but is also, of course, keenly aware of the need to 16 ensure that no witnesses are discouraged from being full 17 and frank in their testimony. 18 Thank you, Madam. 19 THE CHAIR: Thank you, Ms Walker. 20 Any other counsel? Mr Brown? 21 MR BROWN: Could I just add, of course, Madam Chair, 22 broadcasting in the view of the CPS is plainly in the 23 public interest. You have to balance that with a need 24 to ensure that there is no discouragement to witnesses 25 being completely free to say as much as they wish.</p> <p style="text-align: center;">Page 71</p>
<p>1 we hope, of a favourable decision regarding core 2 participant status of Mr O'Mara, let me just make these 3 remarks. They are very short. 4 THE CHAIR: Yes, of course, Mr Stein. 5 MR STEIN: At paragraph 22, page 6, of the renewal 6 application, at the last two bullet points we address 7 this particular issue. 8 The point that we would make on behalf of Mr O'Mara 9 really is this: obviously there are both survivors, 10 complainants and victims that will be witnesses, but 11 there are also those that are witnesses to abuse and 12 whistle-blowers, either current or potential, and they 13 need to be considered within this ambit of protection 14 before the Inquiry. 15 We echo the comments being made already on behalf of 16 survivors that there is a deep lack of trust. Mr O'Mara 17 is someone who has experienced that throughout his work. 18 The lack of trust extends to all authorities and the 19 concern obviously is that this Inquiry should not 20 further engender that lack of trust. 21 Therefore his position on disclosure of material is 22 that, carefully redacted, it should be put into the 23 public domain. That would be subject to obviously 24 careful redaction, if necessary, name removals and 25 indeed the very good point made about jigsaw</p> <p style="text-align: center;">Page 70</p>	<p>1 Of course, there is going to be inappropriate 2 evidence perhaps at times, but it seems to us that the 3 technical abilities you have available here will cure 4 any difficulties that arise from that. 5 We for the Crown Prosecution Service of course lay 6 emphasis on protecting any ongoing investigations or 7 prosecutions that are in the pipeline for all the 8 obvious reasons. We will hopefully be alert to that 9 problem before it arises. 10 THE CHAIR: Yes, thank you very much, Mr Brown. 11 Any other counsel before I call on Mr Emmerson? 12 Mr Emmerson. 13 MR EMMERSON: Yes. Well, Madam, I was not proposing to 14 reply in any great detail. You have a wide range of 15 submissions in front of you and I think perhaps they 16 illustrate better than anything else could the need for 17 making these decisions on evidence and on a case-by-case 18 basis. 19 THE CHAIR: Absolutely. 20 MR EMMERSON: May I just make two points of general 21 relevance? First of all, the Australian Royal 22 Commission, we will of course make the necessary 23 researches to ensure that we are able to provide you 24 with submissions as to whether there was any occasion on 25 which the Australian Royal Commission heard evidence in</p> <p style="text-align: center;">Page 72</p>

<p>1 camera. But it is important to distinguish between 2 hearing evidence in camera and hearing it in 3 circumstances where it is being broadcast and sometimes 4 the submissions have tended to slip towards eliding some 5 of these different propositions. 6 The general rule in Australia certainly is that all 7 proceedings are broadcast in a way which lawyers in this 8 jurisdiction might find refreshingly open. Certainly 9 that would tend to reinforce the position that we set 10 out in our generic observations, that the starting point 11 should be broadcasting subject to exceptions where 12 necessary. 13 The other general point -- and it really follows on 14 from the first -- is that there is an obvious axiomatic 15 relationship between protective measures designed to 16 ensure that a witness's anonymity is secure and the 17 degree of intrusion that would be caused by 18 broadcasting. 19 So if, for example, a witness is concerned about 20 their physical appearance being shown, but there is 21 a screen in court to protect the witness's identity from 22 the public and the camera, then that would be one way in 23 which the risk of their visual identity being made known 24 would be mitigated. So, too, subject to technical 25 availability, would be the face- or voice-distortion</p> <p style="text-align: center;">Page 73</p>	<p>1 with the balancing of both privacy and transparency 2 considerations; but the balancing raises some very 3 complex issues which have to be carefully thought 4 through and I accept counsel's various submissions that 5 a range of protective measures will have to be thought 6 out. 7 There will need to be guidelines around a number of 8 aspects of how the information before the Inquiry is 9 disseminated, particularly at viva voce hearings 10 involving witnesses, including very sensitive witnesses. 11 So clearly it is all going to have to be considered 12 on a case-by-case basis and party-by-party basis really. 13 But I thank you all for your very interesting 14 contributions. That is very helpful. 15 MR EMMERSON: Madam, may I now turn last and briefly to the 16 question of timetabling? 17 The scope of this investigation is obviously broad 18 and the Inquiry has received a substantial amount of 19 information from Leicestershire Police and from the 20 Crown Prosecution Service, but there is still 21 significant work to be done in order to request and 22 obtain and analyse other material and to disclose in due 23 course all relevant material to core participants in 24 preparation for public hearings. 25 Madam, our current intention is to be in a position</p> <p style="text-align: center;">Page 75</p>
<p>1 mechanisms. 2 The issue has been raised about having evidence from 3 a remote room location within the building or within 4 whatever building it is that the hearings eventually 5 take place. You indicated in your opening statement 6 that the opportunity for live video-feeds would be made 7 available where necessary. There are a range of 8 techniques that are capable of being brought to bear 9 which will potentially reduce the adverse impact of 10 broadcasting. It is only once all of those matters have 11 been considered and made clear to those who may be 12 coming as witnesses that one can then ascertain what 13 impact, if any, broadcasting would have on that 14 particular witness. 15 As I said earlier on, when one looks down the list 16 of initial responses from the anonymised 17 core participants represented by those either side of 18 me, it is clear that they take a different view the one 19 from the other, as one would expect. So that is really 20 all I wanted to say by way of response. 21 Are there any particular matters on which I might be 22 able to assist you on that? 23 THE CHAIR: No, I don't think so. Thank you, Mr Emmerson 24 This is going to require a great deal of careful thought 25 and consideration, of course, because we are dealing</p> <p style="text-align: center;">Page 74</p>	<p>1 to start public hearings in September. We would intend 2 to call first the alleged victims and survivors of abuse 3 by Greville Janner; secondly, others who can give 4 evidence in relation to Janner's alleged conduct; 5 thirdly, those who can give evidence in relation to 6 institutional failings. 7 We hope to complete all hearings within six months 8 of the first day, but we do not intend that you should 9 sit continuously throughout that period. Indeed, we do 10 not expect to sit for more than a total of eight sitting 11 weeks during the six-month period to enable individual 12 issues to be addressed at individual sittings of the 13 Inquiry. 14 With that in mind, Madam, we propose the following 15 four directions for public hearings and in preparation 16 for the public hearings from September and with that end 17 date in mind. 18 First of all, by 4 pm on Thursday 24 March, any 19 core participant who wishes to do so should file an 20 application for an award of legal expenses under 21 section 40 of the 2005 Act. The application must 22 address the matters set out in paragraph 12 of the 23 Inquiry's costs protocol which is available on the 24 Inquiry's website. 25 Pausing there, that date will, of course,</p> <p style="text-align: center;">Page 76</p>

<p>1 necessarily need to be varied if any late 2 core participant rulings are made, either as a result of 3 allowing Mr O'Mara's application or as a result of late 4 applications being made and granted by you. But that is 5 the date that we propose in respect of all existing 6 core participants. 7 Secondly, by 4 pm on Thursday 21 April, any 8 core participant who wishes to do so to file an 9 application for a restriction order giving anonymity 10 under section 19 of the 2005 Act. The application must 11 specify the terms of the restriction order sought and 12 address the legal test to be applied in section 19(3) of 13 the Act. All applications will be circulated to other 14 core participants, but anonymised if necessary, so that 15 process will ensure that the anonymity applications do 16 not, so to speak, let the cat out of the bag in the 17 process of them being determined. That, I emphasise, is 18 anonymity, rather than broadcasting or special measures. 19 By 4 pm on Thursday 28 April, thirdly, any 20 core participant who wishes to do so to file submissions 21 in relation to other submissions in reply in relation to 22 the anonymity applications. 23 Then, finally, full argument on questions relating 24 to broadcasting in the Janner hearings to be adjourned 25 to the next preliminary hearing, which should be fixed</p> <p style="text-align: center;">Page 77</p>	
<p>1 to take place before the summer recess. 2 Those are the directions we are inviting you to 3 make. 4 THE CHAIR: All right. Thank you, Mr Emmerson. 5 Does any counsel wish to be heard on those proposed 6 directions? 7 All right. Well, accordingly I will make directions 8 orders L through to O, in terms of the numbering that 9 I have here, but all four directions orders sought by 10 Mr Emmerson, the first subject to any variations that 11 may be allowed. 12 MR EMMERSON: Thank you very much, Madam. We will publish 13 those directions on our Inquiry website shortly. 14 Madam, that concludes the issues on my agenda, 15 unless anybody has anything else they wish to raise. 16 THE CHAIR: Does any counsel wish to be heard on any other 17 matter? No. 18 In that case, we will adjourn. I thank you all for 19 your attendance. 20 (12.48 pm) 21 (The Inquiry adjourned to a date to be advised) 22 I N D E X 23 Opening statement by COUNSEL TO THE1 INQUIRY 24 25</p> <p style="text-align: center;">Page 78</p>	

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