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Manchester Arena Inquiry
Volume 3: Radicalisation and Preventability

Report of the Public Inquiry into the Attack on Manchester Arena on 22nd May 2017

Chairman: The Hon Sir John Saunders

March 2023

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Preface

Volume 3 is the final Volume of my Report. It comprises this document, which I will refer to as Volume 3 (open), along with Volume 3 (closed), which contains material that would be damaging to national security if it were to become public. As a consequence, Volume 3 (closed) will have a limited readership. Volume 3 (closed) is split into two: Volume 3-I (closed) and Volume 3-II (closed). Volume 3-II, which will deal only with recommendations, will be released separately and subsequently to the same limited readership.

Across Volume 3 as a whole I deal with three different topics: the radicalisation of SA; the planning and preparation for the Attack; and preventability, that is, could the Attack have been prevented?

In dealing with those issues, I heard from experts and representatives of schools and colleges attended by SA in open evidence hearings. I heard evidence from some of SA's and HA's friends and associates who may have discussed their ideology with them, together with evidence from the police about the planning and preparation for the Attack, and the possible knowing involvement of others in that criminal process.

I heard from members of the Security Service and Counter Terrorism Policing, partly in open evidence hearings but mainly in a closed evidence hearing during November 2021. The purpose of this evidence was to consider the important question of whether the Attack could have been prevented.

I held a closed evidence hearing because I concluded that hearing in public the evidence it was necessary to hear, in order to have an Article 2 compliant Inquiry, would damage national security and the ability of the Security Service to prevent attacks. The evidence I heard in the closed hearing required detailed analysis. I have carried out that analysis in Volume 3 (closed).

I believe there was broad recognition of the need to have a closed evidence hearing, but I was urged by the bereaved families to provide a gist of as much of the evidence as I could at the end of the process. I have done that.

In some cases, and this is one of them, it is not sufficient simply to rely on internal reviews conducted by the Security Service and Counter Terrorism Policing, with the only evidence of those reviews and their conclusions coming from corporate representatives. That is so even though the internal review in this case was observed and verified by David Anderson QC (now Lord Anderson KC) in his December 2017 report.[1] He did not see or hear everything that I did.

[1] INQ000004

In Volume 3-I (closed), I conduct an analysis of the evidence and make findings of fact. At the conclusion of it, I identify areas in which I seek assistance from the Security Service and Counter Terrorism Policing to formulate recommendations aimed at making improvements. While the internal reviews of all the 2017 attacks, as conducted by the Security Service and Counter Terrorism Policing, made a large number of recommendations, I have identified other areas where improvements can and should be made.

Volume 3-I (closed) will be disseminated to those cleared to read it at the same time as Volume 3 (open) is laid before Parliament. Once the Security Service and Counter Terrorism Policing have had an opportunity to consider Volume 3-I (closed) and I have sought their views, I will be making my own recommendations in Volume 3-II (closed). While I will consider any representations as to the practicalities of any recommendations during that process, I make clear that the final decisions will be mine, and the recommendations I make will be mine alone.

In the course of my open evidence hearings on the issues relating to Volume 3, and following the closed evidence hearing, a gist of some of the closed evidence was made public.[2] I have sought to extract as much further material from the closed evidence as I can in Volume 3 (open). This is set out in Part 24 in this Volume of my Report.

It is important that any claim that disclosure will harm national security should be subject to close scrutiny. Otherwise, the claim may be thought of as being used as a cloak to cover up mistakes. The highest court in the land, the Supreme Court, has made it clear that due deference must be given to the expertise of the Security Service in assessing what disclosure may affect national security. In accordance with that requirement, I have given due deference to its expertise, but equally the courts and inquiries must not simply 'salute the flag'[3] just because the Security Service opposes disclosure on the grounds of national security. My role was to exercise my independent judgment. I have done that.

In deciding what material should be made public, I have had to have in mind the very important principle of open justice. In the circumstances of this Inquiry, that principle is paramount, unless it can be demonstrated that disclosure of particular evidence will affect national security.

One of the aims of this Inquiry has been to provide answers about what happened to the families of those who died and those who suffered injury in the Attack, and to tell them if more could have been done to prevent the Attack. The need for justice to be done in public was a high priority for me, as the bereaved families are entitled to know all of the evidence, except in so far as it would damage national security to disclose it publicly.

I have, therefore, taken the view that it is for the Security Service to satisfy me that, in the interests of national security, I should not publicly report parts of the evidence that have been heard in closed hearings during the Inquiry process. I believe that, with

[2] INQ100119

[3] Home Department v Mohamed [2014] EWCA Civ 559 at paragraph 20

proper explanation, I am quite capable of deciding for myself how and why national security may be affected. I am not prepared merely to rubber-stamp assertions made on behalf of the Security Service and Counter Terrorism Policing. I have had to make similar assessments on many occasions both in my judicial career as a High Court Judge, including a period in charge of the terrorism list, and as a Commissioner with the Investigatory Powers Commissioner's Office.

I am quite satisfied that having a closed evidence hearing and issuing Volume 3 (closed) as well as Volume 3 (open) was and is justified and necessary. This process enabled me to carry out a detailed inquiry into what the Security Service and Counter Terrorism Policing knew before the Attack, which would not have been possible in an open evidence hearing. If I had not done so, a number of important facts that I have been able to reveal would not have come to light. Before the closed evidence hearings I heard submissions on behalf of the bereaved families as to topics that they wished me to explore with the Security Service and Counter Terrorism Policing. With the assistance of Counsel to the Inquiry, I explored these topics and others during the closed hearings. I have done my best to carry out the "*rigorous investigation*" that I undertook to conduct.[4]

The process that has been used to inquire into preventability, while necessary, has been difficult for many of those involved, including me. Having spent most of my working life in criminal courts, I know only too well the immense value of justice being seen to be done. The fact that not all of the Inquiry's hearings have been in public has been particularly difficult for the bereaved families, many of whom have attended every public hearing either in person or remotely.

I am sorry that I have not been able to reveal in my open Report everything I have discovered. I know that what I have revealed, while increasing public knowledge, will raise other questions that I have not been able to answer in Volume 3 (open). I have only permitted my findings to remain undisclosed to the public when I have been persuaded that to say more would damage national security. Throughout the Inquiry I have had in mind the importance of preventing terrorist attacks, and nothing must be done by this Inquiry to undermine that.

The wish to understand is a vital part of all our humanity and it is something that I have also borne in mind at all times. I am grateful for the dignity that the bereaved families have demonstrated throughout the Inquiry. I hope that what I have been able to say publicly adds to their understanding of the circumstances in which their loved ones died.

Volume 3 (open) is laid out as follows:

- **Part 22** considers the radicalisation of SA. It looks at the key influences within his family and associates and at the educational and religious institutions with which he engaged.

[4] Pre-Inquest Review Hearing, 6 September 2019 at 79/12-80/9

- **Part 23** deals with the planning and preparation for the Attack. This includes the acquisition, storage and transport of materials used in the Improvised Explosive Device. This Part also considers the movements of SA between 18th and 22nd May 2017, following his return from Libya, and examines the period following the Attack.
- **Part 24** concerns the question of whether the Attack could have been prevented. It provides a gist of the Volume 3-I (closed) report.
- **Part 25** sets out my conclusions and recommendations. I have made recommendations in a number of areas, with the aim of preventing future attacks and improving the civil and criminal processes that can be used during the course of a public inquiry.

The twenty-two who died

Alison Howe

Angelika Klis Marcin Klis

Chloe Rutherford Liam Curry

Courtney Boyle

Eilidh MacLeod

Elaine McIver

Georgina Bethany Callander

Jane Tweddle

John Atkinson

Kelly Brewster

Lisa Lees

Martyn Hakan Hett

Megan Joanne Hurley

Michelle Kiss

Nell Jones

Olivia Paige Campbell-Hardy

Philip Tron

Saffie-Rose Roussos

Sorrell Leczkowski

Wendy Fawell

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Part 22
Radicalisation of SA

Introduction

22.1 SA left behind no message to explain why he carried out the Attack. The evidence I heard does not provide a definitive answer as to why he did what he did. Despite this, it is important to try to understand the motivation behind his horrific act. My purpose in trying to learn more is so that others can be stopped from being drawn into a similarly warped mindset of violent extremism.

22.2 The lack of any direct explanation from SA for his actions means that I must look at the surrounding circumstances, consider what SA has said and done in the past, and glean what I can about SA's mindset and the influences upon him from the people who knew him.

22.3 I heard evidence about five main areas of SA's life: his family; his friends and associates; his use of the internet and social media; his education; and the mosques that he and his family attended.

22.4 The analysis that follows in this Part is split into three broad sections. First, there is an introduction to some of the key concepts that are useful in understanding radicalisation. Second, I consider the main influences on SA that may have played a role in radicalising him. Third, I look at the institutions with which he engaged and consider whether there were any missed opportunities to identify or prevent his radicalisation.

22.5 One of the institutions I have considered is prisons. In April 2022, the Independent Reviewer of Terrorism Legislation, Jonathan Hall KC, completed a report[1] making broad recommendations about the management of terrorist offenders and extremist prisoners in the prison estate, to which the government has now responded.[2]

22.6 The government was still in the process of preparing its response to this report when I heard evidence on these issues, so I did not explore them with the relevant witness.[3] However, I have looked at specific issues relating to the monitoring of terrorist offenders' visitors and communications. These were not considered by the Independent Reviewer.

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[1] Jonathan Hall KC, *Terrorism in Prisons,* April 2022

[2] Ministry of Justice, *Tackling Terrorism in Prisons: A Response to the Independent Reviewer of Terrorism Legislation's Review of Terrorism in Prisons,* April 2022

[3] 181/5/3-10

22.7 Before turning to the substance of this Part, it is necessary to provide a brief introduction to the Prevent programme.

Prevent

22.8 As I explained in Part 4 in Volume 1, the government's counter-terrorism strategy was known as CONTEST. It had four strands. Prevent was one of those strands.[4] A Prevent strategy was published following the terrorist attacks in London on 7th July 2005 (the 7/7 attacks). By 2011, three key objectives were identified in both dated versions of the Prevent strategy. First, to respond to the ideological challenge of terrorism and the threat the UK faces from those who promote it. Second, to prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support. Third, to work with sectors and institutions where there are risks of radicalisation that need to be addressed.[5]

22.9 A 'Prevent Duty' was introduced by section 26 of the Counter-Terrorism and Security Act 2015. The Prevent Duty required that, from 18th September 2015, identified organisations were required to have due regard to the need to prevent people from being drawn into terrorism. Under section 29 of the same Act, those organisations subject to the Prevent Duty were required to have due regard to statutory guidance.[6]

22.10 Included in those organisations subject to the Prevent Duty were police services, schools, universities and prisons.[7]

22.11 Any person or organisation could refer someone to Prevent. A referral could be made in a number of ways, including through the police and local authorities. It could also be made through the terrorist hotline and via a government website. A referral was then within the 'Channel programme', which was part of the Prevent strategy.

22.12 A referral to Prevent resulted in a Channel programme panel considering the referral. A Channel programme panel was a multi-agency group, which included local authorities, the police and educational authorities.[8]

22.13 It is not part of the Inquiry's terms of reference to consider the overall effectiveness of Prevent. My focus is on whether SA should have been referred for de-radicalisation through Prevent. The government commissioned a wide-ranging independent review of the Prevent programme, led by William Shawcross. This independent review presented its findings as this Volume of my Report was finalised.[9]

[4] 35/4/2-14
[5] 164/5/1-15
[6] 164/10/17-11/2
[7] INQ037080/6 at paragraph 20
[8] 164/18/12-20/3
[9] Home Office, 'Independent Review of Prevent', 2019

Radicalisation into Islamist extremism

Key findings

- Mainstream Islam is the worldview adopted by the substantial majority of the global Muslim population. Mainstream Islam rejects violent extremism and embraces the differences between Muslims and non-Muslims.
- Islamist extremism emphasises the differences between extremist Muslims and everyone else. Non-Muslims and mainstream Muslims are viewed as wrong, lesser, impure and are stripped of human qualities and rights. The ambition of Islamist extremism is to impose Islamic law and establish a global Islamic state or caliphate. The overwhelming majority of Muslims in the UK and across the world would entirely reject the attitudes and behaviours of Islamist extremism.
- Islamist extremism takes three different forms: non-violent Islamist extremism; theoretical violent Islamist extremism; and operational violent Islamist extremism. Operational violent Islamist extremism involves an active commitment to violence in order to eradicate non-Muslims as the necessary precursor to bringing an Islamic state into existence.
- In mainstream Islam, suicide bombing is regarded as a sin. Violent Islamist extremism has utilised suicide bombing as a way of advancing its agenda.
- SA's radicalisation journey into operational violent Islamist extremism was primarily driven by noxious absences and malign presences. Noxious absences included a prolonged disengagement from mainstream English education and parental absence. Malign presences included the ongoing conflict in Libya and engagement with a radicalising peer group.

22.14 I instructed an expert in radicalisation, Dr Matthew Wilkinson. Dr Wilkinson has an established expertise in Islamic theology, Islamist ideology and Islamist extremism, developed through academic research, his work as an expert witness and his own background.[10]

22.15 Dr Wilkinson provided a helpful model to describe and explain what an Islamist extremist worldview is and how people can be radicalised into such a worldview.

22.16 Before I address the specific issues relating to the radicalisation of SA, it is important to understand the language and analytical tools that Dr Wilkinson used.

[10] See Appendix 17

Definitions

22.17 Dr Wilkinson described worldviews as ways of understanding how the world is and how to behave in it.[11] He explained that, for most of us, our worldviews are simply absorbed and are not consciously formed. At certain times of life, some people are more vulnerable to absorbing ideas without thinking about them than others, for instance during adolescence.[12]

22.18 Dr Wilkinson explained that various types of expressions of Islam are best understood not as being theologically different but as being fundamentally different worldviews. The result is that mainstream Islam and violent Islamist extremism are *"utterly distinct"*.[13]

Mainstream Islam

22.19 Mainstream Islam is centred on a religious practice and the basic teachings of the Qur'an and Sunna.[14] It is a worldview adopted by approximately 75 per cent of the global Muslim population.[15]

22.20 Mainstream Islam can be divided into traditional and activist Islam. Traditional Islam is based on the inclusive notion of 'unity and diversity', centred on a worldview of the basic equality of all people before God.[16] This underlying message has two strands rooted in the Qur'an: first, that not everyone was intended to be born as Muslim; and second, that diversity of religious worship should be defended as part of God's creation.[17] Moderation and the sanctity of human life are ethical tenets of traditional Islam.[18] On this basis, Dr Wilkinson stated that the worldview of mainstream Islam *"tends to be protective against violent Islamist extremism"*.[19]

22.21 Activist Islam adopts the same view of unity and inclusivity but is characterised by an ethos of change, transformation and personal improvement. Dr Wilkinson gave an example of an activist Muslim putting into practice this kind of worldview by advocating for prayer spaces in offices.[20]

[11] 163/29/13-30/2
[12] 163/31/4-32/23
[13] 163/35/19-36/1
[14] 163/44/9-17
[15] 182/56/22-57/3
[16] 163/36/18-37/13
[17] 163/45/6-16
[18] 163/54/14-55/21
[19] 182/56/13-14
[20] 163/37/21-38/13

Islamism

22.22 Ideological Islamism marks a shift away from mainstream Islam: from Islam as a religion, which prioritises religious practice and belief, to Islam as a political or cultural identity, which is directed at overthrowing rather than transforming existing political structures.[21] This worldview emerged in the early 20th century and gained momentum from the 1960s onwards.[22]

22.23 Importantly, ideological Islamism can be distinguished from mainstream Islam on the basis that, instead of a belief in the equality of all people before God, it creates a separation between 'us and them', that is to say between Muslims and non-Muslims.[23]

Islamist extremism

22.24 Islamist extremism emphasises this separation until it sharpens into an absolute division. Non-Muslims are viewed as wrong, lesser, impure and are stripped of human qualities and rights.[24] In this way, Islamist extremism is like all other forms of extremism which is premised on the existence of a chosen in-group set against an out-group.[25] This exaggerated division is accompanied by an ambition to impose Islamic law and establish a global Islamic state or caliphate,[26] and the active shunning of non-Muslims.[27]

22.25 Dr Wilkinson emphasised that the overwhelming majority of Muslims in the UK and across the world would entirely reject such attitudes and behaviours.[28] He stressed that such a worldview is reliant on a misinterpretation of the Qur'an, often by extrapolating general principles from isolated, specific verses.[29]

22.26 Dr Wilkinson divided Islamist extremism into three categories.

22.27 First, there is non-violent Islamist extremism: an 'us and them' worldview but including 'wrong' mainstream Muslims in the out-group,[30] without a commitment to lethal consequences.[31]

22.28 Second, there is theoretical violent Islamist extremism: an 'us and them' worldview, with a theoretical commitment to lethal consequences. Here, violent Islamist extremists see violence in the form of the eradication of the 'them' as the necessary precursor to bringing an Islamic state into existence.[32]

21 163/38/23-39/18
22 163/71/9-12, 163/76/8-12
23 163/38/23-39/18
24 182/58/6-23
25 163/39/19-40/9
26 163/73/7-23
27 163/74/15-75/4
28 163/42/22-44/4
29 163/71/16-72/19
30 163/41/7-16
31 163/68/23-69/12
32 163/42/3-14

22.29 Third, there is operational violent Islamist extremism: the same as theoretical extremism, except there is an active commitment to violence.[33]

22.30 Martyrdom, in the sense of being killed fighting in defence of Islam, is a classic theme of violent Islamist extremism. Martyrdom is used both as a recruiting tool and as a symbolic way of distinguishing between 'us' and 'them', between those committed and loyal to the extremist Islamist worldview and unbelievers. Specifically, Islamist extremists often use suicide bombing as a technique to achieve their political agenda and view the act of suicide bombing as an end in itself.[34] The cult of martyrdom is central to the ideology of violent extremist groups like Al-Qaeda and Islamic State.[35]

22.31 In mainstream Islam, suicide bombing is viewed as a grave sin and a crime.[36] The Inquiry heard that the 21st-century cult of suicide martyrdom is diametrically opposed to the spirit and the letter of mainstream Islam, including the Islamic doctrine of armed struggle (violent jihad), and is indicative of a nihilistic violent ideology.[37]

Radicalisation trajectories

22.32 Islamist radicalisation is a process of a shifting worldview, typically from ideological Islam to Islamist extremism, together with identifying more and more exclusively with the Muslim 'in-group'.[38] It is a process of increasing hostility to the out-group and intense attachment to the in-group.[39]
Dr Wilkinson took the view that SA's entire experience of Islam started from within the extremist worldview and his radicalisation was therefore a relatively short journey which took him from non-violent extremism through to operational violent extremism.[40]

22.33 Dr Wilkinson set out a mechanism for radicalisation in a number of distinct stages. This is outlined in Figure 42.

[33] 163/143/8-12
[34] 163/81/19-82/23
[35] INQ034709/142
[36] 163/53/11-22
[37] 163/60/22-61/18
[38] 163/128/6-24
[39] 163/129/10-18
[40] 182/59/6-21

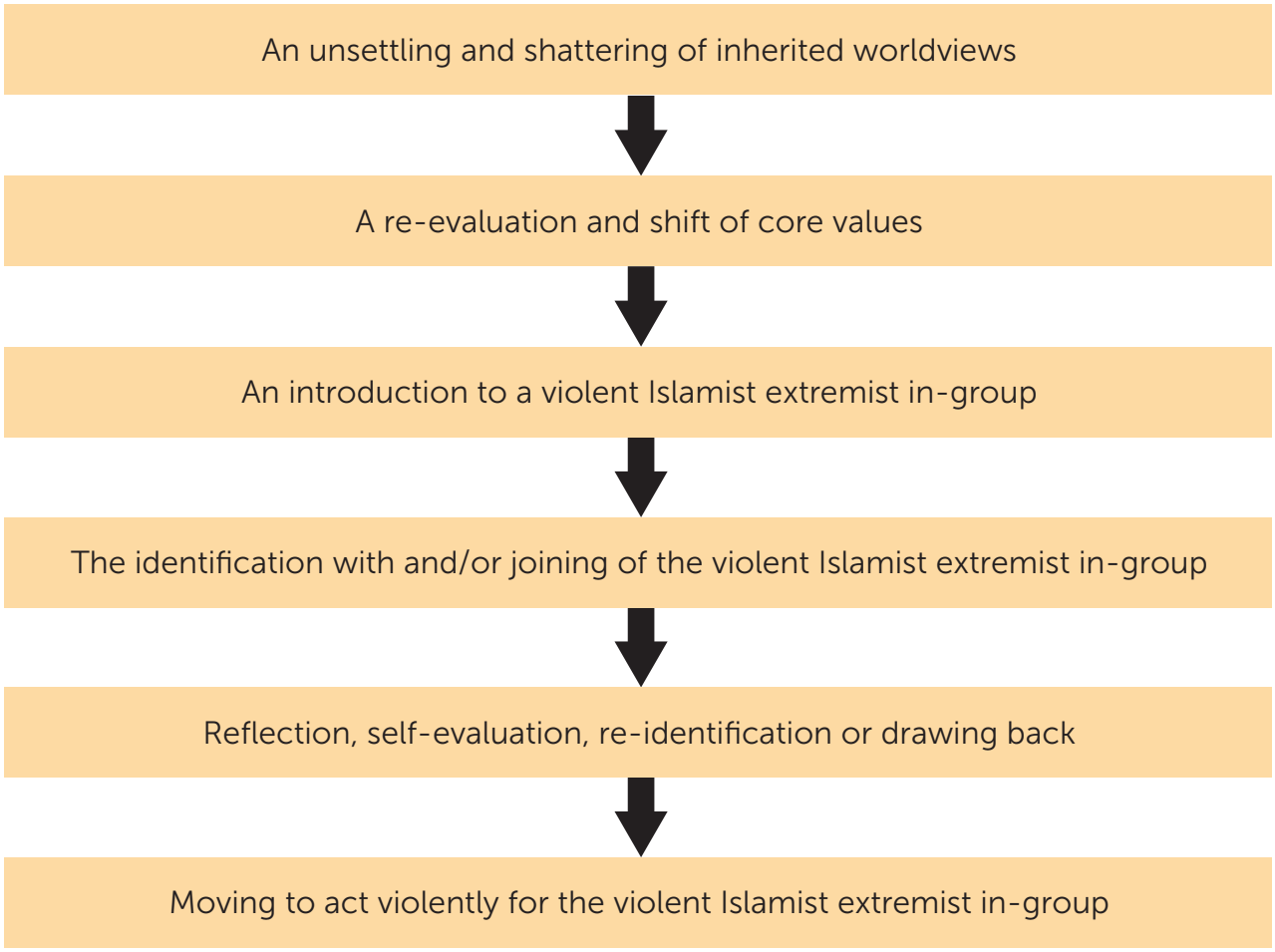


Figure 42: *Stages of radicalisation into Islamist extremism*[41]

22.34 To understand how someone's worldview can shift and move towards Islamist extremism, Dr Wilkinson explained that he sought to distinguish between 'factors' and 'causes' of radicalisation. Factors are broader familial, cultural and social realities, which render someone more vulnerable and exposed to extremism. Causes are catalysts or triggers, which move the journey along in a more direct and pronounced way.[42]

22.35 Analysing the factors that create an environment in which a person can be radicalised, Dr Wilkinson stressed the importance of both those that are present in someone's life and those that are missing. He labelled these two types of factors as *"malign presences"* and *"noxious absences"*.[43] For the purposes of the Inquiry, noxious absences were things missing from SA's life that had a radicalising effect on him. Malign presences were parts of SA's life that actively contributed to radicalising him.[44]

[41] 163/140/15-143/12
[42] 182/67/3-68/3
[43] 163/132/15-21
[44] 182/69/6-70/5

22.36 Dr Wilkinson's view was that SA's radicalisation was primarily driven by noxious absences, such as his prolonged disengagement from mainstream English education and the absence of responsible parenting. Malign presences included the ongoing conflict in Libya and engagement with a radicalising peer group.[45] These factors are considered in more detail later in this Part.

22.37 Dr Wilkinson made clear that such factors are not enough to explain how people move across the spectrum towards Islamist extremism; there also need to be triggers that move people towards operational extremism. Causes tend to focus on charismatic individuals or specific encounters.[46] In SA's case, possible causes include associates such as Raphael Hostey or Abdalraouf Abdallah, or his experiences of conflict in the Libyan civil war.

22.38 With this broad framework in mind, this Volume of my Report will examine the possible factors and causes of SA's radicalisation from that of non-violent Islamist extremism to operational Islamist extremism.

[45] INQ036837/78

[46] 182/134/16-135/23

Influences on SA

Key findings

- The Abedi family holds significant responsibility for the radicalisation of SA and HA. That includes their father Ramadan Abedi, mother Samia Tabbal and elder brother Ismail Abedi, each of whom has held extremist views. Their views influenced the development of SA's and HA's worldviews. It is also likely that SA and HA fed off each other's ideas and radicalised each other.
- Ramadan Abedi took his sons to Libya during the period of conflict. It is likely that SA and HA were involved in combat there. It is probable that SA and HA were radicalised in Libya to some extent and that they obtained some form of training or assistance in how to build a bomb in Libya, as well as counter-surveillance training.
- SA's worldview was also influenced by his peer group. Abdalraouf Abdallah was a key figure. Abdalraouf Abdallah was seriously injured while fighting in Libya as a member of the February 17th Martyrs Brigade. He returned to Manchester with a hero status among impressionable young men from a Muslim background who were susceptible to Islamic State propaganda. Abdalraouf Abdallah has held extremist views and been convicted of terrorism offences. He had a significant relationship with SA between 2014 and 2017 and had an important role in radicalising him.
- Raphael Hostey, who travelled to Syria from Manchester to join Islamic State and was killed in a drone strike, is also likely to have been an influence on SA.

Family background

22.39 Ramadan Abedi and Samia Tabbal, who married in the early 1990s, arrived in the UK in 1993 and sought asylum on the basis that they faced persecution under the regime of Colonel Muammar Gaddafi.[47] They eventually obtained refugee status. It has been widely reported that Ramadan Abedi was a member of, and remains linked to, the Libyan Islamic Fighting Group (LIFG), an Islamist organisation opposed to Colonel Gaddafi.[48] The LIFG officially disbanded in 2010. It was removed from the US Department of State's list of terrorist organisations in 2015.[49]

22.40 Five years after obtaining refugee status, Ramadan Abedi was granted indefinite leave to remain in the UK. In 2007, Ramadan Abedi became a British citizen.[50]

22.41 Ramadan Abedi and Samia Tabbal had six children. Figure 43 shows Ramadan Abedi's and Samia Tabbal's children.

47 170/136/17-137/2
48 170/134/5-16
49 INQ034709/102
50 45/25/25-26/21

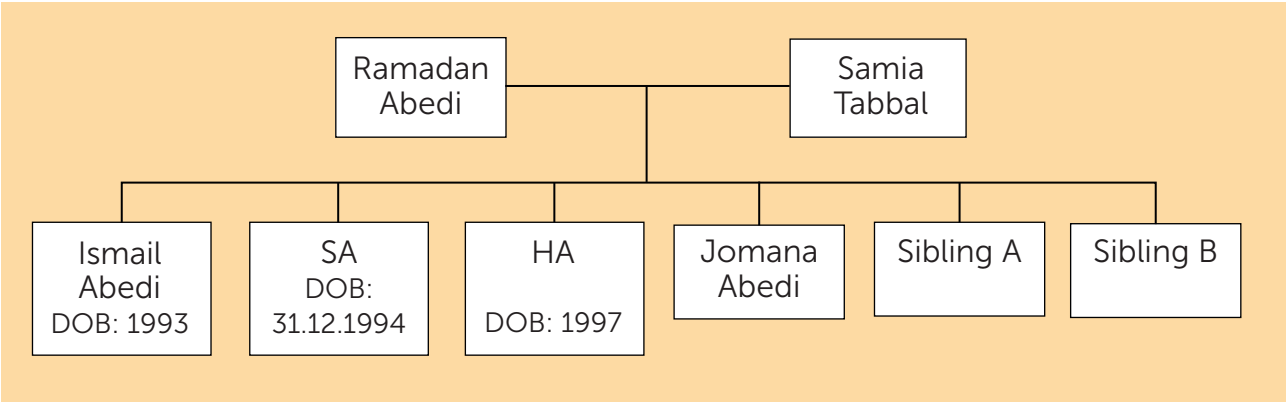


Figure 43: *Ramadan Abedi's and Samia Tabbal's children*

22.42 Ramadan Abedi's and Samia Tabbal's eldest, who was born in 1993, was named Ismail Abedi at birth. He had this name at the time of the Attack. Following the Attack, he changed it to Ishmale Ben Romdhan.[51] I shall refer to him by the name he had at the time of the Attack.

22.43 On 31st December 1994, SA was born. He was 22 years old at the time of the Attack. In 1997, HA was born. He was 20 years old when the Attack was carried out.

22.44 Ramadan Abedi and Samia Tabbal had three more children, two girls and a boy, following the birth of HA.

21 Elsmore Road

22.45 Upon their arrival in the UK in 1993, Ramadan Abedi and Samia Tabbal lived briefly in London. After a couple of months, they moved to Manchester. On 21st October 2008, the Abedi family moved into 21 Elsmore Road, Fallowfield, Manchester. Fallowfield is in South Manchester. The family lived at that address until 21st September 2011. By this date, they had moved back to Libya. They remained in Libya for a period of nearly two years.[52]

22.46 On 23rd August 2013, the family returned to the UK. After several weeks of temporary accommodation, they moved back into 21 Elsmore Road on 1st November 2013.[53]

22.47 Between 2015 and 2017, Ramadan Abedi spent most of his time in Libya.[54] In October 2016, Samia Tabbal is believed to have travelled to Libya. This left SA and HA alone at 21 Elsmore Road. Ismail Abedi was living with his wife at a different address.[55] I will return to this at paragraphs 22.62 to 22.69, when I consider the influence of SA's parents.

[51] INQ034503
[52] INQ034522/1
[53] INQ034522/1
[54] 182/82/14-19
[55] INQ035481/55 at paragraph 235

Libyan context

22.48 The long-running conflict in Libya represents the critical background to SA's journey to radicalisation. The interaction between various factions involved in the Libyan civil war, which began on 17th February 2011,[56] is *"dizzyingly complex"*[57] and beyond the scope of this Report.

22.49 However, there were broadly three or four groups which were part of the initial overthrow of Colonel Gaddafi and the subsequent violence and instability. These are: a *"more moderately Islamist faction"*[58] broadly represented by the Muslim Brotherhood and affiliates, with a much more hard-line Al-Qaeda-infiltrated faction; a nationalist secular party led by General Khalifa Haftar; and Islamic State, which wanted to make Libya part of its global caliphate.[59]

22.50 The February 17th Martyrs Brigade was an Islamist militia led by Mahdi al-Harati, who is reported to have links to Islamist terrorism.[60] It is likely that Ramadan Abedi was a member.[61]

22.51 SA and HA travelled with their family to Libya in 2011.[62] It is likely that they had some involvement in fighting during the civil war at that time. This may well have been with the February 17th Martyrs Brigade.[63] They were at an impressionable age, 16 and 14 respectively, so this would have been a formative experience.

22.52 Photographs obtained by Operation Manteline, the police investigation into the Attack, show Ismail Abedi, SA and HA in the company of Abu Anas al-Libi's sons carrying large guns, and in military uniforms with weapons.[64] During the 1990s, Ramadan Abedi was friends with Abu Anas al-Libi. Abu Anas al-Libi was an Al-Qaeda commander linked to the 1998 bombings of the US embassies in Nairobi and Dar es Salaam. He was captured by the US authorities in 2013 and died of natural causes while awaiting trial.[65]

22.53 SA and HA also spent time in Libya in 2014, a period when the civil war had re-ignited. They had to be evacuated with the assistance of the Royal Navy because extremist militias were fighting in the area.[66] At this time, Islamic State was at the height of its infiltration into Libya.[67]

56 INQ006746/2
57 182/85/4
58 182/85/9
59 182/85/6-86/8
60 170/111/9-23
61 173/11/24-12/1
62 168/193/10-16
63 170/117/12-118/2
64 167/138/8-14
65 170/131/11-25
66 167/152/19-24
67 167/115/22-25

22.54 The Security Service's assessment of the intelligence picture as it had been built up following the Attack was that SA and HA may have joined Islamist groups in Libya and attended training camps there.[68]

22.55 I consider it is likely that SA and HA were radicalised in Libya to a significant extent. I also find that it is probable they obtained some form of training or assistance in how to build a bomb in Libya, as well as counter-surveillance training. The evidence is not sufficiently clear for me to say on which visit or visits to Libya in the period between 2011 and 2017 this took place. I explore the information that is available in some further detail in Volume 3 (closed).

Family influence

22.56 Other than HA, there is insufficient evidence to attribute specific knowledge of the Attack to members of the Abedi family. However, it is clear that the wider Abedi family holds significant responsibility for the radicalisation of SA and HA.

22.57 The Inquiry sought to obtain evidence from SA's and HA's mother and father, Samia Tabbal and Ramadan Abedi. They have not engaged, showing their lack of interest in the Inquiry's determination to discover the truth. Ramadan Abedi and Samia Tabbal are both in Libya. Although they were contacted, they refused to provide any form of statement.[69]

22.58 Ismail Abedi was resident in the UK at the start of the Inquiry's oral evidence hearings. He left the country in order to avoid giving evidence.[70] In Part 25, I will explain in further detail the steps taken to obtain Ismail Abedi's evidence.

22.59 The result is that SA's and HA's parents and older brother have not taken the opportunity to provide their version of events or answer the allegations which have been levelled at them. I am highly critical of the approach they have taken.

22.60 HA has been convicted of helping SA to plan the Attack. He was sentenced to life imprisonment. He must serve a minimum term of 55 years before he can apply for parole. In the confession he made to the Inquiry Legal Team in an interview on 23rd October 2020, HA accepted being a supporter of the group called Islamic State, being in favour of violent jihad and the institution of Sharia law through violence and said that the Attack had been carried out in support of Islamic State.[71] I will deal further with HA's confession in Part 23.

22.61 Detective Chief Superintendent (DCS) Simon Barraclough, the Senior Investigating Officer for Operation Manteline, suggested that it is highly likely that SA and HA fed off one another's ideas and radicalised each other.[72] Similarly, Dr Wilkinson was of the view that the brothers acted as a trigger for each

[68] 167/164/23-165/7
[69] 163/4/24-5/6
[70] 163/5/7-16
[71] 46/57/8-58/13
[72] 170/99/10-100/9

other as they moved towards planning the Attack.[73] I agree. A suicide bomber is less likely to carry out an attack if he does not have the support of one or more person providing encouragement to do it. HA's part in the Attack was an important one. He provided both practical support and encouragement to SA.

Ramadan Abedi and Samia Tabbal

22.62 Ramadan Abedi's Facebook account contained posts supporting Hamas and Ahmed Abu Khattala. Ahmed Abu Khattala fought against Colonel Gaddafi but then became involved in terrorism and is currently serving a sentence for terrorism offences in the United States.[74] Ramadan Abedi's Facebook account also contained material relating to Abu Anas al-Libi.[75] Dr Wilkinson noted that Ramadan Abedi also made clear his support on Facebook for suicide attacks.[76]

22.63 Samia Tabbal's Facebook profile contained support for various Islamist militias operating in Libya with links to Al-Qaeda.[77] It contained two pages related to the militant Islamist scholar Suliman al-Alwan, who has justified suicide bombings and been convicted of funding Al-Qaeda.[78]

22.64 Ramadan Abedi made a series of trips to Libya in 2011 in connection with the rebellion against Colonel Gaddafi. He was subject to stops under Schedule 7 of the Terrorism Act 2000 powers on 3rd November 2011 and 17th November 2011. He denied being a member of the LIFG. He told immigration officers that he had taken SA and HA to Libya with him in August 2011.[79]

22.65 This trip to Libya seems to have had a detrimental effect on SA. On return to the UK in 2011, SA's cousin said that SA was *"going out partying, drinking smoking weed (cannabis)"*,[80] and in particular had developed what appeared to be an addiction to tramadol.[81] SA's mother, Samia Tabbal, was so concerned that she asked the family's GP for advice.[82]

22.66 Despite this, and the increasingly poor behaviour of SA at school, between 2015 and 2017 Ramadan Abedi spent only 102 days in the UK.[83] In October 2016, Samia Tabbal travelled to Libya.[84] This left no real parental presence or supervision at a key time in SA's and HA's development. I will return to the issue of SA's behaviour at school in paragraphs 22.143 to 22.185.

[73] 182/144/18-146/1
[74] 170/127/22-128/19
[75] 170/132/1-9
[76] 182/76/8-77/8
[77] 46/18/17-19/9
[78] 170/126/22-127/21
[79] 168/192/3-193/16, 170/134/7-135/17
[80] INQ006746/2
[81] INQ006746/3
[82] 170/102/23-103/3
[83] 45/44/20-23
[84] 170/105/22-106/6

22.67 The absence of their parents coincided with a notable change in the behaviour and attitude of SA and HA from around 2015. A friend of the brothers described how they became *"very devout, very religious"*[85] upon their return from undertaking the Hajj in 2015.[86] Another relative said that, while in his teenage years SA was *"a rough kind of guy, smoking cannabis. He would be violent, getting into fights, kind of a bit like a gangster lifestyle"*,[87] from around 2016 SA:

> *"... started becoming religious. My mum's view was that his religious views were too strong and she told us not to listen to him. My mum would confront [SA] about his religious views and it sometimes resulted in conflict between them."*[88]

22.68 Becoming more religious or traditional in views is not in itself a sign of radicalisation.[89] Dr Wilkinson noted that it is possible that, had SA and HA been exposed to deeper theological teaching, this might have been quite protective against being drawn into extremism.[90] It is also possible that, if they had been referred into a de-radicalisation programme through Prevent, which could have included theological input, that may also have had some positive benefit.

22.69 A warning sign during this period was SA becoming increasingly judgemental of other people and their behaviour. He talked at length about political matters in the Middle East and North Africa and displayed signs of affiliation with or support for Islamic State.[91] One example of this comes from a friend who knew SA and HA in 2015. The friend recalled them expressing support for Islamic State when watching a television programme.[92]

Joint Terrorism Analysis Centre assessment (2010)

22.70 The Joint Terrorism Analysis Centre (JTAC) was established in 2003. It is based at the Security Service's headquarters. Its role is to analyse and assess intelligence relating to terrorism.[93] JTAC was responsible for providing the national threat assessment which I considered in Volume 1 and Volume 2. As I have stated, in May 2017, JTAC's assessment was that the threat level was 'Severe', meaning that an attack was highly likely.[94]

22.71 In 2010, JTAC conducted a regional assessment of Manchester. The content of the relevant parts of that assessment were provided to the Inquiry by the Security Service. That assessment accurately predicted what subsequently happened with SA and HA. The 2010 JTAC report warned that young Libyan-linked individuals might be influenced by the elder generations' historical

85 49/5/19
86 49/5/7-19
87 50/46/4-6
88 50/46/12-16
89 182/158/7-9
90 163/138/3-11, 182/88/17-89/12
91 170/103/19-105/14
92 170/108/12-109/10
93 15/14/19-15/2
94 36/43/25-44/2, INQ032114/4

links to extremist groups such as the LIFG.[95] It noted that the crime rate in Manchester was more than double the national average at that time. It also noted that, in certain parts of South Manchester, it was the norm for young men to join a gang. This gave rise to a risk because it can be a challenge for the Security Service and Counter Terrorism Policing to distinguish between activities such as drug-dealing or fraud and matters of national security interest.[96]

22.72 The risk identified in the 2010 JTAC report was realised in the case of Ismail Abedi, SA and HA. As Dr Wilkinson noted, SA's upbringing was one in which *"his entire experience or expression of Islam was within this Islamist extremist worldview"*.[97] His father's experiences and views, as well as those of his father's friends and associates, existed in the violent extremist space, and this worldview *"had obviously percolated down a generation into the sons"*:[98]

> *"[SA] started off life and he was inculturated into a worldview that, at the very least, was at the fringes of this non-violent Islamist extremism model in and around there, and the journey of his radicalisation was essentially one from that non-violent model into theoretical violent Islamist extremism and then, in its last phases, into what I call operational violent Islamist extremism, so that's doing operational acts."*[99]

22.73 The worldview of Ramadan Abedi is likely to have heavily influenced his sons, and the worldview of their mother will also have made a contribution but less so. Ramadan Abedi instilled in his sons extremist views and encouraged them to put those views into practice when he exposed them to training with and combat alongside Islamist militias who fought in the Libyan civil war. It is possible that Ramadan Abedi's focus on Libya meant that he would not have envisaged that SA and HA would consider attacking the UK.

Ismail Abedi

22.74 Ismail Abedi was the subject of a port stop under Schedule 7 of the Terrorism Act 2000 on 3rd September 2015.[100] His electronic devices were found to contain a significant volume of extremist material. His Facebook account had numerous images of men in camouflage clothing holding weapons, the notorious image of the Jordanian pilot Muath al-Kasasbeh being burned alive, a picture of Ismail Abedi with a gun next to the son of Abu Anas al-Libi, a picture of him with a gun in front of a February 17th Martyrs Brigade flag, and images of SA and HA with weapons.[101]

95 166/45/17-46/9
96 166/50/5-51/17
97 182/60/4-5
98 182/80/8-17
99 182/59/13-20
100 170/168/10-18
101 46/20/9-23/14

22.75 Ismail Abedi's mobile phone also contained numerous violent jihadi nasheeds, songs in praise of Islamic State. Additionally, it contained Islamic State recruitment videos and a download of a 268-page booklet supporting Islamic State.[102] Dr Wilkinson described this material as being *"a sort of toolkit of Islamic State propaganda and material. It included the core strategy text of the Islamic State group."*[103] This material was examined by the police. It was concluded that it did not meet the evidential threshold for submission to the Crown Prosecution Service (CPS).[104]

22.76 When Ismail Abedi was arrested the day after the Attack, various electronic devices seized from him were found to contain material supportive of Islamic State.[105] The totality of the material from both 2015 and 2017 was reviewed again in January 2021 and on this occasion was submitted to the CPS for a charging decision in June 2021. The CPS advised that there was insufficient evidence for there to be a realistic prospect of conviction for any terrorist offence.[106] These were decisions for the CPS, and I make no comment on them.

22.77 The rise of Islamic State from around 2014 is likely to have provided the trigger for a shift into a worldview which could envisage an attack in Manchester. Ismail Abedi appears to have assumed the role of guardian for his brothers at the same time as they became most radicalised.[107] This was in a period when Ismail Abedi was in possession of violent extremist material supportive of Islamic State.

22.78 Dr Wilkinson described Ismail Abedi's influence as *"critical"*.[108] I do not believe that the evidence is sufficient for me to make a finding as strong as this, but I accept, in the absence of any evidence from Ismail Abedi, that his views did influence SA's and HA's worldviews to a significant extent.

Associates and peer group influence

22.79 Against the backdrop of a family environment that introduced SA to the ideas and language of Islamist extremism, SA formed friendships with others around his own age who shared similar views and who also had an upbringing affected by conflict and violence. Dr Wilkinson's view was that SA was *"highly influenced by his peer group"*.[109] Dr Wilkinson identified three elements to this set of influences.

102 46/46/13-47/9, 171/20/2-7
103 182/81/1-3
104 193/175/18-176/2
105 46/51/1-52/13
106 INQ042157/5
107 182/142/10-143/5
108 182/143/4
109 182/93/8-9

22.80 First, he identified a gang-like group involved in drug-dealing and other forms of criminal activity.[110] Second, he identified a slightly older collection of Islamic State sympathisers, some of whom were convicted of terrorism offences.[111] Third, there was a Libyan-associated set of peers, no doubt influenced by Islamist militias based in Libya that included the son of an Al-Qaeda commander.[112]

22.81 There was some overlap between these different groups, and all were willing to engage in criminal activity of some sort; as, it appears, were SA's family. As a result, SA had almost no close connections or friendships that would tie him to law-abiding society.[113]

22.82 It is likely that some of these friends and associates acted as radicalising influences in a general sense, making it acceptable or even desirable to hold violent extremist views and exposing SA to material that supported and glamorised the actions of groups like Islamic State. Some may also have acted as triggers that moved SA into the operational violent extremist phase.

Abdalraouf Abdallah

22.83 The father of Abdalraouf Abdallah, Nagah Abdallah, was a friend and associate of SA's father, Ramadan Abedi.[114] Like Ramadan Abedi, Nagah Abdallah fled Libya as a result of his opposition to Colonel Gaddafi,[115] and Abdalraouf Abdallah grew up in a household that was *"fiercely anti-Gaddafi"*.[116]

22.84 Abdalraouf Abdallah took part in the Libyan civil war as a member of the February 17th Martyrs Brigade. He was seriously injured before returning to the UK towards the end of 2011.[117] It appears his engagement in the conflict and injury gave him something of a 'hero' status among impressionable young men from a Muslim background who were susceptible to Islamic State propaganda.

22.85 In his evidence to the Inquiry, Abdalraouf Abdallah denied having extremist views.[118] He stated that he was a *"normal Islamic Muslim person who lives in the west"*.[119] I do not accept this evidence.

110 182/126/6-24
111 182/127/8-21
112 182/128/8-20
113 182/129/6-130/22
114 173/11/1-3
115 170/142/7-11, 173/5/8-19
116 173/6/11-15
117 173/34/17-35/25, 173/39/20-23
118 173/57/18-24
119 173/26/7-8

22.86 Abdalraouf Abdallah has held extremist views. He was convicted of terrorism offences on 11th May 2016, specifically preparing acts of terrorism and assisting others in committing acts of terrorism. He was sentenced to a nine-and-a-half-year extended sentence. This was made up of a custodial term of five and a half years, with an extended licence period of four years.[120]

22.87 Abdalraouf Abdallah sought to appeal his sentence to the Court of Appeal, which determined that he was properly described as being *"active in a terrorist group based in Manchester in 2014"* and that he *"organised the terrorist activities of the Manchester group. He provided practical and emotional support to the members of the group."*[121]

22.88 Abdalraouf Abdallah does not accept his conviction.[122] He did acknowledge in his evidence to the Inquiry that he initially supported Islamic State, but he said that he now rejects the views and activities of that group.[123]

22.89 I regard the characterisation of Abdalraouf Abdallah by the Court of Appeal as accurate.

22.90 Abdalraouf Abdallah had a significant friendship with SA between 2014 and 2017. Although Abdalraouf Abdallah was a few years older than SA, they had grown up together. They had known each other since they were, as Abdalraouf Abdallah put it in evidence, babies.[124] They shared a circle of friends.[125] Abdalraouf Abdallah was good friends with Ismail Abedi.[126]

22.91 Between July 2014 and November 2014, Abdalraouf Abdallah communicated regularly with SA by mobile phone. Between 5th November 2014 and 28th November 2014, over 1,000 text messages were exchanged between the two.[127] In the course of those messages, there were several references to martyrdom, the maidens of paradise, and a senior figure within Al-Qaeda and his death.[128]

22.92 These messages were discovered as part of the Counter Terrorism Policing investigation into Abdalraouf Abdallah which led to his prosecution and conviction for terrorism offences. That investigation was conducted under the name Operation Oliban. The messages formed part of the case against Abdalraouf Abdallah at his trial. However, the fact that it was SA communicating with Abdalraouf Abdallah was not established by Counter Terrorism Policing until after the Attack.[129] I will return to this in Part 24.

120 46/9/13-11/1
121 173/51/17-52/1
122 173/49/5-51/6
123 173/106/19-107/20
124 173/10/17-24
125 173/17/6-14
126 173/12/9-13/4
127 170/146/13-147/16
128 170/149/16-20
129 INQ042092/24-25 at paragraphs 120-121, INQ042092/25 at paragraph 125

22.93 Dr Wilkinson analysed the messages sent between Abdalraouf Abdallah and SA and concluded that Abdalraouf Abdallah was *"one of the major influences"* in the process of radicalising SA into violent Islamist extremism.[130] He acknowledged that the evidence did not support the idea that Abdalraouf Abdallah was persuading SA to carry out the Attack in the period 2016–17.[131] I agree that the evidence does not support such a conclusion.

22.94 Abdalraouf Abdallah was arrested on 28th November 2014. He was charged with terrorism offences and remanded into custody at Her Majesty's Prison (HMP) Belmarsh.[132] While there, Abdalraouf Abdallah attempted to call SA 38 times on the prison telephone, known as the 'PIN telephone', short for PIN (personal identification number) Telephone System, although only ten of these calls connected for more than ten seconds.[133]

22.95 The relationship between Abdalraouf Abdallah and SA was not restricted to telephone contact during Abdalraouf Abdallah's remand in custody pending trial. SA visited Abdalraouf Abdallah in HMP Belmarsh on 26th February 2015. On that occasion, he was with Ahmed Taghdi.[134] Ahmed Taghdi was a friend of SA's.

22.96 On 29th July 2015, Abdalraouf Abdallah was released on bail. He remained on bail until his trial.[135] During this period, Abdalraouf Abdallah spent considerable time in the company of SA.[136]

22.97 As I stated in paragraph 22.86, on 11th May 2016, Abdalraouf Abdallah was convicted following a trial of the preparation of terrorist acts, contrary to section 5 of the Terrorism Act 2006, and being concerned in a funding arrangement related to terrorism, contrary to section 17 of the Terrorism Act 2000. He was sentenced on 15th July 2016. He was transferred to HMP Altcourse in December 2016.[137] SA visited him again on 18th January 2017 with Elyas Elmehdi and another man.[138] Elyas Elmehdi was a friend of SA's.

22.98 SA had been due to visit Abdalraouf Abdallah on 17th January 2017. SA was also due to visit Abdalraouf Abdallah on 6th March 2017 with Alzoubare Mohammed. SA did not attend on either occasion.[139]

22.99 I shall return to Ahmed Taghdi and Alzoubare Mohammed at paragraphs 22.112 to 22.125.

130 182/149/11-16
131 183/96/24-97/5
132 170/151/23-152/2
133 INQ035668
134 170/154/6-11
135 170/152/3-8
136 173/77/19-78/17
137 181/74/16-22
138 181/76/13-16
139 170/154/12-15, 170/154/25-155/7

22.100 SA was not on Abdalraouf Abdallah's list of approved PIN telephone contacts while Abdalraouf Abdallah was at HMP Altcourse.[140] On 17th February 2017, Abdalraouf Abdallah was found to be in possession of an illicit mobile phone at HMP Altcourse. Analysis after the Attack of the billing data for that mobile phone showed he had called SA on 16th January and 24th January 2017.[141] I will comment further on this billing data in Part 24.

22.101 Members of SA's extended family linked SA's growing friendship with Abdalraouf Abdallah to changes in his behaviour and views that suggested SA was becoming more extreme, and had increasing interest in Libyan politics and support for Islamic State.[142]

22.102 The Inquiry received evidence from a prison officer who reported a conversation he had had with Abdalraouf Abdallah on 1st December 2021. This was six days after Abdalraouf Abdallah gave evidence to the Inquiry.

22.103 The prison officer reported that Abdalraouf Abdallah said that SA had talked to him (Abdalraouf Abdallah) over a period of years about causing harm to others. The prison officer reported that Abdalraouf Abdallah said that SA had talked about *"killing people in a public space"*.[143] The prison officer reported that Abdalraouf Abdallah had said that because SA had never done anything, he had not taken it seriously. The prison officer reported that Abdalraouf Abdallah stated that he was very shocked when he discovered that *"one of his boys"* had carried out the Attack.[144]

22.104 Abdalraouf Abdallah did not mention what he told the prison officer during his evidence to the Inquiry on 25th November 2021.

22.105 I accept the prison officer's evidence. I find that Abdalraouf Abdallah did say these things to him. Bearing in mind the circumstance in which they were said, they are likely to represent the truth of what Abdalraouf Abdallah was told by SA and the truth of what he thought about it. This indicates that Abdalraouf Abdallah was aware of the threat that SA presented but was not aware that he had identified a specific target.

22.106 I find that Abdalraouf Abdallah had an important role in radicalising SA. I agree with the investigators of Operation Manteline that he provided *"ideological motivation and encouragement, rather than … a more practical hands-on assistance"*.[145]

[140] 170/157/2-20
[141] 170/158/1-159/5
[142] INQ035481/197-198 at paragraphs 524-525
[143] 194/16/21-17/19 [private session]
[144] 194/8/15-9/25 [private session]
[145] 170/162/10-13

22.107 There is insufficient evidence to enable me to conclude that Abdalraouf Abdallah had any prior knowledge of the Attack on 22nd May 2017.[146] There was no direct contact between Abdalraouf Abdallah and SA in the immediate run-up to the Attack.[147]

22.108 The Operation Manteline team considered whether Abdalraouf Abdallah could have maintained contact with SA through others but found no evidence of this.[148] It is probably no more than coincidence that on 18th January 2017 and 24th January 2017 Abdalraouf Abdallah made calls at about the same time as the purchase and delivery of acid.[149] I shall return to this acid purchase in Part 23.

22.109 It is not possible to know exactly what Abdalraouf Abdallah and SA spoke about by telephone in 2017. Abdalraouf Abdallah stated in evidence that he used the illicit mobile phone to keep himself occupied and call his friends simply to chat. He also stated that the PIN telephone was expensive.[150] I am not inclined to accept Abdalraouf Abdallah's evidence about this on its own, as he was not a credible witness.

22.110 The Inquiry received evidence from Paul Mott. Paul Mott was the Head of the Joint Extremism Unit, which is the strategic centre for all counter-terrorism work in prisons.[151] Paul Mott agreed that the PIN telephone was relatively expensive in 2017.[152] It also seems likely that Abdalraouf Abdallah genuinely believed his mobile phone calls were being monitored.[153] On balance, I am not persuaded that there was any discussion of specific attack planning between Abdalraouf Abdallah and SA in January 2017.

22.111 However, that does not mean that SA's visits to Abdalraouf Abdallah in prison and telephone communication with him in 2016 and 2017 were unimportant. It is likely that their continued relationship made a significant contribution to consolidating SA's ideology as he was contemplating the Attack, and stiffened his resolve to carry out the atrocity, albeit in a general manner rather than in relation to any particular details.

Ahmed Taghdi

22.112 Ahmed Taghdi had known the Abedis since childhood. His family knew the Abedi family. In his statement to the police, dated June 2019, he described SA as a *"really good friend of mine"*.[154] Ahmed Taghdi's father was killed by Colonel Gaddafi's forces during the 2011 civil war in Libya.[155]

146 170/163/6-15
147 170/164/7-21
148 171/31/24-33/19
149 173/112/21-114/22
150 173/94/18-96/7
151 181/1/16-21
152 181/81/22-82/8
153 173/93/9-94/10
154 165/39/3-40/8
155 165/27/3-10

22.113 Ahmed Taghdi visited Abdalraouf Abdallah with SA on 26th February 2015 at HMP Belmarsh.[156] In evidence, he denied that Abdalraouf Abdallah had said or done anything to radicalise him or SA. He stated that there had been two prison officers close by, and he had thought that the visit was being monitored. He stated that it was a social visit, and they did not talk about religion or politics.[157]

22.114 Ahmed Taghdi's last contact with SA was by text on 1st May 2017, when SA told him to delete his number and any old messages.[158]

22.115 Ahmed Taghdi denied holding extremist views.[159] However, this was difficult to reconcile with his past behaviour. On 22nd March 2016, he wrote to a woman he followed on social media, criticising her for sympathising with the victims of the Brussels airport attack, an attack by violent Islamist extremists that had taken place that day.[160] Images of fighters, weapons, artillery and military marches were found on Ahmed Taghdi's electronic devices.[161] Whatever his views now, I consider that Ahmed Taghdi has held extremist views at some point in the past.

22.116 I also find that Ahmed Taghdi was part of a peer group around SA that did nothing to dissuade SA from descending into an increasingly extremist worldview. However, there was insufficient evidence to find that Ahmed Taghdi radicalised SA or that he was a particular cause for SA taking the final step from theoretical into operational violent Islamist extremism.

22.117 In reaching this view, I have borne in mind that Ahmed Taghdi was involved in the purchase of the vehicle used by SA and HA in the plot. I will return to Ahmed Taghdi in Part 23 when I consider those involved in key events related to the planning and preparation for the Attack.

Alzoubare Mohammed

22.118 Alzoubare Mohammed got to know SA in 2014 or 2015 and they became friends. Their fathers knew one another. Both parents were members of the Libyan community. Alzoubare Mohammed was also friends with Abdalraouf Abdallah and Ahmed Taghdi.[162]

22.119 Alzoubare Mohammed stated in evidence that he and SA used to talk about football and *"general things that lads would talk about"*.[163] He stated that they would *"socialise, do what lads do, but nothing political"*.[164]

156 165/53/11-20
157 165/55/2-58/4, 165/117/6-21
158 46/150/23-151/3, 165/76/12-21
159 165/28/3-11
160 INQ037656, 165/29/7-32/4
161 165/32/9-34/24
162 170/12/18-13/5, 170/14/2-15/24, 170/19/6-21/17
163 170/14/11-13
164 170/11/24

22.120 Alzoubare Mohammed stated in evidence that he had not heard SA express extremist views.[165] He stated that in late 2016 to 2017 SA *"distanced himself from the lads"*.[166] He explained this further by saying that SA *"would probably go to the mosque more often, he'd probably go to the gym whilst we were doing whatever we were doing"*.[167] He agreed that SA was more withdrawn and more religious during this period.[168]

22.121 Alzoubare Mohammed visited Abdalraouf Abdallah on three occasions at HMP Altcourse. On one of those occasions, on 17th January 2017, SA was also due to attend the visit but did not. Alzoubare Mohammed stated in evidence that the visits were purely social and designed to uplift Abdalraouf Abdallah's spirits.[169]

22.122 On 15th May 2017, SA telephoned Alzoubare Mohammed from Libya. Alzoubare Mohammed's account in evidence of this call was that it was *"a general conversation, how he'd been, how's the family"*.[170] He stated that there was no indication that SA was coming back to the UK. He stated that, with hindsight, he thought it might be that SA was calling him to say goodbye, although there was no indication of that at the time.[171]

22.123 On 22nd and 23rd May 2017, Alzoubare Mohammed visited Devell House (see Figure 44 in Part 23). Between 15th April 2017 and 19th May 2017, the Nissan Micra that was used to store the explosive SA and HA had manufactured was parked in the car park at Devell House. I shall set this out in more detail in Part 23. The vehicle in which the explosive had been stored was still in the car park when Alzoubare Mohammed attended. Alzoubare Mohammed's explanation in evidence for his presence at Devell House was that he was visiting the occupant of a flat, Elyas Blidi,[172] to whom I refer in Part 23.

22.124 Having considered all of the evidence, I find that it is probable that these visits to Devell House were unconnected with the Attack. In particular, I was persuaded by answers Alzoubare Mohammed gave about those visits, which suggested he was engaged in activity unrelated to the Attack.[173]

22.125 Overall I find that, as he accepted, Alzoubare Mohammed was part of the same peer group as Ahmed Taghdi. There is insufficient evidence to support a finding that Alzoubare Mohammed played any role in radicalising SA.

165 170/15/18-20
166 170/15/25-16/3
167 170/16/6-8
168 170/61/14-19, 170/63/24-64/9
169 170/25/1-26/2, 170/71/7-18
170 170/32/4-5
171 170/31/17-32/23
172 170/37/2-38/18
173 170/57/2-58/5

Other associates

22.126 Mansoor al-Anezi was a resident of the South West of England. He was arrested in 2008 as part of the investigation into Nicky Reilly. Nicky Reilly attempted unsuccessfully to carry out a suicide bombing in Exeter. Mansoor al-Anezi was in contact with SA and HA between October 2016 and January 2017.[174]

22.127 Mansoor al-Anezi died in January 2017. SA visited him shortly before his death, and both SA and HA attended his funeral on 17th January 2017.[175] This appears to be the reason that SA did not visit Abdalraouf Abdallah in HMP Altcourse that day. Although the details of the relationship between Mansoor al-Anezi and SA are not known, DCS Barraclough described it as *"clearly a connection of significance"*.[176] I agree. This relationship played a part in the development of SA's worldview, although the evidence did not enable me to say how great a part or in what way it operated.

22.128 Raphael Hostey is likely to have been a key influence. SA knew Raphael Hostey and spent time with him socially. SA was close to Raphael Hostey's family.[177] Raphael Hostey travelled to Syria to fight with Islamic State in October 2013 and, having been injured, became a prominent propagandist for that group, recruiting people from around the world and particularly from his own South Manchester community. He is reported to have been killed in Syria by a drone strike in Spring 2016.[178] I am satisfied that, in some way that I cannot quantify, Raphael Hostey played a part in the radicalisation of SA, either directly or indirectly.

Online content

22.129 Dr Wilkinson noted that there is a *"huge problem"* with extreme material being posted online that may have a radicalising influence.[179] The Intelligence and Security Committee of Parliament previously identified the ease with which such material is accessed as an issue in its 2014 report.[180] This is a problem which is only growing in significance, and it seems inevitable that Islamic State propaganda and other extremist content on the internet was at least one factor in SA's and HA's radicalisation.

22.130 Despite a detailed investigation into their online presence, there is limited evidence of extremist mindset material directly attributable to SA or HA themselves.[181] A Facebook account belonging to SA was deleted before it could

174 45/213/19-214/15
175 45/213/4-18
176 45/214/15
177 173/92/4-16
178 173/90/10-91/21
179 163/133/22-134/23
180 INQ042312/67-69
181 170/118/6-19

be investigated. An older account last accessed in November 2014 contained no evidence of extremism.[182] A mobile phone used by SA was recovered after the Attack, but was subject to a factory reset before it was disposed of by him.[183]

22.131 Examination of HA's social media profiles revealed more. When HA's Facebook account was analysed after the Attack, it was found to include images of Islamic State recruiter Reyaad Khan, images of HA holding guns, pictures of Islamic State fighters, including some where they are chopping off a man's hand, and a passenger plane heading towards the Twin Towers with the caption 'For Allah'.[184]

22.132 As set out at paragraphs 22.74 to 22.78, Ismail Abedi was found in possession of significant extremist material that had been disseminated online. Given this, it is striking that no criminal prosecution could be brought against Ismail Abedi for possessing material described by Dr Wilkinson as the *"full radicalising kit of texts and nasheeds of … Islamic State"*.[185]

22.133 The Commission for Countering Extremism was established in 2017 as a non-statutory expert committee of the Home Office operating independently from government. In 2019, it proposed a definition of *"hateful extremism"* as *"[a]ctivity or materials directed at an out-group who are perceived as a threat to an in-group motivated by or intending to advance a political, religious or racial supremacist ideology"*.[186]

22.134 In February 2021, it published a report entitled *Operating with Impunity – Hateful Extremism: The need for a legal framework*, and again proposed that new definition and a new criminal offence of possession of terrorist propaganda.[187]

22.135 The Chief Coroner at the London Bridge Inquests similarly suggested consideration be given to legislating for *"offences of possessing the most serious material which glorifies or encourages terrorism"*.[188] The Independent Reviewer of Terrorism Legislation, Jonathan Hall KC, considered the proposal in his report *The Terrorism Acts in 2019*, published in March 2021, but ultimately did not recommend such a change.[189]

22.136 Shaun Hipgrave from the Homeland Security Group stated in evidence to the Inquiry that the 2021 Commission for Countering Extremism report remains under consideration by the Secretary of State.[190] I recommend that such consideration be given as a matter of urgency.

182 46/14/3-15/10, 170/122/15-123/1
183 46/37/3-19
184 46/15/17-18/11, 170/123/24-124/3
185 183/155/23-156/13
186 INQ042285/10
187 INQ042285/92 at paragraph 8.7
188 INQ042460/24
189 Jonathan Hall KC, *The Terrorism Acts in 2019*, March 2021 at paragraph 7.62
190 164/99/13-100/22

Overall findings on influences

22.137 The view of the Operation Manteline investigation was that SA's and HA's radicalisation was not due to a single moment, event or person. The investigators considered that the role of Ramadan Abedi is likely to have been of significance, that a change in SA's and HA's conduct and behaviour coincided with Abdalraouf Abdallah becoming more involved in their lives, and that by late 2016 both brothers had become thoroughly radicalised.[191] I agree in every respect.

22.138 The period about which the least information is available is the immediate run-up to the Attack, from December 2016 to May 2017. There is very little evidence about what SA's mindset was in this period and when or how he moved into the operational phase of his attack planning.[192] However, I am satisfied that by the end of 2016 SA and HA had become entirely committed to violent action of some extreme kind. I will address this in greater detail in Part 23.

22.139 While noting that the Abedis' upbringing as children made them very vulnerable to radicalisation, Dr Wilkinson's view was that the real movement towards radicalisation started in around late 2013.[193] This was the time that people close to SA, such as Raphael Hostey and Abdalraouf Abdallah, started to show significant interest in Islamic State.[194] As SA's interaction with first Raphael Hostey and latterly Abdalraouf Abdallah increased over the following two or three years, this put him on a trajectory towards an operational violent Islamist extremist worldview.

22.140 The beliefs of Ramadan Abedi and his peers laid the foundations, but their focus was on their home country of Libya. It appears that the appearance of Islamic State, and particularly its declaration that it had established a caliphate in June 2014, was a major trigger for the radicalisation of not just SA and HA but a wider group of young men. Figures such as Abdalraouf Abdallah and Raphael Hostey functioned as inspirations and 'poster boys' for Islamic State, encouraging people to travel to Syria to fight and providing active assistance to those wishing to do so.

22.141 Ismail Abedi and friends of SA and HA accessed Islamic State material online, and it is inevitable that SA and HA did as well. This material would have fuelled their radicalisation by glorifying the actions of Islamic State. The material encouraged armed struggle and martyrdom. It focused anger and hatred on to Western society. This material is likely to have been more impactful in the absence of responsible parents and given the lack of engagement with education or meaningful work.

[191] 171/11/5-21
[192] 183/90/13-91/6
[193] 182/66/11-20
[194] 182/177/19-178/14

22.142 Some of these 'factors' and 'triggers' applied to many people from backgrounds like the Abedis in this period, very few of whom went on to commit terrorist atrocities.[195] However, in the case of SA and HA, the sheer number of factors, against the backdrop of experiencing the Libyan conflict, plus the presence of significant figures with connections to violent extremism, made them prime candidates for radicalisation. Dr Wilkinson's conclusion was that by 2017 every conceivable radicalising malign presence and noxious absence existed in SA's life: *"I have never seen such a complete picture of the Petri dish absolutely brimming with germs."*[196] This captures graphically what I consider the position to have been.

[195] 182/132/4-19

[196] 182/132/13-15

Institutions with which SA engaged

Key findings

- None of the educational establishments that SA attended were at fault in failing to identify him as being at risk of being radicalised or drawn into terrorism. No single institution had a comprehensive-enough view of SA's behaviour, family situation or potential risk factors, over a sufficiently long period of time, to recognise his descent into violent Islamist extremism.
- More needs to be done to ensure that education providers share relevant information about students such that those vulnerable to radicalisation can be more effectively identified than is currently the position.
- The mosques attended by SA and HA were not an active factor or cause in their radicalisation.
- The Prison Service needs a scheme designed to address the risk that radicalised prisoners present both to other prisoners and to visitors.
- SA should have been subject to a Prevent referral at some point in 2015 or 2016. However, it is very hard to say what would have happened if SA had been approached under Prevent or the Channel programme.

Schools, colleges and university

22.143 SA had a troubled educational history. There were some signs during his time in education that he was vulnerable to radicalisation, but they were not of sufficient significance that any institution can properly be criticised for failing to spot them and take further action at the time. After leaving secondary school, SA did not spend long at any one educational establishment, and the lack of any consistent system for passing information between institutions meant that there was no one person or organisation in a position to identify any concerning patterns of behaviour.

22.144 I instructed Professor Lynn Davies, an expert in education and extremism, to assist me.[197] She provided the following summary of SA's education:

> *"[SA] was never an academic student. He had difficulty in reaching suitable levels of achievement. This was at least in part because of patterns of behaviour linked to absenteeism, lateness, failure to complete assignments, and a general lack of commitment to study. His behaviour was problematic in each institution, particularly Burnage Academy, with 15 incidents of extreme rudeness to staff, fighting, swearing, theft and hooliganism. Even at college level, when [SA] was an adult of some 20 years old, he was exhibiting disrespect for his staff, for example being on his mobile phone, suddenly leaving lessons, and being rude to library personnel. Although the*

[197] See Appendix 18

head of student services at Manchester College said he wasn't disrespectful to her, elsewhere this seemed to be more directed to female staff. He was clearly immature with inadequate insight into responsible learner behaviour and relationships. However, while his conduct was of concern, this could be said of many difficult students and could not obviously be linked to any radicalised behaviour."[198]

22.145 I will consider each of the relevant stages of SA's education below.

Burnage Media Arts College

22.146 SA was a pupil at Burnage Media Arts College, now called Burnage Academy for Boys,[199] between 12th January 2009 and 24th June 2011.[200] During that period, SA was 14 to 16 years old. The headteacher at the time, Ian Fenn, described SA as not showing any real interest in his studies.[201] Another teacher considered SA to be a *"dislikeable boy who displayed average laziness, mediocre rudeness and refused to complete his coursework on time".*[202]

22.147 SA did not engage in any behaviour that stood out as being unusually bad,[203] although Ian Fenn did recall one occasion when SA stole another pupil's mobile phone and was struck by his complete lack of remorse when confronted about the theft.[204] There was another occasion when SA was aggressive and rude when leaving an exam.[205] His behaviour gradually deteriorated over the course of his time at the school.[206]

22.148 Burnage was well placed to spot any signs of radicalisation in SA. Ian Fenn himself was a convert to Islam. He had a good personal understanding of that faith and the local Muslim communities.[207] He was involved in the efforts of both central and local government to tackle violent extremism from very shortly after the 7/7 attacks in 2005.[208] Under his leadership, the school was at the forefront of developing the earliest versions of the Prevent and Channel programmes.[209]

198 181/206/8-207/11
199 179/83/9-16
200 179/84/2-8
201 179/112/3-19
202 179/122/18-24
203 179/22/8-9, 179/116/13-19
204 179/113/6-114/11
205 179/115/11-116/12
206 INQ042636/2
207 179/84/12-85/10
208 179/87/3-89/6
209 179/89/7-90/15

22.149 There were no obvious concerns about the Abedi family's home environment.[210] There was nothing to suggest that they held extremist views or opinions, which was an issue the school did pick up in relation to other families.[211] It did appear to his teachers that SA's father did not have any control over SA and that any attempts by his father to exert discipline were *"largely ineffective"*.[212]

22.150 Before coming to Burnage Media Arts College, SA had been at Wellacre Technical College, but Burnage did not receive a Common Transfer File (CTF) after he arrived, as it should have.[213] It is unlikely that receipt of the CTF would have made any difference to SA's time at Burnage, but this was the first of several examples of failures to transfer information which I heard about during SA's time in education. Ian Fenn told me that the failure to send a CTF to a child's new school was *"not unusual"*.[214] That needs to change.

22.151 Similarly, when SA left Burnage, the school was not told where he was going next.[215] Under the system operating at the time, every child and young person has a unique pupil number which stays with them when they move school up until the age of 16. However, if a young person goes to college, they are assigned a different identifier, and there is no way of connecting the two numbers to facilitate the sharing of information.[216] I will set out at paragraphs 22.180 to 22.185 my views on whether this should change.

22.152 In fact, on leaving Burnage, SA went with his family to Libya.[217] Evidence obtained by the police since the Attack suggests that he and HA were involved to some extent in fighting as part of the civil war at that time.[218]

Manchester College

22.153 When SA returned to the UK, he enrolled at Manchester College. He did so on 18th September 2012. He completed a full academic year and signed up for an evening class in the autumn term of 2013, before leaving Manchester College on 18th December 2013.[219]

22.154 There is no statutory duty on schools to provide information about their pupils to further education colleges, and the level of information transferred is limited. Manchester College did not receive any information about SA when he started

210 179/116/20-117/17
211 179/117/24-119/6
212 INQ042636/2
213 179/106/16-107/4
214 179/107/22-24
215 179/107/25-108/5
216 179/108/11-109/17
217 170/101/22-102/7
218 170/117/6-118/2
219 180/91/4-11

studying there.[220] In particular, Manchester College had no idea that SA had spent time in Libya during the ongoing civil war between leaving Burnage and enrolling at Manchester College.[221]

22.155 Rachel Pilling, who was a Head of Department and Safeguarding Lead at Manchester College at the relevant time,[222] told me that, had Manchester College been aware of this, it would have raised alarm bells, and there would have been conversations with the police.[223] She explained that the application process involved a form and two interviews.[224] No information was elicited in those interviews about what SA had been doing in the year since he left school. However, if SA had not volunteered the information there was no other means for Manchester College to find out where he had been.[225] In my view, that is not satisfactory.

22.156 SA's attendance at Manchester College was poor. He did not attend the first two weeks of his course at all, then started attending as a result of disciplinary action, before this engagement deteriorated. By the autumn term of 2013, he had stopped attending completely.[226] He did attempt to re-enrol in 2014 but was unsuccessful.[227] Manchester College did not know where SA went after leaving in 2013, and in particular it was not aware that he had also enrolled at Trafford College from September 2013.[228]

22.157 Manchester College was aware that SA's parents were in Libya. This was because it was Ismail Abedi who attended meetings during SA's time at Manchester College to discuss disciplinary matters, including one about lack of attendance and another about disrespectful behaviour towards female students by a group of male students that included SA. There were no specific concerns that arose about the family, and the fact that it was an older brother who came to these meetings rather than SA's parents was not regarded as unusual.[229]

22.158 There was one incident of note. This took place in October 2012, shortly after SA started at Manchester College. He assaulted a female student by striking her on the back of the head. The police were involved initially. SA was not charged. Ismail Abedi attended the meeting about this incident with Manchester College staff. The matter was eventually dealt with by way of mediation.[230] The appropriate safeguarding procedures were followed, as SA was still 17 and therefore a child for the purposes of safeguarding law and guidance.[231]

220 180/81/11-82/14
221 180/85/9-15
222 180/90/12-17
223 180/108/7-14
224 180/130/8-19
225 181/185/14-186/24
226 180/109/21-110/21
227 180/110/22-111/5
228 180/111/6-112/9
229 180/112/20-114/22
230 180/116/21-118/24
231 180/115/16-117/7

22.159 Although this was a serious incident, it was the type of thing that occasionally happened at Manchester College, and it did not raise any particular red flags to suggest a concern wider than the assault itself. There was also nothing else during SA's time at Manchester College to suggest to the college authorities that he was vulnerable to radicalisation.[232]

22.160 Rachel Pilling said that she was sufficiently concerned about the absence of SA's parents, in the light of this incident, that she asked the police to carry out a welfare check. It is not clear whether or not this was done, and the College did not follow up on it or take any further steps to investigate SA's home situation or make a referral to child protection services.[233] Rachel Pilling's concern was appropriate. While something ought to have happened as a result of her actions, the evidence did not enable me to say which body ought to be criticised for the apparent lack of reaction.

22.161 Manchester College did not take steps to develop its understanding of Prevent until 2013. Initially, only managers received training on extremism rather than the front-line teachers who were in contact with students.[234] Rachel Pilling recalled that nothing was done to implement Prevent at a practical level until after she took over the safeguarding role in 2015.

22.162 Rachel Pilling was asked in evidence whether the implementation of Prevent could have occurred earlier. The effect of Rachel Pilling's answer was that, with the benefit of hindsight, she accepted that it could.[235] On the whole of the evidence I heard, I do not accept that hindsight is required to realise that Prevent should have been implemented earlier at Manchester College. I consider it should. However, in expressing that view, I am not making a personal criticism of Rachel Pilling. I welcome her candour. I also recognise that this shortcoming is likely to have been common across educational institutions at the time.

22.163 Professor Davies noted that Ofsted inspected Manchester College in 2013 and recorded: *"[M]anagers and staff have a very good understanding of the risks that learners face from radicalisation and extremism."*[236] This suggested that there may have been some form of training for staff prior to 2013.[237]

22.164 Professor Davies' view was that SA's behaviour, including the assault on a female learner, was not sufficient to have justified a referral to the Channel programme. She thought it was reasonable that: *"[H]is behaviour was always interpreted as being anger and short temper rather than an outpouring of religious ideology."*[238]

232 180/119/3-120/2
233 180/117/17-118/3, 180/134/5-135/16
234 180/99/2-19
235 180/127/4-130/7
236 181/190/8-24
237 181/189/20-191/19
238 181/187/16-188/11

22.165 I agree that it was reasonable to interpret SA's actions in the way characterised by Professor Davies. However, for the future, in my view, misogynistic violence should be recognised as a potential indicator of radicalisation. Should such an event occur, it should be assessed by the educational institution concerned in the context of any other potential indicators of radicalisation. It should also be recorded as a potential indicator of radicalisation so that it is not overlooked should other signs emerge. In Part 25, I will make a recommendation in relation to this.

Trafford College

22.166 SA was enrolled as a student at Trafford College between 15th September 2013 and 22nd June 2015, when he was 18 to 20 years old.[239] Staff there had been trained in looking out for potential radicalisation. Trafford College had made referrals to Channel before.[240] However, there was nothing in SA's behaviour during his time there that gave rise to concerns.[241] He needed support to keep him engaged to a minimum standard, but he did achieve some qualifications. There was never a complete collapse in his engagement with his studies, and there was nothing exceptional about him in terms of either attainment or behaviour.[242]

22.167 The only incident that could have led to further questions was when a member of staff saw an image on SA's mobile phone which showed him holding a gun. The staff member questioned SA about this and was told that his family had lots of land in Tripoli and he had gone shooting there.[243] She was satisfied with this explanation and took no further action.

22.168 With the benefit of hindsight, this image is obviously troubling. Trafford College has therefore reviewed the matter since the Attack. It concluded that it was a reasonable decision to take no further action, as SA made no attempt to hide the photograph and there were no other triggers to raise concerns.[244] Professor Davies was of the same opinion. She noted that, even if the staff member had raised a concern, it is *"extremely unlikely"* that this incident would have led to any action being taken under the Channel programme.[245]

22.169 I agree with Professor Davies' assessment. However, this image was another potential indicator of extremism that, if looked at cumulatively with the other indicators I have identified, should have justified a referral to Prevent. I recommend that images of pupils handling firearms be recorded as a potential indicator of extremism, so that they can be taken into account in any assessment of radicalisation by educational institutions.

239 180/1/22-2/5
240 180/25/22-25, 180/38/6-10
241 180/33/8-34/3
242 180/44/13-47/14
243 180/49/23-50/6
244 180/50/6-52/12
245 181/193/8-196/14

University of Salford

22.170 After leaving Trafford College, SA enrolled as an undergraduate at the University of Salford on 3rd October 2015, studying for a Bachelor of Arts degree in business management.[246] During that period, higher education institutions became subject to a statutory duty under section 26 of the Counter-Terrorism and Security Act 2015 to have due regard in the exercise of their functions to the need to prevent people from being drawn into terrorism. The University carried out preparatory work and provided training to its staff on identifying those vulnerable to radicalisation, prior to the duty coming into force.[247]

22.171 The University did not receive any information about SA's behaviour at previous educational institutions. It was, and still is, not routine for such information to be shared. The principle applied by the University of Salford is to accept students if they have the relevant qualifications, even those who have had difficulties in the past, so as not to deny them the opportunity for a higher education.[248] In my view, consideration should be given to universities receiving information about students from previous institutions they have attended. In Part 25, I will make a recommendation in relation to this.

22.172 SA's first year at the University was unremarkable, and he progressed into the second year of his course in October 2016.[249] However, his academic performance and attendance rapidly went downhill from December 2016. He did not submit an assignment that month. At an exam on 13th January 2017, he signed his name, but did not answer any questions. He left early.[250] The University has no record of any further engagement from SA with classes after that date. The last time SA used his access card to enter a University building was 30th January 2017.[251] His conduct in the exam was *"by no means unique"*.[252] There was no active attempt by the University to re-engage SA in his studies after this time.

22.173 I consider SA's behaviour in the January exam to have been out of the ordinary. It is likely that he had already disengaged entirely from his studies by then and had committed to the path of violent extremism. It is possible that he attended the exam because he was due to receive payment of the next tranche of his student loan and wanted to make sure that he remained registered at the University for a further term so that the payment was not cancelled.[253] However, it is not possible to know for sure.

246 180/138/9-10, 180/168/22-170/20
247 180/140/8-143/15
248 180/190/21-191/11
249 180/171/10-17
250 180/172/15-174/3, INQ004091
251 180/174/12-21
252 180/174/5-11
253 180/201/19-202/14

22.174 Following the Attack, the University commissioned an internal review to examine whether there were any failings in its systems of student support and engagement, or the way it had implemented its Prevent duty.[254] The overall findings were that the University had no information to suggest that SA was at risk of being drawn into terrorism, that there was no evidence of wider problems with students presenting with extreme political or religious views, and that the systems in place were appropriate.[255] The review considered that there was a missed opportunity to deal with SA's disengagement from his studies in January 2017, but that it was impossible to say whether this would have made any difference.[256]

22.175 Professor Davies agreed with the conclusions of the internal review that there was no failure on the part of the University of Salford to identify or prevent SA's radicalisation.[257] Indeed, in her view there was not a realistic opportunity to engage with SA after his failure to complete his exam in January 2017. As she stated:

> *"By the time this exam failure was recorded and categorised, [SA] had basically left. It is doubtful he would even have attended for an interview. Whilst earlier on in his academic career he did have aspirations for a career and a good job, this had disappeared. He would not be appealing for mitigation for a result in order to continue his study and had no incentive to engage with his tutors."*[258]

22.176 The better opportunity, in Professor Davies' opinion, was in the first semester of 2016, when SA had not fully disengaged. There was no record of any personal communication from his tutors at that point, and an intervention may have had some effect.[259] However, she was not critical of the University for its lack of any further action. She emphasised the self-directed nature of university studies:

> *"At [higher education] level, it must be remembered that these are adult learners with their own rights and responsibilities. Unless someone is displaying signs of risk to themselves or others, or actively seeks support, emotionally or academically, then tutors are not honour bound to intervene in what might seem like lack of enthusiasm; [indeed] on the contrary, the decision may well be to advise the student to withdraw."*[260]

22.177 Students' engagement with university is not a straightforward issue. Some students will perform well on their courses despite limited personal attendance; some will have good reasons, from illness to family problems, to disengage for a time. It may seem somewhat alarming, particularly to the parents of university students, that there is no duty on university authorities to inform them if their

254 180/175/2-24, INQ000012
255 180/177/5-178/15, INQ000012/13-15
256 180/180/23-182/4
257 181/199/3-17
258 181/200/6-13
259 181/200/15-22
260 181/200/25-201/8

child abruptly stops attending lectures or otherwise disengages, but that is the consequence of students being adults who make their own choices.[261] There must be some lawful basis for their personal data to be shared with their family, or this would be a breach of their right to privacy and the duties of the university under the Data Protection Act 2018.[262]

22.178 In light of the evidence I heard, I do not consider that the University of Salford can be criticised but I was surprised to learn that a university would not do anything to find out what has happened to a student in these circumstances.

Missed opportunities within SA's education

22.179 Overall, none of the educational establishments that SA attended was at fault in failing to identify him as being at risk of being radicalised or drawn into terrorism. No single institution had a comprehensive-enough view of SA's behaviour, family situation or potential risk factors, over a sufficiently long period of time, to recognise his descent into violent Islamist extremism.

22.180 This raises the question of whether more can be done to ensure that education providers share relevant information about students such that those vulnerable to radicalisation can be more effectively identified. If there had been more continuity or transfer of information, it is realistically possible that there would have been more opportunity to pick up signs of SA's radicalisation. In my view, the present system is rather hit and miss and that is obviously unacceptable.

22.181 Although there may be some administrative benefit in Ian Fenn's suggestion of the unique pupil number following a student all the way through to higher education, this does not itself provide any information about behaviour.[263] Similarly, the CTF in its current form is unlikely to be of assistance. Currently, the CTF only applies to schools and does not follow students when they leave school and go on to further or higher education. Were it to continue to track a student the whole way through the education system, it would not provide much help in identifying vulnerability to radicalisation because the level of information it contains related to behaviour is limited.[264]

22.182 The CTF, or a similar record, would need to contain more information than it currently does about behaviour to be of any benefit for the purposes of detecting radicalisation. This raises two problems, as identified by Professor Davies. I do not regard either as insuperable.

22.183 First, having a behavioural record that follows a student to any new educational institution might make it harder for the student to change or improve:

[261] 181/202/20-204/10
[262] 196/19/19-20/23
[263] 181/208/12-209/8
[264] 181/209/9-210/7

> *"I think the idea which I think has come up in the discussions before is that you do have a clean start in the next institution, you don't want to drag previous things, students do mature, they do get better, they've had difficulty histories, but they are may be different. So you don't want to necessarily go in with a label saying 'delinquent' or 'badly behaved' or whatever, you start afresh at each institution."*[265]

22.184 While important and desirable to ensure, so far as possible, that a person can turn over a new leaf at a new institution, I am not convinced that this is sufficient to outweigh the advantage in having some information about behaviour track a student. This is something I recommend that the Department for Education consider.

22.185 The second, more difficult, problem is determining what nature of incident, and what level of seriousness, should be required for it to trigger inclusion in any ongoing record. Whether an incident suggests vulnerability to extremism inevitably involves an element of subjectivity and judgement. Determining an appropriate and objective threshold is not straightforward.[266] In Part 25, I will make a recommendation in relation to this.

Mosques

22.186 One of the areas investigated by Operation Manteline was whether SA and HA worshipped at any particular mosque. The purpose was to establish whether any part of the brothers' radicalisation may have taken place in such an environment.

22.187 I heard evidence about the outcome of this aspect of the Operation Manteline investigation, along with evidence from those with firsthand knowledge of relevant events. Dr Wilkinson considered that evidence with care, assessing whether the mosques attended by SA and HA were a cause of, or factor in, their radicalisation. He came to the firm conclusion that they were not.[267] I agree. It is therefore possible for me to deal briefly with the substantial body of evidence I heard about this topic.

22.188 The investigation found links of substance between SA and HA and two mosques, both in Manchester: the Al-Furqan Islamic Centre, also known as the Al-Furqan Mosque, and the Manchester Islamic Centre, also known as Didsbury Mosque.

22.189 A number of witnesses, including the Director of the Al-Furqan Mosque, informed Operation Manteline that SA and HA had attended that mosque to pray for a time in 2015, into 2016. There was no evidence that either held any role within the mosque during that period, or that any particular incident of

[265] 181/210/14-21
[266] 181/210/22-213/1
[267] 182/93/20-94/6

note occurred.[268] Dr Wilkinson's view was that the Al-Furqan Mosque was a *"mainstream community mosque"*.[269] I accept his conclusion and am confident that attendance at this mosque played no part in the radicalisation of SA and HA.

22.190 Even though I ultimately came to the same view in relation to Didsbury Mosque, the position here was more complicated. Furthermore, the evidence I heard gives rise to important areas for improvement. It is therefore necessary to say more about this mosque.

22.191 Two main issues were explored in relation to Didsbury Mosque: first, the extent of the connection between the Abedi family and the mosque and, second, the links between the mosque and groups connected to the Libyan conflict.

22.192 The principal witnesses on these issues were Fawzi Haffar and Mohammed El-Saeiti. Fawzi Haffar has been a trustee of Didsbury Mosque since 2003 and Chairman of the mosque since March 2018.[270] Mohammed El-Saeiti worked as an imam at the mosque for more than ten years, until his employment there ended in circumstances of rancour on 31st July 2020.[271]

22.193 The evidence of these witnesses on the two main issues differed to a significant extent. It was therefore necessary for me to decide which of the two was reliable. In making that decision, I had regard to my impression of each witness when he gave evidence but tested that impression against the other evidence that was available, including some contemporaneous emails. I also kept in mind that Mohammed El-Saeiti feels wronged by the mosque and so might have a reason to embellish his account.

22.194 Ultimately, I regarded Mohammed El-Saeiti as a generally truthful and reliable witness. Conversely, in a number of respects I concluded that Fawzi Haffar was unreliable and, at some points, his evidence lacked credibility. My impression was of a man who was describing what he wished the position had been, rather than what it in fact was.

22.195 On the issue of the connection between the Abedi family and Didsbury Mosque, in evidence Fawzi Haffar said that SA had hardly attended the mosque since he was a child.[272] Since the Attack, he had discovered that Ramadan Abedi had made the call to prayer for a period until 2005 or 2006 but suggested that this was a minor role for a volunteer and said that he had not personally ever heard Ramadan Abedi make the call to prayer or even heard his name prior to the Attack. He explained that he had also discovered that Ismail Abedi had helped in the mosque school for a period, but he had never known of that fact or heard

268 INQ035481/91-92 at paragraph 366(i)
269 182/112/6-17
270 171/52/1-10
271 172/6/7-7/9
272 171/114/7-115/7

his name either until after 22nd May 2017. Samia Tabbal had also helped at the school for a short period, but Fawzi Haffar said that, in common with the other members of the Abedi family, he had never met her.[273]

22.196 In my view, the evidence of Fawzi Haffar tended to downplay the strength of the links between the Abedi family and Didsbury Mosque in the years leading up to the Attack. On the whole of the evidence, I am satisfied that SA, HA and Ismail Abedi all attended the mosque to pray over a lengthy period, as did their father Ramadan Abedi. Ramadan Abedi and Ismail Abedi had, for periods, specific roles within the mosque. I also accept the evidence of Mohammed El-Saeiti that there was an occasion in late 2014 when SA gave him a hateful look in reaction to a sermon he had given on 3rd October 2014.[274]

22.197 Two additional pieces of evidence that emerged during the Inquiry supported me in the view I formed.

22.198 First, on 3rd October 2014,[275] Mohammed El-Saeiti delivered the sermon to which I have referred. I accept his evidence that in that sermon his purpose was to criticise the actions of terrorist groups such as Islamic State and Al-Qaeda in Libya. A section of the congregation reacted badly to the sermon and something of a campaign developed against Mohammed El-Saeiti. As part of that campaign, Ramadan Abedi posted a critical message on social media and HA and Ismail Abedi signed a petition calling upon Mohammed El-Saeiti to be sacked. This demonstrates the strength of connection between the Abedis and the mosque. It also demonstrates the extent to which the political situation in Libya was a prominent issue within its premises.

22.199 Second, in the course of its investigation, Operation Manteline seized a video recording of some form of meeting taking place within the mosque on 28th July 2015. Operation Manteline assessed that the video showed Ramadan Abedi performing a prominent role in the meeting. Even though Fawzi Haffar told me that he could not identify the person concerned,[276] I am satisfied that the identification of Ramadan Abedi was correct. Our understanding of what was shown by the recording developed significantly when Mohammed El-Saeiti gave evidence. He explained that he was able to identify Ramadan Abedi, that Ramadan Abedi's name was actually mentioned on the soundtrack to the footage and that the meeting concerned the impending marriage of Ismail Abedi.[277] I accept the evidence of Mohammed El-Saeiti. This footage represents strong evidence linking the Abedi family to Didsbury Mosque.

273 171/119/1-124/19
274 172/81/1-22
275 172/34/14-59/4
276 171/187/16-190/22
277 172/84/18-87/9

22.200 Even if it is the case that in the immediate aftermath of the Attack, the leadership of Didsbury Mosque did not have an understanding of the strength of the Abedi family's links to the mosque, in the course of engaging with the Inquiry the leadership should have investigated matters more thoroughly and provided a more complete and accurate account of the Abedis' connection.

22.201 On the issue of the links between the mosque and groups connected to the Libyan conflict, Fawzi Haffar gave extensive evidence. He said that at one time about 20 per cent of those who attended Didsbury Mosque had been of a Libyan heritage, but that this had reduced to about 8 or 10 per cent by 2017 and to a maximum of 5 per cent now.[278] He denied that the mosque had strong ties to Libya, stating, *"[W]e have no ties to Libya, no ties to Libyan groups,"*[279] and said that the mosque had, prior to the time of the Attack, no knowledge of any attendee going to Libya to fight in the conflict there.[280] The thrust of his evidence was that the mosque deprecated the use of its premises for political purposes, whether by the imams or by groups and did what it could to prevent that happening.[281]

22.202 In my view, Fawzi Haffar's evidence was not an accurate reflection of the position in the years before 2017. It lacked credibility. The leadership of the mosque must have known that during this period there existed what Dr Wilkinson correctly concluded was a *"very toxic political environment"* among members of the congregation related to the situation in Libya.[282]

22.203 There are a number of reasons why I have reached this conclusion.

22.204 First, in 2011, the leadership of the mosque dealt with a situation in which one of the imams, Mustafa Graf, had been detained in Libya amid claims that he had been fighting; an image of him in military fatigues had emerged.[283] Then subsequently, the leadership of the mosque had to deal with a controversial sermon delivered by Mustafa Graf, which in one view, although not the only view, encouraged support for armed jihad in Syria and other parts of the Muslim world.[284] As I have explained in paragraph 22.198, the leadership of the mosque had also had to deal with the fallout from Mohammed El-Saeiti's sermon on 3rd October 2014 about the situation in Libya. It must have been clear to the leadership that the political situation in Libya was a prominent issue in the mosque for years before 2017.

22.205 Second, Mohammed El-Saeiti gave evidence that, in the period from 2014 and during 2015 and 2016, meetings were held at the mosque by supporters of extremist groups engaged in the conflict in Libya.[285] I do not consider that the

278 171/54/19-56/10
279 171/67/3-13
280 171/72/3-74/1
281 171/203/12-204/13, 171/207/10-208/6
282 182/109/13-110/7
283 171/67/17-71/22
284 171/97/1-106/24
285 172/17/12-24

evidence enables me to go so far as to say that the meetings were organised by those who supported extremism, but I do accept that meetings took place that were focused upon the political situation in Libya and at which individuals who supported the fighting there were present. I also accept that such meetings continued in the years after the Attack; video evidence of one such meeting in February 2020 was produced.[286] This contradicted the evidence of Fawzi Haffar that the mosque was not used for such purposes.

22.206 Overall, I accept that the leadership of Didsbury Mosque had no positive wish for its premises to be used for political purposes, let alone for the support of violent Islamist factions fighting in Libya or elsewhere. My impression from all the evidence was that the leadership recognised that members of its congregation represented both sides of the conflict in Libya and wished to avoid offending either group. That led to a form of wilful blindness in respect of the activities that occurred at the mosque. That was weak leadership.

22.207 On any view, in the years leading up to the Attack, the leadership of the mosque did not pay sufficient attention to what went on at its premises and did not have policies in place that were robust enough to prevent the politicisation of its premises, which I find occurred. It should have done. That is a lesson that all religious establishments must learn.

22.208 Didsbury Mosque has charitable status. It was suggested to me that, based on the evidence heard during the Inquiry, I should report the mosque to the Charity Commission. Having considered this carefully, I have concluded that it is unnecessary. The Charity Commission has already put in place an action plan. The Charity Commission can consider what I have said in light of the progress Didsbury Mosque has made on the action plan. In those circumstances, the Charity Commission is best placed to reach its own judgement about whether further action is required.

Prisons

22.209 As I have explained, SA visited Abdalraouf Abdallah in prison on two occasions: once while he was on remand at HMP Belmarsh on 26th February 2015[287] and again on 18th January 2017 at HMP Altcourse, where Abdalraouf Abdallah was serving a sentence of imprisonment for terrorism offences.[288] There was also a series of calls between SA and Abdalraouf Abdallah in 2015, while Abdalraouf Abdallah was in custody.[289] Finally, Abdalraouf Abdallah contacted SA using an illicit mobile phone while he was serving his sentence at HMP Altcourse.[290]

286 172/17/25-19/17
287 181/75/21-24
288 181/76/13-16
289 181/78/11-14
290 181/80/19-22

22.210 There is no evidence as to precisely what was discussed between SA and Abdalraouf Abdallah on the visits. There is no evidence that any form of attack planning or preparation was mentioned.

22.211 However, as set out at paragraph 22.106, it is likely that Abdalraouf Abdallah was a radicalising influence on SA. It is surprising that he was allowed to have him visit and communicate with him by telephone without some form of monitoring or checks being made. Dr Wilkinson no doubt spoke for many when he suggested that there should be more routine monitoring of the visits to those who are in prison for terrorist offences.[291] I shall return to this in Part 25.

22.212 Abdalraouf Abdallah was provisionally made a Category A prisoner when first remanded on 3rd December 2014.[292] This was because of the nature of the offence alleged at that time. This is the category that involves the most restrictions being placed on a prisoner, including in relation to visitors through the Approved Visitor Scheme. Under the Approved Visitor Scheme, all visitors were checked and risk-assessed before visits were allowed.[293]

22.213 On 5th December 2014, Abdalraouf Abdallah was formally categorised as a Category B prisoner.[294] Following his conviction, his categorisation was reviewed. He was again categorised as a Category B prisoner. He was a Category B prisoner on 22nd May 2017.[295]

22.214 The categorisation system did not focus on the outward risk a prisoner may pose to members of the public from within prison, but on the prisoner's escape risk and the risk to the public if the prisoner escaped.[296] The scheme was not designed for, or intended to manage, the risk of an extremist radicalising a person susceptible to radicalisation who might be visiting the prisoner.[297]

22.215 Paul Mott, the Head of the Joint Extremism Unit, accepted in evidence that at the time of SA's visits to Abdalraouf Abdallah there was no specific guidance covering management of terrorist risk from visits.[298]

22.216 Discipline and control within the prison estate is governed by Prison Service Instructions (PSIs). PSIs are identified by number and year of publication. There were two PSIs drawn to the Inquiry's attention: PSI 15/2011 and PSI 13/2016.

22.217 PSI 15/2011 was entitled 'Management of Security at Visits'. It did not address the risk of radicalisation.[299]

[291] 181/111/15-112/7
[292] INQ035625/15 at paragraph 53
[293] 181/61/15-65/9
[294] 181/73/21-74/7
[295] 181/74/16-75/7
[296] 181/61/21-62/6
[297] 181/63/1-6
[298] 181/41/25-42/9
[299] 181/29/24-30/23, 181/35/9-20

22.218 PSI 13/2016 was entitled 'Managing and Reporting Extremist Behaviour in Custody'. It did not come into force until after the visits.[300] Even then, its focus was on threats into the prison system rather than threats to those outside prison from those within.[301]

22.219 Similarly, the local visitor policy at HMP Altcourse reflected the national guidance and made no reference to the risk posed by convicted terrorists to the outside world.[302]

22.220 The Prevent guidance in place in 2015–17 recognised the role that prison staff have in identifying radicalisation risks, and the training that they need to help them do so.[303] In reality, however, Paul Mott described an *"acute"* issue with the level of resources committed to the prison estate in 2017 and acknowledged that issues with inadequate staffing numbers and counter-extremism training and support for prison officers *"arguably"* remained the same at the date of his evidence in December 2021.[304]

22.221 Management of the risk posed by terrorist prisoners was dependent on the information prisons receive from partner agencies. Paul Mott accepted in evidence that the system in 2017 for sharing intelligence with the Prison Service was *"relatively disconnected"*.[305]

22.222 There were some controls and processes in place. Her Majesty's Prison and Probation Service (HMPPS) used a system called Pathfinder for managing extremist prisoners. Attendees at Pathfinder meetings included offender managers and the police.[306] They would be expected to discuss any new contacts, including external contacts,[307] and if there were concerns visitors could be banned or restricted.[308] This had been done in the past, before 2016.[309] Pathfinder could also lead to sanctions on prisoners and monitoring of mail and telephone calls.[310]

22.223 Under Rule 34 of the Prison Rules 1999, visits needed to take place within the sight and hearing of prison officers or staff.[311] Dr Wilkinson suggested that all non-legal visits to radicalising prisoners should be audio-visually recorded.[312] In my view, there are likely to be problems with recording all visits, both in terms

300 181/39/4-20
301 181/51/24-52/24
302 INQ025757, 181/60/5-61/14, 181/109/9-25
303 INQ018873/9
304 181/96/7-100/6
305 181/17/9-18/1
306 181/12/2-7
307 181/13/17-14/13, 181/53/16-54/15
308 181/71/4-13
309 181/53/16-54/15
310 181/25/20-26/16
311 The Prison Rules 1999, section 34(5)
312 183/144/7-145/19

of justifying the interference with Article 8 rights to private and family life, and finding the necessary equipment to record all visits and monitor the recordings. I do not think this suggestion is practicable.

22.224 PIN telephone calls were not monitored for terrorist offenders until April 2016, but since then it has been policy to do so.[313]

22.225 Changing the Approved Visitor Scheme from its focus on escape risk is unlikely to be the best solution. The answer is likely to be a different and separate scheme focused on the risk of radicalisation.[314] I was told that HMPPS is producing a new Communications Policy Framework which will address this.[315] It is important that this should happen.

313 181/78/18-24

314 181/66/9-67/23, 181/86/11-87/14

315 181/71/19-73/19

Part 23
Planning and preparation for the Attack

Key findings

- The device created by SA and HA was designed to kill and injure as many people as possible.
- SA and HA are likely to have developed their ability to construct their device from viewing an Islamic State instructional video that was at one stage available online, and also from training they received in Libya in 2016.
- SA and HA took extensive steps to avoid detection in the period prior to their departure for Libya on 15th April 2017 and SA continued those steps following his return to the UK on 18th May 2017.
- The police investigation into the Attack, Operation Manteline, was effective, impressive and professional.
- HA confessed his involvement in the Attack to members of the Inquiry Legal Team. In that confession, he revealed that he and SA were motivated by adherence to Islamic State.
- The evidence, while creating reasonable suspicions regarding other individuals, is insufficient to establish on the balance of probabilities that any of those who participated in the acquisition of precursor chemicals knew that those chemicals were to be used in a bomb. However, there were people in Libya who probably knew what SA intended to do.

Introduction

23.1 The device created by SA and HA was devastatingly destructive. It was intended to be so. In the words of the expert in explosives who assisted the criminal investigation, Lorna Philp: *"[T]he design and construction of this device was a deliberate attempt to cause a large explosion that would injure and kill as many people as possible."*[1] It took approximately six months for the device to be assembled. It required components from a number of sources. It also required considerable knowledge.

[1] 44/119/12-15

23.2 As I explained in Part 1 in Volume 1 of my Report, between 15th April 2017 and 18th May 2017, SA was in Libya.[2] On his return, he conducted hostile reconnaissance of the Arena on a number of occasions. I will set out that hostile reconnaissance in greater detail in paragraphs 23.91 to 23.93, 23.110 to 23.114, and 23.120.

23.3 Following the Attack, the criminal investigation was led by Detective Chief Superintendent (DCS) Simon Barraclough as Senior Investigating Officer. This investigation was conducted under the operational name 'Operation Manteline'.[3] I have heard evidence from a number of officers involved in Operation Manteline, including DCS Barraclough. I have also had the benefit of the support of Operation Manteline officers, who have carried out investigations on my behalf during the Inquiry.

23.4 Operation Manteline was an impressive, effective and professional investigation. It resulted in the conviction of HA on 22 counts of murder and other offences. I am grateful to DCS Barraclough and his team for the assistance they gave me. That assistance provided the evidential basis for what follows in this Part.

23.5 Following a ruling made by Mr Justice Jeremy Baker in the trial of HA, it has been necessary to assign ciphers to the names of four witnesses, Trial Witness 1, Trial Witness 2, Trial Witness 3 and Trial Witness 4, and withhold their addresses and relationship with SA and HA. As a result, it has also been necessary to assign ciphers to three of these witnesses' relatives, Relative A, Relative B and Relative C.

23.6 In this Part, I set out the steps that SA and HA went through from their first acquisition of precursor chemicals through to the final stage carried out by SA alone. I deal with the period following SA's return from Libya on a day-by-day basis. At the end of this Part, I consider some relevant events after the Attack. I conclude by considering the question of the extent of the involvement of others.

[2] 44/58/6-60/15

[3] 44/8/5-13

Period before departure for Libya

Learning how to build the device

23.7 In November 2016, Islamic State published on the internet a video which described and demonstrated in detail how to make an explosive called triacetone triperoxide (TATP). This was the explosive that SA and HA used in the Improvised Explosive Device (IED) they constructed. The video went on to set out how to incorporate the TATP into an IED. Operation Manteline's investigation concluded that the similarities between the device SA detonated and the one set out in the video *"are remarkable"*.[4]

23.8 The video provided clear instructions on a step-by-step basis.[5] The video began with the presenter addressing the viewer. The presenter was dressed in a balaclava and camouflage combat clothing. He stated:

> *"Praise is due to Allah, who aided the obedient mujahid ... My muwahhid brother, today, by Allah's permission, we will learn how to make simple explosive substances with common ingredients, and which you can make in your own home using simple tools. This is the substance known as acetone peroxide, commonly known as white ice."*[6]

23.9 There is no direct evidence on the electronic devices seized by Operation Manteline that SA and/or HA watched this video. However, only two of the 14 electronic devices used by SA and HA were recovered.[7]

23.10 I find that the timing of this video and the techniques shown in it make it likely that SA and HA did watch this video, or a very similar video, towards the end of 2016.[8]

Triacetone triperoxide

23.11 TATP is an extremely sensitive, primary high explosive. That means it is a material that will undergo a detonation and produce a shockwave when the explosive functions, to create a blast. It is highly sensitive to detonation. Detonation can occur as a result of friction, impact, heat or spark. It is unstable. It has no commercial use.[9]

4 44/139/4
5 44/111/15-112/4
6 44/139/25-140/8
7 44/139/9-14
8 44/138/21-139/8
9 44/102/14-103/18

23.12 The video I described at paragraphs 23.7 to 23.10 provided instructions which the evidence uncovered by the criminal investigation indicates that SA and HA followed. This provides further support for my conclusion that it is likely that SA and HA watched that video or a very similar one.

23.13 TATP is made up of hydrogen peroxide, an acetone and an acid. These are sometimes referred to as 'precursor chemicals'. Hydrogen peroxide is commonly used as a bleaching agent and disinfectant. Acetone is widely available. It is used as a solvent. Sulphuric acid can be used as the third ingredient. It can be found in car batteries.[10]

23.14 Operation Manteline was not able to determine exactly how much TATP was used in the device detonated by SA. An amount in the low kilograms is the best guess that science is able to make.[11]

23.15 TATP leaves a trace if it comes into contact with another item. However, that trace may not last very long because of the nature of TATP. Traces of TATP were recovered by the investigators from a number of places in Manchester where SA and HA were known to have been: Flat 74, Somerton Court; a Nissan Micra recovered by the police from the car park of Devell House; and the basement and Flat 39 at Granby House.[12] I will deal with the significance of each place in the paragraphs below.

Addresses used by SA and HA

23.16 SA and HA used a number of properties that were not obviously linked to them for their plot: one to manufacture the TATP;[13] one for the delivery of a precursor chemical;[14] and one to store the TATP and other items while SA was in Libya.[15]

23.17 By taking all of these steps, SA and HA were seeking to protect themselves against discovery.

23.18 Figure 44 shows the locations of the key addresses used in the plot.

[10] 44/103/19-105/6
[11] 44/118/18-119/7
[12] 44/113/19-118/10
[13] 44/125/25-126/8
[14] 44/149/2-10
[15] 44/53/25-54/14

Figure 44: *Key locations used by SA and HA*[16]

21 Elsmore Road

23.19 As I set out in Part 22, 21 Elsmore Road was the Abedi family home. Operation Manteline discovered a number of items relevant to the plot at this location.

Flat 74, Somerton Court

23.20 In 2016–17, Aimen Elwafi was the tenant of Flat 74, Somerton Court, Manchester. In November 2016, Aimen Elwafi advertised the subletting of this flat on Facebook. HA contacted Aimen Elwafi on 18th February 2017. Aimen Elwafi explained to Operation Manteline investigators that SA and HA came to view the flat and had moved in by the end of February 2017 after paying two months' rent in cash.[17]

[16] CPS000176

[17] 44/179/3-180/1, INQ035481/38

23.21 Traces of TATP were recovered from Flat 74, Somerton Court.[18] Operation Manteline concluded that the TATP used in the bomb was manufactured at this address.[19] SA and HA used Flat 74, Somerton Court for this purpose until 14th April 2017.[20]

44 Lindum Street

23.22 In 2017, the registered occupier of 44 Lindum Street, Manchester, was Ahmed Hamad. Ahmed Hamad was a family friend of the Abedis. At this time, he was in Libya. Ahmed Hamad provided a key for 44 Lindum Street to Ahmed Dughman so that Ahmed Dughman could check the property and collect post.[21]

23.23 On 17th March 2017, Ahmed Dughman received a telephone call from Ahmed Hamad. Ahmed Hamad informed Ahmed Dughman that SA and HA needed access to stay at the address for a week as they had visitors at their own house. Later that day, either SA or HA contacted Ahmed Dughman and collected the key. The key was returned to Ahmed Dughman about one week later.[22]

23.24 Number 44 Lindum Street was used as a delivery address for the hydrogen peroxide acquired by SA and HA in mid to late March 2017.[23]

Devell House

23.25 In April 2017, Elyas Blidi lived at Devell House, Manchester. He was arrested as part of Operation Manteline on the same day the police discovered the Nissan Micra that had been used to store the TATP at Devell House. Elyas Blidi told Operation Manteline investigators that his friend Elyas Elmehdi had given SA permission to park a vehicle at Devell House.[24] As I set out in Part 22, Elyas Elmehdi was a friend of SA's. I will deal further with the Nissan Micra at paragraphs 23.64 to 23.74.

23.26 Elyas Elmehdi was arrested the day after Elyas Blidi, as part of Operation Manteline. He gave the same account to the police as Elyas Blidi had.[25] The CCTV at Devell House captured Elyas Elmehdi approaching the Nissan Micra on 21st May 2017.[26] That was two days after SA had removed the TATP stored in it. I will address this removal at paragraphs 23.97 to 23.99. Elyas Elmehdi left the country following his interview with the police. At the time that DCS Barraclough gave evidence to the Inquiry, in December 2020, Elyas Elmehdi remained a suspect in the Operation Manteline investigation.

18 44/115/15-116/10
19 44/135/20-136/20
20 44/125/15-24
21 INQ035481/39 at paragraphs 169-170
22 INQ035481/39 at paragraph 171
23 44/148/16-149/7
24 45/164/7-165/17
25 45/166/24-168/16
26 45/169/6-10

Flat 39, Granby House

23.27 When SA returned to the UK on 18th May 2017, he rented Flat 39, Granby House, Granby Row, Manchester. It was here that he constructed the bomb. I will consider this in greater detail at paragraphs 23.86 to 23.124.

First steps in constructing the device

23.28 Between 2015 and January 2017, HA was employed at a takeaway by Relative B.[27] Relative B is a relative of Trial Witness 2. As part of their business, Relative B purchased oil in 20-litre steel cans. In late 2016, HA asked if he could take the oil cans away. HA claimed that he wanted to trade them as scrap metal. Relative B said that he could. As a result, HA took a number of oil cans away.[28]

23.29 Parts of a number of oil cans were recovered from SA's and HA's home address at 21 Elsmore Road, Manchester.[29] Several were those which Relative B had said HA could take away.[30]

23.30 SA and HA used parts of the oil cans in the construction of the bomb.[31]

Acquisition of precursor chemicals

23.31 Between early January 2017 and 6th April 2017, SA and HA acquired the hydrogen peroxide and sulphuric acid they used to create TATP. They took a number of carefully considered steps to avoid detection. Not all of their efforts resulted in them acquiring chemicals.

Availability of precursor chemicals

23.32 One of the four strands of the government's CONTEST strategy in place at the time was Protect. The Chemical, Biological, Radiological, Nuclear, Explosives/Science and Technology Unit (CBRNE/S&TU) formed part of Protect. CBRNE/S&TU's role included closing down opportunities for people to obtain harmful materials.[32]

23.33 One of the ways in which the obtaining of harmful materials was controlled was through a system of regulation created by the Poisons Act 1972 and the Control of Poisons and Explosives Precursors Regulations 2015. This system imposed a requirement to hold a licence for the importing, acquisition, possession and use of the most frequently misused precursor chemicals in concentrations greater than the specified thresholds. These were known as regulated explosive precursors. There was a requirement for robust background checks to be undertaken on those applying for a licence for regulated explosive precursors.[33]

[27] 48/5/5-11
[28] 48/7/14-8/8
[29] 44/169/16-170/4
[30] 48/7/14-22
[31] 45/3/24-4/14
[32] 35/4/11-21, 164/102/3-104/12
[33] 164/104/18-108/20

23.34 In 2017, hydrogen peroxide, at concentrations above a particular level, was a regulated explosive precursor. Sulphuric acid was not. This changed in 2018, when sulphuric acid was added to the list of regulated explosive precursors.[34] The concentration levels of the hydrogen peroxide purchased on behalf of SA and HA, as I will set out in paragraphs 23.53 to 23.61, were below the level at which a licence was required.[35]

23.35 An additional safeguard existed. This required those selling certain chemicals, at any concentration, to make a Suspicious Activity Report in relation to any transaction they believed to be suspicious. These chemicals were known as reportable precursors.[36]

23.36 Hydrogen peroxide and sulphuric acid were both reportable precursors. No Suspicious Activity Reports were made in relation to any of the precursor chemical purchases made on behalf of SA and HA.[37]

Acquisition of acetone

23.37 The Operation Manteline investigation was unable to evidence the purchase of acetone. It is widely available and most commonly known as a key ingredient in nail polish remover.[38]

Acquisition of sulphuric acid

Trial Witness 4

23.38 In early January 2017, HA asked Trial Witness 4 to buy a *"liquid"*[39] that HA claimed was for a battery. HA asked Trial Witness 4 to arrange for the liquid to be delivered to an Amazon locker. Trial Witness 4 refused HA's request. They told HA to undertake the purchase himself.[40]

Trial Witness 2

23.39 At some point in early 2017, HA asked Trial Witness 2 to buy him some acid. Trial Witness 2 is a relative of Relative B. HA claimed that he needed it for a generator in Libya. HA claimed that his bank card did not work. Trial Witness 2 understood that HA wanted a large amount of this acid. Trial Witness 2 undertook some research on the internet. He decided he would not help HA.[41]

[34] INQ037080/20
[35] INQ037080/20
[36] 164/106/13-108/14
[37] 168/50/2-11
[38] INQ035481/10 at paragraph 32
[39] 50/51/18
[40] 50/51/5-52/2
[41] 48/22/13-26/11

Alharth Forjani

23.40 On 18th January 2017, Alharth Forjani's Amazon account was used to purchase a quantity of sulphuric acid. Alharth Forjani is a maternal cousin of SA and HA. The sulphuric acid was delivered to Alharth Forjani's home address on 24th January 2017.[42]

23.41 In a witness statement given to Operation Manteline investigators, Alharth Forjani stated that HA had asked to use his Amazon account as HA's own bank card had been blocked by the bank. Alharth Forjani stated that HA had said he needed the sulphuric acid for a car battery. Alharth Forjani stated that he told HA when the sulphuric acid was delivered and that HA attended the following day to collect it.[43] Operation Manteline examined Alharth Forjani's account and established it was broadly consistent with other evidence obtained.[44]

Relative C

23.42 On 2nd March 2017, Relative C's Amazon account was used to purchase a quantity of sulphuric acid. Relative C is a relative of Trial Witness 3. The sulphuric acid was delivered to Relative C's house on 9th March 2017.[45]

23.43 In an interview with the Operation Manteline investigators, Relative C gave a broadly similar account to Alharth Forjani of how they had become involved.[46]

Shield Batteries

23.44 On 3rd March 2017, HA telephoned Shield Batteries, Viaduct Street, Manchester. Shield Batteries is a UK battery manufacturer and distributor. HA said that he wanted to buy an absorbent glass mat (AGM) gel battery. This is a specialist industrial battery. He claimed that he needed it for a motorhome or caravan. The person he spoke to explained that the battery in question was not appropriate, but HA was insistent. A price of £300 was quoted for the battery.[47]

23.45 Later that day, HA attended Shield Batteries and paid for the AGM gel battery with his mother Samia Tabbal's bank card. HA transported the AGM gel battery away in a Toyota Aygo,[48] the relevance of which I will explain in paragraph 23.52.

23.46 This appears to have been a further attempt by SA and HA to obtain sulphuric acid. If it was, it was likely to have been unsuccessful, despite the amount of money paid. This was because the AGM gel battery was a sealed battery with no liquid acid inside. Specialist knowledge and laboratory equipment is required to extract liquid acid from it.[49]

[42] 44/142/8-144/3
[43] INQ030699/2-3
[44] INQ022710/1-4, INQ034340, 44/143/1-144/13
[45] INQ034340, 44/144/25-146/13
[46] 50/47/12-48/2
[47] 48/67/16-79/16, CPS000157/36, INQ005534
[48] 48/77/5-79/16, CPS000157/36
[49] 48/75/17-76/5, CPS000209/66 at paragraph 192

Trial Witness 1

23.47 On 9th March 2017, HA asked Trial Witness 1 to purchase some acid for him. HA claimed to Trial Witness 1 that the acid was required for an electricity generator in Libya. HA sent Trial Witness 1 a link to the item he wanted them to buy him.[50]

23.48 Trial Witness 1 spoke to their father about the proposed purchase. Trial Witness 1's father told Trial Witness 1 that the transaction was *"dodgy"*.[51] He advised Trial Witness 1 not to be involved. As a result, Trial Witness 1 did not complete the transaction. HA telephoned Trial Witness 1 a number of times around 12th March 2017, but Trial Witness 1 did not speak to him.[52]

Mohammed Soliman

23.49 On 15th March 2017, Mohammed Soliman's Amazon account was used to purchase ten litres of sulphuric acid for £128.46. Mohammed Soliman was a friend of HA. The sulphuric acid was delivered to Mohammed Soliman's house on 21st March 2017.[53]

23.50 In a witness statement provided to the Inquiry, Mohammed Soliman stated that £140 had been deposited into his account by HA. He stated that HA did this following a conversation in which HA asked to use Mohammed Soliman's bank card to buy car engine oil worth £120. He described HA as persisting in this request. He stated that his mobile phone was used by HA to make the purchase. He said that he did not know that sulphuric acid had been bought by HA. He denied knowledge of SA and HA's extremism. He denied knowing what HA was intending to use the purchase for.[54]

23.51 On 23rd March 2017, Mohammed Soliman was the subject of a stop at Manchester Airport, pursuant to Schedule 7 of the Terrorism Act 2000. This stop generated intelligence that Mohammed Soliman had purchased a quantity of sulphuric acid. However, there was nothing in the intelligence to link it to SA or HA. No connection was made before the Attack. Mohammed Soliman left the UK on 10th April 2017. He was out of the country at the time of the Attack.[55]

23.52 In January 2017, HA acquired a Toyota Aygo car. On 23rd March 2017, the Toyota Aygo was involved in a road traffic collision. The Toyota Aygo was abandoned. It was recovered and scrapped. Eyewitness evidence suggests that there may have been a box or boxes in the Toyota Aygo when it was abandoned. That eyewitness evidence was also to the effect that there was an attempt by the occupants of the car to remove the label or labels from the box or boxes while the car was being abandoned. This would be consistent with the Toyota

[50] 49/18/10-19/23
[51] 49/20/16-21/15
[52] 49/20/16-24/24
[53] INQ034340/1
[54] INQ042752/12-13 at paragraphs 71-73
[55] INQ100119/14 at paragraph 51, INQ042752/18 at paragraphs 103-104

Aygo being used to transport the sulphuric acid delivered on 21st March 2017 to Flat 74, Somerton Court. No sulphuric acid was recovered from the vehicle during the recovery and scrapping process.[56]

Acquisition of hydrogen peroxide

Zuhir Nassrat

23.53 On 19th March 2017, Zuhir Nassrat's Amazon account was used in an attempt to purchase 15 litres of hydrogen peroxide. Zuhir Nassrat was a friend of SA's and HA's. The transaction did not complete due to a lack of funds in Zuhir Nassrat's bank account.[57] The intended delivery address was 44 Lindum Street, Manchester, the relevance of which address I dealt with at paragraphs 23.22 to 23.24.

23.54 On 20th March 2017, Zuhir Nassrat's Amazon account was used in two attempts to purchase a quantity of hydrogen peroxide. Two different Amazon sellers were involved. The intended delivery address in each case was 44 Lindum Street. Again, neither transaction completed due to a lack of funds in Zuhir Nassrat's bank account.[58]

23.55 In an account provided to the Operation Manteline investigators, Zuhir Nassrat stated that HA had approached him and asked to use his bank account in order to purchase a present for HA's mother. Zuhir Nassrat agreed to do this and provided his bank and card details. He stated that he had no knowledge that his card would be used in attempts to purchase hydrogen peroxide. He denied any knowledge of the Attack.[59]

Yaya Werfalli

23.56 On 22nd March 2017, Yaya Werfalli's Amazon account was used to purchase a quantity of hydrogen peroxide. Yaya Werfalli was a friend of SA's and HA's. On 31st March 2017, the hydrogen peroxide was delivered to 44 Lindum Street, Manchester.[60]

23.57 On 24th March 2017, HA acquired a second vehicle to replace the Toyota Aygo, which had been abandoned the day before. This second vehicle was a Hyundai Sonata. It is likely that the Hyundai Sonata was used in connection with a further order of hydrogen peroxide four days later.[61]

23.58 On 28th March 2017, Yaya Werfalli's Amazon account was used in an attempt to purchase a quantity of hydrogen peroxide. The intended delivery address was 44 Lindum Street. The transaction did not complete. The attempt had

[56] 44/185/20-187/1
[57] 44/147/17-148/15
[58] INQ034340/1, 44/148/16-150/1
[59] INQ030260/2-3, INQ030260/5
[60] INQ034339/17 at entry 3269, INQ034339/23 at entry 3616
[61] 44/185/25-187/17

been made from an Internet café on Claremont Road in Manchester at 16:30. The Hyundai activated a nearby automatic number plate recognition camera shortly before this time and appears to have been used to travel to the café.[62]

23.59 On 3rd April 2017, Yaya Werfalli's Amazon account was used to purchase a quantity of hydrogen peroxide. On 6th April 2017, the hydrogen peroxide was delivered to 44 Lindum Street.[63] The email address used in connection with this purchase was *"bedab7jeana"*. This translates as *"we have come to slaughter"*.[64] A piece of paper with this email address written on it by hand was recovered by Operation Manteline from 21 Elsmore Road, the home address of the Abedis.[65]

23.60 An examination of Yaya Werfalli's mobile phone revealed that he had provided his Amazon and bank account details to SA and HA because he thought he was involving himself in a fraud. He confirmed that this was the case when interviewed by Operation Manteline investigators.[66]

23.61 Yaya Werfalli was charged with two offences contrary to the Fraud Act 2006, arising out of his involvement in the transactions set out at paragraphs 23.56 to 23.59. He pleaded guilty. On 26th November 2020, he was sentenced to a community order with a number of requirements. The Judge passed sentence on the following basis, which accords with the evidence I received:

> *"What is clear however is that you in March and April 2017 had no idea about what the Abedi brothers were up to, you had no idea what they intended to purchase ... and you had no idea that they were plotting mass murder."*[67]

Sulphuric acid and hydrogen peroxide acquired by SA and HA

23.62 The above transactions meant that, by 7th April 2017, SA and HA had acquired a significant quantity of both sulphuric acid and hydrogen peroxide.

23.63 In fact, not all of the sulphuric acid or hydrogen peroxide was used in the creation of the TATP. For example, when Aimen Elwafi cleared out Flat 74, Somerton Court, he disposed of a number of items, including bottles of liquid that are likely to have contained such chemicals, which SA and HA had left behind.[68]

Transporting the TATP to Devell House

23.64 On 13th April 2017, SA and HA purchased a Nissan Micra through a private sale.[69] Ahmed Taghdi travelled to the place where this car was sold from in the company of SA and HA.

62 INQ035481/29 at paragraphs 127-129
63 INQ034340/1
64 44/152/15-24
65 44/170/11-14
66 44/150/22-152/2
67 INQ039188/3
68 INQ035481/30 at paragraph 137
69 44/188/4-12

23.65 As part of its investigation, Operation Manteline painstakingly reconstructed how the TATP was transported from Flat 74, Somerton Court to Devell House the following day from a variety of evidential sources. I shall set out some of the detail of the investigation's findings as it illustrates the efforts to which SA and HA went in order to avoid detection.

23.66 At around 23:00 on 14th April 2017, both SA and HA were at home at 21 Elsmore Road, Manchester. Shortly after that time, they set out from there in the Nissan Micra. Their first destination was Flat 74, Somerton Court.[70] The exact time of SA and HA's arrival at Somerton Court is not known. At 23:34, SA telephoned a taxi company. It is likely that SA discussed making arrangements for a taxi to come to Somerton Court. Shortly after that call had ended, SA called Elyas Elmehdi. It is likely that this call was about arranging for the use of a space in the car park at Devell House.[71]

23.67 At 00:01 on 15th April 2017, SA contacted the same taxi company again. He requested to be picked up from Flat 72, Somerton Court. By 00:06, SA and HA were no longer together, although both were still in the vicinity of Somerton Court.[72]

23.68 At 00:17, the taxi arrived at Somerton Court. Four minutes later, SA got into the taxi. He was carrying two bags and two cardboard boxes. He asked to be taken to the Rusholme area of Manchester. He indicated that he would tell the taxi driver where to drop him off.[73]

23.69 HA remained at Somerton Court for a period of time. At 00:34, SA called HA. By this point, SA was travelling through Manchester City Centre. Three minutes later, HA called SA back. One minute after that, HA set off from Somerton Court in the Nissan Micra. By 00:41, SA was close to Devell House. He texted HA. One minute later, he called Aimen Elwafi. This call was most likely intended to inform Aimen Elwafi that the flat at Somerton Court was no longer occupied.[74]

23.70 The taxi containing SA continued past Devell House by some distance. At 00:50, it stopped and waited in the Withington area of Greater Manchester. Three minutes later, HA was in the vicinity of Devell House. The brothers spoke on the telephone. The taxi turned around and travelled back to Devell House.[75]

23.71 At 01:08, SA instructed the taxi driver to stop on Banff Road, a couple of streets away from Devell House. Three minutes later, HA pulled the Nissan Micra up behind the taxi. SA got out of the taxi and put the two bags and the two boxes he had with him into the Nissan Micra. SA paid the taxi driver and joined HA in the Nissan Micra.[76]

[70] INQ034710/25 at paragraph 6.2, INQ033885/4-7
[71] 44/157/15-158/7, 44/165/5-11, INQ034339/31
[72] INQ034339/31, INQ033885/13-14
[73] 44/159/7-25
[74] 44/160/20-163/20
[75] 44/162/20-163/20, INQ033885/51
[76] 44/159/11-161/23, 44/163/16-164/24

23.72 The Nissan Micra was subsequently parked in the car park at Devell House. It contained the TATP and other items SA and HA had acquired as part of their plot.[77]

23.73 It is apparent from what is now known that SA and HA took a number of measures designed to avoid detection.

23.74 First, they split the items they had at Somerton Court between the Nissan Micra and the taxi. It is likely that this was to minimise the impact of any intervention by the police should they be caught in transit. Quite aside from their plot, there was a risk that the Micra might be stopped as it was uninsured and had no valid MOT.[78] It may also have been the case that they were concerned that the TATP might detonate during the journey, and they were separating themselves for that reason.

23.75 Second, they gave the incorrect address at Somerton Court. They had been using Flat 74, Somerton Court, but gave the taxi company an address of Flat 72, Somerton Court. It is likely that this was to disrupt any attempt to track them down or discover what they had been doing at Somerton Court.

23.76 Third, they concealed the Devell House location from the taxi driver. It is likely that this was to prevent it being discovered by the police.

23.77 As was to become apparent to the investigators of Operation Manteline after the Attack, the Abedi brothers had taken these steps to move the TATP and other items associated with the construction of the bomb because they were due to travel to Libya.

Departure from the UK

23.78 On 1st April 2017, flights departing on 6th April 2017 from Libya to the UK were booked for SA's and HA's parents and younger siblings. The return flights to Libya were scheduled for 15th April 2017. At around the time that SA's and HA's family landed in the UK, one-way flights to Libya via Amsterdam and Istanbul, also on 15th April 2017, were booked for SA and HA. The one-way flights for SA and HA were booked by their older brother, Ismail Abedi.[79]

23.79 At 17:25 on 15th April 2017, SA and HA departed for Libya from Manchester Airport with their parents and younger brother.[80]

[77] 44/53/25-54/14
[78] 46/86/18-87/4
[79] 44/57/22-58/20
[80] INQ035481/11 at paragraph 40

Period after SA's return from Libya

18th May 2017

Arrival back in the UK

23.80 At 11:13 on 18th May 2017, SA was recorded on the CCTV at Manchester Airport, having landed shortly before this time. He arrived with only a small rucksack which he carried with him in the cabin of the aircraft. Seven minutes after being captured on the CCTV, SA bought a SIM card and a £15 mobile phone top-up voucher for that SIM card from WH Smith in the airport. This SIM card was for a telephone number ending '3230'. At 11:24, the *3230 SIM card was placed in an Alcatel mobile handset, which SA had brought with him into the UK.[81]

23.81 SA caught a bus from Manchester Airport to Wythenshawe Bus Station. He arrived at Wythenshawe Bus Station at 11:49. In the course of the journey, he booked a taxi to pick him up from Wythenshawe Bus Station. At 12:06, he took the taxi from that location. The taxi drove SA to Devell House. During the taxi journey, SA spoke to the driver about a mobile phone. SA arrived on Oxney Road outside Devell House at 12:29.[82]

23.82 Operation Manteline officers took a witness statement from the taxi driver. The taxi driver's recollection of their conversation about a mobile phone was that SA offered to sell him a handset. In my view, it is likely that the taxi driver was mistaken in his recollection. It is far more likely that SA asked to buy a handset that could not readily be traced to him.

23.83 I reach this conclusion for three reasons. First, SA only had one handset on him at this time. Had he sold it, he would have had no means of using the SIM card he had just bought. Second, a different taxi driver who transported SA later on 18th May 2017 recalled that SA asked to buy a handset from him.[83] Third, later that day SA bought a handset from a shop.[84] I will consider this further at paragraphs 23.88 and 23.89.

23.84 There are a number of features of SA's behaviour before and following his arrival into Manchester Airport that indicate he was taking precautions against being detected. First, he arrived in the UK without a SIM card for his mobile phone. Second, he did not take a taxi directly from the airport, but instead took a bus journey first. Third, he attempted to acquire a mobile phone handset that would be harder for the authorities to trace back to him than one purchased in a shop.

[81] 47/2/18-3/13
[82] 47/3/16-5/1
[83] 47/6/24-7/2
[84] 47/7/3-6

Devell House

23.85 Having arrived at Devell House, SA went to the Nissan Micra. As the CCTV footage shows, SA opened the passenger door and the boot. It is clear that he was checking that the contents of the vehicle were as he had left them.[85] It may be that he also discovered a problem with the vehicle, given his enquiry later that day about buying one, discussed at paragraph 23.87.

Granby House

23.86 At 12:33, SA made a telephone call. This call was in connection with the rental arrangements for Flat 39, Granby House, Granby Row, Manchester. Four days earlier, while he was still in Libya, SA had contacted the landlady of this property. He had agreed to meet her there at 14:00 on 18th May 2017.[86] In his telephone call at 12:33 on 18th May 2017, SA enquired about a parking space at Granby House. It is likely that this was so that he could drive the Nissan Micra and its contents from Devell House to Granby House.[87] In the event, this did not happen and the TATP stored in the Nissan Micra was moved to Granby House in a suitcase.

23.87 SA then called several car auction businesses, including Radcliffe Car Auctions. SA and HA had previously acquired the Hyundai Sonata vehicle from Radcliffe Car Auctions. It is likely that SA was attempting to obtain another vehicle on 18th May 2017.[88] If so, he was not successful as he continued to rely upon taxis to transport him.

23.88 After the telephone calls to car auction businesses, SA caught a taxi to Broughton Lane in Cheetham Hill. It is during the course of this journey that SA asked the taxi driver if he had a mobile phone handset for sale.[89]

23.89 Once at Cheetham Hill, he purchased a Samsung Galaxy mobile phone handset and withdrew money from a cash machine. By 14:17 on 18th May 2017, SA was at Granby House. There he met the landlady. Having been shown around by her, he entered on his own at 14:42.[90]

23.90 At 17:56, he left Granby House and began a journey on foot, by bus and by tram to the Victoria Exchange Complex.[91]

Hostile reconnaissance on 18th May 2017

23.91 Figure 45 shows all SA's movements from 17:56 to 20:04, including the journey to the Victoria Exchange Complex. His actions at the complex, and afterwards, are set out in paragraphs 23.92 to 23.96.

[85] 47/4/18-5/20
[86] INQ035481/41 at paragraph 178
[87] 44/183/13-184/23
[88] 47/6/12-20
[89] 47/6/21-7/2
[90] 47/6/21-8/20
[91] 47/9/10-19

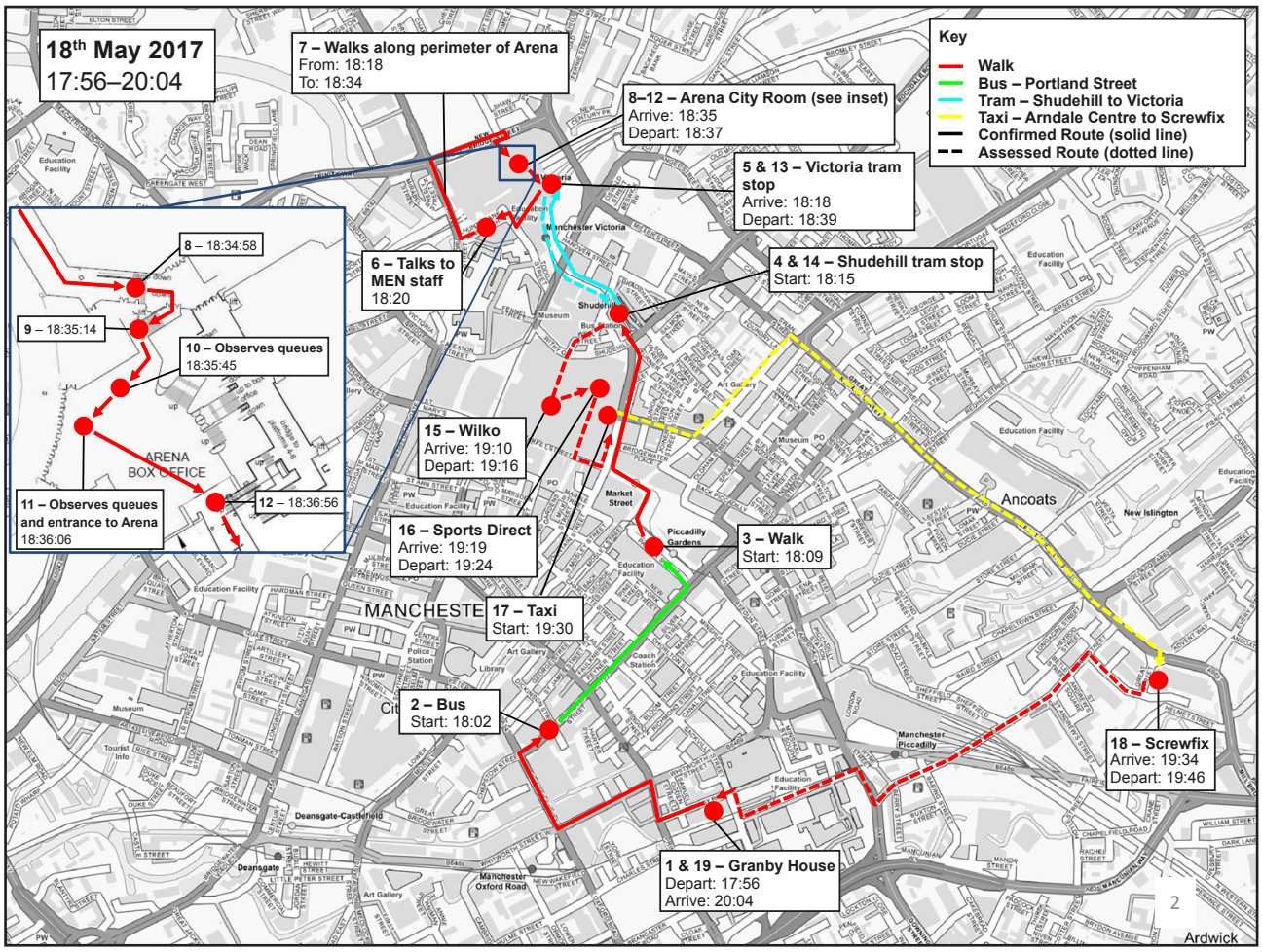


Figure 45: *SA's movements between 17:56 and 20:04 on 18th May 2017*[92]

23.92 SA arrived at the Victoria Exchange Complex at around 18:18. He then walked around the complex. His journey took him down Station Approach and onto Hunts Bank. He re-entered the Victoria Exchange Complex at 18:34 via the Trinity Way link tunnel.

23.93 At 18:35, SA entered the City Room. SA spent two minutes in the City Room observing the queues of people waiting to enter the Arena for an event. Viewed with the knowledge of what he was to do four days later, this footage is both disturbing and distressing. SA left the City Room by the raised walkway. He exited the Victoria Exchange Complex at 18:39.[93]

23.94 In Part 1 in Volume 1 of my Report, I noted the challenge that detecting SA's hostile reconnaissance presented. I explained that the solution to this challenge was, among other things, to push out the security perimeter and to ensure greater vigilance than existed at the time.

92 INQ033893/2

93 INQ033893/2

Acquiring items for the plot

23.95 From the Victoria Exchange Complex, SA went to Wilko to purchase batteries. From Wilko, he went to Sports Direct. In Sports Direct, SA bought a large, hard-shell Kangol suitcase. At 19:30, he travelled by taxi to Screwfix.

23.96 SA arrived at Screwfix at 19:34. He remained in Screwfix for approximately ten minutes. While there, he spent £25.76. By 20:04, SA was back at Granby House. As he carried the Kangol suitcase up the stairs in the communal area, it is clear from the CCTV footage that the suitcase is empty.[94]

19th May 2017

Retrieving the TATP from Devell House

23.97 At 08:11 on 19th May 2017, SA left Granby House carrying the Kangol suitcase. CCTV footage shows that he was able to carry it quite easily. SA waited for a taxi, which arrived at 08:35, to take him to Devell House. He arrived at Devell House 17 minutes after he left Granby House.[95]

23.98 SA spent seven minutes at the Nissan Micra. Although not captured clearly on the CCTV, it is apparent that, during this period, SA removed the TATP that he and HA had manufactured. He placed it into the Kangol suitcase. Then, he returned to Granby House in a taxi, arriving at 09:26.[96]

23.99 The CCTV at Granby House shows SA moving the Kangol suitcase up the stairs in the communal area.[97] The difference in the effort required to move the suitcase at this point, compared with earlier that day, is obvious. It was now clearly much heavier. By this point, SA was prepared to begin the construction of the bomb.

Purchases on 19th May 2017

23.100 At 10:32 on 19th May 2017, SA left Granby House. He made his way on foot to Screwfix.

23.101 In Screwfix, SA purchased a number of items. Among them was a pack of 100 steel hex nuts.[98] These were to form part of the shrapnel in the bomb.

23.102 Later that day, at 13:20, SA went to Manchester Merchant, formerly known as Trojan Tools. There, he bought a large money tin which also formed part of the bomb. Having completed that purchase, SA's route back to Granby House took him past the steps to the Arena on Hunts Bank. He took a taxi from Station Approach back to Granby House.[99]

94 47/10/5-12/24 , INQ031275/57
95 INQ031277/1-7
96 INQ031277/10, INQ031277/13
97 INQ031277/14-15
98 47/16/23-17/22
99 INQ031277/35, 47/19/17-21/3

23.103 At 19:38 that same day, having gone out again, SA purchased a 65-litre Karrimor Bobcat rucksack from Sports Direct. This was the rucksack he would use to transport the bomb to the Arena.[100]

23.104 Later that evening, at 21:53, SA placed an internet order with Screwfix. The order was for 5,000 metal nuts. It was made in a false name using an address on a street on which the Abedi family used to live. The order was for collection.[101]

20th May 2017

23.105 Between 06:31 and 07:24 on 20th May 2017, SA was away from Granby House. Operation Manteline has not been able to establish what he was doing during this period.[102]

23.106 Later that morning, at 08:16, SA left Granby House for a second time. This second outing was to B&M, B&Q and Screwfix. While in B&Q, SA purchased 150 galvanised metal nuts and 20 zinc-plated metal dowels. In Screwfix, SA made two purchases, one for a five-litre paint can, the other for 1,600 metal nuts.[103]

23.107 SA went from Screwfix back to Granby House, arriving there at 12:00. He remained in Granby House for the next seven hours. At 19:12, SA left Granby House to empty the paint in the tin down a drain. Later that evening, he left again to buy rubber gloves from a Tesco Express, returning to Granby House at 20:25.[104]

21st May 2017

Screwfix

23.108 SA left Granby House at 09:17 on 21st May 2017. He did so in order to go to Screwfix once again. In Screwfix, he enquired about his internet order. He also purchased some tin snips and a 2.5-litre tin of paint. Later that morning, SA emptied the paint can, once again down a drain.[105]

23.109 SA returned to Screwfix later that day. At 14:56, he attended to collect his internet order. Although he had originally ordered 5,000 metal nuts, he had called the shop at 12:47 and reduced his order to 2,000.[106]

Hostile reconnaissance on 21st May 2017

23.110 Later that day, SA carried out hostile reconnaissance at the Victoria Exchange Complex.

100 47/22/20-23/4
101 47/23/20-24/14
102 47/25/8-26/7
103 47/26/8-28/5
104 47/29/2-30/5
105 47/30/13-32/1, INQ020163/12
106 47/32/6-21

23.111 At 18:26, he left Granby House. He walked to Portland Street. He took a bus to Piccadilly Gardens. At Piccadilly Gardens, SA took a tram to the Victoria Exchange Complex. He arrived at the Victoria Exchange Complex at 18:53.[107]

23.112 Figure 46 shows all SA's movements from 18:26 to 19:44, including this journey. His actions at the Victoria Exchange Complex, and afterwards, are set out in paragraphs 23.113 to 23.115.

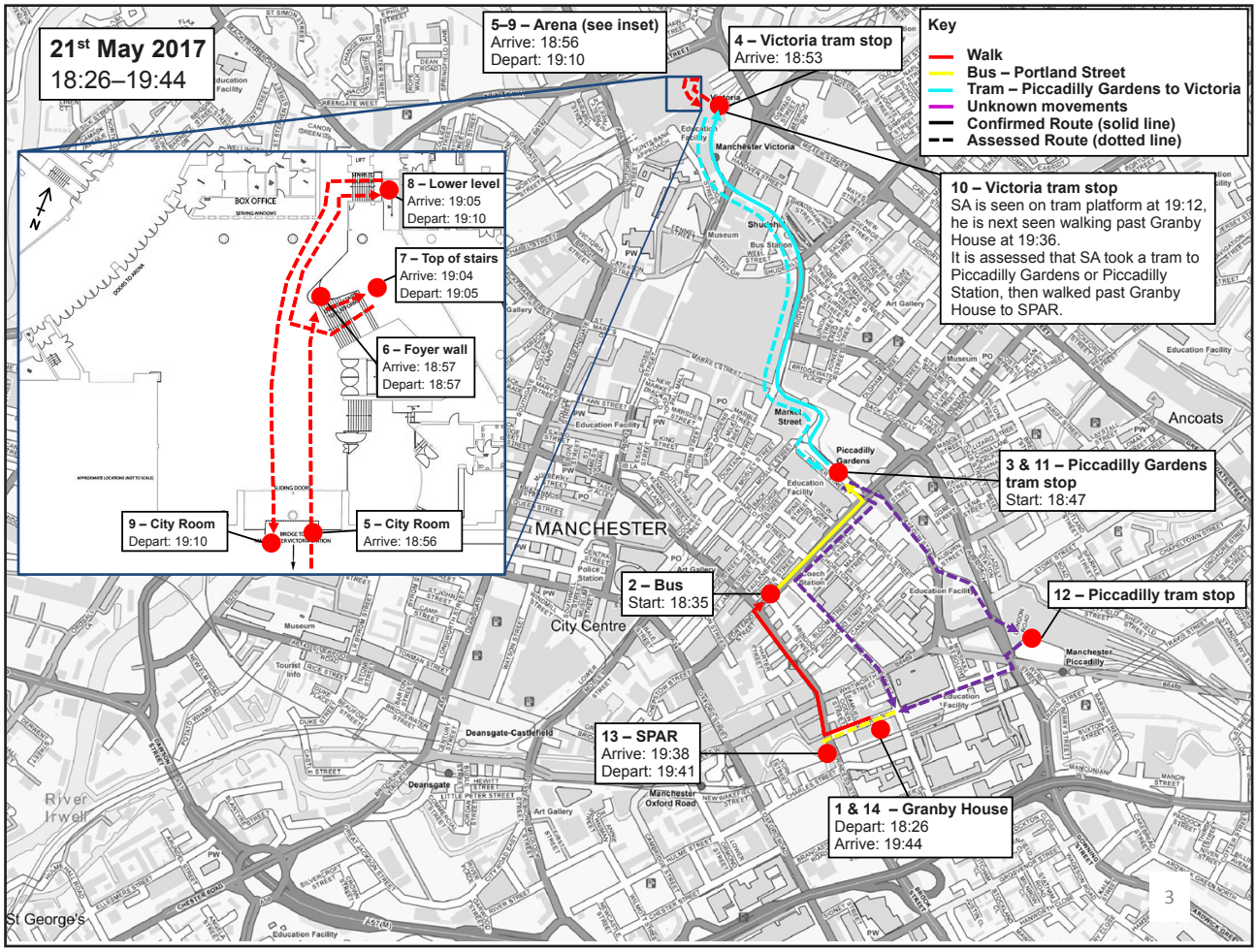


Figure 46: *SA's movements between 18:26 and 19:44 on 21st May 2017*[108]

23.113 SA made his way directly to the City Room. A detailed map of the City Room can be found at Appendix 16. He entered the City Room via the raised walkway at 18:56. He sat on a low wall at the foot of the JD Williams staircase. He walked up onto the mezzanine via the JD Williams staircase, and remained there for several seconds. From this position, he could see the whole City Room. He could also see the mezzanine area.[109] This was the area in which he was to hide the following day.

107 47/33/14-19

108 INQ033893/3

109 INQ020163/52-56

23.114 From the mezzanine, SA went back down the JD Williams staircase to the main floor of the City Room and walked to the Fifty Pence staircase. He descended to the Fifty Pence Piece, where he remained for approximately five minutes. He re-entered the City Room via the Fifty Pence staircase at 19:10. He walked straight across the City Room and departed via the raised walkway. The final sighting of SA on the CCTV at the Victoria Exchange Complex that day was at 19:12 on the tram platform.[110]

23.115 By 19:36, SA was back in the vicinity of Granby House.[111]

22nd May 2017

Disposal of items

23.116 At 12:30 on 22nd May 2017, SA left Granby House with the Kangol suitcase and a small rucksack. Within the Kangol suitcase was a black bin bag. SA disposed of this bag in a bin in the area of Stevenson Square. The contents of this bag have not been established.[112] It is clear that SA was looking to dispose of some of the items he had used in the manufacture of the bomb away from Granby House.

23.117 At 17:30, SA was captured on the CCTV at Granby House disposing of two full black bin bags in the communal rubbish bins in the basement.[113] Operation Manteline investigators recovered materials that had been used in the construction of the bomb from the basement at Granby House.

Money transfer

23.118 At 17:55, SA travelled to the Muslim Youth Foundation.[114] Figure 47 shows all SA's movements from 17:55 to 18:50, including this journey and the subsequent journey to the Victoria Exchange Complex. His actions in these places are set out in paragraphs 23.119 and 23.120.

110 INQ020163/57-63
111 47/33/20-22
112 47/34/18-36/19
113 INQ020160/26
114 47/36/25-37/3

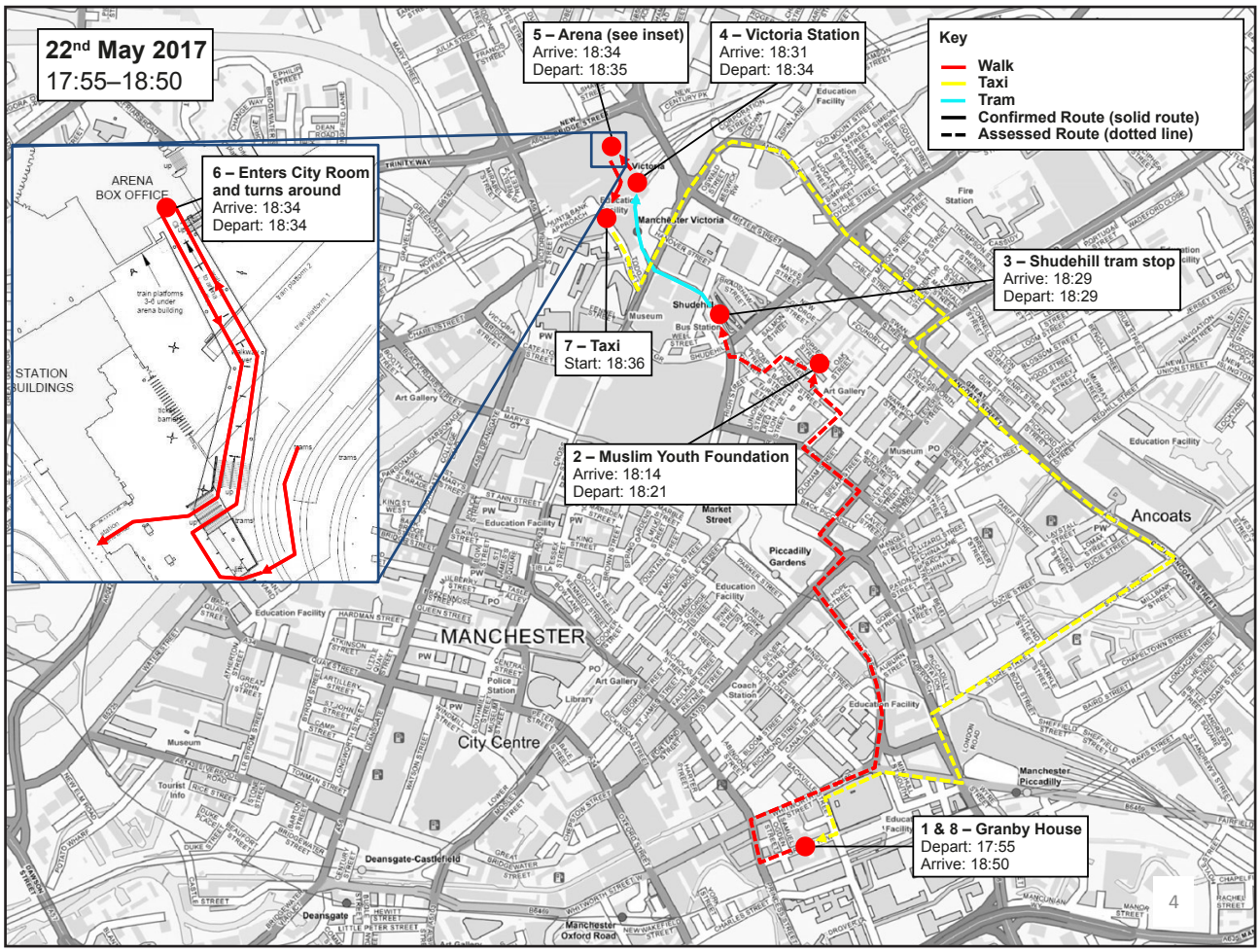


Figure 47: *SA's movements between 17:55 and 18:50 on 22nd May 2017*[115]

23.119 At the Muslim Youth Foundation, SA met Rabie Zreba, who was known within the Libyan community as someone who could arrange money transfers. The meeting had been arranged earlier in the day. The purpose of the meeting was to arrange the transfer of money to Libya. In the course of the meeting, SA arranged for the transfer of £470 to Libya. The transfer was to a person called Muadh al-Tabbal. When arranging the transfer, SA described this person as being a relative.[116]

Hostile reconnaissance

23.120 SA travelled from the Muslim Youth Foundation to the Victoria Exchange Complex. He arrived by tram at 18:31. He made his way directly to the City Room which he entered by the raised walkway. As soon as he reached the City Room, he turned around. He left the Victoria Exchange Complex using the War Memorial entrance at 18:35.[117]

23.121 He arrived back at Granby House at 18:50.[118]

115 INQ033893/4

116 47/37/5-38/9, 49/55/2-21

117 47/38/19-39/4, INQ020160/50

118 47/39/5-6

Further disposal of items

23.122 At 19:42, SA left Granby House with a small rucksack and the Kangol suitcase. He walked away from Granby House. By 19:47, SA had disposed of the Kangol suitcase. This occurred either on Ebden Street or Minshull Street South. Despite extensive searches, the police were unable to recover the Kangol suitcase.[119]

23.123 After SA disposed of the Kangol suitcase, he made his way to the Macdonald Hotel just off London Road. Near that location, SA disposed of the small rucksack, which contained his Libyan and British passports. He also disposed of the Samsung Galaxy mobile phone handset purchased on 18th May 2017. All of these items were recovered by the police after the Attack. The Samsung Galaxy mobile phone did not have the SIM card in it and had probably been the subject of a factory reset.[120]

23.124 SA returned to Granby House for the final time, arriving at 20:00 by taxi. During the course of this journey, SA asked the taxi driver: *"Are you a Muslim, brother?"* The taxi driver replied that he was.[121]

The Attack

23.125 The taxi that had driven SA from the Victoria Exchange Complex waited for him while he went into Granby House. At 20:06, SA left Granby House for the final time. He was wearing the Karrimor rucksack containing the bomb. His ultimate destination was the City Room.

23.126 SA was driven from Granby House to Nicholas Street. He withdrew money from a cash machine. He returned to the taxi, which drove him to Shudehill tram stop.[122]

23.127 Throughout his journey, SA wore the Karrimor rucksack. The taxi driver was struck by how heavy it appeared to be.[123] During the journey from the cash machine to Shudehill tram stop, the taxi driver commented on how heavy the rucksack appeared to be. SA replied: *"I'm weak, aren't I, brother?"*[124] Shortly before the end of the journey, SA gave the taxi driver a gift of the Qur'an. SA asked the taxi driver to pray for him. SA gave his name as *"Suleman"*.[125] He told the taxi driver that he was from Libya. When asked if he was going far, SA told the taxi driver he was only travelling locally.[126]

119 47/39/9-40/15, INQ020160/57
120 45/84/9-17, 46/60/1-16, 47/41/2-18
121 47/41/19-25, 48/53/14-54/18
122 47/42/1-18
123 48/56/13-57/9
124 48/58/3-19
125 48/60/6
126 48/58/20-61/15

23.128 By 20:15, SA was standing on the tram platform at Shudehill. At 20:23, SA made a telephone call lasting 4 minutes and 12 seconds. The telephone call was to a person in Libya.[127] Mr Justice Jeremy Baker found that this call was to HA.[128]

23.129 As that telephone call was ending, SA boarded a tram bound for the Victoria Exchange Complex.[129]

23.130 In Part 1 in Volume 1 of my Report, I detailed SA's movements within the Victoria Exchange Complex and the missed opportunities to detect, deter or disrupt him, or to diminish the impact of the explosion.

23.131 At 22:31, SA detonated his device within the City Room.

[127] 47/44/8-22, INQ020160/81

[128] 44/62/19-63/12, INQ035444/6 at paragraph 25

[129] 47/44/23-25

Period following the Attack

Ramadan and Rabaa Abedi

23.132 At 19:24 on 23rd May 2017, SA's father, Ramadan Abedi, messaged his sister, Rabaa Abedi, on Facebook. Rabaa Abedi lived in Canada. Ramadan Abedi informed Rabaa Abedi that SA had *"blown himself up"* at the Arena.[130] At 19:30 on 23rd May 2017, Ramadan Abedi sent a further message to his sister:

> *"Allah is predominant. I did my best. One month ago I went and returned them back when I found their thinking is wrong. She then went and gave him the passports. She told me he's going to Umrah [pilgrimage to Mecca]. I did not know anything about him until he travelled four days ago."*[131]

23.133 It is likely that the *"she"* who is said by Ramadan Abedi to have returned SA's passport was Samia Tabbal, SA's mother.

Criminal investigation

Identification of SA and HA

23.134 The investigation by Greater Manchester Police (GMP) began very soon after the Attack on 22nd May 2017. Within 90 minutes, just after 00:00 on 23rd May 2017, DCS Barraclough had been appointed the Senior Investigating Officer of Operation Manteline.[132]

23.135 At 01:58 on 23rd May 2017, a Halifax bank card bearing SA's name was discovered in the City Room by the Operation Manteline Bomb Scene Manager, Robert Gallagher. It was logged on a GMP system at 02:20.[133]

23.136 At 02:29, photographs were taken of SA with a view to identifying him by facial recognition.[134] At 04:43, an expert in image assessment carried out a comparison between these photographs of the bomber and a known image of SA. The expert concluded that the two sets of images showed the same person.[135]

23.137 Fingerprints were also taken. Further evidence of SA's identification was obtained at 10:35 on 23rd May 2017 when the results of the fingerprint comparison were returned.[136] From this point, Operation Manteline proceeded

130 INQ035481/215 at paragraphs 586-587
131 46/52/22-53/13
132 INQ035481/2 at paragraphs 5-6
133 44/66/9-22
134 44/78/7-10
135 44/87/21-88/5
136 44/79/25-80/4

on the basis that the identity of the person who had detonated the bomb was known.[137] Subsequent DNA comparison confirmed that the identification of SA was correct.[138]

23.138 By 11:30 on 23rd May 2017, HA had been identified as a suspect.[139] Shortly after HA was identified, it was reported that he had been detained in Libya.

23.139 At a press conference given by GMP Chief Constable Ian Hopkins at 17:21 on 23rd May 2017, the police informed the public of the bomber's identity.[140]

23.140 HA was returned to the UK on 17th July 2019 as a result of extradition proceedings brought by the Crown Prosecution Service supported by Operation Manteline.[141]

23.141 HA refused to answer the questions asked of him by Operation Manteline investigators. He provided a statement. In that statement he denied holding extremist views or being a supporter of Islamic State. He denied any involvement in or knowledge of the Attack.[142]

Scale of the investigation

23.142 The investigators recovered 29.26kg of metal nuts. A further 1.47kg of screws or cross dowels were also recovered. The investigation concluded that there were approximately 3,000 such items of shrapnel in total.[143]

23.143 GMP estimated that more than 1,000 police officers, police staff and National Crime Agency officers were involved in the initial stages of the investigation. More than 16,000 actions were raised. During the course of the investigation, more than 17,000 exhibits were seized. In excess of 4,000 witness statements were taken. More than 20,000 documents were produced.[144] There were 23 arrests under the Terrorism Act 2000. A total of 42 properties were searched. More than 900 digital devices were seized.[145]

23.144 To give one example of the efforts Operation Manteline officers went to: over the course of 12 months, 10,000 tonnes of rubbish were searched in order to try to recover the Kangol suitcase.[146]

23.145 DCS Barraclough described the investigation as *"colossal"*.[147] I agree.

137 44/88/14-18
138 44/89/4-11
139 44/41/3-42/7
140 44/90/7-11
141 44/42/8-25
142 CPS000207/1 at paragraph 2
143 44/110/21-111/8
144 44/38/22-39/20
145 44/28/3-11
146 44/173/6-174/8
147 44/39/5

23.146 HA was charged with a number of offences, including the murder of twenty-two people, as a result of the investigation.

Criminal trial of HA

23.147 Between 27th January 2020 and 17th March 2020, HA was tried by a jury.[148] At the trial, the prosecution alleged that he was guilty of 22 counts of murder, one count of attempted murder in relation to those not killed in the blast, and conspiracy to cause explosions. On 17th March 2020, HA was found guilty on all counts.[149]

23.148 On 20th August 2020, HA was sentence to life imprisonment with a minimum term of 55 years. When passing sentence, Mr Justice Jeremy Baker stated: *"The stark reality is that these were atrocious crimes: large in their scale, deadly in their intent and appalling in their consequences."*[150] I agree. This succinctly captures the heinous wickedness of SA's and HA's crimes.

Confession

23.149 On 23rd October 2020, HA was interviewed at Her Majesty's Prison (HMP) Full Sutton by members of the Inquiry Legal Team.[151] Prior to the interview, he had been provided with a list of the questions that were going to be asked of him.

23.150 In the course of the interview, HA admitted that he was a supporter of violent jihad in that he supported the institution of Sharia law through violent means. He said that he considered violence to be justified to bring about change in society. He said that he was a supporter of Islamic State.[152]

23.151 The following exchange took place during the interview:

> *"Question [Counsel to the Inquiry]: What actions have you taken to support Islamic State?*
>
> *Answer [HA]: The Manchester attack."*[153]

23.152 HA admitted that he had played a full and knowing part in the planning and preparation for the Attack.[154]

148 44/135/7-12
149 45/118/10-21
150 INQ035444/7 at paragraph 27
151 44/46/7-13
152 46/57/12-58/13
153 46/58/1-4
154 44/46/14-20

23.153 During the interview, HA provided a statement that he had prepared beforehand. In that statement he set out his motivations. The statement is Islamic State propaganda.[155] For this reason, I will not rehearse any of its content. Nor should it ever see the light of day.

Knowing involvement of others

Methodology for building the bomb

23.154 During the period from 18th May 2017 to 22nd May 2017, SA constructed the bomb. I am satisfied, from the meticulous reconstruction of those days carried out by Operation Manteline, that he worked on the bomb during this period alone. SA no longer had the assistance of HA, who remained in Libya.

23.155 For good reason, extensive measures are taken to ensure that knowledge of how to build a bomb is highly restricted within the UK population. The process for manufacturing TATP is not straightforward and is highly dangerous. It follows that SA and HA must have acquired the knowledge from a source not readily available to members of the public.

23.156 As I have explained in paragraphs 23.7 to 23.10, I am satisfied that SA and HA are likely to have watched the bomb-making video identified by Operation Manteline, or one very like it. However, in my view, that in itself is not capable of being a complete explanation for the full extent of their knowledge.

23.157 There is no direct evidence of where the additional training that I consider SA and HA must have had came from. Nor is there any direct evidence of when this training was received or whether it was in the UK or abroad. SA spent the summer of 2016 in Libya, returning on 8th October 2016. The first evidence of the collection of items for use in the bomb came just a few months later, shortly after the bomb-making video became available on the internet in November 2016.

23.158 It is probably the case that SA received instruction in how to make TATP and construct an IED while in Libya in 2016. Although I cannot exclude the possibility that instruction was provided in the UK as well, or instead of that in Libya, no evidence of this has emerged from any of the interviews, documents and seized electronic devices. Inevitably, there is a clearer picture of SA's movements and associates in this country. The absence of such evidence in the UK points strongly to the initial instruction being provided in Libya.

23.159 There is another reason to conclude that SA had an associate or associates in Libya who gave him instruction in bomb-making. Following his return from Libya on 18th May 2017, SA replaced some of the items he had acquired for the bomb before his departure on 15th April 2017. This was with a view to making the bomb more deadly. I do not intend to spell out what this change was, for obvious reasons, but I am satisfied that it occurred.

[155] 46/57/12-58/13

23.160 There is a third piece of evidence that is consistent with my conclusion that help was given to SA in Libya. The bomb that SA constructed in May 2017 contained a Sistema 45910 switch. This was recovered by Operation Manteline officers from the City Room. It was manufactured in early March 2016 in Romania. Once manufactured, it was sold on to wholesalers in Italy, Tunisia and Denmark. The Tunisian wholesaler supplied Libya.[156]

23.161 In my view, there is a material possibility that this switch was acquired in Libya by SA between 15th April 2017 and 18th May 2017. I cannot conclude that this is more likely than not, but it is the most likely of a number of possibilities.

23.162 In this regard, I note that the instructional video I considered at paragraphs 23.7 to 23.10 did not include any reference to a switch. This is consistent with a switch being added to the design of the device at a later stage. It is a reasonable inference that this was probably after the TATP had been manufactured in accordance with the instructions in that video, which took place prior to the departure for Libya on 15th April 2017.

23.163 In reaching the conclusion that there is a real possibility that the switch was acquired in Libya and brought into the UK by SA on 18th May 2017, I have borne in mind the finding I have made in paragraph 23.84 about SA taking steps to avoid detection when travelling back into the UK on 18th May 2017. As such cautious behaviour could suggest that SA was unlikely to take the risk of bringing the switch into the UK, this finding is one reason why I do not consider I can go as far as saying that it is more likely than not that SA had the switch on him as he passed through Manchester Airport on 18th May 2017.

23.164 The acquisition of the switch shortly before returning to the UK on 18th May 2017 would be consistent with SA receiving technical advice in Libya during the period between 15th April 2017 and 18th May 2017.

23.165 The process of constructing the bomb was a complex one. It involved SA altering the TATP from a relatively safe state to one that was highly unstable. It involved integrating that now unstable explosive into a device that SA was able to detonate. Again, for obvious reasons, I am not going to detail those stages, but I am satisfied that this was not something SA would have been able to do based on a recollection of a video or even following along while he viewed it.

23.166 Not every item disposed of on 22nd May 2017 by SA has been recovered. It is possible, for example, that detailed instructions were disposed of in the Kangol suitcase. Even if that was the case, given SA's undistinguished educational career, I consider it unlikely that he would have been able simply to follow such instructions without having practised beforehand. As DCS Barraclough confirmed, neither SA nor HA had any qualifications in chemistry, maths or any other academic discipline that might be relevant to the manufacture of TATP or the construction of a bomb.[157]

156 CPS000209/68 at paragraph 199

157 44/138/8-13

23.167 In my view, it is likely that, while in Libya during the period 15th April 2017 to 18th May 2017, SA received practical instruction on how to assemble an IED. The evidence does not enable me to reach any conclusion as to who provided this instruction or the circumstances in which it occurred.

Anti-detection measures

23.168 The bomb-making video may go some way to explain how SA and HA knew how to build their device. It does not provide any instruction in how to avoid detection, and therefore cannot account for the extent of the anti-detection measures taken, both by SA and HA before 15th April 2017 and by SA after he arrived back in the UK on 18th May 2017. Exactly where they learned to do what they did is not revealed by the evidence. A number of possibilities exist.

23.169 First, it may be that these were steps that they instinctively took without any instruction from anywhere. I reject this as a likely explanation. Given what is known about them, I do not credit SA and HA with the intelligence or sophistication to have come up with the approach they took between themselves.

23.170 Second, it may be that they learned some of it from the internet. As I have said, the police did not seize all relevant devices. Consequently, there was not a complete capture of all potentially relevant digital data. Learning from the internet is a more likely explanation than the first possibility. However, while internet research may explain some of their actions, I am not convinced that it can provide a complete explanation.

23.171 Third, it may be that SA and HA received advice from others on how to avoid detection. This, in my view, is likely to be the case. For the same reasons I gave in relation to instruction in bomb-making, I consider the most likely place that this advice was given to be Libya in the summer of 2016 and between 15th April 2017 and 18th May 2017. As with the bomb-making, there is no evidence that enables me to say who gave this advice or in what circumstances it occurred.

Preparation

23.172 I can readily understand that there is considerable suspicion in the minds of many about the other individuals who were involved in the purchase of precursor chemicals. I am satisfied that Operation Manteline carried out a robust investigation into each one of those individuals. I have seen nothing, in any of those cases, that leads me to doubt the decisions made not to charge those individuals with involvement in the Attack. I make clear that I have not simply accepted the conclusions of Operation Manteline uncritically. I have made my own assessment.

23.173 In Part 22, I considered a number of individuals who, I consider, encouraged or failed to discourage SA's extremist beliefs. Of those, Ahmed Taghdi was involved in an important part of the plot: the purchase of the Nissan Micra. I recognise that this is likely to heighten the suspicion felt by many. However, I am not

persuaded, on the evidence I have heard, that there is a proper basis on which to conclude that Ahmed Taghdi was knowingly involved in the planning or preparation for the Attack.

23.174 The mere acquisition of a car is not inherently suspicious behaviour. There is nothing within the evidence that enables me to conclude that Ahmed Taghdi knew that, on the day following purchase, this car would be used to transport and store elements of a bomb.

23.175 In the case of Ismail Abedi, as I said in Part 22, there was clear evidence from September 2015 that he was a supporter of Islamic State. Ismail Abedi's DNA was found on a tool recovered by Operation Manteline from the Nissan Micra. Again, I recognise that this is bound to arouse suspicion. However, this is the extent of any evidence of his involvement in the plot itself that I have seen.

23.176 I note that no witness suggested that Ismail Abedi was involved in using third parties to acquire precursor chemicals. Those individuals who were approached for this purpose were associates of SA's and HA's. There is no evidence that Ismail Abedi was involved in the creation of any email addresses or the placing of any orders. There is no evidence that Ismail Abedi was involved in acquiring properties or vehicles. Ismail Abedi was not involved in the transport of some of the device components on 14th and 15th April 2017. There is no evidence of any communication that might suggest Ismail Abedi was involved.

23.177 By contrast, it is clear that Ismail Abedi was involved in SA's and HA's departure from the UK on 15th April 2017. This was an event that put the plot on hold for a period of time. Although, as I have found, it is also likely that during the weeks in Libya SA received further training. In addition, following SA's return to the UK on 18th May 2017, there is no evidence that he contacted or met up with Ismail Abedi.

23.178 Looking at the evidence as a whole, although he was a radicalising influence, there is no reliable basis on which to conclude that Ismail Abedi was involved in the planning or preparation for the Attack.

Conclusion

23.179 The Security Service assessment, based on the intelligence picture as it stood at the time, was that no one other than SA and HA were knowingly involved in the Attack plot.[158] The evidence I heard, while creating reasonable suspicions regarding other individuals, is insufficient for me to conclude on the balance of probabilities that any of those who participated in the acquisition of precursor chemicals knew that those chemicals were to be used in a bomb.

23.180 However, it is more likely than not that there were others who were knowingly involved in plotting a bomb, even though they might not have known all the details of the plot.

[158] 166/97/2-12

23.181 First, it is likely that in the summer of 2016 SA discussed carrying out an attack while he was in Libya. The questions of who that discussion was with and in what circumstances it arose are not answered by the evidence.

23.182 Second, it is even more likely that SA had specific training in how to assemble an IED between 15th April 2017 and 18th May 2017. Any training during this period probably involved information on how to make a more deadly device than the one likely to have resulted from the preparatory work by SA and HA prior to their departure for Libya. Again, who and in what circumstances that instruction arose are not revealed by the available evidence.

Part 24
Preventing the Attack

Key findings

- There was a significant missed opportunity to take action that might have prevented the Attack. It is not possible to reach any conclusion on the balance of probabilities or to any other evidential standard as to whether the Attack would have been prevented. However, there was a realistic possibility that actionable intelligence could have been obtained which might have led to actions preventing the Attack.
- The reasons for this significant missed opportunity included a failure by a Security Service officer to act swiftly enough.
- The Inquiry has also identified problems with the sharing of information between the Security Service and Counter Terrorism Policing, although none of these problems is likely to have had any causative significance.

Introduction

24.1 For the reasons set out in my determinations of 13th September 2019 and 25th October 2021,[1] a significant amount of the material that was relevant to the question of whether the Attack could have been prevented by the Security Service or Counter Terrorism Policing was the subject of a Restriction Order under section 19 of the Inquiries Act 2005. The basis of the Restriction Order was national security. As a result, the majority of the evidence which forms the basis of this Part of Volume 3 was given during a closed evidence hearing.

24.2 Having heard all of the evidence, I am satisfied that a closed evidence hearing was necessary and that a closed part of my Report is justified. Hence, Volume 3 of my Report will be in two parts: Volume 3 (open) and Volume 3 (closed). However, the fact that part of Volume 3 must be closed does not mean that more cannot be known by members of the public than is currently the case. As I have said throughout my investigation, I am committed to placing as much information in the public domain as can be done safely. What follows in this Part of Volume 3 (open) is a gist of my conclusions on the evidence I heard in the closed evidence hearing. Also addressed in this Part is the relevant evidence from the open hearing on the issue of preventability.

[1] See Appendix 20

24.3 As part of my ongoing commitment to make public as much information as I can, some of the closed evidence has already been the subject of a gist.[2] That evidential gist is dated 7th February 2022. It was read into the Inquiry record on 15th February 2022.[3] This is available on the Inquiry's website. As I have now reached findings on the evidence, it is possible for me to place a greater amount of information into the public domain.

[2] INQ100119

[3] 194/16/4-47/3

Previous investigations

24.4 The Inquiry is not the first investigation into the question of whether the Security Service and/or Counter Terrorism Policing could have prevented the Attack. Both the Security Service and Counter Terrorism Policing carried out their own Post-Attack Reviews. These were conducted in 2017.

24.5 David Anderson QC (now Lord Anderson KC) conducted an independent assessment of the Post-Attack Reviews and produced his report in December 2017.[4] In his summary, Lord Anderson stated:

> *"The [Post-Attack] review team concluded that the investigative actions taken in relation to [SA] in 2014 and the subsequent decision to close him as an SOI [Subject of Interest] were sound on the basis of the information available at the time. It identified several further examples of good practice.*
>
> *Detailed consideration was given to the way in which MI5 [the Security Service] in early 2017 handled the intelligence, whose true significance was not appreciated at that time. On this, the review team concluded in summary that:*
>
> > *(a) the decision not to re-open an investigation was 'finely balanced' and 'understandable' in the circumstances;*
> >
> > *(b) there is a degree of inherent uncertainty in speculating as to what might or might not have been discovered if an investigation had been opened on the basis of the new intelligence; but that*
> >
> > *(c) on the clear balance of professional opinion a successful pre-emption of the gathering plot would have been unlikely.*
>
> *It was also noted that despite his status as a closed SOI an opportunity was missed by MI5 to place [SA] on ports action following his travel to Libya in April 2017. This would have triggered an alert when he returned shortly before the attack, which could have enabled him to be questioned and searched at the airport by CT [Counter Terrorism] Policing under schedule 7 to the Terrorism Act 2000.*
>
> *A number of learning points and recommendations were identified. These concerned the handling of closed SOIs, triaging intelligence, and the leads processing system, handling potential high-risk intelligence with indeterminate terrorist threat, key investigative judgements, the use of travel notification/monitoring tools, record keeping (including considerations of automation) and the process surrounding certain types of information gathering."*[5]

[4] INQ000004

[5] INQ000004/32 at paragraphs 3.14-3.17

24.6 Lord Anderson concluded:

> *"[I]t is conceivable that the Manchester attack … might have been averted had the cards fallen differently."*[6]

24.7 The Intelligence and Security Committee of Parliament also investigated what had happened. It published a report on 22nd November 2018 entitled *The 2017 Attacks: What Needs to Change?*.[7] The Committee relied, as it had to, on the Post-Attack Reviews, along with the evidence of senior members of the Security Service and Counter Terrorism Policing. These people were not the original decision-makers on the ground.

24.8 The conclusions of the Intelligence and Security Committee of Parliament in relation to SA included:

> *"[SA] should have been subject to travel monitoring and/or travel restrictions. ***, MI5 [the Security Service] should have put alternative measures in place to alert them to [SA]'s movements.*
>
> *The Committee notes MI5's assessment that had [SA] been placed under travel restrictions, there still may not have been sufficient time to identify or act on his attack planning. It would, nevertheless, have provided more of an opportunity."*[8]

6 INQ000004/4
7 INQ000002
8 INQ000002/73 at paragraphs CC and DD

The Inquiry's approach

24.9 In the course of the closed hearings, I summarised the issue at the heart of this part of my investigation as follows. An ordinary member of the public would be deeply concerned to find out that, some time before the Attack, the Security Service had information which transpired to be relevant to SA's plan and yet took no action in response. That ordinary member of the public would be likely to think that something had gone wrong.

24.10 My aim is to consider whether something did go wrong. At all times I have borne in mind that the counter-terrorism environment is complex and challenging.

24.11 I heard some of the evidence relevant to this part of my investigation during the open oral evidence hearings.

24.12 Witness J gave evidence during the open oral evidence hearings on behalf of the Security Service. Witness J has over 30 years' experience as a Security Service officer. By May 2020, he was Acting Director General of Strategy for the Security Service. As at October 2021, Witness J was due to take up the role of Director in the counter-terrorism business of the Security Service.[9]

24.13 Detective Chief Superintendent (DCS) Dominic Scally gave evidence on behalf of Counter Terrorism Policing North West (CTPNW) during the open oral evidence hearings. At the time of the Attack, DCS Scally was the Head of Intelligence for the North West Counter Terrorism Unit (NWCTU). In July 2017, he was promoted to the position of Regional Co-ordinator for NWCTU. When NWCTU became CTPNW in April 2018, DCS Scally's title became Head of CTPNW. He was still in that role when he gave evidence to the Inquiry.[10]

24.14 The police services which made up NWCTU were Greater Manchester, Cumbria, Lancashire, Merseyside and Cheshire.[11]

24.15 Detective Inspector (DI) Frank Morris and Detective Sergeant (DS) Paul Costello respectively gave open evidence as Senior Investigating Officer and Officer in the Case for Operation Oliban.

24.16 During the closed hearing I heard oral evidence from 14 witnesses over 10 days between 1st November 2021 and 18th November 2021. Five of those witnesses were from the Security Service, eight were from CTPNW. Each had given at least one witness statement prior to giving evidence.

24.17 I read witness statements from a further seven people, including some received after the closed hearing finished. I received a written report from two expert witnesses: one former Security Service officer and one former Counter

[9] 166/19/21-20/22
[10] 168/3/8-5/6
[11] 168/5/7-10

Terrorism Policing officer, Scott Wilson. I heard oral evidence from the former Security Service officer (the Inquiry's expert on preventability), which brought the total number of live witnesses to the 14 to which I have referred.

24.18 The Security Service and CTPNW provided closed written closing statements dated 4th March 2022 and 7th March 2022, respectively. These were supplemented by closed oral closing statements on 16th March 2022. Both organisations provided a further closed note in response to issues I raised during the oral closing statements.

24.19 I have adopted the same approach to the warning letter process in relation to the closed evidence as I did in relation to the open evidence.

24.20 In November 2022, the Inquiry Legal Team circulated a proposed gist of Volume 3 (closed) of my Report to the Security Service and Counter Terrorism Policing. In January 2023, I convened a closed submissions hearing. The purpose of this hearing was to consider submissions from the Inquiry Legal Team, the Security Service and Counter Terrorism Policing in relation to the extent to which material could be disclosed to the public without causing harm to national security. During that hearing, I applied the same scrutiny to the arguments presented to me as I did during the open evidence hearings. This Part is the result.

Advantages of the Inquiry's approach

24.21 I have had at least three significant advantages over the previous investigations and reviews.

24.22 First, I have had more time. The Post-Attack Reviews were quite properly carried out at a fast pace. This was so that urgent problems or gaps within the national security and counter-terrorism systems were identified and remedied as soon as possible. The Post-Attack Reviews are impressively detailed pieces of work given the circumstances in which they were written. Given the requirement for speed, it was inevitable that they would not be entirely comprehensive.

24.23 Second, I have had the opportunity to hear evidence from frontline officers who made key decisions at the relevant times. The Intelligence and Security Committee of Parliament heard evidence from senior Security Service and Counter Terrorism Policing officers, but not from those 'on the ground'. Lord Anderson spent considerable time embedded in the Security Service and Counter Terrorism Policing during the process of the Post-Attack Reviews and the compilation of his report. He did not interview the relevant personnel himself. The process and his role did not allow for him to do this.

24.24 Third, I have been provided with additional documents which, for various reasons, were not uncovered at the time of the Post-Attack Reviews. They came to light as a result of further searches carried out in response to the Inquiry's disclosure requests.

24.25 For all of these reasons, I am able to go further than Lord Anderson's finding that it is conceivable that if the cards had fallen differently the Attack might have been averted.

Hearing from frontline officers

24.26 The Inquiry's process has made clear the value of hearing from the actual officers involved in decisions at the time. Witness J and DCS Scally both provided clear and comprehensive witness statements in both open and closed on behalf of their respective organisations. I accept that they both did their best to assist the Inquiry. They provided answers to a large number of requests and questions from the Inquiry Legal Team on my behalf. I am satisfied that the Inquiry Legal Team has had the fullest possible co-operation from both organisations.

24.27 However, notwithstanding that Witness J had taken time to understand the recollections of his more junior colleagues, he had to take an overall 'system' view and give retrospective explanation or justification for why actions were or were not taken or decisions made. No matter how well a witness who gives evidence on behalf of an organisation has been briefed, they may not helpfully be able to answer questions about what another person was thinking, or say what that person is likely to have done in a particular scenario.

24.28 The witnesses who gave direct factual evidence to me during the closed hearing were able to offer real insight into their thought processes at the time. On occasion, it became apparent that the Security Service's corporate position did not reflect what those officers did, thought or would have done at the material time. Rather, the corporate position was more by way of a retrospective justification for the actions taken or not taken.

24.29 There is a lesson for future investigations. My experience reveals that the opportunity of using closed hearings to hear directly from the officers is a valuable one. It assisted me to get to the truth of what happened and, in the words of the former Director General of the Security Service, to *"squeeze out every last drop of learning"*.[12]

24.30 The principle of open justice is of fundamental importance to our society. Obviously, it is preferable for all evidence in any court proceedings to be heard in public. Where it is possible for an adequate investigation to be undertaken by receiving all relevant evidence in an open hearing, that should always be done. In some cases, this may be done satisfactorily through a single corporate witness. In others, the importance of hearing from frontline officers may be the factor that determines whether that issue is explored in open or closed hearings. Whether it makes a difference will be highly fact specific. The requirement for open justice following a closed hearing where individual witnesses are called should be met, where possible, through the use of gisting.

[12] 13/118/20-21

Avoiding 'worst-case' assessments

24.31 I understand and appreciate that the task of the Security Service and Counter Terrorism Policing is to use the tools and systems at their disposal to make assessments about who and what to investigate, and with what comparative level of priority, based on an inevitably partial and shifting intelligence picture. I recognise that my conclusions on this part of my investigation could have the unintended effect of encouraging a 'worst-case' approach to the assessment of intelligence, whereby any and all information that might suggest a national security risk is escalated and treated as a priority.

24.32 The danger of such an approach is that finite resources will not be allocated to the place where they can make the most difference. I do not want the Security Service and Counter Terrorism Policing to adopt an 'assume the worst' approach to intelligence gathering or investigation.

24.33 The Security Service and Counter Terrorism Policing have many experienced practitioners who, with their colleagues, have built up over many years and thousands of cases a corporate store of knowledge. That knowledge relates to the kinds of situation, patterns of behaviour and history or profile of individuals that are likely to justify further action or investigation being taken. This helps to inform their officers when they have to make professional judgements about the likely level of risk contained in any particular piece of intelligence.

24.34 I hope that the conclusions I have reached in relation to the Attack, including those set out in greater detail in Volume 3 (closed), will be a contribution to that corporate store of knowledge. I hope that this can improve the accuracy of judgements that are made in future.

Background

24.35 Guided by the UK Government's national security strategy, and pursuant to the Security Service Act 1989, one of the responsibilities of the Security Service is to counter threats to national security from terrorism. A further responsibility is to act in support of the activities of police services and other law enforcement agencies in the prevention and detection of serious crime.

24.36 While the Security Service and Counter Terrorism Policing have different roles and expertise, they work very closely together in pursuit of the common goal of countering the terrorism threat in the UK. This is predominantly through the national Counter Terrorism Policing network, Metropolitan Police Service and Police Service of Northern Ireland. The role of Counter Terrorism Policing includes gathering intelligence and evidence to help prevent, disrupt and prosecute terrorist activities, and carrying out arrests and other executive action. Responsibility for investigating activity that is not of national security concern lies with the policing networks outside Counter Terrorism Policing.

24.37 The Security Service has its largest station in London and also has regional stations, including one covering Greater Manchester. This North-West regional station works very closely with NWCTU, as it was called in 2017, which is now CTPNW. For convenience, I will refer to this organisation as CTPNW from this point onwards.

Key terms

24.38 Witness J gave open evidence in respect of some of the Security Service's investigative processes and operational tools, giving relatively high-level summaries and explanations of the terms which I use later in this Part.

24.39 One such key term is 'Subject of Interest'. A Subject of Interest is someone who is investigated because they are suspected of being a threat to national security. For each Subject of Interest, the Security Service creates a Key Information Store record. Such a record, which is electronic, can be created before a person of interest has become fully identified.[13]

24.40 A 'Lead' is the term used to describe all intelligence or information that is not linked to an ongoing investigation that, following initial assessment, suggests activities requiring investigation by the Security Service and Counter Terrorism Policing.[14]

[13] 166/61/20-62/15

[14] 166/67/15-20

24.41 A 'Trace' is the term used to describe a check that is run across the Security Service's databases to establish whether the Security Service holds adverse information or to check whether an individual is known to the Security Service already.[15]

24.42 When opened, a Lead results in a Lead development investigation. If an investigation reaches a certain threshold of prioritisation, it is opened as a priority investigation. Such operations are graded on a scale from P4 (the lowest) to P1 (the highest). The definition of a P4 investigation given by Witness J is that it is for individuals, such as released terrorist prisoners, who have previously posed a serious threat to national security and where there is judged to be a risk of re-engagement. The prioritisation grading informs, but does not dictate, the resources that are allocated to that investigation at a given time.[16]

24.43 Each active Subject of Interest record has an assigned lead investigator, responsible for reviewing incoming intelligence and maintaining the record. When Witness J gave evidence in October 2021, he stated that there were approximately 3,000 Subjects of Interest in active investigations,[17] who were either associated with the Security Service priority investigations or who had come to the Security Service's attention as part of a Lead generated through new intelligence that is not part of an investigation.

24.44 The number of 'closed' Subjects of Interest, who have been Subjects of Interest in priority investigations since 2009, but who are no longer the subject of active investigations, exceeded 40,000 as at November 2021.

24.45 Subjects of Interest within most investigations are prioritised according to the 'Tier' assigned to them. The Tier reflects the importance of Subjects of Interest within that investigation at any one time. The Security Service defines the three Tiers as follows.

24.46 'Tier 1' refers to the main targets of an investigation. Tier 1 Subjects of Interest will likely be involved in all aspects of the activities under investigation.

24.47 'Tier 2' refers to Subjects of Interest who are key contacts of the main targets. Tier 2 Subjects of Interest will likely be involved in a significant portion of the activities under investigation.

24.48 'Tier 3' refers to a Subject of Interest who is a contact of a Tier 1 and/or Tier 2 Subject of Interest. Tier 3 Subjects of Interest are likely to be involved only in marginal aspects of the activities under investigation. Not every person who is a contact of a Tier 1 or Tier 2 Subject of Interest is made a Tier 3 Subject of Interest; there is an element of investigator judgement involved in deciding whether a particular contact should be a Tier 3 Subject of Interest.[18]

[15] 166/67/9-14
[16] 166/68/17-71/3
[17] 166/62/16-63/10
[18] 166/71/23-73/6

Closed Subjects of Interest

24.49 Subjects of Interest are closed when they no longer meet the threshold for investigation, such as where it is assessed that they are not, or are no longer, engaged in activity of national security concern. The closure process is not precisely the same now as it was at the time of the Attack, but the broad principles of risk assessment remain unchanged.[19]

24.50 The closure process requires the investigator to consider and assess the residual risk that the closed Subject of Interest poses. Where there has been police involvement in the relevant operation or investigation, this assessment is completed in conjunction with a police colleague.

24.51 The assessment of residual risk of a closed Subject of Interest is considered by reference to the likelihood of re-engagement by the Subject of Interest, and the potential impact if that re-engagement occurs. This leads to an assessment of whether the Subject of Interest, when closed, will pose 'High', 'Medium', 'Low' or 'No' risk.[20]

24.52 Where a Subject of Interest was under investigation by Counter Terrorism Policing, the Security Service would be asked to assist with the provision of relevant intelligence which could help direct the investigation. The police Senior Investigating Officer would expect to know all key intelligence developments, save where this could not be shared because of the sensitivity of the information or the source. In such a situation, the Security Service would retain responsibility for covert investigations.

[19] 166/74/12-75/5

[20] 166/76/2-21

Principal missed opportunity

24.53 Witness X was initially the corporate witness for the Security Service and, in that capacity, provided an open witness statement. For good reason, Witness X was subsequently unable to give evidence and their witness statement was adopted by Witness J. That statement set out that on two separate occasions in the months prior to the Attack, intelligence was received by the Security Service, the significance of which was not fully appreciated at the time. I shall refer to these as 'Piece of Intelligence 1' and 'Piece of Intelligence 2'.

24.54 In his open evidence, Witness J stated the following regarding Piece of Intelligence 1 and Piece of Intelligence 2:

> *"At the time, it [both pieces of intelligence] was assessed to relate not to terrorism but to possible non-nefarious activity or to non-terrorist criminality on the part of [SA]."*[21]

24.55 This phrase was used by Lord Anderson in his independent assessment of the Post-Attack Reviews. In an interview aired by the BBC in a Panorama programme broadcast in 2022, Lord Anderson said:

> *"MI5 [the Security Service] admitted to me at least two things they got wrong. And the first thing was that when, early in 2017, they received intelligence and they interpreted it as to do probably with drugs or organised crime and not something to do with terrorism or national security."*[22]

24.56 Having heard from those witnesses who handled Piece of Intelligence 1 and Piece of Intelligence 2, I do not consider that these statements present an accurate picture.

24.57 In the case of Piece of Intelligence 1, Witness C was the person who first considered it. S/he had wondered, at the time, whether it might have some national security significance that merited further investigation, and decided it needed to be reported on. What s/he found difficult was assessing the significance of the intelligence. In the case of Piece of Intelligence 2, all three of those who handled this intelligence (Witness A, Witness B and Witness C) recognised, at the time, that taken together with Piece of Intelligence 1, it was of potential national security concern, at least to some degree.

24.58 In this context, the references to 'national security significance' and 'national security concern' mean potential terrorist activity.

[21] 166/125/1-3

[22] BBC, *Panorama*, 'Manchester Arena Bombing: Saffie's Story', broadcast on 7th March 2022

Sharing of intelligence

24.59 Neither Piece of Intelligence 1 nor Piece of Intelligence 2 was shared by the Security Service with CTPNW. Piece of Intelligence 1 should have been shared. The fact that Piece of Intelligence 1 was not shared is of concern to me.

24.60 However, I do not regard the failure to share Piece of Intelligence 1 to be of causative significance. It is a further example of a communication breakdown between the Security Service and CTPNW. That said, it was for the Security Service to lead the response to Piece of Intelligence 1. Consequently, it is highly unlikely that, had Piece of Intelligence 1 been shared with CTPNW, the mere act of sharing would have led to any different outcome.

Piece of Intelligence 1

24.61 Evidence was given to the effect that, if the Security Service were to receive Piece of Intelligence 1 today, based on current policy it is likely that SA would be opened as a low-level Lead. The opening of such a Lead would have led to the making of low-level investigative enquiries, in conjunction with the police.

24.62 Two of the Security Service witnesses, Witness A and Witness B, were of the view that if further context had been provided in the report on Piece of Intelligence 1, this might have led to further investigative steps being taken at the time.

24.63 Speaking at a general level, and not in specific reference to either piece of intelligence, Witness J stated that *"it is acceptable for different investigators to arrive at different judgements".*

24.64 I accept that Witness C, who first assessed Piece of Intelligence 1, was genuinely seeking to pass on what s/he considered to be useful. However, in my view, s/he should have provided further context. Had Witness C done so, it is likely that further low-level investigative steps would have been taken in relation to SA at that time. Witness C's assessment of Piece of Intelligence 1 at the time was that it might have some national security significance.

24.65 It is not possible to say whether or not the investigative steps that are likely to have been taken arising from Piece of Intelligence 1, with further context from Witness C, would have revealed SA's plot. There is a material possibility that it would have led to the Security Service and/or CTPNW learning more about SA's activities. It is important to stress, though, that in my view it is unlikely that the investigative steps arising from Piece of Intelligence 1 with further context would have uncovered the plot.

24.66 If further investigative steps arising from Piece of Intelligence 1 had increased the information the Security Service and/or CTPNW had about SA, then this would have increased the overall prospect that the Attack would have been prevented by reason of Piece of Intelligence 2.

Piece of Intelligence 2

24.67 Witness C was also the Security Service officer who first assessed Piece of Intelligence 2. Witness C gave compelling evidence that when s/he assessed Piece of Intelligence 2 s/he had in mind the possibility of activity of pressing national security concern. In my view, s/he was right to. Given that Witness C had that in mind, s/he should have discussed it with other Security Service officers straight away. Moreover, s/he should have written the report on the same day, but in fact did not do so. In the context of national security, if there is a need to do something it is usually necessary to do it promptly.

24.68 Witness J and the Security Service, in its closing statement, supported the approach Witness C took in terms of the timing of her/his report on Piece of Intelligence 2.

24.69 I disagree with Witness J and the Security Service's assessment of the timings of Witness C's actions. In my view, Witness C did not provide a report on Piece of Intelligence 2 as promptly as s/he should have.

24.70 Further, Witness A and Witness B were also of the view that, if further context had been provided in the report on Piece of Intelligence 2 and received prior to 22nd May 2017, this might have led to further investigative steps being taken. In my view Witness C's report on Piece of Intelligence 2 did not contain sufficient context.

24.71 Witness C's failure to report on Piece of Intelligence 2 more fully is not likely to have made any difference, because Witness A and Witness B did, in fact, bear in mind the possibility of activity of pressing national security concern when they assessed Witness C's report on Piece of Intelligence 2.

24.72 As a result, Witness A and Witness B acted promptly in response to Witness C's report on Piece of Intelligence 2. The prompt reaction of Witness A and Witness B to Witness C's report on Piece of Intelligence 2 provides strong support, in my view, for the conclusion I have reached that Witness C should have provided the report sooner than s/he did.

24.73 The delay in providing the report led to the missing of an opportunity to take a potentially important investigative action: Witness A said that such an investigative action would have provided an opportunity to gather intelligence on SA.

24.74 Based on everything the Security Service knew or should have known, I am satisfied that such an investigative action would have been a proportionate and justified step to take. This should have happened.

24.75 If the investigative action I have identified had been taken, it is impossible to say on the balance of probabilities what the consequences would have been. Although I accept that SA demonstrated some security consciousness and

that this might have affected the efficacy of the investigative action that I have identified, there was the real possibility that it would have produced actionable intelligence.

24.76 It is not possible to say with any degree of certainty what would have happened had the investigative action been taken. All I am able to say is that it could have given rise to information which meant that SA's return to the UK on 18th May 2017 would have been treated extremely seriously by the Security Service.

24.77 This could have led to SA being followed to the Nissan Micra which contained the explosive. As I set out in Part 23, there are a number of features of SA's behaviour before and following his arrival into Manchester Airport on 18th May 2017 which indicate he was taking precautions against being detected. Having considered the CCTV evidence showing how SA behaved around the Nissan Micra on 18th May 2017, I find that, in the event that Security Service officers had successfully followed SA to the Nissan Micra, the Attack might have been prevented.

24.78 It could have led to him being port stopped under Schedule 7 of the Terrorism Act 2000 at Manchester Airport on his return. It is also possible that a stop may have had a deterrent effect or led to investigative steps. I accept Witness J's conclusion, as endorsed by the Inquiry's expert on preventability, that it is unlikely SA would have been found to have incriminating material on him when he passed through the airport on 18th May 2017. However, as I found in Part 23, there is a possibility that he had the switch for the bomb on him at that time.

24.79 It is not possible to know whether SA would have said something revealing to interviewing officers if he had been port stopped, or what the psychological effect on him of being stopped would have been. As the Inquiry's expert on preventability pointed out, it is impossible to say whether an overt and disruptive step such as a port stop would have had a dissuasive effect. It might have, or SA might have been irrevocably set on his course: being stopped and released might simply have emboldened him further.

24.80 When pressed, the Inquiry's expert on preventability agreed that, given what is known of SA and his actions in the four days between returning to the UK and carrying out the Attack, the possibility of dissuasion was *"pretty low"*. The chances of a port stop on 18th May 2017 disrupting the Attack may have been low, but I consider they cannot be discounted altogether.

24.81 In my view, Piece of Intelligence 2 gave rise to the real possibility of obtaining information that might have led to actions which prevented the Attack. We cannot know what would have happened, but there is at least the material possibility that opportunities to intervene were missed.

Other potential opportunities

Operation Oliban messages

24.82 As I set out in Part 22, Operation Oliban was a CTPNW investigation into the activities of Abdalraouf Abdallah. It resulted in his conviction for offences under the Terrorism Act 2000. In Part 22, I considered messages which passed between Abdalraouf Abdallah and SA.

24.83 It was agreed by CTPNW and the Security Service that the Operation Oliban material relating to SA should have been analysed for intelligence by the CTPNW Intelligence Management Unit.

24.84 CTPNW's position was that the Operation Oliban messages should have been passed to the Security Service in 2015 in accordance with the general approach taken on Operation Oliban to sharing of information with the Security Service. CTPNW's position was that there was no reason to believe that the Operation Oliban messages were not passed. It was agreed by CTPNW and the Security Service that there was no evidence that the Security Service ever suggested that the Operation Oliban messages had not been passed to the Security Service.

24.85 By contrast, the Security Service's position was that the Operation Oliban messages were not received by the Security Service. Neither CTPNW nor the Security Service had any record that the messages had been passed by CTPNW to the Security Service. At the time, it was not the practice for such an audit trail to be kept.

24.86 In light of all the evidence, I find on the balance of probabilities that the Operation Oliban messages were not given by CTPNW to the Security Service. This is likely to have been a result of human error.

24.87 However, even had the Operation Oliban messages been passed and even had SA been identified as one of the people Abdalraouf Abdallah was corresponding with, it is unlikely that it would have made a significant difference to the Security Service's assessment of the risk posed by SA.

24.88 The content of the Operation Oliban messages between SA and Abdalraouf Abdallah was consistent with other information CTPNW and the Security Service had on SA. Despite this, SA should have been identified, and the Operation Oliban messages should have been passed to the Security Service. This would have added to the picture that the Security Service and CTPNW held about SA's actions and intentions.

24.89 When reaching my conclusion about the extent of the difference the Operation Oliban messages might have made, I have had in mind the evidence Dr Matthew Wilkinson, the Inquiry's expert in radicalisation, gave about these messages. However, this is not the totality of the evidence I have heard about them.

24.90 While I am satisfied that the Operation Oliban material would not have changed the Security Service's assessment of SA based on the approach at the time, I do think that there is room for improvement in the Security Service's approach. In Volume 3-I (closed), I have raised making a recommendation as to how the Security Service could develop its approach to material of this type. I make clear that I am not being critical of the Security Service in relation to this issue. I understand why the Security Service would have taken the approach it did at the time.

24.91 There were two specific occasions on which the fact that SA was not identified as exchanging messages with Abdalraouf Abdallah as part of Operation Oliban may have affected whether he was referred to Prevent.

24.92 First, there would have been an opportunity around the time of the closure of Operation Oliban for SA to be reviewed, among other individuals, and a decision made as to whether further steps should be taken to investigate him. He was not reviewed and should have been. This deprived CTPNW of an opportunity to consider whether SA should be referred to Prevent.

24.93 Second, Witness D, who worked for CTPNW, had reason to consider SA in 2015. S/he stated in evidence that s/he would have regarded the Operation Oliban messages, had s/he had them, as relevant to an assessment of whether SA should have been referred to Prevent in 2015.

Abdalraouf Abdallah mobile phone data

24.94 While he was in prison, Abdalraouf Abdallah had access to a mobile phone. There was a delay in analysing the billing data for that device. The handset was seized by the prison authorities on 17th February 2017. It was downloaded on 3rd March 2017. However, authorisation for obtaining the billing data was not sought until 4th May 2017. The data was not obtained until 1st June 2017. On behalf of CTPNW, DCS Scally accepted that this data should have been obtained more quickly than it was. I agree. It should have been obtained within a month of the download.

24.95 The illicit mobile phone was used to call a number, which was attributed to SA after the Attack, on 11 occasions between 16th January 2017 and 15th February 2017. Only three of these connected. It is not possible to say, without knowing the content of the calls, whether these were for nefarious purposes. The delay in obtaining the data relating to these calls did not have any causative significance. This is because the number SA used was not attributed to him until the extensive Operation Manteline investigation conducted after the Attack.

24.96 However, it was a concerning delay. Potential intelligence about a prisoner serving a sentence for Terrorism Act 2000 offences and known to be a potential radicaliser should be obtained and analysed more quickly.

Knowledge of the Security Service and Counter Terrorism Policing of SA prior to 2017

24.97 The Security Service first received information in relation to SA on 30th December 2010. The information came from CTPNW. The information was to the effect that SA was linked to an address which was relevant to a Trace request. The information included that SA had been stopped and searched twice and nothing suspicious was found. No scrutiny was applied to SA by the Security Service at that stage.[23]

24.98 In December 2013, SA was identified by the Security Service as being a possible candidate for an unknown individual who had been observed to have been acting suspiciously with Subject of Interest A.[24]

24.99 On 18th March 2014, SA was designated a Subject of Interest within the Security Service's investigation into Subject of Interest A. A Key Information Store record was opened into SA. SA was given a Security Service nickname, as was the usual practice. He was made a Tier 3 Subject of Interest.[25] On 21st July 2014, SA was closed as a Subject of Interest. This was because of SA's lack of engagement with individuals of interest, including Subject of Interest A. An officer from CTPNW was involved in the closure process.[26] I am satisfied that the decision to close SA as a Subject of Interest at this stage was a reasonable one.

24.100 In 2015, SA was identified as being the owner of a telephone number which had previously been used in contact with Subject of Interest B. Subject of Interest B was someone previously linked to Al-Qaeda and was investigated in connection with his facilitation of travel of others to Syria. Nothing within the information held was considered by the Security Service to be sufficient to justify opening SA as a Subject of Interest.[27]

24.101 Later in 2015, the Security Service received information that SA was in contact with Subject of Interest C. Subject of Interest C was a longstanding Subject of Interest due to his previous affiliation with an extremist group in Libya.[28]

24.102 In October 2015, SA was opened and closed as a Subject of Interest in the same day. This occurred due to a misunderstanding of information held by the Security Service, which indicated that SA had links to a senior Islamic State figure in Libya. SA was opened as a Subject of Interest on the basis he had direct contact with that senior Islamic State figure. When it was realised that the contact was not direct, but rather contact with a contact, he was closed as a

[23] 166/97/14-98/21
[24] 166/98/22-100/6
[25] 166/100/7-101/23
[26] 166/102/7-22
[27] 166/105/8-106/10
[28] 166/111/10-18

Subject of Interest.[29] I am satisfied that there is no significance to be attached to this event beyond the fact that it demonstrates that the Security Service acted carefully to check its own understanding of information it had received.

'De facto' Subject of Interest (2015–16)

24.103 Between 2015 and 2016, as part of another Lead with its own Subject of Interest, SA was treated as being a Tier 2 Subject of Interest. SA was not formally designated as a Subject of Interest. This 'de facto' Subject of Interest status, as it was subsequently characterised in the Security Service Post-Attack Review, was not a concept that any Security Service witness, or the Security Service expert witness, recognised.

24.104 It was not helpful for SA to be treated in this way. If SA had been formally opened as a Subject of Interest, then he would have continued to have been treated as such, or there would have come a time when he was considered for closure. At the point of closure, there would have been a formal assessment of the risk that SA posed to national security. The inclusion of that assessment in the decision to close a Subject of Interest is not a mere formality. It is a valuable opportunity to take stock of the intelligence that is held.

24.105 Further, if a decision had been taken to close a Lead into SA, consideration would then have been given as to whether or not he should be referred to Prevent. During this period, the Security Service received information about SA on several occasions, including his views on Islamic State.[30] I cannot say what would have come of such a referral, if it had taken place in 2016, but it is potentially of causative significance.

24.106 It follows from this strand of evidence and my conclusions upon it, that the fact that SA was on paper a closed Subject of Interest between June 2015 and August 2016 is not itself of great significance, there being some material degree of investigation and intelligence collection concerning him throughout this period. Nonetheless, by consciously allowing SA's categorisation to fall into this uncharted grey area, the investigative team deprived itself of the rigours and precautionary processes that were in place for other open Subjects of Interest so as to ensure that national security was best protected.

Prevent referral

24.107 In Part 22, I introduced the Prevent programme. The Intelligence and Security Committee of Parliament found that SA should have been considered for a Prevent referral after his closure as a Subject of Interest in 2015. The Committee stated that it was concerning that there is no evidence of a discussion between Counter Terrorism Policing and the Security Service as to a potential record. The Committee also stated that it was surprising and *"highly disappointing"* that no one in the Abedi family was referred to Prevent.[31]

[29] 166/115/2-18

[30] 166/124/12-17

[31] INQ000002/90-91 at paragraphs II and JJ

24.108 The question of whether SA could or should have been considered for referral was explored in the closed hearing. As was set out in the open gist of the closed evidence, there is a document which shows that SA was considered for a Prevent referral several years before the Attack and that it was decided not to refer him.[32] This information was not before the Intelligence and Security Committee of Parliament.

24.109 Witness J and DCS Scally did not accept that a referral should have been made in SA's case.[33] In particular, they were both of the view that a decision not to refer SA in 2014 was reasonable.[34] However, Witness J accepted it would have been better to have had a proper documented consideration of a Prevent referral at the point of closure of SA as a Subject of Interest in 2014.[35] DCS Scally agreed.[36]

24.110 Both Witness J and DCS Scally made clear that the Security Service and Counter Terrorism Policing see Prevent as a valuable tool.[37] The Security Service is not one of the organisations to which section 26 of the Counter-Terrorism and Security Act 2015 applies. The Security Service's main focus is on the Pursue strand of the UK's counter-terrorism strategy. Counter Terrorism Policing is more directly involved with Prevent and was in 2017. Prevent officers have been embedded within Counter Terrorism Policing since 2015.[38]

24.111 There were two examples of Prevent referrals in relation to individuals connected to SA which the Inquiry heard about. First, Alzoubare Mohammed was referred between 2015 and 2017 due to a history of mental health issues.[39] Second, during Operation Oliban, a 14-year-old boy who was passing messages between subjects of the investigation was referred.[40]

24.112 Assistant Commissioner Neil Basu, the Senior National Co-ordinator at Counter Terrorism Policing Headquarters, stated, when he gave evidence, that there has generally been a disproportionate focus on the Pursue pillar of the UK Government's counter-terrorism strategy at the expense of Prevent. He stated that this was despite there being a case for Prevent being *"by far the most important of the four government pillars of CONTEST. If you speak to police officers of my experience, we all understand the fact that Pursue is largely a sticking plaster and a suppression tactic."*[41]

[32] INQ100119/12 at paragraph 41
[33] 167/54/20-55/8, 168/69/15-22
[34] 166/159/4-12, 168/111/9-113/4
[35] 167/48/8-49/6
[36] 168/39/10-40/14
[37] 167/49/7-20, 168/89/17-90/5
[38] 168/102/7-103/5
[39] 169/28/16-18
[40] INQ04209/23 at paragraphs 111 to 114
[41] 179/22/25-23/3

24.113 DCS Scally explained in evidence that there is no defined threshold for what *"being drawn into terrorism"* means for the purpose of the section 26 statutory duty. He stated that the police look at various factors that might make a person vulnerable, such as complex needs, autism and mental health issues.[42] This, in my view, is a key reason why SA was not referred in 2014 or thereafter.

24.114 In light of all the evidence I heard in both the open and closed hearings, I consider SA should have been subject to a Prevent referral at some point in 2015 or 2016. However, it is very hard to say what would have happened if SA had been approached under Prevent or the Channel programme.

24.115 A person needs to be willing to engage with Channel. Based on the way in which Ismail Abedi reacted to an intervention from Counter Terrorism Policing, it is unlikely that SA would have responded positively. It is not possible to know for sure.

24.116 Ismail Abedi was contacted on several occasions by Counter Terrorism Policing following his port stop in 2015 and the discovery of extremist material on his devices.[43] He was *"evasive and non-committal"*. The police officer was told not to call him again. An attempt to contact Ismail Abedi through Ramadan Abedi was also unsuccessful.[44]

24.117 While any particular individual will only benefit from Prevent if they engage with it, that does not mean that a refusal to engage will be irrelevant to those involved in countering terrorism. On the contrary, such a refusal may provide an indicator to be taken into account when any assessment of that person and their risk is undertaken.

24.118 It was suggested by those representing the bereaved families that the threshold for Prevent is too high. DCS Scally explained in evidence that any lowering of the threshold would require significant extra resource.[45] Only a small proportion of referrals to Prevent are followed up by the full Channel programme, just over 10 per cent in 2020.[46]

24.119 Another suggestion made was that all closed Subjects of Interest should have been reviewed in 2015 when the Prevent Duty came into effect. In my view, this would have been impractical. Witness J and DCS Scally both stated in evidence that it would have been too large a task. It would have prevented the Security Service and Counter Terrorism Policing from focusing on other, more urgent work.[47]

[42] 168/158/13-159/17
[43] 168/97/17-98/12
[44] 169/120/17-121/20
[45] 169/119/14-120/3
[46] 169/119/3-11
[47] 167/55/9-58/15, 168/41/18-43/12

CLEMATIS and DAFFODIL

24.120 CLEMATIS and DAFFODIL are Security Service processes which are designed, said Witness J, *"to surface risk"* from the Security Service's data relating to closed Subjects of Interest. Witness J said that the information on SA that came through the CLEMATIS and DAFFODIL process was not new information: it had already been made available to and been considered by investigative teams within the Security Service. CTPNW does not have any involvement in the actual processes themselves, but provides intelligence to the Security Service and acts on the outputs of the processes. DCS Scally said that he had a broad understanding of the processes' details but does not need to have any deeper knowledge.

24.121 In 2017, a team within the Security Service individually reviewed all Subjects of Interest who were flagged by the CLEMATIS data analysis process to decide whether further low-level investigative enquiries should be undertaken. SA had been flagged by the process, because his circumstances met one of the predetermined triggers. This was noted on 3rd March 2017, along with a significant number of other closed Subjects of Interest.[48]

24.122 As a result of this, the Security Service made further checks into whether SA should be considered for referral into DAFFODIL from CLEMATIS. A meeting was arranged between the appropriate personnel for 31st May 2017, but the Attack took place before this could happen.

24.123 Witness J explained that even if this meeting had taken place earlier, it is by no means certain SA would have been referred for further investigative steps. Even if he had, there was no information available to DAFFODIL that was not already known to the investigative team about SA, so it would simply have provided a *"fresh pair of eyes"*.

24.124 I do not think there is any reason to believe that the Attack would have been prevented if the CLEMATIS data analysis process had taken place more quickly. This was not a missed opportunity.

24.125 However, the fact that CLEMATIS did correctly flag SA as a closed Subject of Interest who was worth another look suggests that this form of data analysis is a useful process for the Security Service to use and into which to invest more time and energy. I understand that significant efforts on this front are already under way.

24.126 I welcome all of this work, and I would urge the Security Service and Counter Terrorism Policing to find ways to use these new tools for analysing data, especially about closed Subjects of Interest, effectively.

[48] 166/126/12-127/13

Policy, process and practice issues

The approach taken to the threat from Libya in 2017

24.127 Security Service officers gave evidence during the closed hearing that they were well aware of the contents of the 2010 Joint Terrorism Analysis Centre (JTAC) report on the Muslim community in Manchester. As I stated in Part 22, the 2010 JTAC report noted concerns about risks arising within the Libyan South Manchester community, alongside others, and a specific risk that the younger generation might become more attracted to Al-Qaeda influenced global extremism as they lost the nationalist focus of their parents.

24.128 In open evidence, Witness J stated that the 2010 JTAC report was:

> *"... a really useful baseline document that CT Police [Counter Terrorism Policing] and MI5 [the Security Service] and others had access to. It was a comprehensive, at that time, assessment of a range of extremism, terrorist and criminality issues in Manchester. It would have informed, at that time, the teams who were engaged in work in Manchester and elsewhere, but beyond that it wouldn't have been something that would have been looked at day-to-day in terms of how we then conducted our investigative strategies."*[49]

24.129 Witness J stated during the closed hearing that, by 2017, he would not have expected Security Service investigators still to be very familiar with the specific report, but rather they would be expected to consider more up-to-date documents and assessments. Witness J went on to state that he was not aware of any JTAC document produced after 2010 which considered the same issues.

24.130 DCS Scally stated during the closed hearing that CTPNW regularly created reports specific to the area they were responsible for which covered similar information and issues to those set out in the 2010 JTAC report.

24.131 In the years leading up to 2017, a lot of the Security Service's attention was on individuals looking to travel to Syria and ways to prevent them from doing so. One of the Security Service witnesses commented during the closed hearing on the fact that most of the individuals who had travelled from Manchester had long-term plans to stay overseas in areas in which fighting was taking place. Many were known to have died in combat. As a result, there were not many known returnees. Throughout the UK, including in Manchester, there were instances of returnees who the Security Service had not seen leave. This was a potential threat.

[49] 166/48/10-19

24.132 It is entirely understandable that the Security Service viewed some returnees from Syria as a greater threat to national security than equivalent returnees from Libya at that time. However, the focus on Syria meant that both the Security Service and CTPNW underestimated the risk from Libya in 2017.

24.133 To have 'run the intelligence machine' to investigate every person returning from Libya would have been impractical at that time, according to the Security Service witnesses, because there were legitimate reasons to visit Libya. It was necessary, for practical reasons as well as other reasons, for there to be some particular indicators that would cause the fact of somebody's return from Libya to be treated with concern by the Security Service.

24.134 One Security Service witness stated that it felt *"slightly uncomfortable"* having to apply this approach in practice. A senior Security Service witness stated that it was a *"relief"* to have a clearly defined policy which was *"easier to follow"*. Witness J's evidence in the closed hearing was that, while he could understand how uncomfortable it could be for investigators, these were judgements the Security Service has to make across the world in relation to conflict zones. Such judgements are necessary in order to focus the Security Service efforts and finite resources on activity that constitutes terrorism.

24.135 The threshold that the Security Service applied when deciding whether to investigate any returnee from Libya was, in my view, too high and amounted to a risky position. This was particularly so against the backdrop of the careful assessment of JTAC in 2010, which identified a danger of radicalisation of young members of the Libyan community in Manchester.

24.136 I accept that some threshold was required that would allow for the exercise of discretion on the part of Security Service investigators as to the extent to which they should investigate each returnee. The problem was that the threshold selected by the Security Service was insufficiently nuanced.

24.137 I accept that the possibility of an attack in the UK from those who had been fighting in Libya was not entirely unforeseen by the Security Service and Counter Terrorism Policing in 2017. However, in open evidence, Assistant Commissioner Basu accurately described the effect of the Manchester Arena Attack as a *"wake-up call"* to how serious a threat it was.[50]

24.138 The Security Service and Counter Terrorism Policing should learn from the situation in Libya and take precautions in relation to the threat to UK national security from individuals who have been involved in fighting overseas in future.

Security Service issues

24.139 All Security Service teams across the country were under increasing pressure leading up to 2017, with 2017 particularly showing an increase in priority operations, as well as an increase in the number of Leads which the Service had

[50] 168/197/11-198/17

to address. During that time, it became more commonplace for teams to report that they were under pressure or needed help from other teams to manage their workload.

24.140 From January 2016, there were recognised to be particular pressures within the North West, with the workload in Manchester increasing very quickly and to a very substantial extent. The Security Service had to make hard decisions about where it was to focus its resources, and Witness J recognised that that was unacceptable, notwithstanding that it was still able to provide resources to priority investigations.

24.141 In his open evidence, Witness J stated:

> *"I think we saw, in the years leading up to 2017, a pace of threat that MI5 hadn't experienced before and then we saw another step change during 2017 … The scale was unprecedented in terms of the number of current investigations and the overall number of Subjects of Interest."*[51]

24.142 Between May 2013 and July 2019, the Security Service and police disrupted 27 major Islamist extremist terrorist plots. In addition to those, from March 2017 five right- and left-wing terrorist plots were disrupted.[52]

24.143 Witness J went on to state, in his open evidence, that at the time of the Attack, the Security Service was running about 500 investigations into individuals or groups associated with Islamist terrorism. At that time, the Security Service had around 3,000 active Subjects of Interest.[53]

24.144 A Security Service officer within the North West team described during the closed hearing how, in 2017, that team was *"struggling to cope"* and that with the amount of time taken up by priority investigations, it was difficult to find space for Leads or incoming intelligence on closed Subjects of Interest. S/he recalled talking to her/his manager before the Attack about a worry that *"something inevitably would happen at some point"*.

24.145 A senior Security Service officer broadly agreed, noting that it was the *"level of threat and the expectation that something would happen"* that s/he remembered from that period in 2017, because the North West team, like those around the country, went from having a lot of investigations that were *"very aspirational and very preliminary"* to having *"late notice or we had a very partial view of something that could turn out to be significant"*.

24.146 Witness J was clear during the closed hearing that resource pressure did not have an impact on decisions which were made in relation to SA and that there was no relevant decision point where *"resource pressure led to*

[51] 166/41/22-42/4
[52] 166/41/6-16
[53] 166/42/6-12

us failing to consider a piece of intelligence properly or make an evidence-based judgment because our attention was elsewhere and because we got the prioritisation wrong".

24.147 I accept Witness J's analysis. The Inquiry's careful exploration of the key decisions in relation to SA has not revealed any point at which pressure on resources was a reason for a missed opportunity. The only way in which resource pressure may have had some bearing is indirect, in that it appears to have been at least one factor behind the Security Service's approach to the threat from Libya, and the focus only on those who fitted particular criteria. It is possible that the pressure of threat from Syria was one reason for the under-estimation of the risk posed by returnees from Libya.

The Counter Terrorism Policing–Security Service relationship

24.148 It was clear from the evidence I heard that the Security Service and Counter Terrorism Policing have a close partnership and that there is every intention from both organisations to work together as smoothly and effectively as possible. In his open evidence, Witness J stated:

> *"[F]rom my experience, we have a fantastically strong relationship and partnership and we work very well together, but that doesn't stop us two organisations continually searching for ways to work more closely and better together."*[54]

24.149 Despite this, in the course of the Inquiry's investigation, several examples of communication failures have been found, only some of which are summarised in Volume 3 (open).

24.150 These problems appeared to me to emerge from the systems used by the Security Service and Counter Terrorism Policing to communicate with each other. Both the Security Service and Counter Terrorism Policing accepted in their closed closing statements that there were difficulties with the current systems and were receptive to recommendations that might assist in reducing or resolving these difficulties. The general view of witnesses was that matters had improved already, since the Attack. However, there is undoubtedly still more that can be done, and I will make some recommendations that I hope will assist.

[54] 166/86/12-17

Part 25
Conclusions and recommendations

25.1 In this Part, I set out my conclusions and recommendations. One of the areas in which I make recommendations relates to the enforcement regime under the Inquiries Act 2005. By 'enforcement regime', I mean the legal powers available to a Chairman, which are aimed at ensuring that all relevant information is before him/her.

25.2 In order to explain why change is required in this area, I have set out in some detail my experience of using the powers of enforcement and where, in my view, they fell short. I address this at paragraphs 25.19 to 25.94. Regrettably, it was necessary to go to substantial lengths to ensure engagement with the Inquiry in the case of two individuals. In one case, this was successful in that the person in question was prevented from leaving the country and did appear before the Inquiry and gave evidence. In the second, despite the powers available, it was not possible for me to secure the evidence of a person who had highly relevant information to give.

25.3 I begin this Part with my overall conclusions. In the section that follows, I set out my Inquiry's use of its powers of enforcement. In the final section, I make the recommendations relevant to the areas of my investigation covered by Volume 3. Within the Recommendations, I identify those I intend to monitor, with the designation MR (Monitored Recommendation).

Conclusions

25.4 There are certain limitations to my conclusions on each of the three topics that I have investigated in the oral evidence hearings relating to this Volume of my Report.

25.5 First, in relation to the radicalisation of SA and HA, I have concluded that their family played a part in the development of their extremist mindset. SA and HA were exposed by their parents to the civil war in Libya at an impressionable age. There were a number of violent extremist groups who were active in Libya at the time. SA's and HA's parents, particularly their father, held extremist views. The family circle in Libya included people who, at some time, were involved in terrorism.

25.6 The only people who can provide firsthand information about this aspect of the evidence are the family of SA and HA. To date they have not co-operated with the Inquiry. This has certainly made it more difficult for me to reach definite conclusions on how SA and HA came to be radicalised and what assistance, if any, SA was given by violent extremist groups in Libya to carry out the bombing.

25.7 Getting information out of Libya where SA was a regular visitor was very difficult for the authorities in the UK. Their primary focus was identifying fighters returning from Syria. It is possible to say, with the benefit of hindsight, that more attention should have been paid by the Security Service and Counter Terrorism Policing to what was happening in Libya.

25.8 My understanding of how the process of radicalisation can occur was assisted by the evidence of Dr Matthew Wilkinson. I hope that his evidence to this Inquiry will be considered carefully by the authorities, as it could enhance their ability to identify signs of radicalisation and the appropriate level of importance to be attached to them.

25.9 Second, while Greater Manchester Police's (GMP's) investigation of the bombing, Operation Manteline, was, in my view, remarkable in its thoroughness and professionalism, it has proved impossible to conclude on the balance of probabilities that any of those individuals who assisted SA and HA in the purchase of items for their bomb did so knowing that those items were going to be used to make a bomb.

25.10 There will be suspicion around their actions, but suspicion is not enough. I have no doubt that GMP will keep the investigation open to see whether evidence capable of meeting the criminal standard of proof is discovered.

25.11 Third, could the Attack have been prevented? The closed hearings revealed important additional information, and this included one significant missed opportunity that had not previously been understood. I have put as much about that into the public domain as it is possible to do safely. It remains quite

impossible to say whether any different or additional action taken by the authorities could have prevented the Attack. It might have done; it might not have done.

25.12 No one should underestimate the very difficult job that the Security Service and Counter Terrorism Policing do. That job has become more difficult with the emergence of lone actor terrorists whose activities are more difficult to track. The Director General of the Security Service has made public the number of plots that have been thwarted, and it is considerable. There have been 37 late-stage attack plots disrupted since the start of 2017, according to his latest statement.[1]

25.13 None of those working for the Security Service or Counter Terrorism Policing whom I have criticised in the Volume 3 open and closed reports intended to assist SA in slipping through the net. Both organisations work hard to try to prevent terrorists carrying out attacks.

25.14 Having said all that, if the Security Service or Counter Terrorism Policing make mistakes then these need to be identified and steps taken to put them right. While the Director General of the Security Service has said that he considers it inevitable that terrorists will get through the measures they put in place in their work to protect the public, he did not mean that it was acceptable for that to happen due to mistakes being made.

25.15 As this is the last Volume of my Report, I would like to thank all Core Participants for their co-operation throughout the Inquiry, as well as their preparedness to work very long hours and very hard to ensure that, so far as possible, the timetable was adhered to. I am grateful to those people in organisations who have supplied us with a great deal of information, often at short notice. I have had the assistance of many highly skilled lawyers representing different Core Participants, who have helped me in my attempts to discover the truth and spell out the lessons that need to be learned and what to do to put that learning into practice.

25.16 I would also like to thank the bereaved families for their support of the Inquiry process and the encouragement they have given me and my team. Ultimately, for the reasons I have given, it has not been possible to provide comprehensive answers to all their questions publicly. I know this will disappoint some, but I hope that I have made the reasons for that clear.

25.17 Finally, I wish publicly to thank my team, that is, Counsel to the Inquiry and Solicitor to the Inquiry. Without their considerable expertise and very hard work, I would not have been able to complete this Inquiry. They have worked tirelessly and used immense skill to try to discover what happened and to help find ways of ensuring that it never happens again. I am very grateful to all of them. I am also grateful to those who have worked behind the scenes to enable the process to run smoothly, despite the difficulties caused by the pandemic.

[1] Security Service, 'Annual threat update' [speech by Director General], 16 November 2022

25.18 Even with so much help, conducting this Inquiry has been a considerable responsibility. It has been emotionally draining for everyone but particularly for the bereaved families. I hope that I have reached the correct conclusions on the evidence. More than that, I hope that the Recommendations I have made are seen to be constructive, are accepted and that they will make a difference in the future.

Ensuring co-operation and attendance at an inquiry

25.19 During the Inquiry, I made use of both civil enforcement and criminal prosecution powers under section 35 and section 36 of the Inquiries Act 2005 (the 2005 Act). My experience of using both has led me to conclude that there is room for improving both the section 35 and the section 36 processes.

25.20 In order to illustrate the basis for doing so, it is necessary for me to say something about each.

Requesting information

25.21 The 2005 Act provides a scheme by which those with relevant information can be required to provide it. Under Rule 9 of the Inquiry Rules 2006 (the 2006 Rules), a formal request in writing can be made for material from those who hold it. This can also include a request for witness statements.[2] A formal request under Rule 9 is often referred to as a 'Rule 9 request'.

25.22 There is a power to compel co-operation by issuing a notice under section 21 of the 2005 Act.[3] The explanatory note to section 21 states that there are usually three situations in which section 21 notices are issued. First, when a person is unwilling to comply with a request. Second, when a person is willing to comply with a request but is worried about the consequences of co-operation. Third, when a person is unable to comply because co-operation is otherwise prevented by a statutory prohibition.[4]

25.23 A section 21 notice will apply to any individual or organisation in the UK, but not beyond.

25.24 I am aware that other inquiries have used section 21 as the means by which material is obtained. The approach I took was first to make a Rule 9 request. I only issued a section 21 notice when there was a lack of engagement or a refusal to comply voluntarily.

Section 21 notice

25.25 The powers under section 21 permit the Chairman of an inquiry to take any of a number of steps. Under section 21(1), a Chairman may issue a notice requiring a person to attend, at a time and a place stated in the notice, in order to: give evidence; produce any documents in their custody or control; or produce any other thing in their custody or control. Under section 21(2), a Chairman may issue a notice requiring a person to: provide a witness statement; provide any documents in their custody or control; or produce any other thing in their custody or control. Such notices are typically referred to as a 'section 21 notice'.

[2] Inquiry Rules 2006, Rule 9

[3] Inquiries Act 2005, section 21

[4] Inquiries Act 2005, section 21 explanatory notes

25.26 The notice must explain what the consequences of non-compliance are. The 2005 Act also makes provision under section 21(4) for a mechanism by which a person can claim that s/he cannot comply or that it is unreasonable to require him/her to comply.

25.27 A person cannot be compelled to comply with a section 21 notice if they could not be required to give, produce or provide the evidence or document in civil proceedings. This means, for example, that provision of materials subject to legal professional privilege, parliamentary privilege or public interest immunity cannot be compelled by a section 21 notice. It also means that a person cannot be compelled to provide information or materials if to do so would tend to incriminate them.

High Court

25.28 In the event a person does not comply with a section 21 notice, they can be made the subject of enforcement action under section 36 of the 2005 Act. This permits the Chairman to certify to the High Court that there has been a failure to comply with the requirements of a section 21 notice or a threat to do so.[5]

25.29 Having considered the matter, the High Court can make such orders by way of enforcement as it could make if the matter had arisen in proceedings before the High Court. In practice, this will mean that the High Court is empowered to issue a witness summons or make such other order the breach of which would be treated as a contempt of court.

Magistrates' Court

25.30 Under section 35 of the 2005 Act, it is a criminal offence to fail to comply with a section 21 notice without reasonable excuse. Only a Chairman may institute proceedings alleging a breach of a section 21 notice.[6]

25.31 Any person convicted of an offence under section 35 is liable to a fine and/or imprisonment of up to 51 weeks. It is a 'summary only offence'. This means that it can only be tried in the Magistrates' Court.

The experience of the Inquiry

25.32 Almost every Rule 9 request was complied with by those who received one. Generally speaking, there was a very high degree of co-operation from those with whom the Inquiry interacted. However, there was not universal co-operation.

25.33 Throughout the course of the Inquiry, I issued 15 section 21 notices. Three of those were sent to material providers to disclose material to the Inquiry. The material was subsequently provided. I issued 12 section 21 notices to individuals to require them to provide a witness statement or to give oral

[5] Inquiries Act 2005, section 36

[6] Inquiries Act 2005, section 35

evidence. Some of these resulted in compliance from the witness. There is no need for me to say anything further regarding this process or those who complied in such circumstances. They were told they must comply and they did.

25.34 However, there were occasions on which I issued section 21 notices that did not result in compliance. I shall consider the brief circumstances of each of these as they are examples of the operation of the existing statutory scheme.

Abdalraouf Abdallah

25.35 Abdalraouf Abdallah was serving a prison sentence for terrorism offences during the period of the Inquiry's oral evidence hearings. As I found in Part 22, he did not play a part in the bombing plot, but he was a significant radicalising influence on SA.

25.36 The first step I took was to seek to obtain a witness statement from Abdalraouf Abdallah. On 14th May 2020, Abdalraouf Abdallah's solicitors were informed of my intention to seek a statement from him. In the course of subsequent correspondence, it was indicated on Abdalraouf Abdallah's behalf that he did not wish to attend an interview or provide a witness statement.

First section 21 notice

25.37 On 9th June 2020, I issued a section 21 notice requiring Abdalraouf Abdallah to attend a recorded interview with members of the Inquiry Legal Team, with a view to the content of the interview being reduced to writing. I took the view that this was the best way to ensure that all of Abdalraouf Abdallah's account was committed to writing. This would enable an informed decision to be made about whether there was a need to call him to give oral evidence.

25.38 No application to set aside this section 21 notice was made.

25.39 Abdalraouf Abdallah attended the interview on 26th June 2020. In the course of the interview, he refused to answer questions. He cited the privilege against self-incrimination as the basis for his refusal. As I have said at paragraph 25.27, the privilege against self-incrimination is available to witnesses in proceedings under the Inquiries Act 2005. As a result of his refusal to answer questions, no witness statement could be produced.

25.40 I required an explanation for the claim of privilege against self-incrimination. Having considered the response I received, I was not satisfied that Abdalraouf Abdallah's privilege against self-incrimination was engaged, certainly in respect of all the matters for which it was asserted. On 5th October 2020, Abdalraouf Abdallah was notified that I would require him to give evidence in November 2020.

Second section 21 notice

25.41 On 12th October 2020, I issued a second section 21 notice requiring Abdalraouf Abdallah to give evidence on 19th November 2020. My intention was to call him during November 2020 because, during this period in the oral evidence,

I anticipated focusing on events in early 2017 regarding the background to the Attack. SA visited Abdalraouf Abdallah in prison in January 2017 and had planned to go again in March 2017.

25.42 On 27th October 2020, an application by Abdalraouf Abdallah to set aside the second section 21 notice was received by the Inquiry. The basis of the application included raising concerns about his health. As a result of my investigation into this, I decided it was not appropriate to call him when originally scheduled. Consequently, I decided not to seek to enforce the second section 21 notice.

25.43 My investigation into whether or not it was reasonable to call Abdalraouf Abdallah continued into 2021.

Third section 21 notice

25.44 In October 2021, the oral evidence was focused on the radicalisation of SA. Abdalraouf Abdallah had relevant evidence to give on this issue. Consequently, I issued a third section 21 notice, requiring him to give evidence on 20th October 2021.

25.45 On 14th October 2021, I heard an application to set aside the third section 21 notice. Following argument, I refused it.

25.46 On 20th October 2021, Abdalraouf Abdallah attended the Inquiry. He did not give evidence on that occasion, raising a complaint about the disclosure he had received. However, I received reassurance both from Abdalraouf Abdallah and his lawyers that, following disclosure of particular material, he was prepared to give evidence. Accordingly, I adjourned the hearing of his evidence to November 2021 to address this issue.

Evidence on 25th November 2021

25.47 On 25th November 2021, Abdalraouf Abdallah attended the Inquiry. He gave evidence over the course of the day. He answered every question asked of him. In writing this Volume of my Report, I have taken into account the oral evidence he gave.

25.48 In the end, it was not necessary to certify any potential breach of any of Abdalraouf Abdallah's section 21 notices to the High Court. There were a number of challenges that needed to be overcome to secure his evidence. I had the benefit of a lengthy time period for the oral evidence hearings, during which it was possible to rearrange the timing of his evidence and litigate the challenges to the section 21 notices.

25.49 As it transpired, none of the reasons given for Abdalraouf Abdallah not to answer questions turned out to be good or sufficient ones. Insisting that he answered questions was the correct course. I have no doubt that the potential for prosecution and/or High Court proceedings helped to produce the co-operation that was ultimately given.

Ahmed Taghdi

25.50 Ahmed Taghdi was an associate of SA's. As I explained in Part 23, he was involved in the purchase of the Nissan Micra on 13th April 2017. This car was used to store the triacetone triperoxide (TATP) while SA was in Libya in the late spring of 2017. Ahmed Taghdi also had relevant evidence to give about SA's background. As a result of his involvement in the vehicle purchase, I decided to call him to give evidence in December 2020, when the time period of early 2017 and the events leading up to the Attack were under consideration.

First section 21 notice

25.51 On 7th December 2020, I issued a section 21 notice requiring Ahmed Taghdi to give evidence on 16th December 2020. No application was made to set aside the notice. However, on 15th December 2020, his lawyers wrote to me stating that Ahmed Taghdi would not attend to answer the section 21 notice on 16th December 2020, or at all. Concerns held by Ahmed Taghdi about his safety and his health were cited, but no evidence in support of those concerns was provided. In the result, Ahmed Taghdi did not attend on 16th December 2020.

Second section 21 notice

25.52 I rescheduled Ahmed Taghdi's evidence for 21st October 2021 during the period when I was considering the radicalisation of SA. On 13th September 2021, I issued a second section 21 notice requiring Ahmed Taghdi's attendance on 21st October 2021. No application was made to set the second section 21 notice aside.

25.53 Concurrent to the above, I made a Rule 9 request of Ahmed Taghdi, seeking a witness statement from him by 27th September 2021.

25.54 On 29th September 2021, Ahmed Taghdi's representatives informed the Solicitor to the Inquiry that Ahmed Taghdi would not be providing a witness statement or attending the hearing on 21st October 2021.

High Court enforcement

25.55 By stating that this was his intention, Ahmed Taghdi threatened to fail to comply with the second section 21 notice within the meaning of section 36. On 1st October 2021, I certified the failure to comply with the second section 21 notice to the High Court.

25.56 On Friday 15th October 2021, Mr Justice Jacobs granted the order I sought, namely that Ahmed Taghdi should attend the Inquiry to give evidence on 21st October 2021 at 09:00.[7] Mr Justice Jacobs also ordered, in accordance with my application, that, in the event that Ahmed Taghdi failed to comply with the attendance requirement, a warrant for his arrest, returnable to the Inquiry hearing room, would be issued.

[7] Sir John Saunders v Ahmed Taghdi [15 October 2021] EWHC 2878

25.57 On Monday 18th October 2021, Operation Manteline officers notified the Solicitor to the Inquiry that GMP had become aware that Ahmed Taghdi was shortly to leave the country from Manchester Airport. On this basis, I made an emergency application to Mr Justice Jacobs for a bench warrant for the immediate arrest of Ahmed Taghdi. This was granted. Ahmed Taghdi was arrested at Manchester Airport later that morning.

25.58 Late in the afternoon of 18th October 2021, Ahmed Taghdi was produced in custody before Mr Justice Fordham. Upon my application, Mr Justice Fordham issued a warrant of detention for Ahmed Taghdi.[8] The effect of the warrant of detention was that Ahmed Taghdi was detained in custody until his scheduled appearance before the Inquiry on 21st October 2021.

Evidence on 21st October 2021

25.59 On 21st October 2021, Ahmed Taghdi was produced to the Inquiry hearing room. He gave evidence, answering every question asked of him. In writing this Volume of my Report, I have taken into account the oral evidence he gave.

Ismail Abedi

25.60 As I set out in Part 22, Ismail Abedi was the older brother of SA and HA. He had relevant evidence to give to the Inquiry in relation to SA's background and upbringing. His DNA was also discovered on a movable item recovered by Operation Manteline from the Nissan Micra.

25.61 On 20th May 2020, Ismail Abedi was sent a Rule 9 request. He did not provide a witness statement.

First section 21 notice

25.62 On 23rd July 2020, I issued a section 21 notice, requiring Ismail Abedi to provide a witness statement. In response, on 12th August 2020, he provided an unsigned document, which failed to engage with the matters identified in the Rule 9 request. He went on to assert the privilege against self-incrimination.

25.63 Correspondence followed with the Solicitor to the Inquiry challenging the blanket claim of privilege against self-incrimination. A further opportunity to comply with the section 21 notice was provided. Ismail Abedi maintained that he would not be providing a witness statement.

Attorney General's undertaking

25.64 Taking the same approach as I did with Abdalraouf Abdallah, I concluded that it was not necessary to seek to enforce the first section 21 notice, on the basis that I could require him to give evidence. In accordance with this intention, on 9th April 2021 Ismail Abedi was notified that he would be required to give evidence.

[8] Sir John Saunders v Ahmed Taghdi [18 October 2021] EWHC 2785

25.65 Ismail Abedi's response was to maintain his blanket assertion of the privilege against self-incrimination. He also raised the possibility of an application to the Attorney General for an undertaking that he would not be prosecuted for any answer he gave.

25.66 On 10th April 2021, Ismail Abedi made an application seeking to persuade me to apply to the Attorney General for an undertaking that he would not be prosecuted on the basis of answers he might give to the Inquiry. A hearing took place to hear argument on this issue on 19th May 2021. On 10th June 2021, I refused to make the application to the Attorney General.

Second section 21 notice

25.67 On 23rd July 2021, I issued a second section 21 notice requiring Ismail Abedi to give evidence on 21st October 2021. Ismail Abedi was given until 16th August 2021 to apply to set aside the second section 21 notice. No application was made.

25.68 On Saturday 28th August 2021, Ismail Abedi was the subject of a stop by the police at Manchester Airport under Schedule 7 of the Terrorism Act 2000. He told the police he was intending to travel to Turkey, but return to the UK in mid-September 2021. As a result of the stop, Ismail Abedi missed his flight. He returned to Manchester Airport the following day and left the country for Istanbul.

25.69 I was not aware of Ismail Abedi's attempt to leave the country on 28th August 2021 or his successful departure a day later, until 31st August 2021, after he had left the UK. Once Ismail Abedi was out of the country, I had no powers to compel his return.

25.70 On 20th October 2021, the Solicitor to the Inquiry wrote to Ismail Abedi's solicitors enquiring whether he would be attending to give evidence the following day. His solicitors replied that Ismail Abedi was aware of the requirement to attend the next day, but that he would not be coming.

25.71 On 21st October 2021, Ismail Abedi failed to attend to give evidence.

High Court enforcement

25.72 On 26th October 2021, I certified the breach of the second section 21 notice to the High Court.

25.73 On 7th December 2021, Mr Justice Sweeney found that Ismail Abedi had relevant evidence to give the Inquiry. He issued a warrant for Ismail Abedi's arrest, returnable to the Inquiry hearing room.[9]

25.74 Mr Justice Sweeney's warrant can only be executed if Ismail Abedi returns to the UK.

[9] Sir John Saunders v Ben Romdhan [7 December 2021] EWHC 3274

Prosecution

25.75 On 14th and 15th March 2022, I heard oral closing statements from Core Participants in relation to the areas of evidence covered by this Volume of my Report. That date marked the natural end to the public hearings. Ismail Abedi had not returned to the UK by that date.

25.76 Given that Ismail Abedi had behaved deliberately to defeat my attempts to hear from him, I concluded that there was sufficient evidence to give rise to a reasonable prospect of securing a conviction for a failure to comply with the second section 21 notice. I also concluded that such a prosecution was in the public interest. Consequently, I instituted a prosecution against Ismail Abedi under section 35.

25.77 Ismail Abedi failed to attend the hearings before the Manchester and Salford Magistrates' Court. On 14th July 2022, he was convicted in his absence of failing to comply with the second section 21 order, without reasonable excuse. A warrant has been issued for Ismail Abedi's arrest.

25.78 At the time of publishing this Report, Ismail Abedi has not been sentenced. So far as I am aware, he is still out of the country.

Issues with the enforcement regime

Section 21

25.79 The case of Ismail Abedi demonstrates that leaving a reluctant witness to complete their own witness statement will not provide answers to all relevant questions.

25.80 The first step in the procedure I adopted with Abdalraouf Abdallah was to require him to attend an interview, with a view to providing a witness statement under section 21(2)(a). The interview was recorded to ensure that there was no doubt about what his account was.

25.81 However, the terms of section 21(2) are silent on conducting an interview. They are focused on the requirement to provide a witness statement. Section 21(1) is focused on the giving of evidence. While I take the view that the provisions of section 21(2)(a) do include the recording of an interview for the purpose of a witness statement, it would be better if this was the subject of an express provision.

Section 36

25.82 An inquiry is a search for the truth. The absence of evidence from a material witness is capable of significantly undermining this search. Ismail Abedi was one of the very few witnesses who had firsthand knowledge of the home in which SA and HA grew up. Given his parents' departure to Libya prior to the Attack, he was uniquely placed to assist the Inquiry.

25.83 In the end, the lack of evidence from Ismail Abedi did not prevent me from confidently reaching conclusions about SA's and HA's upbringing. This was because of the other sources of evidence I was able to draw upon. However, his behaviour towards the Inquiry serves to underline the importance of the section 36 procedure and why it must be as effective as possible at securing evidence from material but unwilling witnesses.

25.84 As currently drafted, section 36(1) requires there to be a breach, or a threat of a breach, of a section 21 notice before certification to the High Court can occur. This means that, in the case of a witness who simply puts themselves beyond an inquiry's reach without first threatening to do so, there is a potential gap. This needs to be addressed.

25.85 In the case of a material witness who decides to travel abroad, there may be a risk that they are doing so to avoid the use of a witness summons to compel their attendance. In my view, there should be statutory powers available to the High Court capable of applying short-term restrictions on the movements of a citizen who is a material witness to an inquiry. Such powers should only be available when they are justified by the importance of the witness's evidence and an objectively determined risk of that person's non-co-operation.

Section 35

25.86 I have identified three particular issues with the operation of section 35 in practice.

25.87 First, any allegation of offending contrary to section 35 must be brought within six months of the breach of the section 21 notice. This is by virtue of section 127 of the Magistrates' Courts Act 1980. This section requires all summary only offences to be brought within six months, unless the contrary is expressly stated by another statute. In the context of an inquiry, which might last much longer than this, six months is not a sufficiently long period of time.

25.88 Section 36 operates as a mechanism to enforce a section 21 notice. By contrast, section 35 provides scope to punish a person for a breach of a section 21 notice. Enforcement through section 36 may be the preferred approach, until an inquiry is no longer in a position to receive that evidence. Instituting criminal proceedings before that point is likely to reduce, rather than increase, the prospects of successfully securing the evidence.

25.89 In my view, the six-month time limit on section 35 prosecutions is too short. It may create a situation in which an inquiry is forced to move to seeking to punish a breach of a section 21 notice while there is still time effectively to enforce the same notice under section 36. This can be avoided by an amendment to the terms of the Inquiries Act 2005 to make express provision for an extended time for instituting a prosecution.

25.90 Second, the effect of section 14 of the 2005 Act is that an inquiry Chairman ceases to exist as such when they notify the sponsoring Secretary of State that the inquiry's terms of reference have been discharged. This creates an issue in relation to any prosecution instituted by a Chairman under section 35. At that point, the 'prosecutor' of those proceedings ceases to exist.

25.91 I sought to address this by inviting the Director of Public Prosecutions to agree to take over the prosecution of Ismail Abedi shortly after this terminatory event, under section 6(2) of the Prosecution of Offences Act 1985. In practice, this was entirely straightforward. I am very grateful for the Crown Prosecution Service's co-operation with my objectives. However, it did seem to me that new ground may have been broken in the course of these discussions.

25.92 In my view, this situation may recur. In particular, in the case of any witness who absents themselves from the jurisdiction, there exists the real possibility that any criminal proceedings under section 35 will outlive the office of the Chairman of a public inquiry.

25.93 Third, extraditing a person from another country is rarely a straightforward process. Extradition in relation to an offence under section 35 is impossible as the maximum sentence of 51 weeks' imprisonment is below the minimum, standard, qualifying threshold. This is because of the terms of section 148(1)(b) of the Extradition Act 2003. That subsection provides that an extradition warrant to the UK can only be granted if the maximum sentence for the offence in question is at least 12 months' imprisonment.

25.94 I recommend that the Home Office give consideration to addressing the difficulties in extradition in relation to an offence under section 35, given that the maximum sentence for such an offence is below the minimum qualifying threshold for extradition.

Recommendations

The 2005 Act

25.95 I recommend that the Ministry of Justice give consideration to amending section 21 of the 2005 Act to include the express provision for requiring a potential witness to participate in an interview.

25.96 I recommend that the Ministry of Justice, possibly in conjunction with the Law Commission, give consideration to amending section 36 of the 2005 Act to make provision for issuing pre-emptive enforcement proceedings for witnesses in relation to whom there are reasonable grounds to believe that they will not co-operate.

25.97 I also recommend that consideration be given to the creation of statutory powers under section 36 that can be used to prevent a material witness to an inquiry putting themselves beyond the reach of the existing powers to compel a witness's attendance. One such power, which would have assisted in the cases of Ismail Abedi and Ahmed Taghdi, would be a short-term restriction on the use of a witness's passport prior to attending to give evidence when required.

25.98 I recommend that the Crown Prosecution Service establish a written protocol in relation to its approach to any application from an inquiry Chairman for a section 35 prosecution to be taken over under section 6(2) of the Prosecution of Offences Act 1985.

25.99 I recommend that the Home Office give consideration to addressing the difficulties in extradition in relation to an offence under section 35, given that the maximum sentence for such an offence is below the minimum qualifying threshold for extradition.

Precursor chemicals

25.100 I am not making any recommendation in relation to the acquisition of precursor chemicals. This is deliberate. I am satisfied that the Intelligence and Security Committee of Parliament is seized of this issue and ensuring that as much as can be done is being done.

Extremist prisoners

25.101 Preventing extremist prisoners from radicalising those who visit them should be the subject of its own scheme. Under the existing categorisation scheme, this cannot effectively be achieved. That is because a prisoner's category is determined by their escape risk. The risk that a prisoner poses in terms of radicalising visitors is unrelated to the risk of escape. It requires a different, parallel system.

25.102 I recommend that the Home Office consider introducing a system based on a robust assessment of the risk a prisoner poses for radicalisation of others. This system should allow for proportionate restrictions to be applied to visitors to that person. Controls such as prohibiting vulnerable visitors where justified or ensuring conversations are supervised should be among the options available in the case of a prisoner who poses a particular risk to others. **[MR22]**

25.103 I recommend that the scheme be codified, and clear policy and guidance be published so that it can be applied consistently across the prison estate. **[MR23]**

25.104 I intend to monitor these Recommendations.

Operating with impunity

25.105 In 2021, the Commission for Countering Extremism published a report entitled *Operating with Impunity. Hateful Extremism: The Need for a Legal Framework*.

25.106 I recommend that the Home Office consider and respond to this document as a matter of urgency.

Education

25.107 No one involved in SA's education had a sufficient overview of his character, family situation or potential risk factors over a long-enough period of time to recognise his radicalisation and take any action to intervene. This was due in part to the lack of any continuity or transfer of information about behaviour between educational institutions.

25.108 I recommend that the Department for Education consider whether schools should include notes of any significant behavioural problems on the Common Transfer File, or some other suitable new form of record which follows a student if they move school. The focus should be on any behaviour that may be indicative of violent extremism, such as physical aggression or misogynistic conduct. This kind of behaviour is consistent with the development of a violent extremist mindset, but is not necessarily an indication of it by any means. Details as to what nature of incident and level of seriousness should be included in such a record will therefore require careful thought by the Department for Education, alongside consultation with relevant stakeholders. **[MR24]**

25.109 I recommend to all educational establishments and the Department for Education that images of school pupils or college students handling firearms, explosives or other weapons that come to the attention of staff be recorded as a potential indicator of violent extremism, unless there is a very clear innocent explanation, so that this can be taken into account in any assessment of vulnerability to radicalisation. **[MR25]**

25.110 A clean start should be possible when a student moves from school to college or higher education, such that it would not be appropriate for a general file on significant behavioural problems to follow them at that point. However, there may still be value in passing on a record of any behaviour that is assessed to indicate vulnerability to radicalisation.

25.111 I recommend that the Department for Education consider whether this is workable and, as with the school record, what nature of incident and level of seriousness should be included in this kind of record. **[MR26]**

25.112 I intend to monitor these Recommendations.

Recommendation areas addressed by the closed report

25.113 In Volume 3-I (closed), I identify areas in which I intend to make suitable recommendations. Following a period of consultation, I intend to make recommendations in those areas. These will be published in Volume 3-II (closed).

25.114 Once those recommendations are settled, I intend to publish a gist of the areas covered, to the extent that it is possible.

Appendices

Appendix 14: List of abbreviations

AGM	absorbent glass mat
CBRNE/S&TU	Chemical, Biological, Radiological, Nuclear, Explosives/Science and Technology Unit
CCTV	closed circuit television
CPS	Crown Prosecution Service
CTF	Common Transfer File
GMP	Greater Manchester Police
HMP	Her Majesty's Prison (prior to 8th September 2022)/ His Majesty's Prison (from 8th September 2022)
HMPPS	Her Majesty's Prison and Probation Service (prior to 8th September 2022)/His Majesty's Prison and Probation Service (from 8th September 2022)
HMS	Her Majesty's Ship (prior to 8th September 2022)/ His Majesty's Ship (from 8th September 2022)
IED	Improvised Explosive Device
JTAC	Joint Terrorism Analysis Centre
LIFG	Libyan Islamic Fighting Group
NCTPHQ	National Counter Terrorism Policing Headquarters
PIN	personal identification number
PSI	Prison Service Instructions
T/ACC	Temporary Assistant Chief Constable
TATP	triacetone triperoxide

Appendix 15: Key events in the life of SA and surrounding the Attack – chronology

Date/time	Event
31st December 1994	SA was born.[1]
1997	HA was born.[2]
2008	
21st October	The Abedi family moved in to 21 Elsmore Road.[3]
2009	
12th January	SA began attending Burnage Media Arts College.[4]
2010	
2010	Joint Terrorism Analysis Centre regional assessment of Manchester was published.[5]
2011	
17th February	The civil war in Libya began.[6]
24th June	SA left Burnage Media Arts College.[7]
21st September	The Abedi family moved to Libya.[8]
3rd November	Ramadan Abedi was stopped at a UK port.[9]
17th November	Ramadan Abedi was stopped at a UK port.[10]
2012	
18th September	SA began attending Manchester College.[11]
11th October	SA assaulted a female pupil.[12]
2013	
23rd August	The Abedi family returned to the UK.[13]
15th September	SA began attending Trafford College.[14]

1 45/28/16-17
2 45/28/16-18
3 INQ034522/1
4 179/84/2-8
5 168/52/5-22
6 INQ006746/2
7 179/84/2-8
8 INQ034522/1
9 INQ022845/21 at paragraph 98
10 168/192/3-193/16, 170/134/7-135/17
11 180/91/4-11
12 45/98/4-23
13 INQ034522/1
14 180/1/22-2/5

Date/time	Event
1st November	The Abedi family moved back in to 21 Elsmore Road.[15]
18th December	SA left Manchester College.[16]
2014	
18th March	SA opened as a Subject of Interest by the Security Service.[17]
29th June	Islamic State declared that it had established a caliphate.[18]
8th July	SA and HA travelled to Libya.[19]
21st July	SA closed as a Subject of Interest by the Security Service.[20]
1st August	Abdalraouf Abdallah's home searched and devices seized as part of Operation Oliban.[21]
4th August	SA and HA evacuated from Libya by the Royal Navy on board Her Majesty's Ship (HMS) *Enterprise.*[22]
5th to 28th November	SA and Abdalraouf Abdallah exchanged over 1,000 text messages.[23]
28th November	Abdalraouf Abdallah arrested for terrorism offences and remanded in custody.[24]
5th December	Abdalraouf Abdallah formally categorised as a Category B prisoner.[25]
2015	
26th February	SA and Ahmed Taghdi visited Abdalraouf Abdallah in prison.[26]
22nd June	SA left Trafford College.[27]
29th July	Abdalraouf Abdallah released on bail.[28]
3rd September	Ismail Abedi stopped at a UK port.[29]
16th September	SA travelled to Saudi Arabia to undertake the Hajj.[30]

15 INQ034522/1, 45/89/25-90/4
16 180/91/4-11
17 INQ100119/2
18 INQ100119/2
19 INQ100119/2
20 INQ100119/2
21 INQ100119/2
22 INQ100119/2
23 170/146/13-147/16
24 170/153/12-17
25 181/74/5-12
26 170/154/4-11
27 180/1/22-2/5
28 INQ100119/2, 170/151/3-11
29 170/168/9-18
30 INQ100119/2

Date/time	Event
October	SA opened and closed as a Subject of Interest on the same day by the Security Service.[31]
8th October	SA began attending the University of Salford.[32]
7th November	SA travelled to Germany via Paris and returned to the UK the following day.[33]
2016	
11th May	Abdalraouf Abdallah convicted of terrorism offences.[34]
25th May	SA travelled to Libya via Turkey.[35]
15th July	Abdalraouf Abdallah given an extended sentence of nine and a half years for terrorism offences.[36]
8th October	SA returned to the UK from Libya.[37]
October	Samia Tabbal travelled back to Libya.[38]
November	Islamic State published a video demonstrating how to manufacture triacetone triperoxide (TATP) and make a bomb.[39]
Late 2016	HA asked Relative B if he could take oil cans from the takeaway where they worked.[40]
6th December	Abdalraouf Abdallah moved to Her Majesty's Prison (HMP) Altcourse.[41]
2017	
Early January	HA asked Trial Witness 4 to buy a *"liquid"* for a battery.[42]
Early 2017	HA asked Trial Witness 2 to buy some acid.[43]
13th January	SA attended an exam at the University of Salford and only signed his name.[44]
16th January	Abdalraouf Abdallah telephoned SA from prison.[45]

31 INQ100119/2, 166/114/25-115/24
32 180/171/7-17
33 INQ100119/3
34 INQ100119/3, 46/9/13-11/1
35 INQ100119/3
36 INQ100119/3, 46/10/18-23
37 INQ100119/3
38 170/105/22-106/6
39 44/111/9-112/4, INQ034710/36 at paragraph 10
40 INQ004753/2, 48/7/14-8/8
41 INQ100119/3, 181/74/16-22
42 50/51/4-18
43 48/22/13-26/11
44 180/173/11-24
45 170/158/1-159/5

Date/time	Event
17th January	SA was due to visit Abdalraouf Abdallah in prison with Alzoubare Mohammed.[46]
17th January	SA and HA attended the funeral of Mansoor al-Anezi.[47]
18th January	SA and Elyas Elmehdi visited Abdalraouf Abdallah at HMP Altcourse.[48]
18th January	Alharth Forjani's Amazon account was used to purchase sulphuric acid.[49]
24th January	Abdalraouf Abdallah telephoned SA from prison.[50]
30th January	SA's final attendance at the University of Salford.[51]
17th February	While in prison, Abdalraouf Abdallah was found to be in possession of an illicit mobile phone.[52]
18th February	Aimen Elwafi sublet Flat 74, Somerton Court to SA and HA.[53]
2nd March	Relative C's Amazon account was used to purchase sulphuric acid.[54]
3rd March	HA attended Shield Batteries and purchased a battery.[55]
3rd March	SA hit a priority indicator under the Security Service's Operation CLEMATIS.[56]
9th March	HA asked Trial Witness 1 to purchase some acid.[57]
15th March	Mohammed Soliman's Amazon account was used to purchase sulphuric acid.[58]
17th March	Ahmed Hamad asked Ahmed Dughman to give SA and HA access to 44 Lindum Street.[59]
19th March	Zuhir Nassrat's Amazon account was used to attempt to purchase hydrogen peroxide.[60]

46 170/154/12-15,
47 45/213/4-18
48 INQ100119/3, 181/76/13-16
49 44/142/8-144/3
50 173/112/21-114/22
51 180/174/12-21
52 170/158/1-159/5
53 44/179/3-180/1
54 INQ034340, 44/144/25-146/13
55 48/69/2-79/16, CPS000157/36
56 INQ100119/3
57 49/18/10-19/23
58 INQ034340/1
59 INQ035481/39 at paragraph 171, 45/171/13-172/22
60 INQ034340/1, 44/148/8-150/1

Date/time	Event
20th March	Zuhir Nassrat's Amazon account was used twice to attempt to purchase hydrogen peroxide.[61]
22nd March	Yaya Werfalli's Amazon account was used to purchase hydrogen peroxide.[62]
23rd March	Mohammed Soliman was stopped at a UK port.[63]
23rd March	HA's Toyota Aygo was involved in a road traffic collision.[64]
24th March	HA acquired a Hyundai Sonata.[65]
28th March	Yaya Werfalli's Amazon account was used to purchase hydrogen peroxide.[66]
3rd April	Yaya Werfalli's Amazon account was used to purchase hydrogen peroxide.[67]
10th April	Mohammed Soliman left the UK.[68]
13th April	SA and HA acquired a Nissan Micra. Ahmed Taghdi was present.[69]
14th April 23:34	SA and HA began to transport the TATP from Flat 74, Somerton Court to Devell House.[70]
15th April 01:08	SA and HA completed the transportation of the TATP from Flat 74, Somerton Court to Devell House.[71]
15th April 17:25	SA, HA and other family members departed the UK for Libya from Manchester Airport.[72]
1st May	The last contact between SA and Ahmed Taghdi took place.[73]
1st May	The indicator hit for SA was triaged and it was assessed that he met the threshold for further investigation under Operation CLEMATIS.[74]

61 INQ034340/1, 44/148/8-150/1
62 INQ034339/17 at entry 3269
63 46/145/12-146/21
64 44/185/20-187/1
65 44/187/5-10
66 1/104/21-105/1
67 1/105/5-11
68 INQ100119/14 at paragraph 51, 46/147/1-6
69 45/155/12-157/7
70 INQ034339/31, INQ033885/9
71 44/164/19-24
72 INQ100119/3, 47/75/6-16
73 46/150/23-151/3, 165/76/12-21
74 INQ100119/3

Date/time	Event
8th May	The Operation CLEMATIS team assessed that SA should be referred to Operation DAFFODIL for consideration as to whether to initiate further low-level investigative enquiries. The meeting was scheduled for 31st May 2017 to consider him further.[75]
15th May	SA telephoned Alzoubare Mohammed from Libya.[76]
18th May 2017	
11:16	SA was recorded on CCTV arriving at Manchester Airport.[77]
12:29	SA arrived at Devell House.[78]
14:42	SA entered Granby House on his own.[79]
18:18	SA began hostile reconnaissance at the Victoria Exchange Complex.[80]
18:39	SA concluded hostile reconnaissance at the Victoria Exchange Complex.[81]
19:34	SA purchased items for the device.[82]
19th May 2017	
08:35	SA left Granby House to collect the explosive and other items from Devell House.[83]
09:26	SA returned to Granby House with the explosive and other items from Devell House.[84]
11:30	SA purchased items for the device.[85]
13:20	SA purchased items for the device.[86]
19:38	SA purchased the Karrimor rucksack he used to carry the device.[87]
21:53	SA placed an internet order for items for the device.[88]

75 INQ100119/3
76 170/31/17-32/6
77 47/2/18-3/13, INQ031275/1
78 47/3/16-5/1
79 47/9/4-11
80 47/9/12-22
81 47/9/20-22
82 47/10/25-11/14
83 INQ031277/4, INQ031277/8-10
84 INQ031277/14
85 47/17/4-22, INQ031277/26
86 47/19/11-20/22
87 47/22/20-23/4
88 47/23/20-25

Date/time	Event
20th May 2017	
08:16	SA purchased items for the device.[89]
21st May 2017	
09:17	SA left Granby House to buy items for the device.[90]
14.56	SA collected his internet order.[91]
18:53	SA arrived at the Victoria Exchange Complex to carry out hostile reconnaissance.[92]
19:12	SA concluded his hostile reconnaissance.[93]
22nd May 2017	
12:30	SA left Granby House to dispose of items.[94]
17:30	SA disposed of items.[95]
17:55	SA left Granby House in order to arrange a money transfer to Libya.[96]
18:31	SA arrived at the Victoria Exchange Complex to carry out hostile reconnaissance.[97]
18:36	SA concluded his hostile reconnaissance.[98]
19:42	SA left Granby House to dispose of items.[99]
20:06	SA left Granby House carrying the Karrimor rucksack containing the device.[100]
20:23	SA made a telephone call to Libya.[101]
20:28	SA boarded a tram bound for the Victoria Exchange Complex.[102]
22:31	SA detonated the device.[103]

89 47/26/8-28/5
90 47/30/13-17
91 47/32/6-33/4
92 47/33/14-22
93 47/33/14-22
94 47/34/18-23
95 47/36/7-19
96 47/36/25-38/9
97 47/38/25-39/4
98 47/38/25-39/4
99 INQ020160/57, 47/39/7-41/25
100 INQ020160/71, 47/41/24-42/8
101 47/44/18-25
102 47/44/18-25
103 44/40/3-8

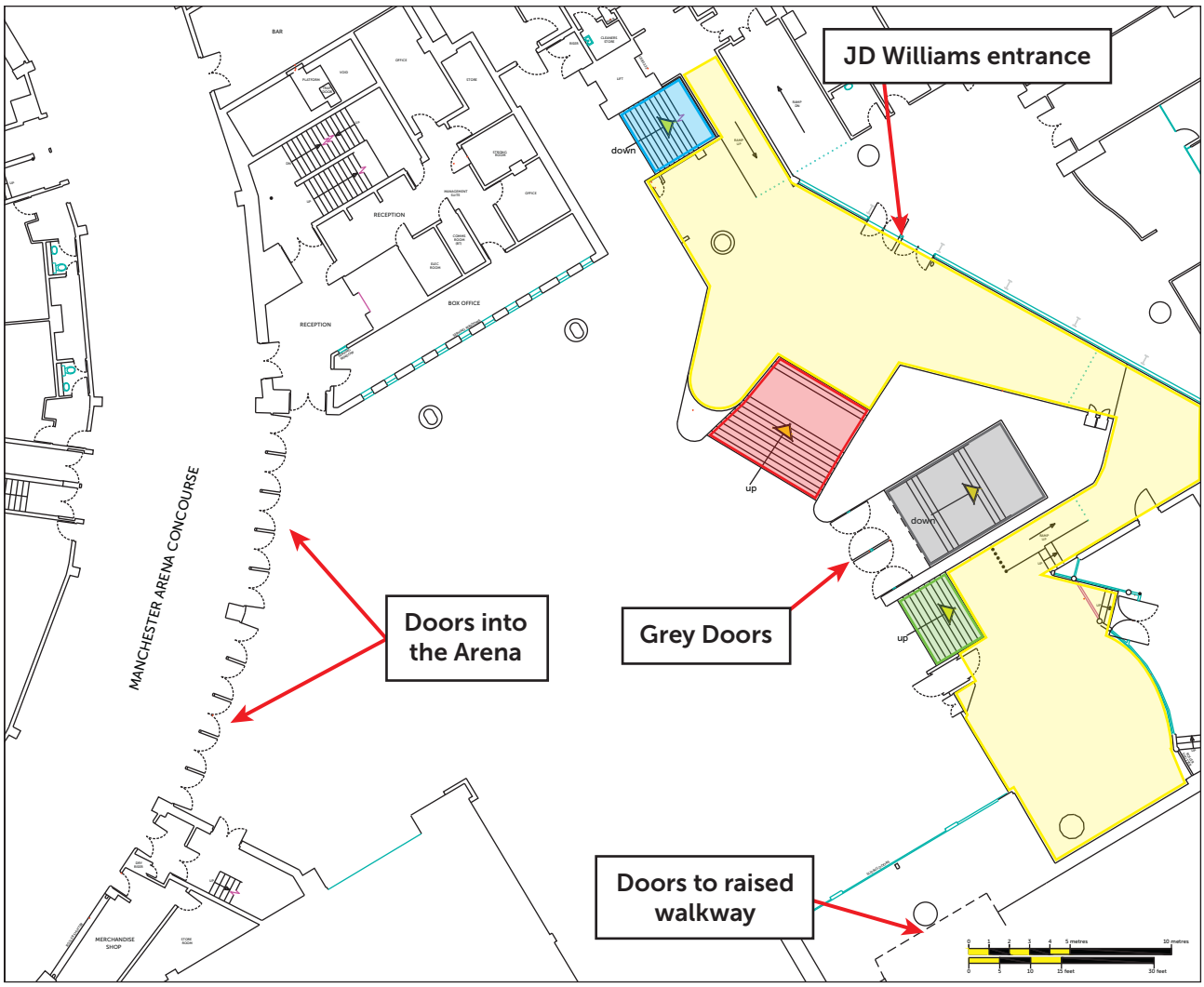
Date/time	Event
23rd May 2017	
00:01	Detective Chief Superintendent (DCS) Simon Barraclough was appointed as Senior Investigating Officer for the Greater Manchester Police (GMP) investigation into the Attack.[104]
01:58	A Halifax bank card with SA's name on it was discovered in the City Room by GMP investigators.[105]
02:29	Photographs of SA were taken by GMP investigators for comparison purposes.[106]
04:43	SA was identified from the photographs by an expert in image assessment instructed by GMP investigators.[107]
10:35	SA was identified from his fingerprints by GMP investigators.[108]
11:35	HA was identified as a suspect in the GMP investigation.[109]
17:21	SA was publicly identified by GMP as a person responsible for the Attack.[110]
19:24	Ramadan Abedi sent a Facebook message to his sister, Rabaa Abedi.[111]
Post-2017	
17th July 2019	HA was extradited to the UK.[112]
22nd October 2019	This Inquiry was established by the Home Secretary.[113]
27th January 2020	The criminal trial of HA began.[114]
17th March 2020	HA was found guilty of 22 counts of murder and other offences.[115]
20th August 2020	HA was sentenced to imprisonment for life with a minimum term of 55 years.[116]
7th September 2020	The Inquiry's oral evidence hearings started.[117]

104 44/17/10-23, INQ035481/2
105 44/66/9-15
106 44/77/24-78/12
107 44/78/13-20
108 44/78/21-80/4
109 44/41/3-42/7
110 44/90/7-11
111 46/52/14-53/4, INQ035481/215 at paragraphs 586-587
112 44/42/8-25
113 194/12/1-6
114 44/135/7-12
115 45/118/10-21
116 INQ035444
117 1/1/1-15

Date/time	Event
23rd October 2020	HA confessed to the Inquiry Legal Team that he had participated in the planning and preparation for the Attack.[118]
17th June 2021	Volume 1 of this Report was laid before Parliament.[119]
15th October 2021	High Court proceedings under section 36 of the Inquiry Act 2005 in relation to Ahmed Taghdi came before Mr Justice Jacobs.[120]
18th October 2021	High Court proceedings under section 36 of the Inquiry Act 2005 in relation to Ahmed Taghdi came before Mr Justice Jacobs and before Mr Justice Fordham.[121]
1st November 2021	The closed oral evidence hearings started.[122]
18th November 2021	The closed oral evidence hearings ended.[123]
1st December 2021	Abdalraouf Abdallah spoke to a prison officer about SA.[124]
7th December 2021	High Court proceedings under section 36 of the Inquiry Act 2005 in relation to Ismail Abedi came before Mr Justice Sweeney.[125]
15th March 2022	The Inquiry oral evidence hearings ended.[126]
14th July 2022	Ismail Abedi was convicted in his absence by the Manchester and Salford Magistrates' Court of an offence under section 35 of the Inquiry Act 2005.[127]
3rd November 2022	Volume 2 of this Report was laid before Parliament.
2nd March 2023	Volume 3 (open) of this Report was published.
2nd March 2023	Volume 3-I (closed) of this Report was published.
At a future date	Volume 3-II (closed) to be published.

118 46/57/8-58/13
119 The Hon Sir John Saunders, Manchester Arena Inquiry Volume 1: Security for the Arena, June 2021, 118/1/4-11
120 Sir John Saunders v Ahmed Taghdi [15 October 2021] EWHC 2878
121 Sir John Saunders v Ahmed Taghdi [18 October 2021] EWHC 2785
122 169/132/20-133/3
123 170/1/3-7
124 194/3/12-4/4 [private session]
125 Sir John Saunders v Ben Romdhan [7 December 2021] EWHC 3274
126 196/82/2-10
127 INQ042790

Appendix 16: The City Room



Mezzanine		Fifty Pence staircase	
JD Williams staircase		Staircase to platform overbridge	
McDonald's staircase			

Appendix 17: Expert in radicalisation

Dr Matthew Wilkinson

A17.1 Dr Matthew Wilkinson is an academic specialising in contemporary Islam. He is the principal investigator on a research project entitled 'Understanding Conversion to Islam in Prison'. He has expert knowledge of Islamic theology, Islamic ideology and Islamist extremism.[128]

A17.2 His degree, in Theology and Religious Studies, and Education Studies, was obtained from Cambridge University and the London Metropolitan University. He holds a Master's degree in Education and Social Science from King's College London, the focus of which was on Muslim boys and education in England. He was awarded a doctorate from King's College London, the focus of which was on a societal portrait of Islam and the Muslim community in Britain.[129]

A17.3 His expert knowledge of contemporary Islam derives from: his academic research; his experience of a traditional Islamic education; his experience of the Muslim community, as a Muslim, for over 30 years; and his work as an expert witness.[130]

A17.4 He has published extensively on contemporary Islam, including at least ten academic papers, two book chapters, and two peer-reviewed and acclaimed books. He has given evidence for both the prosecution and the defence in the criminal courts in 30 cases. He has also given evidence in civil proceedings.[131]

A17.5 He taught at an all-male Muslim faith school. He has led prayer and given the sermon on Fridays. He has taught the Qur'an to children and adults.[132]

A17.6 He has had substantial exposure to and has a detailed knowledge of the ideology and theology of Al-Qaeda and Islamic State groups and the ways in which those organisations radicalise individuals.[133]

128 163/17/12-18/5
129 INQ034709/14
130 163/18/6-19
131 163/19/1-20/1, INQ034709/12-13
132 163/23/20-25/1
133 163/26/4-23

Appendix 18: Expert in education and extremism

Professor Lynn Davies

A18.1 Professor Lynn Davies has nearly 20 years' experience in research and writing on education, extremism and conflict. She has published three books on these subjects. She has published a large number of peer-reviewed papers and articles, including two international reviews. Her work has enabled her to compare the UK approach to that in other countries.[134]

A18.2 She has acted as a consultant to a number of organisations. This has included being a consultant to the Department for Education in 2008. In that capacity, she worked on the 'Learning Together to be Safe' toolkit. In 2016, she acted as a consultant to UNESCO. This work was focused on helping to prepare a guidebook called *Preventing Violent Extremism through Education: A Guide for Policy-makers*. In 2019–20, she acted as a consultant to the Tony Blair Institute for Global Change to advise on the paper and strategy entitled 'The Global Commitment to Promote Global Citizenship and Prevent Extremism Through Education'.[135]

A18.3 She has been called as an expert speaker for international events related to extremism and radicalisation. This has included, in 2015, speaking at a UNESCO event, addressing the issue of 'Youth and the Internet: Fighting Radicalisation and Extremism'. In 2020, she spoke at a Department for Education event, addressing the issue of 'Effective Educational Approaches to Countering Violent Extremism and Terrorism'.[136]

A18.4 She is the Director of a social enterprise called ConnectFutures. ConnectFutures provides training resources on extremism. She has evaluated training and produced research reports for the police and the Home Office. Over the course of her career, she has had regular and frequent contact with educational providers and Prevent officers.[137]

134 181/146/1-147/12
135 INQ041917/9
136 INQ041917/10
137 181/147/4-148/19

Appendix 19: Rulings in relation to the general conduct of the Inquiry

A19.1 In the course of the Inquiry, I made over 20 rulings. These rulings were published on the Inquiry's website. Some were related to specific issues that arose in relation to particular material or witnesses. Others were of a more general application.

A19.2 I include a list of these general rulings here and the documents themselves follow:

- Ruling on position statements (30th January 2020)
- Ruling on the start date of the oral hearings (30th March 2020)
- Ruling on restriction orders following the hearing on 23rd July 2020 (31st July 2020)
- Ruling on the Inquiry's hearing arrangements in light of the Covid-19 pandemic following submissions on 14th January 2021 (14th January 2021)
- Ruling on application by Ben Romdhan for an application to be made to the Attorney General to give an undertaking (10th June 2021)

manchester arena inquiry

Ruling on Position Statements

1. I am grateful for the written and oral submissions made on this topic in advance of and at the hearing on 28th January 2020.

2. Having considered the competing submissions, Counsel to the Inquiry ('CTI') were able to make submissions to me based to a large extent on common ground between the Core Participants ('CPs'). CTI's submissions were generally accepted.

3. I am grateful for the co-operation between the parties in reaching this consensus which demonstrates to me that the Inquiry process is functioning properly and that everyone is working to assist the Inquiry as much as is possible.

4. **My power to request position statements:** It is unnecessary for me to deal with this in any detail as a result of the large measure of agreement.

5. Section 17(1) of the Inquiries Act 2005 provides that '*subject to any provision of this Act or of or of rules under section 41, the procedure and conduct of an inquiry are to be such as the chairman of the inquiry may direct.'*

6. The only restriction on this general power relevant to the current issue is contained in s.17(3) which provides that *'In making any decision as to the procedure or conduct of an inquiry, the chairman must act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others).*

7. I do therefore have the power to request that position statements are produced.

8. There may be an issue as to whether I have the power to require the production of position statements, but it is not necessary for me to decide that, as no party has suggested that they would not comply with any request that I might make.

9. It is therefore for me to decide whether position statements will assist me in my search for the truth and assist me to make appropriate recommendations having reached my factual conclusions.

10. We are now approaching the third anniversary of this appalling tragedy. All the organisations involved are very likely to have looked carefully at what happened; what may have gone wrong from their perspective and what steps have been taken to try and ensure that things do not go wrong again. Sometimes where two organisations have been working together, things may have gone wrong in their joint working. All these matters are likely to have been analysed and steps taken to try and ensure that things work better in the future. In their written submissions for the preliminary hearing on 28th January 2020, CTI made this point and, moreover, repeated it in their oral submissions at the hearing itself. No CP to whom this might apply suggested it was not correct.

11. External bodies, such as the panel under the chairmanship of Lord Kerslake who reported to the Mayor of Manchester and the Intelligence and Security Committee, have reached factual conclusions and made recommendations which I have no doubt have been considered and reflected in current practice by CPs.

12. While I will be looking afresh and in greater depth at some of these areas, I am keen that we do not lose the benefit of work which has already been done.

13. So a process either of position statements or something which will achieve the same ends is sensible and will assist me in my task.

14. The arguments against position statements are that they will have a tendency to change what is an investigatory procedure into an adversarial one. Further, position statements as proposed would require an organisation to commit itself to an account before it had had an opportunity to consider all the available evidence.

15. While I do not necessarily see that provision of a position statement need make the proceedings more adversarial, I do understand how requiring a CP to commit to a position on everything prior to receiving the available evidence could affect the inquisitorial nature of the proceedings. Rather than trying to assist in a search for truth, a CP may instead be defending a position statement made in advance of considering the available evidence and which might prove not to be accurate.

16. The families have submitted that position statements should cover four areas:

    1. An explanation of the CP's responsibilities, processes, policies and resources.
    2. A narrative of the CP's performance with the respect to the Terms of Reference of the Inquiry.
    3. Learning since the events of 22nd May 2017.
    4. The performance of others in so far as it affected the CP and was within their knowledge.

17. CTI agrees that the Inquiry would benefit from all that information being supplied but submits that it is only fair to require CPs to supply 1 and 3 in advance of the completion of disclosure and the provision of the Inquiry experts' reports. The

information at 2 and 4 should await complete or almost complete disclosure and provision of experts' reports. CTI also considers that the information can best be provided in a somewhat different way than that suggested by the families.

18. CTI suggests that 1 will be met by inclusion in the corporate statements or command and control statements being provided by CPs. From what I have so far seen that seems to be happening and should continue to do so.

19. CTI suggests 2 could best be supplied by opening statements from the CPs. By that stage all the available evidence is likely to have been received or certainly enough to enable a narrative of the CP's performance with respect to the Terms of Reference.

20. In respect of the information at item 3, internal as well as some external investigations conducted by or involving the CPs about matters relating to the events at the Arena will have concluded and there is no reason why such a statement should not be provided well in advance of the start of the oral hearings. What I am most interested in seeing is a list of those changes which have been made as a result of those investigations. As part of my role will be to make recommendations for the future, this will be a great help. It may be that everything that needs to change has changed and it will at least give me a starting point.

21. As to the information at item 4, it is suggested that this should wait until closing statements after the conclusion of the evidence. That is the best way, it is suggested, to ensure that any criticisms are evidence-based and, whatever the initial thoughts of a CP as to the performance of others, that may change in the light of the evidence. There is some danger in this as it would be unhelpful if a CP came up with a criticism of another CP after all the evidence had closed and without giving the subject of criticism a chance to respond.

22. In so far as these proposals by CTI are a compromise, it is a compromise which everyone can accept.

23. I would be helped by having the information sought by the families in their initial application. I also see the merit in the compromise and I will make the appropriate orders. No one has put forward serious objections to this course and I expect that everyone will not only comply with the letter of the orders but also the spirit.

24. One of the arguments put forward on behalf of the families to justify the need for position statements was to encourage candour on behalf of the CPs. That means in practice that if they recognise that mistakes have been made by their organisation or their employees, to make that clear to the Inquiry so that remedial action can be taken. The families have pointed to other inquiries in which criticisms have been made of organisations who have tried to cover up their mistakes, adopt an obstructive approach to the inquiry or, on occasions, to mislead the inquiry.

25. All the CPs in this inquiry accept that they owe a duty of candour to the inquiry. I take them at their word but will ensure compliance if necessary. I hope it will not be necessary and I have no reason to suppose that it will be.

26. Accordingly I make the following orders:

    1. I would be assisted by and will expect to receive from each of the CPs an opening statement dealing with the matters set out in item 2 above. It does not need to be lengthy. It should be served 6 weeks before the start of the oral hearings. A timetable for the provision of written opening statements and the delivery of oral opening submissions will be provided by STI in due course.

    2. I will be helped and expect to be supplied by each CP with a brief statement setting out the changes that have been made as a result of their inquiries into their performance on 22nd May 2017. That should be relatively simple to produce and should be supplied by 1st April 2020.

    3. I will expect any CP who is going to criticise any other CP to make a closing statement which I will expect to be served in writing in advance of it being made. I will expect any criticism that is made to have been foreshadowed in questions asked during the oral hearing.

Sir John Saunders

30 January 2020

manchester arena inquiry

Ruling on the start date of the oral hearings

1. The Inquiry's oral evidence hearings were due to start on 15th June 2020. That was not the first date which had been fixed, which was in April 2020, but it became necessary to delay the start in order to accommodate the completion of the trial of Hashem Abedi. The events which I am inquiring into took place more than 3 years ago and, if it were possible, I and everyone else wish the oral hearings to start on 15th June 2020.

2. When it became clear that the effects of Coronavirus/COVID-19 and the Government's guidance made it unlikely that we could keep the 15th June date, I invited the Inquiry Legal Team to produce a document setting out the consequences for the progress of the Inquiry and the options we had. The purpose of that document was to obtain the views of Core Participants ('CPs') to assist me in finding the best solution.

3. I am very grateful for the submissions that I have received. There has been a good deal of agreement and many helpful suggestions. I am grateful for everyone's help.

4. It is clear that there is no solution which will satisfy everyone. My aim is to complete the Inquiry as quickly as is possible without reducing my ability to thoroughly investigate what happened, to reach proper factual conclusions when that is necessary, and to come up with recommendations that will be of value for the future.

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

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

6. While I agree that there are parts of the evidence, such as the families' pen portrait evidence, which is unsuitable for video link, there are other parts which may be capable of being conducted by video link, should that ultimately prove necessary. Ideally, all the evidence would be given live but we will have to see whether that remains a realistic possibility depending on how the virus continues to affect all of our lives.

7. Some of the suggested limitations of video link evidence are, in my view, overstated in some of the submissions I have received. It should be possible to assess credibility over a video link. The difficulties of dealing with complex evidence and documents over a video link can be overcome. Some video link systems, as has been pointed out, are bedevilled by problems, but that does not have to be the case and we will need to ensure that any system that may need to be used works satisfactorily. As we are going to conduct our next hearing on 7th April 2020 by video link it will enable us to get some experience of using it in practice.

8. That said, I accept that live hearings are preferable but, because the future is so uncertain, I am not prepared to rule out the use of video links in the future, certainly for parts of the evidence. I would not conduct hearings by video link without giving the opportunity to CPs for further submissions to be made.

9. There would also be problems in starting on 15th June because of the restrictions on face-to-face contact which will affect the ability of lawyers to take instructions from clients and witnesses to complete their preparations. Some CPs are currently entirely committed to the response to the virus and I do not intend to do anything that will interfere with their work.

10. For all those reasons, and with considerable regret, I have decided that the start date of 15th June will have to be vacated.

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

11. Again, there is no perfect answer. If I fix a date now, there can be no certainty that it will be met. If I decide not to fix a date now but wait for more information, when will I have sufficient information to be able to identify a more definite date? More may be known about the containment of the virus at a later date but it is likely to be a long time before there can be certainty that there will not be a further outbreak of the virus which will disrupt the hearings.

12. While I understand completely the logic of those who say that I should not attempt to identify a date now, experience suggests that the sooner you make everyone aware of the preferred date, the more likely it is that people will work towards it. It is vital that we keep the impetus of our preparations going so that the Inquiry can start as soon as it is safe and possible to do so.

13. For those reasons I have decided to fix a provisional date now. That means a date that will be kept unless the medical emergency continues or restrictions, including self-

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

Issue 3: What start date should I fix?

14. The suggested start dates put forward in the submissions are this Autumn (September or October), or the Spring of next year. The suggestion of Spring of next year comes from NHS England and I understand the reasons for their submission, but there are in my view serious risks involved in such a delay. The Inquiry will lose all momentum and will effectively have to be mothballed for several months. That is likely to cause real problems. There is a risk that critical personnel may not be available to participate in the Inquiry by that time. We owe it to the families to complete the Inquiry as soon as possible. Further, if there are lessons to be learned, the sooner they are learned the better. On my present consideration of the papers, I do not anticipate that the part played by NHS England in the Inquiry will be so central that it is necessary to delay the hearings until next Spring.

15. I prefer therefore to aim for an Autumn 2020 date. That has a reasonable amount of support from CPs. There is no guarantee that we will be able to hold oral hearings in September but our preparations should be geared to start on the date I fix.

16. Because there may be a risk of a further outbreak, we should aim to start as early in September as we can. As the first week in September includes the Bank Holiday, we will aim to commence the hearings on 7th September 2020. This is a provisional date which will be kept under continual review.

Issue 4: Should I extend the current deadlines?

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

18. I have invited the Inquiry Legal Team to prepare a further schedule of suggested dates to take into account the new start date and the difficulties which have already been identified. I will consider representations from those who consider that they cannot comply with that revised timetable. Once that timetable is set, I will only vary it for exceptional reasons.

19. The effect of the above is that the deadlines will be extended but not to such an extent that it will hinder proper preparation for the start date in September.

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

20. Everyone is agreed that the April hearing can be held by video link and that will go ahead on April 7th as planned. That will deal with the single issue of whether some of the survivors of the Arena attack should be designated as CPs. It is important that that is decided at an early stage in case the decision I make affects the Inquiry timetable.

21. It is generally agreed that the hearing scheduled for May is not suitable, at least at present, to be dealt with by video link. It is not necessary for that hearing to take place at the moment and adjourning it will not affect the progress of the preparations. It will therefore be adjourned to a date to be fixed closer to the start date of the hearings.

Other matters

22. I am very keen that we should all use the additional time that we have to progress preparations as far as we can. This will be difficult, I accept, where this requires input from those on the front line dealing with the virus but there are a number of people who may have time in their diaries that they may not otherwise have had which they could use on preparatory work. It is possible to carry out this work at home and mostly without face-to-face contact with others.

23. In order to keep track of what is happening, the Inquiry Legal Team will provide a monthly update of progress to which I would be grateful if CPs would respond so they can keep me informed of progress. I will be assisted in the preparation of those updates by information from NHS England and the Secretary of State for the Home Department on the current situation with responding to the COVID-19 crisis and future implications, in particular the safety of conducting a large court hearing.

24. I have also asked the Inquiry Legal Team to come up with ways in which we can use this time to enhance our preparations. They will be making suggestions to CPs as to how this can be achieved and I would ask that CPs provide suggestions of their own.

25. The lawyers involved in this Inquiry have a wealth of experience and it would be helpful to me to have the benefit of that experience to help me advance the Inquiry as productively as we can despite the difficult circumstances that we find ourselves in.

Sir John Saunders

30 March 2020

manchester arena inquiry

Rulings on restriction orders following the hearing on 23rd July 2020

1. I am grateful for all the work which has been done by the various legal teams in resolving by agreement many of the matters which I would otherwise have had to rule on.

Legal Framework

2. Pursuant to section 17 of the Inquiries Act 2005 ('the 2005 Act'), the procedure and conduct of the Inquiry are a matter for my discretion. This provides a broad discretion which I must exercise fairly and with regard to the need to avoid unnecessary costs. The power to make restriction orders is to be found in section 19 of the 2005 Act. Section 19 has to be read in the context of section 18(1) which provides that as Chairman I must take '*such steps as I consider reasonable to secure'* access by the public and reporters to hearings held as part of the Inquiry and to documents '*given, produced or provided to the inquiry*'. CTI in their submissions have emphasised the inclusion of the word '*reasonable*'. By virtue of section 19(2), I can limit that access by making a restriction order which can restrict attendance at the Inquiry and disclosure or publication of any evidence or documents given, produced or provided to the Inquiry. So far as is relevant to present considerations, section 19(3) provides that a restriction order should only specify such restrictions as I consider '*... to be conducive to the inquiry fulfilling its terms of reference or to be necessary in the public interest'*. In deciding what is conducive to the Inquiry fulfilling its Terms of Reference or to be necessary in the public interest I must have particular regard to the matters in subsection 4, which so far as relevant are:

   (a) the extent to which any restriction ....might inhibit the allaying of public concern;

   (b) any risk of harm or damage that could be avoided or reduced by any such restriction;

   (c) ...

(d) *the extent to which not imposing any particular restriction would be likely (i) to cause delay or to impair the efficiency or effectiveness of the inquiry, or (ii) otherwise to result in additional cost…*

3. Section 20 makes further provisions in relation to restriction orders including a provision in subsection 4 which gives me the power to vary or revoke a restriction order by making a further order during the course of the Inquiry.

4. In the course of their submissions the bereaved families urged me to keep the restriction orders under continuous review during the Inquiry, which I shall do.

Operationally Sensitive (OS) Content

5. There are two types of restriction order sought in relation to operationally sensitive content. Type 1 includes the majority of the content (parts of documents or, in a handful of cases, a complete document) over which restriction orders are claimed. Type 2 includes only a few documents, currently 8, which are classified as more sensitive and the means of access to them for Core Participants ('CPs') is more closely controlled. The working definition of OS content is material, '*the publication of which, whether taken alone or based on all the available disclosure (i.e. the mosaic effect), would be capable of assisting those who would wish to carry out future terror attacks'*. OS material would include, for example, plans setting out the actions the emergency services would take in response to a terrorist attack. A comprehensive list of the categories of material considered to be capable of being designated as OS material is to be found at pages 103 to 105 of Bundle 1.

6. All CPs and the media organisations who made submissions agree in principle that material which is operationally sensitive in the way that I have described should be subject of a restriction order as no-one wishes to aid terrorists in planning attacks or making their attacks more deadly.

7. The Inquiry Legal Team ('ILT') have devised and put into effect a protocol for applications for restriction orders, as explained in two Notes dated 7 February 2020 and 14 February 2020. This involves application being made by those who are supplying what they consider to be OS content, identifying what it is and the reason why it is said to be OS. Those who have applied include HMG, GMP, other emergency services, SMG, the operators of the Arena, and Showsec, who supplied security for the Arena. HMG have also been given an opportunity to assess all material to be disclosed to CPs and identify potential OS content. The ILT then consider the material to see whether it appears to be properly described as OS content. If they agree, the material is made available, subject to redactions being applied, to all CPs for their consideration. Documents subject to a Type 2 restriction order have been supplied to CPs in two parts using the Inquiry's electronic disclosure platform, Magnum. Firstly, in one folder the document is disclosed with redactions made to the OS content, and then a second version of the document is disclosed in a separate folder, marked SENSITIVE, which

contains only the material which has been redacted. Putting the two parts together side-by-side electronically enables the complete document to be seen in a secure manner. This has enabled CPs, and in particular the bereaved families, to consider the proposed redactions, make general observations and submit in certain cases that particular redactions should not have been made. The observations and submissions on individual redactions which have been made have either been accepted by the ILT and CP concerned or are the subject of further negotiations. In the case of documents subject to a Type 2 restriction order, the system is the same except the documents which are the subject of the restriction order can only be viewed by lawyers representing CPs at the offices of STI. Those inspections by CPs had not taken place at the time of the hearing on 23 July due to the current health crisis and are timetabled to take place in the next few weeks.

8. None of the CPs has suggested that the protocol is not appropriate or that it has not worked satisfactorily in practice. It seems to me to be an example of everyone working together to achieve the aims of the Inquiry for which I am grateful.

9. I am satisfied that the protocol accords with the principles of sections 18 and 19 of the Inquiries Act 2005. It provides for the greatest possible public access to the work of the Inquiry subject only to restriction orders where necessary to avoid releasing into the public domain information useful for terrorists in planning and carrying out attacks. Such material is contained within documents and statements and no-one disputes that that material should not be referred to in public hearings.

Submissions on behalf of the media

10. While all CPs are content with the procedure which has been adopted, seven media organisations object. I shall refer to them as 'the media' and I note that they include many of the major media outlets. The media complain that they have been excluded from the process of the identification of OS material and have not been sufficiently informed of what has been going on. Jude Bunting, on behalf of the media, submits that they should be entitled to all material now, not by reason of the open justice principle or because there is any legal requirement to do so under the 2005 Act, but rather because the proposed approach represents an interference with the media's common law and European Convention rights. Without seeing the documents and the proposed redactions, the media say, they cannot make any meaningful submissions about whether OS content has been properly identified as such. As a matter of fairness, it is said, that interference must be justified. It is recognised by the media that what fairness requires is a matter for me to decide, as is recognised by my broad discretion under section 17 of the 2005 Act. That concession is properly made; as Chairman I am best placed to determine what fairness requires as I am sighted on all the evidence, procedure and issues in this inquiry in a way in which the media is not.

11. CTI say that that would involve supplying the media with all the documents disclosed to CPs on Magnum and that this would be a huge amount of material, some of which

will not ultimately fall to be adduced in the Inquiry hearings. Mr Bunting argues that it would be sufficient for the media to be supplied with all the documents to which OS redactions have been applied together with the content that has been redacted. For reasons which will become apparent I do not find it necessary to decide this dispute.

12. Unsurprisingly and correctly, the media emphasise the importance of 'open justice' particularly in an Inquiry such as this in which there is a great deal of public interest. I have been referred in written argument to a number of cases which emphasise the central importance of the principle of open justice in any judicial proceedings. These include in particular *R (Guardian News and Media Ltd.) -v- City of Westminster Magistrates Court* [2013] QB 618*; Cape Intermediate Holdings Ltd -v- Dring* [2020] AC 629 and *A -v- BBC* [2015] AC 588. The overriding principle which comes from those cases is that justice should be done openly and that everything that takes place in a court should be reportable in the press subject to very limited exceptions. It is an important constitutional principle that what judges do is open to scrutiny and that the public should be able to understand the reasons for any decision made by a court. There are exceptions to that rule and one of them which applies to this Inquiry is that, for national security reasons, part of the evidence will be held in a closed session and will not be reportable.

13. In the *City of Westminster Magistrates* case the Court of Appeal held that the open justice principle required the production to the Guardian newspaper of written submissions and documents which were referred to in court but not read out. It was part of the material on which the magistrate made her decision. The decision of the Court of Appeal in that case was approved by the Supreme Court in *Dring*. In that case an individual who was not a journalist applied to see all the documents used in a trial relating to personal injury said to have been suffered because of the use of asbestos. The trial had run its course except for judgment but the claim was settled before judgment was given. The applicant was allowed access to some of the documents but not all. The court held that a non-party did not have a right to be granted access automatically to all documents referred to in a court under the inherent jurisdiction of the court but would have to explain why he sought access and how granting him access would advance the open justice principle. The court would then have to carry out a fact specific balancing exercise by weighing the potential value of the information sought in advancing the purpose of open justice against any risk of harm which its disclosure might cause to the maintenance of an effective judicial process or to the legitimate interests of others.

14. In the case of an application on behalf of the media there is a presumption that granting them access will advance the principle of public justice, but it is not an absolute right as was suggested by Mr Bunting in the course of argument.

15. However, as I have already said, I accept that the principle of open justice is an important principle and a broad one.

16. CTI accept the breadth of the open justice principle but say that it does not require, on the facts of this case, that the press should be supplied with all the specific OS content which it is proposed should be made the subject of a restriction order. Rather CTI says the principle can be met if and when the OS content subject to a restriction order is referred to in a restricted hearing. While such a hearing would be closed to the public, CPs and representatives of the media would be allowed to be present. If having heard the OS content, the press wished to argue that a restriction order should not have been made in respect of it, they could do so at that stage. While the restriction order remained in force there would be a prohibition on reporting, but the matter could be considered and I would decide whether it should remain in force.

17. Mr. Bunting is not satisfied with that concession and points out that CPs are encouraged in CTI's submissions to avoid specifically referring to OS content and encouraged to deal with the subject matter in a way which avoids reference to the material the subject of a restriction order. Mr Bunting fears that the practical effect of adopting CTI's submission is that I will take into account the OS content subject to a restriction order without it being mentioned in either a fully public or a restricted hearing.

18. Having considered Mr Bunting's submissions carefully, I do not think that they amount to a valid objection to CTI's proposals. If I follow CTI's proposals, I will not take into account OS content unless it has been specifically considered at a hearing. If the relevant evidence can be explored without relying on OS content subject to a restriction order then that is what will happen. If, in reality, I am being encouraged to take account of OS content subject to a restriction order without it being heard in any hearing, I shall insist on a restricted session so that it can be ventilated in front of the media and CPs, but not the general public. During such a restricted session, any media representative who wishes to argue that the OS content should not be covered by a restriction order can do so. If he or she wishes to have a lawyer to assist with the argument then I shall put off consideration of that issue until a lawyer can attend. This procedure works in criminal cases and I do not see why it should not work in this inquiry. In that way the principle of open justice will be upheld.

19. In order to determine this issue it is important, while recognising the significance of the open justice principle, to recognise its limitations. The media are acting as the ears and eyes of the public who cannot spend all their time watching a live stream of the Inquiry hearings. They also have an important function in relaying non-OS material which may not be heard in public but will contribute to my decisions.

20. The way a great deal of litigation is now conducted is that submissions and documents are put before the court which are read by the tribunal and taken into account in making the decision but are never read out in public. The interests of open justice, subject to consideration of any countervailing interest, require that those documents are made available to the media so that they can properly inform the public. On the other hand there is a great deal of information which is generated in the preliminary stages of

litigation which is not produced in evidence and plays no part in the considerations of the tribunal. Unless that material is adduced in court or taken into account when making a decision, the principle of open justice does not require disclosure to any third party including the media. An example of that would be the unused material in a criminal trial.

21. Rule 12 of the Inquiry Rules 2006 provides that where evidence is the subject of an application for a restriction order it may be disclosed to persons who would not otherwise be permitted to see it, before the application is determined. Rule 12 does not apply directly in the present situation, because I have already made restriction orders in relation to the OS content in order to ensure prompt disclosure to CPs, and particularly the bereaved families. However, it was suggested by both CTI and Mr Bunting that the rule 12 provisions are informative as to the approach I should take to the issue raised by the media now. Mr Bunting submitted that rule 12 allows persons to be granted access to potentially restricted evidence in order to make effective representations about whether it should be restricted, and that I should do so here. However, that is not what rule 12 is primarily concerned with. The purpose of granting access under rule 12 is to ensure that the Chairman can properly and fairly determine an application for a restriction order, and indeed such access is to be granted only where it is 'necessary' to determine the application (see rule 12(4)(b), and the narrow construction of this provision by Pitchford LJ in *R(Metropolitan Police Service) v. Chairman of the Inquiry in the death of Azelle Rodney* [2012] EWHC 2783 (Admin) at [43]). In this Inquiry all CPs have had an opportunity to consider the OS content and have made considered submissions. I have been able to determine the application for a restriction order, and it is not necessary for the media to have the material disclosed to them in order for me to do so.

22. As I have indicated specific provision is made for open justice in section 18 of the Inquiries Act 2005. It provides that: "*Subject to any restrictions imposed by a notice or order under s. 19, the Chairman must take such steps as he considers reasonable to secure that members of the public (including reporters) are able (a) to attend the inquiry or to see and hear a simultaneous transmission of proceedings at the inquiry and (b) to obtain or to view a record of evidence and documents given, produced or provided to the inquiry.*"

23. For the purposes of section 18 the public and reporters have the same entitlement. This is understandable, as reporters are the eyes and ears of the public. No-one has suggested that members of the public should be supplied with material which has been designated as OS content to consider whether it has been properly so categorised. I am satisfied that section 18(1) does not require what the media seek in requesting access now to OS content. Rather, section 18(1) imposes a duty of reasonable access and does not impose a requirement as to <u>when</u> any access is provided. Discharging that section 18(1) duty through access to the hearings and uploading documents and transcripts to the website

will meet the duty of fairness that is owed to the media. That has been the approach taken in many other inquiries.

24. In writing my report, I will only take into account information that is given in the hearing, or at least relied upon, so that the media can be assured that they will be able to inform the public of the reasons why I have reached the decisions that I reach. That is subject to the material which will be heard at a closed hearing because it is subject to PII. The media will not be able to attend those hearings because of the risk to national security. They have made no application to attend or be supplied with that material because they know, on the basis of a large number of authorities, that such an application would be unsuccessful.

25. The OS content has been made subject to restriction orders because it could assist terrorists in planning attacks or make their attacks more effective by causing death and/or injury to a greater number of people. CPs have been made aware of the OS content and have been involved in the process because they may wish to make applications for restriction orders themselves or, in the case of the bereaved families in particular, they will be involved in the investigatory process which the Inquiry will conduct. As was pointed out by HMG in Cathryn McGahey QC's submissions, the media are not in the same position as CPs. The media carry out a very important function but it is a different one from the one carried out by CPs in the Inquiry. Fairness does not require that I should treat the media in this situation the same as the CPs and grant them access now to material that CPs have received. CPs have passed the threshold for participation set down in Rule 5 and therefore have greater procedural rights and involvement in the Inquiry. CPs are participants in the process. The media are observers.

26. It would have been open to CPs to apply for PII in relation to the OS content which is the subject of the restriction orders. If they did that there could be no doubt that the media would not have been able to see that material in order to make submissions as to whether it was properly classified as PII.

27. As part of his submissions Mr Bunting complained that the ILT had failed to keep the media informed at an early enough stage of their proposals in relation to OS content. CTI disputed this and I do not think that Mr Bunting was inviting me to make any finding on the point as it is not relevant to any decision I make. His complaint is the inability of the media to make sensible submissions on the OS process. He does rely on a passage in the Note supplied by the ILT on 12th June 2020 (found at page 106 of Bundle 1). There ILT say: *"Following the steps above…should any CP or the media consider that (a) content in the SENSITIVE folder has been redacted by the Inquiry on OS grounds that should not have been or (b) any additional requests for OS redactions sought by a CP should be applied or rejected submissions to that effect should be provided by the relevant deadline."*

28. Mr Bunting rightly points out that without seeing the redacted material it was quite impossible for the media to make sensible submissions of the type envisaged in this Note. That rather indicates that the ILT at that time were intending that the material should be supplied to the media.

29. If they were thinking that at that time it would be directly contrary to the submissions made by CTI to me. If the media had been invited to make submissions it should have been limited to general principles and the appropriate categories of OS content.

30. Having taken all those matters into account I am satisfied that CTI's proposals for dealing with OS content are correct. The media should not be supplied with content which has been redacted on OS grounds, but they will be present in any restricted hearing which considers OS content and they can make submissions at that stage if so advised.

31. In those circumstances I consider that the steps proposed by CTI are *reasonable* in the circumstances of this case and are conducive to the Inquiry fulfilling its Terms of Reference. I am satisfied that fairness does not mean it is necessary to supply the media with the redacted OS content before the start of the Inquiry.

Use and handling of OS content during the Inquiry's oral evidence hearings

32. No CP made submissions against the proposals of CTI for use and handling of OS content during the hearings. The media did, in accordance with the submissions that Mr Bunting had made in relation to the making of restriction orders. He argued that if his submissions were accepted on the first matter, it would make the handling of OS content at the hearing easier. While I am not convinced that that is accurate, I make it clear that handling of OS content will be in accordance with the ruling that I have already made.

33. It is also appropriate to allow the press when OS content is considered to discuss the issue of whether submissions should be made with their editors and legal advisors. Of course the media must, and I am sure will, take care to ensure the confidentiality of this information. The media are experienced at dealing with these types of situation. If and when the situation arises the precise terms of any undertakings required can be decided.

34. While Mr Bunting says that there is not much point in having the media at a hearing if they cannot report what they hear or see, that is not the experience of the courts. The media attend not only to report what happens but as representatives of the public to ensure that the courts conduct themselves in a proper judicial manner even when they cannot report everything that is being said.

Delay to the livestream

35. Everyone agrees that there should be a delay to the livestream and a delay to reporting of what is said and happens in the hearing. That is because the hearing will be dealing with sensitive issues and there is always a possibility that things will be said in the hearing which should not be made public. The experience of the courts is that this does happen on a not infrequent basis. It is not done intentionally but is very easy to do inadvertently.

36. The issue is how long should the delay in the livestream and in reporting be. HMG says 10 minutes, as do GMP, SMG and Showsec. The media contend that 10 minutes is too long and 3 minutes should be sufficient. To an objective observer it may seem a somewhat unnecessary argument. It is accepted by the courts that some news is only newsworthy if it is contemporaneous but, even allowing for the growth in online media, a delay of 10 minutes might not seem to be excessive. Nevertheless, any delay should only be a reasonable one. Mr Bunting told me there had never been as long a delay as the 10 minutes being asked for in this case. No doubt he was correct when he said this but as it happens later the very same day Sir John Mitting, who is Chair of the Undercover Policing Inquiry, ruled that there should be a delay in reporting of 10 minutes in his inquiry. He also ruled that there should be no delay in the live stream and it was up to the press to ensure that 10 minutes had elapsed before they reported any piece of the evidence.

37. I have also been referred to time delays in other inquiries. While it is always instructive to hear what has been done in other inquiries, each one is fact specific. Different inquiries have different subject matters, sensitivities and locations, and the amount of available accommodation for holding the hearings are different. Andrew O'Connor QC on behalf of SMG pointed out that the working conditions which we are going to have to adopt because of COVID-19 will make taking instructions on whether evidence given has contravened a restriction order more difficult and require more time. In my judgment he makes a valid point.

38. CTI recognise in their submissions that the delay should be as short as reasonably possible and they accept that the need for a delay and the length of it may vary between different chapters of the Inquiry. They have therefore proposed that for some parts of the Inquiry there should be no delay, for others there should be a 3 minute delay and for the most sensitive parts a 10 minute delay. In the circumstances, this seems to me to be a sensible compromise and I adopt their proposals. That will be the position at the start of the Inquiry. If it does not work satisfactorily, or if the 10 minute delay for certain chapters proves unnecessarily long, I shall review the position.

39. While I have considered the decision of Sir John Mitting and his conclusion that a delay in the live stream is unnecessary and a delay on reporting is sufficient, I am not convinced that on the facts of this inquiry that this will be satisfactory or provide sufficient assurance that OS content is not inadvertently put into the public domain,

particularly bearing in mind the risk of the mosaic effect in the circumstances of this inquiry. It seems to me that a livestream with no delay puts journalists at great risk of inadvertently contravening restriction orders.

40. I am satisfied that a delay on the livestreaming to the remote locations identified by CTI is necessary and proportionate.

41. There will be room for only a limited number of journalists in the hearing room. At the moment this is limited to two, with a further four able to be present in the annexes to the hearing room at Manchester Magistrates' Court. They will of course be listening to the evidence in real time.

42. CTI propose that they should not be able to report any matter until there is a break in the hearing as it is unrealistic to expect them to time accurately how long has elapsed since the evidence that they wish to report was given.

43. I am concerned that leaving reporters to estimate when 10 minutes has elapsed while listening to the evidence continuing would place an impossible burden on the journalists in the hearing room and the court annexes. I am prepared to be convinced that it is practical and safe to allow them to judge when the time has elapsed but for the moment I am not so persuaded, and they will have to wait for a break in the proceedings in order to report the evidence.

44. All of these matters will be kept under review. It will be easier to judge properly what is appropriate when we are up and running.

Anonymity and special measures applications

45. I will deal with the two relatively uncontentious applications.

PC Richardson

46. PC Edward Richardson is an authorised firearms officer (AFO) and a specialist firearms officer (SFO). He seeks screening from the public and the media at the hearing, and from the livestreaming, and a direction that no picture of him is published. He has no objection to being visible to CPs and their lawyers in the hearing room. He says that his Article 8 rights are engaged as the publishing of his image or being seen by the public will affect his career. He already does work as a covert officer. He wishes to expand that role which will be difficult if his image is made known to the general public. In addition to the effect on his career, PC Richardson is concerned that he and his family may be subject to threats from the public if his occupation becomes generally known. He says that he has had threats in the past and colleagues have suffered them when an image of them has been published.

47. CTI do not accept that PC Richardson's Article 8 rights nor the common law duty of fairness require the orders to be made. CTI accept that it would be possible to make the order asked for on public interest grounds.

48. In my judgment PC Richardson's Article 8 rights are engaged. As is well known this is a qualified right and I need to balance the possible interference with his Article 8 rights with any effect on open justice. It has not been argued that there will be any significant effect on the principle of open justice if the media cannot publish a picture of him, which is PC Richardson's main concern. I have considered his evidence and, while it is relevant evidence relating to the immediate emergency response, it does not seem to me to be likely to be controversial or central. In those circumstances, the limited restriction of not publishing a photograph and screening from the general public and media does not outweigh the potential interference with his Article 8 rights. If I am wrong about that then in any event I allow the application on public interest grounds as provided in section 19(3)(b) of the Inquiries Act 2005. The precise extent of screening which will be required from people in the hearing room can be decided when the time for him to give evidence comes. I make the order as asked.

F1

49. F1 is another police officer. The application in his case is that his identity should be protected from being revealed, he should be screened from the public and the media, and from the livestreaming. I have considered both open and closed statements in his case.

50. I agree with the submissions of CTI that his Article 2 and 3 rights are not engaged but his Article 8 rights are. If he were to be identified his prospects in continuing in his present role would be reduced as he is required to act covertly. He would run the risk of threats to his personal safety as others in his position have been. As I have indicated in the previous application Article 8 rights are qualified rights and they have to be balanced against the open justice principle embodied in Article 10. I have considered the evidence that F1 can give. I agree with the submissions that have been made that it is not evidence which is central to the Inquiry and accordingly the effect on open justice does not outweigh F1's Article 8 rights and I will make the order as asked.

Witness J

51. I will not give a ruling on the application of Witness J at present. I have received further submissions from the Home Office and they have asked me to consider some matters in a closed session. I will do so but that should not be seen as any indication that I have reached any particular preliminary view on the application.

Sir John Saunders

31 July 2020

manchester
arena
inquiry

Ruling on the Inquiry's Hearing Arrangements in light of the Covid-19 Pandemic Following Submissions on 14th January 2021

1. This morning I heard oral submissions from a number of counsel on the issues that arise as a result of the latest developments with the Covid-19 pandemic and the current national lockdown. I also considered submissions on these matters which had been made in writing by Core Participants ('CPs').

2. I am grateful for all the submissions, which were reasonable and constructive, although different CPs had different priorities.

3. As was agreed by everyone, there is no perfect solution which will completely satisfy all the different priorities in relation to how to manage the oral hearings in the current circumstances. It is obvious to me that some degree of compromise is required, which I hope we can achieve.

4. No-one needs any lengthy reminder of why this hearing became necessary. We were due to continue our oral hearings last Monday after the Christmas break. We had been able to conduct in person hearings up until Christmas by following strict protocols to try and prevent the spread of the virus.

5. The arrival of the more transmissible variant of COVID-19 has required us to re-think if, and how, we can continue to hold hearings.

6. We have received advice from Public Health England ('PHE') and Manchester City Council's Director of Health and Environmental Health Officer as to whether we can continue in-person hearings and, if so, the extent of who can attend those hearings. All CPs have been supplied with

notes of a meeting that took place with the Inquiry Secretariat setting out the advice that we have received.

7. Some counsel and Mr. Gardham, making representations on behalf of the press, contrasted the restrictions on attendance suggested by PHE for our hearings and the conduct of criminal trials in the Crown Courts, which are intended to continue. While I understand those arguments, I have to pay most attention to the risk assessment which has been prepared specifically for the Inquiry as there may be some factors which affect the Inquiry to a greater extent than the Crown Court. I have in mind in particular, the number of people who would need to travel across the country if everyone who wanted to was able to attend the Inquiry in person and at the Annexes.

8. While in principle we can continue with oral hearings, attendance at those hearings will have to be severely restricted. At present, it is intended that attendance should only be by CTI, STI the witness and me, as Chairman.

9. Family CPs and counsel would have to attend remotely. We were always intending to have a one week break starting on 15th February to coincide with what would have been half term and a schedule of witnesses who the Inquiry Legal Team assessed not to be substantially controversial has been put together to take us up to then. It appears there is some dispute about the suitability of a limited number of those witnesses to be dealt with in that period, but I very much hope that any differences about that can be resolved by discussions with CTI.

10. It is intended that, to start with, we sit for 2 ½ days a week only, in part because of home schooling of children and also because the longer periods that we sit the greater the risk of transmission.

11. Mr. Warnock QC submitted that we should be making decisions now about how we should proceed after the half term break. His submission was that we should decide now to proceed only remotely after the half term break. He cited the example of other public inquiries, and particularly the Grenfell Inquiry, who are continuing on a remote basis only. Whilst I will of course take into account what other inquiries are doing, each inquiry has to make its own decision depending in part on the type of evidence that

they are considering. In this case, we have family CPs who have been able to attend hearings and, as they have explained to me, attending is important to them. For the reasons explained by Mr. Cooper QC and Mr. Atkinson QC, the presence of those family members who want to attend is of value to the Inquiry.

12. The spread of the virus seems ever changing which affects the advice we are being given. I therefore do not think that it would be appropriate for me to make decisions now about what we do after the half term break. We will have a further hearing on 16th February during which the future course of the Inquiry can be determined.

13. Ms Roberts QC explained to me the present position of NWAS, which was of substantial concern and getting worse. She wished to be re-assured that we will not require the attendance as witnesses from NWAS those who are now primary carers, as everyone who is medically qualified is being required to assist with the present emergency. Of course, we would not interfere in anyway with essential life saving work. Nevertheless her submissions did bring home to us just how bad the present situation is.

14. Partly as a result of Ms Roberts' submissions and after discussions with CTI and STI, I have decided that I will not attend next week's hearings in person but will attend remotely. I have reached this decision taking into account the responsibility on all of us to avoid leaving our homes unless it is necessary to do so and my own circumstances, which are that I am in a priority group for vaccination but have not yet been vaccinated. If I were to become seriously unwell, in addition to the effect on me, this would adversely affect the progress of the Inquiry. In those circumstances I consider that I should attend remotely when this is consistent with doing my job properly.

15. Next week will involve an opening from Mr Greaney and evidence setting out the sequence of events which will be uncontroversial. I will not need to judge the credibility of the witness. An additional benefit of my attending remotely is that I will be able to watch exactly what the legal representatives and family CPs see. That will give me a much better

impression of whether remote hearings would work and, if so, the sort of evidence that they could be used for.

16. If anyone strongly disagrees with this decision then they can of course make representations.

17. In the meantime, before the hearing on 16th February, we will need to obtain a further risk assessment based upon the evidence then available. That should consider whether we can increase the number of people in the hearing room by including some family members and legal representatives.

18. In the event that proves impossible, I would like consideration to be given by everyone as to what evidence could be dealt with remotely and we should at least consider hearing that evidence. It is important that we should not lose momentum if possible.

19. Everyone is agreed that we should try and keep the hearings going, but, if that is impossible, we shall have to consider having a break from hearings, even though no-one wants that to happen.

Sir John Saunders
14th January 2021

manchester arena inquiry

Ruling on application by Ben Romdhan for an application to be made to the Attorney General to give an undertaking

1. The applicant is the brother of Salman Abedi ('SA') and Hashem Abedi (HA). I have determined, and no-one has disputed, that evidence from him would be relevant to the terms of reference of the Inquiry.

2. He is likely to have relevant evidence relating to the issue of the radicalisation of SA and any part that the family and their history in Libya played in that. In 2015, the applicant was found to have images on his phone discovered on a port stop that can properly be described as mind-set images. Their presence may indicate that he shared some of his brothers' extremist views. The radicalisation of SA is a matter that I am required to investigate by paragraph 1(ii) of the terms of reference.

3. The applicant can also give evidence as to the build up to the attack and the circumstances in which his parents took SA and HA back to Libya in April 2017. The build up to the attack is a matter that I am required to investigate by paragraph 2 of the terms of reference.

4. The Solicitor to the Inquiry has made extensive efforts to ensure the applicant's attendance at the Inquiry to give evidence. The attempts that are made and his responses are set out in paras 7 to 27 of the submissions of Counsel to the Inquiry on the issue of this application. I attach those paragraphs to this ruling. Their accuracy has not been disputed by the applicant.

5. The applicant requests that I seek an undertaking from the Attorney General "preventing the use of any evidence given by Mr Ben Romdhan to the Inquiry against

him in any future criminal proceedings". The question of whether to request an undertaking from the Attorney General falls within the broad discretion conferred on a Chairman by s.17(1) of the Inquiries Act 2005.

6. The test that I have to carry out in deciding whether to make an application to the Attorney General for an undertaking was described by the Chairman in the Undercover Policing Inquiry in the following terms*: 'any positive effect on establishing the truth falls to be balanced against any negative effect on the administration of justice.'* No-one disputed that this was an accurate summary of the test.

7. As can be seen from this description of the test, there is a significant subjective element to the decision. That is reflected in the different views of the family Core Participants to the application. It is pointed out in the written submissions made on behalf of families represented by John Cooper QC that, "All want answers... All agree answers are preferable to silence or assertions as to self-incrimination which may prove impossible to go behind…Many are strongly against any accommodation in the face of an apparent unwillingness to be candid, others are not".

8. Some of the families consider that the positive effect outweighs the negative effect. Those families invite me to seriously consider the application. Others take the contrary view and feel that the negative effect on the administration of justice outweighs the positive.

9. Most family groups are split amongst themselves and are expressing conflicting views. The one team which is not split is that represented by Pete Wetherby QC who strongly oppose the application. It was described as 'unconscionable' that the applicant may give evidence accepting he played a role in the attack but have protection from prosecution.

10. I understand both positions taken by the families.

11. While I have looked at what other statutory public inquiries have done and benefitted from their approaches, by their very nature these applications are fact sensitive and the result of an application in another case provides little, if any, indication how I should decide this application.

12. The undertaking sought is in the same terms as that made by the Attorney General to witnesses giving evidence to the Undercover Policing Inquiry. That undertaking provides that any evidence or information provided to the Inquiry by the witness will not be used in any criminal proceedings, or when deciding whether to bring such proceedings. The undertaking given at that inquiry extended to any evidence obtained which is the product of an investigation commenced as a result of any evidence, document, information or thing provided by the witness.

13. There are a number of matters which I will have to take into account in reaching my conclusion.

14. First, am I going to get useful information from the applicant and if so on what topics? As has been pointed out in argument, at present, the applicant is not saying that he will answer all, or any, questions relevant to my Inquiry if an undertaking is provided. The applicant's evidence is likely to cover a number of discrete topics; it is possible that if there were an undertaking from the Attorney General he would still refuse to answer questions on some topics. It may be that any answers he gives would be designed not to help but to hinder the work of the Inquiry.

15. If he did refuse, he would not be able to rely on the privilege against self-incrimination. The effect of an undertaking would mean that the applicant would not be at risk of criminal proceedings from the evidence he gives to me. That means he could not properly rely on the privilege against self-incrimination under section 14 of the Civil Evidence Act 1968 which is given effect in the context of any inquiry by section 22 of the Inquiries Act 2005. In those circumstances, if the applicant is compelled to give evidence to me and seeks to rely on the privilege afforded by section 22 of the 2005 Act, consideration would need to be given to whether it is reasonable for him to decline to answer questions.

16. There is no doubt that the applicant may be able to provide answers on a wide range of topics which are relevant to the Inquiry's terms of reference. The issue is: will he give constructive answers which are designed to and do assist the Inquiry in its search for truth even if granted protection from criminal proceedings for the evidence he gives. His responses to the Inquiry so far seem to me to have been designed to hinder the work

of the Inquiry and not to assist it. I have no confidence that if granted an undertaking the Applicant will do his best to assist the work of the Inquiry. There would need to be a significant shift in his attitude if he were to do so.

17. Against the possible benefit to the Inquiry, I have to weigh the potential negative effect on the administration of public justice. There is no restriction put in the application on the offences for which an undertaking is sought. The applicant was arrested by the police after the bombing and interviewed as a suspect. He was released without charge. The Crown Prosecution Service have concluded that there is insufficient evidence on which to charge the applicant at present. The investigation remains open and will no doubt be open for a considerable period of time. Whether it remains open or not, it is likely that any evidence given by the applicant to the Inquiry would be considered by the police. It may be that there would be other lines of enquiry which could be pursued as a result of answers that he gave.

18. The police will have investigated the applicant for a number of terrorist offences as a result of the bombing, ranging from being involved in the attack itself to having information which he was required by law to pass on to the authorities. If as a result of an undertaking from the Attorney General the applicant was to disclose material to the Inquiry which provided evidence to justify charges of murder or conspiracy to murder then he could avoid trial for 22 murders and causing serious injury to many more. While less serious, if he were to disclose material as a result of the undertaking which evidenced a failure by him to disclose information to the authorities which could have prevented the bombing happening, a failure to prosecute would be considered by many to be a considerable affront to justice.

19. For all those reasons, I have concluded that the potential effect on the administration of justice considerably outweighs the potential benefits of allowing the applicant to give evidence without the risk of criminal proceedings. In those circumstances, the balance in this case is against any request being made to the Attorney General for an undertaking and I am not persuaded to make one.

20. I will call the applicant to give evidence in the normal way. He has already been notified in a Rule 9 request issued last year of the areas about which I will seek

information. If in relation to any question he asserts the privilege against self-incrimination then he will be required to justify it. If I do not consider that he is entitled to rely on the privilege and is not entitled to refuse to answer then I shall consider what the next steps should be.

21. I am under an obligation to act fairly and I will. I will ensure that advocates are fair and I will not allow the witness to be intimidated. I value the reputation for fairness of our legal system in all circumstances. I recognise how witnesses can be intimidated by any judicial process. That would not be acting fairly in my view.

22. I look forward to the co-operation of the applicant to assist my Inquiry. He does not need the protection of an undertaking to do so.

Sir John Saunders

10th June 2021

Appendix 20: Rulings in relation to the closed material and hearings

A20.1 Some rulings were specifically in relation to the closed material and hearings. I include a list of these here and the documents themselves follow:

- Open ruling on PII applications made by the Secretary of State for the Home Department and Counter Terrorism Police North West (13th September 2019)
- Ruling on application to disclose the number of documents covered by Inquests' PII ruling made on 13th September 2019 (8th January 2020)
- Ruling on applications relating to Witness J: anonymity, screening and variation to the Inquiry's Rule 10 procedure (11th February 2021)
- Ruling on application for Special Advocates (7th October 2021)
- Ruling on Restriction Order applications made by the Security Service, GMP, NCTPHQ and Counsel to the Inquiry (25th October 2021)
- Ruling on application for further evidence from Witness J and T/ACC Scally (2nd March 2022)

MANCHESTER ARENA INQUESTS

Open Ruling on PII applications made by the Secretary of State for the Home Department and Counter Terrorism Police North West

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1. The Home Secretary and Counter Terrorism Police North West (CTP) have claimed Public Interest Immunity (PII) for material in the possession of the Government and the police that is relevant to the scope of the Inquests. In particular, the material relates to the issue of whether the attack by Salman Abedi could have been prevented by the authorities. The provisional scope of the Inquests provides that this includes investigation of:

    a. The background of Salman Abedi.
    b. His radicalisation, including his relationship with relevant associates (including family members and others), and any relevant external sources (e.g. online) and whether Prevent referrals should have been made in respect of Salman Abedi and/or any of his family members.
    c. The knowledge of the Security Service, the police and others about Salman Abedi, his radicalisation, and his relationship with relevant associates, including family members and others.
    d. What intelligence and other relevant information on Salman Abedi and/or relevant associates was available to the Security Service, the police and others prior to the attack.
    e. When such intelligence/information was available.
    f. The assessment, interpretation, dissemination and investigation of intelligence/information relating to Salman Abedi, including, if applicable, whether and how it was shared, who it was shared with, when it was shared, and with what effect (if any).

g. What steps were (or were not) taken by the Security Service, the police and others in relation to Salman Abedi prior to the attack.
h. The reasons for what was/was not done.
i. The adequacy of the steps that were (or were not) taken.
j. The systems, policies and procedures applicable to the review, sharing and actioning of intelligence and other relevant information on Salman Abedi prior to the attack.
k. The adequacy of such systems, policies and procedures.

2. I have already ruled that Article 2 applies to these Inquests which broadens the matters which I, or a jury if one is required, have to consider in reaching conclusions. As required by section 5(2) of the Coroners and Justice Act 2009, the application of Article 2 means that the Inquests must consider by what means and in what circumstances each person died.

3. Both the police and the Security Service have conducted their own inquiries as to what happened and why. They have reviewed their procedures in the light of the conclusions of those inquiries and have made and are making changes. Those inquiries were 'quality controlled' by Lord Anderson QC who issued his own report. The Intelligence and Security Committee (ISC) of Parliament conducted their own inquiry into the events in 2017, including the Manchester Arena bombing. It issued a report entitled, 'The 2017 Attacks: What needs to change?' A heavily redacted version of the ISC report and Lord Anderson's report are publicly available and provide some, but limited, information. The October 2018 report of Max Hill QC, who was then the Independent Reviewer of Terrorism Legislation into the Terrorism Acts, has a section from paragraphs 4.12 to 4.42 and an annex dealing with the police investigation into the bombing.

4. Both I and my legal team have had access to unredacted copies of the police and the Security Service reviews and the reports of Lord Anderson QC and the ISC. We have also had access to the base information which informed those reports. Both Lord Anderson QC and the ISC were satisfied that they had been given access to all relevant material as to the knowledge of CTP and the Security Service of Salman Abedi's activities and beliefs.

5. I have been assured that my team has seen all the information in possession of CTP and the Security Service relevant to matters which are within the scope of the Inquests. To the best of my knowledge that assurance is correct. Submissions have been made to me on behalf of the families of Saffie-Rose Roussos, Alison Howe and Lisa Lees requesting that, if the disclosure process is not complete, there needs to be an assurance that anything left to be done is carried out. Both the Home Secretary and CTP are aware of their obligations to make disclosure to me and I shall proceed on the basis that full disclosure has been made of all material relevant to the PII claims. I do however remind everyone that there is an ongoing duty of disclosure which must be complied with.

6. On my behalf, my legal team requested that the Security Service and CTP prepare open statements on matters relevant to the Inquests. To assist with that task, both were provided with lists of topics to cover. This was done with knowledge of the contents of the unredacted reports and underlying materials.

7. Open statements have been made by Witness X on behalf of the Security Service and by Detective Chief Superintendent Scally on behalf of CTP. The statements set out what the police and the Security Service say they are able to disclose in public. A perusal of those documents reveals that they contain no information which cannot be found in the publicly available reports to which I have already referred.

8. Further questions have been asked by Counsel to the Inquests (CTI) of both the Security Service and CTP of matters within the scope of the Inquests but which are not dealt with in the open statements. This has triggered the claims for PII by the Security Service and CTP. The responses have set out the material over which PII is being claimed and the reasons for the claims. PII is claimed over disclosure to the public and the Interested Persons in these Inquests. All the information over which PII is claimed has been disclosed to me without objection.

9. I have received a certificate from the Secretary of State for the Home Department in which she certifies that it is her view that disclosing the material subject to her claim for PII will damage national security. There is no dispute but that national security is an important public interest. The Secretary of State has made clear that she is aware of the importance of the public interest in disclosure of all relevant matters within the

scope of the Inquests. That justice should be carried out in public is important, not just to those immediately affected by the terrible events in Manchester, but the public as a whole. She states that she has carried out a balancing act between these two public interests and she is satisfied that the balance is in favour of non-disclosure. While she has set out her conclusions, the Secretary of State accepts that it is ultimately for me to carry out that balancing act.

10. The public interest in national security that she relies on is the necessity for the Government to protect the people of this country from terrorist atrocities. The tragic deaths of 22 people in Manchester on 22 May 2017 in a terrorist attack is by itself sufficient justification for this public interest. As is well known, it was not the only terrorist attack in 2017 and the country remains under threat of further attacks and will be for the foreseeable future. I have received a similar certificate from Assistant Chief Constable Jackson on behalf of CTP.

11. I have been considerably assisted by the submissions made both in writing and at two hearings on 29 July and 6 September 2019 on the relevant legal principles. There is a very large measure of agreement as to the law and the way I should approach the task of deciding whether to uphold a claim for PII.

12. Counsel for the families have stressed to me the importance of public justice and in particular how important it is for the families to know the full details of what happened and why. If there have been failings in the conduct of the Security Service and CTP, it is important for them to know what they were and whether the bombing could have been prevented. Counsel have stressed to me that a claim for PII should not be made to cover up wrong doing. Counsel for the families do accept that there is a public interest in national security. The thrust of their submission is to stress the weight that should be attached to the public interest in open justice when balancing the two.

13. The claims made for PII are not claims to support a refusal to supply information to me. It is claimed to prevent onward disclosure by me of relevant material to Interested Persons and the wider public. It follows that I am in a position to assess whether the claims are properly made to protect national security and are not done to prevent evidence of wrong doing being made public.

14. Rule 15 of the Coroners (Inquests) Rules 2013 gives me the power not to provide disclosure to Interested Persons in certain circumstances, including where there is a 'legal prohibition' on disclosure. If the claim for PII is successful that would provide a legal prohibition on disclosure.

15. While the Secretary of State is entitled to express her view as to where the balance falls, it is for me to determine the balance between the public interest in withholding evidence and the requirements of open justice.

16. The way in which I should approach this task has been set out in a number of important cases. Extensive quotations have been made from those cases in the written submissions to me. I have considered all the relevant cases. I do not consider it necessary for me to quote from them extensively, although I have had regard to them all, but I will set out the way I have applied the principles in reaching my decisions.

17. Thomas LJ in the case of **R (Mohammed) -v- Secretary of State for Foreign and Commonwealth Affairs (no 2) [2009] 1 WLR 2653** set out the four questions that I must ask:
    a. *Is there a public interest in bringing the material for which PII has been (or is to be) claimed into the public domain?*
    b. *Will disclosure bring about a real risk of serious harm to an important public interest and, if so, which interest?*
    c. *Can the real risk of serious harm to the important public interest be protected against by other methods or more limited disclosure?*
    d. *If the alternatives are insufficient, where does the balance of the public interest lie? The final balancing exercise involves asking whether the public interest in refusing disclosure is outweighed by the public interest of doing justice in the proceedings.*

18. The purpose of any inquest is to conduct a full, fair and rigorous inquiry with the assistance of the Interested Persons to establish how the deaths occurred. There is a substantial public interest in that inquiry being held in public. Rule 11 of the Coroners (Inquests) Rules 2013 requires that an inquest hearing must be held in public. The public may only be excluded under this rule if it is considered by the coroner to be in

the interests of national security. The public does not however include Interested Persons who are entitled to hear all the evidence in an inquest.

19. In this case all parties accept that the answer to question (a) is 'yes'. There is an important public interest in all of the material over which PII has been claimed being in the public domain. It is relevant to the scope of the Inquests and, subject to the PII claims, should be heard and tested in open court.

20. As to (b), the public interest claimed in this case is 'national security'. I have to determine on the basis of the material I have seen whether disclosure would harm that interest and whether it would be serious harm.

21. As to (c), I have to decide whether there would be some way of putting the information relevant to the Inquests into the public domain which would protect the public interest, such as gisting, disclosing limited information or providing it only to a limited number of people. Although I cannot give further detail in this ruling, I am satisfied there are no alternatives to full disclosure and I must therefore go on to consider question (d). That is, deciding where the balance of the public interest lies.

22. In cases of this kind different public interests may conflict. Where that happens, the conflicting interests have to be balanced, taking into account all the circumstances of the case.

23. The cases suggest that where the coroner is satisfied that disclosure will affect national security the balance will normally be against disclosure but, that will depend on the circumstances and how serious the effect on national security is likely to be.

24. In determining whether disclosure will effect national security and the severity of that effect, the views expressed by the Secretary of State have to be given due deference by the Court. She will have reached her conclusion as a result of advice given by those who have the duty of protecting our security and have expertise in those fields which I do not have. In some cases it seems to be suggested that acceptance of the views of the Secretary of State should be almost unquestioning. I do not accept that the requirement of 'due deference' goes that far.

25. While giving due deference to the views expressed by the Secretary of State on national security, those views should not, as Lord Judge CJ put it in **R (Mohamed) v Foreign Secretary (No 2) [2011] QB 218** *'command the unquestioning acquiescence of the court'* and I should not simply *'salute a ministerial flag'* as Maurice Kay LJ described it in **Secretary of State for the Home Department v Mohamed (formerly CC) [2014] EWCA Civ 559**. To do so may, as I have been warned by the families, enable claims to be made for PII not to protect national security but to prevent exposure of wrong doing.

26. How should I approach this question in practice? The Secretary of State and CTP have supported their claims for PII with evidence. It is for me to examine the evidence and their arguments with care and in detail and decide whether I agree that disclosure would damage national security and whether the extent of that damage outweighs the interest in public justice.

27. I rely on the Minister and CTP to provide me with the necessary information to allow me to make a proper and balanced assessment. The Security Service who advise the Minister are much more capable than I am of assessing how making certain information public is capable of assisting terrorists in carrying out attacks such as the one in Manchester. It can however be explained to me the ways in which making information public will effect national security. Once that has been done, it is for me to decide whether the Secretary of State's assessment is correct, making up my own mind. The Security Service and CTP will have given me the necessary tools to decide what, if any, will be the impact on national security of disclosure of a category of information. I then make my own decision.

28. In the closed hearings and in closed written submissions, assertions made on behalf of the Secretary of State have been tested and further explanations have been sought. Where it has not been apparent to me why making information public would cause serious harm to national security I have sought and been given further explanation. To do otherwise would be to 'unquestionably acquiesce' to the Secretary of State's views.

29. There is one issue on which there is not agreement on the law as set out in the submissions that I have considered. The Secretary of State in support of her certificate

prays in aid the fact that, if I agreed with her views on PII but concluded that it would not be possible to carry out properly Article 2 compliant Inquests as a result, I could ask her to convert the Inquests into a statutory public inquiry which she would be minded to grant.

30. Submissions have been made to me by the families that the question of whether or not there could be a statutory inquiry is not relevant to the issue of whether I should uphold the Secretary of State's and CTP's claims on PII. Clearly it is not relevant to the question of whether the information is capable of damaging national security or the degree of damage. The issue to which it is said to relate is the balancing act which I have to carry out. In none of the cases has this been considered because it has never previously been the position that a Secretary of State has indicated agreement to convert to a statutory public inquiry before the issue of PII has been determined.

31. I have considered the competing arguments. If there was an issue as to whether these matters would ever be subject to an inquiry, if not by a Coroner in an inquest, then I can understand that that could be a factor in favour of not upholding PII when deciding where the balance lies. I am not convinced that the contrary applies i.e. that the willingness of the Secretary of State to agree to any request from me for an inquiry supports the balancing act in favour of PII. The Secretary of State's submission is a limited one in that she only argues that it will be relevant where the decision on the balancing act is a marginal one. I have not found myself in that position.

32. Counsel for the families argue that these matters have to be dealt with sequentially. First, it is for me to decide whether I uphold the Secretary of State's and CTP claims on PII. In the light of that decision, I have to decide whether or not I can carry out Article 2 compliant Inquests and only if at that stage I decide I cannot, does the issue of a statutory inquiry become relevant. CTI supported the submissions of the families.

33. Some support can be found for the Home Secretary's proposition in paragraph 65 of the judgment of Goldring LJ in **the Secretary of State for Foreign and Commonwealth Affairs -v- Assistant Deputy Coroner for Inner North London [2013] EWHC 3724 (Admin).** This is one of the decisions arising out of the investigation into the death of Alexander Litvinenko. At paragraph 65 the Court said

this, '*Moreover, there was the further problem that the Coroner did not re-consider his first decision in the light of his subsequent ones. (As I have said, he was never asked to). The outcome of the subsequent PII hearing, in which PII was upheld in respect of Russian State responsibility and preventability, with the consequent view of the Coroner as to whether justice could in any event be done, was relevant to the balancing exercise he initially carried out. In broad terms, given that due to his later rulings the Coroner was of the view that "a full and proper investigation" could not take place anyway, it did in my view become correspondingly more difficult to justify a real risk of damage to national security on the grounds of such an investigation'.*

34. The situation which arose in that case was unusual. The PII claim in that case appears to have had two distinct parts and the issue was whether the decision on part 2 should have led to a reconsideration of the decision on part 1. Here there is only one PII hearing and the suggestion must therefore be that if, having considered some elements of the claims before me, I had decided that it was necessary to request conversion, I could then take that into account when applying the balancing exercise to the other PII claims. In practice, I think that is difficult to achieve when I only have a single group of claims for PII made by the Secretary of State and CTP. I have preferred therefore as the correct approach in this case the sequential one advanced by counsel for the families and CTI.

35. It is not possible for me to set out the nature of the material for which the Secretary of State and CTP have claimed PII. The material all comes within well recognised areas for which PII has been claimed and granted in the past, although I emphasise that each case is fact specific. By way of example, the general areas of sensitive material over which PII may be claimed in any case are summarised in paragraph 18 of the PII certificate of ACC Russ Jackson on behalf of CTP. The summary of these broad categories is accepted by the Secretary of State. Those categories which are capable of being relevant in this case are set out in further submissions on behalf of the Secretary of State.

36. The risk which is identified in each case is that disclosure of the information will make it easier for terrorists to kill people by avoiding detection before they are able to carry an attack.

37. Following clarification by the Secretary of State of one aspect of her claim, I have upheld the claims for PII by both the Secretary of State and CTP. I have done that because I am satisfied, having heard the justifications for them, that to make public those matters would assist terrorists in carrying out the sort of atrocities committed in Manchester and would make it less likely that the Security Service and CT police would be able to prevent them. The balancing exercise strongly favours the material in question not being disclosed. I will, of course, keep this ruling under review.

38. Mr. Cooper made clear on behalf of the families during oral submissions that they were interested in what information the Security Service and the CT police had and how it affected their subsequent actions and not with how they obtained the information. I have considered in relation to each item over which PII is claimed whether it might be possible by gisting the information to minimise the risk to national security to a proportionate level. For reasons which I cannot elaborate in an open document I am satisfied that matters are too inextricably linked to make that a realistic possibility.

39. Both Lord Anderson QC and the ISC who were anxious to reveal as much as could be revealed publicly without damaging national security reached the same conclusion as I have done. While they did not go through the same procedure as I have, their reasons for limiting disclosure and, in the case of the ISC, heavily redacting its report were the same.

40. Having ruled in favour of the claims for PII, I must go on to consider the impact of that ruling on the Inquests. The material is relevant and central to the matters that fall to be investigated. Accordingly, my provisional view is that an adequate investigation, addressing fully the statutory questions set out at section 5(1) Coroners and Justice Act 2009 (read together with section 5(2) and bearing in mind the obligations under Article 2 of the ECHR) could not be conducted within the framework of the Inquests.

SIR JOHN SAUNDERS

13 SEPTEMBER 2019

manchester
arena
inquiry

Ruling on application to disclose the number of documents covered by Inquests' PII ruling made on 13th September 2019

1. At the Pre-Inquiry hearing on 22nd November 2019 Mr. Weatherby QC, on behalf of a number of the families of the deceased, submitted that I should direct disclosure of the number of documents covered by my PII ruling.

2. **Background:** The Home Secretary on behalf of HM Government had made a PII application to me relating to material in the possession of the Security Service and Counter Terrorism Police relating to information that they had about Salman Abedi before the bomb attack. I upheld that application in both open and closed judgments. As a consequence of that ruling the Inquests have been converted into a Public Inquiry because I do not consider that a proper Article 2 compliant investigation could be held without investigation of the material covered by the PII ruling.

3. **The Submissions:** Mr. Weatherby QC, while accepting that nothing should be disclosed which could damage national security, argues that the families and the public should be given as much information about the withheld information as is consistent with that. He asks that disclosure is made of:

   (a) The number of documents relevant to each topic within the Terms of Reference of the Inquiry that are being withheld.

   (b) The total number of documents being withheld as a result of the PII ruling.

4. He argues that revealing the number of documents could not damage national security and therefore in accordance with the principle of open justice his request should be met.

5. Mr. Cooper QC on behalf of the families he represents, supports the application. He accepts that disclosure of the number of documents will 'provide no significant information about content or import'. He also accepts that providing the number of documents has the capacity to mislead as several documents could contain the same information. Balanced against that, he argues that it is difficult to see how disclosure of the number of documents could affect national security and therefore the balance is in favour of disclosure.

6. The Home Secretary argues that disclosure of the information sought could affect national security. She says that to provide the information could offend the principle of 'neither confirm nor deny' (NCND). The principle of NCND is helpfully summarised in the judgment of Maurice Kay LJ in *Mohamed Ahmed Mohamed, CF v Secretary of State for the Home Department* [2014] EWHC Civ 559 as a subset of public interest immunity, but it is not a trump card to be played by the State for its own benefit. In other words, the principle of NCND is to withhold from disclosure and to refuse to provide information on the ground that to do so would be injurious to the public interest, in this case national security.

7. It is further argued by the Home Secretary that disclosure of the number of documents relevant to each topic in the Terms of Reference would enable inferences to be drawn as to the contents of the documents which have been withheld under the PII ruling. It might allow inferences to be drawn as to the relative importance in the minds of the Security Service of different topics because of the numbers of documents withheld. Against this the Home Secretary submits that disclosure of the number of documents will not materially assist the families and it might mislead them.

8. GMP also resist the application. They do so on the basis that the number of documents being withheld from disclosure is irrelevant to any issue in the Inquiry and that provision of the numbers is capable of being misleading. For those reasons they say the requested disclosure should not be made.

9. Counsel to the Inquiry, while emphasising the importance of open justice, argues that in this case the balance of the arguments is against disclosure. CTI submit that it would be impossible to draw any reliable inference from the number of documents withheld and it would be possible to be misled as to its true significance, if any. CTI also take the view that the submissions of the Home Secretary, that disclosing the information risks damaging the principal of NCND and could allow inferences to be drawn which may damage national security, have merit.

10. **Discussion:** While I fully understand the basis and justification for the use of NCND, I do not think that it is engaged in this case. NCND is used by the Government in situations where, if it were to directly answer a question which might relate to national security, its refusal to answer in other cases might make it obvious what the answer is. In terms of national security, NCND often comes into play and the Courts have upheld the right of the Government to adopt such a response even in answer to specific allegations made in court proceedings. In this case, the Inquiry is being asked to disclose the number of documents covered by the PII ruling. It is open to the Government to argue, as they have, that because of inferences which could be drawn from the information as to the nature of the PII material, that information should also be covered by the PII ruling.

11. I, like Mr Weatherby QC, find it difficult to understand how the disclosure of the number of documents could realistically affect national security. While I understand what the Home Secretary is saying as to the possible damage to national security, it

seems to me to run contrary to the central argument of GMP, which is also relied on by the Home Secretary, that it is impossible to reach any reliable conclusions from the number of documents covered by the ruling whether or not divided into different categories.

12. The principal objection to disclosure is that the information sought is not relevant to the Terms of Reference of the Inquiry and supplying the information is capable of misleading CPs and the public as to its true significance. As part of the Inquiry process, on my behalf, the Solicitors to the Inquiry have and are in the process of collecting any information which is capable of being relevant to the Terms of Reference of the Inquiry. Having considered the evidence collected, I will exclude certain evidence as being irrelevant to the Terms of Reference. The obligation of the Inquiry is to supply relevant evidence to the CPs as it is that evidence which will be considered by me in reaching my conclusions. I do not consider that the mere number of documents covered by my PII ruling is relevant in any way to my investigations and there is no realistic prospect that I will be referring to it in my report.

13. In my judgment, the information sought is irrelevant to the Terms of Reference of the Inquiry and therefore is not disclosable. Having said that I might have disclosed the number of documents, as an exception to the normal rule, if I considered that it would genuinely assist the families in having some idea of the amount of information which has been covered by the PII ruling.

14. I have reached the conclusion that it would not assist in giving a true picture of the amount of information which has been withheld. As has been pointed out in submissions, disclosing the number of documents will not give any true reflection of the amount of information which has been withheld. For example, the same information can appear in a number of documents. There can be discussion in a number of other documents as to its true meaning and what steps could and/or ought to have been taken in consequence of the information. It follows that one piece of information can be contained in a very large number of documents. The contrary is also true. It follows that I do not consider that providing this information will assist the families in any real sense in getting any sort of idea of the quantity of information which has been excluded from the public hearings.

15. Disclosing the number of documents has the potential to be misleading. By way of example, if the number was a large one then the families and the public could consider that a very large amount of information has been withheld which might not be correct.

16. **Decision:** Having taken all these matters into account I have decided it would not be right to disclose the number of documents covered by my PII ruling.

Sir John Saunders
8 January 2020

manchester arena inquiry

Ruling on applications relating to Witness J:

anonymity, screening and variation to the Inquiry's Rule 10 procedure

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1. Applications have been made by the Secretary of State for the Home Department (SSHD) for anonymity for Witness J who is the corporate witness giving evidence to the Inquiry in open on behalf of MI5; screening while Witness J gives evidence from everyone except Counsel to the Inquiry and me; and for a variation to the Inquiry's Rule 10 procedure concerning the advance notification of questions to Witness J.

2. Applications have also been made by the SSHD concerning the practicalities of Witness J's evidence, including limiting the live feed of Witness J's evidence to certain specified locations, non-public entry and exit for Witness J, clearing the hearing room and switching off the secure live feed when Witness J enters and exits, requiring all electronic devices to be turned off while Witness J gives evidence (save for limited exceptions), a prohibition on recording Witness J's evidence (and thus no publicly available livestream of his evidence), and a prohibition on public disclosure (including media reporting) of Witness J's evidence until CTI has confirmed that the evidence can be disclosed.

3. In this open ruling I consider the applications for anonymity, screening and a variation to the Rule 10 procedure. I have also issued a short closed ruling. The other applications made by the SSHD concern matters of practicality that are better considered when the position is clearer regarding the current state of the public health crisis when Witness J gives his open evidence, the ability of the Inquiry to hold in person hearings, the practical arrangements for and capacity of such hearings, whether the Spinningfields Conference Centre is available to the families at the time of Witness J's open evidence, and the evidence before me as to the risk posed by the electronic devices that the SSHD seeks to have turned off. I consider that the other applications that have been made should therefore be determined closer to the date for Witness J's open evidence. At that stage, reference can be made to this ruling and what practical measures are said to be necessary to give effect to it. Following that I intend to circulate a draft order to reflect the rulings that I have made.

4. In determining the applications for anonymity, screening and a variation to the Rule 10 procedure, I have received and considered detailed written and oral submissions, including the following:

   a. Written submissions from CTI on the legal principles applicable to the making of restriction orders (ROs), dated 22nd January 2020.

   b. Written submissions from CTI on the legal principles applicable to anonymity and special measures applications, dated 3rd March 2020.

   c. Open written submissions from the SSHD, dated 1st May 2020, 11th June 2020, 16th June 2020 and 27th July 2020, closed written submissions dated 27th July 2020, open and closed threat assessments provided in support of the applications, a closed statement by Witness J, an open draft RO provided by the SSHD, and a response (dated 15th October 2020) to a direction made by me following the 1st October hearing requiring MI5 to *"indicate, to the fullest extent possible in open and in closed if necessary, whether there is anyone with Witness J's seniority and expertise who could give open evidence to the Inquiry about the matters which must be investigated and who could be publicly avowed, other than the Director General of MI5."*

   d. Written submissions from the families, dated:
      i. 3rd June 2020 (from Broudie Jackson Canter on behalf of all the family Core Participants (CPs));
      ii. 7th July 2020 (from Addleshaw Goddard on behalf of the families they represent);
      iii. 7th July 2020 (from Slater Gordon on behalf of the families they represent);
      iv. 8th July 2020 (from Broudie Jackson Canter, Hogan Lovells and Hudgell Solicitors on behalf of the families they represent);
      v. 16th July 2020 (from all the family CPs);
      vi. 3rd August 2020 (from Addleshaw Goddard, Broudie Jackson Canter, Hudgell Solicitors and Slater Gordon on behalf of the families they represent);
      vii. 3rd August 2020 (from Hogan Lovells on behalf of the families they represent); and
      viii. 15th October 2020 (from the families represented by Broudie Jackson Canter, Hogan Lovells, Hudgell Solicitors and Slater Gordon).

   e. Written submissions from a number of media organisations, dated 10th July 2020.

   f. Open written submissions from CTI on the Witness J applications, dated 10th July 2020, 20th July 2020 and 29th September 2020, and closed written submissions from CTI for the hearing on 9th October 2020.

g. Open oral submissions from CTI, relevant CPs (including the families and the SSHD) and the media on 23rd July 2020 and 1st October 2020.

h. Closed oral submissions from CTI and on behalf of the SSHD on 9th October 2020.

5. The legal principles involved in these applications are not in dispute and have been set out in detail in the submissions provided by CTI. The principles concerning ROs are also summarised in my earlier ruling on restriction orders following the hearing on 23rd July 2020 (ruling dated 31st July 2020), and in my subsequent ruling on Greater Manchester Police's application for a RO (ruling dated 22nd October 2020). Those rulings have not been challenged. In those circumstances I shall deal with the legal principles briefly and only in so far as they apply to these applications.

Anonymity

6. Section 18(1) of the Inquiries Act 2005 imposes a duty on me to take reasonable steps to secure public access to the Inquiry's proceedings and information. That is subject to any restrictions imposed by an order made under s.19. The effect of s.18/19 is that there is a presumption that the Inquiry's proceedings will be public which can be overridden in certain circumstances. The presumption includes making public the identities of witnesses.

7. Under s. 19(1) and (2)(b) I can make a restriction order (RO) preventing the making public of any evidence given to the Inquiry.

8. The power to make a RO is limited by s.19(3) to (5). For the purposes of this application s.19(3)(a) is of particular relevance. Section 19(3)(a) provides that a RO must specify only such restrictions as are required by any statutory provision, enforceable EU obligation or rule of law.

9. The application for anonymity is made on the basis that Witness J's rights under Articles 2, 3 and 8 of the ECHR are engaged. Under s.6(1) of the Human Rights Act 1998 it would be unlawful for 'a public authority', which includes an Inquiry Chairman, to 'act in a way which is incompatible with a Convention right'.

10. I am satisfied on the evidence that I have heard both in closed and open that Witness J's rights under Articles 2, 3 and 8 are engaged. Article 2 is the right to life. On the facts of this case, as I find that Article 2 is engaged, I do not consider that Article 3 adds to my obligation not to act in a way which is incompatible with that right. Article 8 is the right to a private life which covers both family life and private life, including a person's employment and career development.

11. I will briefly summarise the evidence on which I find that Witness J's Article 2 and 8 rights are engaged. Some of it was included in closed submissions so I do not deal with

the detail of it but the effect only. Witness J has worked for MI5 for 28 years and at the time of this application was the Acting Director General of Strategy. There are three Director Generals who support the overall Director General. Witness J has had considerable operational as well as managerial experience within MI5.

12. The identities of people who work for MI5 are not made public. Considerable care is taken to ensure that those who work operationally with MI5 cannot be identified. The reason for that is that it is assessed that their lives and those who are close to them may be at risk if it became known that they worked for MI5. Identifying by name people who work for MI5 may also jeopardise the lives of people who have been involved in operations with them or were recruited by them.

13. The job of MI5 includes protecting UK citizens against terrorist attacks and protecting the country against the actions of hostile state actors whose aim is to detrimentally affect the security of the UK and/or its economic interests.

14. I am satisfied that in carrying out that job, the lives of employees of MI5 can be at risk. Revealing the identity of an MI5 officer and disclosing what they look like may increase the risk to their or other people's lives. They may be identified on a future operation where they are acting uncover; they may be identified as having been involved in a previous operation when they were acting undercover. The people who MI5 act against are dangerous and are prepared to take the lives of people who they regard as working for their enemies. They include terrorists and hostile state actors. The degree of risk may vary depending on the role of the MI5 member and the type of operation that they have been involved in, but I am satisfied that that risk may exist.

15. I am satisfied on the evidence that I have seen in closed that, as a result of his previous operational activities, there would be a real and immediate risk to Witness J's life if his identity were to be made public. Article 2 is absolute; if refusing to grant anonymity to Witness J would give rise to a risk to his life within the meaning of Article 2, anonymity must be granted. That is the case here.

16. In relation to his Article 8 rights, I am also satisfied on the evidence that I have seen, both in closed and open, that if Witness J was identified as working for MI5 this would significantly affect his family life and would reduce his prospects of continuing to work for MI5.

17. In making the decision whether to grant anonymity because of the risk to Witness J's Article 8 rights, I have to weigh a number of other factors, including:

    a. The presumption in favour of disclosure. I bear in mind when considering this the fact that part of the hearings conducted by the Inquiry will be in closed session which highlights the need to give as much disclosure as possible in open sessions.

b. The importance of open justice in any judicial proceedings.

c. The effect that an anonymity order would have on the ability of the Inquiry to carry out its terms of reference.

d. Article 2 is engaged by the circumstances of the deaths being investigated in this Inquiry and accordingly I have to consider the ability of the family CPs to effectively participate in the Inquiry if they are unaware of the identity of the witness.

18. It is important to remember that the decision I have to make is fact sensitive. While I have considered the decisions of Judges in similar cases I do not consider myself bound by them in so far as they are decided on their own facts. While judicial consistency is desirable, no two cases are identical.

19. Witness J is giving evidence of those matters that can be heard in public relating to what MI5 knew of Salman Abedi's activities before 22nd May 2017 and whether they should have taken steps to prevent the attack. Witness J is giving evidence as a corporate witness. He played no part in the investigations of Salman Abedi before the attack and he has no personal knowledge of the matters of which he will give evidence. He has made himself familiar with the details of the case and what members of MI5 did and what they knew before 22nd May. Certain of those matters can be disclosed to the public consistent with my PII rulings.

20. While it is important to an understanding of Witness J's evidence to know the position he holds, his experience and the access he has had to the information held by MI5, it is not relevant to an understanding of his evidence to know his identity. I have concluded that not knowing the identity of Witness J will not affect the ability of the Inquiry to carry out its terms of reference nor will it affect the ability of the family CPs to effectively participate.

21. Having weighed the factors set out above, I am satisfied that disclosure of Witness J's identity would constitute a disproportionate and unjustified interference with Witness J's Article 8 rights. Anonymity should therefore be granted. The same outcome would be reached under the balancing exercise required by the common law and statutory duty of fairness (a statutory provision – s.17(3) of the 2005 Act – for the purposes of s.19(3)(a), as well as a rule of law under s.19(3)(a)).

22. In the event no CP has argued that the name of Witness J should be disclosed publicly if I find that the Article 2 and/or 3 risk thresholds are met. What has been suggested by the families is that MI5 should not put forward as a witness an employee whose identity they wish to protect. Instead, they should put forward an employee who can be identified. Of current employees of MI5 who are in a suitably senior position to give this evidence only the Director General's identity is publicly known. The family CPs

argue that MI5 should have put him forward as the witness instead of Witness J or should have put forward another senior officer who could give their evidence openly. I have explored this question thoroughly, I have sought a response to these suggestions from MI5, and I have had to balance the factors in favour and against the submission that has been made.

23. The identity of the Director General has been publicly avowed for some time. While he could face similar threats to Witness J, presumably MI5 are satisfied that they can counter any threat that the Director General might face. It would also, say the families, give a public indication of the importance that MI5 attach to this Inquiry if he were to be the person who gave the corporate evidence on its behalf.

24. Equally there are powerful reasons why he should not be the person who gives the evidence. The Government argue that it is not practical and that the failure to put the Director General forward does not reflect any lack of importance being attached to this Inquiry. The Director General has to be available at all times to advise the Government and the Prime Minister about any crisis that may occur in relation to terrorist threats and attacks from hostile foreign actors. He is someone on whom the Government relies to be available to give advice as soon as it is required. If he was the witness who gave evidence to the Inquiry he would not only be involved and unavailable for the time that he was giving evidence but he would also be required to spend a considerable amount of time preparing for giving evidence by carrying out the necessary research. There would clearly be considerable difficulties in the Director General giving the evidence.

25. The families submit that their request that a person who can be publicly identified gives evidence of the actions of MI5 is based on the requirement for public justice.

26. Public justice is an important principle that applies to the proceedings of Inquiries as well as to courts. It is important that justice is done so far as is possible in public so that the public can see how it is administered and, if necessary, can hold to account those concerned in its administration.

27. It is not an absolute rule but there must be a good reason why the general rule of public justice is not followed. For example, there are occasions when witnesses in criminal trials give evidence anonymously. There the considerations of public justice are in conflict with the public interest in bringing to trial those accused of criminal offences and that trial being brought to a just conclusion. There are special procedures that need to be followed before a witness can give evidence anonymously and the Judge must be satisfied that the Defendant can still have a fair trial before that can happen but in appropriate cases it does happen. The balance is struck between the interests of public justice and bringing those accused of criminal offences to trial.

28. In this case I have to balance the risk to national security of having the Director General of MI5 committed over a period of time to preparing for and giving evidence to the

Inquiry against the cost to public justice in having the corporate witness not identified by name.

29. In my judgment the balance comes down against requiring the Director General to give the corporate evidence of MI5. Witness J is a senior member of MI5 and is well qualified by his experience to give the corporate evidence. The fact that MI5 have not put forward the Director General as the corporate witness does not mean on the evidence that I have seen that MI5 do not regard this Inquiry as important, it simply reflects the necessity to continue business as usual while this Inquiry continues. Terrorists and hostile actors will not cease their activities until the Inquiry is over.

30. The families have also submitted that MI5 should have put forward a different senior officer who could give evidence openly. I have explored this issue. MI5 have confirmed that, *"there is not anyone of witness J's seniority and experience that could give open evidence to the Inquiry about the matters that must be investigated, and who could be publicly avowed, other than the Director General."* It follows that this submission does not alter the position set out above.

31. For the reasons set out above, I am satisfied that it is appropriate in this case that Witness J should give evidence on behalf of MI5 and that he should give his evidence anonymously. This accords with the decisions made by Hallett LJ in the 7/7 inquest and the decisions of the Chief Coroner in the Westminster and London Bridge Inquests. I am reassured that this is the case but, as I have already emphasised, each case has to be decided on its own facts.

Screening

32. Some of the same considerations apply to the request that Witness J be screened from everyone except me and CTI as apply to the application for anonymity. The application is made on essentially the same grounds, namely that screening is necessary to give effect to anonymity because if Witness J is identified by sight there is a real risk that his appearance and his employment by MI5 would become public and he would then face similar risks as he would if he was identified by name.

33. No-one suggests that Witness J should not be screened from the public at large if I grant anonymity. To do otherwise would nullify my ruling on anonymity.

34. The issue that arises is whether family CPs should be able to see Witness J and/or whether advocates asking questions on behalf of the families should be able to see the witness when doing so.

35. There are rulings which go both ways. In the Westminster and London Bridge inquests, an anonymous corporate witness gave evidence on behalf of MI5 screened from everyone, including the Coroner. The Coroner was satisfied that this enabled a proper

investigation of the evidence to take place and for there to be a proper participation by the families.

36. In the 7/7 bombing inquests, where a corporate witness also gave evidence as to the knowledge of MI5 and its actions, Lady Justice Hallett (sitting as an Assistant Coroner) upheld the application for anonymity but allowed those who held interested person status to see the witness give evidence. Lady Justice Hallett is a very distinguished Judge and I have given her reasoning the closest attention. Her decision was fact sensitive. The risk to that particular witness was assessed by MI5 as being 'low' so that no Article 2 consideration was relied on. Hallett LJ said in the course of her judgment that "*if I were persuaded that there was … an increased risk to Witness G or national security or operations by refusing to allow him or her to give evidence from behind a screen, I would not hesitate to grant the application*".

37. Counsel to the Inquests argued in that case that the risk of an accidental encounter between Witness G and someone who might see him or her give evidence at the inquests was remote. MI5 have disclosed in their open submissions for this application that such a chance encounter did in fact take place following Hallett LJ's ruling.

38. I have to assess the risk in this case on the evidence and submissions that I have heard both in open and closed. While the risk to life if Witness J is identified remains the same, the risk of him being identified is reduced the smaller the number of people who see him. The families argue, as was argued in front of Hallett LJ, that the risk becomes so small that it can be disregarded if family CPs only are allowed to see the witness. So how great is the risk of identification if family CPs are able to see the witness?

39. Firstly, I am satisfied that hostile actors would be interested in finding out the identity of Witness J both because of his previous involvement in operations and his future work for MI5. I am also satisfied that some hostile actors have both the means and the desire to use covert means which are not known to members of the public to achieve their aims. Some of those covert means are known to MI5 but that would not necessarily avert the risk. The consequence of that is that a person who saw Witness J could entirely inadvertently reveal something which would assist a hostile actor in identifying Witness J's appearance and his status as an employee of MI5. There is no suggestion that any family CP would knowingly reveal anything about Witness J which might assist anyone else to identify him.

40. Secondly, the risk of an accidental meeting which might lead to a wider recognition, while small, is not non-existent as was demonstrated in the 7/7 inquests. It is not suggested that any of the family CPs would do that deliberately but that does not mean that there is no risk that it might happen inadvertently. That risk is increased because of the number of family CPs.

41. MI5 assess the risk as not being minimal and they are the people that have the greatest expertise at assessing risk within the intelligence community. While I would not simply accept their submissions because of their expertise, I am not, in the words of some authorities, waving a white flag, it does need to be recognised in assessing the weight to be attached to their submissions. MI5 are sometimes accused of using claims of secrecy to cover up their failings. It is difficult to see how this application for screening could logically fall into that category.

42. On the other side of the balance, I have to consider the impact of screening from the families on the principle of public justice and the effective participation of the families in the Inquiry process.

43. How important is it to see a witness in order to participate effectively in the process? The answer is that it depends on the individual circumstances of the case.

44. Family CPs regard it as important to be able to see witnesses particularly when they are contentious. I must take account of the risk that the effect of screening the evidence of an important witness will reduce the ability of the Inquiry to allay public concern about the conduct of MI5.

45. It is also suggested that it may be important to see a witness in order to assess their credibility. The family CPs relied on the decision of Jefford J in the case of *Dyer v Assistant Coroner for West Yorkshire* [2019] EWHC 2897 (Admin) in which she quashed a decision made by a Coroner that police officers could be screened from bereaved family members when giving evidence. One of the matters relied on by the Judge was that it was necessary to see the reaction of the witness to questions in order to assess their credibility. That decision has since been appealed and the Court of Appeal in their judgment (reported at [2020] EWCA Civ 1375) overturned the decision of Jefford J and restored the ruling of the Coroner. One of the matters on which the Court of Appeal disagreed with the Judge was that it was a factor against screening that it prevented the families from assessing the demeanour and credibility of the witness. The Court of Appeal found that it has increasingly been recognised that a witness' demeanour is an unreliable basis on which to decide credibility (see, for example, *R (SS) (Sri Lanka) v SSHD* [2018] EWCA Civ 1391 and *R v PMH* [2019] 1 WLR 3243).

46. These decisions run contrary to other, earlier decisions and represent a change in judicial attitudes. Being able to assess a witness' credibility was one of the factors relied on by Hallett LJ in rejecting the application for screens in the 7/7 inquests. It may be that the final position that the Courts will adopt will lie somewhere in between. My experience is that there are cases where being able to see a witness is a help in assessing credibility. There are also cases where seeing a witness may not assist in assessing credibility. In others seeing a witness might be misleading because a witness' reactions may well be misunderstood.

47. This is not a case where the credibility of Witness J will be significantly in issue. It is also of importance that I, as the decision maker, will be able to see the witness and make my own assessment. In doing that, I am able to rely on some experience of trying to assess a witness' credibility and the pitfalls that there are in relying too heavily on any physical reaction of the witness. My experience tells me that it is normally better to place greater emphasis in making any assessment of credibility on the facts which I find to be proved.

48. I do not consider that screening Witness J from the family CPs as well as the public will in any way inhibit the ability of the Inquiry to carry out its terms of reference.

49. I accept that no family CP would deliberately reveal any information that they might have gained from seeing the witness. I also accept that no family CP, if there was any accidental meeting with the witness, would do anything to deliberately reveal the witness' identity. In my view, nevertheless, it is impossible to exclude the risk of identification happening, particularly when there may be a number of resourceful people who are trying to find out who the witness is.

50. Article 2 is engaged in Witness J's case; I am satisfied on the evidence that there would be a real and immediate risk to Witness J's life if his identity were to be made public or if his appearance and the fact of his employment by MI5 were made public. There is therefore an obligation on me to ensure that I do not act in a way that creates or materially increases these risks and thus put his life in peril. In those circumstances, as I am satisfied that allowing the witness to be seen by family CPs will create or materially increase a risk that Witness J's appearance and the fact of his employment by MI5 will be made public, I shall direct that Witness J should be screened from family CPs as well as the public. Weighing the factors set out in the preceding paragraphs of this ruling, I am also satisfied that screening Witness J from family CPs is necessary to comply with Article 8 and the requirements of fairness in this particular case.

51. I have considered separately the issue of whether Witness J should be screened from Counsel for the family CPs who are asking him questions. This is an inquisitorial process and it is important for any advocate questioning any witness to develop some sort of relationship with the witness. It may be important for an advocate to assess an answer and consider follow up questions by taking into account the visual reaction to the questions by the witness as well as what was said. That does not relate simply to credibility but whether a question appears to come as a surprise, which may indicate that it is something that the witness had never thought of.

52. I think that preventing advocates from seeing Witness J when asking questions is potentially capable of limiting the effectiveness of the questioning which in itself is capable of affecting the ability of the Inquiry to get to the truth.

53. Against that, I assess that the risk of any of the four lead advocates for the families inadvertently disclosing information about the witness which might assist his identification is very small, as is the possibility of any chance encounter, particularly one which might lead to someone else being able to identify the witness. Those risks are, in my judgement, almost non-existent, particularly given that the advocates are very experienced and will take great care to ensure that they do nothing which might give assistance to anyone else to identify the witness.

54. In those circumstances I propose to allow the four lead advocates asking questions on behalf of the families to see Witness J when questioning him. I also hope that this will provide some reassurance to the family CPs themselves.

55. In order to give effect to my ruling in a way that will address the risk I have identified and allow for necessary practicalities during his evidence, I conclude that the following will be permitted to see Witness J when he is giving evidence:

    a. Myself.

    b. Two members of the Counsel to the Inquiry team. They will be identified by name in the draft order that is circulated.

    c. Lead Solicitor to the Inquiry, Mr Suter.

    d. The four lead advocates asking questions on behalf of the families will be permitted to see Witness J when questioning him. These four lead advocates will be identified by name in the draft order that is circulated. Other members of the family legal teams, including junior counsel and solicitors, will not be permitted to see Witness J.

56. In her application and subsequent submissions, the SSHD has not requested that I permit her lead counsel to see Witness J should they wish to ask questions of him. In light of this ruling, should the SSHD indicate that she wishes her lead counsel to be able to see Witness J when asking any questions of him, I will agree to that request. As with the four lead family advocates, the lead counsel for the SSHD will be identified by name in the draft order that is circulated. I do not consider that other members of the SSHD's legal team, including junior counsel and solicitors, should be permitted to see Witness J.

Variation of the Inquiry's Rule 10 procedure

57. I am asked by the SSHD to extend the time of the advance notice given of areas of questioning to be pursued with Witness J and to require CTI and CPs to specify in detail what the questions will be.

58. The reason for the application is the amount of material which Witness J will be required to cover and because a careful check will need to be made of what can be disclosed in open so as not to damage national security. That is not necessarily an easy exercise. The SSHD also submits that granting the variation will allow Witness J to address questions as fully as possible in open. The families have objected on the basis that MI5 are asking for special treatment which they are not entitled to. I agree that they are not entitled to special treatment and I shall not give it. I would consider in the same way any application for a longer period of notice from any witness who had a great deal of ground to cover.

59. From the point of view of good case management, I do not wish, if it can be avoided, to have a large number of issues carried over so that additional preparation can take place. I will therefore allow the extra time for the general area of questions to be notified to Witness J. I shall not require that greater detail is provided as to the actual questions to be asked as that would in my view be special treatment to which Witness J is not entitled. I will direct that any document which it is intended to refer to, which will include open source reporting, must be notified in advance in accordance with the Inquiry's Rule 10 procedure (modified to allow the extra time that has been sought). There is a great deal of it and I would not expect Witness J to deal with that without notice. Again, I would do exactly the same with any other witness. I do not consider that a proper inquiry is going to be assisted by trying to catch witnesses by surprise. I would expect any witness to have a proper opportunity to consider any document rather than being shown it in the witness box.

Sir John Saunders

11th February 2021

manchester arena inquiry

Ruling on Application for Special Advocates

1. This application is made by the families represented by John Cooper QC and Duncan Atkinson QC who argue that the appointment of special advocates will enable the families to have more meaningful participation in any closed hearings that take place as part of the Inquiry. It is not supported by the families represented by Pete Weatherby QC and Guy Gozem QC who submit that it is inappropriate in the circumstances of this case; will achieve nothing for the families; and would be a waste of time and resources. The SSHD opposes the application and argues that, in any event, there is no power to appoint special advocates to a statutory inquiry. The application is opposed by GMP who accept that I have the power to appoint special advocates but argue there is no justification for their appointment in this case.

2. By way of background, special advocates are normally appointed by the Law Officers to represent the interests of a party in proceedings from which that party and his or her legal representative are excluded. Their functions are to represent the interests of a party by making written and oral submissions and examining witnesses at hearings. A special advocate can take instruction from the party they are appointed to represent before they review sensitive materials but they are precluded from having any contact after they have carried out their review. It follows that the contact between a special advocate and the families or their representatives would be very limited. The sort of occasions where special advocates might be appointed are where allegations are made against a party and he or she cannot know for legal reasons the nature of the allegations or where they come from. A special advocate can be appointed in those circumstances to test the evidence and make submissions to the tribunal. The appointment of special advocates is intended to be restricted to a limited number of circumstances.

3. The starting point for the Cooper/Atkinson submission is that closed hearings '*undermine every component of the purposes set out by Lord Bingham'* in *R (Amin) -v-SSHD* [2003] UKHL 51 and therefore '*where full openness is not possible, particular care should be taken to explore measures which may enable those purposes to be*

fulfilled'. As pointed out in the skeleton argument provided by CTI, the first part of that starting point does contain some advocates' hyperbole but it is correct that the '*full facts will not be brought to light'* if there is a closed hearing. Further the family CPs will not be able to directly participate in closed hearings and anything that could enable that to occur has to be considered.

4. First of all, I will consider the argument that I have no power to appoint special advocates. The submissions of GMP on this point set out the position in an economical and balanced manner, exploring the competing arguments. The starting point is that a public inquiry is a creature of statute and neither the statute or the rules introduced under the 2005 Act give express provision for the appointment of special advocates. Accordingly the only way special advocates can be appointed in law is if it is a *'necessary implication'* arising from the Act or the Rules.

5. Support for the fact there is such a necessary implication can be found in s.17 of the Inquiries Act 2005 which gives me the power to direct the procedure and conduct of an inquiry. Arguably, that could include the appointment of a special advocate. There is also authority supporting the existence of a general power to appoint a special advocate. In *R-v-AHK and others* [2009] EWCA Civ 287 it was stated that '*it is well established…that the courts may invite the A-G to appoint a special advocate in a case where there is no statutory procedure as long as the circumstances make it appropriate'*.

6. I consider that the case of *R (Roberts) -v- Parole Board* [2005] UKHL 45 is particularly relevant. In that case, the House of Lords decided narrowly that the Board did have the right to appoint special advocates in order to ensure that the procedure in a hearing complied with Article 5(4) ECHR. The issue in that case was that the police wanted to put information before the Board which it could not disclose to the prisoner or his legal representative and for which PII could properly be claimed. The Court therefore had the options of either (1) not allowing the Board when making the decision whether to direct release to take into account material which could be important information as to risk, or (2) adopting some procedure where the prisoner's interests could be maintained and which would be compliant with Article 5(4). Article 5(4) is the provision which requires the Board to adopt a fair procedure in making its decision. The Parole Board at that time did not have a statutory power to appoint special advocates, although it does now. It is also a creature of statute so the same issues arose as do in this case.

7. In this case I am required to comply with the requirements of Article 2 ECHR and, while it may be difficult to think of examples, I am not prepared to say as a matter of law that there is no power to appoint special advocates to an inquiry. In my judgment there is such a power and my ruling in that regard accords with the ruling by Sir Robert Owen in the Litvinenko inquiry.

8. I do accept that it would be rare to appoint special advocates to an inquiry because the need for special advocates normally arises where an accusation is being made against a party in proceedings and the party cannot know the details of the accusation. That normally arises in adversarial proceedings but can arise in inquisitorial proceedings. Proceedings before the Parole Board are generally regarded as being inquisitorial and have progressively become more so.

9. In most cases Counsel for the Inquiry are well able to carry out the role that special advocates would carry out, but it is possible that that is not always the case. Consider a case where a CP is subject to an accusation in a closed hearing which he cannot be told the detail of. If made out the accusation may result in the CP being criticised publicly. It may be difficult for CTI, who are in effect neutral, fairly to represent the CP's interests which might, as a matter of procedural fairness, need the intervention of a special advocate. While that is an example that has occurred to me while considering my decision, it has not been the subject of any detailed argument and is different from the situation that I am considering. One of the matters that Sir Robert Owen did think could weigh in favour of appointing special advocates in the Litvinenko case was that the family of the deceased in that inquiry did have special information which might feed into the closed proceedings. Despite that he did not consider that the appointment was justified. He considered that, even though the family had special knowledge relating to the involvement of the Russian State in the death that did not mean that special advocates should be appointed. In this case the family CPs do not have any special knowledge relating to the matters to be investigated in closed so there is a less persuasive argument than there was in the Litvenenko case.

10. So the power exists but should I exercise it in this case? Mr. Cooper and Mr. Atkinson rely on what the family CPs have already contributed to this process by questioning the evidence and coming up with new lines of inquiry. None of that is in issue. They also point out the further disclosure that has been made in relation to the closed information as a result of issues that they have raised with CTI. So they say I should draw the inference that special advocates would contribute meaningfully to my process.

11. On the other hand the interests of CTI and the families will be aligned. The families have no special information that they could feed into this specific part of the inquiry. A special advocate will in reality be acting as a check to make sure that CTI are doing their job properly. Does that justify their appointment? I have confidence in CTI to do their job properly and no-one has given me any reason not to have that confidence, indeed submissions have been to the contrary. Moreover, I will be able to judge during the hearings whether CTI are doing their job properly. I may ask questions myself of witnesses and am likely to do so. There is nothing to stop CPs speaking to CTI to suggest lines of questioning. While special advocates have expertise in deciding what material should be covered by PII and in gisting material, CTI do also have the necessary experience and skills to do that. Also, I think that it is important that the families are not given an inaccurate impression of what a special advocate can do.

Importantly once he or she has heard any of the PII material there can be no communication with CPs or their lawyers so they will never hear what, if anything, the special advocates have achieved or what happened in the closed hearings. So if the family CPs are looking for re-assurance that the investigation conducted in a closed hearing was done rigorously they will not be able to get it as they will not be able to have contact with the special advocate after he or she has been given the restricted information.

12. For all those reasons I have concluded that it is not necessary or desirable to appoint special advocates for the reasons advanced jointly by Mr. Cooper and Mr. Atkinson.

13. Finally, Mr. Cooper suggests that as a matter of fairness, if the families cannot be represented in the hearings nor should the Security Service or CT police. I have considered this. There are a number of answers to that submission. First, like all CPs the Home Office and GMP have the right to representation. Second, their presence in the closed hearings does not require new sensitive material to be disclosed to them, since those organisations know the information already. Third they, unlike the family CPs, do have special knowledge to input into the inquiry. They have said, like all CPs, that they will play their part in trying to uncover the truth and take steps to make sure this never happens again. There is no reason why they should not be given the chance to do so. Fourth, they may be criticised as a result of the evidence which is heard in closed session and they will have the right to make representations about any criticism. Fifth, their input will probably be required in closed session to enable further gists to be developed which can then be disclosed to CPs in open.

14. In all those circumstances, I refuse the application for special advocates.

Chairman

Sir John Saunders

7 October 2021

manchester arena inquiry

Ruling on Restriction Order applications made by

the Security Service, GMP, NCTPHQ and Counsel to the Inquiry

Background

1. At the time that I was conducting inquests into the deaths of the 22 people who died at the hands of Salman Abedi (SA) I made PII rulings excluding relevant evidence from the inquests on the grounds that to include it would have a detrimental effect on national security. The consequence of that has been that the Home Secretary agreed to establish a statutory Public Inquiry which enables me to consider that relevant evidence in a CLOSED hearing.

2. The evidence could only be heard in a CLOSED session pursuant to a Restriction Order (RO) under s.19 of the Inquiries Act 2005. Applications have been made to make restriction orders to cover the material covered by the PII ruling.

Legal Framework

3. I set out in my ruling of 31st July 2020 the legal principles that I should apply to applications for ROs and I repeat it here:

> *Pursuant to section 17 of the Inquiries Act 2005 ('the 2005 Act'), the procedure and conduct of the Inquiry are a matter for my discretion. This provides a broad discretion which I must exercise fairly and with regard to the need to avoid unnecessary costs.*
>
> *The power to make restriction orders is to be found in section 19 of the 2005 Act. Section 19 has to be read in the context of section 18(1) which provides that as Chairman I must take 'such steps as I consider reasonable to secure' access by the public and reporters to hearings held as part of the Inquiry and to documents 'given, produced or provided to the inquiry'. CTI in their submissions have emphasised the inclusion of the word 'reasonable'.*
>
> *By virtue of section 19(2), I can limit that access by making a restriction order which can restrict attendance at the Inquiry and disclosure or publication of any evidence or documents given, produced or provided to the Inquiry.*

So far as is relevant to present considerations, section 19(3) provides that a restriction order should only specify such restrictions as I consider '... to be conducive to the inquiry fulfilling its terms of reference or to be necessary in the public interest'.

In deciding what is conducive to the Inquiry fulfilling its Terms of Reference or to be necessary in the public interest I must have particular regard to the matters in subsection 4, which so far as relevant are:

(a) the extent to which any restriction ... might inhibit the allaying of public concern;

(b) any risk of harm or damage that could be avoided or reduced by any such restriction;

(c) ...

(d) the extent to which not imposing any particular restriction would be likely

(i) to cause delay or to impair the efficiency or effectiveness of the inquiry, or

(ii) otherwise to result in additional cost...

Section 20 makes further provisions in relation to restriction orders including a provision in subsection 4 which gives me the power to vary or revoke a restriction order by making a further order during the course of the Inquiry.

My approach to these applications following the OPEN hearing on 20th September 2021

4. At the OPEN hearing on 20th September 2021, Pete Weatherby QC took the lead on behalf of the bereaved families in making submissions as to how I should approach the applications for ROs.

5. He urged me to take a careful and analytical approach to the application for restriction orders. It does not follow as a matter of course, he argued, that all those parts of the evidence covered by my PII ruling should be made the subject of restriction orders. He warned against a broad-brush approach being taken and argued that the decision is not necessarily a binary one, meaning that while part of a witness's evidence may be properly subject to a restriction order, other parts may not be. While he accepted that consideration of a mosaic effect (that is that putting several apparently innocuous facts together may result in a breach of national security) is justifiable, he warned me against simply accepting such a suggestion without proper examination of the basis for it. He also submitted that there are different categories of restriction orders that I can impose short of no disclosure to CPs and the public at all. He reminded me that there should be the least possible derogation from the principle of openness and transparency in these hearings.

6. In general terms I accept Mr. Weatherby's submissions and I have had all those matters in mind when making my decision on restriction orders. In addition, it must also be borne in mind that the application for PII was based on the damage to national security

that would be caused by disclosure of that material. In general terms the basis for that is the assistance that terrorists would have in making successful attacks if that information was made public. That is something that I had to consider with great care when considering my PII ruling.

7. The basis for the application for restriction orders is the same and also needs to be considered with great care. The applications are made under s. 19 of the Inquiries Act 2005.

8. In practice the test for PII is very similar to the test for making a restriction order based on national security. In both cases, I have to decide whether considerations of national security outweigh the requirement for openness in the inquiry's proceedings. The need for openness and transparency arises from the principle of open justice and as part of the right of the bereaved families to participate effectively in the Inquiry as provided by Article 2 of the ECHR.

9. National security is a very important consideration, particularly when the concern is to prevent attacks by terrorists on the rest of the population. If I am satisfied that that evidence must be given in a CLOSED hearing for that reason, then I cannot believe that anyone in this process would disagree, particularly the bereaved families who have suffered so much.

10. When dealing with an application for PII, rather than restriction orders, the courts have made it clear that once a PII ruling is made a procedure should not be followed to allow for partial disclosure nor use of confidentiality rings because of the difficulties that that inevitably causes. See *Somerville v. Scottish Ministers* [2007] 1 WLR 2734 and *AHK v. Secretary of State for the Home Department* [2013] EWHC 1426 (Admin). So, for example, the courts have made it clear that any arrangement that allows for lawyers but not their clients to see confidential material should not be introduced. The risks of inadvertent disclosure have to be avoided. While lawyers often submit that there is no risk of inadvertent disclosure in providing them with secret information, experience has proved otherwise. Most judges have experienced inadvertent or mistaken disclosure of material subject to an order for non-disclosure, sometimes by experienced lawyers. While partial disclosure may be permitted under a RO, it is necessary to be careful to avoid the real risk that this would lead to inadvertent disclosure particularly where national security is concerned.

11. Mr. Weatherby submitted that there is a concern that MI5 are carefully stage managing the PII/RO process to limit public scrutiny or criticism. That concern was echoed by John Cooper QC, who was concerned that the Inquiry Legal Team would rubber stamp the applications for ROs made by the Security Service.

12. Everyone understands that there may be a good reason for excluding some of the evidence coming from the Security Service from a public hearing and that is accepted. However when evidence is heard in a CLOSED session, the suspicion can always arise that national security is not the real reason for the exclusion and that the real motivation is to cover up wrong doing or inadequacies in the work of the Security Service. As I have said that is something that I have had and will continue to have at the forefront of my mind.

13. Some of those concerns may arise from what have been said by the higher courts in cases such as *R(Begum) v. SIAC* [2021] UKSC 7 where it was emphasised that the court should pay due regard to the assessment of national security of the Secretary of State because she is charged by Parliament with making these assessments and is accountable to Parliament for her exercise of that responsibility. It was, however, significant in that case that no evidence was heard as to the effect on national security.

14. Equally, in a number of cases the Courts have re-iterated that it is not for them to defer unthinkingly to the view of the Secretary of State on national security.

15. In my judgment the approach of a court may differ depending on the issue being litigated and the relevance of national security. I shall therefore set out, for the avoidance of any doubt, my approach in this Inquiry. It is for me to make the decision how the balance between national security and open justice is to be struck in any particular case. The Security Service knows a great deal better than I, and most people, how the disclosure of information could affect national security. That does not mean that I will not make my own judgment on this. What it means is that I shall look to the Security Service to explain how national security is affected. This may involve effects of which I would not be aware and will need an explanation for. But I should be able to understand the reasoning and explanation and will not accept it if I consider it is not made out persuasively. In particular, I shall give the weight which I consider appropriate to any such explanation in carrying out a balancing act. I will not allow the proceedings to be 'stage managed' by the Security Service, GMP or others nor will I act as a rubber stamp. That would be a negation of my function as Chairman of this Inquiry. In so far as my legal team are concerned, I am confident that none of them would allow themselves to be stage managed or turned into a rubber stamp.

16. I have followed and applied these legal principles in making my decision. In determining what evidence should be subject to ROs I have followed the principle of making the minimum interference necessary. I have balanced what I am satisfied is capable of affecting national security against the open justice principle and the requirements of Article 2 in making my decision whether to make ROs. I have kept in mind that there may be lower levels of restriction other than a CLOSED hearing which could meet the public interest. I have had in mind that ROs may not need to be all or nothing i.e. part of a witness's evidence could be heard in open while other parts have to be in closed. I shall keep under review any restrictions when listening to the evidence with a view to moving any part of the evidence into OPEN if the balance seems to me to be in favour of disclosure. At the end of the evidence I shall consider what evidence can be gisted while preserving the public interest in protecting national security.

Rulings on the applications following the CLOSED hearing on 18th October 2021

17. I heard submissions by counsel on behalf of GMP and the Security Service, as well as CTI. There are two principal bases for the applications for the ROs which cover most of the evidence which are sought to be heard in the CLOSED hearings. They cover the same material on which PII was claimed when I was conducting the inquests. They are both bases and categories of evidence which have been accepted by the courts as attracting PII in other cases because of the risk that disclosure would pose to national security. I have kept carefully in mind that each case is fact sensitive and simply because applications for PII for similar reasons have been accepted by the courts in the past, that does not mean that PII will automatically be granted in these proceedings. I have also

considered whether PII still applies or whether subsequent developments since the PII ruling (in particular the conclusion of the criminal trial of Hashem Abedi), the passage of time, or what has already emerged in evidence to the Inquiry has changed this. I am satisfied on the information that I have been given that the same considerations apply as did when I made my PII ruling and the evidence that I have heard has not changed this, save in three respects. Following the CLOSED hearing and my request that the Security Service carefully review its national security assessment in respect of several specific pieces of information, the Security Service varied its application and no longer seeks a RO over the following three issues:

a. Intelligence available to the Security Service that Salman Abedi associated with a serious crime gang called the Rusholme Crips;

b. The Security Service's knowledge of the use of stash cars for criminal purposes; and

c. The Security Service's general assessment, based on the intelligence picture as it stands and without prejudice to the ongoing police investigation and any further evidence that the police may obtain, that no one other than Salman Abedi and Hashem Abedi was knowingly involved in the attack plot.

18. CPs will therefore be able to ask questions about these matters of Witness J in the course of his OPEN evidence on 25th and 26th October 2021.

19. Apart from these three matters, I have decided to grant the applications made by the Security Service, GMP/ CTPNW and NCTPHQ and make ROs which cover the relevant evidence in the manner sought. I am satisfied that it would be damaging to national security to reveal these matters publicly and that risk outweighs the interests of open justice on the facts of this case.

20. I have considered whether any other parts of the material which the ROs seek to cover could nevertheless be moved in to OPEN or a lesser restriction attached to it. In particular, I have considered the submission of the families that they are not concerned with how the information covered by PII was obtained; what interests them is what the information was and what steps were taken as a result of that information. They have asked me to consider whether therefore the information could be revealed while not disclosing how it was obtained. Whereas there will be occasions when that would be possible, I am satisfied that, as it stands, it is not possible in this case to do that without causing substantial damage to the interests of national security. I will however continue to keep this under review as the Chapter 14 evidence is heard.

21. I have accordingly made ROs to cover the material included in the PII ruling, as well as the witness evidence from those witnesses from the Security Service and GMP which relate to that material.

Preventability Expert & other witnesses giving CLOSED evidence

22. CTI seek a RO covering the identity of the expert that I have instructed to assist with this area of the case. He was a former officer of the Security Service and the application is made on the basis of there being risk to him if his previous employment becomes public. Mr. Weatherby argues that this seems to be a class application i.e. that all

officers or former officers of the Security Service should automatically be covered by an order for anonymity. The fact is that those who have been active as officers or agents for the Security Service invariably are granted anonymity in legal proceedings when they ask for it. That does not mean that judges do so in individual cases automatically. It just means that in individual cases judges have accepted on a specific risk assessment that because of the witness's current or previous employment he or she would be at risk if their identities were made public and have reached similar decisions. The consequences of identification are likely to be less for former officers who are no longer employed than for current officers, who in addition to any risks to them would not be able to carry on their employment once their identity was revealed.

23. I have considered a risk assessment which is specific to my expert and while many of the factors which apply to him may apply to other retired officers it does not mean that I have treated this as a class application. I have made a RO covering the identity of my expert having considered all relevant matters. As a separate issue, I will continue to keep under review whether any part of his report can be disclosed to Core Participants.

24. Other applications for ROs have been made to cover the identification of other Security Service and GMP officers who would not be able to carry out their jobs if their identification had been made public. On the individual facts of their cases I am satisfied that they are made out and I therefore grant those applications and make the appropriate ROs.

25. As I have repeatedly confirmed, I will keep under review whether any further matters can be moved into OPEN during the CLOSED hearings. The RO's which are the subject of this judgment each carry a recital which permits me to vary them at any stage. At the conclusion of the CLOSED hearings a detailed analysis of what matters can be gisted or summarised, and how, will be undertaken and any further information which can be disclosed to CPs and/or the public will be.

Chairman

Sir John Saunders

25 October 2021

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inquiry

Ruling on application for further evidence from Witness J and T/ACC Scally

1. At the end of the closed hearing and in accordance with the procedure which had been agreed the Inquiry made public a document entitled 'Inquiry Legal Team's Gist of Closed Hearings'. The aim of that document was to put into the public domain those parts of the evidence given in the closed hearings which, after careful consideration, it was decided need not be covered by the Restriction Order. After the publication of the gist, applications have been made by the family Core Participants (CPs) to recall Witness J and T/ACC Scally to answer further questions arising from it. That is the primary application, but alternatively it has been suggested that these witnesses could be asked to answer questions in writing.

Discussion

2. In deciding the best way to resolve this application I have had foremost in my mind three principles. First, applying the principle of open justice and in accordance with s.18 of the Inquiries Act 2005, as much as possible should be disclosed into public. Second, as provided for by s.19 of the Inquiries Act 2005, the Inquiry should not endanger national security by releasing into public information which would assist terrorists. Third, in accordance with s.17(3) of the Inquiries Act 2005, my decision should be fair to everyone.

3. I have considered all the questions that have been submitted. I have heard arguments on behalf of family CPs and considered open and closed arguments from the Security Service and Counter Terrorism Policing North West (CTPNW).

4. This process has come right at the end of the Inquiry's oral evidence hearings and shortly before closing statements will be made on three chapters of the Inquiry's evidence, including the issue of preventability. It is important that all the information which can be disclosed is disclosed, so as to ensure that those submissions are as focussed and helpful to me as they can be.

5. I am very concerned, as I indicated during the course of argument, about a hearing taking place where the response to most of the questions from the witnesses is that they are unable to answer for reasons of national security. That would be deeply upsetting for the bereaved families, unsatisfactory for the witnesses and would frustrate the process, as it would be of no assistance to me.

6. The application is made in the following circumstances.

7. First a process was undertaken by the Security Service and CTPNW to prepare open witness statements. That process was supervised by the Inquiry Legal Team in the light of its knowledge of the PII application. Those witness statements were disclosed to CPs.

8. Second, Witness J and T/ACC Scally were then called to give oral evidence in open. While I recognise that some may have found this an unsatisfactory experience, it successfully put into the public domain the content of the witness statements and permitted for follow up questioning which elicited further answers.

9. Third, following the open oral evidence of Witness J and T/ACC Scally, the Inquiry undertook a substantial closed hearing, where matters were investigated in great depth and in a very probing manner by Counsel to the Inquiry (CTI). At the end of that, another intense procedure took place of establishing what could be broken out into public through a gist. The aim of the Inquiry Legal Team in preparing that gist was to ensure that everything that could be put into public without endangering national security would be.

10. Fourth, two witnesses who participated in the closed hearings, former DCI Morris and T/DI Costello, gave open oral evidence to the extent they could about one aspect of that which the Inquiry investigated in detail in closed. Their evidence was accompanied by disclosure of transcripts of those parts of the evidence which they gave in closed, but which could be broken out into open.

11. In my judgment the process which has been adopted has been both robust and flexible. It has had, as its central driving factor my strong determination to ensure that everything which can safely be known publicly is broken out into the public domain.

12. It follows that in many, if not most cases, either witness, if he returns, will not be able to answer further questions, given the strong focus there has been on putting into open as much as possible.

13. I recognise that the gist, while giving a significant amount of information, has raised a number of further questions in the minds of those who have been following the Inquiry. I shall answer as many of those questions as I can in Volume 3 of my open Report. I well understand the desire of the bereaved families to have those questions asked and answered, but everyone must appreciate that if answers could have been given to those questions without damaging national security, they most likely would already have been provided.

14. In providing the opportunity for further questions to be posed, I recognised that the legal teams representing the family CPs might be able to produce questions which can be answered, which had not been considered in the closed hearing. In doing so, I also recognised that they were able to take instructions from the family CPs in relation to

issues which were important to them. I, therefore, gave them the opportunity to do so. I also recognise that some of the questions are focussed on providing support for submissions that the family CPs may wish to make on preventability.

Primary application: oral evidence

15. I have the advantage of knowing the material that justified making the Restriction Orders and I am able to see where the questions cannot be answered without damaging national security. I further consider that some of the contents of the 'questions' are comments which can be made more effectively as submissions, which I will consider with care.

16. I wish this to be as forensic an exercise as possible. While I am grateful for the time and care which has been given to the drafting of the question, in my view, providing too much context and comment in the questions will make them more difficult to answer.

17. The questions of the family CPs have necessarily been drafted in something of a vacuum. They are phrased in understandable terms, but I have concluded that they are likely to generate more information if focussed more narrowly. My greater knowledge enables me to do this.

18. Further, the traditional back-and-forth of oral questioning will not have its traditional advantages in this situation. What is under consideration is an extremely limited area for further material to be adduced into open. Great care will need to go into formulating the answer. Given how narrow the scope for permissible answers is, in my judgment follow up questions are overwhelmingly likely not to be capable of immediate, if any, answer.

19. Accordingly, I have concluded that Witness J and T/ACC Scally should not be recalled to give oral evidence. In reaching this conclusion I have taken into consideration the matters that I have mentioned above.

Secondary application: written evidence

20. With the assistance of CTI I have reduced the length of questions to simple enquiries which I consider may be capable of being answered in open. Those answering them have the benefit of reading the context, provided by the family CPs, in which they have been composed.

21. I have not included questions which I know cannot be answered for national security considerations. I have focussed the questions on what are capable of being important questions for the Inquiry in the light of the wider knowledge I have. I already have a good idea from the closed hearing where the most intense scrutiny should be directed.

22. I have only included those questions which I believe can be answered without damaging national security. I will permit the Security Service to make submissions if they consider that answering the questions would damage national security. I do that because the Supreme Court has directed us that we must pay close attention to the submissions of the Security Service on national security as they are the experts. I shall listen to what they say, but I shall be the final arbiter of whether national security will be damaged by answering the questions.

23. Accordingly, I accede to the application that further questions are posed. The questions which have been prepared are based on those provided by the family CPs. The questions are set out at Appendix 1.

Further position statement

24. Within those matters raised by the family CPs are a number a questions which drive at identifying what the Security Service and CTPNW's corporate position on certain topics is. In my view all CPs are entitled to know what the corporate position is on a number of these matters. This will enable them to know what is in issue and where to direct their own closing statements.

25. However, these are not matters which necessarily have to be dealt with by Witness J or T/ACC Scally in a witness statement. At Appendix 2 I have listed those matters which I direct the Security Service and CTPNW should address by way of short further position statements. It may be that the Security Service and CTPNW intend to deal with these matters in their written open submissions in any event.

Concluding remarks

26. The witness statements provided in response to the questions at Appendix 1 will be published on the Inquiry's website. As such, they are formally received into evidence by the Inquiry. They can be referred to in closing statements and will be available to the press and the wider public to consider.

27. Given that oral closing statements are due to be made on 14th to 16th March 2022, I direct that the Witness J and T/ACC Scally submit witness statements responding to the questions by 1pm on 11th March 2022. This will permit comment to be made on the content by CPs during their oral closing statements.

28. I further direct that the short further position statements are submitted by the same time and date.

29. Any argument by the Security Service and/or CTPNW to the effect that no answer can properly be given to the matters in Appendix 1 and/or Appendix 2 is to be provided in writing by 1pm on 4th March 2022.

30. Finally, I am extremely grateful for the continued cooperation from all CPs. I recognise the thought and effort which has been put into the submissions and draft questions I received under considerable pressure of time. As I stated above, the further documents I have directed to be produced do not mark the end of my efforts to ensure that everything that can be publicly known will be publicly known. When I produce Volume 3 of my Report I will again revisit this issue with a view to breaking out what further material I can.

Sir John Saunders

2 March 2022

APPENDIX 1

(questions in black should be answered by both Witness J and T/ACC Scally; questions in red should be answered by Witness J and questions in blue should be answered by T/ACC Scally)

Didsbury Mosque

1. When did the engagement with Didsbury Mosque referred to in paragraph 38 of the gist occur?

2. In what way was the response of Didsbury Mosque less positive than that of the other mosques?

Prevent Referral

3. Evidence was given in open by both MI5 and CTP that Salman Abedi was never considered for a Prevent referral. This is contradicted by paragraph 41 of the gist. Assuming the gist to be correct, (a) was this consideration given by MI5 or CTP or both and (b) what is the explanation for the erroneous evidence of MI5 and CTP?

"De Facto" Subject of Interest

4. Who treated Salman Abedi as a "De Facto" Tier 2 Subject of Interest?

5. Between September 2015 and August 2016, were those treating Salman Abedi as a "De Facto" Tier 2 Subject of Interest aware that a Schedule 7 ports examination of Ishmale Abedi on 3rd September 2015 had produced material indicating that Ishmale Abedi sympathised with Islamic State?

Subjects of Interest

6. Has the total number of Subjects of Interest with whom Salman Abedi had contact been disclosed in open together with their classification, eg. direct or second level?

Systems for Communicating

7. When was it realised by anyone with a supervisory or managerial role at MI5 that the systems for communicating between MI5 and CTP had shortcomings described in the gist?

8. When was anything done by MI5 to address those shortcomings?

9. When was it realised by anyone with a supervisory or managerial role at CTP that the systems for communicating between MI5 and CTP had shortcomings described in the gist?

10. When was anything done by CTP to address those shortcomings?

Written Policy

11. When was the written policy referred to in paragraph 25 of the gist implemented?

12. Is it the view of MI5 that its implementation has improved the aspect of the partnership between MI5 and CTP to which it relates?

13. Is it the view of CTP that its implementation has improved the aspect of the partnership between MI5 and CTP to which it relates?

Libya

14. When did Libya become one of the top four priorities for CTP?

15. Was Libya also a top for priority for MI5 and, if so, when did it become so?

APPENDIX 2

(questions in black should be addressed by both MI5 and CTP, questions in red should be addressed by MI5 and questions in blue should be addressed by CTP)

Oliban

1. Is it CTP's position that it shared the Oliban material with MI5 before the Arena Attack?

2. Is it MI5's position that the Oliban material was not shared with it before the Arena Attack?

3. If there is a difference of views, have steps been taken to establish whether CTP or MI5 is correct and, if so, with what outcome?

4. If MI5 did not receive the Oliban material before the Arena Attack, when did they receive it?

"De Facto" Subject of Interest

5. Is it the position of MI5 that no person should be treated as a "De Facto" Tier 2 Subject of Interest but instead should be either Open or Closed and that this should also have been the position in 2015 to 2016?

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6. Do MI5 and CTP consider that the attribution of the 3458 number to Salman Abedi, if made in 2014, would have made a material difference to the assessment of the risk Salman Abedi presented?

Chilling Effect

7. What is MI5's position on the weight the Chairman should give to paragraph (vii) of Expert Witness Z's summary of conclusions?

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