



Government Legal Department

BY E-MAIL: 02ModuleSolicitors@covid19.public.uk

Laura Taylor
Module 2 Solicitor
Covid 19 Public Inquiry

9 June 2023

Dear Laura,

Module 2 of the UK Covid-19 Public Inquiry

We write to confirm the Cabinet Office position in relation to various matters as directed by the Chair at the conclusion of the Third Module 2 Preliminary Hearing on Tuesday 6 June 2023.

The Chair made the following directions sought by Counsel to the Inquiry, Hugo Keith KC:

- that by the end of this week, given the amount of correspondence which has gone to and fro already, the Cabinet Office formally indicates what its position is in relation to unrestricted -- that's to say unredacted -- access to the notebooks belonging to Mr Johnson which it currently possesses and which it intends to return to him;
- secondly, what its position is in relation to the return to Mr Johnson of his diaries, which Mr Johnson has indicated we may of course examine on an unredacted basis; and,
- thirdly, by the end of the week, what their position is in relation to our non-national security unrestricted unredacted access to the phone, and
- for a schedule, by the end of this week, of all the WhatsApp groups and threads relating to the witnesses looked after by the Cabinet Office, in relation to whom they have received Rule 9 requests now some time ago.

In light of the imminent expedited Judicial Review, the Cabinet Office's position is that it would not be appropriate for the Government to take steps that are not consistent with the very position that it has raised in the Judicial Review. That is to say to either provide or facilitate the production of such material unredacted for unambiguously irrelevant material to the Inquiry before conclusion of that Judicial Review.

As you know, the Judicial Review is now listed, before a Divisional Court, on 30 June or as soon thereafter as the court can accommodate. In the circumstances, we do not consider that the Inquiry's work is likely to be materially disrupted by our position as set out above. We note that we have already provided the Inquiry with appropriately redacted copies of the notebooks and diaries and we will continue to provide relevant material to the Inquiry.

Elizabeth Mackie - Head of Division

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In relation to the diaries, I can confirm that these documents are Cabinet Office documents produced to record the engagements of the Prime Minister. The diaries are not Mr Johnson's personal diaries.

With regards to Mr Johnson's old phone, the Cabinet Office continues to work with security partners and Mr Johnson's representatives to assess the security issues in relation to that device with a view to supporting Mr Johnson to make best endeavours to retrieve the appropriate material. However, in line with our position set out above, we will not enable unredacted access to material on the phone ahead of the resolution of the Judicial Review

We are aware of Mr Johnson's public comments on sharing information with the Inquiry and, for his own reasons, he takes a different position to that of the Cabinet Office. However, we consider that it is not appropriate for the Government to have to take steps that are not consistent with the very position that it has raised in the Judicial Review – and that would be the position were the Cabinet Office to provide unambiguously irrelevant material to Mr Johnson in the knowledge that he intended simply to provide it, without protection, on to the Inquiry.

Whilst the Chair's directions did not reference the WhatsApp's on the phone which Mr Johnson currently has access to (i.e. the new phone), for the reasons set out above we consider that the Inquiry should not be provided with unredacted copies of the messages on that phone ahead of the resolution of the JR. We have already provided the Inquiry with appropriately redacted copies of those messages.

Some of the materials in question may involve issues of national security and we appreciate the Inquiry's understanding of the need to treat sensitive material appropriately. We will continue to work with both Mr Johnson and the Inquiry to ensure that any materials which may contain national security sensitivities are handled appropriately.

I have written separately in relation to the fourth direction for a schedule of WhatsApp groups and threads.

Yours sincerely

Parm Sahota
For the Treasury Solicitor

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