

Southport Inquiry

Lord Hermer KC
Attorney General
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13 August 2025

Dear Attorney General

Southport Inquiry – Request for Attorney-General's Undertaking

I was appointed on 7 April 2025 by the Home Secretary under the Inquiries Act 2005 to chair a public inquiry into the Southport attack. The Inquiry's Terms of Reference are at Annex A. The inquiry will be in two Phases. The purpose of Phase 1 is to:

- Establish a definitive account of the events leading up to the Southport attack and the attack itself, including an overall timeline of Axel Rudakubana's history and interactions with various state systems including criminal justice, education, social care and healthcare. The account of the attack will include the facts and circumstances of each individual death to reflect the purposes of section 5(1) of the Coroners and Justice Act 2009. The inquiry will consider the accounts of all those directly impacted by the attack.
- Review the decision-making and information-sharing by local services and agencies which interacted with Axel Rudakubana prior to the attack to examine whether there were opportunities to manage the risk he posed to the public, making any required recommendations for improvements.

Phase 2 of the inquiry, which will commence in early 2026, will be informed by the findings and recommendations in Phase 1, and is expected to consider the adequacy of multi-agency systems to address the risk posed by young people whose fixation or obsession with, and desire to commit, acts of extreme violence presents a significant risk to public safety.

In order to fulfil the Terms of Reference for Phase 1 of the inquiry, I will need to obtain evidence from a large number of persons and in due course hear or read the evidence of a variety of witnesses. This will include analysing the perpetrator, Axel Rudakubana's history and his dealings with all of the relevant agencies; identifying the decisions that were made or not made, how information was shared and extent to which the risk he posed was addressed, along with any missed

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opportunities to prevent what occurred. This will be necessarily wide ranging. It will encompass the criminal justice system response to early offending, relevant events during his education, his engagement with social and health care, his relationship with his family, how he was able to obtain the weapons that he was found in possession of, and much else besides. For the Inquiry to fully uncover the truth, it is essential that all relevant documents are disclosed and that witnesses provide complete and honest evidence.

The request for an undertaking

The inquiry is operating at pace and within very challenging timescales imposed by the Terms of Reference. Having opened on 8 July 2025 and heard a day of impact evidence from the families of children injured in the attack, I adjourned over the summer for the inquiry to work on the process of reviewing material provided, obtaining statements and disclosure to core participants. I will resume hearing commemorative portrait evidence and impact evidence from victims and their families in the week of 8 September and thereafter I intend to move straight into the substantive Phase 1 evidence hearings from 22 September

In order to complete my report to the Home Secretary in accordance with the timetable within the Terms of Reference, I am intending to conclude the Phase 1 evidence in the first week of November and thereafter to run a time-limited warning letter process under the Inquiry Rules 2006 and draft the report and any recommendations to present for publication in January 2026.

No witness, or any person likely to be called as a witness, has yet given an indication that they are likely to invoke the privilege against self-incrimination. However, I am very mindful of three factors.

- First, witnesses are not obliged to give advanced notice of their intention to invoke the privilege so I can take little comfort from the absence any such positive indication to date.
- Second, for the reasons I have set out further below, it is my assessment that there are potential witnesses who may foreseeably seek to invoke the privilege. The risk of the privilege being invoked is therefore not insubstantial.
- Third, the challenging nature of the timetable means that I cannot responsibly take a 'wait and see' approach and only contact you if a witness in fact invokes the privilege. The inevitable delay this would cause would derail the already tight hearings timescales. That in turn would render impossible the delivery of the Phase 1 Report to the timetable which the Home Secretary has required.

For these reasons, I have come to the conclusion that it is necessary in order for the inquiry to properly carry out its Terms of Reference to ask you to provide an

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undertaking in the following terms to all those who are called to give evidence during Phase 1:

1. No evidence a person may give before the Inquiry will be used in evidence against that person in any criminal proceedings or for the purpose of deciding whether to bring such proceedings save as provided in paragraph 2 herein. "Evidence" includes oral evidence, any written statement made by that person preparatory to giving evidence to the Southport Inquiry or during the course of his or her testimony to the Southport Inquiry, or any document or information produced to the Southport Inquiry solely by that person.
2. Paragraph 1 does not apply to:
 - i. A prosecution where he or she is charged with having given false evidence in the course of this Inquiry or having conspired with or procured others to do so, or
 - ii. Proceedings where he or she is charged with any offence under section 35 of the Inquiries Act 2005 or having conspired with or procured others to commit such an offence.
3. Where any such evidence is provided to the Inquiry by a person, it is further undertaken that, as against that person, no criminal proceedings shall be brought (or continued) in reliance on evidence which is itself the product of an investigation commenced as a result of the provision by that person of that evidence.

I have reached the conclusion that in the absence of such an undertaking there is a significant risk that the inquiry will not be able to fully and thoroughly investigate all matters within scope in Phase 1, and consequently may be unable to make recommendations that seek to prevent, as far as is possible, such attacks from being carried out in the future.

Witnesses and potential offences

The scope of the Terms of Reference, in covering both the attack itself and the events in the perpetrator's history that led up to it, are, rightly, very broad. As I set out in my 'minded to' note of 23 July, attached at Annex B, the Terms of Reference require some detailed fact finding as to matters within the knowledge of individuals and organisations and questioning about these matters may be very likely to engage the privilege against self-incrimination in the absence of an undertaking.

Perhaps the most significant offence that could arise is gross negligence manslaughter, which is committed where the death is a result of a grossly negligent (though otherwise lawful) act or omission on the part of the defendant (R v

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Adomako [1994] UKHL 6). The circumstances in which this offence may fall to be considered in the evidence to be heard by the Inquiry could extend to whether or not sufficient care has been taken by an individual to discharge the particular duty of care placed upon him or her, and whether the breach of that duty minimally, negligibly or trivially caused a death. It could also arise in considering the circumstances of death following medical treatment or care.

Other criminal offences could relate to the knowledge of witnesses of the perpetrator's possession of a biological toxin contrary to Section 1 of the Biological Weapons Act 1974 and articles likely to be useful to a person committing or preparing an act of terrorism, contrary to Section 58 of the Terrorism Act 2000.

The inquiry's evidence will also extend to the examination of the sale of knives and bladed articles under section 141A of the Criminal Justice Act 1988 and Part 3 of the Offensive Weapons Act 2019. This will include the companies from whom the perpetrator bought or attempted to buy knives, machetes and a crossbow.

The inquiry will also consider evidence that could give rise to offences under the Health and Safety at Work etc Act 1974, which imposes duties on companies, self-employed persons and employees to exercise reasonable care in carrying out their work to ensure that other persons who may be affected thereby are not exposed to risks to their health or safety.

Although the identities of those whom it will be necessary to call and the lines of questioning that will need to be followed are not yet settled, it is readily foreseeable that a range of witnesses may be advised to invoke the privilege against self-incrimination and would do so successfully on material matters. As set out above, this would seriously hinder and disrupt the progress of the inquiry.

The position of the core participants

All but one of the core participants who expressed a view were either neutral or supportive of whether the undertaking should be sought in the terms proposed in the 'minded to' note.

Legal representatives for the bereaved families do not support the inclusion of derivative use protections within the undertaking. They accept that direct use of a witness' evidence should be prohibited in criminal proceedings, but they submit that the undertaking should not preclude the use of such evidence to initiate or support investigations, subject to appropriate legal safeguards.

The scope and terms of the undertaking

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The undertaking I am asking you to give would grant protection to a witness from any evidence given to the inquiry being used (a) against him in any criminal proceedings; (b) in deciding whether to bring a prosecution; and (c) to commence further investigation which itself produces evidence relied on in criminal proceedings.

In relation to the derivative undertaking, there is no live investigation that could be hampered by a derivative undertaking in the Inquiry and none of the core participant police forces, including Merseyside police, Lancashire constabulary and Counter-Terrorism Police Northwest, have raised any concerns.

It is my considered view that, absent an express prohibition on derivative use within the undertaking, witnesses would still be able to claim that answering some questions would risk self-incrimination. In consequence, including the derivative use provisions will prevent witnesses being able to invoke the privilege and refuse to answer relevant questions.

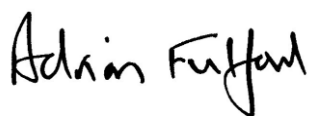
In the circumstances of this Inquiry, I do not consider it appropriate to seek an undertaking that is any wider than is necessary. I therefore do not seek, whether from you or others, any undertakings in relation to disciplinary offences or similar.

Timing

As I have indicated, the Inquiry is moving at pace. I would be most grateful to have a response ahead of evidence hearings beginning in the week of 22 September.

The Inquiry team and I will be pleased to assist with anything further you may require.

Yours sincerely



Sir Adrian Fulford
Chair of the Southport Inquiry