Decision on the Applications for Special Measures for the clinicians at Alder Hey Children's NHS Foundation Trust

Introduction

1. This is my Ruling on the applications for anonymity and/or special measures by certain current and former members of staff at Alder Hey Children's NHS Foundation Trust ("AH") when giving evidence to the Inquiry.

Outline of the Applications

2. It is helpful to identify precisely what is being sought and by whom. First, there are applications by various members of staff within the AH Child and Adolescent Mental Health Services ("CAMHS") who had dealings with the perpetrator: AR. There is, additionally, an application by the Trust as a corporate body in respect of – as it is argued – its "duty of care to its past and present employees as well as the care it provides to its community service users both present and future with respect to the potential for damage to the quality of the care it provides and harm to the quality of care it continues to provide to CAMHS service-users".

3. The submissions by counsel instructed by AH are framed as being "in support of the individual applications by current and former members of staff for anonymity and/or special measures". It is rehearsed that the applications for special measures are "**principally for anonymity** with **concomitant special measures**" (my emphasis) to enforce that protection. These are said to include (i) screening the witnesses from the public (ii) a prohibition on broadcasting (including live streaming) their images or details of their identities and (iii) "any other measures commensurate with and necessary for their identities being protected".

4. Accordingly, the legal argument is essentially advanced as an application for anonymity, with various supporting special measures. However, the individual applications are expressed as seeking, separately, anonymity and special measures. Given this inconsistency, I have proceeded on the wider basis, namely that there are applications for i) anonymity, with supporting special measures and ii) special measures, irrespective of whether anonymity is granted.

5. Anonymity is not sought vis-a-vis the Chair, counsel to the Inquiry, the core participants or the latter's legal representatives. It is stressed by the Trust that no application is being made on behalf of or by the clinicians who provided the trauma care and treatment for the victims.

The Generic Submissions

6. Emphasis is placed on the public violence which occurred following AR's attack on 29 July 2024, generated, as it is suggested, by malicious posts on social media that were "intended to whip up a mob reaction". It is contended that the risk of "similar mischievous and inflammatory conduct cannot be excluded". The disturbances following the Hart Space attack are said to provide the "clearest and most graphic" evidence of the present real risks of attacks and vilification, thereby "playing on the minds" of those to be called to give evidence from AH.

7. Against that background of suggested potential violence and intimidation, it is submitted that those who had responsibility for AR in a therapeutic context and who, as a consequence of their perceived shortcomings, failed to prevent the attack at Hart Space, face "a material risk" as individual practitioners, a risk which cumulatively threatens the viability of the CAMHS service as a whole. It is said that the "risk" will arise when the evidence of the Trust employees is explored during the Inquiry's hearings, generating a "real and

genuine fear" of reprisals against both individual witnesses and the CAMHS premises. It is highlighted that the latter risk of reprisals was threatened during the public disturbance some 12 months ago.

8. The NHS context is suggested to "add an intensity" to the potential reactions of members of the public. By way of relevant example, AH was the subject of what is described as unfortunate public attention in a previous high-profile case and a similar reaction, it is contended, "could now be focussed on individuals and bodies who may be blamed for 'not preventing' AR". I note that this submission ends with what I interpret as a warning, namely that the context I have just described "is where the risk lies", a risk which "militates against the practitioners providing their best evidence" to the Inquiry. I have addressed this "warning" in the Discussion below.

9. I am asked to consider the possibility that stigma may attach to the CAMHS team by those "who regard any professional contact with AR as repugnant". Individual practitioners who dealt with AR may be viewed as "tainted" in the eyes of service-users, leading to profound harm to the delivery of mental health treatment programmes for children and young people. It is said this may deter children, young people and their families from engaging with the service in the future and it may harm staff recruitment and retention.

10. The Trust suggests that whilst there is not "hierarchy of applicant" in this context, the two treating psychiatrists, who assessed AR for risk, will be "very much in the foreground".

Individual Submissions

11. These are separate applications which accordingly require individual consideration, albeit, as Dr Potier (who is not one of the individual applicants), has highlighted there are a significant number of relevant generic factors. Where the applications contained significant personal detail about the

applicant's private life, including their medical conditions and history, these have been omitted from this ruling.

Dr Potier

12. The starting point is, therefore, the statement from Dr Jo Potier, the Director of Culture and Organisational Development/Consultant Clinical Psychologist at AH. As the "lead for staff support and wellbeing at Alder Hey", she coordinated and led the "organisational psychological response to the major incident in Southport in July 2024". She has provided psychological support, and, via upward of six targeted group and individual psychology support sessions, has assessed the psychological impact on the relevant Sefton CAMHS staff and has gained an understanding of their current and ongoing needs as regards support.

13. She observes that by way of a common reaction, there has been:

> "Moral distress coupled with heightened feelings of responsibility; anxiety; increased stress related to preparation and planning; risk of trauma due to direct exposure (heightened for certain vulnerable groups) or risk of vicarious trauma due to indirect exposure to distressing events; distress linked to exposure to ongoing reminders of the event via media/social media; and ongoing difficulties in being open about experiences due to sensitivities of the incident, heightened media interest, criminal and other legal proceedings, and scrutiny from external bodies."

14. Dr Potier highlights, additionally, the common features of an intense fear of individual blame, exacerbated by the unpredictable media attention, the Inquiry proceedings, and the external scrutiny and judgment of others. She suggests (the applicants) are experiencing a degree of isolation from professional colleagues.

15. Dr Potier sets out that these events have, additionally, had a range of different consequences for various members of staff. I highlight that Dr Potier does not deal in her report on an individual basis with any of the Applicants and her comments are generic in nature.

16. She supports the applications for anonymity.

Erica Saunders

17. Erica Saunders is the Chief Corporate Affairs Officer/Trust Southport Inquiry lead. She raises the circumstances of a high profile case, which necessitated a police presence at the hospital site for a number of weeks, and the various threats, including death threats, received by members of staff. One nurse had her home address circulated on social media and was the target of serious threats.

18. She suggests the risk of reprisals following publicity and the identification of witnesses could have an adverse effect on the Trust's ability to provide mental health services to children and young people in Sefton, as there is the risk of long-term sickness and resignations amongst the small clinical team. It is suggested these are highly specialised roles and it is difficult recruit replacements.

Dr Anthony Molyneux

19. Dr Anthony Molyneux was, at the relevant time, a Consultant Child and Adolescent Psychiatrist at AH. He submits he requires greater than normal support to ensure his participation in the Inquiry. He contends that there is a present risk to his personal safety and that of his colleagues if anonymity is not granted and if there is a repeat of last year's rioting. He has similar fears for the safety of his family and the security of his home.

20. He apprehends unjustified interference with his private life should he be publicly identified as having been involved with AR. He suggests his professional life would be endangered by association with AR and

misreporting about his involvement. This would be to his detriment and that of the children with whom he is concerned, who could be destabilised by reporting of the Inquiry's proceedings.

21. Dr Molyneux suggests that the present "unremitting societal decline", along with the volume of work, is leading those in the NHS, "across the board", to conclude that the position is becoming unmanageable. It is suggested that the argument in favour of anonymity is all the greater when the sense is added to the equation that it is becoming increasingly risky to continue to work as a professional in the NHS given the risk of being unjustly named, shamed and blamed for adverse events outside of anyone's control and notwithstanding a lack of any fault.

22. Finally, the breadth of the considerations relied on by Dr Molyneux are drawn together in a paragraph towards the conclusion of his statement:

> "I submit that it would go at least some way towards allaying NHS and wider public sector staff anxieties, for clinician anonymity in relation to the Southport Inquiry to be preserved. In addition to the Human Rights Act 1998 protections that I submit should be afforded to me and my colleagues there is an obvious benefit to public safety for any measure that can act in such a way as to mitigate – even to a small degree – the ongoing and sadly deepening problem of staff recruitment and retention in the NHS."

23. He seeks the following special measures: anonymity; to be screened from the media, general public and lay clients of core participants when giving evidence (although in his case, and all others, an addendum from Counsel for AH dated 15 August 2025 makes clear that any request for screening should be read as a request to be screened "from the view of the general public and the media" only); a separate entrance when entering Liverpool Town Hall that is screened from the media, general public and lay clients of core participants;

and – if the above measures are not granted - that his evidence is not broadcast to the general public in a way that reveals his facial features.

Dr Lakshmi Ramasubramanian

24. Dr Lakshmi Ramasubramanian was, at the relevant time, a Consultant Child and Adolescent Psychiatrist at AH. She submits she requires greater than normal support to ensure her participation in the Inquiry.

25. Dr Ramasubramanian is concerned that when her name is associated with AR, this will damage her professional relationship with her present and future patients and their families; it will increase the risk of public disorder at the CAMHS service; and it will threaten her personal safety and that of her family.

26. She is concerned that she and her family could become the focus of misinformation on social media and that they could be subjected to violence and an unwarranted invasion of their privacy.

27. She seeks the following special measures: anonymity; to be screened from the media, the general public and the lay clients of core participants when giving evidence; a separate entrance when entering Liverpool Town Hall that is screened from the media, the general public and the lay clients of core participants; and – if the above measures are not granted – that her evidence is not broadcast to the general public. Furthermore, the Applicant applies for regular breaks whilst giving evidence.

Emma Walker Riley

28. Ms Riley was, at the relevant time, a Safeguarding Specialist Practitioner. She submits she requires greater than normal support to ensure her participation in the Inquiry. She additionally submits that there is a risk to her personal safety, that of her family and to the security of her home as well as the threat of an unjustified interference with her private and professional life if she is not granted anonymity.

29. She seeks by way of special measures: anonymity, the opportunity to give evidence in private using a video link or by way of a further written statement in order to answer any outstanding questions; and the support of a relative, friend and / or bereavement support worker. If these measures are not granted, in whole or in part, she requests that her evidence is not broadcast to the general public.

30. Additionally, Ms Riley requests regular breaks whilst giving evidence, for the questions to be short and for sufficient time to be afforded should she be asked to consider documentary material.

Michelle Warner

31. Ms Warner was, at the relevant time, a Keyworker at Sefton CAMHS at the Trust. She submits she requires greater than normal support to ensure her participation in the Inquiry. She argues, additionally, that there is a risk to her personal safety, that of her family and to the security of her home as well as the threat of an unjustified interference with her private life if she is not granted anonymity.

32. She contends that if it is publicly established that she worked both directly and non-directly with AR this could have a “negative impact” on the young people and families with whom she currently works, along with her colleagues. She maintains, additionally, there is a “significant risk” to her personal safety and that of her family if she is publicly named in this context.

33. She maintains that the violent events following the attack on 29 July 2024 demonstrate that the risks she apprehends are real.

34. She seeks by way of special measures: anonymity; to be screened from the media, the general public and the lay clients of core participants (save for the families of the victims) when giving evidence; and access to the Inquiry

premises via a private entrance. If these measures are not granted, in whole or in part, she requests that her evidence is not broadcast to the general public in a way that reveal her features.

Jill Locke

35. Jill Locke was, at the relevant time, a Mental Health Practitioner at the Trust. She submits she requires greater than normal support to ensure her participation in the Inquiry. She argues, additionally, that there is a risk to her personal safety, that of her family and to the security of her home as well as the threat of an unjustified interference with her private life if she is not granted anonymity.

36. As a consequence, it is contended that if her "facial identity" is not protected, there would be an unjustified interference in her private life, on account of her being worried about leaving her home or participating in her community for fear of being recognised as having been involved with AR's family and thereby causing distress to all parties.

37. In support of these contentions, Ms Locke relies on the reaction by some to AR's crimes in late July 2024. She submits, in addition, that if she is identified as having been professionally involved with AR's family, she would face a real and substantial risk to her and her family's personal safety, and to the security of her home. It is argued that if her name and facial identity were made public, she is at risk of becoming the focus of irresponsible reports on social media leading to an enhanced risk of harm and/or degrading treatment.

38. She seeks by way of special measures: anonymity; to be screened from the media, the general public and the lay clients of core participants when giving evidence; and access to the Inquiry's premises via a private entrance. If these measures are not granted, in whole or in part, she requests that her evidence is not broadcast to the general public in a way that reveals her features.

Kathryn Morris

39. Kathryn Morris was, at the relevant time, a Senior Mental Health Team Practitioner in the Sefton CAMHS team at the Trust. She submits she requires greater than normal support to ensure her participation in the Inquiry. She argues, additionally, that there is a risk to her personal safety, that of her family and to the security of her home as well as the threat of an unjustified interference with her private life if she is not granted anonymity.

40. She continues to work within the Sefton area, and she fears the vulnerable children and young people under her care, along with their families, could suffer if she is publicly associated with AR. They may question her abilities in treatment and affect their confidence in her and the wider CAMHS service.

41. Ms Morris additionally apprehends that “unwanted visitors” may visit her workplace, thereby interfering with her personal and professional life and risking “trauma to vulnerable service users”. She is concerned as to the risks of her personal safety if her identity becomes known and she is similarly worried about the position of her colleagues. She suggests she has “no doubts” that the violent events following AR’s attack “will happen again. She highlights the misinformation that surrounded the events of 29 July 2024 and their aftermath, and she is “fearful that the professionals involved with the perpetrator may be the subject of false accusations and misinformation via social media resulting in unwarranted hostility”.

42. Ms Morris indicates that following AR’s attack and his name becoming known, “intelligence” was received by AH that staff were at risk, following certain information that had been circulated on social media. She maintains that the Trust ordered the cancellation of face-to-face appointments and staff to leave the building. This happened on more than one occasion, causing disruption to the service. There were also reports of a male in a mask outside the building acting suspiciously, leading staff to take precautions when leaving the building and walking to the nearby Trust car park. She anticipates that a repetition of

this kind of scare will disrupt her professional life and damage the treatment offered to children and young people. I note that no other details as to the events set out in this paragraph have been provided, particularly as regards when they occurred and any current security assessment.

43. She seeks by way of special measures: anonymity; to be screened from the media, the general public and the lay clients of core participants when giving evidence; and access to the Inquiry's premises via a private entrance. If these measures are not granted, in whole or in part, she requests that her evidence is not broadcast to the general public in a way that reveal her features.

Sam Coppard

44. Sam Coppard was, at the relevant time, a Clinical Lead at the Trust. He submits he requires greater than normal support to ensure his participation in the Inquiry. He argues, additionally, that there is a risk to his personal safety, and to the security of his home as well as the threat of an unjustified interference with his private life if he is not granted anonymity.

45. He is concerned at the implications of his involvement in the Inquiry on the well-being of his family and he suggests that "the risk of exposure, whether through media coverage, public identification, or community speculation, poses a serious threat to their emotional stability and development".

46. He seeks by way of special measures: anonymity; to be screened from the media, the general public and the lay clients of core participants (save for the families of the victims) when giving evidence; and access to the Inquiry's premises via a private entrance. If these measures are not granted, in whole or in part, he requests that his evidence is not broadcast to the general public in a way that reveal his features.

Samantha Jane Steed

47. Samantha Steed, at the relevant time, was a Senior Mental Health Practitioner for the Trust. She submits she requires greater than normal support to ensure her participation in the Inquiry. She argues, additionally, that

there is a risk to her personal safety, that of her family and to the security of her home as well as the threat of an unjustified interference with her private life if she is not granted anonymity.

48. Ms Steed suggests that she is very anxious that her professional life could be adversely affected if her patients and their families become aware of her association with AR. This would be manifested by damage to her therapeutic relationships with those for whom she has responsibility and the wider service she represents; an increase in the risk of public disorder at the CAMHS premises; and potential threats to her personal safety and that of her family. She refers to the disturbances which followed the events on 29 July 2024, the fact that staff were sent home and the fear she then experienced. She is concerned that should her extensive involvement with AR and his family become the subject of social media focus and misinformation, the violent events of last summer could be repeated. She contends that the risk posed to herself, her family and the security of her home "is very real to me and my family and not fanciful".

49. She seeks by way of special measures: anonymity; to be screened from the media, the general public and the lay clients of core participants (save for the families of the victims) when giving evidence; and access to the Inquiry's premises via a private entrance. If these measures are not granted, in whole or in part, she requests that her evidence is not broadcast to the general public.

Skott Aide Morgan

50. Skott Aide Morgan, at the relevant time, was a CAMHS key worker at the Trust. He submits that he requires greater than normal support to ensure his participation in the Inquiry. He argues, additionally, that there is a risk to his personal safety, that of his family and to the security of his home as well as the threat of an unjustified interference with his private life if he is not granted anonymity.

51. He seeks by way of special measures: anonymity; to be screened from the media and the general public when giving evidence; and access to the Inquiry's premises via a private entrance. If these measures are not granted, in whole or in part, he requests that his evidence is not broadcast to the general public in a way that reveal his features.

Lynsey Ann Boggan

52. Lynsey Ann Boggan, at the relevant time, was the Head of Service for the Autism Spectrum Disorder Assessment Service at the Trust. She submits she requires greater than normal support to ensure her participation in the Inquiry, She argues, additionally, that there is a risk to her personal safety, that of her family and to the security of her home as well as the threat of an unjustified interference with her private life if she is not granted anonymity.

53. Ms Boggan indicates she is very anxious and fearful that she might be identified publicly as having been professionally involved with AR and his family, particularly in light of the events that followed AR's attack. The local rioting caused her to be anxious about her safety and that of her family. She argues these are real concerns. Ms Boggan is additionally concerned about the role of social media and the risk of becoming the focus of irresponsible reporting. This could cause harm and would constitute degrading treatment.

54. She seeks by way of special measures: anonymity; to be screened from the media and the general public when giving evidence; and access to the Inquiry's premises via a private entrance. If these measures are not granted, in whole or in part, she requests that her evidence is not broadcast to the general public in a way that reveal her features.

55. She additionally askes that the questions are short and that she is given time to consider any documentary material.

Dr Vicky Killen

56. Dr Vicky Killen, at the relevant time, was a clinical lead at the Trust. She submits she requires greater than normal support to ensure her participation in the Inquiry. She argues, additionally, that there is a risk to her personal safety, that of her family and to the security of her home as well as the threat of an unjustified interference with her private life if she is not granted anonymity.

57. She continues to work in Sefton, and she argues that being publicly associated with AR will interfere with her professional life by affecting the trust and confidence that her patients and their families have in her. Her concerns are heightened because of the violent reaction to AR's attack on 29 July 2024. She is concerned that there could be a wholly unjustified reaction, including on social media.

58. She seeks by way of special measures: anonymity; to be screened from the media and the general public when giving evidence; and access to the Inquiry's premises via a private entrance. If these measures are not granted, in whole or in part, she requests that her evidence is not broadcast to the general public in a way that reveal her features.

The Legal Submissions

59. The Applicants, put generally, rely on rights derived from the European Convention on Human Rights ("ECHR"), *viz.* Articles 2 and 3, together with Article 8 (as balanced against Article 10).

60. It is stressed by Mr Gorton KC, as a general proposition, that the courts have "long recognised" the need to protect hospitals and their functioning, together with children, affected families, "concerned" clinicians and others when emotive issues and divided views can cause a hospital to be the subject of

unwanted attention, thereby disrupting services and creating a risk for the care of patients (*e.g.* as in at least one 'best interest' case).

61. The submissions concerning Articles 2 and 3 are essentially undifferentiated, with it being indicated that "(h)ere the emphasis is more on Article 3 breaches namely the risk of violence and abusive behaviour (online and physical) that the applicants likely will be subjected to i.e. a real and immediate risk of serious harm". The Trust submits that the anticipated harassing and abusive actions of others, even when based on conjecture or an assumption, can be sufficient to justify the grant of anonymity. Moreover, in the present circumstances it is submitted there is a well-founded fear of violence, along with a real risk that this could occur.

62. Addressing Article 8, the Trust particularly highlights the physical and mental health of the applicants; the apprehended invasion of privacy should their identities become known (including social media abuse, physical attendance at their home or place of work and threats of harm); threats to their personal and family life including harm to children or other vulnerable individuals who require special protection; and the impact on the public in respect of CAMHS services and specifically the patient community (present and future).

63. Relying particularly on the Supreme Court decision in *Khuja v Times Newspapers Ltd* [2019] AC 161 [29] & [30], it is submitted that there is insufficient public interest that would justify identifying any of the Applicants. Instead, it is said there is an "overwhelming public interest" in protecting their identities and in maintaining the safe functioning and viability of the service as a whole.

64. Finally, it is argued that the continuation of any orders for anonymity can be revisited when the Report is published.

65. Mr Bunting KC has filed extensive submissions on behalf of six media organisations. I wish to express my thanks for the evident time and trouble that has been taken in their formulation. Given the need to issue this decision within a short timeframe I am unable to provide more than the briefest summary of the contentions he has advanced. By way of outline only, therefore, the presumption of openness which is enshrined in the statutory scheme is emphasised, along with the jurisprudence in which the issue of openness has been considered (*e.g Kennedy v Charity Commissioner* [2015] 1 AC 455). He suggests that openness facilitates the investigative process and helps dispel any suggestion of "cover up". I note that Jonathan Hall KC, the Independent Reviewer of Terrorism Legislation, stated in his Independent Review on Classification of Extreme Violence Used in Southport Attack on 29 July 2024, that disinformation generated on social media, combined with widespread allegations of a 'cover-up', risked far more prejudice to any trial than the placement of undisputed facts about the attacker in the public domain [1.25]). The submissions of Mr Bunting KC and the Press Association also refer to linked points made in the Home Affairs Committee report entitled "Police response to the summer 2024 Disorder". In addition, if witnesses give evidence in their own name, this reduces the risk of exaggeration or deflecting responsibility onto others.

66. Mr Bunting argues that the common law principles have been ignored unjustifiably in these applications and that the AH Applicants would not have had any prospect of obtaining an injunction for anonymity at common law. Similarly, the applicants have failed to address the statutory scheme that applies in public inquiries. Mr Bunting has addressed each of the individual applications arguing centrally that the evidence fails to reach the required standard.

67. I have also carefully considered the helpful submissions received from the Press Association and the Bereaved Families, as well as the correspondence received from other Core Participants in relation to the issue. I note, in particular, that the Bereaved Families and the Adult Survivors oppose the

application, while the Families of those Physically and Psychologically Injured adopt a neutral position.

Discussion

Introduction

68. Those who provide care in the NHS are aware that, as part of their public role, they may have to give evidence at Coroners' Inquests, in civil, criminal and family proceedings, before disciplinary bodies and at Public Inquiries. Although this obligation may only arise occasionally and irregularly, it is an inescapable feature of the role. It is critical that whenever there is a suggestion that there has been a potential failure in treatment or care, the relevant institutions and members of staff fulfil their obligation of providing assistance in whatever form is required, for instance by providing a witness statement or giving evidence, or both. The effectiveness of this process and the reassurance provided to the public will be markedly reduced if the proceedings are in private or if those who provide evidence are anonymous. If mistakes, and particularly serious ones, have been made, accountability is an important element of the critical objective of ensuring they are not repeated. This can be an anxious process for witnesses, and the judicial body conducting the process should provide relevant and necessary protections, based on properly presented and persuasive evidence, as to what is reasonably required. As set out at below, it is probable that the more extensive the nature of the restrictions which are sought (particularly as regards anonymity), and the more serious and debilitating the medical condition (should reliance be placed on one), the more compelling the evidence will need to be in order to justify the restrictions, including by providing medical evidence in support.

69. There is a presumption of openness for legal proceedings including statutory public inquiries, which incorporates witnesses giving evidence in their own names. When a risk of physical or psychological harm is raised, the Court

must carefully consider the competing factors, recognising that a departure from the principles of open justice must always require cogent justification.

Sections 17 and 18 of the Inquiries Act 2005

70. Section 17(3) of the Inquiries Act 2005 states 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)".

71. Section 18 of the Inquiries Act 2005 addresses public access to inquiry proceedings and information. In so far as is relevant:

> "(1) Subject to any restrictions imposed by a notice or order under section 19, the chairman must take such steps as he considers reasonable to secure that members of the public (including reporters) are able–
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> (a) to attend the inquiry or to see and hear a simultaneous transmission of proceedings at the inquiry;
>
> (b) to obtain or to view a record of evidence and documents given, produced or provided to the inquiry or inquiry panel.
>
> (2) No recording or broadcast of proceedings at an inquiry may be made except–
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> (a) at the request of the chairman, or
>
> (b) with the permission of the chairman and in accordance with any terms on which permission is given.
>
> Any such request or permission must be framed so as not to enable a person to see or hear by means of a recording or broadcast anything that he is prohibited by a notice under section 19 from seeing or hearing."

Section 19 of the Inquiries Act 2005

72. In the context of a public inquiry, anonymity, or other means of protecting a person's identity, can be granted through a restriction order under section 19 of the Inquiries Act 2005:

> "(3) A restriction notice or restriction order must specify only such restrictions–
>
> (a) as are required by any statutory provision, assimilated enforceable obligation or rule of law, or
>
> (b) as the Minister or chairman considers to be conducive to the inquiry fulfilling its terms of reference or to be necessary in the public interest, having regard in particular to the matters mentioned in subsection (4).
>
> (4) Those matters are–
>
> (a) the extent to which any restriction on attendance, disclosure or publication 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) any conditions as to confidentiality subject to which a person acquired information that he is to give, or has given, to the inquiry;
>
> (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 (whether to public funds or to witnesses or others).
>
> (5) In subsection (4)(b) "harm or damage" includes in particular–
>
> (a) death or injury;
>
> (b) damage to national security or international relations;
>
> (c) damage to the economic interests of the United Kingdom or of any part of the United Kingdom;

(d) damage caused by disclosure of commercially sensitive information."

73. As set out above, restrictions should only be imposed to the extent that they are: required by any rule of law, conducive to the inquiry fulfilling its terms of reference or necessary in the public interest. It is important to have well in mind that the objective of the Inquiry is to fulfil its terms of reference in inquisitorial conditions. Disclosure in an Inquiry is not, therefore, because of the need to do justice to the parties but instead to ensure public accountability into matters of public interest.

74. In considering whether to impose a restriction order, the Inquiry chair shall have regard, amongst other things, to the extent to which the restriction might inhibit the allaying of public concern; any risk of harm or damage that could be avoided or reduced by the restriction order; and the extent to which not imposing any particular restriction would be likely to impair the efficiency or effectiveness of the inquiry.

Legal Principles

75. The relevant principles as regards anonymity are self-evidently the critical starting point (given the way the applications are framed). They are well established and the leading authority, particularly in the context of public inquiries, remains *In re Officer L* [2007] 1 WLR 2135. In the context of coronial proceedings, these principles were helpfully set out by the Court of Appeal in *R(T) v HM Senior Coroner for the County of West Yorkshire (Western Area)* [2017] EWCA Civ 318, [2018] 2 WLR 211 when the Lord Chief Justice observed that "*There can be little doubt as to the applicable principles"* which could "…*therefore be briefly summarised"* [55] as follows:

"56. Open justice is the fundamental principle in respect of all proceedings before any court, including coroners' courts. The principle has been expressed in numerous cases, including *Scott v Scott [1913]*

AC 417 (see the judgments of Viscount Haldane LC at pp 437–439 and Lord Shaw of Dunfermline at pp 476–478) and *Attorney General v Leveller Magazine Ltd [1979] AC 440* where Lord Diplock summarised the principle at pp 449–450:

> "As a general rule the English system of administering justice does require that it be done in public: *Scott v Scott [1913] AC 417*. If the way that courts behave cannot be hidden from the public ear and eye this provides a safeguard against judicial arbitrariness or idiosyncrasy and maintains the public confidence in the administration of justice."

[…]

58. One very important aspect of the principle of open justice is the naming of those before the court. As Lord Rodger of Earlsferry JSC said in *In re Guardian News and Media Ltd [2010] 2 AC 697, para 63*:

> "What's in a name? 'A lot', the press would answer. This is because stories about particular individuals are simply much more attractive to readers than stories about unidentified people. It is just human nature … A requirement to report [a story] in some austere, abstract form, devoid of much of its human interest, could well mean that the report would not be read and the information would not be passed on."

59. Any restriction on the principle of open justice, including the making of an order for anonymity, requires cogent justification: see for example, *Attorney General v Leveller Magazine Ltd [1979] AC 440, 450*. […]

However, the exercise of these powers requires justification for the departure from the principle of open justice.

60. The first justification relied on by the claimant was a real and immediate threat to her life within article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms if the order for anonymity was not granted. The principles applicable to this were elucidated in *In re Officer L [2007] 1 WLR 2135* in the judgment of Lord Carswell. He said at para 20:

> "The wording of this test has been the subject of some critical discussion, but its meaning has been aptly summarised in Northern Ireland by Weatherup J in *In re W's Application [2004] NIQB 67 at [17*], where he said that 'a real risk is one that is objectively verified and an immediate risk is one that is present and continuing'. It is in my opinion clear that the criterion is and should be one that is not readily satisfied: in other words, the threshold is high."

61. The second justification relied on by the claimant was a real and immediate risk of inhuman and degrading treatment to her under article 3 of the Convention. In *Secretary of State for the Home Department v AP (No 2) [2010] 1 WLR 1652* Lord Rodger JSC in a judgment (with which the other members of the Supreme Court agreed) accepted (at para 14) in the unusual circumstances of that particular case that the putting at risk of physical violence might amount to an infringement of the article 3 rights of AP. However, in that case it would appear that the risk arose from the fact that the state had used a control order to locate AP in a town where those risks would arise.

62. The third justification relied on by the claimant was her rights under article 8. In such a case the court has to conduct a balancing exercise which takes into account the rights of the media under article 10: see the judgment of Lord Steyn in *In re S (A Child) (Identification:*

Restrictions on Publication) [2005] 1 AC 593, paras 16 and 17 , as summarised in *In re Guardian News and Media Ltd [2010] 2 AC 697* and *Secretary of State for the Home Department v AP (No 2) [2010] 1 WLR 1652, para 7* :

> "the court must ask itself 'whether there is sufficient general, public interest in publishing a report of the proceedings which identifies [AP] to justify any resulting curtailment of his right and his family's right to respect for their private and family life'."

63. The balancing exercise is highly fact-specific. It must take into account the evaluation of the purpose of the principle of open justice as applied to the facts of the case and the potential value of the information in question in advancing that purpose, as against the risk of harm the disclosure might cause the maintenance of an effective judicial process or to the legitimate interests of others: see the appeal from the Court of Session in *A v British Broadcasting Corpn (Secretary of State for the Home Department intervening) [2015] AC 588, paras 34–41 and 46–57* . In *R (C) v Secretary of State for Justice (Media Lawyers Association intervening) [2016] 1 WLR 444*, the case involved a mental patient compulsorily detained under a hospital order made by a criminal court under section 37 and section 41 of the Mental Health Act 1983. The passage in the judgment of Lord Rodger JSC in *In re Guardian News and Media Ltd* (which we have set out at para 58 above) was expressly affirmed by Baroness Hale of Richmond DPSC, though this decision depended on a fact-sensitive analysis of all the considerations, including the longstanding anonymity given to those suffering from a mental disorder.

64. A fourth justification relied on by the claimant, as an alternative to articles 2, 3 and 8, was the common law duty of fairness: see *In re Officer L [2007] 1 WLR 2135, para 22*. A wide range of factors must

be brought into account. However, such considerations must be weighed against other common law considerations, including the powerful imperative of open justice."

Article 2

76. Article 2 of the ECHR (Right to Life) is in the following terms:

> "Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law."

77. If disclosure of information might materially increase the risk to life sufficient to trigger the State's obligations under article 2 ECHR, then there is no balancing exercise to be conducted; the public interest in non-disclosure must prevail (the same applies to article 3 ECHR below).

78. As described in *R(T) v HM Senior Coroner for the County of West Yorkshire (Western Area)*, in order to justify an application for anonymity under Article 2, it is necessary for there to be a real risk, one that is "objectively verified". Furthermore, this needs to be an immediate risk, namely one that is "present and continuing". In *Officer L*, the court held that the criterion is not readily satisfied, the threshold being high (although I note in *Van Colle v Chief Constable of Hertfordshire* [2008] UKHL 50 that this dicta was described as "*no more than a comment on the nature of the test which the Strasbourg court has laid down, not as a qualification or a gloss upon it*" [66]).

79. The material before the Inquiry falls well short of matching this standard as regards the Article 2 claim. Although AR's attack led to significant scenes of public disturbance, the high likelihood is that these had their origins in specific misinformation that was circulated online, via social media accounts, in which

it was claimed that AR was a Muslim asylum seeker (by way of recent example, see *Connolly v the King* [2025] EWCA Crim 657).

80. Although I accept that strong fears have been expressed, there is no objectively verifiable evidence that revealing the identifies of the relevant clinicians from AH will lead to a real and immediate risk to the lives of any of the Applicants. The extensive fears and anxieties which have been expressed by the Applicants, which I accept they hold, do not meet the high standard that is required when reliance is place on this Article: an objectively verifiable "real" risk, that is present and continuing. There is simply no evidence that there will be a repeat of the kind of unacceptable public reaction which preceded the high profile case referred to in the applications or followed the attack on 29 July 2024 should the clinicians be named during the Inquiry's hearings. Instead, there is simply a fear, based on speculation, that their lives may be endangered. Moreover, there is no objectively verifiable evidence to show that the mental health of the relevant clinicians from AH will be so severely affected as to present a risk to their lives.

Article 3

81. Article 3 (Prohibition of Torture) is in the following terms:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

82. The present applications are based on the possibility of a real and immediate risk of violence and abusive behaviour (online and physical) causing mental suffering by individuals who may take exception to the manner in which AR was assessed and dealt with by clinicians at AH. It is important in this regard to return to the judgment of the Lord Chief Justice in *R(T) v HM Senior Coroner for the County of West Yorkshire (Western Area)*:

> "76. As to the second ground, the alleged interference with the claimant's article 3 rights, we will proceed on the assumption that a threat of physical violence can give rise to violation of rights under article 3. It seems to us that such a violation could not occur unless the violation occurred through actions (or inactions) of a state actor. There were no actions or inactions (in the sense that the authorities would be unable to provide appropriate protection in the face of a credible threat) by anyone on the part of the state in this case which gave rise to any threat of physical violence. There was no evidence to suggest that the naming of the claimant would give rise to such a risk. The earlier publication of her name in the Telegraph & Argus (as set out at para 19 above) had given rise to no credible evidence of such a threat. But even assuming that action (or inaction) of a state actor were not required, there was again no evidential basis for any threat of physical violence for the reasons we have already given in respect of article 2."

83. There is no evidence that the authorities (as "state actors") would be unable to provide appropriate protection if a credible threat emerged, should the names of any of the AH clinicians be released. No evidence has been provided of an approach having been made to the relevant police force inquiring as to the measures that would be considered and potentially implemented should a relevant risk arise.

84. It is critical to have in mind that the court in *R(T) v HM Senior Coroner for the County of West Yorkshire (Western Area)* applied the same test to Article 3 as it had to Article 2, in the sense that the court dealt with the threat of physical violence in the same way as it had addressed the risk to life (see the last two lines of [76], quoted above). I consider, with respect, that this approach is logically correct, and I have had particular regard to the fact that the Court of Appeal was cognisant of the approach of Lord Rodger in *Secretary of State for the Home Department v AP (No 2)* [2010] 1 WLR 1652 vis-à-vis a risk of physical violence (which they described as relating to particular facts, given the individual had been moved to a particular location) (see [61] of the

judgment in that case, quoted above). Lord Rodger emphasised at [19] of *Secretary of State for the Home Department v AP (No 2)* that his judgment did not lay down any general rule. In the present case it is entirely speculative that there is a risk of physical violence and mental suffering: on the material before the Inquiry the level and extent of any such a threat is simply based on supposition.

85. As with Article 2, therefore, there is no objectively verifiable evidence that revealing the identifies of the relevant clinicians from Alder Hey will lead to a real and immediate risk or threat of physical violence and mental suffering. The anticipated violence/abuse is based on conjecture or an assumption, which does not justify the grant of anonymity.

Abbasi

86. Before considering Articles 8 and 10, it is convenient next to consider the applicants' reliance on the recent judgment of the Supreme Court in ***Abbasi and another (Respondents) v Newcastle upon Tyne Hospitals NHS Foundation Trust (Appellant); Haastrup (Respondent) v King's College Hospital NHS Foundation Trust (Appellant)*** [2025] UKSC 15 ("Abbasi"). It is helpful at the outset to explore the circumstances of and the decision in these two conjoined cases in a little detail.

87. The parents of two children (after the latter had died) applied to be released from the injunctions prohibiting anyone from revealing the identity of the clinical team and the hospital where their respective children were being treated, and potentially the identity of the children, their families, the relevant NHS trusts, and other individuals with an involvement in the children's treatment and care.

88. By way of the briefest summary of the respective arguments, the parents contended that the injunction was an illegitimate restriction of their freedom of speech whilst the NHS trusts argued that making public the names of the

treating clinicians would create an unacceptable risk of an invasion of their rights to private life, by exposing them to harassment and abuse.

89. The Supreme Court, therefore, was addressing the undoubtedly fraught circumstances when the High Court is called upon to decide whether life-sustaining treatment being given in hospitals to gravely ill children should be continued or withdrawn, and what is in the child's best interests in those circumstances. A decision in this context can lead to emotionally charged disagreements. As the Supreme Court observed at [2] (*per* Lord Reed and Lord Briggs, with whom Lord Hodge and Lord Stephens agreed):

> "[…] the experience of recent cases is that a disagreement about the child's best interests can turn into an uncontrolled furore in the public arena, in which some of the protagonists resort to abuse directed at members of the clinical team treating the child, for example in the form of vilification on social media, or by shouting abuse at staff outside the hospital concerned. This can amount to harassment of the staff affected, leading to distress, disillusionment, psychological illness, demotivation and even withdrawal from that vital work. It can also have an adverse effect upon the quality of the treatment being given to the sick child."

90. A practice had been developed in the High Court of limiting this risk by issuing injunctions at the commencement of the proceedings which prohibit anyone from revealing the identity of the clinical team and the hospital where the child was being treated, along with – depending on the circumstances – the identity of others. The effect of these orders is to prevent the identification of the individuals and institutions involved in the treatment and care of the child in question, irrespective of whether their names they have been revealed in court.

91. The High Court in making these orders exercises its inherent jurisdiction as *parens patriae*: put simply, it performs the Crown's residual function of

protecting those who stand in need of protection. As the Supreme Court observed, "(t)he court's primary responsibility in exercising that jurisdiction in such cases is to decide which among available alternatives in medical treatment will serve the best interests of the child concerned" (see [38]). It is of importance, therefore, to note that the court is being invited to intervene in the care of the child by the Trust. The court's task is to decide how that care should be discharged in the best interests of the child (see [41]). The Supreme Court noted that it is generally impossible to know in advance or after the child's death which members of the public will be tempted into abusive conduct given the use of anonymous social media posts, or the extent and nature of the harms caused (see [45]).

92. The Supreme Court provided helpful analysis as to the approach to be adopted to continuing the *parens patriae* injunctions if the child has died. They observed:

> "181. […] the only basis on which the continuation of the injunctions was sought was to protect the rights of clinicians; but those rights were not being asserted by the clinicians themselves. If, on the other hand, there had been an application by the clinicians for the continuation of the injunctions in order to protect them from an invasion of privacy (or some other form of wrongful conduct), then the court would have had to consider whether the evidence demonstrated a real risk of such wrongful conduct. The evidence before the courts below did not demonstrate such a risk, as we have explained. If, however, the evidence had demonstrated such a risk, then the court would have had to consider whether the interference with the right to freedom of expression resulting from the continuation of the injunction was prescribed by law (clearly, it would have been on the hypothesis we are contemplating, as the clinicians' application would have been based on the law of tort, or equity, or statute, as the case might be); whether it pursued a legitimate aim (clearly, it would have done, on that hypothesis); and whether it was necessary in a democratic society and

> struck a fair balance between the competing values, bearing in mind that "the need for any restrictions must be established convincingly" (see para 159 above). Given that the parents' publication of their concerns would contribute to a debate of general interest, and given also that the hospital staff concerned were, for the purposes of article 10, public figures vested with official functions, and that the limits of acceptable criticism were accordingly wider than in the case of private individuals, it appears to us that it would be difficult to justify the continuation of the injunctions in the absence of evidence demonstrating a real and continuing threat of a serious nature."

93. This analysis is directly relevant to my consideration of Articles 8 and 10 in the following section.

Articles 8 and 10

94. Article 8 (right to respect for private and family life) is in the following terms:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

95. Article 8 ECHR applies to witnesses giving evidence to the Inquiry and the Inquiry must not act incompatibly with Article 8. If I propose to make a decision that interferes with the rights of a witness under article 8(1), that interference must be justified and proportionate under article 8(2). I must

consider whether calling a witness without anonymity would amount to an unjustified interference with their personal or professional life. This could include an act which significantly interferes with a person's ability to pursue their chosen career (*Niemitz v Germany* [1992] 16 EHRR 97).

96. I am willing to assume in the Applicants' favour that their Article 8 rights are engaged on the basis that giving evidence without anonymity risks some level of interfere with their private, family and professional lives. However, as the above citation from *Abbasi* makes clear, I must then proceed to conduct a balancing exercise which takes into account the rights of the media under article 10.

97. Article 10 (freedom of expression) is in the following terms:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

98. The Supreme Court in *Abbasi* made the following remarks concerning this latter right:

159. […] It is firmly established in the case law of the European court that "the need for any restrictions [of freedom of expression] must be established convincingly": *Axel Springer AG v Germany*, para 78. The Grand Chamber has also said that "a journalist cannot in principle be required to defer publishing information on a subject of general interest without compelling reasons relating to the public interest or protection of the rights of others": *Stoll v Switzerland* (2008) 47 EHRR Page 5059, para 131. That follows from the fact that, as the Grand Chamber said in *Morice v France* (2016) 62 EHRR 1, para 125, "there is little scope under article 10(2) of the Convention for restrictions … on debate on matters of public interest". Those dicta were in point in the circumstances of *A v Ward.* We do not understand Munby LJ to have meant any more than that more convincing reasons were required, to justify the restriction on freedom of expression that was sought, than had been placed before him. Indeed, this court has also referred to the need for "compelling" submissions or "compelling" evidence to justify restrictions of freedom of expression: see, for example, *In re Guardian News and Media Ltd,* paras 17 and 74, in relation to anonymity orders designed to protect article 8 rights, and *In re Abortion Services (Safe Access Zones) (Northern Ireland) Bill* [2022] UKSC 32; [2023] AC 505, paras 117 and 137, in relation to restrictions on rights of protest intended to protect article 8 rights.

160. The need for restrictions of freedom of expression to be established convincingly reflects the fact that freedom of expression is, as the European court said in *Axel Springer AG v Germany*, "one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfilment" (para 78). That does not in any way imply that the interests protected by article 10 have, as such, precedence over the interests protected by article 8. Clearly, there are many situations in which restrictions on freedom of expression are justified in order to protect the rights of others (including rights protected by article 8), as

article 10(2) itself recognises. Furthermore, the weight to be attached to freedom of expression, and to privacy, will plainly depend on the circumstances of the particular case."

99. I proceed, therefore, on the basis that in order to issue these proposed anonymity orders there must be a compelling and convincing justification for restricting the reporting of the names of the Applicants, given the importance of freedom of expression as a critical part of the underpinnings of our democratic society when balanced against the private and families lives of the applicants. I have in mind that the entire history of the manner in which AR was handled by multiple agencies is the subject of significant and justified public interest. Indeed, the speed with which this Inquiry is required to proceed in accordance with the Terms of Reference is to ensure that these urgent matters are explored and understood before they recede into history. Those matters extend to the healthcare provided to AR prior to the attack. As the Supreme Court in *Abassi* observed at [179]:

> "However, the court should also bear in mind that the treatment of patients in public hospitals is a matter of legitimate public interest, and that the medical and other staff of public hospitals are public figures for the purposes of the Convention, with the consequence that the limits of acceptable criticism are wider than in the case of private individuals."

100. Whilst the statements by the Applicants are, with varying degrees of emphasis, expressed in strong terms, no supporting medical or psychological evidence has been submitted in support of each of the individual applications, save for an indication of certain medication that has been prescribed in the case of one of the applicants and a bare statement of the current "active problems" concerning another. Even though doctors and psychologists have been involved in the handling of some of the principal conditions relied on, no supporting material has been provided save for the over-arching statement of Dr Potier. I make this observation not to doubt the sincerity of what has been advanced by the Applicants but because of the need for the evidence of the

Article 8 claims to be objectively compelling. I do not doubt that some or all of the Applicants have suffered from a level of mental health difficulties, including anxiety, but the assertion that they will be worsened, unless the requested anonymity and special measures are in place, is not objectively supported for individual applicants. The weight that I can attribute to the Applicant's subjective expectations is less than if those expectations were supported by medical evidence. Moreover, on occasion there is reference in the statements to mental health difficulties without any substantive elaboration as to what is meant by this expression, the particular symptoms experienced, the severity of the condition and whether there are meaningful mitigations short of anonymity for these "difficulties". It is unclear in some of the relevant Applications whether professional assistance has been sought. Save as just set out, no independent reports or evaluations have been provided.

101. Leading counsel and the solicitor to the Inquiry on 7 and 8 August 2025, in separate communications with counsel and the solicitors acting for the Applicants, indicated that although I do not have an expectation of supporting medical evidence across the board, the more extensive the nature of the restrictions which are sought and the more serious and debilitating the medical condition relied on, the more compelling the evidence will need to be to justify it, including by providing medical evidence in support. As Mr Moss KC indicated to leading counsel for the Trust, the concern is to ensure that the best evidence possible is available in order to reach fair and lawful decisions.

102. The applications for anonymity are highly restrictive of the Article 10 rights of the press and the proper reporting of the Inquiry proceedings. In some instances, serious – sometimes, very serious – mental and physical conditions are relied on, and I repeat that save for the sparse information provided by two Applicants, no medical, psychological or other relevant evidence has been forthcoming. It must have been apparent to the Trust and to the Applicants for a significant period of time – at the latest from when the Home Secretary announced the Inquiry in April this year – that there was a strong likelihood that the clinicians from AH would be called to give evidence. This cannot have come as a surprise.

103. I understand that the Trust, and their recognised legal representatives, have been heavily engaged in producing a significant number of detailed statements, pursuant to the Inquiry's Rule 9 requests. However, the Inquiry's Protocol on Anonymity, other Special Measures for Witnesses and Vulnerable Witnesses, published on 12 June 2025, required that: "any person who considers themselves likely to be a witness to this Inquiry and who may ask for their name to be anonymised (even in documents provided to Core Participants) must notify the Solicitor to the Inquiry **without delay.** This is because the Inquiry will be moving as rapidly as possible towards the disclosure of relevant documents to Core Participants. Such potential witnesses should not wait until they receive a formal request for a witness statement before contacting the Solicitor to the Inquiry" [emphasis in original].

104. The lack of expert and independent assistance, as set out above, is a significant factor that I have borne in mind in reaching my decisions as regards the applications in the instances where this factor is relevant. The Inquiry's Protocol on Anonymity and Other Special Measures for Witnesses, and Vulnerable Witnesses states that a person shall be considered vulnerable if there is a significant risk that, by reason of one or more personal characteristics, they will, *inter alia*, experience psychological harm beyond the stress normally associated with preparing for and giving evidence. The Inquiry recognises that vulnerability may arise from characteristics including a recognised mental illness, a substantial fear or distress relating to testifying about matters relevant to the Inquiry. It does also recognise vulnerability may arise from other characteristics, including any condition which, whilst not amounting to an illness, is such as to affect significantly the ability of the individual to be a witness or potential witness.

105. I have been assisted in reaching my decision by an extract from the decision of Thirwall LJ in the Letby Inquiry, when handing down a ruling on live streaming on 24 May 2024. It is helpful to quote the relevant part of the decision in full:

"**The need for all witnesses to give their best evidence to the Inquiry**

32. […] it is generally accepted that a person giving evidence in public is more likely to be candid than someone who is giving evidence privately. There is little information about whether there is a difference in the quality of evidence when the witness knows it is being broadcast live across the world or, perhaps worse, to family, neighbours, work colleagues, and so on.

33. I accept Mr Skelton KC's submission (*counsel representing the families of certain children*) that the hardest part of giving evidence, particularly for those who have not previously done so, is being required to speak publicly in an unfamiliar room full of unfamiliar people with everyone looking at you. He recognised that the overlay of knowledge that the evidence is being broadcast to the whole world would bring an additional layer of stress. However, he did not think that this knowledge would "tip the balance" by which was meant, I infer, that it would tip a witness over the edge into being unable to give their best evidence. In my view the extent to which broadcasting of all the inquiry hearing to the world affects a witness probably depends on a number of factors, including the personality of the witness, what they are going to say and how they think people hearing it will respond. I would accept that the thought of being observed by family, neighbours, work colleagues or others is unlikely to settle nerves.

34. It is unsurprising that many of the staff at the hospital, when informally asked about giving oral evidence responded with anxiety and concern. Some of them gave evidence at the criminal trial so their experience has been of a very adversarial process. In their written submission the legal team for the Hospital observed that there was a

> "*real risk that witnesses feel inhibited by the knowledge that their evidence*
> *is being livestreamed or broadcast".* That is a reasonable observation. The
> submission continued, *"that they may be less inclined to speak frankly and with candour; and may be more defensive than they otherwise would. This could have a detrimental impact on the Inquiry's ability to fulfil its terms of reference*". This passage unsurprisingly attracted considerable adverse comment, as was inevitable. Mr Kennedy (*I interpolate to note, counsel representing the Countess of Chester Hospital NHS Foundation Trust*) readily acknowledged it was badly written. I make it plain that, notwithstanding their nerves, I expect all witnesses, doctors and nurses included, to tell the truth, to make every effort to assist the inquiry when giving evidence and to reflect thoughtfully on what happened. Candour and frankness should be a given. This extends to the witnesses for the corporate bodies […].
>
> 35. Whilst I accept that knowing evidence is being broadcast live to the world may increase nervousness, I do not have a sufficient evidence base upon which I can rely to determine whether or not it would detrimentally affect the quality of the evidence given. Nor do I know whether a witness would be affected in the same way or differently knowing evidence is being transmitted live to certain individuals and may be broadcast at some stage. For those reasons, I leave that issue out of account in coming to my decision."

106. I share the same lack on information and understanding set out by Thirwall LJ in [35] of her decision, and I adopt a similar approach as she did to livestreaming to these applications for anonymity.

107. I repeat and stress that I accept that the fears and concerns the applicants have expressed in the statements in support of these applications reflect their individual assessments of their situation. However, in this context, those fears and concerns must be assessed on an objective basis. For the

reasons I have already discussed, the concerns of the Applicants as to a possible breach of their right to respect for their private and family lives is, on analysis, based essentially on speculation and unverified fears. I do not doubt that they are genuinely and subjectively held, but when balanced against the nature and extent of the interference with the Article 10 rights of the media, I consider they fall far short of the justification required for such interference with the open justice principles protected by Article 10. The reliance by the Applicants on what occurred following 29 July 2024 and the circumstances of the other high profile case referenced is misplaced, in the sense that the origins of those disturbing and separate events were markedly different to the issues under consideration in the present Inquiry.

108. The testimony of the clinicians from AH will form a discrete part of an extensive patchwork of evidence concerning the interactions of the "authorities" with AR over a significant period of time. This evidence will be introduced in the sober environment of a public inquiry, in which the overwhelming majority of the questioning will be conducted by a highly experienced King's Counsel who is lead counsel to the Inquiry and it will be judicially controlled. There will be no hostile or emotive questioning, as associated with high profile criminal or libel trials. There is an absence of any indication of a potentially hostile reaction of the kind feared by the Applicants either at the Inquiry's premises or online. There is no sustainable reason to suppose that the Inquiry hearings will result in public disorder of the kind associated with the other high profile case or the aftermath of 29 July 2024. Moreover, careful and precise questioning by leading counsel should greatly reduce the risk of irresponsible reporting by the mainstream press or on social media, albeit a risk of some irresponsible online statements exists in nearly every sphere of modern life.

109. There is an insufficient basis and an absence of compelling evidence, therefore, for suggesting that any interference with the Applicants' right to respect for their private and family life, if their names are revealed during these Inquiry proceedings, outweighs the restrictions on freedom of expression which the applications entail.

110. I echo the words of Thirwall LJ and seek to make it plain that, notwithstanding their anxieties, I expect all witnesses, clinicians included, to tell the truth, to make every effort to assist the inquiry when giving evidence and to reflect thoughtfully on what happened. Candour and frankness should be a given. This extends most assuredly to the witnesses for the corporate bodies.

111. Aside from issues under the ECHR, I must also consider the position at common law. This includes the common law requirement to act fairly which is also set out at s.17(3) of the Inquiries Act 2005 (there is no reason to think that these are different standards of fairness: see the judgment of the Undercover Policing Inquiry, Legal Approach to Restriction Orders, p.77). Many of the same considerations apply at common law as those I have addressed above in relation to the ECHR (see *Officer L* at [29]). In addition, under common law, subjective fears, even if not well-founded, can be taken into account (*Officer L* at [22]). Having taken those subjective fears into account, I do not consider that anonymity and special measures should be granted because the effect of those fears on the Applicants is not fully explained or supported by medical evidence and, in any event, I do not consider that the impact of those fears on the Applicants, in so far as I can determine them, outweighs the public interest in open justice.

112. Finally, I have been invited by counsel on behalf of the Trust to consider the best interests of AH, as well as the wider position of the NHS in determining whether to grant these applications for special measures. There is a substantial overlap in the interests between these bodies and the individual Applicants, although AH has a particular interest in the recruitment of new staff, the retention of current staff and in the effective provision of care to other service users. I have therefore considered whether it can properly be argued that taking this step to protect the Trust and the proper functioning of the NHS comes withing the ambit of section 19 of the Inquiries Act 2005, namely whether the order would be conducive to the inquiry fulfilling its terms of reference or necessary in the public interest for the purposes of this public

inquiry. Given the factors that are particularly to be taken into account in this context as set out in section 19(4) and (5), which are focussed on the proper functioning of the Inquiry, I have reservations as to whether such general considerations should be considered when making a decision for special measures. I also have limited evidence as to whether there would be a causal link between the identification of the Applicants and the issues raised. I note that the fact that AR was treated by AH clinicians has been in the public domain since at least January 2025. Moreover, the Inquiry will hear evidence about the work of AH practitioners in assisting with the emergency response and providing psychological care to the survivors (the latter through the victim/survivor impact evidence). I do not consider that these considerations are such as to outweigh the public interest in open justice and the right to freedom of expression under Article 10.

Conclusions

113. I have attached nine Closed Annexes to this Decision relating to the intensely private Closed Statements submitted by certain of the Applicants which addressed highly personal details of their circumstances. I have addressed the various submissions contained therein in each Annex. **These are not to be generally distributed; indeed, without my leave they should only be disclosed to the named Applicant and the relevant legal team.**

114. For the various reasons set out above I refuse the Applications for anonymity in their entirety. In the circumstances, having considered the grounds on which these applications for anonymity were advanced and had particular regard to any risk of harm or damage that could be avoided or reduced by granting anonymity, I do not consider that anonymity for the Applicants would be conducive to the Inquiry fulfilling its terms of reference or to be necessary in the public interest.

115. Although the Applications are generally expressed as being, separately, for anonymity and for special measures, the submissions of AH suggest that the applications for special measures are essentially dependent

on the success of the application for anonymity, in that they provide a mechanism for supporting that particular special measure. On that basis, given I have refused the applications for anonymity, no substantive arguments have been advanced by AH in support of the other proposed "concomitant" special measures (*viz.* i) screening the applicants, for instance, from the media, the general public and the lay clients of core participants when giving evidence; ii) providing a separate, private entrance for the applicants when entering Liverpool Town Hall; and iii) not broadcasting their evidence to the general public).

116. However, all of the witnesses have sought, as an alternative to their anonymity applications, for a private entrance, for screens (as described in the individual applications) or for their evidence or their facial features not to be broadcast.

117. Whether or not a witness's evidence is broadcast, daily transcripts, which will reveal their identities, will be available on the Inquiry website at the end of each day with the result that their names will be published. Nevertheless, some witnesses may wish for their appearance to be anonymised, even if their name is published, to avoid the risk that they are recognised. This could be achieved by allowing them to use a private entrance, by installing screens, by preventing reporting of their appearance and not broadcasting their evidence. I have considered this issue in line with all of the legal principles that I have set out above. I do not have any specific evidence addressing the difference that protecting an Applicant's appearance would make by comparison with full anonymity. It is not clear to me whether any of the Applicants' appearance is already publicly available, for example online, or whether the Applicants have taken steps to avoid their appearance being made publicly available.

118. As regards broadcasting evidence, Thirwall LJ has pointed out that, "(t)here is little information about whether there is a difference in the quality of evidence when the witness knows it is being broadcast live across the world or, perhaps worse, to family, neighbours, work colleagues, and so on" (see

[127] above). There is an absence of contemporary studies as to the impact on witnesses of this wider audience than otherwise would be the case.

119. Although these measures would be a lesser restriction on the public interest in open justice, and the right to freedom of expression under Article 10, my concerns previously expressed in relation to articles 2, 3 and 8 ECHR and at common law remain and I am not prepared to grant these applications. I am confident that with appropriate and careful handling, witnesses should quickly become familiarised and reassured as regards giving evidence, notwithstanding an awareness that their evidence is being broadcast and that they will be “visible”.

120. There is a final issue to consider. Some of the above measures may be sought by vulnerable witnesses to address their nervousness in giving evidence, rather than for reasons of anonymity. These include the use of a private entrance, the use of screens, giving evidence via a video link and no broadcasting. Again, these would be lesser restrictions on the public interest in open justice and the right to freedom of expression under Article 10. The submissions in support of the applicants are not explicitly put in this way but, in any event, the Inquiry’s Protocol on Anonymity and Other Special Measures for Witnesses, and Vulnerable Witnesses notes that the Inquiry may depart from the default expectation of witnesses of its own initiative, including to support a vulnerable witness. If I identify that a witness is vulnerable, then it is open to me to direct that special measures are taken to assist that individual in participating effectively as a witness and/or to improve the quality of their evidence. I have a wide discretion to make such directions as I consider necessary to achieve the best evidence from any vulnerable witness.

121. I am not persuaded that these Applicants, save for one, meet these requirements on the material that has been provided. There are many measures in place to assist all witnesses. They are able to visit Liverpool Town Hall to familiarise themselves with the location. The Inquiry and Liverpool Town Hall staff will be present to ensure the safety of the Applicants when attending the Inquiry premises during the hearings. They will be alert to

ensure that all those who come to give evidence or observe the Inquiry proceedings are treated with dignity and respect. All witnesses will be invited to use a side entrance to the building, as opposed to the public entrance. This provides only a measure of privacy because it is impractical to prevent the public from observing those using this entrance. The Inquiry staff will take such steps as are practical when witnesses enter and leave the building. There will be free emotional support available for witnesses at all hearings through an organisation which is independent and whose trained support workers offer emotional support and practical help to victims, families, witnesses and others who usually attend an Inquiry. I am also able to apply parameters on the questioning of witnesses through rule 10 of the Inquiry Rules 2006.

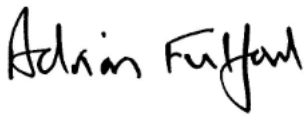
122. I have already set out in above that the witness's names will be published in the transcripts that will be made generally available at the end of each day. Given the identities of the AH witnesses, their then respective roles and then place of work are therefore going to be publicly known, I do not consider that there would be any sufficient assistance provided by not broadcasting their evidence, offering a video link, obscuring their facial features or providing screens such as to justify any of these steps.

123. However, it does seem to me that Michelle Warner meets the requirements of the Protocol by reason of very particular personal circumstances as addressed in the relevant Annex. As a result, if she is to be called to give oral evidence, I am prepared to allow her to give evidence via a video link, not for reasons of anonymity or to allay any objective risk, but to assist her as a vulnerable witness.

124. There have been requests for regular breaks whilst particular Applicants are giving evidence. There have been requests that the questions are short and that sufficient time is afforded for consideration of any relevant documentary material. There has been a request for one Applicant to have the support of a relative, friend and / or bereavement support worker. These are

all reasonable requests, and I will ensure that all reasonable steps are taken to accommodate them.

125. One Applicant has requested to give evidence either in private using a video link or by way of a further written statement. No sufficient material has been provided to justify these particular requests for assistance, and they are refused.



Sir Adrian Fulford

1 September 2025