



CHIEF CORONER

**INQUESTS ARISING FROM THE DEATHS
IN THE WESTMINSTER TERROR ATTACK OF 22 MARCH 2017**

**SECOND RULING ON APPLICATIONS FOR
ANONYMITY AND SPECIAL MEASURES**

Introduction

1. On 12 March 2018, I handed down a written ruling concerning applications for anonymity and special measures made by the Metropolitan Police Service (“MPS”) on behalf of the two officers who had been involved in the final confrontation with the attacker in which he was shot (officers with the pseudonyms SA74 and SB73). The ruling is available on the Inquests website. In summary, the applications were not opposed and were granted.
2. Since that time, eight further applications have been made in these Inquests for anonymity and special measures, which are as follows:
 - a. an application dated 22 February 2018 by the widowed partner of Khalid Masood (“RH”) in respect of herself and her children (“M” and “MM”);
 - b. an application dated 7 May 2018 by the eldest daughter of Khalid Masood (“DDD”) in respect of herself and her husband (“DF”);

- c. an application dated 3 May 2018 by the former partner of Khalid Masood (who was with him from 1990/91 to 2000/1) (“DE”), in respect of herself, her partner and her two youngest children (“DD” and “D”);
 - d. an application dated 4 May 2018 by the mother of Khalid Masood (“MP”);
 - e. an application dated 25 May 2018 by a former partner of Khalid Masood (who was in a brief relationship with him in 2002) (“JE”) in respect of herself, her child and her partner;
 - f. an application dated 14 June 2018 by the former wife of Khalid Masood (who was married to him for a time from 2004 to 2005) (“FF”) in respect of herself and her husband (“FE”);
 - g. an application dated 29 June 2018 by the Secretary of State for the Home Department on behalf of “Witness L” (an officer of the Security Service); and
 - h. an application dated 19 July 2018 by a husband and wife who were arrested and interviewed after the attack as a result of their association with Khalid Masood (“AA” and “AB”).
3. Counsel to the Inquests (“CTI”) made submissions on the first seven applications at the Pre-Inquest Review Hearing on 2 July 2018. At the same hearing, I gave the opportunity for any oral submissions to be made by others. The MPS had already provided written submissions in respect of some of the applications. In respect of the seven applications under consideration then, I directed that any media organisation might make written submissions by 16 July 2018 and then that the applicants might each make further written submissions by 23 July 2018. I indicated that I would then determine each of the applications on paper.
 4. The eighth application (by AA and AB) was received after the hearing. It will be the subject of a separate ruling in due course.

Summary of Orders

5. In summary I make the following Orders, the detail of which follows in this ruling:

RH, M, MM	<p>RH's application for anonymity is refused.</p> <p>RH's application for special measures is granted as set out below.</p> <p>M and MM shall not be referred to by any advocate save with prior notice and on application to the Court.</p>
DDD, DF	<p>DDD's application for anonymity is refused.</p> <p>Her application for special measures does not have to be resolved, as it is not intended that she or DF be called as a witness.</p> <p>DDD's children shall not be referred to by any advocate save with prior notice and on application to the Court.</p>
DE, DD, D	<p>DE's application for anonymity is refused.</p> <p>Her application for special measures does not have to be resolved, as it is not intended that she be called as a witness.</p> <p>DD and D shall not be referred to by any advocate save with prior notice and on application to the Court.</p>
MP	<p>MP's application for anonymity is refused.</p> <p>MP's application for special measures is granted as set out below.</p>
JE	<p>JE's application for anonymity is granted for JE and her current partner.</p> <p>Her application for special measures does not have to be resolved, as it is not intended that she or her partner be called as a witness.</p> <p>JE's child shall not be referred to by any advocate save with prior notice and on application to the Court.</p>
FF, FE	<p>FF's application for anonymity is refused.</p> <p>Her application for special measures does not have to be resolved, as it is not intended that she or FE be called as a witness.</p>

Witness L	Anonymity and special measures are granted in the terms sought, save for one small aspect of the application concerning turning off electronic devices, which will need further consideration.
------------------	--

Up to now, the names of the anonymity applicants have been redacted and replaced with ciphers in documents disclosed to interested persons. I direct that, seven days from the date of this Ruling, interested persons will be provided with a key giving the names of those whose applications for anonymity have been refused. At future hearings, there will be no restriction on reference to their names (subject to the orders concerning reference to the names of their children).

The Applications and Evidence

6. Witness L's application was prepared and submitted by the Government Legal Department. RH's application was prepared and submitted by her solicitors, Imran Khan & Partners. The five remaining applications have been prepared, as far as I am aware, without the benefit of independent legal advice but with the assistance of Family Liaison Officers of the MPS. Each of those five applications is in the form of a witness statement, and I shall address them further in this Ruling.
7. I am grateful to those Family Liaison Officers for the help which was evidently provided to the five applicants. The applications are clear and concise, identifying the key concerns of the applicants.
8. In addition to the submissions of the MPS and CTI which are mentioned above, submissions were received from media organisations. The Press Association made submissions by email dated 9 July 2018. The BBC provided submissions by letter dated 16 July 2018. In summary:
 - a. Neither organisation makes submissions in respect of Witness L.

- b. The BBC confirms that it does not intend to identify any of the children referred to in the applications. The Press Association expressly does not oppose anonymity for the children.
 - c. The BBC opposes the entirety of each of the applications made on behalf of adults other than Witness L. The Press Association opposes those adults' applications for anonymity, but concedes that it may be necessary to employ screening so as to achieve their best evidence. The reasons for these positions are set out in paragraphs [46] - [47] of this ruling.
9. The majority of the applicants subsequently made further written submissions on various dates, as set out below.

The Children

10. CTI submit that the fact that some of the applicants have children, and the names and ages of those children, are generally irrelevant to the inquiry, except that it will be necessary to have some evidence about Khalid Masood's two eldest children (DDD and DD, who are both now over the age of 18) and, less extensively, about his two younger children. CTI propose that I make an order that no advocate should make reference to any children of RH, DDD or JE, or to the two younger children of DE, except with prior notice and on application to the Court. That proposal is not opposed by any interested person or media organisation. In my judgment, it represents a fair and sensible approach, and I shall make orders in those terms. This approach recognises the fact that each of the children has no or limited relevance to the Inquests. As and when it is suggested that any advocate does need to make reference to any of them, I shall consider whether and how that is to be done, taking account of the common law duty of fairness and relevant rights (notably Article 8 rights) of the children.

RH, M, MM

11. RH, who was married to Khalid Masood at the time of his death, made her application on 21 February 2018. Supplementary written submissions (undated) were provided,

together with a further witness statement dated 25 July 2018. The application is made for RH herself and for the two children she shared with Khalid Masood, M and MM. RH seeks directions that -

- a. there shall be no disclosure or publication made of any evidence or document given, produced or provided to the Inquests which discloses RH's identity, including any description or image capable of identifying RH; and
 - b. there shall be no disclosure or publication made of any evidence or document given, produced or provided to the Inquest which discloses the identity of RH's children (M and MM), including any description or image capable of identifying them.
12. Although there is no such direction in the draft order provided on behalf of RH, the written submissions also suggest screening of RH from the public during proceedings (assuming that she gives evidence, as is presently intended). They do not suggest that RH should be screened from interested persons or their lawyers.
13. The application for anonymity is made by reference to rights enshrined in articles 2 and 8 of the ECHR. RH submits that the proposed order is necessary because disclosure of evidence which could identify her or her children would result in an unjustifiable or disproportionate interference with their right to private and family life. In the alternative, she submits that refusal of the order would pose a real and immediate risk to their lives. Particular reliance is placed upon the past attempts of journalists to gather information on RH and her children; the actions of members of the public towards RH and her children; and the fear which they all feel of potential retaliation attacks. The submission referring to article 2 is heavily founded on the fact that the police have deemed it appropriate to relocate the applicants some distance from the original family home. It is argued that this expedient shows that there is a real and immediate risk of harm to them if their identities are made known.
14. CTI first submit that RH has not established that she would face a real and immediate risk of death or serious harm should the requested orders not be granted. They point out that there is no evidence of any direct violence or threats made to her in connection with

the terror attack, despite RH's name having been published shortly afterwards and being still available in online reports. In the circumstances, they also submit that an order for anonymity would provide no practical protection against any revenge attack on RH. They acknowledge that RH's article 8 rights are engaged, and that there may be some increase in media attention during the Inquests if anonymity is refused. However, the granting of anonymity would have a material effect on the giving and reporting of evidence about the attacker's life, and the article 10 rights of media organisations covering the inquests are accordingly engaged. Overall, CTI submit that the factors in favour of anonymity are outweighed by the countervailing factors.

15. As to special measures, CTI support screening from the public and the press, in combination with arrangements to help RH arrive at and leave Court without being identified or photographed. This submission is made primarily on the basis that RH is clearly anxious about the prospect of giving evidence and that such measures are likely to improve the quality of her evidence.

DDD, DF

16. DDD (whose typed witness statement is made and signed in the name of "DD", but to whom I shall refer as "DDD" to avoid duplication of the pseudonym of another applicant) made an application dated 7 May 2018. DDD is an adult daughter of Khalid Masood and is married to DF. DDD seeks directions that –
 - a. there shall be no disclosure or publication made of any evidence or documents given, produced or provided to the Inquests which discloses DDD's identity or that of DF;
 - b. there shall be no disclosure or publication made of any evidence or document given, produced or provided to the Inquests which discloses the identity of DDD and DDD's family, including description or image capable of identifying them (extending to images of DDD's workplace and home); and

- c. should DDD give evidence, that she be screened from the public galley and the press (although the application does not ask for her to be screened from interested persons or their lawyers).
17. The statement in support of her application explains that, shortly after the attack, DDD's name and photograph appeared in the press. It adds that this exposed her to unwanted attention from the press, and that she was fearful about the prospect of being attacked. She says that, if anonymity is not granted, she would again be concerned about the possibility of reprisals against herself or her husband.
18. The MPS notes in written submissions dated 1 June 2018 that DDD has been identified and that her photograph appears in print and online news publications. Accordingly, the MPS submits that the application for anonymity is academic. The MPS supports the application of DDD for special measures, including screening.
19. CTI make essentially the same submissions in respect of DDD and DF that are made in respect of RH, summarised above at paragraph [14]. CTI do not support the application for anonymity of DDD and DF.
20. It is not proposed to call DDD or DF to give evidence and so I need not consider special measures in respect of them at this time.
21. Following submissions by CTI, the MPS and the media, DDD sent an email dated 20 July 2018 to her Family Liaison Officer. In this email she states that she "cannot see how the public being reminded of my identity will make any difference to open justice" and that "this case should not be about me (a witness from the start of the investigation) and my family". DDD emphasises that she and her family "are victims that are suffering too and are also trying to come to terms with the death and the actions of my father". DDD adds that she continues to feel vulnerable, scared and anxious in certain situations.

DE, DD, D

22. DE (whose typed witness statement is made in the name of "BE", but signed as "DE"), made an application dated 3 May 2018. DE was in a relationship with Khalid Masood

for approximately ten years, ending in 2000 or 2001. DE has two children, DD and D , with whom she lives. DD is the second daughter of Khalid Masood, while D is not related to him. DE seeks directions that –

- a. there shall be no disclosure or publication made of any evidence or documents given, produced or provided to the Inquests which discloses DE's identity, or that of DE's children (DD and D) or DE's current partner;
 - b. there shall be no disclosure or publication made of any evidence or document given, produced or provided to the Inquests which discloses the identity of DE or DE's family, including description or image capable of identifying them (extending to images of DE's workplace and home); and
 - c. there shall be no press disclosure of DE's home address or that of DE's workplace.
23. The statement in support of her application says that the family was the subject of intense and intrusive media attention after the terror attack. It resulted in photographs of the family home being printed in the press and the neighbours becoming aware of DE's connection with Khalid Masood. DE says that her photograph has been printed and she has been recognised in public, leaving her concerned about her family life and her security.
24. In written submissions the MPS stress that DE has already been identified and her image printed in the press. Moreover, DD has been identified and her image printed in hardcopy and online publications. The MPS accordingly submit that any order for anonymity in respect of DE or DD is "otiose".
25. As to the younger child, D, the MPS do not believe that D has been named in the press. It is submitted that if D's name is not relevant, it can be redacted from all disclosure without the need to consider its sensitivity; otherwise, the MPS propose either asking the press not to publish any information which might identify D, or for DE to make an application to the High Court for an injunction restraining the media from identifying D in reporting (this being a matter, submit the MPS, for DE and not for this Court).

26. The MPS support the application by DE for special measures, including screening, to enable her to give her best evidence in Court.
27. CTI make essentially the same submissions in respect of DE that are made in respect of RH, summarised above at paragraph [14]. CTI do not support the application for anonymity of DE.
28. It is not proposed to call DE, DD or D to give evidence and so I need not consider special measures in respect of them at this time.
29. DE has filed no responsive evidence or submissions since the last hearing.

MP

30. MP, the mother of Khalid Masood, made an application dated 4 May 2018. She seeks directions that –
 - a. there shall be no disclosure or publication made of any evidence or documents given, produced, or provided to the Inquests which discloses MP’s identity;
 - b. there shall be no disclosure or publication made of any evidence or document given, produced or provided to the Inquests which discloses MP’s identity, including description or image capable of identifying MP (extending to images of MP’s home);
 - c. there shall be no press disclosure of MP’s home address; and
 - d. should MP give evidence, she be behind a screen (although the application does not specify from whom MP wishes to be screened).
31. In her statement, MP says that following the attack journalists turned up at her house and the police provided security measures for herself and her husband (who was unwell). She adds that she would have been very concerned if the police had not been present to protect her from the press “invasion”. She asks for anonymity to avoid a recurrence of that unwelcome attention.

32. As with DDD and DE, the MPS notes that MP has been identified in the press already and accordingly submits that the application is academic. However, the MPS supports MP's application for special measures, including screening.
33. CTI makes the same submissions in respect of MP that are made in respect of RH, summarised above at paragraph [14]. CTI do not support the application for anonymity of MP.
34. As to special measures, CTI advocate screening MP from the public and the press, in combination with arrangements to help MP arrive at Court and leave Court without being identified or photographed. This submission is made with a view to obtaining MP's best evidence, as she is an elderly lady who is anxious about giving evidence and plausibly says that screening would put her more at ease.
35. MP did not provide any further written submissions or evidence.

JE, her child and her partner

36. JE made an application dated 25 May 2018. She was in a very brief relationship with Khalid Masood in 2002. Her application also relates to her current partner and her child, who is not related to Khalid Masood. JE seeks directions that –
 - a. there shall be no disclosure or publication made of any evidence or documents given, produced or provided to the Inquests that discloses JE's identity or that of JE's child or partner, or any description or image that allows JE or JE's family to be identified;
 - b. there shall be no disclosure or publication made of any evidence or documents given, produced or provided to the Inquests that discloses JE's home address or workplace, or any description or image that allows JE's home address or workplace to be identified; and
 - c. there shall be no disclosure or publication either now or at any time in the future in any media outlet, online or not, of either the previous news report carried by a

specific outlet of JE's domestic assault by Khalid Masood, or details from that court case which would allow JE to be identified.

37. JE has made no application for special measures.
38. The MPS confirmed by letter, separately to their written submissions, that they have no objection to JE's anonymity application.
39. CTI support JE's application for anonymity, submitting it to be well-founded. CTI are not aware of JE having been named in press reports and note the very limited relevance of her involvement with Khalid Masood. To anonymise JE would have very little impact on the clarity of the evidence or reporting of the Inquests. However, her interest in preventing public discussion of her very brief relationship with Khalid Masood is clear.
40. JE sent an email to her MPS Family Liaison Officer on 20 July 2018 for the attention of the Solicitor to the Inquests, responding to the submissions made by the press. JE emphasised that she has a reasonable expectation of privacy, that she has not sought any publicity and that her name is not known publicly. JE concludes that evidence about her can be adduced (to the extent relevant) without giving her name, it being of no relevance due to the passage of time.

FF and her husband

41. FF made an application dated 14 June 2018. FF is the former wife of Khalid Masood, having been married to him for a period of time from 2004 to 2005. FF is now married to FE. FF seeks directions that –
 - a. there shall be no disclosure or publication made of any evidence or documents given or produced or provided to the Inquests which discloses FF's identity or that of FF's husband, FE;
 - b. there shall be no disclosure or publication made of any evidence or document given, produced or provided to the Inquests which discloses the identity of FF or

FF's family, including any description or image capable of identifying them (extending to images of FF's home); and

- c. should FF give evidence, she be screened from the public gallery and the press (although the application does not ask for her to be screened from interested persons or their lawyers).
42. In her statement, FF says that her life has been made very difficult since the attack. She refers to journalists coming to her house and to inaccurate stories about her in the press. She refers to stress which she and her family have suffered as a result.
43. CTI make essentially the same submissions in respect of FF and FE as are made in respect of RH, summarised above at paragraph [14]. CTI do not support the application for anonymity.
44. It is not proposed to call FF or FE to give evidence and so I need not consider special measures in relation to them at this time.
45. In response to those submissions and those of the media, FF sent an email to her Family Liaison Officer for the attention of the Solicitor to the Inquests on 19 July 2018. FF emphasises that she has no legal training and that her submissions are the product of online legal research, saying that she has not had time to obtain legal help. FF does not accept that her anonymity would result in any substantive information being hidden, nothing that she has provided a detailed statement which can be read in court. FF says that she was under no obligation to provide the statement but did so despite it being distressing to revisit that time of her life. FF does not consider her identity, and that of FE, to be relevant. FF points to what she says is a statistical rise nationally in Islamophobia, and submits that this demonstrates a high risk to her life and a high risk of serious ill treatment. FF provides information about her ill health. She stresses that her photograph has not been published, although concedes that her name is in the public domain, though not because she gave permission for this.

BBC and Press Association- submissions

46. The BBC has provided written submissions addressing collectively the applications of the adults (other than Witness L). It does not offer individual reasons for resisting anonymity and/or screening orders in respect of each and every adult applicant. The submissions argue that the evidence falls far short of establishing that the article 2, 3 or 8 rights of any of the applicants are engaged. The BBC particularly makes the following points:
- a. It argues that the evidence of risks to the personal safety of the applicants is speculative, that there is no independent risk assessment, and that there is no evidence to meet the very high threshold required by the Convention (for articles 2 and 3).
 - b. It points out that, of all these applicants, only the identity of JE is not already publicly known. Further publicity could not lead to a further risk.
 - c. It stresses that there is nothing exceptional about the applicants' circumstances so as to justify infringing the article 10 rights of media organisations. The applicants' evidence of worry and distress is not sufficient.
47. The reasons given by the Press Association for its stance are that the granting of anonymity would severely hamper the ability of the press to report fully on the Inquests; and that none of the applicants has established a real and immediate risk of death, or shown evidence of direct violence or threats. The Press Association also notes that many of the applicants have been named and pictured in newspaper reports already in the public domain.

Witness L

48. The Secretary of State for the Home Department ("SSHD") made an application dated 29 June 2018, for the anonymity and screening of Witness L, MI5's Head of International Counter Terrorism Policy, Strategy and Capability. It is intended that Witness L will be called to give evidence in the Inquests.

49. The SSHD seeks directions that–
 - a. the officer be referred to at all times by the cipher ‘L’;
 - b. he give his evidence from behind a screen, visible to nobody else in Court;
 - c. he shall be permitted to enter and exit the courtroom via a secure entrance;
 - d. when he is giving evidence, all electronic devices, other than those required for transcription shall be switched off; and
 - e. pursuant to section 11 of the Contempt of Court Act 1981, the publication of the name or identifying details of the officer be prohibited in connection with these Inquests.
50. The application is supported by an open risk assessment and a closed risk assessment which has not been disclosed to IPs but which I have considered, as well as open and closed witness statements by Witness L. Witness L previously gave evidence in the Inquests into the deaths in the 7 July 2005 bombings (“the 7 July Inquests”), being given the pseudonym “Witness G”.
51. The open risk assessment describes the risk to the United Kingdom Intelligence Community (“UKIC”) from extremists as “significant and constant”, being mitigated considerably by UKIC personnel remaining anonymous. The assessment explains that Witness L could be identified either by giving evidence in his real name, or by allowing his appearance to be seen by the Court. The open assessment specifically notes (at paragraph 8) that in the 7 July Inquests, Witness L gave evidence whilst screened from the public and press but not from interested persons and their lawyers. He was subsequently recognised by an interested person whilst travelling on public transport.
52. The SSHD submits that use of social media, blogs and other online forums has increased since the 7 July Inquests in 2011, and accordingly that the likelihood of Witness L being identified should a photograph be published online has increased. Such identification would result in a very significant interference with Witness L’s personal and professional life.

53. In oral submissions on 2 July 2018, CTI described Witness L’s application as well-founded. CTI noted that the request for screening from the entire Court was unusual, but argued that it was justified in this case, given the risks that the witness may otherwise be recognised in a public place by somebody who has seen them in Court. Since the witness’s credibility is not likely to be seriously in issue, CTI submitted that full screening would not be likely to be a serious impediment to proper consideration of the evidence.

Legal Principles

54. The legal principles governing applications for anonymity and special measures generally within the context of inquests may be summarised as follows:
- a. As part of the general case-management powers of a coroner, he/she may make an order anonymising witnesses or other persons within an inquest. There is no inconsistency between that power and requirements for inquests to be held in public. See: *R v HM Coroner for Newcastle upon Tyne, Ex Parte A* (1998) 162 JP 387. Courts give effect to and balance the relevant Convention rights by exercising this power.
 - b. In deciding whether to make such orders, a coroner usually applies a common law test, making an “excursion” if appropriate into the territory of article 2 of the Convention. See *Re Officer L* [2007] 1 WLR 2135 at [29]. This involves a two-stage process:
 - i. If the refusal of the orders would create or materially increase a risk to the life of the person, such that the risk would be “real and immediate”, then the state in the person of the coroner would owe a positive duty under article 2 to protect the witness by reasonable means. In those circumstances, as it was put in the *Officer L* case, the coroner “would ordinarily have little difficulty in determining that it would be reasonable in all the circumstances to give the witness a degree of anonymity”. The threshold of “real and immediate risk” derives from the decision of the ECtHR in *Osman v UK* (1998) 29 EHRR

245. A risk is “real” if it is substantial and significant, rather than remote. It is “immediate” if it is present and continuing. See *Rabone v Pennine Care NHS Trust* [2012] 2 AC 72 at [37]-[40].

- ii. If the refusal of the orders would not result in the person being exposed to a real and immediate risk of death, then the coroner should “decide the matter as one governed by common law principles”, balancing the factors for and against the orders sought.

- c. When applying the common law test referred to above, it is relevant for the court to consider the subjective fears of the person concerned, whatever their degree of objective justification: see *Re Officer L*, at [22]. Risks of harm falling short of real and immediate risk of death (or of serious harm such as might engage article 3 rights) may be relevant to the balancing exercise: see *Sunday Newspaper Ltd’s Application (Judgment No. 2)* (2012) NIQB at [17].

- d. When seeking to strike the right balance under the common law test, the coroner may consider all the consequences of granting and of refusing the orders sought. For example, in an application for anonymity by a police officer who does specialist work, a relevant factor may be that identification of the officer would prevent him/her continuing in his/her current role and would deprive the force of a valuable resource. See *R v Bedfordshire Coroner, Ex Parte Local Sunday Newspapers* (2000) 164 JP 283.

- e. When applying the common law test, a coroner is also required to take proper account of the fundamental principle of open justice, which applies to coroners’ courts: see *R (A) v Inner South London Coroner* [2005] UKHRR 44 at [20]. The open justice principle holds that the administration of justice should generally take place in the open, as a safeguard and to maintain public confidence. See *Scott v Scott* [1913] AC 417 at 437-39 and 476-78; *A-G v Leveller Magazine Ltd* [1979] AC 440 at 449-50. In more recent times, courts applying this principle have recognised that giving names and personalities to witnesses is an important aspect

of openness in the justice system: see *In re Guardian News and Media Ltd* [2010] 2 AC 697 at [63].

- f. Where a witness seeks to justify anonymity by reference to his/her rights under article 8 of the Convention, the court usually has to perform a balancing exercise which weighs those rights against the rights of media organisations under article 10. See *In re S (A Child)* [2005] 1 AC 593 at [16]-[17]; *In re Guardian News and Media* (cited above); *SSH D v AP (No. 2)* [2010] 1 WLR 1652 at [7]. This balancing exercise is “highly fact-specific” and “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 harm the disclosure might cause the maintenance of an effective judicial process or to the legitimate interests of others”: see *R (T) v West Yorkshire (Western Area) Coroner* [2018] 2 WLR 211 at [63].
- g. It should be noted that some of the considerations which apply to applications for special measures in criminal cases do not apply to inquests (e.g. the point that the defendant has a right to confront his accuser, including by investigating the accuser’s background). See *R v Davis* [2008] 1 AC 1128 at [21].
- h. However, in general terms the open justice principle applies with full force to inquests: *Re LM (Reporting Restrictions: Coroner’s Inquest)* [2007] CP Rep 48 at [26]-[40].

55. I have taken into account the various additional authorities referred to in submissions by the BBC. In my judgment, they do not alter the propositions set out above.

Discussion

56. I shall deal with the applications of the various individuals linked with Khalid Masood separately from the MI5 officer’s application, because they raise different issues.

Adults linked with Khalid Masood

Application of the common law test

57. In my judgment, the application of JE is justified and should be granted by reference to the common law test described above, irrespective of the merits of any argument founded on the article 2 or 3 rights of JE. The remaining applications for anonymity are not in my view justified by reference to the common law test.
58. An important feature of the applicants other than JE (i.e. RH, DDD, DE, FF and MP) is that they have all been named in the press. A number have also had their photographs printed. Not only do the media reports name the applicants but they provide detail of the applicants' connections with Khalid Masood. Moreover, such reports remain accessible online and are easily located by way of a simple search by reference to Khalid Masood and the relevant family relationship. I am not aware of DF, DDD's husband, having been named in the press. However, I consider that DF's application is dependent on DDD's application: there is no suggestion of any real benefit through anonymising him and not her.
59. The principle of open justice must be taken into account as weighing against all the applications. RH, DDD, DE, FF and MP are (respectively) Khalid Masood's widowed wife, adult daughter, partner of ten years, ex-husband and mother. Each has played a significant part in Khalid Masood's life and each will feature in evidence in the Inquests concerning his background. If these applications were granted, the result would be that the account of Khalid Masood's life heard in Court would be almost entirely anonymised, despite the fact that these names were included when his life story was rehearsed in the press. These Inquests are an inquiry into an event of great importance which attracts justified public interest. Anonymising the attacker's life story would be a serious restriction on free reporting of the hearing.
60. I recognise that, if these applications are rejected, these applicants may face increased interest during the Inquests, especially from the press. It is impossible to be sure whether or precisely how each applicant may be affected. The applicants are worried by the

prospect of increased scrutiny, and understandably so. I have no doubt that the concerns expressed by each are genuinely felt. However, I do not consider that this point weighs sufficiently heavily in the balancing exercise to justify the orders sought by the applicants other than JE.

61. I have reached a different conclusion in respect of JE having carried out the same exercise. So far as I am aware, she has not been named in any press reporting. Moreover, JE's involvement in Khalid Masood's life was more limited than that of the other six applicants, having been brief and a particularly long time ago. Accordingly, anonymising her would not significantly affect the quality of the evidence which the Court will receive. Importantly, it would not have a material effect on the ability of the Court, interested persons, the press and the public to follow and understand significant evidence. It would not impair reporting of the evidence to any substantial extent, as her role is so very marginal.
62. Accordingly, applying the common law test of fairness, and balancing the factors for and against the application, I am satisfied that JE's application is well founded. The anonymity order should also extend to her current partner, although it is unlikely that he will be mentioned in the evidence in any case.

Article 8 rights of the applicants and article 10 rights of those reporting on the Inquests

63. A proper exercise of balancing the article 8 rights of the applicants against the article 10 rights of those reporting on the Inquests leads to the same conclusion: namely that the anonymity application of JE should be allowed and those of the other applicants refused.
64. Refusing to grant the application of JE would have a material effect on her private and family life. It would result in serious and unwelcome public and media interest in an innocent person, all because of a brief relationship many years ago. The article 10 rights of the media in reporting her name do not outweigh these rights, especially since her role in the relevant events was such a minor one. Without any reference to JE's name and image, the proceedings can be reported in a way which will allow the public to be very fully informed of Khalid Masood's background.

65. In contrast, restricting reporting of the names of RH, DDD, DE, FF and/or MP would significantly affect the narrative which the media will inevitably wish to publish. Furthermore, the article 8 rights of these applicants are significantly weaker in effect than the equivalent interest of JE because their names (and, for some, images) are already in the public domain. In short, an order would significantly affect the article 10 rights of the media but would not, in my view, have a strong effect in protecting the privacy of the applicants. An interested reader of the media who wished to know the real name of Khalid Masood's mother or adult daughter would only have to search those relevant terms on the internet to obtain the name. Indeed, such a reader might be more likely to take an interest and make such searches if the proceedings were reported with a series of baffling ciphers in place of names. The same is true, unfortunately, for a person who might wish to cause harm to any of the applicants (although I have seen no specific evidence that there are any particular threats).

Articles 2 and 3 of the Convention

66. RH is the only one of these applicants who places direct reliance upon article 2 rights. Submissions have been made on behalf of RH that the protection of her and her children by the police and other agencies, including their relocation and access to a dedicated police officer for the purposes of crisis management, is evidence of a real and immediate risk of serious harm.
67. Although I have no doubt that the police are acting responsibly in taking these steps, I am not aware of any risk assessment having been made which identifies any specific level of risk to RH. More importantly, these protective steps have been taken on the basis that RH's identity is already in the public domain. They are not intended to reflect any increased risk she would face if named again in the context of the Inquests.
68. I have considered carefully the evidence which RH offers in support of her application, and the specific events described. I note that she was the victim of a recent racially aggravated incident, but that this was not connected in any way to her relationship with Khalid Masood. RH says that had her relationship with the Khalid Masood been known to her assailant, there would have been the potential for more serious harm. That

comment is speculation, and I cannot regard this deplorable incident as evidencing any risk arising from a refusal of anonymity.

69. Furthermore, submissions are made that whilst RH's real name is already in the public domain, her image is not, and accordingly she will be at significant risk if her image is published. For the reasons I shall give in later paragraphs of this ruling, I shall grant special measures including screening to RH. Accordingly, her giving evidence should not lead to publication of her photograph, unless it is otherwise available.
70. Taking account of all the points made on her behalf, the evidence does not satisfy me that the reference to RH's real name in reports of these Inquests would give rise to a real and immediate risk to her life, or of serious harm.
71. Although the other applications do not make express reference to article 2 or 3 rights, I have considered carefully whether the evidence put forward establishes in any case that the refusal of anonymity would lead to a real and immediate risk of death or serious harm to any of the applicants. On the material before me, I do not consider that such a risk can be established in any of the cases.
72. In forming those views, I have had regard to the facts of cases where the risk threshold has not been found to be satisfied (such as *Osman* itself, and *Van Colle v Chief Constable of Hertfordshire* [2009] 1 AC 225) and those where it has been found to be met (such as *R (A) v HM Coroner for Inner South London* (cited above)).

Screening under rule 18 of the Rules

73. Screening of witnesses is subject to specific provision in rule 18 of the Coroners (Inquests) Rules 2013. That rule provides as follows, in material part:
 - “(1) A coroner may direct that a witness may give evidence at an inquest hearing from behind a screen.
 - (2) A direction may not be given under paragraph (1) unless the coroner determines that giving the evidence in the way proposed would be likely to improve the quality of the evidence given by the witness or allow the inquest to proceed more expediently.

- (3) In making that determination, the coroner must consider all the circumstances of the case, including in particular –
 - (a) any views expressed by the witness or an interested person;
 - (b) whether it would be in the interests of justice or national security to allow evidence to be given from behind a screen; and
 - (c) whether giving evidence from behind a screen would impede the effectiveness of the questioning of the witness by an interested person.”

74. The Inquests will hear evidence from RH and MP. I consider that a direction for screening as sought would be likely to improve the quality of the evidence of each witness, by dispelling the anxiety which each witness would otherwise feel about giving evidence. It would also allow the Inquests to proceed more expediently, in the sense of proceeding in manner more conducive to the interests of justice. Taking account of the factors specified by paragraph (3) of the rule, it is telling that (i) the applicants have strong grounds for their applications; (ii) no interested person objects, the Press Association supports the application and only the BBC raises any objection; and (iii) the proposed screening would not have any adverse effect on questioning of the officers during the Inquests hearings (especially since RH and MP would only be screened from the public gallery, and would be seen by interested persons and their lawyers).

Witness L

Application for anonymity

75. In my judgment, the application for anonymity made by the SSHD is clearly justified and should be granted applying the test at common law. It is unnecessary for me to consider the article 2 rights of Witness L, and it is preferable not to do so in order to avoid going into sensitive matters. I keep in mind that there has been no objection by any person to this application, but that does not mean that the order should be made without proper scrutiny. The reasons for my decision are as follows.

76. First, it is clear that, as one of the most senior members of the UKIC, Witness L would have very good reason to fear reprisals against himself or his family were he identified. He does high-profile work concerning highly motivated and dangerous subjects. The SSHD submits that he would be a “particularly attractive target for terrorist organisations and hostile foreign intelligence services”, and I agree without hesitation. A person in his position, and a family in their position, would inevitably worry about his identity becoming publicly known.
77. Secondly, not only would it cause great distress, worry and risk to Witness L and his family should his identity be known, but it would severely hamper his ability to carry out his role. I have no doubt that, as the head of International Counter Terrorism Policy, Strategy and Capability, he is of great value to MI5 and indeed to the public that he serves. Submissions are made that his exposure would hamper the operational use of certain methods and techniques. Any degree of exposure could entirely deprive MI5 of his services, which would be the loss of a very senior and experienced officer.
78. Thirdly, a refusal to grant anonymity would cause Witness L potential difficulties in his personal life. It would require him to reveal his professional role to those from whom it has properly been concealed for many years.
79. Fourthly, I do not consider that the granting of this order would impair the inquiry to be carried out in these Inquests. Witness L would still give his evidence in Court, heard by all. An order for anonymity will not prevent the Inquests receiving appropriate evidence about the work of MI5.
80. Fifthly, the evidence which Witness L will give is evidence of which he has personal knowledge but is not evidence of his personal activities. In the main, he is to give evidence as a senior officer on behalf of the organisation. His identity is not relevant in any way to that evidence.
81. Against these points, I have taken into account that the orders would intrude upon the important principle of open justice and that naming Witness L might be said to make reporting of the Inquests more engaging. However, that is by no means sufficient to

outweigh the important considerations which I have set out above. That is no doubt why no media organisation opposes Witness L's application.

82. I am accordingly satisfied that the application for anonymity is entirely proper and should be granted by reference to the common law test of fairness.

Special Measures

83. As noted above, the screening of witnesses is governed by rule 18 of the Rules. Otherwise, special measures which may be taken to protect witnesses are governed by common law powers of case management.
84. I am satisfied that Witness L ought to enter and leave Court by secure entrances and should give evidence from behind a screen, not seen by any of those in Court. Although this is an unusual and extensive order, I accept CTI's submission that Witness L's credibility is not likely to seriously be in contest and accordingly that I shall not need to study the witness's body language, and nor will lawyers and interested persons. Furthermore, Witness L's appearance is of no consequence in these Inquests.
85. As I have explained, it would be a genuine calamity should Witness L be identified publicly. Although the risk of that occurring because he is seen by interested persons and lawyers is low, I am aware that it was a risk which was realised in the course of the 7 July Inquests. It is a real risk and one which can properly be managed without prejudice to these proceedings.
86. In a further part of the application, the SSHD asks me to order that all electronic devices save for those needed for transcription are switched off when Witness L gives his evidence. I appreciate the need to take measures to ensure that Witness L is not recorded, either inadvertently or mischievously. However, I would like to understand whether it is possible for the order to be cast in terms allowing (a) the document management system to remain in operation and/or (b) the legal representatives to continue using their computers to take a note and access documents. Therefore, I shall not make an order on that part of the application at this stage. No doubt the practicalities can be discussed

between Solicitors to the Inquests and the representatives of the SSHD, and an appropriate form of order can be circulated by email.

Contempt of Court Act 1981

87. Section 11 of the Contempt of Court Act 1981 provides as follows:

“In any case where a court (having power to do so) allows a name or other matter to be withheld from the public in proceedings before the court, the court may give such directions as appear to the court to be necessary for the purpose for which it was withheld.”

88. Since I have accepted that the interests of justice require JE and Witness L to be granted anonymity within the Inquests, it follows that reporting of their names and identifying details in connection with the Inquests should be prohibited. Accordingly, I shall make appropriate orders under section 11 in respect of them both.

89. If it becomes necessary to refer to any of the children discussed in this Ruling during the Inquests, and to do so by pseudonym, I shall consider making an order under section 11 in relation to them.

Conclusions in Summary

90. In summary, the applications for anonymity made by JE and Witness L are allowed, and associated orders under section 11 of the Contempt of Court Act 1981 will be made in respect of them. The applications of the other adult applicants for anonymity are refused.

91. Of the applicants, only RH, MP and Witness L are due to give evidence. RH and MP should be screened from the public gallery when giving their evidence, while Witness L should be screened from all in Court.

92. Finally, case management orders will be made that the children discussed in this Ruling should not be referred to by any advocate, except on notice and with the permission of the Court.

Orders

93. In respect of the children to whom these applications relate, I make the following Order:

1. **No advocate shall make reference to any children of RH, DDD, JE, or to the two younger children of DE, save on notice and with the permission of the Court.**

94. In respect of RH, I make the following Order:

1. **Pursuant to rule 18 of the Coroners (Inquests) Rules 2013, when RH gives evidence she shall be screened from the public gallery (although not from interested persons or their lawyers).**
2. **When RH attends to give evidence, she shall be permitted to enter and exit the Court by an appropriate, non-public route.**

95. In respect of MP, I make the following Order:

1. **Pursuant to rule 18 of the Coroners (Inquests) Rules 2013, when MP gives evidence she shall be screened from the public gallery (although not from interested persons or their lawyers).**
2. **When MP attends to give evidence, she shall be permitted to enter and exit the Court by an appropriate, non-public route.**

96. In respect of JE, I make the following Order:

1. **The name and identifying details of JE and JE's partner shall be withheld in disclosure and evidence within the Inquests.**
2. **The pseudonym JE shall be used for the purposes of the Inquests.**
3. **Pursuant to s11 of the Contempt of Court Act 1981, there shall be no publication of the name of JE, or JE's partner, or identifying information about JE or her partner (including but not limited to images of JE, images of her partner, the addresses of JE's home and workplace, and images of those places) in connection with these Inquests or their subject-matter. That order**

shall have effect for the duration of the Inquests and thereafter, subject to any further order of the Court.

97. In respect of Witness L, I make an Order as follows:

- 1. The name and identifying details of Witness L shall be withheld in disclosure and evidence within the Inquests.**
- 2. The pseudonym Witness L shall be used for the purpose of the Inquests.**
- 3. When Witness L is giving evidence, no question may be asked which might lead to his identification.**
- 4. Pursuant to rule 18 of the Coroners (Inquests) Rules 2013, when Witness L is giving evidence he shall be screened from the Court (including from the public, the press, interested persons, their lawyers and from me as coroner).**
- 5. When Witness L attends to give evidence, he shall be permitted to enter and exit the Court by an appropriate, non-public route.**
- 6. Pursuant to s11 of the Contempt of Court Act 1981, there shall be no publication of the name of Witness L or identifying information about Witness L (including images of Witness L) in connection with these Inquests or their subject-matter. That order shall have effect for the duration of the Inquests and thereafter, subject to any further order of the Court.**

I am also prepared to make an order concerning the turning off of electronic devices, but the scope of that order requires further discussion between Solicitors to the Inquests and the representatives of the SSHD.

HH Judge Lucraft QC
Chief Coroner of England and Wales

10 August 2018