

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

**WRITTEN SUBMISSIONS ON BEHALF OF THE SECRETARY
OF STATE FOR THE HOME DEPARTMENT**

1. These submissions are served on behalf of the Secretary of State for the Home Department, and have been drafted in light of the comprehensive submissions of Counsel to the Inquest, dated 1 October 2018.
2. The Secretary of State notes, and adopts, the analysis of the law set out at §§4 – 8 of Counsel to the Inquest’s submissions. In particular, the Coroner will note that the applicable test when considering whether there has been a breach of the Article 2 duty to safeguard life on the part of a public authority is, per *Osman*, whether: *‘the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of the individual or individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.’*
3. On the proper application of that legal framework it is quite clear, as Counsel to the Inquest observes (at §10), that there can be no question of any breach of the *Osman* operational duty in respect of the investigations pursued by MI5 concerning Khalid Masood in the years running up to the attack. The analysis of this issue by Counsel to the Inquest (at §§10(c)(i) – (iii)) is, it is submitted, clearly correct.
4. If that analysis is accepted, and there is no arguable breach of the Article 2 operational duty on the part of MI5 in this case, then that would preclude any engagement, on the part of the Coroner, with the exercise undertaken during Witness L’s evidence by the families’ representatives, of considering whether there might conceivably have been ‘missed opportunities’ to undertake further investigation of Khalid Masood prior to the attack.

5. The Secretary of State submits that it is clear from Witness L's evidence that there were no such 'missed opportunities', but the resolution of that issue would not fall within the scope of s.5(1)(a) and (b) in any event. The power to which Counsel to the Inquest refer at §8(e) of their submissions is a power which arises in the particular context of an Article 2 investigation.
6. The Secretary of State advances no submissions in respect of the analysis as to whether Article 2 is engaged in PC Palmer's inquest by reason of the arguable breach of the *Osman* duty arising from the adequacy of security arrangements at the Palace of Westminster, as set out at §11 of Counsel to the Inquest's submissions.
7. The proposed determinations set out by Counsel to the Inquest at §§15-17 of their submissions would seem accurately to reflect the evidence that the Coroner has heard, and the Secretary of State has nothing to add in that respect.
8. The proposal for dealing with potential PFD reports is noted, and endorsed. It would clearly be appropriate for the public authority concerned to have an opportunity to respond to any submissions that may be advanced as to the need for a PFD report, and it is neither practicable nor desirable for the relevant public authorities to attempt to deal pre-emptively with any such proposals.
9. With particular regard to the involvement of MI5 in this case, the Coroner will have noted, from the evidence of Witness L and the report of Lord Anderson QC (dated December 2017), that two rigorous and far-reaching reviews have been undertaken for the purpose of identifying what more could be done to prevent such an attack from happening in the future.
10. The Coroner has received detailed evidence concerning the Post Attack Review and the Operational Improvement Review, both of which were conducted by panels comprising senior experts from a range of specialisms across MI5. The Operational Improvement Review was conducted in close collaboration with police counter-terrorism experts. The Coroner will form his own view of the rigour and thoroughness of those reviews, and the extent to which they have drawn the correct conclusions and identified the correct recommendations. However, the conclusions of Lord Anderson, as expressed in his report, are clear in this regard (see, in particular, §§4.22-4.25; §§5.7-

5.13; and the Executive Summary); and the Coroner will recall Witness L's evidence on the subject (see §§27-46 of his statement, and Transcript Day 12, pp.28-35).

11. The Coroner will also recall the commitment, expressed by the Director General, to use harsh light of hindsight 'to squeeze out every last drop of learning' after an attack happens (Witness L's Statement, at §19), and is invited to conclude that this commitment has been met in this case.

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1 October 2018