1	Wednesday, 27 June 2018	1	sanctioned by president Putin.		
2	(11.30 am)	2	By way of an update, in April, the solicitor to the		
3	(Proceedings delayed)	3	inquest wrote to the interested persons explaining as		
4	(12.20 pm)	4	follows:		
5	Submissions in open court	5	"The coroner's legal team has met with officials		
6	JUDGE HILLIARD: Yes, Mr Skelton.	6	from the US embassy in London in regards to a request		
7	MR SKELTON: So when you concluded the last hearing a few	7	for disclosure of a US Government report that is said to		
8	months ago, you indicated that there were several	8	comment on the death of Mr Perepilichnyy. The coroner's		
9	outstanding matters which required resolution before you	9	legal team has now had the opportunity to inspect a US		
10	could conclude the inquest. Just dealing with those.	10	Government report and we are grateful for the		
11	The Intelligence and Security Committee of	11	cooperation an assistance provided by the US embassy to		
12	Parliament had previously announced they were looking	12	facilitate this. Discussions are ongoing with the US		
13	into certain matters which could be of relevance to the	13	Government for onward to the interested persons of		
14	inquest.	14	information contained in that report, as far as it may		
15	In fact you made contact with them and they have	15	be relevant to the inquest. Those discussions were at		
16	indicated to you, and confirmed in writing, that they do	16	an advanced stage, but it is not possible at the moment		
17	not currently intend to specifically investigate the	17	to provide a time frame when they will be completed. An		
18	death of Mr Perepilichnyy, and therefore one does not	18	update will be provided at the earliest opportunity."		
19	need to await any findings on their part.	19	Those discussions, sir, were completed and a letter		
20	So far as the Home Secretary is concerned, sir,	20	was circulated to the interested persons yesterday		
20	you will recall that Yvette Cooper, the Chair of the	20	directly from the Office of the Legal Attache at the		
22	Home Affairs Committee, wrote to the then	22	United States embassy in London. I will quote from		
23	Home Secretary, Amber Rudd, asking for her to consider	23	that, if I may, in full. It states as follows:		
24	various deaths which were said to be associated with the	24	"The United States Government possesses a document		
25	Russian state and a review process was commenced.	25	referencing United Kingdom-based public media reports		
25	Russian state and a review process was commenced.	25	referencing Officer Kingdom-based public media reports		
	Page 1		Page 3		
1	That review process, as Mr O'Connor will address	1	that Alexander Perepilichnyy was assassinated in the UK		
2	you on, has not yet quite completed, but you have been	2	before he was scheduled to testify about a tax fraud		
3	provided with a report which is produced during the	3	network. This report contains no USG reporting [that is		
4	course of the review, which is sensitive and which is	4	'US Government reporting'] concerning the death of		
5					
3	the subject of a public interest immunity application	5	Alexander Perepilichnyy."		
5 6	today I should say parts of that report rather than	6	Alexander Perepilichnyy." That letter, sir, encapsulates the relevant		
6 7	today I should say parts of that report rather than the whole report.	6 7	Alexander Perepilichnyy." That letter, sir, encapsulates the relevant information contained in the report, which you, sir,		
6	today I should say parts of that report rather than	6	Alexander Perepilichnyy." That letter, sir, encapsulates the relevant information contained in the report, which you, sir, have seen and which the legal team have reviewed. On		
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1 (Pages 1 to 4)

1 persons have not been able to see the material, so they 1 information is reproduced in parts of the evide			
	nce that		
2 are in the usual difficulty. But as you know, we are 2 has been heard in the inquests. Bearing in mir	d the		
3 very far down the forensic process, so that I am very 3 totality of the open evidence that I have received	d		
4 familiar with the issues and with everybody's 4 during the course of the inquest, and the fact the	ere is		
5 concerns I could not be more familiar with them 5 nothing in the updated searches conducted by	HMG that		
6 and also of course with the evidence which has been 6 materially assists me, I am satisfied that my			
7 given in public. So what follows summarises the 7 investigation into Mr Perepilichnyy's death has	been		
8 position, I think, as best as I am able to, but I am, of 8 fully and fearlessly conducted and that it is not	now		
9 course, willing to listen to any more submissions that 9 necessary for me to pursue any additional lines	of		
10 anybody wishes to make about any part of it. 10 inquiry.			
11 So I am aware that Her Majesty's Government has 11 I say that, Mr Skelton, but as I have said, I v	rill		
12 updated the searches previously conducted in response to 12 listen to anything else that anybody wants to sa	y. The		
13 the original requests made by the senior coroner for 13 difficulty is, of course, I have seen the material	and		
14 Surrey, to the Home Secretary and Foreign Secretary in 14 few others have.			
15 letters dated 6 April 2016. To state the obvious, it 15 MR O'CONNOR: Sir, the application that is before the obvious of the state of the obvious	ore you today		
16 is, obviously, now June 2018. 16 is in the form of a PII certificate, signed by the			
17 These included requests for any information in the 17 Home Secretary and dated 18 June 2018. Sir,	that		
18 possession of the Security Service and the Secret 18 certificate is at tab 1 of the bundle. You also a	re		
19 Intelligence Service relating to, one, threats to the 19 written submissions from me in support of the			
20 personal safety or life of Mr Perepilichnyy in the 20 application at tab 2 in the bundle.			
21 period 1 January 2012 to 10 November 2012; two, third 21 Sir, you will, of course, be aware this is in fa	ict		
22 party involvement in the death of Mr Perepilichnyy on 22 the second PI application that has been made b			
23 10 November 2012. 23 Secretary in the course of these proceedings.			
24 As part of that exercise, HMG has specifically 24 PII application was upheld by Mr Justice Cran			
25 addressed the question of whether Mr Perepilichnyy was 25 High Court, and his judgment is at tab 7 of the			
Page 5 Page 7	Page 7		
1 an agent for or had any other contact with British 1 You, subsequently, reviewed the questio	of whathar		
2 intelligence agencies prior to his death. 2 those documents, ie the documents that we			
3 I have considered the updated answers to those 3 of the first application, should continue to b	-		
4 requests in the context of the other sensitive and 4 to PII, and you concluded that they should,	-		
5 non-sensitive information with which I have been 5 ruling is at tab 6 of the bundle. Sir, of cour			
6 provided in this case. I remain of the view that 6 you continued to keep that question, in othe			
7 I expressed at the pre-inquest review on 13 March 2017, 7 question relating to the first application, un			
	lei ieview		
10 how Mr Perepilichnyy died; and two, nothing in that 10 which we are primarily concerned today, si			
11 material alters my decision on the scope of the inquest. 11 certificate provides a level of detail about the			
12 I have also read the potentially relevant sections 12 documentation that is the subject of the new			
13 of the report prepared for the Home Secretary's review 13 It also describes the factors that the Home S			
14 into allegations of Russian state involvement into 14 has taken into account, both those weighing			
15 a number of deaths in the United Kingdom, including that 16 a SM Departition of the information particular of the information and the second seco			
16 of Mr Perepilichnyy. Some of the information contained 16 non-disclosure. The certificate makes clear			
17 in those sections is relevant to this inquest; some of 17 Home Secretary himself has balanced those			
18 that relevant information, in particular the information 18 has concluded that the overall balance of pu			
19 relating to Mr Perepilichnyy, had previously been 19 interest favours not disclosing the documen			
20 provided to me. Some of it had not been provided 20 However, the certificate also acknowledg			
21 previously, including information not relating to 21 express terms that it is this court that bears			
22 Mr Perepilichnyy and the assessments that have now been 22 responsibility for determining whether or n			
23     made for the purposes of the review.     23     interest immunity has been correctly asserted			
24 The effect of some parts of the relevant 24 Sir, there is, clearly, a limit to the extent			
25 information the effect of some parts of the relevant 25 which I can elaborate on these matters in op	en court		
Page 6 Page 8			

1	without doing the very damage that the certificate is	1	respectful submission is that you should proceed and
2	2 intended to prevent, but there are some further details		determine the PII application that is contained in that
3	that I can provide.		certificate today.
4	The certificate states at paragraph 9 that amongst		We will, of course, keep you informed of the
5	the material that is subject to the PII certificate are	5	progress of the further work that is being conducted
6	relevant paragraphs from the review that has been	6	under the review and we will inform you when that work
7	conducted into 14 deaths that have been identified as	7	has been completed. In the very unlikely event that the
8	suspicious in reporting by BuzzFeed news.	8	further work leads to fresh information of potential
9	So, Mr Skelton has referred to the correspondence	9	relevance to these proceedings, we will of course
10	between Yvette Cooper, the Chair of the Home Affairs	10	provide it to you and your team.
11	Select Committee, and the then Home Secretary,	11	Sir, that is all I propose to today at this stage
12	Amber Rudd, that led to the setting up of the review.	12	about the content of the PII.
13	That correspondence is in your bundle at tabs 8 and 9.	13	JUDGE HILLIARD: Yes.
14	The review was of course discussed at the hearings	14	MR O'CONNOR: I know, as far as the legal principles are
15	in this inquest in April this year. You made it clear	15	concerned, you are familiar with them. They are
16	at that stage that you had in fact already written to	16	referred to in Mr Justice Cranston's judgment and I know
17	the Home Secretary asking to be informed about the	17	Mr Skelton proposes to address you on them in due
18	review and to be provided with any relevant outcome of	18	course, so in those circumstances, sir, unless you would
19	the review.	19	like me to I do not propose to address you.
20	Sir, as part of that review, a report was prepared.	20	JUDGE HILLIARD: Thank you very much.
21	You and your team were shown sections of the report that	21	MR O'CONNOR: I am grateful.
22	we consider to be potentially relevant to this inquest,	22	MR SKELTON: Sir, just briefly in respect of the
23	and you have concluded that some of those sections were	23	application, this is, of course, an open hearing.
24	relevant and it is those sections that are amongst the	24	You have the power to have a procedural hearing in
25	documents that are the subject of the PII claim.	25	private if necessary for procedural reasons. In fact
			F
	Page 9		Page 11
1		1	Quality on the size the second line where the train
1	Sir, at the time of the PII certificate was signed		after this open hearing, there will be a short what is
2	10 days ago, the position was that the wider review	2	called closed hearing or private hearing, in which
3	process and the report were complete. You will see that	3	Mr O'Connor will have the opportunity to address you in
4	there is a statement to that effect at paragraph 7 of my	4	more detail if necessary on the matters contained in the sensitive documents.
5	written submissions.	5	
6	Since then, and in fact in the last couple of days,	6	So far as those documents are concerned, as
7	it has been decided to conduct a limited amount of	7	Mr O'Connor said and as I indicated earlier, they
8	further due diligence work. This is, plainly,	8	include extracts from the Home Secretary's report, but
9	regrettable as far as these proceedings are concerned,	9	they no longer include the US Government report.
10	regrettable not only because we had previously informed	10	The legal principles are summarised in
11	you that the process was complete, but also because, at	11	Mr Justice Cranston's judgment from November 2016 and
10	2 least in theory, it is possible that the further work		
12	least in theory, it is possible that the further work	12	are, of course, well-known to this court. Essentially,
13	may throw up fresh information that is of relevance to	13	are, of course, well-known to this court. Essentially, the court is required to assess the balance of competing
13 14	may throw up fresh information that is of relevance to this inquest, and which if it is sensitive, may have to	13 14	are, of course, well-known to this court. Essentially, the court is required to assess the balance of competing public interests. On the one hand, there is the public
13 14 15	may throw up fresh information that is of relevance to this inquest, and which if it is sensitive, may have to be the subject of a further PII claim.	13 14 15	are, of course, well-known to this court. Essentially, the court is required to assess the balance of competing public interests. On the one hand, there is the public interest and fairness, open justice. That is conducting
13 14 15 16	may throw up fresh information that is of relevance to this inquest, and which if it is sensitive, may have to be the subject of a further PII claim. We do not expect this due diligence work to take	13 14 15 16	are, of course, well-known to this court. Essentially, the court is required to assess the balance of competing public interests. On the one hand, there is the public interest and fairness, open justice. That is conducting an open investigation into Mr Perepilichnyy's in which
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1As to the mension of the application inclef, like1a substantial way to addressing or alloging or alloging of alloging of alloging of the public deciments where the lines Secretary has1a substantial way to addressing or alloging of alloging of alloging of the public deciments where the lines Secretary has7you will be arim mind that the lines Secretary has1interests,8secretificate.7You anwered thase questions, effectively, by saying9for the rasson explained in the closed schedule to his8the you could carry out a proper investigation and the10about that ad whether on othe public interests,10of course, not wholdy allayed becauses, by definition,11about that ad whether on othe public interest in10of course, not wholdy allayed becauses, by definition,12their discloser outweights the risks that the lione13Sir, i cannot again as local derived by the answers to those scalar et or12their discloser outweights the risks that the lione13Sir, i cannot again as local derived by the answers to hose that were considered by13matterist of an application to and scalars to supplication.14describe in deali why the answers to hose store and string the constant in November 2016, they sup any discloser.14describe in the lines sectory in publicy the17application today, that is the application to and is explored of the PII15there witholding of sostilic tace.18respectary store on the public interest of parset.16the rest of the sparset.14describe in dealis the subject of the PII						
3to the substance of the numerical in question. But3In your ruling, sir, you agreed with hose4you will bear in mind that the Home Sceretary has5questions, and also agreed with hose6serious harm to one or more important public interests,7You answerd those questions, effectively, by sying7and not a position to make open submissions7You answerd those questions, effectively, by sying8for the rason explained in the closed schedule to his7You answerd those questions, effectively, by sying9Tarn not in a position to make open submissions10of course, not wholly allayed because, by definition,11about that and whether or not the public interest in11there is material that is most of more13Sceretary identifies. However, I and hot as yr hat13Str. [ cannot again, as I could not last time,14indocarse outweighting in the blauer arein antice crastin in November 2016, then you may feel1516Mf Justic Craston in November 2016, then you may feel16seen the material that is the subject of the PII17and therefy to assert the proops and the public where16there is acorollary you investigation.18There is a corollary, sit, using and the significance,20these maters. It may be I need to address you outweight in the diverset openson and the public whether, having seen the source start of site to overary set to be openson and the public whether, having seen the source start openson and the public whether is a public interest, it to subject of the PII10mattered the integrity of your investig		As to the merits of the application itself, like				
4       you will bear in mind that the Hore Secretary has       4       questions, and also agreed with a submission made by         5       certified that, in his view, the disclosure of the       6         6       sensitive documents would give rise to a real risk of       7         7       serions harm to one or more important public interests,       7         8       for the reason explained in the closed schedule to his       7         9       certificate.       9         10       Tam not in a position to make open submissions       about that and whether or not the public interest in         11       motin a sub factors weights the risk that the Home       12         12       their disclosure outweights the risk that the Home       13         13       Secretary identifies. However, 1 am able to say that       16         14       imotion a sub factors weights in the balance are       11         15       secretary identifies. However, 1 am able to say that       16         16       matter of the relevant information and is significance,       17         17       the relevant information and is significance,       18         18       the relevant information and is significance,       17         19       that every effort has heen made to explain public the         11       ther	2					
5certified that, in his view, the disclosure of the sensitive documents would give rise to a real risk of resions harm to one or movie important public interests, for the reason explained in the closed schedule to his ectificate.5Termitage finat public supprise for the reason explained in the closed schedule to his to an avoid that and whether on on the public interest in their disclosure outweights the risks that the Home Scaretary identifies. However, I am able to say that their disclosure outweights the risks that the Home Scaretary identifies. However, I am able to say that their disclosure outweights the risks that the Home Scaretary identifies. However, I am able to say that their disclosure outweights in the blance are similar to or analogous to those that wave considered by that every effort has becentary application.510Mr. Juscie Cranson in November 2016, however, 1 am able to say that there is some mate in the Home Secretary application.5Sin L cannot again, as L could not their inc. the sawes to those guestions the analogous to those that wave considered by the there's to assume the parson and the pars on the devel to doing so, you, sit, will want to help sure that every effort has been mate to explain public hult the withholding of ansitive documents has not underwine the integrity of your investigation. A and sir, this summary which you delivered to openly to clear and the set out the therest in the same set in the inserts?5Mr. MAXON-BROWNE: Sir. It is one adaption in pour concluster the withold form use in the subject of an application, are withhad form use in the subject of an application. The corollary of that, sir, is that you must.5Mr. MAXON-BROWNE: Sir. It is one submission that the and there's to source for the stastive material, take adap	3		3			
6sensitive documents would give rise to areal risk of restross harm to one or more important public interests, for the reason explained in the closed schedule to his certificate.6Features in the first questions, effectively, by saying that you could carry out a proper investigation and the public concern can satisfactorily be alloyd. Although of course, not wholly alloyd because, by definition, there is material that you have seen and others have their disclosure outweighs the risks that the Hone is similar to anallogue to buse that were considered by that is or an long to buse that were considered by that every effort has been made to heyplang to the public to doing as you, sit, will watto help sure that every effort has been made to explain publicly the nature of the relvent information and its significance, and thereby to saure the persons and the public that and sit, this summary which you delivered to orphy timeterst immunity application, and that's that relevant documents, because only relevant documents are the subject of an application, and that's that relevant documents, because only relevant documents are the subject of an application, are withheld from work, you get to see them, sir, but the interested persons and the public drom work in the subject of an application, are withheld from work. you get to see them, sir, but the interested persons and the public drom work in the work into work were avere and was delivered to prevent solutions. There is a corollary, sir, to upholding a public interest immunity application, and that's that relevant determine whether, having seem the sensitive material, to a submission that the subject of an application, are withheld from use in the rest accordlary, sir, to upholding a public interest immunity application.61designed specifically for that purpose	4		4			
7Serious harm to one or more important public interests, for the reason explained in the closed schedule to bis certificate.7You answeed those questions. effectively, by syring that you could carry out a proper investigation and the public concert can satisfactorily be allayed. Although of course, not wholly allayed heatance, by definition, the indicator outweights the risks that the Home insofar as the factors weighing in the balance are using in two or anologues to tooks that were considered by there is some merit in the Home Scretary's application. To doing as, you, sit, vull ward to help sure intare or the robic surp with the subject of the FIL application taday, that you can proper investigation. The tor doing as, you, sit, vull ward to help sure in antare of the relevant information and its significance, and therely to assure the persons and the public that the withholding of sensitive documents has not summary which you addivered to penyly in court and was delivered to the interest opersons is7 You answeed the subject of the FIL application. There is a corollary of your investigation. And sir, this summary which you addivered to penyly in court and was delivered to the interest opersons is7 You and the subject of the leasance is to look to be screary of State to order a public that there is a corollary of your investigation. Hage 137 The screars of State to a data screars you now. Ulbes terms is the subject of the leasance is optimized in the subject of the leasance is to look the subject of an application, and that is that relevant decomments, because only only corrections. There is a corollary of that, sir, is that you many the subject of an application. There is a corollary of that, sir, is that you must the subject of an application.7 The subject is a subject of the subject of the	5		5			
8       for the reason explained in the closed schedule to his       9         9       certificate.       9         1       about that and whether or not the public interest in       9         11       about that and whether or not the public interest in       11         12       their disclosure outwights the risks that the Home       12         13       Secretary identifies. However, 1 am able to say that       13         14       insofar as the factors weighing in the balance are       13         15       similar to ar analogous to those that were considered by       14         16       Mr Jastice Cranston in November 2016, then you may feel       16         17       there witholding of sensitive documents is significance.       18         19       that every effort has been made to explain publicly the       18         10       nature of the relevant information and its significance.       21         24       And sir, this summary which you delivered to openty       23         25       in court and was dolivered to the interest opersons and       21         24       And sir, this summary which you delivered to persons       23         25       in court and was dolivered to the interest opersons and       24         26       begigned specifically for that purpose, I will submit.	6		6			
9     certificate     9     public concern can satisfactority be alayed. Although       10     I am not in a position to make open submissions     10       11     about that and whether or not the public interest in     11       12     their disclosure outweighs the risks that the Home     12       13     Secretary identifies. However, I am able to say that     13       14     insofar as the factors weighing in the balance are     13       15     similar to or analogous to those that were considered by     14       16     Mr. Justice Cranston in November 2016, then you may feld     16       17     there is some meri in the Home Secretary's application.     17       18     Prior to doing so, you, sir, will want to help sure     17       19     that every effort has been made to explain publicly the     18       10     nature of the relevant information and its significance,     11       11     the withholding of sensitive documents has not     20       12     had sir, this summary which you delivered to openly     21       13     incertar immunity application, and the is that relevant information and its is application, and the is that relevant delivered to openly       14     designed specifically for that purpose, I will submit.     14       15     subject of an application, and the is that relevant information and res application.       <	7		7			
10       Tam not in a position to make open submissions       10       of course, not wholly alleyed because, by definition, there is material that you have seem and others have         11       about that and whether or not the public interest in       11       interest in material that you have seem and others have         13       Secretary identifies. However, 1 am able to say that       11       11         14       insofar as the factors weighing in the blaince are       11       11         15       similar to or analogous to hose that were considered by       11       11         16       their is some meet in the Home Secretary's application.       12       12         17       application today, that you can properly discharge your       13         18       Prior to doing so, you, sir, will want to help sure       14       describt in feath why the answers to these questions         19       that every effort has been made to explain publicly the       14       the whithoding of sensitive documents has not         21       and theeby to assure the persons and the public interested persons is       12       14       having heard from AS Hill, why to answers to the secure to now.         22       Line the integrity of your investigation.       12       11       having heard from AS Hill, why the answer to a havies on that         23       Line the integrity of your investigation.	8	for the reason explained in the closed schedule to his	8			
11       about that and whether or not the public interest in       11       there is material that you have seem and others have         12       their disclosure ourweighs the risks that the Home       11       there is material that you have seem and others have         13       Secretary identifies. However, I and blace are       13       Sir, I cannot agin, as I could not last time,         14       insofter to doing so, you, sir, will wart in the Johne Secretary's application.       17       application today, that you can properly discharge your         16       Mr Justice Cranston in November 2016, then you may feel       18       reservine in detail why the answers of these grammines are the you have were, with having         19       that every effort has been made to explain publicly the       19       to the Secretary of State to order a public inquiry into         20       mature of the relevant information and its significance,       10       thaving heard from Ms Hill, who I know has views on that         21       and thereby to assume the persons and the public that       21       thaving heard from Ms Hill, who I know has views on that         22       and thereby to assume the persons and the public chord, and that is that relevant       23       UDGE HILLARD: Thank you.         23       DupGE 1       12       Will Rave it the content with that.         24       And sir, this summary which you delivered to openiny and there firsthy in			9			
12       their disclosure outseights the risks that the Home       12       not, and that is most unformute.         13       Secretary identifies. However, 1 am able to say that       instance and that is most unformute.         14       instance are the particle of the secretary's application.       Sir, 1 cannot again, as 1 could not last time,         15       similar to a ranlogous to those that were considered by       16         16       Mr Justice Cranston in November 2016, then you may feel       17         17       application today, that you can properly discharge your         18       Prior to doing so, you, sir, will want to help sure         14       describe in detail why the answers to those questions         10       the witholding of sensitive documents has not         21       and therdry to assure the persons and the public that         22       and sir, this summary which you delivered to penly         23       undermined the integrity of your investigation.         24       And sir, this summary which you delivered to penly         25       Page 13         26       Page 15         27       wishes to go before me, if you are content with that.         28       MR MOXON-BROWNE: We have, in the past, think usually         39       gatto see them, sir, but the intetrested persons and			1			
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14       insofar as the factors weighing in the balance are similar to an anlogous to those that were considered by the function in November 2016, then you may feel there is some merit in the Mome Secretary's application.       14       describe in detail why the answers to those questions in Secretary's application.         18       Prior to doing so, you, sir, will want to help sure the withholding of sensitive documents has not undermined the integrity of your investigation.       18       esen the material must in the subject of the PII application today, that you can properly discharge your responsibilities and it is not necessary for you to look to the Secretary of State to order a public inquiry into the survey effort has been made to explain publicly the nature of the relevant information and its significance, and the integrity of your investigation.       18       application today, that you are to address you further mater, which she would like to express to you now.         23       undermined the integrity of your investigation.       23       Uncess I can assist you, I will leave it there.         24       And sit, this summary which you diversed to pepsin application, and that is that relevant devents, because only relevant documents are the researce only relevant documents, because only relevant documents, because only relevant documents, because only relevant documents, are the researce on the researce of the sensitive material, the public do not, and they cannot for all interts and puppication.       1         2       MEMOXON-BROWNE: We have, in the past, I think usually interest immunity application, and that is that relevant documents, because only relevant documents, because only relevant the interested persons and the public process,		-				
15       similar to or analogous to hose that were considered by       15       remain the same, but is does remain my view, sir, having         16       Mr Justice Cranston in November 2016, then you may feel       16       seen the material that is the subject of the PII         17       there is some merit in the Home Secretary's application and its significance,       and theredy to assure the persons and the public that       18         12       and theredy to assure the persons and the public that       18       responsibilities and it is no tnecessary for you to look         21       and threedy to assure the persons and the public that       18       responsibilities and it is to address you further         23       undermined the integrity of your investigation.       23       UB/SE       11         24       And sir, this summary which you delivered to openly       16       12       Wishes to go before me, if you are content with that.         25       Page 13       Page 15       1       wishes to go before me, if you are content to address you at         36       the public do not, and they control soins.       10       10       MR MOXON-BROWNE: We have, in the past, 1 think usually         36       the public do not, and they control soins.       10       Wishes to go before me, if you are content to address you at         37       you get to see them, sir, is that you must       10 <td< td=""><td></td><td></td><th></th><td></td></td<>						
16       Mr Justice Cranston in November 2016, then you may feel       16       seen the material that is the subject of the PII         17       there is some merit in the Home Secretary's application.       17       application today, that you can properly discharge your         18       Prior to doing so, you, sir, will want to help sure       18         19       that every effort has been made to explain publicly the nature of the relevant information and its significance, and sir, this summary which you delivered to openly       19       to the Secretary of State to order a public inquiry into         20       undermined the integrity of your investigation.       20       these matters. It may be low out know has views on that         21       and sir, this summary which you delivered to openly       10       The secordlary, sir, to upholding a public         23       interest immunity application, are withheld from use in the       10       wishes to go before me, if you are content with that.         24       And they cannot for all interest immunity application, are withheld from use in the       10       Wishes to go before me, if you are content with that.         25       The corollary of that, sir, is that you must       1       Wishes to go before me, if you are seriously marred by the         36       the public do not, all the relevant degress application.       1       Wishes to go before me, if you are seriously marred by the         37       y						
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10The corollary of that, sir, is that you must10to clearly identify what documents it was that he was11determine whether, having seen the sensitive material,11seeking from the government. You may recall that no12it is necessary for you whether you can properly12schedule 5 request was made; no formal request for13carry out your statutory obligation to conduct a full13information so far as we were aware was ever made and14fair and fearless application.14there remained throughout the process uncertainty15Sir, you will recall that that issue came up last15that was never resolved about precisely what it was that16year at the time when you were reviewing the original16the coroner was seeking.17PII material, and I identified two questions for you to17Now, of course, it is open to the government to say,18consider which form part of your ruling. Just for the18"we have documents for which we claim immunity from19avoidance of any confusion, those questions were,19disclosure". It is also open to the government to20firstly, in the absence of the sensitive material, will20say - although I imagine they would only say it in21it would be possible to conduct a full, fair and21a rather exceptional case "it is so secret we cannot22fearless inquiry into Mr Perepilichnyy's death and to22even tell you what the documents are, let alone what is23determine insofar as that is possible how he died.23in them". But wha	9		9			
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1 to see", that was the vice of the situation we had			1 Which is the very question which we have always been			
2	before. It was a complaint I made to the senior coroner	2	looking for an answer.			
3	for Surrey. I made it again in front of	3	So, my first request to you, when you deal with this			
4	Mr Justice Cranston, and it was, as I say, a serious	4	PII application is to make it crystal clear that you			
5	defect in the procedure that was adopted. My concern is	5	have asked for that information, and that you have had			
6	that we seem to be heading towards an exactly similar	6	an answer and, if it be the case, that a claim for			
7	problem in this case.	7	public interest immunity has been made by the Government			
8	You have been, I am sure, unnecessarily advised by	8	as a reason for not providing you, or anybody else, with			
9	Mr Skelton that prior to resolving this application, you	9	the answer to that question.			
10	will want to ensure that every effort had been made to	10	So, clarity about what you have asked for; clarity			
11	explain publicly the nature of the relevant information,	11	about what the Government's position about that is; and			
12	et cetera, and I would like myself, respectfully, to ask	12	in particular that they, basically, if it be the case,			
13	you to add to that to make it absolutely clear what it	13 14	are declining to say one way or the other what the			
14	is you have been asking to see.	14	relationship between British Intelligence and			
15	When I saw the application put in and the	15	Mr Perepilichnyy was. So, that is the first point. The second point relates to the way you resolve that			
16	submissions in support, I was left with no idea at all	17				
17	about what it was we were talking about. It seems that Ms Hill had the advantage of me. She thought it was all	17	PII issue on the merits. It is, of course, well understood by me, indeed it is a trite I think			
18	about Ms Amber Rudd's certificate and did not realise	18	observation, that traditionally NCND (neither confirm			
19 20		20	nor deny) is the Government's regular, and automatic and			
20 21	that there may have been other things. That has been since, at least partially I think, put right.	20	final response to any question about who does and who			
21	But my concern, as always so far as this question of	21	does not work for the intelligence services.			
22	PII is concerned, revolves around a single issue which	23	I would imagine, although it is the nature of these			
23	is whether or not Surrey Police or the Government have	24	proceedings that I cannot know, that that is at least			
24	evidence that Mr Perepilichnyy was, prior to his death,	25	one of the things that may be said in this case.			
25	evidence that will receptionary was, prior to his death,	23	one of the things that may be said in this case.			
	Page 17		Page 19			
1	working for or in contact with British Intelligence.	1	I would ask you, in looking at that, to take a very			
2	That was one of the issues that we had asked	2	careful look at the merits of that particular			
3	Mr Travers, senior coroner for Surrey, to pursue. In	3	justification for claiming immunity in the particular			
4	the end, we were told, and it was part of a ruling which	4	circumstances of this case.			
5	I think you declined to interfere, that that question	5	If I may respectfully say so, all rules rules are			
6	was not relevant. Not that it was a question that could	6	our servants, they are not our masters. There can			
7	not be answered by the Government because public	7	always be exceptions. If it was ever said in future:			
8	interest immunity attached, but because it was not	8	well, in the Perepilichnyy case that question was			
9	relevant. There the matter rested.	9	answered, so you better answer it, hence in another case			
10	With profound respect, we made it clear all along we	10	it should be answered, no, the Perepilichnyy case was			
11	did not think that was right. It seemed to us that it	11	exceptional and there were special reasons why it was			
12	was, obviously, very relevant for a couple of reasons,	12	really important that that question be answered publicly			
13	which I will come to, if I may, in just a moment.	13	in that case.			
14	But we see from the summary, which you were kind	14	So what is the relevance? It is twofold. The			
15	enough to provide us with in advance of this hearing and	15	Skripal case demonstrates as clearly as anything could			
16	have read out, it kicks off with the observation:	16	the lengths to which the Russian state is prepared to go			
17	"I am aware that HMG has updated the searches	17	in order to make an example of or to punish people			
18	previously conducted."	18	perceived of as enemies, traitors or turncoats.			
19	You do not say how you become aware of that, but one	19	Mr Perepilichnyy, the evidence you have heard,			
20	presumes that some request was made.	20	arguably, if not certainly, falls into the same bracket,			
21	Then:	21	just as in the Litvinenko case where I believe I am			
22	"As part of that exercise, HMG has specifically	22	right in saying an exception to the NCND rule was made			
23 addressed the question of whether Mr Perepilichnyy was			because it was made public that Mr Litvinenko did have			
		23				
24	an agent for, or had any other contact that with British	24	a relationship with British Intelligence.			

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1	Mr Perepilichnyy, it would be very powerful evidence	$\begin{vmatrix} 1\\2 \end{vmatrix}$	situation we have now, it becomes simply impossible to
2			believe that if someone who was in the bosom of
3	from those who wished him ill because of a perception	3	British Intelligence was rubbed out in that way.
4	that he was a traitor or a turncoat, or an enemy of	4	And that of course is, as far as the investigation
5	Russia.	5	and the evidence in this case goes, a matter of
6	Without that evidence, there is, if I may	6	considerable importance. So, for those reasons, an
7	respectfully say so, aware as I am of your efforts to	7	inquest which does not take account of that factual
8	not only to conduct a full inquiry but to be seen to	8	matter is not going to be, in our respectful submission,
9	have conducted a full inquiry, I appreciate that, it is	9	perceived as full.
10	a big hole and weighing up where the public interest	10	If it be the case that Mr Perepilichnyy was not
11	lies I would urge you not to pay, automatically, lip	11	working for British Intelligence, which of course may be
12	service to a rule which is easy to understand, but which	12	the case, then let us know that; if he was, similarly
13	by its nature is not going to be appropriate in every	13	let us know.
14	case.	14	Mr Fear-Segal has very helpfully drawn my attention
15	JUDGE HILLIARD: Mr Moxton-Browne, I am going to have break	15	to Ms Hill's submissions to Mr Justice Cranston on
16	off when I say "shortly", it probably means now	16	29 September 2016, at paragraph 100
17	but can I just tell you this: I am very much in	17	JUDGE HILLIARD: I have not immediately got that to mind.
18	everybody's hands. I can resume again at about quarter	18	MR MOXON-BROWNE: No, I did not want to take up time with
19	past, probably, then as far as I am concerned, whatever	19	it.
20	is most convenient, there is obviously people who are	20	JUDGE HILLIARD: No, there is no shortage of time. It is
21	taking a note, but	21	just quite when that time is
22	MR MOXON-BROWNE: Sir, I wonder if I might have another 30	22	MR MOXON-BROWNE: exceptions to when NCND applies and
23	seconds.	23	they are set out at paragraph 100. I will make sure you
24	JUDGE HILLIARD: You certainly can. I just wanted to say	24	get a copy.
25	this, so that everybody can think about it. If	25	JUDGE HILLIARD: Thank you very much.
	Page 21		Page 23
1	everybody is content with, as it were, just breaking off	1	MR MOXON-BROWNE: Thank you, sir.
2	until quarter past, then carrying on, that is fine.	2	JUDGE HILLIARD: Quarter past all right for everybody?
3	I am just	3	Good.
4	MR MOXON-BROWNE: Do you want my 30 seconds now?	4	(12.55 pm)
5	JUDGE HILLIARD: I will have your 30 seconds.	5	(A short break)
6	MR MOXON-BROWNE: The second question of relevance relates	6	(1.20 pm)
7	to the, in our submission, hitherto inadequately	7	JUDGE HILLIARD: Can I just say, please do not be under the
8	explained delay before the identity and significance of	8	impression there is a time limit on this. If I may say
9	Mr Perepilichnyy's role in relation to what I call "the	9	so, you are being extremely helpful. It is the help I
10	Hermitage affair" came to the attention	10	want. It was a question of when we have time. I just
11	JUDGE HILLIARD: So the inadequately explained delay before	11	needed to
12	his role in the Hermitage affair became	12	MR MOXON-BROWNE: I have not felt under the slightest
13	MR MOXON-BROWNE: Yes, if they say who he was they know	13	pressure, but I am grateful to you for that.
14	he was Mr Perepilichnyy, but who he was in the broader	14	I did, perhaps, take Ms Hill's excellent submissions
15	sense of his significance and why he might have been	15	at an unnecessary gallop. I just would like to read out
16	someone at risk from a violent death, a curiously long	16	a very familiar passage from Home Office v Mohammed.
17	time before that came to the attention of Surrey Police,	17	This is very familiar to you:
18	and of course the critical effect that that had on	18	It is not simply a matter of a governmental party to
19	things like an autopsy which involved the destruction of	19	litigation hoisting the NCND flag and the court
20	evidence and various other matters that it is	20	automatically saluting it and so we urge you not to
20	unnecessary to go over again, whereby the trail was	21	automatically salute the flag.
22	allowed to become cold.	21	The other point I was making, the effectiveness of
22	If it be the case that Mr Perepilichnyy was working	23	the NCND policy is not undermined if it is departed from
24	for British Intelligence, that which currently strains	24	in exceptional cases. I stress "exceptional". Ms Hill
25	credibility, which I would respectfully submit is the	25	gives a link. I am going to pass you these submissions
1	· • • -		
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6 (Pages 21 to 24)

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1 so you can see it. This is explained in paragraphs 5			1 about the US Government material that has been referred			
2	and 6 of counsel for Litvinenko's inquest submissions	2	to by counsel to my right.			
3	and it gives the link. So if you are either unfamiliar	3	Going over the page, please, to the second page, it			
4	4 or want to refresh your memory about that principle that		is worth recalling for the purposes of this submission			
5	the effectiveness of the policy is not undermined if	5	what it was that BuzzFeed reported. You can see in the			
6	it is departed from in exceptional cases you have that	6	second paragraph on this page a reminder that BuzzFeed			
7	link.	7	reported that there was, firstly, high-grade			
8	This document is sullied by annotations in Ms Hill's	8	intelligence indicating that Mr Perepilichnyy was likely			
9	fair hand. What they say is HCM and then the date of	9	assassinated on direct orders from Mr Putin or people			
10	the submissions to the High Court. So it is nothing	10	close to him.			
11	more sullied is the wrong word, declaration	11	And secondly, that there was in existence a highly			
12	annotated. Thank you very much. (Handed).	12	classified report compiled for the US Congress by the			
13	JUDGE HILLIARD: Thank you very much.	13	Office of the Director of National Intelligence, which			
14	MR O'CONNOR: Sir, before Ms Hill rises I wonder if I might	14	also asserted with high confidence that his murder was			
15	just make two brief points .	15	sanctioned by Mr Putin.			
16	JUDGE HILLIARD: Yes.	16	That is the background, sir, to the negotiations			
17	MR O'CONNOR: The first is on the question of the Litvinenko	17	that have taken place, and of course is the background			
18	case that my learned friend raises. Just as a matter of	18	to the letter from the US embassy that you find at			
19	fact it is not the position that NCND was departed from	19	tab 10 of your bundle.			
20	in that case. Of course the question as to whether	20	Sir, the first concern that we have is with the			
21	Mr Litvinenko was an agent of any type or worked in	21	reading of that letter. Perhaps I could ask you to turn			
22	anyway for the British Intelligence agencies was raised,	22	up the letter at tab 10 that is dated 14 May? The			
23	but throughout those proceedings Her Majesty's	23	letter says that the United States Government I will			
24	Government never departed from the NCND response in the	24	just let you find it, sir possesses a document			
25	open proceedings. That is the first point.	25	referencing United Kingdom based public media reports			
	Page 25		Page 27			
1	So the second point on this case my learned friend	1	that Mr Perepilichnyy was assassinated in the UK before			
1	So the second point on this case my learned friend Mr Moxon-Browne has raised the question He has shown	1 2	that Mr Perepilichnyy was assassinated in the UK before he was scheduled to testify about a tax fraud network			
2	Mr Moxon-Browne has raised the question. He has shown	2	he was scheduled to testify about a tax fraud network,			
2 3	Mr Moxon-Browne has raised the question. He has shown you that you are right in summary where you refer to the	2 3	he was scheduled to testify about a tax fraud network, and then says:			
2 3 4	Mr Moxon-Browne has raised the question. He has shown you that you are right in summary where you refer to the fact that the question as to whether Mr Perepilichnyy	2 3 4	he was scheduled to testify about a tax fraud network, and then says: "This report contains no US Government reporting			
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1 with all due respect, we are struggling to follow the			1 give clarity to those I represent or perhaps to the		
2	meaning of that letter. It feels rather circular and	2	public as to what in fact has been discovered.		
3	rather double speak, if you like, to be saying that	3	JUDGE HILLIARD: All right. Ms Hill, thank you very much		
4	there is a US Government report that contains no US	4	for that and for the letter, which is helpful.		
5	Government reporting, and therefore we are concerned	5	Mr Skelton, anything you want to say about any of		
6	that this is not an answer to the issue of whether or	6	that at the moment?		
7	not there is material that this inquest should look at.	7	MR SKELTON: Sir, only one small point. I obviously loathed		
8	Therefore we remain in the dark as to the rationale	8	on my feet to trespass into sensitive		
9	for not pursuing that line of inquiry. It simply does	9	JUDGE HILLIARD: I would much rather you did not as taking		
10	not give clarity, we say, as to what was reported by	10	that at a gallop or even a canter is not		
11	BuzzFeed.	11 12	MR SKELTON: Indeed. So far as the last point Ms Hill made		
12	Going over the page, sir, on to the second page of	12	about the US Government letter, just to confirm the		
13	our letter, you will see that the second broad concern	13	document referred to in sentence one is the report referred to in sentence two, and that is the report that		
14 15	we have raised is that it appears to be the case that there are elements of both the Dritich expect of the DU	14	you and your legal team have seen in response to the		
15	there are elements of both the British aspect of the PII material, if I can call it that, and the US aspect that	16	request you made to the US Government. That is a small		
10	are already matters in the public domain.	17	ambiguity at least I can safely clear up now.		
18	It seems clear from the submissions that have been	18	JUDGE HILLIARD: Yes.		
10	made and indeed from your summary, sir, that there are	19	MR SKELTON: Sir, I think that concludes the		
20	elements of both the domestic material and the US	20	MS HILL: Sorry, can I just say, sir, I had understood that		
20	material that are already matters that have been made	21	and I think my submission was nevertheless then when one		
21	known in the inquest, or are otherwise in the public	22	reads that final sentence, what one has then is the US		
22	domain.	23	Government has a report that contains no US Government		
23	So, we have expressed a concern, sir, we remain	24	reporting and I am afraid that does not help much		
25	concerned that PII has been claimed in respect of	25	further.		
25	concerned that I if has been elained in respect of				
	Page 29		Page 31		
1	material that is already in the public domain or known,	1	JUDGE HILLIARD: All right.		
2	and so we have asked whether or not we can have	2	MR SKELTON: Yes. I will not try and pass the difference		
3	disclosure, effectively, of those parts of the British	3	between "reporting" and "report". I have tried to		
4	or American pots of material that are already in the	4	explain to Ms Hill outside of the hearing but I have not		
5	public domain or known.	5	succeeded. Perhaps we can take this up again.		
6	Sir, you will see briefly the final two points we	6	JUDGE HILLIARD: Quite. Who knows, there may be comment and		
7	raise in the letter are simply a question of	7	assessment and so on, on the one hand, and merely		
8	clarification about the scale or the scope of the PII	8	rehearsal.		
9	application today, whether or not we are right to assume	9	But Ms Hill, amongst other things, whatever the		
10	that it is only proceeding in relation to those parts	10	solution to the application that is made at the moment		
11	of bundle A that have not been referred to in your	11	is I understand your request, as it were, and		
12	summary note.	12	Mr Moxon-Browne's about as much clarity as is possible.		
13	Fourthly, we have raised a question, sir, about the	13	It is very helpful if I may say so as well, things that		
14	basis for your conclusion in your note that there is new	14	are not clear, it is very useful to have them		
15	material containing assessments that have now been made,	15	identified.		
16	but it is not material that leads you to feel the need	16	MS HILL: I hope it is understood we do not make any		
17	to conduct any further inquiries.	17	submissions about the legal principles. We fully		
18	So, those are the concerns, and perhaps the foremost	18	understand the competing interests in play, and we fully		
19	one is the wording of the 14 May letter and the fact	19	understand the difficult balancing exercise here, but we		
20	that PII appears to have been claimed in relation to	20	are concerned to make sure there is as much transparency		
21	some material that is already known.	21	as possible and as much due process is followed.		
22	So, sir, those are our broad concerns. We have	22	JUDGE HILLIARD: I am grateful to you both.		
23	nothing to add to the legal principles that have been	23	Anything else, to say at this stage? So we will		
24	set out clearly, but sir, I hope you can understand why	24	probably move to the next stage then, Mr Skelton.		
25	on receipt of the 14 May letter, it does not perhaps	25	MR SKELTON: We do, sir. The court must be cleared and we		
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1	will need to reconvene in a smaller number.
2	JUDGE HILLIARD: Yes.
3	MR MOXON-BROWNE: Sir, could I just enquire? Two things.
4	One, will we be required again today; and secondly,
5	would it be possible to give any indication at all as to
6	when final submissions in this case will be invited
7	JUDGE HILLIARD: Both
8	MR MOXON-BROWNE: before we go.
9	MR SKELTON: Sir, I think the answer is: no further open
10	hearing today.
11	JUDGE HILLIARD: If it helps, forgive me, so we need not
12	detain anybody else?
13	MR SKELTON: Not for the purposes of today, no. So far as
14	closing submissions are concerned, that is to be
15	determined after the hearing and in light of your
16	judgment and any submissions made to you in light of
17	that, and subject to diaries as always, which the
18	solicitors in the inquest will liaise with respective
19	counter parties.
20	JUDGE HILLIARD: So, we will send something round about that
21	with a date that will suit everyone.
22	MR MOXON-BROWNE: Thank you.
23	JUDGE HILLIARD: Ms Barton, did you want to say anything?
24	MS BARTON: It appears that Her Majesty's Government need
25	a month anyway probably because of the additional
25	
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1	material.
2	JUDGE HILLIARD: Might do
3	MS BARTON: Yes.
4	JUDGE HILLIARD: Yes. Right. Well, thank you all very
5	much. I am very grateful to you both, thank you.
6	(1.37 pm)
7	(Adjourned in open court)
8	(regourned in open court)
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