

# Thirlwall Inquiry

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## Ruling on the Media Broadcast Protocol

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This ruling deals with paragraph 11 of a draft Media Broadcast Protocol.

### Background

1. On 29 May 2024 I issued a ruling on the question whether hearings in this Inquiry should be livestreamed or whether I should permit live links. I had heard submissions at a preliminary hearing. I decided against livestreaming and in favour of the provision of live links to Core Participants and the accredited media. The transcript of the hearing is at [link](#)<sup>1</sup>. My ruling is on the Inquiry website at [link](#)<sup>2</sup>.
2. At the preliminary hearing the nine media organisations who were represented by Jude Bunting KC did not seek livestreaming nor did any other media representative. They were content with the provision of live links. In the course of her argument Rachel Langdale KC, Counsel to the Inquiry, submitted that were I to decide in favour of live links, I might consider the release to the media of clips for broadcasting. This was echoed in submissions made by Mr Bunting. At paragraph 42 of my ruling, I recorded his request “that there should be a process developed so that decisions could be made about the broadcasting of clips from the hearings without interrupting the flow of the Inquiry.” I agreed that such a process be developed, “designed to achieve swift decisions at minimal additional cost.”
3. The Inquiry legal team and representatives of the media have been in discussions about the development of a media broadcast protocol in respect of the broadcast of clips of the proceedings of the Inquiry by accredited media. I am grateful to all for the work that has been done. The draft protocol runs to 19 paragraphs with a short appendix. It has been seen by all Core Participants, none of whom has made any observations on it, save as I set out below.
4. The broadcasters accept that in the exceptional circumstances of this Inquiry (which they acknowledge is of profound importance) they will abide by the protocol, but they object to the inclusion of Paragraph 11 which they say should be deleted. It is upon that

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<sup>1</sup> [https://thirlwall.public-inquiry.uk/wp-content/uploads/2024/0/Thirlwall-Inquiry\\_16-May-2024\\_Preliminary-Hearing.pdf](https://thirlwall.public-inquiry.uk/wp-content/uploads/2024/0/Thirlwall-Inquiry_16-May-2024_Preliminary-Hearing.pdf)

<sup>2</sup> <https://thirlwall.public-inquiry.uk/wp-content/uploads/2024/05/Ruling-on-Livestreaming.pdf>

# Thirlwall Inquiry

objection that I am asked to rule. I do so on the papers, having received written submissions from Mr Bunting on behalf of the broadcasters and from Kate Blackwell KC on behalf of four former senior managers whom she represents: Ian Harvey, Alison Kelly, Tony Chambers and Sue Hodgkinson.

5. Paragraph 11 of the draft protocol reads -  
“In general, in respect of any given outlet or title operated by a media organisation, broadcasts of clips of witness evidence will be limited to no more than 5 minutes per day for any individual witness. This restriction can be varied or disapplied upon application to the Chair, and shall not apply if a witness confirms in writing their consent to broadcast of their evidence in full”
6. The broadcasters submit that, in their editorial assessment, some of the witnesses’ evidence in this Inquiry will require longer than five minutes of broadcast footage per day. They base their assessment on their experience of reporting on the criminal trial and on their reporting of other public inquiry hearings. They inform me that the BBC 24 hour news channel broadcast “long sections” of the evidence of Paula Vennells at the Post Office Horizon IT Inquiry, which is being livestreamed. Whilst long sections of evidence do not, on the face of it, come within the description of a clip, nothing turns on that. The point is that broadcasters may from time to time want to broadcast more than five minutes of the evidence of a witness on any one day.
7. Miss Blackwell points to the second part of paragraph 11 which allows for applications to vary or disapply the five minute limitation. I accept that there may be situations when a longer excerpt might be appropriate. The provision for an application to vary or disapply allows for such situations.
8. In my judgment there are at least three reasons which lead me to conclude that in allowing broadcasting I should maintain paragraph 11 of the protocol. First, it is imperative that the Inquiry hears from witnesses who are able to give best evidence. It is reasonable to assume, as a general proposition, that for a witness waiting to give evidence to the Inquiry, the prospect of the broadcast of a five minute clip of evidence is less intimidating than the prospect of broadcasts of unlimited and uncertain duration. Of course, the reality may be different in the light of the evidence given, but my concern is that the witnesses be reassured in advance so that they can give best evidence. That the assumption is reliable is borne out by Miss Blackwell’s assurance at paragraph 8 of her submissions that no applications for special measures have been made on behalf of any of the senior managers in the light of the contents of paragraph 11 of the protocol. This includes the possibility that the five minute limit may be waived. She reasonably adds that if paragraph 11 is removed in its entirety this position will have to be reviewed.

# Thirlwall Inquiry

9. I do not accept the broadcasters' proposition that a witness' concerns about broadcasting would not justify special measures. That is a fact specific decision in each case.
10. I am satisfied that the five minute limitation will reassure witnesses and allow them more easily to engage with and give evidence to the Inquiry.
11. Second, the order for live links instead of livestreaming was based in part on the risk of breaches of the Crown Court orders. I am satisfied that the risk of breach is lower the fewer and shorter clips that are broadcast.
12. Third, as I said in the ruling, the Inquiry retains control of the footage (subject to the application of the protocol) which should give some reassurance to those who are concerned about conspiracy theorists and the use to which they may put broadcast footage.

## **Practicalities**

13. The broadcasters accept that paragraph 11 permits an application to the Chair to disapply or vary the five minute limit but they say that repeat applications would be impractical. There is no basis for saying that at this stage. The process should be simple and straightforward and can be refined in the light of experience.
14. I reject the submission that removing paragraph 11 would allow swift decisions at minimal additional costs. That course would not give effect to paragraph 42 of my ruling.
15. Accordingly, paragraph 11 shall remain in the protocol.
16. This decision having been made on the papers it is open to the broadcasters to seek a hearing. It will be listed in London at the same time as any contested applications for special measures, 10.30am 6 August 2024.

**Thirlwall LJ**  
**Chair**  
**28 July 2024**