1 Thursday, 10 March 2011
2 (10.00 am)
3 LADY JUSTICE HALLETT: Mr Keith?
4 MR KEITH: As my Lady knows, today my Lady is scheduled to
5 hear submissions in relation to rule 43 to the extent
6 permitted by the law and my Lady has already directed
7 that there be a batting order, in accordance with,
8 I believe, that my learned friend Ms Gallagher will
9 address you first.
10 LADY JUSTICE HALLETT: Thank you very much.
11 Ms Gallagher?
12 Submissions by MS GALLAGHER
13 MS GALLAGHER: My Lady, as you're aware, the represented
14 families are united in the recommendations they have put
15 forward in relation to rule 43, both in relation to
16 non-preventability matters, including the emergency
17 response actions proposed to be taken by Transport for
18 London and other issues, but they are also united in the
19 recommendations they've put forward in respect of
20 preventability issues and, whilst you are aware of it,
21 for the benefit of others, four of us today will be
22 addressing you on rule 43 on non-preventability issues,
23 that's myself, Mr Saunders, Ms Sheff and Mr Coltart in
24 that order. Mr Patterson may have some supplementary
25 submissions, but that's the way we've divided it.

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1 Tomorrow, both Mr Patterson and Mr O'Connor QC will
2 be addressing you in relation to preventability.
3 My Lady, we've proposed a large number of
4 recommendations which we seek following on from the
5 evidence. Plainly it's a matter for you as to whether
6 there's a sufficient evidential basis for those
7 recommendations, but we've sought 23 specific
8 recommendations on non-preventability issues and nine
9 recommendations on preventability matters.
10 So in essence, the majority of what we'll be
11 speaking to you about today is our wishlist of the first
12 23 of those 32 matters.
13 It's important to emphasise, my Lady, that the
14 families are united on this issue and, right from the
15 outset, the represented families and, indeed, the
16 unrepresented families have made very clear their views
17 on the importance of this process in terms of learning
18 lessons.
19 The standard typical question which the man on the
20 street often asks, and asked indeed at the start of this
21 process, was: what's the point of it all, don't you know
22 how they all died? The families do feel strongly that
23 over the course of the five months of evidence that
24 we've heard, the process itself has been hugely helpful.
25 For some families it's been helpful in terms of playing

1 a part, albeit a belated one, in the grieving process,
2 and giving them answers through the evidence that they
3 didn't have over the past five and a half years. But
4 for many of the families, my Lady, today, in one way, is
5 the most important part, because it's looking to the
6 future and seeing what lessons can be learnt from the
7 atrocities of 7/7 and whether the deaths of their loved
8 ones can contribute to saving others.
9 As we know from Lord Bingham in Amin in the
10 oft-cited passage which has been repeated on many
11 occasions before you, my Lady, over the past five
12 months, one of the most important aspects of inquests is
13 that those who have lost their relatives may at least
14 have the satisfaction of knowing that lessons learnt
15 from his death may save the lives of others, and that's
16 the impetus behind the 32 recommendations which we've
17 unanimously put forward.
18 Before I move on to some issues to deal with
19 rule 43, my Lady, it's appropriate just to briefly
20 address the non-rule 43 matters.
21 There's clearly some questions arising regarding
22 narrative verdicts in box 3 of the inquisition. There's
23 also some specific issues arising regarding the wording
24 in boxes 1, 2 and 5 of the inquisition.
25 We've made written submissions on that, the

1 represented families. We don't propose to go to that in
2 detail today.
3 As regards box 3, in general, the represented
4 bereaved families support the formula proposed by
5 Mr Keith on the last occasion, the general formula of
6 words.
7 There are some specific issues for individual
8 families regarding the wording, and particularly for
9 a number of families, not all, where their loved ones
10 survived the initial blast, and some families want
11 recognition of that in the wording, some families do not
12 and don't want a distinction drawn between them and
13 others who were killed outright or whom the evidence
14 suggests was killed outright.
15 My Lady, having spoken to the other counsel, we
16 propose, rather than dealing with family-specific
17 matters now, it may be that we can resolve these
18 privately simply by speaking to the Inquest team.
19 In the alternative, just before lunch, we think
20 probably in under five minutes we could address any
21 outstanding individual issues relating to particular
22 families. You will have seen in the London Ambulance
23 Service submissions issues were raised in relation to
24 two families that I represent, the Brewsters and the
25 Hymans. I don't intend to address you now when I and

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1 the other three counsel are dealing with the more
2 general issues on which we are all united, and it may
3 not be necessary to address you at all.
4 If it is necessary to address you, I would hope to
5 do so just immediately before lunch and very briefly, if
6 that's acceptable to you, my Lady.
7 LADY JUSTICE HALLETT: Certainly, thank you.
8 MS GALLAGHER: Could we say at the outset that the families
9 are extremely heartened by a number of developments: (a)
10 certain developments since 2005 in a number of respects,
11 which we've referred to in paragraph 3.1 of our
12 submissions, for example, Airwave radios and split
13 attendance by the LFB; (b) importantly there has been
14 recognition by a number of witnesses from the
15 organisational interested parties during their oral
16 evidence about further changes that are needed, for
17 example, Mr Collins, the chief operating officer of
18 Transport for London, in February, described how, even
19 during the course of the inquests themselves, lessons
20 have been learned and actions taken, and that's of great
21 comfort to the families; and (c), my Lady, the written
22 submissions we received overnight from the
23 organisational interested parties on non-preventability
24 matters, we are heartened to see that a number of the
25 organisations in those documents have reinforced their

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1 commitment to learning lessons from the atrocities of
2 7/7 and, indeed, have supported many of the
3 recommendations we have proposed.
4 In particular, we note that Transport for London and
5 the British Transport Police have highlighted how they
6 consider the process of these inquests to have been
7 immensely valuable, something which the families put
8 down in large part to its handling by you, my Lady, and
9 indeed those organisations welcome many of the
10 recommendations which we've made.
11 We'd say at the outset rule 43 recommendations are
12 not something to be feared, and as we've said in our
13 earlier submissions, my Lady, the whole point of rule 43
14 is to learn lessons going forward and it will be
15 counter-intuitive for organisations, if there is
16 a matter of concern to you, and a matter of concern to
17 the families, which has been raised and you consider
18 there's a sufficient evidential basis, adopting
19 a restrictive approach to rule 43. Simply
20 counter-intuitive, given its entire purpose.
21 So we say that at the outset and we're very grateful
22 to a number of the organisational IPs for following that
23 approach.
24 My Lady, rather than having musical chairs between
25 counsel for the bereaved families, we've divided the

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1 labour in this way, and I thought it would be helpful
2 just to set it out to you at the outset: I'm going to
3 deal with the general law. This can be quite brief,
4 my Lady, I'm simply going to deal with issues which are
5 live in light of the submissions that we've received
6 from other parties, because, of course, there has been
7 an earlier hearing on 17 February about the law. I'm
8 going to deal with recommendations (a), (d), (i), (p)
9 and (v).
10 I'll just go through them in turn.
11 Mr Saunders will then deal with the majority, in
12 terms of numerical majority, of the issues we've
13 proposed, and that's the recommendations we've sought in
14 relation to the London Ambulance Service and triage and
15 in relation to the London Underground.
16 Ms Sheff is then going to deal with the specific
17 issue concerning Transport for London interaction
18 between the Underground and the buses and other
19 agencies, and also HEMS or the London Air Ambulance
20 Service.
21 Finally, Mr Coltart is going to deal with a number
22 of issues concerning the London Fire Brigade, a number
23 of general recommendations which we've sought,
24 recommendations (b) and (c), my Lady, concerning plain
25 English, an issue that has been of great concern to you

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1 throughout this process, and also alerting other
2 agencies when a major incident is declared by
3 a particular agency. He's also going to deal finally
4 with the issue of disclosure and record-keeping and
5 whether lessons can be learnt in respect of that from
6 the process that we've gone through in the past five
7 months.
8 Just in terms of housekeeping, my Lady, could I just
9 ensure that you have our joint submissions concerning
10 rule 43?
11 LADY JUSTICE HALLETT: I do.
12 MS GALLAGHER: There should be a supporting transcript
13 bundle.
14 LADY JUSTICE HALLETT: I have it.
15 MS GALLAGHER: I've provided you, my Lady, with one with
16 tabs by recommendation, which will make it easier.
17 Also, I'm not sure if you have them to hand,
18 my Lady, but our earlier submissions, the legal
19 submissions for the hearing on 17 February.
20 LADY JUSTICE HALLETT: I don't think I do.
21 MS GALLAGHER: We can provide you with a copy, my Lady.
22 LADY JUSTICE HALLETT: (Handed). Thank you.
23 MS GALLAGHER: My Lady, the legal framework was covered in
24 detail in our earlier submissions, and it's covered in
25 our current submissions in section 2. It's page 2 of

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1 our current submissions, my Lady.
2 LADY JUSTICE HALLETT: I'm sorry, I haven't seen the
3 submissions in this form. I'm just looking -- tab 4 --
4 no, I think there's some confusion. Under the heading
5 "Submissions on non-preventability", I've got
6 submissions on preventability.
7 Just give me a moment, I'll get there.
8 I tell you what I'll do, why don't I hand it to
9 Mr Smith and see whether he thinks that ...
10 MS GALLAGHER: My Lady, we do have a copy, if it would
11 assist.
12 LADY JUSTICE HALLETT: I'd rather make sure we start off
13 right, Ms Gallagher, because I know you've gone to a lot
14 of trouble to make sure I have all the documents.
15 I think I'll just rise for a couple of minutes --
16 MS GALLAGHER: Certainly. No problem.
17 LADY JUSTICE HALLETT: -- to enable Mr Smith and Mr Suter
18 to~...
19 (10.13 am)
20 (A short break)
21 (10.15 am)
22 LADY JUSTICE HALLETT: Thank you, Ms Gallagher, yes, I have
23 them now.
24 MS GALLAGHER: Certainly. My Lady, it's section 2 of our
25 current submissions and section 3 of our February

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1 submissions.
2 My Lady, could you go to paragraph 3.1 of
3 the February submissions which has the wording, the
4 current wording, of rule 43?
5 LADY JUSTICE HALLETT: I have it.
6 MS GALLAGHER: You can see, my Lady, that the current
7 wording sets out in rule 43(1) three preconditions: (a)
8 the coroner is holding an inquest into a person's death,
9 which plainly applies here; (b) the evidence gives rise
10 to a concern that circumstances creating a risk of other
11 deaths will occur or will continue to exist in the
12 future; and (c) in the coroner's opinion, action should
13 be taken to prevent the occurrence or continuation of
14 such circumstances or to eliminate or reduce the risk of
15 death created by such circumstances.
16 Over the page, my Lady, we've provided you with the
17 previous wording and, as is made clear in the current
18 guidance to coroners on rule 43, the change made to the
19 rule from July 2008 was specifically introduced so that
20 coroners would have a wider remit to make reports to
21 prevent future deaths and the requirement of similarity
22 was removed.
23 It's described in paragraph 1.3 of that guidance,
24 a change is described, as being to give greater
25 prominence and importance to coroner reports to improve

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1 public health and safety and, importantly, in addition
2 to rule 43, rule 43A and B were introduced, my Lady,
3 which of course introduces a new statutory duty for
4 organisations to respond.
5 So we're conscious that a number of the
6 organisations in respect of some of the submissions have
7 indicated that they are likely to do this anyway in
8 light of the evidence, but rule 43 does set down
9 a framework whereby, within a specific timeframe, which
10 may be extended if there's good reason, they must
11 respond to you and explain, either why they're going to
12 take action and, if so, in what form, or why they reject
13 the recommendation that you've made, but they must
14 explain it in detail.
15 It will be dealt with by individual counsel in
16 respect of individual submissions, individual
17 recommendations, but in general, where an indication has
18 been given by an organisation that they're going to do
19 this anyway, we'd submit that, if there's a sufficient
20 evidential basis, it should still go in the rule 43
21 report, and then there is a framework to monitor and
22 ensure that this is done, but also, there's a framework
23 whereby the families can be included and updated in
24 respect of the action that's taken.
25 LADY JUSTICE HALLETT: Can I just ask how that would work,

1 Ms Gallagher? You say the families can be included and
2 updated. I make a rule 43 recommendation, it goes to
3 the organisation. The organisation responds. Of
4 course, once these proceedings are over, in the sense
5 that I have made, if I make any, any recommendations,
6 I then lose all the support staff. I am just wondering,
7 how would it work that the families would be kept
8 informed?
9 MS GALLAGHER: It's dealt with in detail in rule 43A,
10 my Lady. I don't know if you have that.
11 LADY JUSTICE HALLETT: I don't think I have.
12 MS GALLAGHER: You may not have it to hand. I can take it
13 quite shortly. Rule 43A requires that a person to whom
14 a coroner sends a report under rule 43(1) must give the
15 coroner a written response to the report containing
16 either: (a) details of any action that has been taken or
17 which it is proposed will be taken, whether in response
18 to the report or otherwise; or (b) an explanation as to
19 why no action is proposed within a 56-day period, though
20 there is a provision for extending time, if appropriate.
21 LADY JUSTICE HALLETT: That I follow.
22 MS GALLAGHER: Yes.
23 LADY JUSTICE HALLETT: It was how we keep the families --
24 MS GALLAGHER: Of course, and you will see -- do you have it
25 to hand, my Lady, 43A?

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1 LADY JUSTICE HALLETT: I do, thank you, yes.
2 MS GALLAGHER: 43A(2) provides that:
3 "On receipt of a response, the coroner must send
4 a copy of the response to ..."
5 And this is (2)(a)(ii):
6 "... any person who has been served with a notice
7 under rule 19, except where paragraph (6) applies."
8 And that is where representations are made regarding
9 non-release or modified release. So it's a mechanism
10 whereby, if the information is sensitive it can be
11 protected.
12 LADY JUSTICE HALLETT: I follow, thank you.
13 MS GALLAGHER: You will see there is also a provision in
14 rule 43A, my Lady, regarding publication of the
15 response, so there can be wider public scrutiny also,
16 but, again, subject to some safeguards.
17 LADY JUSTICE HALLETT: Publication is by the
18 Lord Chancellor.
19 MS GALLAGHER: My Lady, if it would assist, a person who has
20 been served with a notice under rule 19, in 43A(2)(ii)
21 mirrors rule 43(4)(a), it's precisely the same wording,
22 and that encompasses the bereaved families.
23 LADY JUSTICE HALLETT: Thank you.
24 MS GALLAGHER: So it's a structured framework, my Lady,
25 which is there for good reason and, in general, if

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1 there's an evidential basis, we suggest the rule 43
2 mechanism is the appropriate one to use.
3 In our current submissions, my Lady, in
4 paragraph 2.1 we just set out a number of key points on
5 the law. At number 1, rule 43 reports are not
6 constrained by rule 36, that is not a live issue before
7 us today.
8 At number 2, it is not necessary for there to be
9 causation or even a contribution to any of these 52
10 deaths for the coroner to make a rule 43 report. The
11 power is triggered provided rule 43(1) is met.
12 In number 3, there is no longer a requirement for
13 similarity and we are conscious that questions have been
14 asked on a number of occasions regarding the Olympics
15 and other events, for example, and of course, given the
16 amount of evidence that we have heard about Underground
17 trains, it may be that there may be lessons to be learnt
18 in respect of just simple crashes rather than terrorist
19 events, in the light of the evidence that we've heard.
20 So there's simply no requirement that we're looking
21 at another attack on the Underground system or another
22 attack on the bus system.
23 Number 4, there is no contradiction between making
24 a rule 43 report in the absence of a jury. Again, it
25 may be a live issue tomorrow rather than today, my Lady.

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1 At number 5, to interpret rule 43 in a restricted
2 manner will be counter-intuitive.
3 My Lady, on page 4, the very top of page 4 of those
4 submissions, we took issue with the phrasing of the
5 Fire Brigade and the City of London Police a little
6 further down the page in their previous submissions
7 regarding the coroner needing to identify some
8 particular action before a rule 43 report can be made.
9 Of course, what rule 43 requires in 43(1)(c) is for
10 it to be the coroner's opinion that action should be
11 taken, and then the coroner may report the circumstances
12 to a person whom the coroner believes may have power to
13 take such action, but there is no requirement, my Lady,
14 for you to have identified with precision what that
15 action is. This issue was addressed, we suggest,
16 accurately and succinctly by Sir Michael Wright, also
17 sitting as an Assistant Deputy Coroner in the de Menezes
18 inquest. We've given you a copy of that. I don't need
19 to take you to it. It's set out in the submissions. He
20 said:
21 "It is the purpose of this report to identify points
22 of concern, not to prescribe specific solutions. That
23 is best done by those who have the difficult task of
24 overseeing policing in general and anti-terrorist
25 operations in particular."

1 My Lady, the bereaved families have made efforts in
2 the drafting to recognise that. So in drafting the
3 proposed recommendations, in relation to some we
4 recognise that they are resource-intensive, or that
5 there may be logistical or operational difficulties, and
6 so we have proposed phrasing in the most general way to
7 reflect that, whereas, with other recommendations, we
8 felt able to put forward something more specific, and
9 that reflects the evidence that we have heard and the
10 different nature of certain organisations.
11 My Lady, the London Fire Brigade in the submissions
12 which we've received overnight in paragraphs 7 and 8
13 deal with this issue of action. It may be we are
14 dancing on a pinhead, my Lady, but simply, we thought,
15 from reading both these submissions and the previous
16 submissions, there was a suggestion that, unless you had
17 a specific action in mind, you should be slow to make
18 a recommendation and we disagree with that.
19 In paragraph 8 they say:
20 "Where the need for some action to be taken does not
21 emerge clearly from the evidence or where such a need is
22 disputed, it is respectfully submitted that the coroner
23 should be slow to make recommendations of a general
24 nature."
25 My Lady, that's not accepted, particularly in

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1 respect of the idea that, where such a need is disputed,
2 because, of course, rule 43 and rule 43A allow for that,
3 they allow for the organisation, within 56 days, in
4 detail, in a way that we can't do today, to set out why
5 they dispute the recommendation made, and they don't
6 accept that there is such a need, or for other good
7 reason they don't believe that action should be taken,
8 and that is the appropriate way to deal with it, but
9 suggesting that, where there is simply a dispute about
10 whether there is a need, the coroner should be slow to
11 make recommendations, the families don't support that
12 approach, my Lady. Indeed, we note that the City of
13 London Police in their submissions don't press what
14 appears to be a point similar to the London Fire
15 Brigade's point in their February submissions.
16 Finally, my Lady, in relation to this part of the
17 submissions, in paragraph 2.8 we just noted that, at the
18 last hearing in February, there were oral submissions
19 made regarding this position: should the coroner decide
20 not to rule a rule 43 report, the provisions of rule 36
21 would prevent her from giving reasons as to why this was
22 so.
23 In our submission, my Lady, this is plainly
24 incorrect. Given that you have had a full hearing, we
25 don't intend to go into detail on it, but we do refer

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1 you to our earlier submissions, oral and written, and in
2 particular the paragraph cited there, my Lady, which
3 notes the increasing recognition by the courts at all
4 levels of the importance of reasoned decision-making.
5 Of course, sitting as a coroner, you are a public
6 official, necessarily subject to the principle that you
7 must act fairly and abide by the rules of natural
8 justice and, in our submission, my Lady, that involves
9 giving reasons rather than giving a bare "no" when
10 detailed and reasoned submissions have been made before
11 you.
12 In relation to paragraph 2.9, there is just one
13 minor correction, my Lady. We say there identical
14 obligations apply if the coroner does write a report
15 recommending action in relation to some issues but not
16 all; for example, if you are satisfied that remedial
17 measures taken to date mean no action is needed.
18 We then say:
19 "In those circumstances, the coroner should set out
20 in the body of the report the nature of the perceived
21 deficiency and the action already taken to rectify it."
22 We stand by that, my Lady, but of course, it would
23 also be possible, rather than putting it in the report,
24 to do it in a separate judgment, if that was considered
25 appropriate, but either way we disagree with the

1 suggestion that rule 36 constrains from you giving
2 reasons and, in fact, as we've said throughout our
3 submissions, rule 36 applies to the formal record of the
4 inquest, the inquisition, rather than to rule 43, which
5 is a much broader process.
6 In terms of being a broader process, my Lady, we
7 note that a number of the organisational IPs have picked
8 up on the phrase "peripheral", which is used in the
9 Ministry of Justice guidance and, again, in keeping with
10 the underpinning rationale of rule 43, evidence may
11 emerge -- during the course of evidence, an issue may
12 emerge which is peripheral to the particular death or
13 deaths being investigated, but which gives rise to
14 concern, and which you, as coroner, may consider
15 requires action.
16 Plainly, if it's peripheral to the inquest, to use
17 the phrase in the Ministry of Justice guidance, it
18 simply couldn't fit within rule 36 and we consider that
19 very straightforwardly it's quite apparent from the
20 scheme of the rules, rule 36 simply does not apply in
21 this context.
22 I don't intend to go further than that, my Lady,
23 given the fact that you've had detailed legal
24 submissions previously, unless it would be of
25 assistance.

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1 LADY JUSTICE HALLETT: No, that's fine, thank you very much.
2 MS GALLAGHER: In terms of the phrasing which we've used,
3 my Lady, there are just two short points.
4 Firstly, I and other counsel for the families, while
5 working overnight, recognised the strength of some of
6 the points which have been made by the organisational
7 interested parties, and it may be the wording which
8 we've given you in the document may alter over the
9 course of these submissions to reflect that, and also,
10 of course, to reflect any questioning from you. Of
11 course the wording, my Lady, is a matter for you. We do
12 note -- I don't know, my Lady, if you have the British
13 Transport Police submissions to hand, which of course
14 I broadly welcomed at the outset.
15 LADY JUSTICE HALLETT: I do.
16 MS GALLAGHER: If you look at the first sentence of
17 paragraph 3, my Lady, I hope they won't think it cheeky
18 for me to indicate that, in submissions which support
19 the plain English campaign, paragraph 1 -- the first
20 sentence of paragraph 3 is rather surprising:
21 "It would be as impertinent to promote as it would
22 be proleptically to contest the precise terms of any
23 rule 43 recommendation."
24 So leaving aside the plain English implications,
25 my Lady, we certainly agree with that and, in proposing

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1 wording, we were simply attempting to be of assistance
2 and, of course, the wording is a matter for you.
3 There's just one final matter, my Lady. Again, we
4 make reference to this in our current written
5 submissions, and again it's by reference to the
6 de Menezes rule 43 report.
7 We do note that the Ministry of Justice in the
8 guidance to you, my Lady, recognises that the content,
9 tone, approach and so on of a rule 43 report is
10 preeminently a matter for you, and Sir Michael Wright in
11 the de Menezes report in paragraph 41 thought it
12 appropriate in that case to mention a number of matters
13 which probably didn't fall strictly within rule 43, so
14 he raised a number of issues, including recording of
15 briefings and preparation of notes by police officers
16 which had given him great cause for concern over the
17 course of the inquest, which he recognised, in
18 paragraph 41, perhaps fell outside the strict terms of
19 rule 43 itself.
20 I simply note that just for completeness, my Lady,
21 in case it becomes an issue, although, as you've seen,
22 the 23 recommendations which we've put forward we say
23 all have a basis in rule 43 and we don't consider they
24 need to fall into those other categories of concern, but
25 there is potentially a residual category which we draw

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1 to your attention.
2 My Lady, moving on to the specific recommendations,
3 the first recommendation which we've sought is
4 recommendation (a) in the bundle which you have, which
5 concerns inter-agency training.
6 It's dealt with, my Lady, at paragraph 3.3 onwards
7 of our current written submissions.
8 In our proposed phrasing, my Lady, I'm not sure if
9 you have it to hand, you can see that the importance of
10 this issue to the families is reflected in our proposed
11 wording where we start by suggesting that urgent
12 consideration should be given to whether there's any
13 insurmountable reason why inter-agency major incident
14 training cannot be undertaken at all levels, including
15 front line staff.
16 In respect of giving urgent consideration to
17 a matter, the point is made in one of the submissions
18 overnight, my Lady, that that's not necessary.
19 Transport for London make this point, because of the
20 fact that a 56-day timetable is set down in any event in
21 the scheme of the rules, and we'd make two responses to
22 that.
23 Firstly, the 56 days is only with regard to the
24 response, rather than the action itself, and we suggest
25 that it is appropriate, if there's a sufficient

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1 evidential basis for it, and indeed it often happens in
2 rule 43 reports that reference is made to just how
3 urgent a particular recommendation is, and we have used
4 that phrase in respect of some of the recommendations
5 where the families consider that there's a particularly
6 urgent need, and it's been mentioned here in relation to
7 inter-agency major incident training in light of the
8 fact that the families have concerns that many front
9 line witnesses have given evidence of either having no
10 training or very minimal training since 2005 itself,
11 since 7/7 itself.
12 You will recall, my Lady, the Edgware Road witnesses
13 who made reference to having one hour of CPD in 2006,
14 nothing in the next five years.
15 That's the first issue, the 56-day period only
16 relates to the response, not the action.
17 Secondly, of course, there's a provision for
18 applying for an extension to the 56-day period under
19 rule 43B.
20 Were you to consider this a sufficiently important
21 issue, my Lady, and to agree with us that there's
22 a sufficient evidential basis to make such
23 a recommendation, indicating urgency in the phrasing of
24 the recommendation may suggest that an application for
25 an extension might face more difficulty than it

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1 otherwise would.
2 There are four subsections to our recommendation.
3 There's, firstly, whether inter-agency major incident
4 training can be undertaken at all levels, including
5 front line staff.
6 (b) whether it should be compulsory.
7 (c) the regularity of such training.
8 Then finally, reviewing the content.
9 This recommendation is supported broadly by a number
10 of the organisations, my Lady. The British Transport
11 Police, in paragraph 3(a) of their submissions, say they
12 would welcome the opportunity to review this with other
13 agencies.
14 Transport for London support it, certainly in
15 respect of front line staff. That's their paragraphs 9
16 and 10.
17 It's also attracted qualified support from the
18 Metropolitan Police, my Lady, in their paragraphs 20 and
19 21, where they accept on the basis of the evidence that
20 the coroner may feel a recommendation of this type is
21 appropriate, but then they raise some concerns about
22 significant operational, practical and financial
23 implications and, again, we say that's a matter which
24 could be addressed through the mechanism of replying
25 within the 56 days.

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1 The City of London Police go further than the
2 Metropolitan Police and they assert in their
3 paragraph 3.1 that there would be insurmountable
4 logistical and operational difficulties. My Lady, in
5 our submission you may take the view that there simply
6 hasn't been evidence supporting that assertion from the
7 City of London Police that there are insurmountable
8 logistical and operational difficulties, or you may take
9 the view, my Lady, that if there are such insurmountable
10 logistical and operational difficulties not detailed in
11 their submissions, that that's something which the
12 organisation could appropriately deal with during the
13 56-day period when they are responding to you.
14 In relation to the London Fire Brigade, my Lady, and
15 the London Ambulance Service, their submissions do take
16 more issue with this recommendation that we seek, and
17 just before I turn to that, my Lady, there's a number of
18 references in the transcripts which I just wanted to
19 take you to briefly.
20 In our paragraph 3.5, my Lady, of the submissions
21 we've noted some examples of basic misunderstandings
22 between agencies, and if I could just highlight two of
23 those, my Lady, it's the first two on the list that you
24 have.
25 There's ADO Davies at Edgware Road, so not, my Lady,

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1 a particularly junior person at all, as the submissions
2 may suggest. He understood that he had spoken to the
3 senior London Underground representative on arrival at
4 the station, but during questioning, it emerged that he
5 had assumed the person was senior because he was wearing
6 an orange tabard, and concerning him, my Lady, he wasn't
7 aware that the orange tabard was standard issue for
8 London Underground staff in 2005, but you may take the
9 view that it seemed to come to him as a surprise in 2010
10 when the questions were put to him, so five years after
11 7/7.
12 We've given you the reference in the transcript
13 bundle, my Lady, and it's page 22 of the transcript
14 bundle. It's pages 142 and 143 on that page. I won't
15 go through it, but just wanted to draw your attention to
16 it.
17 LADY JUSTICE HALLETT: Thank you.
18 MS GALLAGHER: The second example, my Lady, is from Aldgate,
19 it's (ii) in this paragraph, where Andrew Cumner of the
20 London Ambulance Service described London Fire Brigade
21 personnel at Aldgate becoming agitated that the London
22 Ambulance Service were not immediately transporting
23 casualties. So there was a misunderstanding between
24 agencies as regards the role of triage rather than
25 treatment and the role of the first --

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1 LADY JUSTICE HALLETT: I'm sorry to interrupt you, was that
2 actually a misunderstanding or was it a misunderstanding
3 of the role of the first responder?
4 MS GALLAGHER: My Lady, I can take to you the reference,
5 which may assist. It's page 9 of your transcript
6 bundle. I think this was questioning by Mr Hay, but
7 I may be corrected on that. Yes, it was questioning by
8 Mr Hay on 29 October, and it's page 11, my Lady, towards
9 the bottom of the page where Mr Hay made reference to
10 a note that Mr Cumner had:
11 "... gone into [the] field to gather information
12 from services already on scene (problematic).":
13 "Question: Can you explain what you meant by that?
14 "Answer: This was the scenario where I was met by
15 the fire officers, they wanted me to take patients away
16 in the ambulance and I had to explain my role as the
17 incident officer. I could not touch any patients. All
18 could I do was gather information at that stage.
19 "Question: So they didn't seem to understand what
20 your role was as the first ambulance on the scene?
21 "Answer: That's correct."
22 LADY JUSTICE HALLETT: Sorry, I remember that evidence very
23 clearly, but the point I was making was I don't think he
24 was saying that it was the -- just about the triage; it
25 was because the first ambulance officer on the scene had

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1 to do the assessment of the situation --
2 MS GALLAGHER: Yes.
3 LADY JUSTICE HALLETT: -- rather than get into the triage.
4 It's the assessment of the situation was the point I was
5 making.
6 MS GALLAGHER: Yes, absolutely. Apologies, my Lady,
7 I misunderstood. Also, of course, the point is made
8 a little further down that page and over the page about
9 there being a misunderstanding about the overall picture
10 of what had happened.
11 So certainly the general confusion contributed to
12 it, but certainly the flavour of that evidence is that,
13 as between agencies, there wasn't an understanding of
14 roles.
15 LADY JUSTICE HALLETT: Indeed, that point I certainly
16 remember. It was just the nature of the role.
17 MS GALLAGHER: My Lady, in the view of the families,
18 inter-agency training could help to create a better
19 understanding of each service's requirements and could
20 prevent misunderstandings at pressurised times. That is
21 why we consider this to be of the utmost importance,
22 this recommendation.
23 As regards the Transport for London proposal that
24 this should be for front line staff only, we certainly
25 think it's particularly important for front line staff,

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1 but we have given you examples in our submissions and in
2 the transcript bundle of misunderstandings and
3 difficulties at a much higher level.
4 As we recognise in our submissions, my Lady,
5 inter-agency training and table-tops take place at more
6 senior levels and, indeed, it's mandatory for Gold
7 level. We've explained the basis for that in our
8 submissions, but throughout questioning -- I won't take
9 you to all of the references -- we suggest that it's
10 apparent that that process in itself, even at the higher
11 level, needs to be reviewed.
12 As regards the practicality, my Lady, I'm not going
13 to go into detail today because it would be
14 inappropriate, but you will recall the evidence
15 regarding table-tops, and if I could take you to page 20
16 of the transcript bundle, this is Mr Mars from the
17 London Ambulance Service, my Lady, referring to a 2006
18 general CPD course where major incident training was
19 touched on as part of it and, at page 153, at line 9, he
20 describes the training that he had on that occasion as
21 being "more of a conversation with the lecturer", and he
22 also goes on to explain that it was training specific to
23 the London Ambulance Service rather than attending the
24 training with other agencies.
25 On page 154, at line 6, he was asked whether there

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1 was any practical element to either the 1999 training or
2 his training seven years later in 2006, and he confirmed
3 that it was in a classroom. That's of particular
4 concern, which is why we've included subsection (d) in
5 our proposed recommendation, my Lady.
6 Given the time -- I'm conscious that we've quite
7 a lot to get through by 1.00 -- I don't intend to take
8 you to anything further in respect of that.
9 There is a reference in the London Fire Brigade
10 submissions, my Lady, at paragraph 13.2, to no witness
11 for any agency with overall knowledge of existing
12 training, including inter-agency major incident
13 training, saying that such training of front line staff
14 as is currently taken was inadequate.
15 Now, firstly, the definition of what type of witness
16 they're referring to there is quite specific. No
17 witness for any agency with overall knowledge of
18 existing training. My Lady, we'd suggest that that's
19 a point in our favour, rather than a point in favour of
20 anyone opposing this recommendation, because it's been
21 very clear from the front line witnesses that this is an
22 issue, and it's particularly concerning, if the LFB's
23 assertion is right, that no witness at a higher level
24 with responsibility for overall training considers it to
25 be an issue, because it's been apparent through the five

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1 months of evidence that that is a real concern and it's
2 the front line staff who are going to be turning up on
3 the scene, dealing in highly pressurised circumstances
4 and difficult circumstances with traumatised and
5 potentially injured and dying individuals.
6 If it's right, which we don't accept, that no senior
7 level witness recognises that, we consider that that
8 reinforces the need for training to be considered at all
9 levels and not just front line, so that that lesson is
10 learnt going back up the chain, and it's recognised at
11 higher levels that that is a real problem.
12 My Lady, the next recommendation which I'm going to
13 deal with is recommendation (d) which concerns
14 hydrogen peroxide.
15 My Lady, can I take this quite shortly? Whilst it
16 isn't being opposed, we recognise from the evidence that
17 there may be a number of issues, and I thought it may be
18 helpful just to run through what some of the concerns
19 may be in case these issues are troubling you.
20 Firstly, as we know from the transcripts from
21 questioning by Mr Keith based on research by Mr Hay,
22 I understand, who got credited in the transcripts,
23 national legislation is under consideration in relation
24 to marketing and use. The references there, my Lady,
25 it's page 41 of the transcript bundle. We do have the

1 relevant documentation available, if it would be of
2 assistance, because, of course, it was taken relatively
3 shortly in evidence, which is another reason why,
4 perhaps, a rule 43 recommendation would be appropriate.
5 So on one view, my Lady, you may be concerned that
6 this is already being done. If it's already being
7 considered at a high level within the EU and
8 domestically and there is draft legislation currently
9 being considered on the restriction of sales of
10 explosive precursors, not just hydrogen peroxide, based
11 on an EU-wide action plan, what is the point of the
12 families' recommendation? There may not be a question
13 in your mind, but if it is, my Lady, we thought it
14 appropriate to address it.
15 We'd say, firstly, a recommendation from you,
16 my Lady, could, at the very least, give impetus to the
17 draft legislation being swiftly considered and
18 prioritised by recognising the importance of this issue.
19 Secondly, whilst it hasn't been possible to explore
20 this in evidence, the material currently being
21 considered primarily focuses on concentrations, and we
22 phrased our recommendation more broadly. As you will be
23 aware from the evidence here, of course, one of the
24 issues with these particular bombers was using processes
25 to make the material more and more concentrated.

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1 Also, my Lady, it is a concern on the part of at
2 least some of the families that the UK has been
3 relatively slow to act on this issue. Here we are, in
4 2011, in circumstances where hydrogen peroxide was used
5 in the 7/7 bombings, was used in the failed 21 July
6 bombings, and was also the substance of choice for the
7 Transatlantic Airline plot and, indeed, in the EU
8 documentation there's quite a number of other references
9 to Europe-wide examples after 2005.
10 We note that other countries have taken action far
11 earlier to restrict sales and introduce restrictions,
12 including Australia in 2005 and Canada in 2008, and even
13 if, my Lady, you consider that this has already been
14 considered at a high level, we think, almost six years
15 after 7/7, a recommendation is still justified to
16 emphasise the need for this to be dealt with very
17 quickly.
18 The second concern which may be an issue, my Lady,
19 is why have we referred to hydrogen peroxide rather than
20 explosive precursors. We simply did that because we
21 thought, on the basis of the evidence, drawing it in
22 more wide terms could be difficult.
23 Of course, that is entirely a matter for you. It
24 may be that you consider it appropriate, if you do think
25 there is an evidential basis for this recommendation, to

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1 refer to explosive precursors more generally rather than
2 hydrogen peroxide.
3 Finally, my Lady, it's apparent from the questioning
4 on this issue, particularly to DCS McKenna last week,
5 that a concern which you may have is: won't another drug
6 just step into the breach, or won't another item just
7 step into the breach? Because we do note that there
8 were repeated questions regarding when access to one
9 product is restricted and another product inevitably
10 coming along to fill the gap.
11 In our submission, my Lady, that wouldn't be an
12 argument against making a recommendation, because if the
13 product has the capacity to be dangerous, surely we
14 should be making the route to that danger as difficult
15 as possible, and it may be that there are individuals
16 who can then be ingenious, but if they have to be
17 ingenious to get around it, my Lady, so be it.
18 We recognise, of course, that if individuals are
19 determined to find an item, they'll find a way, but it
20 doesn't mean that their way should be made easy,
21 my Lady. It should, of course, be as difficult as
22 possible. A similar type of argument could lead to no
23 drugs being controlled or drugs in sport being freely
24 available and so on. So it doesn't necessarily prevent
25 a recommendation although we very much recognise that

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1 that is a real issue and we recognise the history since
2 the 1970s, referred to in the evidence, about new items
3 stepping into the breach as tighter controls are placed
4 on individual products. So we recognise that.
5 The next item, my Lady, which I wanted to deal with
6 was recommendation (i). My solicitor has made the
7 important point -- and I apologise for not doing this
8 already -- that I haven't actually been reading out the
9 text of the recommendation and, of course, there are
10 people in court who may not have the recommendation that
11 we seek itself, so my apologies for that.
12 Would it be helpful, my Lady, if I were to say what
13 our recommendations (a) and --
14 LADY JUSTICE HALLETT: Certainly.
15 MS GALLAGHER: Our recommendation (a) was a recommendation
16 for a number of organisations to give urgent
17 consideration to whether there's any insurmountable
18 reason why inter-agency major incident training cannot
19 be undertaken at all levels, including front line staff,
20 whether it should be compulsory, regularity and
21 practical content.
22 Recommendation (d) -- my apologies for not doing
23 this as I was going along -- was for the Home Office,
24 the National Counter-Terrorism Security Office, and ACPO
25 to consider whether further steps can be taken to try to

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1 prevent or report sales of liquid oxygen and/or
2 hydrogen peroxide to persons who might use it for
3 bomb-making.
4 Recommendation (i), my Lady, concerns specialist
5 stretchers in Underground stations. Our proposed
6 wording is it is recommended that urgent consideration
7 be given to the obtaining of specialist stretchers such
8 as Neil Robertson stretchers for Underground stations.
9 Can I say at the outset we recognise what the London
10 Ambulance Service have said in their submissions
11 regarding having particular concerns in relation to
12 Neil Robertson stretchers? Now, whilst that hasn't
13 found expression in the evidence, my Lady, before you,
14 even though Neil Robertson stretchers did arise in
15 evidence, and there weren't detailed questions put
16 regarding their inadequacy, when it comes to the wording
17 we would be quite happy for that to be removed.
18 The point is a simple one, my Lady, which is this:
19 whilst there has been an increase in the number of
20 stretchers positioned at Underground stations -- we note
21 in particular the evidence of Mr Collins in that
22 regard -- there is a concern on the part of the bereaved
23 that the type of stretcher is not necessarily fit for
24 purpose, given the nature of the building layout and the
25 possible nature of the incident being dealt with,

1 because, of course, Tube stations are often
2 subterranean. In a major incident in particular, it's
3 likely that any lift may be out of operation or an
4 escalator may be out of operation and, indeed, as we saw
5 at King's Cross and Russell Square, exit from
6 Russell Square needed to be through very steep spiral
7 staircases. Our concern is that particular stretchers
8 which deal with that layout are required.
9 We've heard very distressing evidence concerning the
10 difficulties faced on 7/7 due to unsuitable stretchers
11 and makeshift stretchers, particularly given the nature
12 of the injuries, my Lady, and the difficulties people
13 had when carrying people up the stairs. I'm not going
14 to go to that, but we've given you the references, and
15 we've provided it in the transcript bundle.
16 But a stretcher which requires an individual to lie
17 horizontally, or almost horizontally, simply isn't
18 practical in a situation where stairs may need to be
19 used and where the building is subterranean.
20 We note, my Lady, in this regard that Transport for
21 London, in their submissions, agreed that this issue
22 needs to be looked at. It's their paragraphs 36 and 37
23 of their submissions. They agree that the evidence
24 highlighted the importance of specialist stretchers.
25 They do note that they sought the advice of the NHS and

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1 that their stretchers are easier to use and easier to
2 manoeuvre in tight spaces, but they recognise that it's
3 an important issue and they accept that it's appropriate
4 to review the type of stretchers kept on stations.
5 So the body, my Lady, whom we were aiming this
6 proposed recommendation at, agree with us, that this
7 needs to be looked at. They invite the coroner to make
8 the recommendation in slightly broader terms than we
9 have proposed and, my Lady, the families are content
10 with that alternative wording, and in relation to the
11 London Ambulance Service we've raised concerns about
12 this, although it wasn't directed to them.
13 This is plainly a recommendation on which they may
14 wish to make written submissions and, of course, the
15 action which would be envisaged would involve Transport
16 for London liaising with the London Ambulance Service in
17 any event, and we're quite content for the specific
18 reference to Neil Robertson stretchers to be removed,
19 but we emphasise that there has been evidence, however,
20 regarding the suitability of Neil Robertson stretchers.
21 There hasn't been evidence contradicting that, and
22 certainly we would expect, even if it doesn't appear in
23 the body of the recommendation itself, that is a matter
24 which would be looked at, if this recommendation were to
25 be made.

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1 My Lady, the next recommendation is recommendation
2 (p) which concerns covering the bodies and declaration
3 of life extinct.
4 LADY JUSTICE HALLETT: This was on the basis of the evidence
5 in relation to Russell Square?
6 MS GALLAGHER: This was on the basis of the evidence
7 regarding Tavistock Square.
8 LADY JUSTICE HALLETT: Tavistock Square, sorry,
9 Tavistock Square. I was checking my notes. Was it
10 a member of the emergency services who covered -- it was
11 Professor Donoghue?
12 MS GALLAGHER: It was Professor Dunlop. We understand it
13 was Professor Dunlop, my Lady. It's plainly a matter
14 for you on the evidence as to whether you are satisfied
15 that was the case.
16 I think from both the transcript in respect of
17 Dr Moore last week, but also from the London Ambulance
18 Service submissions, there are two issues arising here,
19 and we attempted to make this clear in questioning of
20 Dr Moore, and my apologies if it wasn't clear.
21 There's, firstly, the issue of covering itself, and
22 it was very clear from the evidence of Dr Moore -- and
23 it's also noted in paragraph 39 of the London Ambulance
24 Service submissions -- that it's not the London
25 Ambulance Service policy to cover bodies and, indeed,

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1 Dr Moore explained why that was, explained that it was
2 difficult.
3 So the final sentence of our proposed
4 recommendation, where we suggest that only following the
5 declaration of life extinct in accordance with the
6 relevant clinical guidelines should a body be covered by
7 LAS clinicians may not be necessary, my Lady, in the
8 light of what the London Ambulance Service say regarding
9 that not being their policy, and also there being no
10 evidence that they did that here.
11 The real concern here is that another individual,
12 whoever it was, Professor Dunlop or somebody else,
13 covered a number of bodies and, as we know from the
14 evidence, when the London Ambulance Service arrived on
15 the scene they don't check those bodies. Dr Moore, in
16 evidence last week, was very clear that it would be
17 appropriate for London Ambulance Service arriving at the
18 scene to include bodies that are covered, but which
19 don't have a label indicating that they're dead, to be
20 included as part of the triage process.
21 So either for life to be formally declared extinct
22 or for them potentially to be presumably a P1.
23 My Lady, what the London Ambulance Service say in
24 their submissions at paragraph 38, in the first
25 sentence, is rather surprising, because they say:

1 "It is questionable that this recommendation
2 properly arises in relation to a real risk whether in
3 the context of rule 43 or not."
4 My Lady, we would disagree with that, because you
5 may take the view on the evidence, and particularly the
6 evidence of Mr Gibson on 31 January -- and that's
7 pages 95 and 96 of the transcript bundle that I've
8 provided you with, my Lady -- that, at a scene like
9 this, which has multiple civilians assisting, it so
10 happens Professor Dunlop was medically trained, but
11 equally, it may have been a passer-by who blanketed the
12 body or could be, in another situation, a passer-by who
13 blankets the body. The assumption was made the bodies
14 that were covered, despite the fact that they didn't
15 have a label attached, had died and, therefore,
16 shouldn't be checked.
17 My Lady, plainly that gives rise to a risk. You are
18 aware, of course, that in respect of the particular
19 family that this affects they haven't raised issues of
20 survivability, they've not raised issues of neglect, but
21 clearly the circumstances, in our submission, require
22 recognition that, if a body's covered, there's no label
23 affixed, the body should be checked, and while Dr Moore
24 was very clear that that should be the case, in fact
25 that didn't happen at Tavistock Square in our

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1 submission.
2 Finally, my Lady, I'm going to deal with
3 recommendation (v).
4 LADY JUSTICE HALLETT: Sorry, you would say that this
5 recommendation would not discourage people from covering
6 bodies, because I heard from a number of witnesses how
7 they had tried to give a body dignity in death and,
8 obviously, I wouldn't want to do anything to discourage
9 that, because I think some of the families Mr Saunders
10 represented gained great comfort.
11 MS GALLAGHER: And, indeed, a family I represented, my Lady.
12 At Edgware Road there were a number of witnesses who
13 were thanked for doing that and for preserving the
14 dignity of people who had died. So we are very
15 conscious of that.
16 That is all the more reason to ensure that the
17 guidance to front line clinicians is clear, so that, if
18 a body is covered, that person isn't left out of the
19 equation altogether, that person must be checked, as
20 Dr Moore recognised. It may be that they can't be
21 checked immediately, I think Dr Moore's phrasing was "as
22 soon as feasible" or "as soon as practicable", and I did
23 put to her the question of whether it should await the
24 arrival of a Silver medic on scene. She indicated, no,
25 that it should occur at an earlier stage, but she

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1 recognised that someone who is covered by a body may not
2 be triaged as quickly as somebody else who's an obvious
3 P1 who's plainly alive.
4 But her evidence was clear, my Lady. The problem is
5 that that hasn't filtered through. Rather like
6 recommendation (a), that hasn't filtered through to the
7 front line, and perhaps if it was clearer, my Lady, it
8 would deal with this concern and there wouldn't be any
9 chilling effect on individuals covering a body, because
10 they would know that it would be checked at some point
11 anyway and dignity could be preserved in the interim.
12 LADY JUSTICE HALLETT: I understand the (a) -- (b),
13 emphasising in training. What do you mean by "amending
14 the relevant documentation"?
15 MS GALLAGHER: Yes, it simply was to find reflection in the
16 manual, rather than listing all the specific documents,
17 we thought documentation was more appropriate.
18 LADY JUSTICE HALLETT: Thank you.
19 MS GALLAGHER: Finally, my Lady, I'm dealing with internal
20 post-mortems. It's recommendation (v), and it's at
21 paragraph 3.96 of our submissions. For those who don't
22 have access to the text, the families seek the following
23 recommendation, and this is unanimously sought by the
24 families:
25 It is recommended that consideration be given to (a)

1 whether coroners should receive guidance as to whether
2 to direct that internal post-mortem examinations should
3 be carried out in circumstances where, even though the
4 cause of death is known, there's a possibility that
5 survivability issues might arise at an inquest, such as
6 to lead to verdicts involving contributory neglect; and
7 (b) whether the families of deceased persons have
8 a sufficient opportunity to make recommendations to
9 coroners if it's intended not to carry out an internal
10 post-mortem examination.
11 The key evidence which we've referred to, my Lady,
12 is that of Colonel Mahoney, not just on 1 February, in
13 fact on both days, and I've given you fuller references
14 at page 112 of the transcript onwards.
15 LADY JUSTICE HALLETT: Ms Gallagher, you acknowledge in your
16 submissions on this recommendation that there's at least
17 one significant problem, which is that it's outside my
18 ruling on scope, but isn't there another problem as
19 well, that I have not heard evidence as to the basis for
20 the decision being taken?
21 So what you're inviting me to do is to -- by
22 implication, and even if it's not included as a specific
23 recommendation, you're suggesting I can conclude it as
24 Sir Michael Wright did, but what you are inviting me to
25 do is to say by implication this decision was wrong,

1 when I don't know, because I haven't heard evidence, the
2 basis for it, and I'm troubled by that.
3 MS GALLAGHER: Yes, we're very conscious of that, my Lady.
4 You will see that in paragraph 3.101 we've all included
5 emphasis that no criticism whatsoever of Dr Reid is
6 intended by the recommendation. We very much take the
7 point that, in seeking the recommendation, it may appear
8 that there's some implied criticism.
9 It's a hugely important issue to a lot of the
10 families. It's one on which all five teams were united,
11 my Lady, in putting it forward, as indeed we were in all
12 recommendations, and we recognise the difficulties.
13 In respect of the issue about your scope ruling, we
14 don't seek to go behind the reason that Dr Reid didn't
15 undertake internal post-mortems, indeed we are all aware
16 of the difficulties with the Marchioness disaster and
17 particular sensitivities there.
18 That's why we've said that, in seeking this
19 recommendation, we don't consider that there's
20 a conflict with paragraph 37 of your May ruling because
21 we don't seek to examine the reasons why internal
22 post-mortems were not undertaken, but we seek this
23 recommendation because, over the course of the evidence,
24 and in particular on 31 January and 1 February, through
25 the very detailed evidence of Colonel Mahoney

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1 representing the work of him and his team, it has become
2 apparent, my Lady, that for many of those families whose
3 loved ones survived the blast for a period of time, they
4 simply can't have a definitive answer regarding their
5 precise cause of death, which, of course, isn't what
6 Colonel Mahoney was doing in his work, or whether their
7 injuries were survivable, and in order to have legally
8 argued on survivability, my Lady, they would need to
9 show on balance of probabilities, and the evidence was
10 always stacked against them in circumstances where it's
11 simply not known whether the person died through blood
12 loss, died through blast lung, died through internal
13 unknown injuries or died through simply the sheer extent
14 of their external limb injuries.
15 LADY JUSTICE HALLETT: Ms Gallagher, I'm sorry to press you,
16 but I find this very troubling because, for all I know,
17 those who act as coroners on a permanent basis, as
18 opposed to the likes of me who are appointed for
19 a specific task, may well have all sorts of guidance as
20 to when it is appropriate to direct there are internal
21 post-mortems, there may be guidance on the kind of
22 circumstances they bear in mind, and I have no doubt
23 that Dr Reid would have been acutely conscious of the
24 position, as far as families are concerned, about how,
25 if possible, they should be carried out, but not all

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1 families do want them carried out.
2 There are all sorts of competing questions, and
3 I really am troubled about going down -- or being
4 invited to go down this path when this is not an issue
5 that we have addressed at all during the course of the
6 proceedings, and the only reason you claim -- I don't
7 say that pejoratively -- any justification for putting
8 it before me is the evidence of Colonel Mahoney that my
9 Inquest team commissioned and was, as it were, accepting
10 that there were no internal post-mortems, doing his
11 best.
12 I really am very troubled by this.
13 MS GALLAGHER: My Lady, we anticipated that that was the
14 case. We certainly aren't surprised, which is why, in
15 paragraph 3.100, we've set out what we anticipated
16 criticisms might be, or concerns might be, and attempted
17 to address them in a way that we haven't with the other
18 recommendations.
19 So I hope you can see, my Lady, that from the
20 drafting we've recognised our instructions, the
21 importance of this issue to our clients. We have also
22 recognised in our drafting pre-emptively that it was
23 likely that there may be concerns raised, and I hope
24 that was clear.
25 As regards the issue of families having different

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1 views, that's why we included in the recommendation
2 paragraph (b), my Lady, because it is difficult to raise
3 this without referring to the individual decision,
4 which, of course, isn't something we intended to do, but
5 if a coroner is taking a view on the basis of an
6 assumption about what might be distressing for a family,
7 a number of families, my Lady, may take the view that
8 the coroner should ask them what their views are.
9 I don't think it's possible, my Lady, to give more
10 detail. Perhaps, as a hypothetical, in a situation
11 where -- a situation where an individual has died in
12 a terrorist atrocity such as this and has survived for
13 a period of time, say two or three hours at the scene,
14 of course isn't a period of time that any individual
15 survived at the scene itself in this case, and who later
16 dies in circumstances where they've been conscious,
17 talking and so on and have some external injuries but
18 the external injuries don't appear sufficient to cause
19 death, if they are later told through evidence such as
20 that we heard from Colonel Mahoney that the most likely
21 cause of death is something like blast lung, my Lady,
22 the family may take the view that that is a particularly
23 distressing way for their loved one to have died, and it
24 may be much comforted by knowing, in fact, that their
25 loved one died from a heart attack, which was very

1 sudden and quick, and that they may not have suffered
2 throughout that period of time.
3 It is a real concern to the families, my Lady, and
4 that is why we are instructed to put it before you.
5 Could I just say, in relation to (i) and (ii) in
6 paragraph 3.100, we also recognise the other potential
7 difficulty which you may have, and you noted that it may
8 be we want this to be in points of concern. We've
9 obviously put it as rule 43, but our fallback would be
10 that it's a point of concern. We recognise there that,
11 on one view, this may fall outside rule 43, my Lady,
12 because, of course, it's post-death, and it couldn't, on
13 one view, meet the rule 43(1) test, and in (i) and (ii)
14 we set out why we disagree with that.
15 Firstly, because internal post-mortems in
16 circumstances such as this would add to the body of
17 medical learning concerning internal injuries such as
18 blast injury, and thus contribute to the prevention of
19 future deaths.
20 Then, secondly, there's an indirect impact on future
21 deaths because it would enable a coroner to conduct
22 a full investigation into the precise cause of death in
23 an individual case, and thus potentially make
24 appropriate recommendations.
25 So we make those two points -- we make those two

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1 points, my Lady.
2 My Lady, I can certainly speak to the other counsel,
3 but this is not a surprise, your approach to this issue.
4 We certainly consider it important enough to raise it.
5 The phrasing of the recommendation, as proposed in
6 paragraph 3.96, appears, particularly in light of the
7 evidence issues which you've raised, my Lady, to be
8 overly prescriptive, and we can certainly see how it may
9 be suggested that there's some implied criticism of
10 Dr Reid, which simply is not the intention of the
11 families at all.
12 The families are six years down the line in
13 a position where some of them simply don't know the
14 precise cause of death and would like to know it, and
15 would find comfort from knowing it. That is not the
16 case for all families, but it is the case for some
17 families. That is why we are instructed to put it
18 forward.
19 LADY JUSTICE HALLETT: I'm sorry, I was interrupting you
20 again. Is it that it's all the represented families who
21 have this concern, or is it that some of the represented
22 families have this concern and some of those who aren't
23 represented?
24 MS GALLAGHER: It's a recommendation as with all the others
25 which was unanimously put forward by all five legal

1 teams. The document was put before all families.
2 I understand that no families have disagreed with it.
3 Some families strongly supported it, obviously. I can
4 certainly, my Lady, during the break, and come back to
5 you before lunchtime, give you an indication, if that
6 would assist, of the particular number of families for
7 whom this is a concern.
8 LADY JUSTICE HALLETT: Well, I just wanted to make sure I
9 phrased it properly.
10 MS GALLAGHER: Like all the recommendations, it's put
11 forward unanimously by all five legal teams, but it's
12 not right to say that each family which we all represent
13 has raised this as a particular concern. That is not
14 the case. It has been a concern for a number of
15 families and the recommendation is supported by all
16 through the five legal teams.
17 LADY JUSTICE HALLETT: That is sufficient, Ms Gallagher,
18 thank you.
19 MS GALLAGHER: My Lady, in relation to family-specific
20 matters, I intend to deal with that very briefly before
21 lunch, if I need to. I hope that won't be necessary.
22 With your leave, my Lady, I give way to Mr Saunders
23 to proceed with the remainder of the submissions.
24 LADY JUSTICE HALLETT: Thank you. Let's make a start,
25 Mr Saunders.

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1 Submissions by MR SAUNDERS
2 MR SAUNDERS: Thank you, my Lady. May I start by endorsing
3 the comments that Ms Gallagher has made and, also, it
4 will come as no surprise to your Ladyship that behind
5 the scenes, when we have been out of court, we have this
6 last week, since we served our detailed recommendations,
7 spoken with various people, not only of your Inquest
8 team, but may I specifically mention both Ms Canby and
9 Ms Simcock, because clearly the recommendations that I'm
10 dealing with involve the interested parties they
11 represent, because, obviously, with the deadline of
12 4.00 pm last night for their replies, we were seeking to
13 have some early suggestion as to what their view would
14 be as to whether there was going to be root and branch
15 objection or, in fact, nuancing and wording of what they
16 were going to say to your Ladyship.
17 May I also make the point that the absence of the
18 families today -- I think it's the first day
19 your Ladyship has had no families present --
20 LADY JUSTICE HALLETT: I think we have one survivor.
21 MR SAUNDERS: We have Mr Henning, I see, in court, but none
22 of the families, but it should not be taken in any way
23 to reduce their strong feelings because, as Ms Gallagher
24 has said, they do feel strongly that, having sat through
25 your Ladyship's inquest into their loved ones, these

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1 now, the recommendations, are what they see to the
2 future should there ever be a similar atrocity again.
3 May I start my submissions at page 12 of our
4 recommendations under the heading "Transport for
5 London", paragraph 3.29.
6 My Lady, it's recommendation (e), first aid boxes on
7 Underground trains.
8 TfL, or any related company, to reconsider whether
9 there is any insurmountable reason why first aid boxes
10 could not be kept on Underground trains, either under
11 the seats or in some suitable place.
12 May I assist your Ladyship as I go through the
13 recommendations to draw the relevant provisions? So TfL
14 in their response, it's paragraph 14. So it may assist
15 your Ladyship and others.
16 I've then sought to set out the key evidence, and
17 I do stress that in this and other submissions these are
18 the key points, both from Mr Dunmore and Mr Collins,
19 whom your Ladyship heard from on 8 February.
20 We've set out an exhibit of Elizabeth Kenworthy.
21 Forgive the error, of course, she was at Aldgate, and it
22 was her actions in relation to Mr Brown and, as she was
23 then, Martine Wright.
24 That is the focus upon those who were first to
25 attend to the casualties doing their best in the

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1 circumstances.
2 I have absolutely no doubt that your Ladyship will
3 not need me to go through the evidence. It was matters
4 that we did discuss, and questions were asked of various
5 people.
6 Your Ladyship will see that the recommendation we
7 suggest has been slightly reworded by -- and I will use
8 the expression Transport for London, TfL, if I may --
9 where Mr Morton and Ms Canby, at their paragraph 16,
10 suggest it should read:
11 "TfL should reconsider whether it is practical to
12 provide first aid equipment on Underground trains,
13 either in the driver's cab or at some other suitable
14 location."
15 So should the evidence find favour with
16 your Ladyship, this is a recommendation that, as those
17 representing Transport for London say, "would be
18 appropriate to review the position in respect of first
19 aid equipment."
20 My Lady, we simply put the emphasis a little higher
21 than those for Transport for London, enquiring whether
22 there is any insurmountable reason.
23 Mr Dunmore, as you'll recall, did give certain
24 difficulties when he gave his evidence, both in terms of
25 cleanliness, we've suggested that these sorts of first

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1 aid kits and equipment could be vacuum packed.
2 Unfortunately, vandalism and theft also appear, but it
3 cannot be beyond the wit of those who would be
4 responsible to find some means, hopefully, of securing,
5 and clearly TfL recognise that.
6 My Lady, unless I can assist with anything else,
7 I propose to move, because I have nine recommendations
8 to cover.
9 The next, may I say, for those who start looking at
10 the clock and I'm sure your Ladyship wouldn't, but for
11 others in court who may, this will, in fact, be the
12 longest of those I have to deal with.
13 LADY JUSTICE HALLETT: In which case, shall we take the
14 break now, Mr Saunders?
15 MR SAUNDERS: Can I simply give you the references before we
16 do? Transport for London, it's paragraph 17 of their
17 document. The London Ambulance Service, paragraph 24 of
18 theirs. The London Fire Brigade, paragraph 16.1. And
19 the Metropolitan Police, it's paragraph 25.
20 LADY JUSTICE HALLETT: Thank you very much.
21 MR SAUNDERS: Thank you, my Lady.
22 (11.23 am)
23 (A short break)
24 (11.36 am)
25 LADY JUSTICE HALLETT: Mr Saunders?

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1 MR SAUNDERS: My Lady, recommendation (f), rendezvous
2 points, RVPs. It is recommended that from the outset of
3 an incident that a TfL station supervisor shall be
4 responsible for ensuring that all members of the
5 emergency services are met at a designated rendezvous
6 point or for transferring them, if necessary, either to
7 the station control room or another location such as the
8 Joint Emergency Services Control Centre.
9 It shall be the supervisor's responsibility and, if
10 not available, he or she shall deputise someone in his
11 or her place to fulfil this role.
12 The supervisor will ensure that the rendezvous point
13 is constantly attended throughout the continuation of
14 the incident.
15 This recommendation must also be brought to the
16 attention of the other emergency services.
17 My Lady, can I simply then, as I've mentioned those
18 relevant paragraphs, explain to your Ladyship how the
19 other interested parties have responded?
20 TfL, at paragraph 17, agree that the evidence
21 demonstrates a need to review the procedures in relation
22 to rendezvous points, acknowledges the comments of
23 Mr Dunmore.
24 The London Ambulance Service, at their paragraph 24,
25 although it's directed at TfL, would wish to indicate

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1 its support of any system by which an attended
2 rendezvous point of the kind suggested is set up,
3 provided that it is both dynamic and moveable in the
4 context of a major incident which may take place.
5 The Fire Brigade go on to deal with the obtaining of
6 information in respect of this recommendation and the
7 quality of information which I'll return to later, if
8 I may, and make the point that, in fact, it could often
9 be a different rendezvous point from the one that
10 her Ladyship has heard about. The Metropolitan Police
11 Service accepts that you have, in fact, heard sufficient
12 evidence to justify a recommendation of the type
13 proposed.
14 However, they then go on to submit that any decision
15 as to rendezvous points is one that Transport for London
16 should consider in conjunction with the other emergency
17 responders, hence the last line on our page 13.
18 The families had, over the course of these inquests,
19 some concern that on the Underground sites in particular
20 there was a concern as to why a particular service --
21 and it doesn't necessarily follow one after the other,
22 but why, if service A was in attendance, where were B
23 and C?
24 There were occasions that your Ladyship heard where,
25 often, one of the services would have gone to either the

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1 control room or the Control Centre.
2 My Lady, can I deal with it in this way, because
3 your Ladyship heard the evidence in particular -- and
4 I'm not going to, in the course of my submissions, take
5 you to a whole host, but at our section F of the
6 transcripts -- for those who don't have them I will read
7 very briefly, your Ladyship I'm sure will recall -- it's
8 page 50, bottom right, where your Ladyship was asking
9 questions of Mr Dunmore, the operations manager, who was
10 very frank. You were asking at the bottom of page 34
11 about rendezvous points and his answer, and then over on
12 to page 35, he said this:
13 "Answer: ... it's very easy to criticise this in
14 hindsight and I'm not really criticising what people did
15 on the day, I think they did the best they could do,
16 given the circumstances that they found ..."
17 Then we draw attention to this:
18 "... but probably a better way was to have left
19 somebody at the rendezvous point with runners going
20 backwards and forwards with the emergency services
21 taking them where they needed to go. But it's not
22 a system we particularly had set up very well on
23 7 July."
24 Then he went on to say:
25 "We've done a lot of work between now and then in

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1 training staff about the importance of that initial
2 liaison and taking control ..."
3 Then he went on to say, at line 18:
4 "You know, a lot of the emergency services that
5 attended on the day, it wasn't their local neighbourhood
6 so, therefore, they wouldn't have been familiar with
7 that particular location."
8 And went on to say:
9 "You go to this point, you'll then [need to] be
10 taken to the next point of control."
11 Your Ladyship also then asked questions of
12 Dr Davies. It's the next page, my Lady, our page 51,
13 Day 70, page 40 of that transcript.
14 Your Ladyship asked at line 10:
15 "Lady Justice Hallett: I think I was told at some
16 stage that there were meant to be specific rendezvous
17 points in Underground stations. Was the system working,
18 as far as you were aware, on 7 July?
19 "Answer: Rendezvous points, no, I wasn't
20 specifically aware of a rendezvous point other than an
21 entrance to a ..."
22 He was obviously going to say an Underground
23 station.
24 Over the page, my Lady, at page 42, bundle-page 52,
25 your Ladyship made this observation at line 8:

1 "Lady Justice Hallett: It seems so simple,
2 Dr Davies.
3 "Answer: Yes, it [is] --
4 "Lady Justice Hallett: Am I being overly
5 simple?"
6 To which he said you weren't.
7 At the bottom of that page:
8 "Lady Justice Hallett: ... As far as liaison at
9 other sites was concerned, there were plainly
10 difficulties [your Ladyship observed] in getting the
11 groups together.
12 "Do I take it that, from your understanding of what
13 happened at the other sites, your colleagues had even
14 more trouble getting the various Silver Commanders
15 together?
16 "Answer: From what I heard from my colleagues, yes,
17 some of them did experience problems getting the group
18 together."
19 My Lady, there are other examples where we've drawn
20 the attention. We understand, may I say, what the
21 observations are by the other interested parties, and
22 may I make it absolutely plain, if your Ladyship felt
23 that the recommendation is unnecessary because it goes
24 beyond, I've given examples of where the emergency
25 services could be taken to, but in fact the

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1 recommendation could cease after "rendezvous point" in
2 line 3.
3 The emphasis that we are seeking to invite you to
4 endorse is that, at an initial incident such as this,
5 the first people to be present will be those employed by
6 TfL. It is unlikely, unless you have a situation like
7 King's Cross where there are police officers on-site,
8 that the emergency services will be first.
9 What we are seeking and inviting you to recommend is
10 that the responsibility should be that of the station
11 supervisor that, wherever the rendezvous point is
12 designated, he or she instructs somebody to attend and
13 to remain in order to ensure that all the services meet
14 together at the first opportunity.
15 It is not intended that that person would be
16 responsible for giving information the detail of which
17 each of the services needs to ensure for themselves. It
18 is literally intended to be that the supervisor's
19 responsibility is for each of the services to be met and
20 to be told where they need to go.
21 Your Ladyship will recall the difference in the
22 evidence you've heard. At Aldgate, where there's
23 a single entrance, it was much easier for people to be
24 told where the services were meeting. The obvious
25 problem comes at a station such as King's Cross where

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1 there are so many different entrances and, for good
2 reason, there may be need to move a rendezvous point.
3 But the people who will know best, as Mr Dunmore and
4 Dr Davies explained, will be those who were on-site
5 daily. They will know whether it's York Way or
6 St Pancras Way is the best place that the supervisor is
7 going to suggest would be the initial meeting point.
8 I don't propose to go through the concerns TfL have,
9 because we recognise them, as I'm sure your Ladyship
10 will as well, that it needs to be dynamic, it needs to
11 be moveable, but the point we are trying to emphasise is
12 that it must be this very initial approach that has to
13 be dealt with.
14 Once a control team is set up, whether it's at the
15 control room or at the Control Centre, the Joint
16 Emergency Services Control Centre, it is then, of
17 course, the responsibility of the services, in
18 particular the police. This is not intended in any way
19 to go into what the London Emergency Services Plan
20 envisages, nor the major incident plans and protocols of
21 the services.
22 It is simply intended to be the initial point of
23 contact in order to ensure what the position is and
24 where the various services should go.
25 LADY JUSTICE HALLETT: There are two questions I wanted to

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1 ask you, Mr Saunders. One, it seemed from the evidence
2 that within the agencies themselves they talked about
3 a rendezvous point, but what we didn't seem to have was
4 any recognition of the need to rendezvous with other
5 agencies.
6 The second thing was, on my reading of
7 Desmond Fennell's report, the importance of a rendezvous
8 point was recognised and I think, have I been told by
9 the London Fire Brigade, that's why -- or by TfL,
10 perhaps -- that's why we ended up with these designated
11 points that I was shown with the boxes -- with the plans
12 in on the wall.
13 MR SAUNDERS: Yes, it's as a result of the Fennell
14 recommendations that the RVP sign now goes with the red
15 box, as Mr Reason was describing to you, that has within
16 it for London Fire Brigade the plan that they may well
17 need as to where points are.
18 LADY JUSTICE HALLETT: But what doesn't seem to have
19 happened is, albeit that Sir Desmond highlighted the
20 importance of this communication in the immediate
21 minutes after the incident has occurred, what we end up
22 with is a designated rendezvous point at an Underground
23 station for the London Fire Brigade, but we still don't
24 get that inter-agency rendezvous point. Is that a fair
25 summary of the evidence?

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1 MR SAUNDERS: My Lady, that's exactly what the evidence came
2 out as and why the families felt, the more they heard
3 the evidence, the more appropriate this sort of
4 recommendation would be for the future.
5 But as I say, it is not intended, this
6 recommendation, to go beyond and into the detail of what
7 happens when the agencies get together -- forgive me,
8 when the emergency services then get together and the
9 protocols then take over.
10 It is simply intended to be the initial meet and
11 direction to wherever it's needed.
12 LADY JUSTICE HALLETT: It's to get them together, you say.
13 MR SAUNDERS: Exactly. That's the exact point, my Lady.
14 It's to get them together and then each of their
15 positions will take over, which is why I say it could
16 end, the recommendation, that the station supervisor
17 should be responsible to ensure that all members of the
18 emergency services are met at the rendezvous point.
19 That's the feature.
20 It does not, as is suggested in the, again, helpful
21 document from TfL -- because they go on, my Lady, and
22 deal with it in some detail, and I don't propose, unless
23 it would help your Ladyship, to go through each of the
24 points that they raise, but in terms of what they
25 suggest would be a recommendation, it's at paragraph 28,

1 my Lady, of their document where they suggest it should
2 be reviewed, the procedures, where we would suggest the
3 station supervisor should be responsible in considering
4 the location and supervising, and in the body of it what
5 they suggest is that it should be, if not the
6 supervisor, another member of staff.
7 Now, I didn't go that far because it may well be, if
8 you have a number of police officers local to the scene,
9 they would know as well, and it may be that the
10 supervisor deputes one of them to be initial liaison at
11 the RVP, and they would know as well as the staff and
12 obviously it is dynamic. It depends who is there at the
13 time will be deputed by the supervisor to engage in this
14 role.
15 The reason we suggested that that person should
16 remain, as Mr Dunmore quite sensibly foresaw, having
17 runners to take somebody from that point to either the
18 control room or the centre that's being established, is
19 that you have a commonality there; for example, on one
20 of the sites, having originally gone to King's Cross,
21 the HEMS team, under Dr Davies, went elsewhere.
22 So other emergency services may turn up later, and
23 that's why we suggest and recommend that they should
24 remain in situ. It may well be, if all are there, then
25 a decision is formally made that it needn't be attended

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1 to.
2 We recognise, my Lady, the difficulty here with
3 terrorist atrocities and secondary devices and that's
4 why, as Mr Hill and the Metropolitan Police Service put
5 it, it obviously must be dynamic. It needs to be able
6 to be moved. But there must be a point at which
7 services know they can attend and be directed to meet
8 their fellow agencies.
9 Can I assist any further with that?
10 LADY JUSTICE HALLETT: Thank you.
11 MR SAUNDERS: Can I then please turn on to recommendation
12 (g), traction current?
13 It is recommended that London Underground, TfL, in
14 consultation with the emergency services devise a system
15 to confirm when traction current is off.
16 My Lady, TfL deal with it at their paragraph 29.
17 The London Ambulance Service at 25. The London Fire
18 Brigade at 17.
19 Your Ladyship heard a considerable amount of
20 evidence as to the concerns that are recognised, but in
21 fact what happens is that there appears to be
22 a different system for different of the services.
23 What this recommendation seeks to underline is that
24 of course there must be consultation with all the
25 emergency services, but there should be an attempt to

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1 design a system to be able to confirm when the current
2 is off.
3 We've set out suggestions, whether it be done orally
4 or can be communicated by use of the boards overhead,
5 and recognise what Transport for London have said and
6 what your Ladyship has heard, that current can be
7 reactivated, which is why we have simply set out that
8 there should be consultation to devise a system to
9 confirm the position.
10 There is, of course -- the Fire Brigade make their
11 point: namely, that there are procedures in place, and
12 your Ladyship heard evidence in the very last week of
13 these inquests that, in fact, they were meeting with
14 Transport for London. On 1 March, Ms Canby was able to
15 tell you that that meeting had taken place or was to
16 take place that afternoon.
17 So clearly the services realise and recognise
18 themselves. We respectfully submit that it is
19 appropriate, a recommendation such as this, that
20 a system should be able to be devised to confirm exactly
21 the problem everybody foresees.
22 Can I then go on to recommendation (h)? I have
23 entitled it "Emergency response vehicles, ERVs", it was
24 an acronym I thought even I could remember and one that
25 seemed to make sense, except I have it wrong, it's

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1 Emergency Response Units, not vehicles. Why they can't
2 call it a vehicle when it's a car, I don't know. But
3 it's a unit, not a vehicle. So will you please accept
4 my apologies for getting that wrong?
5 LADY JUSTICE HALLETT: It could have been worse, it could
6 have been "emergency response resource".
7 MR SAUNDERS: I hope that isn't going to be taken up by
8 anybody to change it, but as I say, I thought I knew
9 what we were dealing with here. Your Ladyship will
10 recall that this is the blue flashing lights.
11 In terms of these units that get called to the most
12 serious of incidents, not just major incidents, but
13 obviously we did hear in the course of evidence the vast
14 number they get called to where a passenger or commuter,
15 sometimes accidentally, or deliberately, goes under an
16 Underground train, and these are the five units that are
17 tasked to attend in those situations.
18 My Lady asked various questions of Mr Dunmore who
19 explained to your Ladyship that the request had been
20 made, there seemed to have been some difficulty in the
21 first place with them being allowed to travel in the bus
22 lane and not having to pay the congestion charge. That
23 seems to have been resolved now and what is left is this
24 position.
25 I won't take your Ladyship to the questions that you

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1 were asking Mr Dunmore, but it is at pages 11 and 14 of
2 Day 59.
3 The position is, as he understood, that it still is
4 with the Association of Chief Police Officers, and we
5 would respectfully submit that the recommendation that
6 there should be the provision of blue flashing lights
7 for the five emergency response vehicles that attend any
8 scene in rapid response to an emergency incident.
9 So we go further than just the major incidents, but
10 an emergency incident where their assistance is needed
11 as a matter of necessity.
12 LADY JUSTICE HALLETT: Was I given a figure for the number
13 of drivers? I think I was, wasn't I?
14 MR SAUNDERS: Five.
15 LADY JUSTICE HALLETT: No, I think five vehicles.
16 MR SAUNDERS: I think five vehicles. I think there were ten
17 drivers. Your Ladyship posited the question to
18 Mr Dunmore, "Play devil's advocate, Mr Dunmore, what are
19 the arguments against it?", to which he quite sensibly
20 said it's the safety.
21 Your Ladyship's response was but if, in fact, they
22 were trained under the auspices of the
23 Metropolitan Police, then surely they would then be
24 suitably equipped to be able to drive in this way?
25 LADY JUSTICE HALLETT: Thank you.

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1 MR SAUNDERS: Can I then move on? Ms Sheff is dealing with
2 Code Amber, Code Red. Could I then go to the London
3 Ambulance Service?
4 My Lady, recommendation (k), triage labels or cards.
5 It is recommended that in order to avoid any
6 accidental administering of drugs, triage labels or an
7 equivalent should be used to record any drugs
8 administered to a casualty, the quantity given and the
9 time that it was administered.
10 My Lady, the responses from London Ambulance
11 Service, their paragraph 27, which again, helpfully,
12 they say in practical terms London Ambulance Service
13 agree with the suggestion and will be seeking to
14 implement this approach in any event.
15 They make the very good point that, to ensure
16 consistency, of course, the same approach should apply
17 to HEMS who carry the very same triage cards, and also
18 make the point that it should apply on the initial
19 triage up to the casualty clearing station where then
20 patient report forms take over.
21 It's that very initial -- your Ladyship will recall
22 we spent a little time dealing, for example, with
23 Samantha Badham and Lee Harris at King's Cross, and the
24 fact that, under the auspices of Dr Bland, the paramedic
25 Philip Nation administered Ketamine, and it was the

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1 doses that were administered and the time of
2 administration that would have obviously had significant
3 bearing. Unfortunately Samantha died before getting to
4 the hospital, but in Lee Harris' case it was important.
5 My Lady, I'm not sure I need, bearing in mind what
6 the London Ambulance Service say, to go much further,
7 but you will recall that there were -- and I do not
8 propose to name -- some clinicians who did administer
9 the labels and others who didn't. It may well be
10 your Ladyship will find there's no need to look at that
11 detail of evidence, whether they either had the labels
12 or were actually using them. The fact is that, on
13 occasions, they were not used and it could have had this
14 effect.
15 My Lady, may I then move on to triage training dealt
16 with by the London Ambulance Service, their
17 paragraph 29?
18 The recommendation is it is recommended that all
19 training involving triage should emphasise that
20 immediate treatment or basic medical intervention may
21 take place, such as the opening of airways and the
22 production of dressings.
23 My Lady, I think reading Mr Watson and Ms Simcock's
24 reply, their concern is getting the balance: namely, to
25 ensure that triage remains the priority and that it

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1 isn't in any way detracted from by emphasising --
2 I think it's the word "emphasis" that I've used causes
3 some concern -- about immediate treatment.
4 What they suggest at their paragraph 30 is
5 London Ambulance is happy to acknowledge it will try to
6 ensure that all training involving triage should make
7 reference to the fact that treatment or basic medical
8 intervention may take place.
9 Your Ladyship will recall that there has been no
10 change. Action card 4, you may recall, is the one that
11 deals with immediate triage and what can take place, and
12 both in 2005 and in 2011, both make it plain that this
13 intervention, immediate treatment, is proper.
14 But, in fact, your Ladyship knows that that's not
15 what, in fact, happened at various of the sites.
16 One of the witnesses, my Lady -- I mention and quote
17 it at 3.61 in the submissions -- said this:
18 "It is a very harsh system to sort of work. I had
19 to just stick to the guidelines of triage sieve. It
20 asks that you don't go any further than that."
21 Your Ladyship will see who I'm referring to from the
22 body above, and it was one of the experienced clinicians
23 who clearly felt performing triage sieve, as he was,
24 that it would not permit him to go any further. That's
25 why we use the phrase to emphasise it is not in any way

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1 suggested that that should take away or remove the
2 principle which is triage, doing the most for the most
3 in the short time available.
4 But the emphasis on immediate treatment being
5 available, and the examples of the ones that are given,
6 opening of an airway, or being able to produce and apply
7 a dressing. Your Ladyship heard that there were other
8 of the clinicians who, in progressing through on triage,
9 one occasion, one example was given, tying a tourniquet
10 tighter, and that is what we understood action card 4,
11 both then and now, to relate to. So we're not seeking
12 to in any way amend the priority. That must always
13 remain clear as to what triage is. It is merely being
14 able to recognise treatment and intervention allowed.
15 LADY JUSTICE HALLETT: Which would lead to all those
16 responding -- paramedics, emergency medical
17 technicians -- taking their equipment with them?
18 MR SAUNDERS: I'm coming on to that.
19 LADY JUSTICE HALLETT: Right.
20 MR SAUNDERS: I'm coming on to that because that's
21 a separate recommendation, my Lady. Can I carry on the
22 way that I am?
23 LADY JUSTICE HALLETT: Do. Please, do.
24 MR SAUNDERS: In fact, no, can I then invite you to go to
25 (n)?

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1 (n) -- forgive me the inelegance in the way we've
2 drafted this -- medical equipment dump. It should at
3 least be clear to everyone what we have in mind when
4 we're making that recommendation.
5 It is recommended that at a major incident there
6 should be established a medical equipment dump which
7 should be set up in close proximity and within easy
8 access of the centre of an incident.
9 LADY JUSTICE HALLETT: I think that is a slightly different
10 point. I mean, I appreciate the evidence that said, if
11 you take your bag with you so far down the line, you can
12 leave it and create a dump.
13 MR SAUNDERS: Yes.
14 LADY JUSTICE HALLETT: But what I'm interested in is, what
15 do you say should be the guidance to, in this situation,
16 the paramedics and the emergency medical technicians who
17 are going down to a carriage in a tunnel to carry out
18 the triage sieve?
19 Should they not be entitled to know are they
20 expected to take their bag with them all the way on to
21 the carriage, or are they expected to at least take it
22 as far as the platform where you create your dump, which
23 is when we'll come on to that?
24 But at the moment, I think there's some confusion in
25 the minds of some of them as to whether they're meant to

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1 have it with them at all times -- some of the HEMS
2 doctors said, essentially, they don't go anywhere
3 without it -- and then, if necessary, leave it
4 immediately outside the carriage, but take it virtually
5 to the site, and others who seemed to think they
6 shouldn't take it anywhere --
7 MR SAUNDERS: We would respectfully submit that they
8 should -- everybody, whether you're primary triage or
9 HEMS -- should take your equipment bag. Your Ladyship
10 has seen, I think produced by Dr Moore, the very small,
11 compact triage bag which was about 9 inches by 6 inches,
12 and in the course of the evidence you heard both were
13 taken and not taken.
14 So some of the witnesses said "We didn't take
15 deliberately so as not to become involved with
16 treatment".
17 LADY JUSTICE HALLETT: Whichever the paramedics were, they
18 got detained on the surface with the walking wounded.
19 So the question is: how do you get that balance right
20 between making sure the equipment gets to the scene of
21 the bombed carriage, but also not having the paramedics
22 detained by those who are perhaps walking but streaming
23 blood?
24 MR SAUNDERS: The London Ambulance Service, it's
25 paragraph 33 of their -- what they invite your Ladyship

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1 to consider is that, if any recommendation is made on
2 this topic, it should not be prescriptive as to the
3 location of the dump.
4 But we would respectfully submit that there should
5 be a principle that equipment is taken, and it obviously
6 depends on where -- and I've used the phrase "the centre
7 of the incident". So if it is on carriage number 1, the
8 paramedic, EMT, clinician who's primary triage could
9 take to carriage number 2 or if it is just off the
10 platform where an incident has taken place, to be left
11 at the end of the platform so that the equipment is
12 close to hand.
13 Because here we found at the various Underground
14 sites that there was a considerable distance between
15 some. At Russell Square, it involved going up those
16 spiral stairs just to go for basic equipment.
17 LADY JUSTICE HALLETT: You haven't actually put that in your
18 recommendation.
19 MR SAUNDERS: What we've tried to say there is it is
20 recommended under (n) that, at a major incident, there
21 should be established a major equipment dump.
22 LADY JUSTICE HALLETT: But aren't you going further than
23 that? Aren't you saying that consideration should be
24 given to guidance to paramedics to keep their equipment
25 as close to hand as possible at all times; isn't that

1 what you're saying?
2 MR SAUNDERS: Yes. May I respectfully then add that
3 further, because it clearly, my Lady, follows that,
4 whilst not wanting in any way to remove the emphasis of
5 triage, this wouldn't have that effect.
6 As your Ladyship recalled, the HEMS were saying we
7 wouldn't go anywhere without our stuff, and again, for
8 obvious reasons, I won't draw the analogies. I've set
9 them out at 3.71 and 3.72, those who did and those who
10 didn't take the equipment with them, but it seems that
11 that should be a further recommendation, they should
12 take it, and then it should be left, recognising, as we
13 do, what the London Ambulance Service say about not
14 being prescriptive as to where it should be and, of
15 course, that would be a matter for that primary triage
16 clinician, who, having been told and understood where an
17 incident is, would then decide where he's going to leave
18 that equipment in order to avoid the difficulties that
19 your Ladyship heard in the evidence.
20 LADY JUSTICE HALLETT: Right.
21 MR SAUNDERS: Can I assist any further with that or the
22 additional matter?
23 LADY JUSTICE HALLETT: Thank you.
24 MR SAUNDERS: We've set out, as I say, each of those matters
25 about equipment.

1 My Lady, the last matter that I have to deal with is
2 that of recommendation (o), specific training regarding
3 bomb blasts and any other significant injuries resulting
4 in catastrophic haemorrhage.
5 It's recommendation that consideration be given to
6 include specific and specialist training concerning the
7 treatment of bomb blast injuries, and then I've added
8 "and those occasioned by gunshot or other weapon" when
9 training London Ambulance personnel.
10 My Lady, I added that simply as an example because,
11 clearly, under the rule 43, you're entitled to consider
12 whether circumstances could arise in the future, but my
13 emphasis is on catastrophic haemorrhage.
14 Your Ladyship will recall, I'm sure,
15 Colonel Mahoney's amendment to the algorithm ABC,
16 airway, breathing, circulation, that, when you have
17 a catastrophic haemorrhage, there should be CABC, and
18 the C obviously is control. One has to control the
19 haemorrhage because, if you don't do that in the
20 situation such as blast injuries -- and then I went on
21 to add "or gunshot or a madman running berserk with
22 a machete" -- so you have catastrophic haemorrhage,
23 there needs to be the C before.
24 So it may well be that I should have stopped after
25 blast injuries and left to the commentary the other

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1 examples and situations in which it could arise.
2 My Lady, as I mentioned, the Ambulance Service again
3 have dealt with this matter at their paragraph 36 where
4 they say that it is included -- I think it was Dr Moore
5 who gave the evidence -- it's included in the basic
6 training and, for those who are more experienced, it is
7 to be brought in under the refresher training for
8 paramedics and EMTs.
9 Also acknowledging the intention to raise awareness
10 of the use of tourniquets, which we've heard some detail
11 about.
12 LADY JUSTICE HALLETT: They're now equipped with them.
13 MR SAUNDERS: They're now equipped with them and you will
14 recall the fluorescent orange one that Dr Moore produced
15 to us to show how simple they were, but clearly that
16 sort of training.
17 LADY JUSTICE HALLETT: What is not happening that you say
18 I should be recommending should happen?
19 MR SAUNDERS: My Lady, it's difficult to know how the
20 training is progressing. For those who are
21 experienced -- and Dr Moore was explaining about the
22 cycle of training -- whether it is sufficient to wait
23 for those returning on a refresher or whether it should
24 be made plain, either by card, but it is the way in
25 which -- I'm sure we were all hugely impressed with

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1 Colonel Mahoney and how he was describing this
2 control -- that that is the information. It's not
3 sufficient if you have an experienced clinician who is
4 not due for retraining for some years that it should
5 wait for that.
6 It's more the urgency of specialist training that
7 needs to take place.
8 LADY JUSTICE HALLETT: I'm not sure why you say that
9 wouldn't be obvious. I mean, it may be that it's
10 important to emphasise the CABC, but surely, if
11 a trained paramedic arrives at the scene of an incident
12 and finds somebody who is haemorrhaging pints of blood,
13 are they not going to know from their overall
14 training -- or what the rest of us might guess might be
15 the case -- that it doesn't matter going on to the other
16 things; unless you stop the blood, the person is not
17 going to have circulation, airway or breathing problems?
18 MR SAUNDERS: In many of the statements that were made and
19 read, the algorithm that was used was ABC and that's why
20 we draw the emphasis of the C first.
21 Now, it may well be, as your Ladyship says, if
22 somebody sees the obvious, they will deal with the
23 obvious. We just felt that it was appropriate that, in
24 fact, it should be made plain, and amendments made where
25 necessary -- and, of course, this will be in a very

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1 small number of cases, as with many of the major
2 incidents, where you have such significant injuries that
3 require a change from the ABC.
4 That's why, at 3.75, we have mentioned that it
5 should be in these unusual circumstances where the C,
6 the control, should be part of the specific training.
7 As I say, the majority of witnesses that you heard
8 from all knew ABC -- I was going to say "backwards", but
9 that's what they are obviously taught, and it is
10 simply -- and may I say that this is a point that has
11 been addressed or is clearly in the course, but it is
12 the delay which could be occasioned bearing in mind how
13 far past we are now, and the way in which Dr Moore put
14 it.
15 LADY JUSTICE HALLETT: Right.
16 MR SAUNDERS: My Lady, that I believe concludes all the
17 matters. Can I assist --
18 LADY JUSTICE HALLETT: No, thank you.
19 MR SAUNDERS: Ah, thank you. I am reminded that I didn't
20 deal with (m).
21 LADY JUSTICE HALLETT: Oh, that was my fault because I took
22 you on to --
23 MR SAUNDERS: It's very kind of your Ladyship to say, but
24 I had left specific instructions to be reminded and
25 I have been.

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1 (m), triage, P1 categorisation. It is recommended
2 that if a casualty is not breathing but has a pulse,
3 rather than be categorised as dead, the casualty should
4 be categorised as P1.
5 My Lady, the Ambulance Service deal with this at
6 their paragraph 31 when they quite rightly correct the
7 reference I make at 3.68 to Dr Moore, Day 72, it was at
8 page 78 where, in fact, she didn't say she accepts that
9 such a casualty should be noted as P1.
10 Can I invite your Ladyship to go to our transcripts?
11 This will be the last that I take you to. It's page 78
12 bottom right.
13 My Lady, it's Dr Moore who was dealing with this.
14 It's page 78, so it is the bottom left of the quadrant,
15 I was asking questions and clearly it has bearing upon
16 Mr Beer. I ask the question:
17 "Question: ... I think the general question is
18 more, should this be a part of: no breathing; therefore,
19 one should triage as dead, is that [not] too
20 prescriptive, or should there be allowance made that, if
21 there is something -- and it may be some way down the
22 issues one is looking for --"
23 Your Ladyship will remember they were looking for,
24 Dr Moore had said, movement, sound, anything else.
25 "-- but if you do find a pulse, one should then, as

1 it were, wait and attach P1 status rather than dead?"
2 Dr Moore said this:
3 "Answer: I would never criticise anyone who thought
4 there were signs of life and interpret that as being
5 a justification for using the P1 category. However,
6 I think the evidence does suggest that breathing is
7 a more robust form of -- or a more robust sign that
8 somebody justifies that category."
9 But then she went on to conclude in this way:
10 "I think the other things to consider are that, you
11 know, if there was very obvious external haemorrhage and
12 you thought there was a possibility they might be alive,
13 you would stick a dressing on and stick a P1 category on
14 them."
15 So, my Lady, although I stand corrected for the
16 summary that I've used at 3.68, we would respectfully
17 suggest that the point is still a good one.
18 Your Ladyship will recall Dr Moore's evidence about
19 the first of the witnesses, Mr Taylor, who dealt with
20 Mr Beer, who mentioned seeing a carotid pulse and said
21 that's unusual and that she herself had not seen that.
22 But you had a situation there where there had been
23 speech in the minutes before, there was clear evidence
24 of breathing before. By the time he came to triage, he
25 was significantly concerned that the algorithm of: no

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1 breathing, open the airway; if still no breathing, dead,
2 was something he found extremely difficult. I've set
3 that out in the reference below.
4 Because what happens then is that so concerned is he
5 in following through in the way he does, that he sees
6 a senior clinician in the form of Mr Kilminster, and
7 then asks him to perform a secondary form of triage as
8 is set out at the bottom at 3.67:
9 "If somebody stopped breathing in your presence,
10 would you feel able to try to resuscitate?
11 "Answer: In this incident, no, and at a major
12 incident, no, we wouldn't attempt resuscitation if
13 they're not breathing."
14 It is simply to allow for -- and, quite rightly, the
15 London Ambulance Service make the point that this would
16 be a very unusual situation. If there is the cessation
17 of breathing, what other signs of life would there be
18 likely to be? And, of course, it's acknowledged that it
19 is not just the Ambulance Service, but I think
20 Ms Simcock explained to me that it is the
21 internationally recognised model of breathing, if there
22 is no recognition, and that's how one should categorise,
23 but in a situation like this, there would be, as
24 Dr Moore says, no criticism at all.
25 Therefore, we would respectfully submit that there

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1 should be this recommendation, categorisation should be
2 one of P1, not dead, and then, of course, when those are
3 following behind, they would obviously have to assess
4 the priority of the P1s to see who it was that should be
5 first removed from the scene.
6 LADY JUSTICE HALLETT: But isn't that the problem? This is
7 a harsh regime for major incidents. As you said
8 earlier, it's saving the most. The minute you
9 categorise somebody in this state as a P1, you are
10 interfering with that prioritising system, aren't you?
11 MR SAUNDERS: No. We would submit that there are so few
12 examples such as this -- in all the ones that
13 your Ladyship has unfortunately heard about, this was
14 the one example where the categorisation had got to stop
15 breathing, but two experienced clinicians felt that
16 there were still signs of life, and what we're not
17 suggesting is, as part of this recommendation, there
18 should be immediate treatment. That would be against
19 the protocol of triage. So it's not that there should
20 be immediate treatment for a person in this situation
21 such as resuscitation with drugs or other equipment, but
22 simply they should be designated as P1 for those coming
23 behind to determine how best treatment should take
24 place.
25 LADY JUSTICE HALLETT: But the more P1s there are, the

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1 greater the workload for those who are then trying to
2 work out which P1s should be prioritised. That's when
3 it kicks in.
4 MR SAUNDERS: It does, but you may have a situation, as
5 here, that it is seconds or minutes before,
6 unfortunately, life would be extinct, and that would be
7 the decision for that secondary form of triage to say,
8 "Well, who do we try to deal with first?"
9 It's not simply removing -- because, of course, you
10 have as an example here, my Lady, of delay and other
11 officers -- other clinicians being involved.
12 What happens is the first clinician says "I'm not
13 happy, I know what the card says, I know what I should
14 be doing, but I am simply not happy because I believe
15 there is a clear sign of life".
16 So he waits back. He then involves another
17 clinician to again perform that retriaging.
18 LADY JUSTICE HALLETT: So what you want to happen happened
19 on the ground. You just want it endorsed as part of the
20 system?
21 MR SAUNDERS: Because everyone recognises that, if one
22 followed what exactly is set out, he should have walked
23 away, he should have put a dead label on a man that
24 still had a pulse and walked away, and that, we would
25 respectfully submit, it's not just you can't criticise

1 the person for putting the P1 label, as Dr Moore very
2 eloquently and fairly put, but that it should be, if
3 there is a sign of life, they should not be categorised
4 as dead.
5 LADY JUSTICE HALLETT: Thank you.
6 MR SAUNDERS: It may have -- and I think I emphasised it,
7 although it wasn't a family I represented, having spoken
8 with Mr Patterson it made no difference in the case of
9 Mr Beer whether he'd received treatment at that stage.
10 But it could, in other examples, have more bearing.
11 LADY JUSTICE HALLETT: Thank you.
12 MR SAUNDERS: My Lady, I believe now I have completed those
13 that I should have done. Can I assist you with any
14 other matters?
15 LADY JUSTICE HALLETT: No, thank you very much. Right,
16 Ms Sheff?
17 Submissions by MS SHEFF
18 MS SHEFF: My Lady, I am dealing with five recommendations.
19 I appreciate my time is limited and I shall try to be as
20 succinct as possible.
21 The first is recommendation (j) which concerns
22 Code Amber and Code Red and it states, if LUL is issuing
23 a Code Amber and/or a Code Red, ie evacuating a station,
24 other relevant transport agencies must be told, and goes
25 on to explain that the recommendation would ensure that

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1 the issuing of those codes would be directly and swiftly
2 communicated to other transport agencies and, if
3 appropriate, the emergency services, by the network
4 coordination manager, the NOC, previously the NCC, so
5 that those emergency services and transport networks
6 have vital information to assist them in dealing with
7 injured or stranded passengers.
8 My Lady, this arises out of the evidence of
9 Andrew Barr heard on 7 February, Day 58. Mr Barr being
10 the network coordination manager for London Underground.
11 He was Gold control for LU and on duty at the
12 Network Control Centre on 7/7. My Lady will recall the
13 Aldgate time-line showing that Mr Barr declared
14 Code Amber at approximately 09.13, as did Mr Dunmore,
15 subsequently followed by a Code Red declaration.
16 In a nutshell, what Code Amber and Code Red appear
17 to signify is this: that Code Amber is the order for the
18 trains to head to the nearest station and evacuate
19 passengers, and Mr Barr explained that it is to remove
20 customers from threat.
21 Code Red is the order for the trains to stop
22 immediately wherever they are, and the distinction with
23 Code Amber is that it's to prevent the trains from
24 moving into an area where they are under threat; for
25 example, if there is an attack on a specific train at

1 a particular location, other trains will be prevented
2 from going there.
3 Mr Barr accepted that he'd only told Chief
4 Superintendent Crowther of the British Transport Police,
5 other than the transport agencies -- sorry, other than
6 London Buses, and he expected it to be disseminated.
7 He agreed in retrospect that NCC should have told
8 the emergency services, bearing in mind the likely
9 disruption caused by the subsequent evacuation of
10 passengers, possibly from tunnels, and the confusion
11 arising from the appearance of 250,000 people from the
12 network system.
13 The recommendation is that this message be very
14 swiftly passed on to the emergency services as well as
15 the other transport agencies directly by the NOC, rather
16 than relying on other agencies to disseminate the
17 information for them.
18 In their helpful submissions, TfL and Tube Lines at
19 paragraph 38 draw the distinction between a network-wide
20 Code Red and Code Amber and a line or localised
21 Code Amber and Code Red suggesting that the localised
22 code may not involve the emergency services or, indeed,
23 any injury -- for example, in the case of signal
24 problems -- and, of course, we recognise that
25 distinction in those codes being declared.

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1 Of course, Mr Barr made the point that a Code Amber
2 network wide is very unusual and very rare and, of
3 course, will only be declared in cases of major
4 incident. However, it is exactly those sorts of cases
5 which require notification to the emergency services and
6 to other transport agencies.
7 LADY JUSTICE HALLETT: Would you be content if the
8 recommendation read "if LUL is issuing a network-wide
9 Code Amber and/or Code Red"?
10 MS SHEFF: Yes, indeed. In fact, they have very fairly set
11 out in their own recommendation that consideration
12 should be given to circumstances in which it would be
13 appropriate to inform all or some of the relevant
14 emergency services whenever there was a line or
15 localised Code Amber or Code Red, and we would
16 respectfully adopt that recommendation.
17 In respect of the transport agencies as opposed to
18 the emergency agencies, we do accept that, on this
19 occasion, London Buses were informed of the
20 Code Amber/Code Red and the problem, from the point of
21 view of the London Buses, was not that they weren't
22 given that information, but rather that they weren't
23 informed of the reasons for it, or at least the
24 suspicions of explosions that there were at that stage.
25 My Lady has heard the evidence of Barr, Dell and

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1 Dunmore on those issues, and there is no rule 43
2 recommendation on that matter, as your Ladyship has
3 heard evidence of the new digital telephone
4 communications system which it's hoped will avoid all
5 such similar situations in the future, in particular the
6 evidence that we heard of the telephone system being
7 completely overwhelmed. We hope that that will lead to
8 good communications between the transport agencies in
9 the future in major incident situations.
10 My Lady, that's all I have to say as to that
11 particular recommendation.
12 Moving on now to recommendation (q), this concerns
13 MERIT, which is an acronym for the Medical Emergency
14 Response Incident Team.
15 My Lady, this reads as follows:
16 "It is recommended that MERIT should no longer be
17 a voluntary group and should become more formally
18 recognised under the LAS."
19 My Lady, I'm dealing also with recommendations (r),
20 (s) and (t) which concern HEMS, now the London Ambulance
21 agency, and I'm going to bulk those together, if I may,
22 to a certain extent, because the voluntary aspect of
23 both MERIT and the London air ambulance are linked and
24 that intervention reminds me that I'm delighted to be
25 located between my learned friend Mr Saunders and

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1 immediately in front of my learned friend
2 Ms Ormond-Walsh, both of whom have assisted me in
3 preparing these submissions and both of whom can be
4 relied upon to indicate to your lady a great knowledge
5 of this particular topic.
6 The recommendation at (q) arises out of the evidence
7 of Dr Moore who said that these agencies -- she
8 described them as mobile medical teams from different
9 hospitals utilising doctors and paramedics who are
10 familiar with emergency environments.
11 What she said was that the Department of Health has
12 supported their development and they've been trying to
13 roll out the scheme over London. Having consulted with
14 Ms Ormond-Walsh, I understand, and indeed, from her
15 submissions, it appears that the London Air Ambulance
16 have actually been asked by the LAS to deliver the
17 24-hour MERIT capability for London, but that is still
18 in the planning stages. My Lady that's dealt with in
19 their submissions at paragraph 4, and they have offered
20 us a tempter, a £1,000 annual retainer to doctors to
21 persuade them to commit to being part of a volunteer
22 group for the MERIT service.
23 It sounds like a great deal of money, but of course,
24 my Lady, it's not bearing in mind what that will require
25 in terms of the onerous duties of the doctors to be

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1 available at very short notice to drop what they're
2 doing, go to the scene and, of course, to negotiate that
3 contract with the hospitals for whom they work.
4 The London Ambulance Service say that the MERIT
5 capability should be dealt with by themselves but that
6 they have done all they can in terms of funding and,
7 therefore, the recommendation should not be directed to
8 them personally, and that's dealt with at their
9 paragraph 40.
10 If that be the case, then the recommendation should
11 be directed towards the Department of Health as the
12 relevant Government body capable of funding such an
13 enterprise.
14 Turning now --
15 LADY JUSTICE HALLETT: So would you delete "under the LAS"
16 or you'd still have "under the LAS" in your
17 recommendation?
18 MS SHEFF: "Under the LAS" does appear to be technically
19 correct, as they are the supervening body who would
20 delegate out the work currently to be taken up by the
21 London Air Ambulance Service.
22 LADY JUSTICE HALLETT: So would it read as, really, it is
23 recommended that the MERIT team or the teams should be
24 properly funded and should become more formally
25 recognised? Is that --

1 MS SHEFF: Yes, should be more, yes, and that that be
2 directed towards the Department of Health as regards the
3 funding issue.
4 LADY JUSTICE HALLETT: Because that would then apply, you
5 would say, to the London Air Ambulance as well, it
6 should be properly funded --
7 MS SHEFF: Indeed.
8 LADY JUSTICE HALLETT: -- and properly recognised?
9 MS SHEFF: Indeed, my Lady, and I shall be dealing with that
10 particular recommendation as recommendation (t), my
11 final submission.
12 Moving to recommendation (r), (r), (s) and (t) all
13 concern what was HEMS, the Helicopter Emergency Medical
14 Service, now known as the London Air Ambulance, and
15 might I just say by way of introduction that we are all
16 aware how HEMS have become intimately involved with both
17 the lifesaving treatment of severely injured passengers
18 at all four scenes at 7/7, and also conveying several of
19 them to hospital for further treatment. It's right to
20 say that the bereaved families are very conscious of the
21 excellent and highly specialised work performed by the
22 service on the day, despite the voluntary nature and
23 restricted funding of the organisation.
24 My Lady has heard from several HEMS doctors who
25 attended the scene and performed lifesaving work in very

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1 difficult circumstances, and my Lady's also heard from
2 Dr Davies and Dr Moore, Dr Davies being the medical
3 director of HEMS and Dr Moore an honorary consultant to
4 HEMS and someone who was involved in it being set up in
5 1988.
6 Dr Moore summed up the value of HEMS when she said
7 at page 42 of her evidence on 2 March:
8 "I think they are expert in delivering clinical care
9 in a hostile environment, and certainly most major
10 incidents provide that. So they are very good at doing
11 the interventions required at the scene, but there is
12 another layer of major incident management and that's
13 the Command and Control part. More senior doctors
14 undertook the role of MIO, Medical Incident Officer, at
15 sites on 7/7, but I think their absolute strength is the
16 assessment and management of seriously injured
17 patients."
18 Certainly the evidence testifies to her solid belief
19 in that service.
20 Recommendation (r) deals with LESLP, an acronym for
21 the London Emergency Service Liaison Plan,
22 a recommendation stating that the London Air Ambulance
23 should be a category 1 partner and directly involved in
24 the future consultation of the amended LESLP plan.
25 The plan currently in place is plan 7, which was

1 published in 2007. Plan 8, we're told, is due out this
2 year and, unless there is a change to the current
3 system, HEMS will not be given a seat around the table.
4 They are not a statutory service so they have no
5 right to a direct voice in the plan.
6 In order for HEMS to become a category 1 partner,
7 Parliament would have to amend the Civil Contingency Act
8 2004 to widen the categories of those organisations
9 LESLP has a duty to consult, and that's helpfully
10 pointed out by the LAS in their submissions at
11 paragraph 41.
12 The families submit that the rule 43 recommendation
13 should be made to allow for that, despite the fact that
14 the LAS believe the categories are wide enough, and they
15 submit that the HEMS contribution should be channelled
16 through them.
17 We agree this should be done, but only until LAA has
18 been made a full category 1 partner and having HEMS
19 consulted directly allows the LESLP to take advantage of
20 their experience and expertise in that very field,
21 particularly as many of the HEMS clinicians have
22 previous military experience, and we're told by the
23 submissions by Barts that that's about 20 to 30 per cent
24 of them.
25 As Dr Davies put it at page 29 of his evidence on

1 28 February, the document doesn't really acknowledge
2 that our raison d'etre in supporting Ambulance Service
3 is about injury. So we're more at the front end of the
4 response than the back end, and Dr Davies would welcome
5 the opportunity to contribute to LESLP and says HEMS has
6 experience which would certainly help that body.
7 The recommendation is supported by Barts in their
8 submissions at paragraph 8, and they contend that,
9 historically, representation on the panel through LAS
10 has not been successful, and they maintain that LAA not
11 only have a great deal of experience of major incidents
12 in London over many years but also have significant
13 understanding for the theory and research aspects of
14 emergency preparedness.
15 We respectfully agree and would strongly encourage
16 such a recommendation to be made.
17 Recommendation (s) is the pre-hospital care training
18 as a sub-specialty.
19 The evidence for that arises from Dr Davies'
20 evidence at page 23 of 28 February. He says this exists
21 as a sub-specialty in the United States and Scandinavian
22 countries but not in the UK. It's entirely a matter for
23 the GMC as to whether they recognise it or not. The
24 proposal has been put before the GMC and was knocked
25 back at phase 2 of their application, and, therefore,

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1 has to be resubmitted.
2 That's considered to have been a big blow to HEMS.
3 The reason it was knocked back was because the need was
4 not properly perceived, as it was believed it was not
5 necessary to have a formal pre-hospital care training
6 specialty, as we have in the Ambulance Service, which,
7 of course, doesn't appreciate the sole raison d'etre for
8 HEMS. Also, there were questions concerning the
9 assessment of the training programme.
10 As to the effect of that recommendation, it means
11 that there will be a recognised qualification in
12 pre-hospital care for doctors training in emergency
13 medicine and this, therefore, creates posts around the
14 country for doctors who thereby are properly trained and
15 can be used to staff air ambulances all around the
16 country.
17 It also assists the training of junior doctors and,
18 as Dr Davies says, would cascade down like every other
19 specialty in medicine.
20 There are currently, he says, not many doctors who
21 understand the medical needs of patients in major
22 incidents or in mass gatherings, because, of course, the
23 air ambulance is very useful for football stadium
24 incidents, mass gatherings, demonstrations of that
25 nature, recognising this specialty would help to rectify

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1 the lack of understanding of doctors of the medical
2 needs of patients in this situation.
3 It also allows, importantly, for such events to be
4 properly planned for in advance, in terms of working out
5 what sort of health load, as the doctor put it, exists,
6 and it allows regions to cater for it.
7 Dr Moore, at page 53, suggested there was support
8 for it from four colleges, including the two Colleges of
9 Surgeons in London and Edinburgh, and Dr Davies agreed
10 but Dr Moore was perhaps more optimistic that it would
11 eventually be recognised by the GMC, but did point out
12 that the process had been going on for 18 months now
13 and, even after stage 2 has been passed, there will
14 still be a stage 3 to overcome.
15 A rule 43 recommendation by your Ladyship would
16 allow that proposal to gain your imprimatur, which may
17 result in the process, which currently appears to be
18 somewhat stuck in the system, to be freed up and more
19 swiftly adopted by the GMC, thereby ensuring a need for
20 it to take place is recognised and resulting in the
21 enormous benefit of saving lives.
22 It is supported by Barts, at paragraph 13, who point
23 out that it would assist young doctors to learn, train
24 and take up full-time roles focused on this vulnerable
25 group of patients.

1 Finally, I turn to recommendation (t), public
2 funding for the London Air Ambulance, HEMS.
3 We state this: whilst recognising financial
4 difficulties and limitations, it is recommended that
5 urgent consideration be given to state or London funding
6 of the London Air Ambulance to remove this organisation
7 from its current position as being dependent on
8 voluntary contributions, the recommendation to be sent
9 to the Department of Health and any other relevant
10 bodies.
11 We are, of course, acutely aware of the financial
12 difficulties, particularly in the current climate, but
13 nonetheless, the recommendation we make is urgent
14 because of the insecurity of the current situation as
15 far as the funding for HEMS is concerned.
16 There is too much benefit to the public for the
17 funding to remain in a precarious position that it now
18 stands in.
19 Barts, in their submissions, say that they would
20 also like funding for research. That would be very
21 nice. Blue sky thinking would obviously encourage that
22 recommendation to be made as well, but we would perhaps
23 rather more emphasise the recommendation that they put
24 forward as to there being four teams available at any
25 time.

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1 They say that because currently there is only one
2 team who is available, that being a team made up of
3 a paramedic and a doctor. It sounds like a large
4 incremental rise on the current position, but of course,
5 we must bear in mind that there were 27 medics who
6 assisted at 7/7. That was obviously a very unusual,
7 although fortuitous, situation owing to the clinical
8 governance training programme taking place that very
9 day.
10 Bearing in mind that the LAA deal with everyday road
11 traffic accidents as well as major incidents such as
12 7/7, it does not seem, to our mind, unreasonable for
13 there to be funding to allow for four teams to be
14 permanently available to cover the very wide area that
15 is London within the M25.
16 LADY JUSTICE HALLETT: Ms Sheff, looking at your wording,
17 given that HEMS seems to have been able to get off the
18 ground literally with the assistance of sponsors who
19 provided an aircraft, I'm just wondering if your
20 recommendation might not be better phrased that
21 consideration be given to providing proper funding or to
22 put HEMS -- or, if I have to now call it the London Air
23 Ambulance, to put them on a secure financial footing; in
24 other words, not specify from where the funding has to
25 come because it may come from a number of different

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1 sources, as I believe it does at the moment.
2 MS SHEFF: It certainly does. There is corporate funding
3 from Virgin at the moment for the helicopter, and there
4 are other forms of raising of funds, such as,
5 I understand, selling HEMS diaries and other such
6 stationery which raises small amounts of funds.
7 One wouldn't, of course, want to discourage that
8 corporate sponsorship, but nevertheless, we say that
9 HEMS must be able to rely upon a certain amount of
10 monies from the Government through the Department of
11 Health so that they can plan for sufficient teams to be
12 available around the clock.
13 LADY JUSTICE HALLETT: Thank you.
14 MS SHEFF: Finally, we would say this, that because HEMS is
15 unique in various ways, because there is always an
16 allocated doctor and paramedic, both of whom are
17 specialists in emergency medicine, because it can give
18 strong drugs -- for example, Ketamine, which was used to
19 give much needed pain relief to Samantha Badham and
20 Lee Harris -- and because they can perform procedures at
21 the scene, it is effectively a hospital on-site, and
22 also because, as I have now been recently informed,
23 Colonel Mahoney himself was trained at HEMS, the strong
24 view of the bereaved families is that HEMS should not be
25 a charity but its valuable work should be recognised by

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1 a proper funding programme.
2 Unless I can assist my Lady any further, those are
3 my submissions.
4 LADY JUSTICE HALLETT: Thank you very much.
5 Yes, Mr Coltart?
6 Submissions by MR COLTART
7 MR COLTART: My Lady, I have four topics to cover. The
8 first of which is jargon and the use of plain English.
9 I have good news on this front which is, just when
10 we thought we were about to drown in a sea of
11 "conference demountable units", help is at hand because,
12 as has been pointed out in the written submissions filed
13 by the London Ambulance Service, the Cabinet Office has
14 published an invaluable document called the "Emergency
15 Responder Inter-operability Lexicon".
16 Unable to resist, I took a peek at this document
17 last night and I'm pleased to report that it will be of
18 the most enormous assistance during the course of any
19 major incident.
20 So, for example, if, at the height of such an
21 incident, a firefighter was struggling to recall
22 precisely what was meant by the "common recognised
23 information picture" or "CRIP" as it's known, he could
24 refer to the lexicon and remind himself that this is:
25 "A single authoritative strategic overview of an

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1 emergency or crisis that is developed according to
2 a standard template and intended for briefing and
3 decision support purposes."
4 If that still didn't entirely clarify the position
5 for him, he can go to the footnote which reads:
6 "Within COBRA, the CRIP is typically collated and
7 maintained by the central situation cell and circulated
8 where relevant to responders."
9 LADY JUSTICE HALLETT: Sorry, I'm lost.
10 MR COLTART: I suspect he might be too, although he would no
11 doubt be assisted by the definition later in the
12 document of "evening civil twilight", which is helpfully
13 explained as:
14 "That period between sunset and total darkness when
15 it is necessary to use artificial light to carry out
16 most activities."
17 So if he wasn't entirely sure as to when he should
18 switch on his torch, the lexicon is close at hand.
19 It's a nonsense, I'm afraid. We all speak English.
20 There is no reason for us not to communicate in plain
21 English.
22 Although it's very easy to poke fun at the jargon
23 and the management-speak, it does mask a more serious
24 issue and, as my Lady has identified in plain terms
25 during the course of the evidence, it is an issue which

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1 needs to be addressed and could be very simply
2 addressed.
3 I do accept the observation made during the course
4 of some of the written submissions that a few acronyms
5 and a few mnemonics are both valuable and important.
6 CBRN is an obvious example. Everyone understands what
7 that means, or submitting a CHALET report, an equally
8 valuable mnemonic which is helpful both to the
9 responders and to the radio operators who receive that
10 message.
11 But over and beyond that sort of example, I'm afraid
12 it's a recipe for muddle and confusion.
13 So we recommend at our recommendation (b), page 9 of
14 our submissions, urgent consideration given to the use
15 of plain English in managing major incidents.
16 My second topic is our recommendation (c), page 10
17 of our submissions, which is the alerting of other
18 agencies to the declaration of a major incident.
19 We ought to clarify -- I think it's plain on the
20 face of our written submissions -- that we are not
21 urging upon the organisations the recommendation
22 originally made by the London Assembly to the effect
23 that a declaration of a major incident by one should
24 result in a declaration of a major incident by the
25 others.

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1 We understand there is good reason for not going
2 down that path. The difficulty, however, or the
3 potential danger of dealing with these things in
4 a piecemeal fashion is that the declaration by one gets
5 missed by another, and there could be no plainer example
6 of that in this case and the impact which it can have,
7 than if one recalls the evidence of Inspector Mingay at
8 King's Cross declaring to his own control room at 08.58
9 a major incident and that message never reaching Leading
10 Firefighter Aaron Roche, the first fireman to arrive on
11 scene at 09.15, either because it wasn't passed on by
12 the BTP control room to the LFB or because the LFB
13 control room didn't pass it on to Mr Roche, it's not
14 plain which.
15 But the net result was the same: he arrived
16 unprepared for what was to meet him, and it led to
17 significant difficulties in terms of the resources which
18 were available to him.
19 It may well be, in the light of the written
20 submissions which have been received, and we've
21 considered them carefully, that some wording is
22 necessary to the proposed recommendation which we've set
23 out on page 10 where we've indicated that consideration
24 should be given to a system or systems to alert all
25 emergency services once a major incident is declared by

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1 one.
2 As the London Ambulance Service and the Fire Brigade
3 have pointed out in their response, they do have
4 a system in place for alerting others to their own
5 declaration, but it may be, in those circumstances, the
6 recommendation should be for a review of those systems
7 to ensure that they are comprehensive and that there is
8 no danger of the same thing happening again in the event
9 of future major incidents.
10 That's what we say in relation to our recommendation
11 (c).
12 Our third recommendation with which I deal is at
13 page 24 of our submissions, it's recommendation (u). It
14 reads as follows, because the wording of it is important
15 for reasons to which I'll return in a moment, but it
16 reads:
17 "It is recommended that the London Fire Brigade
18 consider whether its procedures might be amended to
19 permit firefighters a greater degree of discretion when
20 considering whether to proceed to the immediate site of
21 an incident without delay."
22 This is a sensitive issue and we are alive to that
23 fact. The Fire Brigade operate in a highly dangerous
24 environment and they have more onerous responsibilities
25 than most under the health and safety legislation to

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1 their employees, but the fact of the matter is that, on
2 7 July 2005, they were operating in the same environment
3 as the other emergency responders, and yet did not take,
4 or were not willing to take, the same calculated risks
5 that were being taken by, for example, the BTP at
6 King's Cross, or there are other examples which we could
7 bring to mind, if it was thought necessary.
8 In our submission, the sense has emerged from the
9 inquest that the pendulum may have swung too far in
10 favour of an overly cautious approach. We gave the
11 example in our written submissions of the firefighters
12 at Aldgate not being willing to go on to the tracks,
13 even though there was a police officer standing on the
14 tracks to demonstrate that they weren't live.
15 LADY JUSTICE HALLETT: I'm not sure, is that necessarily
16 a fair example? I understand the points you're making,
17 and I know this particular example has been given a lot
18 of publicity, but what hasn't been given the equivalent
19 publicity is that the London Fire Brigade, as indeed
20 a number of the experienced doctors knew, one to his
21 cost because he had been electrocuted a few weeks
22 before, is that the lines can reenergise.
23 MR COLTART: Yes.
24 LADY JUSTICE HALLETT: So albeit the police officer was
25 being brave and trying to do his very best and I can

1 understand his frustration, is it necessarily fair to
2 criticise an emergency service for saying "You might be
3 prepared to jump up and down on the rail, but I happen
4 to know that just a couple of weeks ago somebody got
5 electrocuted because it reenergised"?
6 MR COLTART: There are two points to be made in relation to
7 that. The first of which is that it may not be a fair
8 example, and I was going to go on to articulate that
9 Ms Boyd, in her written response, has referred to the
10 specific evidence -- I think it was of
11 Firefighter Curnick -- about the dangers of so-called
12 bridging or sections of the live rail reenergising.
13 But the second point is this: that it helps to
14 illustrate why it is that we have worded the
15 recommendation in the terms that we have. We are not
16 proposing a recommendation that firefighters do exercise
17 a greater degree of discretion in their work. We are
18 recommending that the London Fire Brigade itself
19 considers whether a greater degree of discretion ought
20 to be permitted.
21 In other words, we accept entirely that no one knows
22 the business of the London Fire Brigade like the London
23 Fire Brigade. Only they understand properly the risks
24 which they face and the measures which are proportionate
25 in response.

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1 But that said, as I say, there is a sense, in our
2 submission, that an overly cautious approach has been
3 adopted on occasion and we simply urge them to
4 reconsider this issue with an open mind. If their
5 conclusion at the end of it is "We're satisfied that our
6 procedures are proportionate", so be it. But we say it
7 should at least be looked at.
8 LADY JUSTICE HALLETT: Is the problem more in the realm of
9 where, as I have to call it, the dynamic risk assessment
10 is made that you're suggesting there ought to be greater
11 emphasis on the word "dynamic", it is that the situation
12 changes and, therefore, there ought to be a reassessment
13 of the risk as the situation --
14 MR COLTART: There was certainly evidence of that in
15 relation to King's Cross. For example, Leading
16 Firefighter Roche, when he arrived at King's Cross, the
17 position was very unclear at that stage. The call had
18 been to smoke issuing from a tunnel. He was perfectly
19 entitled to think that backup was on its way shortly and
20 would be arriving soon, and in those circumstances one
21 can well understand the decisions which were made in
22 relation to how he exercised his discretion.
23 The fact of the matter is, though, that the picture
24 changed over time, and so, by shortly after 09.30, he
25 had been informed by Firefighters Shaw and Newton that

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1 they had spoken with Inspector Mingay, who had himself
2 been on the train and to the affected carriage, and he
3 could confirm that there was no fire.
4 When that information was conveyed to Leading
5 Firefighter Roche, he chose to maintain his original
6 decision.
7 Now, the purpose of articulating and reminding
8 my Lady of that part of the evidence is not to criticise
9 Leading Firefighter Roche. We haven't heard from him
10 and we sympathise with the reasons as to why he wasn't
11 able to come. But again, it gives a flavour perhaps of
12 some of the reservations which have been expressed
13 during the course of the inquest as to whether a culture
14 has developed which is too far weighted in favour of
15 health and safety issues and not sufficiently far
16 weighted in terms of enabling firefighters to perform
17 that dynamic risk assessment and to make the appropriate
18 decisions.
19 LADY JUSTICE HALLETT: But Ms Boyd is going to say -- as
20 indeed one of her witnesses said, or one of my
21 witnesses, but called from the London Fire Brigade -- if
22 you face a criminal or civil court, if you, as a fire
23 officer, take the wrong decision -- in other words, you
24 could be charged with manslaughter or you or your
25 organisation could be sued -- you have to be very

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1 careful about the decisions you take.
2 So the London Fire Brigade, as you say, because of
3 the health and safety legislation which -- I know it
4 gets criticised a lot, but one shouldn't forget how
5 important it has been to the lives of many, many workers
6 throughout the country. There are aspects of it that we
7 all perhaps get exasperated with, but the London Fire
8 Brigade really does have to be careful about its duties
9 under the health and safety legislation, doesn't it?
10 MR COLTART: It does. In my submission, one ought to treat
11 with some caution the analogy which was drawn with the
12 recent developments, I think it's in Warwickshire, where
13 some firefighters are being charged with manslaughter.
14 The allegation by definition in that case must that be
15 the standards fell so far below what could reasonably
16 have been expected of them that that's why events
17 unfolded as they did.
18 LADY JUSTICE HALLETT: Doesn't it, as the witness said --
19 I'm sorry, I can't remember his name --
20 MR COLTART: Mr Reason, I think, probably.
21 LADY JUSTICE HALLETT: Very often, sadly, it's a question of
22 what was the outcome.
23 MR COLTART: Yes. I mean, I would say, I'm perhaps in
24 danger of repeating myself, that we have taken all of
25 those issues into account in deciding how best to frame

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1 the wording of the recommendation. It is a matter for
2 the Fire Brigade. We don't presume to know their
3 business better than they do. That would be an affront.
4 But it has on more than one occasion raised its head
5 during the course of these proceedings and, on that
6 basis alone, we would suggest it's worthy of
7 reconsideration.
8 LADY JUSTICE HALLETT: I do understand the concerns. I'm
9 just, as it were, trying to get my thoughts clarified.
10 MR COLTART: It is one of the more difficult, if I may say
11 so, areas of evidence with which we're now concerned.
12 My Lady, I see the time, I have one further topic to
13 cover. I can probably deal with it in less than five
14 minutes, or I can deal with it --
15 LADY JUSTICE HALLETT: Shall we carry on and then have
16 a later lunch?
17 MR COLTART: Yes. It concerns the issue of record-keeping
18 and disclosure.
19 It's suggested in the submissions filed by the
20 London Ambulance Service and the London Fire Brigade
21 that this is not a matter which falls within the
22 parameters of rule 43, and I'll return to deal with that
23 in terms in a moment, if I may.
24 But to remind my Lady, this appears at page 26 of
25 our written submissions. The recommendation is for

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1 improvements in the collation and storage of
2 documentation created during or in the aftermath of
3 a major incident, or indeed, although it doesn't appear
4 on the face of the draft proposal, documents created
5 before the major incident which may thereafter appear to
6 have a greater relevance than was originally thought.
7 A good example of that perhaps is in relation to the
8 whole mobile phone/pager issue which was being debated
9 at the London Ambulance Service in the immediate run-up
10 to the events of 7/7 and it now appears, unfortunately,
11 that there are minutes of potentially important meetings
12 which can't be found. That's a matter of regret as far
13 as putting the full picture before the court in relation
14 to that particular topic.
15 But the position is this, in relation to
16 disclosure -- I don't want this to come across as a late
17 whinge about the way in which things unfolded in this
18 case because it absolutely isn't.
19 It was an enormous task, disclosure in this case.
20 It was undertaken assiduously by all concerned. Great
21 efforts were made, we know, to locate and find documents
22 which may be of relevance, but the fact remains that it
23 was only with a considerable amount of prodding in
24 correspondence passing between my instructing solicitors
25 and Martin Smith that some of the most relevant

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1 documentation did appear.
2 I don't propose to go into details about the dates
3 of the correspondence or what was produced as a result
4 although we've got examples, if necessary, but the fact
5 is that a great deal of the debrief documentation, for
6 example, from a number of the organisations, with the
7 notable exception of the London Ambulance Service, which
8 provided everything immediately, only appeared after
9 that correspondence had been entered into.
10 The danger is that, if we hadn't pressed in that
11 fashion, it may be that that material would never have
12 been located or disclosed and this process, in our
13 respectful submission, would, evidentially speaking,
14 have been much the poorer for it.
15 In addition, as my Lady has heard, not only are we
16 missing, for example, minutes of meetings and so on that
17 took place before 7/7, but it's now proved impossible to
18 locate important documents created in the aftermath of
19 the bombings as well, and my Lady heard about the
20 60 questionnaires completed by TfL staff during the
21 course of their debrief process which then couldn't be
22 found once these proceedings were embarked upon.
23 We say that this is an important issue. It plainly
24 does fall within rule 43, we suggest. If one reminds
25 oneself of the wording of the provision where (a)

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1 a coroner is holding an inquest into a person's death,
2 (b) the evidence gives rise to a concern that
3 circumstances creating a risk of other deaths will occur
4 or will continue to exist in the future, and (b) action
5 should be taken, et cetera, et cetera, the coroner in
6 any case can only form a view on the extent of the
7 deficiencies which existed in the first place and the
8 extent to which remedial action might be required if all
9 the available evidence has been put before the court,
10 because, if that isn't done, it's impossible then for
11 the coroner to identify with precision the circumstances
12 which create a risk of other deaths in the future, and
13 the purpose of rule 43 is either handicapped or defeated
14 entirely.
15 That's why we've made the recommendation which we
16 have and the terms in which we've put it, and it's
17 particularly important, of course, in large and
18 significant inquests or public enquiries arising out of
19 major incidents such as this where there may be a very
20 great deal of documentation generated which needs to be
21 collated and stored safely pending issues of disclosure.
22 LADY JUSTICE HALLETT: Did the LAS working group about the
23 dangers of SMS texting follow a major incident?
24 Because, if it didn't, you wouldn't -- the minutes of
25 the working group wouldn't come within your

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1 recommendation.
2 MR COLTART: No, they wouldn't, and it may be that in order
3 to encompass material which is -- assumes in the
4 aftermath of an incident a relevance which it didn't
5 necessarily have at the time it was created, that, too,
6 ought to be collated and maintained in the way in which
7 we suggest.
8 Now, we can tinker with the wording, perhaps we
9 could do that over lunch, but it should encompass both
10 material before and after.
11 LADY JUSTICE HALLETT: Right, thank you.
12 MR COLTART: Those are my submissions.
13 LADY JUSTICE HALLETT: Thank you very much.
14 MS SHEFF: Before my Lady rises, there is a very brief
15 amendment to recommendation (r).
16 LADY JUSTICE HALLETT: Page?
17 MS SHEFF: Recommendation (r) at page 22 --
18 LADY JUSTICE HALLETT: I have it, yes.
19 MS SHEFF: -- of the families' submissions. Apparently --
20 and it's been very helpfully pointed out to me -- the
21 LAS sent an addendum last night to their paragraph 41
22 confirming that HEMS becoming a category 1 partner is
23 a little more straightforward and it requires only
24 a minister, not Parliament, to make that amendment under
25 section 13 of the Civil Contingency Act.

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1 LADY JUSTICE HALLETT: Thank you.

2 MS SHEFF: Thank you, my Lady.

3 LADY JUSTICE HALLETT: 2.15 pm.

4 (1.13 pm)

5 (The short adjournment)

6

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