

**INQUESTS ARISING FROM THE DEATHS IN THE
LONDON BRIDGE AND BOROUGH MARKET
TERROR ATTACK OF 3 JUNE 2017**

**WRITTEN SUBMISSIONS OF TRANSPORT FOR LONDON
ON DETERMINATIONS TO BE MADE BY THE CORONER**

Introduction

1. These brief submissions are made on behalf of Transport for London (“TfL”) in response to the written submissions received on 24 June 2019 from Counsel to the Inquests (“CTI”); the parents and partner of Xavier Thomas and the six families represented by Hogan Lovells. These submissions are provisional on those which are yet to be made by the other organisational Interested Persons.

2. TfL repeats its sincere condolences to all the friends and family of those who tragically lost their lives in this atrocious attack. These submissions are focussed on TfL and those who died on London Bridge. Nothing which is said in these submissions is intended to overlook the suffering of all those who lost loved ones.

3. In summary TfL’s position is:
 - (i) TfL is neutral as to whether the procedural obligation under Article 2 is engaged in the Inquests of Xavier Thomas and Christine Archibald (“the general duty arguments”).

- (ii) TfL's position is that the general duty arguments apply to Xavier Thomas and Christine Archibald only and do not apply in respect of all eight of the deceased.
- (iii) TfL's position is that it is not arguable that there was a breach of the state's operational duty to protect life in respect of protective security on London Bridge.
- (iv) TfL makes some observations in relation to the suggested wording in any narrative conclusions in relation to protective security issues.
- (v) TfL has no objection to the order of submissions or the timetable proposed in relation to PFD reports.

The general duty

4. TfL agrees with CTI's analysis of the law. In particular, TfL recognises that the threshold for an arguable breach is low. Save for one point of clarification, TfL has no submissions to make in relation to CTI's position in relation to the general duty arguments, outlined at paragraph 44.
5. The point of clarification is in relation to paragraph 44(c) of CTI's submissions. It is clear from Siwan Hayward's evidence that had TfL received any advice to consider installing barriers on London Bridge urgently, action would have been taken quickly.¹ TfL therefore does not accept that its processes lacked the dynamic quality referred to by Sarah Nacey, as submitted by CTI at paragraph 44(c).

¹ Day 31, p.7 - 8

6. TfL submits that it is speculation to assert that had barriers of any kind been installed on London Bridge, the attack in and around Borough Market would have been prevented. TfL therefore does not agree with the position of the families represented by Hogan Lovells that the general duty is engaged in respect of all of the Deceased.

The operational duty

7. TfL agrees with CTI at paragraph 46(a) that as regards TfL, it cannot be said it knew or ought to have known of a real and immediate risk to users of London Bridge. Neither can it be said that TfL should have appreciated the need to install HVM measures (temporary or permanent) and have completed the installation in advance of the attack.
8. TfL does not accept that views of members of the press, the public and TfL's Board, as summarised at paragraph 113 of the submissions of those represented by Hogan Lovells, amounts to evidence of a real and immediate risk that TfL ought reasonably to have known.

Form of words

9. If the Coroner accepts the general duty arguments, then TfL suggests an alternative to the form of words proposed by CTI at paragraph 63. TfL is concerned that as currently drafted, the words "*The failure to implement appropriate hostile vehicle mitigation measures*" may suggest both an operational and systemic failing.

10. TfL suggests that the following form of words avoids any potential eliding of the two issues:

At the time of the attack described above, there was no form of physical security on London Bridge, despite the fact that it was a location which was vulnerable to a terrorist attack using a vehicle as a weapon. This was due to an absence of adequate systems for assessing the need for such measures on the bridge.

PFD Reports

11. TfL agrees with CTI's approach and timetable in relation to PFD Reports. TfL remains committed to learning lessons through these inquests.

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Temple Garden Chambers, Temple

25 June 2019