

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

CO / _____

BETWEEN:

THE QUEEN (on the application of MOOSA QURESHI and THOMAS GREENE)

Claimants

-and-

THE SECRETARY OF STATE FOR HEALTH AND SOCIAL CARE

Defendant

WITNESS STATEMENT OF TESSA MAY GREGORY

I, Tessa May Gregory of [REDACTED] WILL SAY AS FOLLOWS:

1. I am the partner with the overall care and conduct of this case.
2. I make this statement in support of the Claimants' application for permission to proceed with this judicial review and in order to set out information I have been told in relation to the findings of Exercise Cygnus.
3. Except where I indicate to the contrary, I make this witness statement on the basis of facts and matters within my knowledge. Where these facts and matters are within my own knowledge, they are true. Where the facts and matters in this witness statement are not within my knowledge, they are true to the best of my information and belief. I understand that proceedings for contempt of court may be brought against me if I have made a false statement in this witness statement without an honest belief in its truth.

4. In preparing this application for judicial review I have liaised with a senior journalist from a national newspaper. We were not able to meet in person due to the coronavirus health crisis. The journalist has provided me with information from a trusted confidential source who was involved in Exercise Cygnus at a senior level. I have, of course, been unable to verify the information provided but in light of the absence of information available in the public domain and the Government's refusal to disclose information to us, the information provided has informed the scope of what my clients are requesting to be disclosed and should inform the Secretary of State's duty of candour.
5. In summary, from the information I have received I understand that the leaked publication in the Guardian does not contain the full findings of Exercise Cygnus even in outline. It is thought to be a high level summary report perhaps used to brief ministers on the basics of Exercise Cygnus.
6. In relation to where the findings of Exercise Cygnus can be found, I understand that there is:
 - a) A major document which focusses on all the learnings from Exercise Cygnus and all the actions to be taken following Exercise Cygnus. This compendium of the overall findings details all the specific actions which officials had to take off the back of the pandemic preparedness exercise.
 - b) A specific report focussing on NHS population triage. A key part of Exercise Cygnus was looking at surge capacity and what could be done in the event that the NHS was overwhelmed. There is a major report which considers how different parts of the system could be used to alleviate pressure in the event of a surge, including how social care could be used to relieve pressure on hospitals. This document provided a template for how the Government has dealt with and is dealing with surge capacity during the current pandemic. There may also be other reports focussing on other vertices such as the MoD and police etc.

- c) A report around the emergency powers act and what needed to be done legally to prepare for a pandemic. Exercise Cygnus set out the need for draft legislation during a pandemic and the learnings from Exercise Cygnus formed the basis of the Coronavirus Act.
 - d) Individualised reports which were sent to the “players” in Exercise Cygnus. Each Local Resilience Forum and other participants such as individual NHS trusts were sent an individualised report detailing what Exercise Cygnus had found in their area. This was like a local scorecard - here is what you got right and here is what you got wrong. The reports relate to different aspects including PPE, capacity for hospital beds, mortuary capacity etc. The PPE recommendations were contained within those localised reports and it is likely that this is where concerns regarding the supply of PPE were raised.
 - e) In addition to the above there is a collation of documents/emails between the Civil Contingencies Secretariat and the Department of Health from circa March 2017 which detail the learning and recommendations from Exercise Cygnus and express frustration that steps were not being taken to put the learning and recommendations into effect.
7. I further understand that the plan had always been on the back of Exercise Cygnus to revise and update the UK Influenza Preparedness Strategy 2011.¹ However, after reviewing the findings of Exercise Cygnus a decision was taken not to use the learnings and recommendations to revise and update the Strategy as they were worried that it would be too alarming for the public. This meant that the Government did not tell the people who mattered what Exercise Cygnus had revealed.

Signed:  _____

Dated: 01/06/2020

¹ Department of Health and Social Care 'Policy Paper, Responding to a UK flu pandemic' *Gov.uk* (10 November 2011) <https://www.gov.uk/government/publications/responding-to-a-uk-flu-pandemic>