

IN THE SURREY CORONER’S COURT

BEFORE HM SENIOR CORONER FOR SURREY, MR RICHARD TRAVERS

IN THE MATTER OF THE GUILDFORD PUB BOMBINGS 1974

AND IN THE MATTER OF THE INQUESTS TOUCHING AND CONCERNING THE DEATHS OF:

(1) MR PAUL CRAIG (DECEASED)

(2) GUARDSMAN WILLIAM FORSYTH (DECEASED)

(3) PRIVATE ANN HAMILTON (DECEASED)

(4) GUARDSMAN JOHN HUNTER (DECEASED)

(5) PRIVATE CAROLINE SLATER (DECEASED)

JUNIOR COUNSEL NOTE OF PRE-INQUEST REVIEW

2nd December 2020

1. Abbreviations

1.1 The following abbreviations are used herein:

“CTI”	Leading counsel to the inquests, Oliver Sanders QC;
“HMC”	HM Senior Coroner for Surrey, Mr Richard Travers;
“IP”	Interested Person;
“MOD”	Ministry of Defence;
“MPS”	Metropolitan Police Service;
“PIR”	Pre-Inquest Review;
“RARDE”	Royal Armament Research and Development Establishment;
“SECAMB”	South East Coast Ambulance Service NHS Foundation Trust.

2. Attendance

- 2.1 The hearing proceeded in person at Surrey Coroner's Court, with social distancing measures in place.
- 2.2 HMC began the PIR by welcoming the attendees. The legal representatives in attendance were:
 - 2.2.1 Oliver Sanders QC, leading counsel to the inquests;
 - 2.2.2 Fiona Barton QC, leading counsel for Surrey Police;
 - 2.2.3 Edward Pleeth, counsel for the MOD and the Home Office;
 - 2.2.4 James Berry, counsel for the MPS; and
 - 2.2.5 Eva Pendreich, Head of Legal Services at SECAMB.

3. Summary note of hearing

- 3.1. HMC invited CTI to address the court on developments in the investigation.
- 3.2. CTI accordingly summarised the progress which had been made since the last PIR of 2nd September 2020:
 - 3.2.1. Surrey Police:
 - a) CTI confirmed that Surrey Police had now provided tranches 1 and 2 of their material, which HMC's legal team was in the process of reviewing for relevance.

- b) Tranche 1 consisted of 134 witness statements made by 70 witnesses who were in the Horse and Groom Pub on 5th October 1974, and a Schedule summarising the contents of 712 statements (including the aforementioned 134 statements). HMC's legal team had reviewed all statements initially provided as part of tranche 1, along with a further 444 statements (from 301 witnesses) as requested from the Schedule. The remaining statements did not appear to be relevant based on the summary set out in the Schedule.
- c) Tranche 2 consisted of 139 statements from 114 witnesses who responded to the blast at the Horse and Groom, in particular the emergency services and the police. It also contained a large number of exhibits, photographs and reports. CTI confirmed that HMC's legal team had reviewed all the witness statements, and that the process of reviewing the exhibits, photographs and reports had begun.
- d) Tranche 3 was due to be provided by Surrey Police on 18th December 2020. It was anticipated that it would not contain much material of relevance to the inquest. Rather, it focussed on more peripheral individuals who were in and around Guildford on 5th October 1974.
- e) In total, the legal team had reviewed 717 statements made by 485 individuals. Within tranche 1, at the present time it was considered that there were 278 statements by 158 witnesses which are potentially relevant to the current scope of the inquest. From tranche 2, there were 62 statements from 57 witnesses which are potentially relevant. CTI noted that this made for over 300 witness statements from over 200 witnesses. Happily, it appeared that the majority were still alive, stemming from the fact that it was mostly young people attending the Horse and Groom pub on the night of the bombing.

- f) CTI also confirmed that many of the witness statements were repetitive in terms of what they described. In light of that, it would not be necessary to hear from all living witnesses at the inquest hearings; there will need to be a filtering process. CTI noted that there were 53 individuals who were in the Horse of Groom at the time of the blast and injured (of a larger group of people in the pub at the time). Of those 53 individuals, HMC's legal team had provisionally identified 33 potential "core witnesses", although more work was needed to go through that evidence.
- g) Going forwards, CTI explained that the next step will be for HMC's legal team to identify to Surrey Police the witness statements which it is considered should be disclosed to the IPs, along with the associated exhibits and other documents, so that they (Surrey Police) could consider the need for any proposed redactions. It will then be for Surrey Police to provide an indication as to how long they will need to carry out that task. There was an issue as to whether or not to disclose statements first and other materials later. In terms of identifying material proposed for disclosure, CTI will start with statements and then come on to exhibits and other documents. However, when it comes to disclosure it may be better to provide everything all in one go.
- h) CTI noted that Surrey Police had proposed that the recipients of the disclosure should provide a confidentiality undertaking, and had provided a proposed draft. However, an alternative would be to provide a notice with the disclosure to the IPs, reminding them of the implied undertaking to the court not to disclose material further. HMC indicated he would hear counsel for Surrey Police on that issue in due course.

3.2.2. Metropolitan Police Service:

- a) CTI confirmed that there was no update from the MPS because it had completed its disclosure exercise.

3.2.3. Ministry of Defence:

- a) CTI explained that, from previous PIRs, it had been noted that two army explosives officers had attended the scene of the bombing on 5th October 1974. The full names of those individuals had been provided to the MOD to see if they retained any ability to trace them. Unfortunately, they had not been able to do so.
- b) CTI then referred to a letter from the Government Legal Department on behalf of the MOD dated 16th November 2020, which summarised progress on the searches and enquiries the MOD had undertaken. For the most part, it did not identify any relevant material which was not already in the possession of Surrey Police. However, it had located two personnel files for Guardsman Forsyth and Guardsman Hunter. Those had been requested by HMC's legal team and were to be provided within 14 days.
- c) CTI also referred to the third section of the letter, relating to material held at the Defence Science and Technology Laboratory. The Defence Inquest Unit attended a meeting at the Laboratory with Surrey Police representatives on 11th October 2019. The documentation which had been provided to the MOD's RARDE at the time of the original investigation was taken away by Surrey Police for review. However, there were a further four boxes of material relating to the work that RARDE scientists did for the May Inquiry. Mr Pleeth for the MOD had reviewed that material and produced a Schedule. A lot was obviously irrelevant, and other material was very likely to be in the possession of Surrey Police. However, CTI noted that Mr Pleeth had confirmed that

he would go through Schedule again and provide a copy to CTI highlighting any material which might be relevant, but which wasn't obviously already in the hands of Surrey Police. HMC's legal team will then review that material.¹

3.2.4. Other participants (non-IPs):

- a) In respect of the Home Office (the Department with responsibility for the May Inquiry Archive), HMC's legal team had reviewed a number of files of archive material, from which two files had been requested. They had now been provided to HMC and were just awaiting review as part of the disclosure process.
- b) For Royal Surrey NHS Foundation Trust (the Trust with responsibility for Royal Surrey County Hospital), it had been confirmed that they had exhausted their enquiries, save for contacting one doctor who had treated one of the deceased on the night. It now remained for HMC's legal team to follow up with the National Archives to confirm whether any of the Hospital's predecessor Trusts had previously deposited anything of relevance to the inquests.
- c) In respect of SECAMB, similarly they had indicated that they had exhausted their avenues of enquiry. It now remained for HMC's legal team to follow up with the National Archives to confirm whether any of the predecessor Trusts to SECAMB had previously deposited anything of relevance to the inquests.

3.2.5. Other matters:

¹ Mr Pleeth confirmed that an updated Schedule could be produced within seven days (9th December 2020).

- a) One doctor involved in the events had been traced to Australia, and HMC's officer was seeing if he could be contacted, through making enquiries with the Australian equivalent of the General Medical Council.
- b) The possibility of obtaining expert evidence from a historian was being considered, namely an expert to provide evidence on The Troubles and the IRA bombing campaign at the time. CTI noted that Professor Hennessey had provided evidence to the Birmingham Pub Bombing inquest on that topic, and HMC will contact the relevant coroner, Sir Peter Thornton QC, to enquire about reviewing that evidence and considering if it (or something similar) could be of assistance to the Guildford Pub Bombing inquests.
- c) Finally, CTI made reference to the intended webpage for the inquests. Pursuant to the application made by the BBC at the last PIR, HMC issued a ruling which included provision for a webpage. Work on that was in hand, but ongoing. It was hoped to have a webpage hosted on the Surrey County Council website, although there were some technical difficulties with uploading documents due to their size, and accordingly the page was not ready to go live. In the meantime, any member of the media who wished to access material was able to obtain information from HMC's officer directly.

3.3. Regarding the webpage, HMC noted that the page which was currently operational provided contact details to facilitate the access referred to by CTI, and confirmed that he remained hopeful that the technical issues would be sorted and the webpage would be up and running soon.

3.4. In respect of disclosure, HMC noted that it appeared that by January 2021 he and his legal team would have reviewed all relevant tranche 1-2 witness statements provided

thus far and be ready to provide Surrey Police with a list of those considered to be relevant and disclosable. The same task would need to be carried out for the other documents (exhibits etc.) as well. His preference was to ensure that when disclosure was made to the IPs, both the statements and any connected exhibits go out together, in order to facilitate understanding of the material. HMC said that he was anxious to have a timetable for full disclosure, although he wanted to ensure the timetable was realistic.

3.5. Ms Barton QC for Surrey Police noted that upon receipt of HMC's list of statements, Surrey Police would carry out a review for security sensitivity and Public Interest Immunity matters, but it was anticipated that there would be very little material falling into those categories. Once the material had been reviewed for such redactions, it would be re-submitted to HMC in order for his legal team to carry out a review for the purpose of identifying any redactions necessary for the purposes of data protection.

3.6. Ms Barton then proceeded to provide some further information to add to the update provided by CTI:

3.6.1. She noted that to date just over 4,500 items had been scheduled in tranches 1 and 2.

3.6.2. Tranche 3 would result in the scheduling of about 1,300 further documents, which would be completed by 18th December 2020.

3.6.3. In terms of tranche 4, it was anticipated to be ready by 19th March 2020. The time period reflected the fact that it would contain almost 6,000 items. In terms of the content, it would contain material generated by the original police investigation into the bombings and subsequent prosecutions falling outside tranches 1-3 i.e. it would be peripheral material, and it was not anticipated that it would contain much, if anything, of relevance to the inquests.

3.7. HMC said he did not wish to delay disclosure until tranche 4 was completed. Ms Barton confirmed that there was no problem commencing the disclosure exercise after

tranches 1-3, because it was felt that the vast majority of disclosable material will be within those tranches.

3.8. Ms Barton then addressed HMC on the proposal of Surrey Police that IPs be required to sign an undertaking prior to accessing disclosure material. She noted that it had become commonplace for such undertakings to be utilised in inquests such as these, and explained the reasons in favour of that approach as follows:

3.8.1. Inquests were different from civil litigation, and those involved may have little understanding of the implied undertakings attendant upon disclosure that lawyers are very familiar with. It was important that those being provided with documents appreciated the sensitivity of them, and the importance of maintaining the integrity of the evidence by ensuring that it did not come into the public domain until it was properly deployed within the inquest process. It was noted that there was a risk that if material fell into the public domain before witnesses gave evidence, that evidence could be tainted.

3.8.2. The reason an undertaking was proposed by Surrey Police in this particular case was because there are a number of IPs who are not represented. It would be unfair to expect them to understand, without clarification, exactly what their responsibilities are. The benefit of an undertaking is that it sets out in one clear document the relevant responsibilities of the IPs, and what the consequences will be if there is a breach of the undertaking.

3.8.3. In addition, experience of other cases suggested that if material was made more widely available this could lead to individuals making unsolicited approaches to IPs seeking access to evidence. An undertaking would avoid that sort of input.

3.9. MPS and MOD did not make substantive submissions on the issue.

- 3.10. CTI responded by noting that there was an implied undertaking for any recipient of disclosure that they should not use material for any collateral purpose, and that it should suffice to serve a notice confirming the terms and effect of the implied undertaking with any disclosure. There were potential difficulties in requiring a signature, and it could cause concern to unrepresented IPs, who in any event were under no obligation to sign such an undertaking. There was no reason to suspect that a notice explaining the implied undertaking given upon receipt of disclosure would be disregarded.
- 3.11. HMC noted that such undertakings were becoming more commonplace, although pointed out that he was under a statutory obligation to provide disclosure to IPs. If someone refused to sign an undertaking but still wanted disclosure, it left the court in a very difficult position, although ultimately the disclosure would still need to be provided.
- 3.12. Ms Barton noted that, in her experience, she had never encountered a party who had refused to sign an undertaking, and that the benefit of requiring a signature was that it avoided the difficulty of a mere notice, namely that it was not possible to know who (of those provided with disclosure) had seen and understood it. She confirmed that it was accepted that, in accordance with HMC's statutory obligations, disclosure had to be provided whether an undertaking had been signed or not. However, in such cases the undertaking could be raised in terms at a PIR hearing so that there was a record of what was expected of IPs who had access to disclosure. The advantage of an undertaking was that there was an audit trail of who was on notice of and understood the terms on which they were accessing the material.
- 3.13. HMC queried what the situation would be if the main point of contact for a family (this tending to be the way the court engaged with family IPs) signed an undertaking, but the material was then provided to other family members subsequently who had not signed it. Ms Barton confirmed that the correct course was to expressly require that all members of a family who intended on participating in the inquest and reviewing the

material should be signing an undertaking, as was standard practice e.g. for legal teams.

- 3.14. HMC indicated he would not give a decision on the issue immediately, as the point of disclosure had not been reached, however he would consider the matter and the submissions made.
- 3.15. Ms Barton then invited HMC to give an indication as to the platform to be used to facilitate disclosure. HMC confirmed that the court utilised the document-management system “Caselines”, which allowed customised access (e.g. particular individuals could be granted access to particular documents or particular parts of the database). It was a tried and tested system which had proven to be successful in the Surrey Family Courts and the Surrey Coroner’s court, and it was anticipated that it would be suitable for these inquests.
- 3.16. HMC then turned to the matter of timelines. He noted that PIRs had occurred every three months, and he was keen to continue with that approach in order to ensure that regular updates were provided in public. He queried whether full disclosure could be provided before the next PIR, noting that IPs needed to have it for a period of time in order to be able to have a substantive discussion about it.
- 3.17. CTI submitted that a further PIR in March 2021 would be useful, although it was unlikely that full disclosure would be provided by that time. The statements would probably be processed, but it was unlikely that all the associated exhibits and other documentation would be ready to go before the hearing. Nevertheless, a PIR in March would provide an opportunity to take stock, and in particular to involve the families at that point, in order to get their views on how they wanted disclosure to occur, particularly in view of the fact that some disclosure could be distressing to them.
- 3.18. HMC endorsed that proposal.²

² A PIR was subsequently confirmed for 29th March 2021.

3.19. Finally, Ms Barton addressed a report in the media which referred to the fact that a quantity of National Archive material relating to the bombing was to remain closed. She stressed again, as had been made clear at previous PIRs, that HMC and his team had unrestricted access to such files, and had indeed carried out a review and identified some relevant material. HMC confirmed that his team had access to every document that exists. Whether it was relevant was a matter for the court to decide. There is no material which is closed to or has been withheld from the court.

MATTHEW FLINN

12th January 2021

(Not in attendance, note produced from review of tape)