IN THE SURREY CORONER'S COURT

INQUEST INTO THE DEATH OF PRIVATE SEAN BENTON

Ruling upon whether a jury should be summoned under s.7(3) Coroners and Justice Act 2009

HH PETER ROOK QC
28 JUNE 2017

1. Following its decision to quash the original inquest into the death of Private Sean Benton that was held on 6th July 1995, the High Court ordered a fresh inquest to be heard.

2. Sean Benton's family applied for a judge to be appointed. In February 2017 I was nominated by the Lord Chief Justice to sit as a judge coroner on this inquest.

3. The issue has arisen as to whether I should exercise my discretion to summon a jury. The family of Pte Sean Benton have applied to me to summon a jury to hear this inquest.

4. There is a presumption under s.7(1) CJA 2009 that the inquest will be held without a jury unless the case falls within the categories of cases defined in s.7(2), or s. 7(3) applies.

5. It is accepted that the circumstances where an inquest into a death must be held with a jury set out in s.7(2) of the Coroners and Justice Act 2009 (CJA 2009) ('the mandatory provisions') do not arise in this case.

6. S.7(3) CJA 2009 provides:

   > "An inquest into a death may be held with a jury if the senior coroner thinks that there is sufficient reason for doing so".

   Formerly, a coroner's discretion on this issue was governed by s.8 of the Coroners Act 1988 where there was more permissive wording.

7. Before deciding this application, as was made clear in *R (Fullick) v HM Senior Coroner for Inner North London* [2015] EWHC 3522 (Admin), it is vital to have the scope of the inquest resolved.

Article 2

8. I have already indicated that, in my view, Article 2 ECHR is engaged on a *Stoyanovi* basis. In *Stoyanovi v Bulgaria* [2010] ECHR 1782 the European Court of Human Rights considered an Article 2 obligation did arise in respect of the death of a soldier during a military parachuting exercise as the State was undertaking or organising a dangerous activity where it had to ensure through a system of rules and through sufficient control that the risk is reduced to a reasonable minimum.

9. It is common ground that Sean Benton obtained a lethal weapon, containing live ammunition, from a fellow trainee, in circumstances where that fellow trainee was unsupervised on Guard Duty. It is clearly arguable that the arming of a trainee with such a weapon and live ammunition in circumstances where another trainee, Sean Benton, was able to obtain possession of the weapon constituted a 'dangerous activity' within the meaning of *Stoyanovi.* It follows that the State's Article 2 procedural requirements are engaged and this inquest is not restricted to recording only the direct mechanism of death. That means that, in accordance with s.5(2) CJA 2009 which codified the seminal decision of *R (Middleton) v HM Coroner for West Somerset* [2004] 2 AC 182, the circumstances in which Sean Benton came by his death, must be considered and, at the very least, any causative matters (whether in isolation or in combination with others) be included in the Record of Inquest / Article 2 narrative. .

10. It does not however follow from the engagement of Article 2 that a jury is necessarily required. It is a neutral factor. There is no Convention right to a jury.

11. There is an agreement that the scope of this inquest is:

    1. The mechanism of death;
    2. When and where the death occurred;
    3. The events of the evening of 8-9 June 1995;
    4. Who fired any shots on 9 June and whether any third party action was involved in the death;
    5. Sean's state of mind on 9 June 1995;
    6. How Sean was assessed and disciplined during his army career and the impact of this, if any, upon his state of mind on 9 June 1995;
    7. How the process of Sean's pending discharge from the Army was managed and the impact of this, if any, upon his state of mind on 9 June 1995;
    8. Whether Sean was subjected to bullying and harassment at Deepcut and, if so, the and the impact of this, if any, upon his state of mind on 9 June 1995;
    9. How Sean's mental state and self-harming behaviour was assessed, understood and managed at Deepcut - including his contact with mental health professionals and the impact of this, if any, upon his state of mind on 9 June 1995;
    10. Whether any systemic shortcoming relevant to June 1995 in the following areas caused or contributed to the death;
    a. policies and systems in place at Deepcut Barracks in respect of supervision and support of trainees; (including managing recruits who had difficulties in stage 1 training)

b. policies and systems in place at Deepcut Barracks in respect of mental health assessment and care of trainees;
c. policies and systems in place at Deepcut Barracks in respect of the disciplining of trainees;
d. policies and systems in place at Deepcut Barracks in respect of managing discharged trainees;
e. policies and systems in place at Deepcut Barracks in respect of guard duty and the provision of weapons.

12. It is accepted that Phase I training at Pirbright is within the inquest scope as relevant background.

13. It follows that the scope includes (i) possible failings by State agents in the immediate period leading up to Sean's death which may have caused or contributed to his death and (ii) possible failings by State agents who were responsible for Sean's training, care, welfare, mental state and safety.

The family's submissions

14. Mr Paul Greaney QC on behalf of the family submits that there are multiple compelling reasons why a jury should be summoned and accordingly the "sufficient reason" test in s.7(3) is satisfied: He tells me, and I accept, that the family hold strong views that the inquest should be held with a jury.

15. Mr Greaney made it clear that the family take no issue with my independence or integrity. Their desire for a jury is based on reasons unrelated to me, which pre-date my involvement in the case. In particular, it is said that this view has been formed in the light of the failings in the previous investigations into Sean's death, which included the inquest held in 1995 by a Surrey Coroner, sitting alone in the Surrey coronial jurisdiction without a jury. This contends Mr Greaney is a reason why the family's view should be given special weight. Clearly the family's view, whilst not determinative of this issue, is important.

16. Mr Greaney contends that public confidence and the wider public interest require a jury be summoned. He submits that the perception of independence that a jury would generate in public is a matter of very considerable importance. It is submitted that Sean's death raises questions of the most acute public importance and concern involving State responsibility in the death of a vulnerable young trainee and the inability or unwillingness of the State to investigate the death and identify how Sean came to die. A lay jury, it is argued, will ensure public confidence and a perception of scrupulous independence in addressing issues of critical public interest. It would not only be actually independent of the state. It would be perceived to be so.

17. He submits that the facts of Sean's death closely resemble situations where the mandatory provisions under s.7(2) would apply. Although neither of the mandatory provisions strictly apply in the circumstances of this case, there are strong parallels. In particular, it is contended that when Sean died he was

under the control of the State in circumstances closely resembling a custodial setting, and there is reason to suspect his death was the result of the acts or omissions of State agents, including those directly responsible for his training, care, safety and wellbeing. On the day before his death Sean was formally detained against his will. It is accepted that he was not in custody or state detention at the time of his death, but it was not long after his release that the State, albeit inadvertently, allowed Sean access to a loaded lethal weapon at a time when it was known he was suffering from mental health issues, emotional difficulties and suicidal ideation

18. Mr Greaney submits that Sean died from multiple gunshot wounds while under the control of the State. His death was both unnatural and violent. At the time of his death he was located in an environment where his movements were strictly controlled by the State, his daily regime was set by State agents, he was located in a State barracks bounded by perimeter fencing and armed guards prevented him from leaving, he was subject to enforceable orders from State officials, and he could be and was punished by the State for ill-discipline or poor performance, including through the use of formal detention against his will. He could not leave the barracks without permission, and had he done so he would have committed the offence of being absent without leave, punishable by a term of imprisonment.

19. He also submits that there was clear evidence that Sean was subjected to repeated serious physical and mental abuse by State agents, including from those responsible for his welfare after it was known that he was suffering from mental health issues, emotional difficulties including once expressed suicidal ideation, deliberately harmed himself and attempted to overdose.

20. Mr Greaney further submits that there remain, even after 21 years, significant evidential uncertainties as to the circumstances of Sean's death. In particular it is contended that, quite apart from the acts or omissions of those directly responsible for his care, safety and well-being, there is evidence that Sean may have been fired upon by, or been involved in, an exchange of a fire with a senior officer immediately prior to the fatal wounds that killed him. Mr Greaney argues that possible scenario resembles situations where death occurs as a result of an act or omission of a police officer. The resolution of these matters involves consideration of possible State responsibility at multiple levels and so favours the summoning of a jury.

21. Mr Greaney contends that the concerns raised by other Interested Persons as to the practical consequences of summoning a jury are more imagined than real. Inquest juries routinely consider detailed material and reach conclusions in high-profile and complex inquests. They do provide significant findings with clear, meaningful and reasoned conclusions, that distil complex evidence, identify causes/ contributory factors, resolve evidential disputes and allay suspicion. Mr Greaney prays in aid recent inquests which illustrate this point and show what inquest juries have achieved in other cases. In short he says that an inquest jury can be trusted with appropriate assistance from counsel and ultimately the coroner in providing a route to verdict/

conclusion. In particular he has provided me with a copy of the general questionnaire used for the jury determinations in the inquests into the deaths resulting from the Hillsborough Stadium Disaster as just one recent example where a jury coped well with significantly more material than will be relevant in Sean Benton's inquest.

22. It is also contended for the family that the engagement of Article 2, bringing with it the requirements of an Article 2 ECHR investigation, supports the view that I should exercise my discretion to summon a jury albeit it is conceded that the engagement of Article 2 ECHR does not automatically require a jury to be summoned. Where the State may be at fault, steps must be taken to assuage public concerns and uphold public confidence.

23. As to the suggestions from those representing the Interested Persons Mr Gavaghan and Mr Holder that there is a substantial risk of contamination/bias in the light of the continuing damaging and sometimes sensationalist publicity, Mr Greaney argues that any risk can be eliminated by appropriate direction. He concedes that the inquest may take longer with a jury when it comes to expert evidence, but with active case management the inquest should be concluded within the time estimate. In any event, it is accepted by all parties that time and cost are not relevant considerations in respect of my decision whether there is sufficient reason to summon a jury.

Submissions on behalf of Andrew Gavaghan and Martin Holder

24. Miss Francesca Whitelaw, on behalf of Andrew Gavaghan and Martin Holder (both Interested Persons in this inquest) submits that there are significant and pressing reasons why I should not sit with a jury.

25. She invites me to compare the difference between the fully reasoned coroner's decision in the Cheryl James inquest as well as the conclusion of the Wiltshire and Swindon Coroner in the inquest into the death of Anne-Marie Katherine Ellement with the examples of jury conclusions provided by the family. She reminds me that the examples provided by the family relate to mandatory jury inquests. They do not contain reasoning. They do not deal with policy issues, and there is much less focus on resolving evidential difficulties.

26. In particular, she raises two further matters which she says are areas of concern which could arise because of the danger of conscious or sub-conscious contamination and which cannot be cured by appropriate legal direction:
    a. the difficulty of being assured of a properly impartial jury;

    b. the difficulty of ensuring the jury are not influenced by media coverage both before and during the inquest; as Miss Whitelaw puts it, there is no fade factor in respect of Deepcut. She brought to my attention exceptionally grave allegations made against Mr Gavaghan and the dangers that following publicity , including 3 documentaries, he is

associated in the public mind with bullying. She submits that a coroner sitting alone can eliminate any such difficulty.

27. She reminds me of my obligation to ensure procedural fairness to witnesses in proceedings which will be non-adversarial. My duties include an obligation to protect witnesses when necessary. Messrs Gavaghan and Holder do not have the protections of afforded to defendants in a criminal trial.

28. She particularly stresses the inability of a jury conclusion, if appropriate, to allay suspicions of deliberate wrongdoing in comparison with a reasoned decision. She contrasts this with the way the coroner, in his or her factual findings, is able to deal with a false allegation and so allay public suspicions. To illustrate this she referred me to HH Brian Barker CBE QC's findings in respect of Pte Beards' allegation in the Cheryl James inquest. [See para. 32]

29. Miss Whitelaw relies in particular on *Collins* [2004] EWHC 2421 (Admin) [2004] ILR 106, para 5, where a retired Crown Court judge had been appointed as coroner as the original inquest was quashed. The court took the view that his decision not to sit with a jury could not be challenged. The events in question had taken place 20 years earlier and the court highlighted the benefits of a heavy and difficult investigation being carried out by a professional judge. Miss Whitelaw contends that a judge is best placed to see all the documents, resolve questions of evidential dispute, and make appropriate allowance for historical / inconsistent accounts because of the passage of time. She emphasises the difficulties that may arise because the majority of witnesses did not give their accounts until 2002/2003 7 or 8 years after Sean's death.

30. Finally she submits that the facts of this case do not bear a sufficiently close resemblance to types of situation covered by the mandatory provisions for this to be or contribute to there being a sufficient reason to summon a jury. Submissions of the family depend upon an inappropriate elision between state control and state detention. The inevitable corollaries of Service life (such as residence on a barracks with a security offence , or the requirement to submit to lawful orders) do not amount to compulsory detention by a public authority. Factors such as the requirement to carry out guard duty or access to firearms are distinct from state detention. This is not quasi-State detention.

31. She points out that this is a far cry from the high level conspiracy of the state alleged in *Paul.* In her written submissions she stresses that it is not correct that wherever actions of the State are under scrutiny , or where the State, by its agents, may have some responsibility for the death, a jury should be summoned. Were it otherwise, a jury would be summoned in every hospital death where there is criticism of medical staff; and every suicide that occurs after release from prison or prison custody where there is a suggestion of a failure to offer mental health intervention. The involvement of "state agents" would include deaths in hospital and accidents on premises occupied by local government.

Submissions of the Ministry of Defence

32. Mr Nicholas Moss, on behalf of the Ministry of Defence (MOD), has indicated that the MOD does not take an adversarial position on whether juries should be summoned in military inquests where it is a matter for the Coroner's discretion. However, he has brought to my attention five relevant interlinking factors which he contends militate in favour of me sitting alone.

    (i) Sitting alone I can announce detailed factual findings in public in a case such as this which is both controversial and complex. In contrast, it is not the jury's function to prepare detailed factual statements. That will only fall to a jury in so far as they form part of the answers to 'how' Box 3 and conclusions Box 4. (See Chief Coroner's Guidance no 17, Conclusions: Short-Form and Narrative). Even if the jury returns a narrative conclusion in Box 4, they are obliged to limit such a narrative conclusion to a few sentences or one or two short paragraphs. Long narratives should not be given. They achieve neither clarity nor accessibility. There are recent examples of 2 high profile inquests in which detailed factual findings were made to the benefit of the public. (*Amenas and Tunisia inquests.)* He also relies upon 3 recent examples in the military context of detailed factual findings given by coroners sitting alone. (*Cheryl James, Anne-Marie Ellement,* and *Gavin Williams.)*

    (ii) A jury can by way of narrative conclusion convey a broad overall conclusion on the central issues, but it is impossible for a jury to subject the issues to the same level of publicly available reasoned assessment as can a coroner. A coroner can, if appropriate where necessary, provide a reasoned assessment to allay public concern.

    (iii) The legal and factual complexity of this inquest with a mass of potential satellite issues means that it is precisely the sort of investigation that can be best carried out by a professional judge.

    (iv) The four Deepcut deaths have attracted widespread media reporting and some of it has been sensationalist. There is an acute risk of prejudice and contamination arising from media coverage. A number of discredited allegations have been circulating since at least 2002.

    (v) There are likely to be logistical problems sitting with a jury on a long inquest.

33. Mr John Beggs QC, on behalf of the Surrey Police (SP), has indicated that the SP take a neutral stance on whether there is *"sufficient reason"* to displace the presumption. However, he stressed the advantages in respect of the public interest given the challenges of dealing with matters that took place almost 23 years ago in a critically reasoned judgment in contrast to questionnaires however well drafted.

34. Mr Edward Pleeth, on behalf of Dr McLenahan, an interested person, took a neutral stance and aligned himself with the submission on behalf of the Surrey Police and the Ministry of Defence.

The law governing the exercise of discretion under s.7(3) CJA 2009.

35. In *R (Fullick) v HM Senior Coroner for Inner North London* [2015] EWHC 3522 (Admin) the Divisional Court provided a non-exhaustive list of factors relevant to the correct exercise of discretion under 7(3). None of them are necessarily determinative:

    (i) the wishes of the family (following *R (Paul) v Deputy Coroner of the Queen's Household and the Assistant Deputy Coroner for Surrey* [2008] QB 172.)

    (ii) submissions made on behalf of any other Interested Person or Persons.

    (iii) consideration of whether the facts of the instant case bear any resemblance to the types of situation covered by the mandatory provisions.

    (iv) The circumstances of the death.

    (v) Any uncertainties in the medical evidence

36. In *R (Shafi) v HM Senior Coroner for East London* [2016] 1 WLR 640 Bean LJ, giving the judgment of the court, when considering the mandatory provisions, stated :

    "*In our view the legislative policy underlying section 7(2) (a) –(b) of the 2009 Act is clear. Where a death occurs in custody or because the action or omission of a police officer, the actions of agents of the State are under scrutiny; and the verdict at the inquest must be returned by a jury, as a body of people, who are and are perceived to be wholly independent of the State".*

37. It does not follow from this that there is "sufficient reason" for a coroner to sit with a jury every time an agent of the State is in some way implicated in a death.

38. The additional cost of conducting an inquest with a jury is, in my view, not relevant to my decision. Nor are the possible logistical problems that can arise in long cases tried by juries. These are surmountable.

Importance of the factor that a Coroner sitting alone would be able to provide a reasoned conclusion whereas a jury would only be able to provide brief answers to a limited number of questions.

39. There is disagreement to whether this should be a relevant factor and, if so, the extent of its relevance. Mr Moss, on behalf of the Ministry of Defence, has drawn to my attention the observations of the Court in *Paul* where it was stated that the Coroner was right to take that matter into account. He has also referred me to *R (Collins) v HM Coroner for Inner South London* [2004] EWHC 2421 (Admin) [2004] ILR 106, as authority for the proposition that the complexity of an inquest, the historical nature of the fatality being investigated, and the ability of an inquest conducted by a judge alone to give a fully reasoned decision, are three further factors which can legitimately be taken into consideration in the exercise of the coroner's discretion. In *R (Francis) v Inner South London Deputy Coroner* [2005] EWHC 980 (Admin) Hughes J, (as he then was), observed that a detailed reasoned judgment of the kind given by the Coroner would be impossible where a coroner sits with a jury.

40. Mr Greaney points out that the Divisional Court in both *Fullick* and *Shafi* , which were decided under the CJA 2009 regime following consideration of the previous case law , made no suggestion that the need for a coroner to deliver reasoned conclusions. This he contended was because under the CJA 2009 and the developments in the law on narrative conclusions as a result of Article 2, inquest juries can provide clear, meaningful and reasoned conclusions that identify the causes and the contributory factors leading to the death as well as resolving evidential disputes. To illustrate this, he has provided examples of jury conclusions in recent inquests.

41. I have reached the conclusion that the ability of the Coroner to give a fully reasoned decision with detailed factual findings remains a factor that can be taken into consideration. It is clear that the factors set out by the Divisional Court in *Fullick* and *Shafi* were non-exhaustive. It was *Middleton* in 2004 that changed the regime not the 2009 Act. Both *Francis* and *Paul* postdated *Middleton.* Christopher Dorries OBE in *Coroners' Courts A guide to law and practice 3rd edition* [2014] refers at para 8.32 to *Paul* cites the 'reasoned decision' point from *Collins* with approval. Clearly the weight to be given to this will depend upon not only the complexity of the inquest but, in particular, the scope of the inquest .

Risk of prejudice or bias sitting with a jury

42. I accept that there has been considerable media coverage including sensationalist allegations which has not been controlled as would have been the case before a criminal trial. As Mr Moss has pointed out, for many years the media has not felt constrained at all in comment about Deepcut generally or Mr Gavaghan and there has been sustained often adverse reporting about Deepcut. In most criminal cases any adverse publicity will be limited to the pre-charge phase. However here there is no equivalent and I accept that

without appropriate direction there would be a significant risk of media induced prejudice.

43. However, if necessary a questionnaire can be drafted before jury selection so as to ensure the impartiality of the jury. Furthermore strong coronial directions to the jury combined with the discipline of the inquest process can be relied upon substantially to diminish, if not eliminate, the risk of the jury being improperly influenced by extraneous matters. Mr Beggs has referred me to difficulties with the press that have arisen in a current inquest and its "pernicious impact" upon witnesses. I recognise that heavy media reporting can distort witnesses' evidence. However, it must be borne in mind that the press are only entitled to report matters heard in open court to the extent that they report those matters accurately. High profile criminal cases sometimes take place against the background of massive media attention and juries can be trusted to follow judicial directions, to disregard media reporting, and not to be deflected from their tasks. It follows that I do not regard the dangers of prejudice engendered by media misreporting as a determinative factor as that can be controlled, although I accept that by sitting alone the dangers can be eliminated altogether.

Ability of a jury to cope with complex evidence

44. The issue of the complexity of the evidence (including a significant number of experts on different topics) has been raised as a factor militating against the summoning of a jury. In my view, it is neutral. From my own experience in the criminal jurisdiction juries can carry out their duties even in the most controversial, complex and document heavy cases provided the judge and the lawyers properly distil the issues for them. I agree with Mr Greaney that there are good examples of juries coping with similarly complex evidence in inquests involving State agents and possible state responsibility. He has referred me to the inquests into the deaths of those who killed at the Hillsborough Stadium Disaster, and the deaths of Mark Duggan, Olasenu Lewis, Imran Douglas, Alice Gross and Dean Saunders. Furthermore, juries are, of course, perfectly capable of resolving disputes in the evidence. The passage of time will be a difficult issue in respect of many witnesses who first made a statement seven years after the events they describe, and will be relying upon those statements 15 years later and I accept Mr Beggs' contention that antiquity inevitably increases the challenges to a tribunal of fact in respect of evidential analysis. However, a jury appropriately directed by the Coroner can be trusted to make the appropriate allowances.

Close resemblance of facts of case to a mandatory jury situation

45. Sean did not die whilst in custody or otherwise in state detention (s.7(2)(a) CJA). His death did not result from the act or omission of a police officer or a member of a service police force in the purported execution of their duty.

46. However, I do not accept Mr Greaney's submissions that the circumstances of Sean's death closely resembles both the situations covered by the

mandatory provisions s.7(2)(a) and (b). I propose to consider the 3 strands to Mr Greaney's argument.

(i) In my view, the analogies with State detention, on the basis of trainee conditions, is misconceived. It was Sean Benton's voluntary choice to be in the army and have the restrictions of army life. When Sean died he was not in detention and he was a voluntary non-conscripted soldier who had accepted the restrictions that come with being a private in the army living in a barracks

(ii) Bullying and harassment by state agents will undoubtedly be an important issue in this inquest. Furthermore the assessment, understanding, and managing of Sean's mental state including his self-harming behaviour and his contact with mental health professionals will involve the scrutiny of the conduct of other state agents. However the implication of these state agents does not place this case near to a mandatory category.

(iii) Mr Greaney contends that the immediate events leading up until Sean's death bring this case close to a s.7(2)(b) mandatory type of case there is reason to suspect the death resulted from the act or omission of a police officer or a member of a service police force in the purported execution of the officer's (or member's) duty. Upon the day before his death Sean was formally detained for a short period against his will. Upon his release he was able to access a loaded weapon owned and provided by agents of the State. Mr Greaney suggests that there is evidence Sean may have been fired upon, or been involved in an exchange of fire with a senior officer (in fact a Corporal a junior non-commissioned officer) immediately prior to the shots that killed him.

47. In that Corporal Holder was senior to Sean and was the guard second-in-command, this is the closest the circumstances come to resemblance to a mandatory category. However, it is important to note that Corporal Holder was not a police officer nor a member of a service police force. Corporal Holder was a junior non-commissioned officer who was a member of the unit training staff who happened to be on duty overnight on 8-9th June 1995. In relation to Sean Benton he was a senior officer, but he had no policing powers whether military or civilian.

48. I must deal with one further point that Mr Moss, whilst accepting that the issue of Corporal Holder's involvement falls within the scope of this inquest and cannot and must not be prejudged, invites me to give limited weight to this aspect when making the jury decision, given the complete rejection of the possible involvement of Corporal Holder in any infliction of injury by Sir Nicholas Blake's Deepcut Review after substantial independent scrutiny. Notwithstanding the force of Sir Nicholas Blake's conclusions in this area, I have chosen to disregard this point as this falls within the scope of this fresh inquest and is to be considered afresh.

49. In my view the similarities between this case and the mandatory categories are limited even when taken cumulatively. This was far removed from state

detention. Even making an allowance for a possible involvement of Corporal Holder and for the sake of argument ignoring contrary evidence and the conclusions of the Blake review, Corporal Holder was not a law enforcement officer and was not carrying out law enforcement duties. It follows that, in my view, this case does not fall into the category of case where there is such a close resemblance to the mandatory categories, it should be treated as if it were in the mandatory category.

CONCLUSIONS

50. In my view, the presumption in s7(1) CJA 2009 in favour of my sitting alone without a jury has not been displaced. The family's wishes are important and I have given them significant weight. The family must and will enjoy full participation in this inquest.

51. I also take into account the views of the Interested Persons Mr Gavaghan and Mr Holder, although their personal wishes carry less weight than those of the family.

52. I agree with Mr Greaney that this inquest may raise questions of acute public importance involving state responsibility for the death of a young soldier and this is relevant to whether there is sufficient reason to summon a jury. I also agree that public perception is critical. However, it does not follow that because the actions of the State, by its agent are under scrutiny and may bear some responsibility for the death, a jury should be summoned. In the circumstances of this particular inquest I do not accept that public confidence can only be achieved by an independent jury. There is no reason why a professional independent tribunal nominated by the Lord Chief Justice to act as coroner in this case and which undertakes its duty in a fearless and impartial manner, so as to ensure the relevant facts are fully and fairly investigated, should not enjoy public confidence. In any event, it is well-established that the autonomy of the office of coroner is an important safeguard for society. As Christopher Dorries puts it, overt independence is the cornerstone of the inquest. Having considered the agreed wide scope of this inquest including the suggestion of systemic failings and the allegations which will need to be investigated thoroughly in evidence, I am firmly of the view that there are significant benefits in the public interest if I sit alone without a jury.

53. My decision does not in any way reflect any cynicism upon my part about the jury system. Juries can be trusted. Rightly they enjoy a high degree of public confidence. They will respond appropriately to directions. They can cope with the complex and historical nature of the case and the dangers of improper media induced prejudice can be controlled. I am impressed by the gold standard general questionnaire for jury determinations used in the Hillsborough inquests, which illustrates what can be achieved.

54. Nevertheless, I remain of the view that this inquest is best conducted without a jury. I agree with the submission that the reasoned factual findings that

cannot form part of a jury's conclusion will be of considerable importance in this case and they may require detailed reasons and nuanced factual findings about individuals. In my view public confidence and the public interest can be better served by the scrutiny of the facts by a professional judge together with the benefit of detailed and reasoned factual findings announced publicly that as a coroner sitting alone I will be making. It follows that I accept Mr Moss's submission that I have set out at paragraph 32(i). Furthermore and of significance, I will be best equipped to allay public concerns where appropriate, and, whilst not a determinative factor, the undoubted risk of jury prejudice in this case, can be completely eliminated.

HH PETER ROOK QC
Nominated Coroner
28 JUNE 2017