Case No: C1/2017/2464

Neutral Citation Number: [2018] EWCA Civ 6
IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
Mr Justice Holroyde
CO6752017

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 17/01/2018

Before:

THE LORD CHIEF JUSTICE OF ENGLAND AND WALES
LORD JUSTICE TREACY
and
LORD JUSTICE HICKINBOTTOM

- - - - - - - - - - - - - - - - - - -

Between:

THE QUEEN **(on the application of** **DONALD MAGUIRE** **KERRY ANN MAGUIRE** **EMMA-JANE MAGUIRE** **ANDREW POOLE** **DANIEL POOLE)**	**Appellants**
- and -	
THE ASSISTANT CORONER FOR WEST YORKSHIRE (EASTERN AREA)	**Respondent**
- and -	
WILLIAM CORNICK **MS S CONNOR AND D COURTNEY** **LEEDS CITY COUNCIL** **WEST YORKSHIRE POLICE** **LEEDS SAFEGUARDING CHILDREN BOARD**	**Interested Parties**

- - - - - - - - - - - - - - - - - - -

Mr Nick Armstrong and Ms Kirsten Sjøvoll (instructed by **Irwin Mitchell Llp**) for the **Appellants**
Ms Cathryn McGahey QC (instructed by **P Jaques on behalf of City Solicitor, Wakefield Council**) for the **Respondents**
Mr Oliver Campbell QC (Instructed by **N Murphy**) for **Leeds City Council**

Hearing dates: 31 October 2017

- -

Judgment

Lord Burnett of Maldon CJ:

1. The issue in this appeal is whether it was open to the coroner conducting the inquest into the death of Ann Maguire, who was murdered by a pupil on 28 April 2014 at Corpus Christi Catholic College in Leeds, to decide not to question further, or call as witnesses at the inquest, approximately nine fellow pupils with whom the assailant had contact that morning. The appellants, Mrs Maguire's husband and other family members, brought judicial review proceedings in which they argued that no reasonable coroner considering the circumstances of this tragic case, and the scope of the inquest he had determined, could lawfully conclude that he should not call them. Holroyde J, as he then was, dismissed the claim for judicial review on 14 August 2017: [2017] EWHC 2039 (Admin). The appeal was expedited because the inquest was due to resume on 13 November. At the conclusion of the oral argument we announced that the appeal was dismissed. These are my reasons for joining in that decision.

The Legal Framework

2. Section 5(1) of the Coroners and Justice Act 2009 ["the 2009 Act"] restates the long-established purpose of an inquest is to establish who the deceased was, and how, when and where the deceased came by his or her death. By section 5(2), in cases where the procedural obligation in connection with a death applies under article 2 of the European Convention on Human Rights, the purpose is to be read "as including the purpose of ascertaining in what circumstances the deceased came by his or her death". The statutory expansion of the purpose of the inquest in article 2 cases gives expression to the decision of the House of Lords in *R (Middleton) v West Somerset Coroner* [2004] 2 AC 182. It concluded that the traditional meaning of the term "how a deceased came by his death" as meaning "by what means" was too narrow to satisfy article 2 cases engaging the responsibility of the state, see, in particular, paragraphs [3], [4] and [35] of the considered opinion of the Committee given by Lord Bingham of Cornhill. The question whether the inquest into Mrs Maguire's death is to be conducted as an article 2 inquest is yet to be determined but, by invitation of all parties, we approach the issue in this case on the assumption that it will be. There is no question that the scope of the inquest as determined in this case (as to which see paragraph 6 below) does not satisfy article 2, should it apply.

3. Under the Coroners Act 1988 and its predecessors, a coroner was required to examine such witnesses as appeared 'expedient', see section 11(2). The formulation is different in Schedule 5 to the 2009 Act which simply empowers a coroner by notice to require a person to attend to give evidence or to produce evidence. But the change has not affected the basis upon which a coroner's decision to decline to call or seek evidence may be challenged. The decision about which witnesses to call to give evidence at an inquest may be challenged in judicial review proceedings on traditional public law grounds. The context of any challenge will be that the coroner has a duty to conduct a thorough inquiry within the scope he has determined to enable the statutory purposes to be satisfied. There may be cases in which it can be shown that, absent an identified line of inquiry or examination of a particular available witness, the procedural obligation under article 2 cannot be satisfied. But in the generality of cases the issue will be whether the failure to investigate something or obtain evidence, including by calling a witness, was *Wednesbury* unreasonable. In *McDonnell v HM Assistant*

Coroner for West London [2016] EWHC 3078 at [28] Beatson LJ summarised the position:

> "It is clear that, as Lord Lane CJ stated in *R v South London Coroner, ex parte Thompson* (1982) 126 SJ 625 and Sir Thomas Bingham stated in *Jamieson's* case at 24 F-G, this type of inquest is a fact finding exercise not a method of apportioning guilt. It is also clear that decisions by a coroner as to the scope of enquiry and as to which witnesses to call are a matter of judgment which may only be challenged on the ground that they are *Wednesbury* unreasonable, i.e. irrational: see *R* v *Inner West London Coroner, ex p. Dallagio* [1994] 4 All ER 139 and *R (Mack)* v *HM Coroner for Birmingham and Solihull* [2011] EWCA Civ 712 at [9]."

In *Mack* at [9] Toulson LJ had emphasised the wide area of judgment that a coroner enjoyed in deciding who to call to give evidence.

The scope of the inquest

4. Mrs Maguire was a Spanish teacher at the school. It takes pupils from year 7 to GCSE in year 11. There are about 950 in total, thus approaching an average of 200 in each year group. Mrs Maguire was murdered by a pupil named William Cornick, who was then aged 15. During a Spanish lesson, he stabbed Mrs Maguire seven times with a large knife he had brought into school that morning. He was subsequently convicted on his guilty plea of the murder of Mrs Maguire and sentenced to be detained at Her Majesty's pleasure, with a minimum term of 20 years. An inquest had been opened and adjourned by the Senior Coroner of West Yorkshire. After the criminal proceedings were concluded, he decided at a hearing on 25 January 2016 that it should be resumed. He passed the conduct of the inquest to Kevin McLoughlin, an assistant coroner for the jurisdiction ("the coroner"), who in turn conducted pre-inquest reviews on 21 November 2016 and 13 January 2017.

5. The coroner heard argument on the scope of the inquest. The immediate circumstances of the murder had been fully investigated in connection with the criminal proceedings. Although there had been no contested trial, they had been sufficiently explored and publicly ventilated, both in the sentencing remarks of the judge and then in a judgment of the Court of Appeal Criminal Division. The broad issue which justified the resumption of the inquest centred on the rules and policies that the school had in place relating to bringing knives (and no doubt all weapons) into school and how pupils should react if they became aware of their presence.

6. At the review on 21 November 2016, the coroner concluded that the inquest would consider:

> "(a) The policies and procedures prevailing at the School for matters to be reported in confidence by pupils to staff members;
>
> (b) Whether such policies and procedures had been communicated to the pupils; and if so, how;

(c) The rules of the School concerning the risks associated with knives in particular and the need to report anything known or seen to staff members."

The coroner indicated that he included within his sub-paragraph (a) the role played by a local police officer who was assigned to the school and who would be able to give evidence about her role at the time. That was something which Mr Armstrong, who appeared then as now on behalf of the immediate family, had submitted was within the proper scope of the resumed inquest. He had also submitted that the inquest should explore:

"(e) What did students understand about not evaluating themselves the risk represented by an individual, and whether those risks were genuine?"

The coroner concluded that this question was not within the scope of the inquest. The question stemmed from the fact that a number of pupils did not take William Cornick seriously when he uttered threats, and had explained their approach in interviews conducted by the police.

The evidence of the pupils

7. The background to the broad issue was that a small number of pupils were aware that William Cornick had a knife on him that morning and he had told some of them of his hatred of Mrs Maguire and desire to kill her. Each of the pupils was interviewed by specialist police officers in the immediate aftermath of the murder using "Achieving Best Evidence" techniques familiar in the criminal courts. The interviews were video recorded and, with appropriate editing, would have been played as the evidence-in-chief of these witnesses had there been a criminal trial. Each described his or her dealings with William Cornick that morning. In summary:

i) CB was told by another pupil that William Cornick had said he was going to do something stupid, but he did not specify what and they "left it there 'cos we didn't really think much of it". He met William Cornick and another child, DP. William Cornick said he would stab a teacher. When DP said he would report it, DP was threatened but CB still thought William Cornick was joking. William Cornick had also said he would do something to Mrs Maguire. He had long said that he hated teachers, in particular disliked Mrs Maguire, and hoped she would die. CB did not see the knife which was in his bag.

ii) ED said in interview that William Cornick had spoken that morning of stabbing three teachers, including Mrs Maguire. He showed ED and other pupils a bottle of Jack Daniels he had in his bag and joked that he would go around classrooms "picking off" and stabbing teachers. He too did not see the knife. ED explained that he, JW and KK thought that William Cornick was joking because he often talked about hurting people. He had spoken of stabbing three teachers the previous Friday and that he would do something on a Monday because he knew where all three would be. The murder occurred the following Monday. They just did not believe him. On the day of the killing he did not say he had a knife.

iii) JW2 was told by DP that William Cornick claimed to have brought a knife into school on the morning of the murder. JW2 said that he "didn't think owt of it because … he sort of went around saying these things that he wishes he could do and I just assumed that it was one of those things." JW2 was also told by DM and NS after the murder that in an earlier science lesson, William Cornick had said that he would harm Mrs Maguire, but they thought it was one of his "morbid jokes".

iv) DM confirmed this and explained that William Cornick had said he had two sharp objects and a bottle of gin in his bag. He was always talking of wanting to kill. She told the interviewing officer that had she taken him seriously she would have reported him.

v) JW said that William Cornick had shown the knife to one of a group of six who were together during the morning break. JW saw it. One of the group said he would report it to the teacher who was head of their year, i.e. year 11. William Cornick said he would turn the knife on the group if anyone reported him. JW decided to get away as quickly as possible and tell someone. He waited until the pupils had gone back into class. He then told a teacher that William Cornick had a knife and that earlier in the day he had threatened to stab Mrs Maguire. He said that they did not take the threat, which extended to two other teachers, seriously. That teacher took him to the head of the year but by this time Mrs Maguire had been attacked by William Cornick.

vi) DP said that William Cornick had told him earlier that he was going to stab Mrs Maguire and showed him something in his bag, although DP could not identify what it was. Nobody believed him because he said things like this all the time. Nonetheless, DP was worried that what he had seen in the bag might have been the handle of a knife and so he told JW2. JW2 thought William Cornick would do nothing. At break-time DP told William Cornick that he would tell someone. The response was that if DP told anyone he would "do it faster, then I'll get you as well." DP panicked and thought that if he told a member of staff they would simply demand to search William Cornick's bag making it obvious who had reported him. But anyway, DP explained that he was unable to get away from William Cornick and they walked together towards the fateful Spanish lesson. He thought William Cornick was alright because he behaved normally; nothing would happen. DP recognised that he could have done something to save Mrs Maguire, but did not.

vii) KK said that William Cornick had been speaking the previous week about killing Mrs Maguire but that "we thought he was messing around". He had said he would kill three teachers running between classrooms but this was viewed by others as "a fantasy game". On the day of the murder, William Cornick showed KK a knife and had again said he would kill three teachers, but he and others did not believe him. They mocked him and he had laughed. KK was worried that William Cornick had a knife but he said that other people brought knives and weapons into school. He was in the group of friends who William Cornick threatened at break-time if they reported him. They were too afraid to report him, but even then they did not really believe that he would do anything. KK told the police that he felt "really bad" because he could have stopped the murder.

viii) NS explained that on the morning of the murder, William Cornick had said something would happen in the next few hours, that he wished Mrs Maguire would die and that he would love to kill her. The group did not believe him. He too saw the bottle of Jack Daniels together with other alcohol in the bag. He did not see the knife but simply heard William Cornick say he had sharp objects with him. NS spoke of his guilt and remorse at not having done anything.

ix) PL had heard William Cornick bragging about having alcohol with him. He was always saying that he did not like Mrs Maguire but she did not think that he would try to kill her.

8. The evidence of these children exposes two common themes. The first is that almost all did not take William Cornick's threats seriously because they had heard him make threats before and were aware of his dark nature. The one who went to a teacher tragically was too late. The second is that many recognised that had they taken action in the face of what they knew, Mrs Maguire's death would have been prevented.

The coroner's decisions

9. The decisions of the coroner relating to a wide range of matters touching on the inquest are contained in minutes he produced of the pre-inquest reviews held on 21 November 2016 and 13 January 2017. The scope of the inquest was determined at the first of those reviews. The coroner heard representations on behalf of the appellants, Leeds City Council, West Yorkshire Police and William Cornick, including on the issue of who should be called as witnesses. Mrs Maguire's sisters represented themselves. On the issue before us, the sisters took a different view from that advanced on behalf of the appellants. One of them, Sheila Connor, was herself a teacher. She was particularly concerned that exposing the children to questioning, which would inevitably carry with it the implication that had they acted differently the murder would not have occurred, would be damaging. They considered it inappropriate to call the children to give oral evidence at the inquest, essentially on the grounds that it would be likely to do them substantial harm, for no real benefit. That was also the view of the Vice Principal of the sixth form college to which they had progressed after completing their GCSEs. He had provided a statement to the coroner explaining not only his concerns but also the general impact of what had happened at the school on the cohort of pupils who transferred to his college. He updated that statement in advance of the hearing of the claim for judicial review in the Administrative Court.

10. It was in the context of the obvious potential harm to the children that the question of their giving evidence was considered at the first of these reviews. The relevant policies of the school had been disclosed to the interested parties by the council. Further disclosure was to be made of any new policies introduced after the murder together with any records relating to weapons having been brought into the school. It is not clear from the minutes whether all appreciated the underlying reality of the position regarding policies and weapons. There was no policy or rule relating to bringing weapons into the school, or dealing with what a pupil should do in the event that he or she became aware that another had a weapon. There was a reference in the school's exclusion policy that bringing a weapon into the school would lead to exclusion.

11. The coroner recorded Mr Armstrong's submission that "it was necessary to establish what [the pupils] understood to be the school rules on 'whistleblowing'". The coroner noted Mrs Maguire's sister's opposition (with her reasons) to the calling of the pupils concerned and the council's contention that there was no purpose in calling the pupils to explore their evidence further. The coroner noted the legitimate concern about calling vulnerable young people who would be questioned in a way which might connote blame and "exacerbate the trauma which all [interested parties] recognised had been experienced by the pupils involved." The minute prepared by the coroner continued:

> "The information which the pupils could provide had been assembled in the investigation … (albeit that further questions could have been asked). The balance of benefit and risk was such that, in his judgment, the risk of inflicting psychological harm on the pupils to be called was foreseeable, whereas the benefit was small. As the pupils were now at least 10% older, their recollections of their own reasoning, impressions and decisions in April 2014 are likely to be different in the wake of the tragedy and their subsequent developing maturity. On top of that, the relevance to an inquest focussed on how the deceased came by her death (and possibly – but not certainly – the circumstances in which this occurred) did not necessitate pupils being called. It was sufficient to extract relevant material from their police interviews. The Coroner accepted that it was pertinent to establish what the pupils understood to be the School rules relating to 'whistleblowing'. This could (in so far as it was possible to establish the position in April 2014, rather than now) be established by calling one or more pupils who had no involvement in the incident, from the 950 children at the School."

12. The short point being made by the coroner was that, to the extent that evidence was needed to establish what pupils thought they should do if they encountered another pupil with a weapon of any sort (and no doubt other obvious serious transgressions of a criminal or disciplinary nature), a random selection of pupils not involved in the incident would do just as well.

13. With respect to the coroner, the implications of that suggestion were not explored or fully thought through at this pre-inquest review. With 950 pupils ranging from 11 to 16 years old at the time of Mrs Maguire's death, there would be obvious difficulties in selecting witnesses, both existing pupils and those who had since left, persuading them to give evidence and ensuring that their opinions were representative. There would be no possibility of knowing whether the opinions of a selected few were representative of all or the majority at every level in the school. There would be questionable utility in getting information about what a child or youth had thought about an issue three years before, particularly when there was no formal rule in place.

14. At the pre-inquest review on 13 January 2017 Mr Armstrong invited the coroner to revisit the earlier decision. The minute records his submission that

> "the inquest should hear evidence as to the students' understanding of the school rules relating to weapons in school and whistleblowing. The students who had been shown a knife by Mr Cornick on the morning of the incident must explain who they informed of this. If they had taken no action, they can be questioned as to why they had taken no action."

The coroner noted that he had mooted the alternative of calling sample students but having further considered the problems inherent in that course "abandoned the idea". He did not reverse his earlier decision.

15. A wide range of witnesses was identified who would be able to speak about the approach of the school to disciplinary matters, the relevant history of weapons being brought into the premises (if any) and of the general culture and atmosphere. Apart from teaching staff, the coroner expected to call Police Constable Toes, who since 2009 had been the Safer Schools Officer for the school. In that role she had been a visible uniformed presence at the school usually on two days a week. There was some discussion about whether the author of a recent Ofsted report, who inspected the school in 2013, should be called in the hope that she might have some evidence about weapons, their prevalence and how they were tackled. But it turned out that they had not been mentioned.

The judgment of Holroyde J

16. The judge noted, as was common ground, that the coroner was engaged in a balance between the usefulness of the oral evidence of the pupils weighed against the potential adverse impact upon them of revisiting the events. The question on judicial review was whether the conclusion the coroner reached was reasonably open to him. He had approached the question on the basis that the value of the evidence was small, at best, and diminished by the passage of time which would make reconstructing the pupils' reasoning years before particularly difficult. The judge accepted that he was entitled to do so. He was also entitled to take into account the potential for harm to the pupils. The judge emphasised the inevitability of the children having to consider the reality that had they acted differently, Mrs Maguire would not have been killed. He concluded that the coroner was entitled to have regard to the evidence of the Vice-Principal and views of Mrs Maguire's sister, despite Mr Armstrong's submission to the contrary, and was unimpressed by the submission that individual inquiries should have been made of each pupil before deciding the question. The judge was not helped by comparisons with other jurisdictions, for example crime, in which the inevitable distress of a young witness does not preclude his or her giving oral evidence.

17. The judge noted that the argument advanced by the then claimants was to the effect that it was unlawful for the coroner to have accepted the collective submissions of all the other interested parties. It was submitted on behalf of the claimants that having decided to obtain sample evidence, but then once that course became untenable, it was irrational not to fall back on calling the interviewed pupils. He rejected that submission essentially for two reasons. First, it did not follow that because an issue was "in scope" that all potentially relevant witnesses must be available to be questioned. Secondly, the flaw identified by Mr Armstrong in the sample selection approach (namely that it could not be representative of the school) applied with equal force to the interviewed pupils.

> "In short, in pursuing their understandable and commendable wish to assist in the learning of lessons for the future, the claimants would never be able to point to the evidence of a handful of former pupils as being necessarily representative of the understanding and likely response of school pupils as a body."

18. The judge continued by noting that there appeared to be no written policy about weapons in any event, or even an unwritten rule about what to do should a pupil become aware of a weapon. "It may well be, therefore, that the evidence will point to a conclusion that Corpus Christi's approach was simply to rely upon the common sense of pupils." The evidence of the interviewed pupils showed that only one decided to report William Cornick with all giving some explanation of how they treated what they saw or heard. Whether or not any gave evidence, the interested parties would be able to develop their submissions to assist the coroner. He concluded:

> "For these reasons it is my judgment that, in striking the balance which he did, the Assistant Coroner was entitled to conclude that there was a clear risk of harm to former pupils in calling them to give evidence, but that there was little prospect of their oral evidence assisting materially in ascertaining the circumstances of Mrs Maguire's death or in learning lessons for the future."

The grounds of appeal

19. The appellants advance five grounds of appeal:

    i) The judge was wrong to decide that the coroner was entitled to conclude that value of hearing from the interviewed pupils would be "small";

    ii) The judge was wrong to accept that the coroner could proceed on the basis that the pupils risked harm if called, without making individual inquiries of them and expressly taking account of witness safeguards, for example screens or video-link facilities;

    iii) The judge was wrong to reject the comparison with other jurisdictions, for example the criminal jurisdiction, where potential distress or even harm in giving evidence will not prevent a child or young person from giving oral evidence;

    iv) The judge was wrong to suggest that submissions could be made on the issues in question without calling the interviewed pupils. There is no right to make submissions on the facts at an inquest;

    v) The judge was wrong to attach significant weight to the views of Mrs Maguire's sister.

20. In his oral submissions Mr Armstrong recognised that the appellants needed to demonstrate that the decision of the coroner was not open to him on the material

available. At the heart of his submissions was the proposition that having decided that the questioning of pupils regarding the school's policies and rules on weapons and reporting on fellow pupils would be within the scope of the inquest, it was irrational not to question further and call the interviewed pupils, at least without a full individual inquiry into the circumstances of each, including potential harm. Mr Armstrong advanced this last point by reference to the well-known passage from the speech of Lord Diplock in *Secretary of State for Education and Science v Tameside Metropolitan Borough Council* [1977] AC 1014 at 1065B when considering a decision by the Secretary of State to overrule a policy of the local education authority:

> " … it is for the court of law to determine whether it has been established that in reaching his decision unfavourable to the council he had directed himself properly in law and had in consequence taken into consideration the matters which upon the true construction of the Act he ought to have considered and excluded from his consideration matters that were irrelevant to what he had to consider: see *Associated Provincial Picture Houses Ltd. v Wednesbury Corporation* [1948] 1 K.B. 223, per Lord Greene M.R. at p. 229. Or put more compendiously, the question for the court is, did the Secretary of State ask himself the right question and take reasonable steps to acquaint himself with the relevant information to enable him to answer it correctly?"

Discussion

21. It is clear from the way in which the coroner framed the scope of the inquest that there was initially at least an expectation that the school might produce policies or rules that governed the carrying of weapons into school and what pupils should do if they became aware that another was carrying a weapon. This latter aspect might have been covered in a more general whistle-blowing policy. It was for that reason that the possibility of calling alternative pupils was canvassed at the earlier review. It became clear that there were no such rules or policies. Whether that is surprising, unusual or a matter for adverse comment was something which the inquest could explore. It is, no doubt, unreal to suppose that an 11 year old child on entry to a secondary school could sensibly be given a file of 'policies', or even directed to a website where they sit for perusal, with any hope that they might be read, inwardly digested, remembered and understood. But important rules, practices and procedures must be imparted in a meaningful way to children.

22. The interviewed children explained their actions in the time leading to Mrs Maguire's murder which followed upon their interaction with William Cornick. Even supposing that there had been explicit rules which applied to the dreadful circumstances in which they found themselves, their accounts of what they did could have been contrasted with the content, and might support conclusions that the pupils did not follow them, or that they were inadequate. One can see why the coroner considered that evidence about the way in which rules were communicated and brought home to pupils might be of interest in those circumstances. That said, for the reasons identified by the coroner and by the judge, the evidence of a small group of pupils about how they understood the rules or policies, whether selected by the random fact of their

having had dealings with William Cornick that morning, or otherwise, would be a poor foundation on which to construct general conclusions about the school.

23. Only to a limited extent, therefore, did the proposed questioning of pupils fall within the scope identified by the coroner in sub-paragraphs (a) (b) and (c) set out in paragraph 6 above: what were the rules on weapons and whistleblowing, and what did the witnesses know of them at the time. The coroner did not rule in scope the more general inquiry which Mr Armstrong wished to make on behalf of the appellants (as formulated in his sub-paragraph (e) quoted in paragraph 6) concerning the interviewed pupils' personal approach to evaluating risk. The distinction is further reflected in the submission advanced on the appellants' behalf at the second of the reviews and recorded above in paragraph 14.

24. For the reasons the coroner gave, and accepted by the judge, evidence from these or any pupils about the rules and policies (had they existed) would have been of small value. The point that might have emerged would have been either (a) that the rules or policies were not followed with the implication that they were not adequately communicated or enforced; or (b) that they were intrinsically inadequate. That matter could have been appropriately explored with staff members in the context of the reaction of the nine different pupils to the events in question.

25. The position was in fact different. Given the absence of relevant policies or rules it is very difficult to see how the proposed questioning of the interviewed pupils would have any value at all. On behalf of the appellants, Mr Armstrong eschewed any desire to explore with the interviewed pupils why they reacted in the way they did for the purpose of seeking, explicitly or implicitly, to blame them for what occurred. Since there were no rules or policies on which to question the pupils, all that would be left would be to explore further the individual child's thinking in connection with the decisions he or she made that morning when confronted with knowledge of what William Cornick was saying and doing. That was not within the scope of the inquest as identified by the coroner.

26. For these reasons, there was in truth very little, if anything, to place in the balance against the potential harm to the interviewed pupils of giving evidence. In my judgment, the decision not to call these witnesses was plainly rational. The absence of further evidence from them would do nothing to imperil the statutory function of the inquest or of a full, fair and fearless investigation, see Sir Thomas Bingham MR in *R v North Humberside Coroner ex parte Jamieson* [1995] QB 1 in general conclusion 14 at page 26C.

27. The judge was right for the reasons he gave to reject the argument that having contemplated calling random pupils, but then having resiled from the prospect, the coroner was driven by logic to call the interviewed pupils, see paragraph 17 above. There is an additional reason why that argument fails. To the extent that random pupils could give relevant evidence, there was no suggestion that they would be exposed to the risk of harm associated with the interviewed pupils giving evidence. Any balance would be struck entirely differently.

28. These conclusions are sufficient to determine the appeal but I shall deal briefly with the balance of the grounds.

29. The appellants suggest that when considering the question of harm, the coroner should have explored the attitudes of the pupils in question and perhaps sought expert psychological evidence. It is in this connection that they pray in aid Lord Diplock's observations in the *Tameside* case. Moreover, they submit that the coroner failed to take account of the safeguards available through the use of screens or video links and finally that he was wrong to take into account the views of Sheila Connor, or the Vice Principal because they were unqualified to express them.

30. The coroner recorded in the minutes that it was common ground that it would exacerbate the trauma to call the pupils concerned to give evidence, see paragraph 11 above. The issue in public law terms is whether the coroner had information available to him which was capable of supporting his conclusion that to call the interviewed pupils risked causing them harm. The common ground recorded in the minute, which reflects the experience of all those involved in legal proceedings involving children called upon to recall disturbing events, would itself provide that foundation. Additionally, in my view Ms Connor's experience in the educational world amply qualified her to express a view beyond that, for example, of any person who has dealt with children and young people exposed to trauma. The evidence of the Vice Principal of the sixth form college was also telling on this issue and relevant.

31. The appellants are entirely correct in submitting that procedural safeguards are available in a coroner's court to mitigate the trauma of giving evidence, just as they are in other courts. Rules 17 and 18 of the Coroners (Inquests) Rules 2013 provide respectively for video link evidence and screens. Yet direct comparison with what might happen in a criminal, civil or family court were it contemplated to call a child in broadly similar circumstances provides no assistance. It is the decision not to call the interviewed pupils that is being challenged. In any event, the underlying harm would not be avoided by the use of these mechanisms in the circumstances of this case.

32. None of these arguments undermines the conclusion of the coroner that calling the interviewed pupils as witnesses would expose them to a risk of harm.

33. The appellants are also correct in submitting that an interested party at an inquest is not entitled to make a submission on the facts to the jury (or coroner) to assist in making factual findings or determinations. When he referred to the ability to make submissions, the judge was not contradicting this principle. Interested parties can and frequently do make submissions to a coroner about the questions and conclusions that should be left to a jury, and the nature of any report that a coroner might make to avoid repetition of the circumstances leading to the death on question.

Conclusion

34. The question before the Administrative Court was whether the decision not to call the interviewed pupils was reasonably open to the coroner. The judge was right to decide that it was, essentially for the reasons he gave. None of the arguments tenaciously advanced by Mr Armstrong on behalf of the appellants has undermined his conclusion.

Lord Justice Treacy

35. I agree.

Lord Justice Hickinbottom

36. I also agree.