

**INQUESTS ARISING FROM THE DEATHS
IN THE WESTMINSTER TERROR ATTACK OF 22 MARCH 2017**

**RULING ON APPLICATIONS MADE ON BEHALF OF THE SIBLINGS AND
PARENTS OF PC KEITH PALMER**

Introduction

1. By a written application dated 1 October 2018, which was developed orally by Ms Stevens on 2 October 2018, the siblings and parents of PC Keith Palmer invited me to take the following steps:
 - a. to instruct a firearms expert for the inquest of PC Palmer;
 - b. to obtain statements from additional authorised firearms officers (“AFOs”) (both PCs and Sergeants) who worked at the Palace of Westminster on or around 22 March 2017; and
 - c. to make further enquiries and provide disclosure of any material from those enquiries to Interested Persons.
2. This application was made at the conclusion of the evidence in the hearing of the inquests of all five of the victims of Khalid Masood’s attack. However, it is right to add that some applications for further enquiries had been made and addressed earlier in the inquests. The application was directed to one topic which had been considered extensively in the hearing, namely the security arrangements at the Palace of Westminster and in particular the deployment of and instructions to AFOs in the New Palace Yard area of the Palace grounds
3. Having heard argument on 2 October 2018, I refused to grant the application. This ruling explains my reasons for so doing.

Background and the applications

4. The hearing of the inquests of the five victims of Khalid Masood's attack, including PC Keith Palmer, began on Monday 10 September 2018. On 16 September 2018, I handed down a written ruling on a number of applications made in the first week of the hearing on behalf of the siblings and parents of PC Palmer, those being (i) an application for an adjournment of PC Palmer's inquest, (ii) an application that I should rule on whether Article 2, ECHR, was engaged at that stage, (iii) an application for a jury to be summoned, and (iv) an application that I should direct that the police carry out some further enquiries. In that ruling, I gave the following summary of the background:
 - a. The Westminster Terror Attack took place on 22 March 2017. Khalid Masood drove a Hyundai car across Westminster Bridge, striking many pedestrians and causing four to suffer fatal injuries. He then ran from the car into New Palace Yard in the Palace of Westminster, where he attacked a police officer (PC Keith Palmer) savagely with a knife. He was confronted and shot seconds later by armed plain clothes protection officers in New Palace Yard. PC Palmer very sadly died of his injuries that day. The entire attack (on the Bridge and in the Palace) from start to finish had taken 82 seconds.
 - b. The hearing of the Inquests concerning the victims of the Westminster Terror Attack commenced on Monday 10 September 2018. Prior to the hearing, there had been three Pre-Inquest Review ("PIR") hearings, two of which were held before me on 15 January and 2 July 2018. At those hearings, there was discussion of a range of procedural issues and I gave directions.
 - c. The widow of PC Palmer has been represented throughout the period of preparations for the Inquests. Before March 2018, she was represented by Hogan Lovells. At that time, she changed her representation to Slater & Gordon. I am told that PC Palmer's sisters were represented by Hogan Lovells until March 2018 but did not instruct other solicitors until early August 2018, when they instructed Kingsley Napley.
 - d. In the months preceding the Inquests hearing, disclosure of statements and other documents has been given to interested persons by the Inquests team through an

online system. Kingsley Napley requested access to that system on 6 August 2018 and were given access immediately.

- e. On 7 September 2018 (the last working day before the Inquests hearing), counsel for the sisters of PC Palmer (Ms Stevens) contacted counsel to the Inquests for the first time. She explained that her clients had sought funding for their representation from the Legal Aid Agency, which had just been refused. I do not know the reasons for that refusal, but the fact of PC Palmer's widow being ably represented may have been a relevant factor. Ms Stevens asked for adjustments in the timetabling of the Inquests to allow her to prepare properly for certain witnesses, specifically the re-scheduling of PCs Ashby and Sanders.
 - f. On 10 September 2018 (the first day of the hearing), Counsel and Solicitors to the Inquests discussed with Ms Stevens options for deferring the two specific witnesses. That evening, Ms Stevens provided a Note in which she asked that either Keith Palmer's inquest be adjourned or that witnesses in relation to him be called at the very end of the hearing. She also raised requests for some additional documents and raised the Article 2 issue which is discussed below.
 - g. Over the following days, at my request, counsel to the Inquests and some other interested persons provided written submissions setting out their position. I then heard oral argument on 13 and 14 September 2018.
5. In my ruling dated 16 September 2018, I refused to adjourn the hearing of PC Palmer's inquest (an adjournment request opposed by his widow's representatives). I decided that a jury should not be summoned. I decided to defer the question of Article 2 engagement until the evidence had concluded (and I have now ruled on that issue). As to the application that I should direct the Metropolitan Police Service ("MPS") to carry out further enquiries and that I should give disclosure arising from those enquiries, I indicated that this could be dealt with in correspondence between the Inquests Team and Kingsley Napley. Having seen that correspondence, I am aware that the Inquests Team acceded to a number of the requests for further enquiries and that further disclosure was provided by the MPS to the Inquests Team and onward to Interested Persons.

6. As noted above, the present application was made by written submissions dated 1 October 2018. Counsel to the Inquests responded orally on 2 October 2018. Ms Stevens made further oral submissions in response. Mr Adamson, for the widow of PC Palmer, did not support the application. However, he said that his client would not want Ms Stevens' application to be refused purely on the basis that his client did not positively support it.

Legal principles

7. Section 5(1) of the Coroners and Justice Act 2009 provides that the principal purpose of a coronial investigation (including an inquest) is to ascertain the answers to four factual questions: who the deceased was; and how, when and where the deceased came by his or her death. Sufficient evidence should be called to enable those questions to be properly addressed.
8. The investigation at an inquest will normally go further than is strictly necessary to answer those questions. The coroner hearing the inquest has a discretion as to how much further the investigation goes (see *R v Inner West London Coroner, Ex Parte Dallaglio* [1994] 4 All ER 139 at 155b and 164j; *R (Takoushis) v Inner North London Coroner* [2006] 1 WLR 461 at paras. 43 to 48). Similarly, decisions as to which witnesses should be called so as to consider each topic are primarily for the coroner to make, and will generally involve considerations of relevance and expediency (see *R (Mack) v HM Coroner for Birmingham* [2011] EWCA Civ 712 at para. 9; *R (Cairns) v HM Deputy Coroner for Inner West London* [2011] EWHC 2890 (Admin) at para. 23; *R (LePage) v HM Asst Deputy Coroner for Inner South London* [2012] EWHC 1485 (Admin) at para. 50).
9. The Court of Appeal has reiterated those principles in two recent cases: *R (Maguire) v Asst Coroner for West Yorkshire (Eastern Area)* [2018] EWCA Civ 6 at para. 3; and *Coroner for the Birmingham Inquests (1974) v Hambleton* [2018] EWCA Civ 2081 at paras. 50-51. In the latter case, at para. 50, the Court said that in an Article 2 inquest the law did not require an exploration of all matters touching on the broad circumstances of what occurred in relation to a death.

Discussion

10. Under each of the three parts of this application, the issue for me to consider is whether it is appropriate to make further enquiries and obtain further evidence in order to consider how PC Palmer came by his death. It is necessary for me to take account of the potential relevance of the enquiries proposed and to take account of what is expedient and practicable. The extent and adequacy of the inquiry conducted already should also be borne in mind.
11. In an inquest, it is almost always possible for more evidence to be called and for further enquiries to be made. Difficult judgments need to be made about the extent of enquiries, since the process of investigation cannot continue indefinitely. The fact that a topic has been investigated in detail does not mean that a coroner should go on pursuing every lead. A coroner need not accept the submission which says, in effect, “the further you have gone, the further you ought to go” (see *R (Al Fayed) v Asst Deputy Coroner for West London* [2008] EWHC 713 (Admin) at para. 19).
12. In considering this application, I have not given any weight to the consideration that acceding to it could result in a delay in the inquest of Khalid Masood (which was scheduled to take place immediately after the hearing of the victims’ inquests). I made that clear during argument on the application.
13. In submissions, Counsel to the Inquests summarised the relevant steps which the Inquests Team had taken to investigate the topic of security arrangements at the Palace of Westminster, as follows:
 - a. Security arrangements at the Palace of Westminster were identified as within the scope of the inquests at an early stage. This topic was referred to in submissions of Counsel to the Inquests in January 2018, and was included in the indicative scope document annexed to the directions made at the January 2018 PIR hearing.
 - b. By April 2018, the Inquests Team had obtained access to security-sensitive reviews of Parliamentary security held by the Metropolitan Police Service and the Parliamentary Authorities. Questions were raised of both organisations, on the subjects of security at the Palace generally (including the deployment and

positioning of armed officers in New Palace Yard and the instructions they received).

- c. These questions were reduced to writing for the two organisations in a note on Parliamentary security issues. That Note was subsequently also provided to Interested Persons, for transparency.
- d. Commander Usher made a detailed first statement, responding to the questions raised (as separately did Mr Hepburn, Director of Parliamentary Security). Mr Usher's statement was considered immediately by the Inquests Team, who posed a set of further questions on matters arising from the statement. This was done without the encouragement of any Interested Person, but on the Team's own initiative. Commander Usher made a second detailed statement, after which further questions were posed by the Inquests Team (again, on its own initiative). A third statement followed in response.
- e. Through the medium of those statements and their exhibits, Interested Persons received substantial information about the deployment of armed officers in New Palace Yard. The information included the relevant content of the two final sets of post instructions for AFOs and the relevant parts of the last firearms tactical assessment. It included an MM1 document, prepared to document a review of the patrolling of the AFOs on the day of the attack.
- f. PC Ashby and PC Sanders (the two AFOs on duty in New Palace Yard at the time of the attack) were included in the first draft witness list for the hearing, even before Interested Persons had been consulted as to who should be called.
- g. At the request of the Inquests Team and in collaboration with them, the SO15 investigation team produced CCTV compilations and maps showing the locations of AFOs and their movements on the day of the attack.
- h. The issues of their patrolling and their understanding of instructions were explored in detail with PC Ashby and PC Sanders in their evidence in chief in the inquests hearing.

- i. Their evidence and the evidence of Commander Usher gave rise to some further questions, as sometimes happens when witnesses are questioned in an inquest hearing. As a result, further enquiries were immediately conducted, and further evidence was obtained and promptly disclosed. This included a fourth statement from Commander Usher and a statement from Inspector Rose. The Inquests Team then proposed to call Inspector Rose, and Interested Persons agreed that that was appropriate. The Inquests Team also produced a Note to communicate in non-sensitive form relevant information about AFO's use of the ADAM system. Commander Usher was recalled to answer further questions, including about the information in that Note.
- j. Alongside that work conducted at the Inquests Team's own initiative, where further enquiries were raised during the hearing by Interested Persons, such requests were considered quickly. Where the Team agreed with the request, investigations were carried out. I should also observe that additional witnesses have been called to address the topic of Palace security even though that disrupted the scheduling of other evidence.

Expert evidence

14. Ms Stevens submitted that a firearms expert with experience of training of firearms officers should be instructed, because there was only speculation as to whether PC Palmer's chance of survival may have been improved by better systems of security and supervision. She argued that an expert witness of this kind would remove the need for speculation on this issue. On her case, an expert would enable me to say with much greater confidence whether or not PCs Ashby and Sanders would have been able to save PC Palmer's life had they received clearer and better-enforced instructions to remain close to Carriage Gates. I do not agree, for the following reasons.
15. An expert may be able to make general points about what an AFO is trained to do in terms of dynamic risk assessment, and whether an AFO is trained to move towards a threat. However in my judgment the issue of whether PCs Ashby and Sanders would or might have saved PC Palmer's life if they had been differently instructed before the day of the attack is an issue of fact which cannot be resolved by an expert's opinion. It

depends on a series of hypothetical questions that are best addressed by considering the officers' evidence: if differently instructed, whether they would have been at the Gates initially; whether they would then have moved away on hearing the car collide with the Palace wall; whether they would then have moved back as a result of further sights and sounds; where exactly they would have been when Masood entered; whether they would have had a clear shot; whether they would have hit the target; whether they would have stopped Masood before the fatal injury was inflicted on PC Palmer.

16. I do not accept Ms Stevens' submission that the uncertainty as to what PC Ashby and PC Sanders would have done is the result of the absence of expert evidence. The uncertainty is a result of the simple fact that PC Ashby and PC Sanders were not in the hypothetical situation which is posited, and there were any number of factors which might have affected their actions. An expert would not assist me in considering the potential factual scenarios and what these two officers would in fact have done in those scenarios.
17. The second basis on which Ms Stevens applies for me to instruct a firearms expert is that the expert should have experience as a tactical assessor and should comment on the quality of tactical assessments. I do not consider that such evidence is needed. The inquests have heard detailed evidence of the security reviews and of what tactical assessments were carried out. Evidence has been given about the post instructions which were produced on the basis of those assessments. This evidence tells the Court what the guiding principles of the tactical assessments were and how they were reflected in specific instructions. To the extent that I need to form judgments on the quality of the tactical assessments, I can do so without the involvement of an expert.
18. In any event, the main issue raised by the evidence does not concern the precise content or rigour of tactical assessments. It is whether proper systems were in place to ensure that post instructions were observed. It has become clear over the course of this hearing that there is broad agreement between Interested Persons that there should have been AFOs close to Carriage Gates when they were open. That is what the post notes mandated in March 2017. The more pressing issue is whether there were proper arrangements to ensure the instructions were being followed. I do not need expert evidence to resolve that question.

19. By the time of writing this ruling, I have now ruled that Article 2 is engaged in PC Palmer's inquest. I have also reached a determination in PC Palmer's inquest that it is possible that his death may have been prevented had there not been shortcomings in the security system in New Palace Yard. I am thereby strengthened in my view that I would not have been assisted by expert evidence; I was in a sufficiently good position to resolve the key issues. To the extent that there was and is uncertainty about whether PC Palmer's life could have been saved by better security arrangements, that is not due to a lack of expert evidence.

Further evidence from AFOs

20. The second request made by Ms Stevens is that I should obtain witness statements from and call an unspecified number of further AFOs and supervising Sergeants. Ms Stevens makes the submission that, if there is any question about whether non-observance of post instructions was widespread, further evidence should be called from other armed officers who worked in New Palace Yard. The forensic target of the submission is the point that further evidence might be needed to make good Ms Stevens' case that there were systemic failings in the security arrangements (as opposed to individual failures by PCs Ashby and Sanders to follow their orders).
21. In my judgment, it is not necessary or appropriate to obtain such further statements. It is possible to say on the evidence before the Court that non-observance of post instructions was not confined to these two officers.
 - a. I have heard the evidence of PC Ashby and PC Sanders, who have explained at some length that their understanding of their instructions (namely, to carry out a "roving patrol" in New Palace Yard) was the same as that of their colleagues.
 - b. Evidence of CCTV footage has been played to demonstrate that PC Gerard, the other officer on duty on the afternoon of the attack, patrolled in the same way that day.
 - c. Evidence has been given of the one occasion before the attack on which the MPS checked use by AFOs of the ADAM system, which was the system through

which they were expected to access post instructions. On that occasion (August 2016), data showed that only 13% of AFOs had logged onto the system since the last version of post notes had been uploaded eight months before.

- d. Inspector Rose, one of the supervising Inspectors from the time of the attack, gave evidence. He explained that the post notes required a degree of interpretation, and that he and the Sergeants expected officers to patrol a distance from Carriage Gates. His evidence suggested that officers seen by supervisors away from the Gates would not be challenged.
 - e. The MM1 document was introduced into evidence, showing that a review by the MPS after the attack demonstrated that the approach of PCs Ashby and Sanders to patrolling in this area was reflective of practices in the wider command.
22. If I were to accede to the request to obtain statements from further AFO witnesses, it is not clear either in the application or in my mind where I would then draw the line. I would have no way of determining whether I had called a representative cross-section of AFOs, were I to call only a limited number. In contrast, it would be entirely impracticable and disproportionate to take statements from and call each and every AFO.
23. Once again, the suggestion that the existing evidence disabled me from reaching appropriate conclusions is undermined by those I subsequently made, which appear in the Article 2 ruling and in the narrative determination in PC Palmer's inquest.

Requests for further enquiries

24. Finally, there is a request that I should obtain and disclose further documentary evidence. Throughout the preparation for these hearings, the Inquests Team and I have made great efforts to ensure sufficient material is obtained and disclosed for the issues within the scope of the inquests to be explored fully. This task has necessarily involved some judgments of proportionality.
25. First, I am asked to make further enquiries as to any material underlying the MM1 form. As to that request, I consider that the document speaks for itself and provides

sufficient evidence for my purposes. The inquest process is not an investigation into the review documented in the MM1.

26. Secondly, I am asked to obtain training materials provided to AFOs. As to that request, I do not consider that such material should be sought. It would be a disproportionate task to explore the very extensive materials used in an AFO's training. The evidence that is primarily relevant to the issue in these inquests is what AFOs in New Palace Yard were instructed to do by way of patrolling, and whether they did it. Their training is only of limited relevance. In any case, to the limited extent relevant, the officers involved have given evidence about what their training would have taught them to do in particular situations.
27. The third and final request relates to briefing material prepared for AFOs posted to New Palace Yard. The Inquests Team has made enquiries of the MPS about such documents, and has been told that no such material exists. No witness has identified any such written briefings in their evidence. As part of the same request, I am asked to obtain further documents relating to test exercises which were conducted. I consider that this material has already been obtained and disclosed so far as possible, particularly through the evidence of Commander Usher.
28. For all those reasons, I do not consider that I should make these further enquiries.

HH Judge Lucraft QC

Chief Coroner of England and Wales

15 October 2018