



The Chief Coroner's latest Law Sheet No.5: The Discretion of the Coroner

David Sandiford draws the attention of inquest practitioners to the latest Law Sheet No.5 The Discretion of the Coroner issued by the Chief Coroner HHJ Peter Thornton QC on 16th February 2015.

The purpose of the Law Sheet is to set out for coroners the main headlines from the authorities on the exercise of the coroner's discretion. It considers ambit, limits and possible challenges. It is therefore of real use to practitioners.

The wide discretion vested in the coroner to set the scope of an investigation is restated as is the wide discretion on the calling of witnesses in order to satisfy the investigation (and inquest) requirements of the CJA 2009.

The exercise of the discretion to adjourn an inquest & hold an inquest with a jury is dealt with.

The important issue of leaving conclusions to a jury is also considered, reminding coroners that when deciding whether to leave a particular conclusion to a jury, adopting the 'Galbraith plus' two stage approach involves the exercise of a judgment ('sufficient' evidence?) and then the exercise of a discretion ('safe to leave to the jury?').

Any discretion is to be exercised reasonably, fairly and with good reason in both fact and law. On an application for Judicial Review the High Court will interfere only on Wednesbury grounds (coroner erred in law, took into account an irrelevant consideration or failed to take into account a relevant consideration, or acted in a way in which no reasonable coroner would have acted). Ordinarily challenges should come after the inquest is completed.

David Sandiford has extensive and unique experience in the field of inquests, including most recently representing Operation Resolve at the new Hillsborough Inquests . His wider experience includes the Waterhouse Inquiry (North Wales Child Abuse Inquiry) & his practice covers all aspects of civil actions involving the police and prisons. He also maintains a large and busy personal injury practice.