

Chief Coroners Guidance #30

Since the appointment of the first Chief Coroner, His Honour Judge Peter Thornton QC in 2012, a number of guidance documents have been produced to assist coroners around the country and to provide an element of continuity throughout the coronial jurisdiction. Dated 29th January 2019, His Honour Judge Mark Lucraft QC, the current Chief Coroner, has now issued guidance note number 30. The guidance considers situations when a coroner should transfer the conduct of an investigation and inquest to another jurisdiction or judge.

The Chief Coroner's firm view is that unless there are exceptional reasons or unless the investigation is transferred between coronial jurisdictions by mutual agreement [s2 Coroners and Justice Act 2009] the senior coroner of the relevant jurisdiction is under a duty to conduct the investigation and he or she should proceed to do so.

The guidance in relation to coronial cases involving national security and pii issues is set out in a publicly available document for the first time. As statute prevents disclosure of security sensitive material to coroners the note sets out the escalating steps to be taken in such cases- from the appointment of developed vetted counsel to review the material and provide the gist of it to the coroner, through to the appointment of a judge as coroner to hear the inquest [judges being authorised to view and consider security sensitive material].

The appointed judge can consider the sensitive material and decide if the requirements of the CJA2009 can be complied with without open disclosure of the sensitive material. The inquest procedure does not allow for sensitive material to be heard in private as part of the statutory inquiry, so if the judge is of the opinion that the CJA2009 cannot be properly complied with whilst maintaining the public interest immunity, the Lord Chancellor can be approached with a view to converting the inquest into a public inquiry [as in Litvinenko].

The guidance note also provides a useful digest of the approach to be taken when coroners consider applications for recusal on the basis of bias or apparent bias and when a judicial assistant coroner should be appointed in non-security sensitive cases- such as Hillsborough.

Overall the guidance makes it very clear that the vast majority of inquests should be undertaken by coroners who have the specialist skills required to lead the investigation. They should only very rarely be replaced by another member of the judiciary.

Guidance Note 30 available in full here-

<https://www.judiciary.uk/wp-content/uploads/2019/01/Guidance-No.-30-Judge-led-inquests-1.pdf>

Alex Stein

2 Bedford Row

January 2019