

**IN THE BIRMINGHAM AND SOLIHULL CORONER'S COURT**

**HIS HONOUR RICHARD FOSTER**

**NOMINATED PURSUANT TO SCHEDULE 10 CJA 2009**

**INQUESTS TOUCHING UPON THE DEATHS OF PATIENTS OF  
MR IAN PATERSON FOR TREATMENT OF BREAST CANCER**

**RULING UPON IAN PATERSON'S APPLICATIONS  
FOR REVOCATION OF SCHEDULE 5 NOTICE**

**Background**

Yesterday, at the end of the court day, Mr Paterson's solicitors, as they are now confirmed as being, wrote to STI to advise them that they would be applying to revoke Mr Paterson's Schedule 5 notice served on him on 4 September 2024.

I remind myself that the time stated in the notice for such an application to have been made was 16 September 2024.

At 11pm yesterday a formal application drafted by counsel was served on STI.

Early this morning I also received submission from CTI addressing the process which should be followed when considering Mr Paterson's application.

I am grateful to them for their input in such a short timeframe.

Mr Paterson's lawyers did not attend the hearing to make any oral submissions. I heard from CTI and also legal representatives for some of the Interested Persons. Most importantly, I heard from members of the deceased families.

## Preamble to my Ruling

What I have had very eloquently described to me in court today is the distress that is caused by this process and how that will be significantly worse were there to be any further delay.

I very much have that in mind in making this ruling. However, I remind myself that this is not an application for an adjournment. The inquests **will** continue and we **will** continue to hear the generic issues as planned next week.

I want to reassure the families of this.

The application which is before me today is really about the use of my coronial powers to require any person to come before me to give evidence and / or produce a witness statement.

As with all powers given to a judicial authority those have to be exercised reasonably, rationally and fairly.

## The Law

I accept the law is as stated by CTI in their submissions and adopt the same.

Paragraph 1(1)(a) of Schedule 5 of the Coroners and Justice Act 2009 (“the Act”) provides that a coroner may by notice require a person to attend at a stated time and place and give evidence at an inquest. Similarly, paragraph 1(2) (a) empowers a coroner to require the production of a witness statement upon the giving of a suitable notice.

The requirements of a suitable notice are laid down in paragraph (3) of Schedule 5, where it mandates that the notice must explain the possible consequences of non-compliance and indicate what the recipient of the notice should do if they wish to claim they are either unable to comply with the terms of the notice or they believe it is not reasonable that they be required to comply.

Paragraphs (4) and (5) of Schedule 5 go on to state:

*“(4) A claim by a person that –*

*(a) he or she is unable to comply with a notice under this paragraph, or*

*(b) it is not reasonable in all the circumstances to require him or her to comply with such a notice, is to be determined by the senior coroner, who may revoke or vary the notice on that ground.*

*(5) In deciding whether to revoke or vary a notice on the ground mentioned in sub-paragraph (4)(b), the senior coroner must consider the public interest in the information in question being obtained for the purposes of the inquest or investigation, having regard to the likely importance of the information”.*

Accordingly the powers under schedule 5 are broad and provided the notice has been properly made it mandates compliance unless and / or until revoked or varied by a coroner upon application by the person(s) so affected.

In deciding whether to revoke or vary a notice, a coroner must consider the public interest in the information sought being obtained for the purposes of the inquest or investigation, having regard to the likely importance of the information.

### Ruling

In ruling today the questions for me are: what is in the interests of the bereaved families; what is required by my statutory duty; and what is required by way of fairness.

Mr Paterson has declined the opportunity to give evidence on generic issues today.

I note that Mr Paterson states that he now has legal representation. Those instructed lawyers should be given some time to take instructions on both generic issues and individual inquests. I accept that preparation for any generic evidence is more wide ranging and likely to be more time consuming and complex for him and any lawyers advising him. If necessary any generic evidence can wait until a later stage in Module One, if still required. He and his legal team can concentrate on the individual inquests which will now be listed to start on 21 October 2024.

As I identified in my adjournment ruling on Monday it would obviously be beneficial to my investigation if Mr Paterson participated in full in these

inquests. Whilst I am, at this stage, satisfied that I could proceed to conduct an Article 2 compliant investigation without hearing from Mr Paterson I am in no doubt that the quality of it will be greatly enhanced and improved if Mr Paterson participates in giving evidence.

I agree that these inquests represent the first opportunity apart from his criminal trial that Mr Paterson will ever have had to answer questions, under oath, about his clinical practices and accordingly, there is considerable public interest in requiring evidence from him.

I will do my utmost to use my powers to the fullest extent to ensure the attendance of Mr Paterson at these hearings.

That enhancement and improvement would not just be for the benefit of my investigation and therefore my statutory duty, but also for the benefit of the bereaved who are at the heart of this process.

### Directions

My rulings are as follows:

- (1) The generic issues will continue as originally planned save that Mr Paterson will not be required to give a generic statement at this stage of the Inquest, but if necessary at a later point;
- (2) The inquest which is listed to start next week will be moved to later within Module One and the first individual inquest is to be heard on 21 October;
- (3) Mr Paterson to serve any further evidence medical or otherwise in support of his application by 4pm 16 October;
- (4) This application be relisted for Thursday 17 October at 10 am. At that hearing I direct Mr Paterson's legal representatives to attend in person and I direct that I must hear oral evidence from any expert whose report has been served and which is relied upon, remotely if needs be;
- (5) I reserve my position as to whether I need to obtain further evidence to aid my determination on this issue until after hearing any expert on behalf of Mr Paterson.