Neutral Citation No: [2024] NIKB 107	*Ref:* **HUM12673**
*Judgment: approved by the court for handing down (subject to editorial corrections)**	*Delivered:* **13/12/2024**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

KING'S BENCH DIVISION
(JUDICIAL REVIEW)

IN THE MATTER OF AN APPLICATION BY AARON BROWN (BY HIS FATHER AND NEXT FRIEND GLYNN BROWN) AND BY BRYAN McCARRY (BY HIS SISTER AND NEXT FRIEND BRIGENE McNEILLY) FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

AND IN THE MATTER OF DECISIONS OF THE CHAIR OF THE MUCKAMORE ABBEY HOSPITAL INQUIRY

Monye Anyadike-Danes KC & Aidan McGowan (instructed by Phoenix Law) for the Applicants
Denise Kiley KC & Rachel Bergin (instructed by the solicitor to the Inquiry) for the Proposed Respondent
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Joseph Aiken KC & Laura King (instructed by the Directorate of Legal Services) for the Notice Party the Belfast Health and Social Care Trust
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Andrew McGuinness (instructed by the Departmental Solicitor's Office) for the Notice Party the Department of Health

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HUMPHREYS J

Introduction

[1] On 8 September 2020 the Minister of Health announced his intention to establish a public inquiry into abuse at Muckamore Abbey Hospital ('the Inquiry'), pursuant to his powers under section 1 of the Inquiries Act 2005 ('the 2005 Act').

[2] The Terms of Reference for the Inquiry were published on 29 September 2021, and it formally commenced its work on 11 October 2021. The Chair is Tom Kark KC, and the panel members are Professor Glynis Murphy and Dr Elaine Maxwell.

[3] As discussed in some detail in the judgment of the Supreme Court in *Re JR222's Application* [2024] UKSC 35, the Inquiry is progressing at the same time as police investigations and criminal prosecutions arising out of the alleged abuse. This has given rise to the need for a Memorandum of Understanding between the Inquiry, the PSNI and the PPS.

[4] The oral hearings before the Inquiry concluded on 23 October 2024, following the receipt of oral testimony from some 235 witnesses across a series of structured modules.

[5] The applicants are relatives of patients who have been the subject of abuse at the hospital. They have core participant status at the Inquiry.

[6] The court agreed to hear this application on an expedited basis as a rolled-up hearing.

The Terms of Reference

[7] The core objectives of the Inquiry are stated to be:

(i) To examine the issue of abuse of patients;

(ii) To determine why the abuse happened and the range of circumstances which allowed it to happen; and

(iii) To ensure that such abuse does not occur again.

[8] Paragraph 2 of the terms fixes the timeframe of the Inquiry. It is required to report and make findings on events which occurred between 2 December 1999 and 14 June 2021. However, the Inquiry is entitled to receive and take account of evidence outside of that period:

> "where such evidence will assist the Inquiry in examining, understanding and reporting on matters within these Terms of Reference."

[9] Paragraph 6 of the terms states that the Inquiry will examine the role of frontline staff, those with oversight and those with leadership and management roles within the health trusts. By paragraph 7, the Inquiry will consider the adherence by staff, management, the trusts and the Department to relevant statutory obligations, regulations, policies and guidance.

[10] Paragraph 16 states:

> "The Inquiry will examine the adequacy and workings of the policy and process of discharge and resettlement of patients…"

[11] By paragraph 20, the Inquiry Chair has responsibility to determine how the Inquiry is conducted, including the procedure, the nature of the evidence and calling of witnesses.

[12] Paragraph 24 lists the areas in respect of which the Inquiry will make recommendations. These do not expressly include the question of resettlement.

The impugned decisions

[13] In this application for leave to apply for judicial review, the applicants seek to challenge three decisions made by the Inquiry Chair:

(i) The decision not to call any Ministers to give evidence to the Inquiry;

(ii) The decision not to call H30 to give evidence to the Inquiry; and

(iii) The decision to require closing submissions in advance of further information being received on resettlement.

[14] In each case, the applicants say that the decisions are vitiated by a lack of adequate reasons, a failure to adhere to the principles of procedural fairness and/or a failure to carry out sufficient inquiry. In the case of the first decision, it is also said that this constitutes a breach of the procedural obligation imposed by articles 2 and 3 of the European Convention on Human Rights ('ECHR').

(i) The decision not to call any Ministers

[15] On 20 September 2024 the applicants' solicitors wrote to the Inquiry's solicitor stating that it was essential that Ministers in post during the Inquiry's Terms of Reference be called to give evidence. It was asserted that these Ministers bore ultimate political responsibility for the provision of the relevant services, as evidenced by specific reference in successive programmes for government to the need to make suitable provision for those with learning disabilities.

[16] The Inquiry solicitor responded on 9 October 2024, pointing out that there were seven local Ministers of Health in office between 1999 and 2021. The correspondence stated:

> "Having given this matter careful consideration the Panel have determined that evidence will be heard from the former Permanent Secretary to the Department… Andrew McCormick CB, who was in post from 2005-2014

> and the former Permanent Secretary at the Department… Mr Richard Pengelly who was in post 2014-2022.
>
> The Panel is satisfied that the issues raised in your correspondence will be explored to the extent necessary to assist the Panel in its consideration of the Terms of Reference."

[17] The applicants' solicitors took issue with this by letter dated 9 October 2024. The following points were made:

(i) Ministers bear statutory responsibility for the direction and control of the department under Article 4 of the Departments (Northern Ireland) Order 1999;

(ii) Ministers ought therefore to be called to account for any non-compliance with statutory obligations and government policies;

(iii) The Minister leads the Permanent Secretary;

(iv) The Minister is responsible for the relevant legislative framework, including the failure to commence parts of the Mental Capacity Act (Northern Ireland) 2016; and

(v) Holding individuals publicly to account is part of the function of the Inquiry.

[18] In its response of 15 October, the Inquiry reiterated that decisions around the calling of witnesses are matters for the Inquiry and if the panel considers that further information is required to address the Terms of Reference, it will seek to obtain it.

[19] The two permanent secretaries gave evidence on 17 and 23 October 2024. These judicial review proceedings were issued on 11 November.

(ii) The decision not to call H30

[20] H30 was a consultant psychiatrist, who held a senior role at the hospital, from 2014 to 2018.

[21] On 2 November 2023 the Chair gave a public statement in relation to staff evidence. It stated:

(i) The Panel would be guided in its approach to staff witnesses by the overriding objective of meeting the Terms of Reference;

(ii) The question of whether a witness would be able meaningfully to assist the Panel in its consideration has been accorded priority over individual sets of circumstances;

(iii) This phase of evidence was primarily concerned with those staff who worked on a day-to-day basis with patients in the hospital.

[22] Evidently, therefore, not every member of staff would be asked to provide a statement or to give oral evidence. In the event, three consultant psychiatrists were called to give evidence during the hearings. The Inquiry emphasised, in a letter dated 19 June 2024, that it had to take a "broad view" across the Terms of Reference in determining which witnesses to call.

[23] By a letter dated 22 September 2024, the solicitors for the applicants questioned the decision of the Inquiry not to call H30 as a witness. It was stressed that reference had been made to this individual in several other witness statements and would be likely to be able to give relevant evidence around the operation of the hospital. Further, it was noted that H30 had given a recent interview which referred to the state of the National Health Service and H30's decision to leave.

[24] On 26 September, the Inquiry responded in the following terms:

> "It is a matter for the judgment of the Panel, having regard in particular to the Terms of Reference, as to whether a statement should be sought or a witness called.
>
> In exercising this judgment, careful individual consideration is given to the circumstances of all potential witnesses (which, as you will appreciate, is a significant number in this Inquiry, having regard to the timeframe of the Terms of Reference) and consideration is also given to the extent of the evidence received. All relevant matters are taken into account in the Panel's assessment…This exercise has been conducted in respect of all the witnesses to whom reference is made in your correspondence."

(iii) The decision to require closing submissions in advance of resettlement information

[25] On 7 October 2024 the Inquiry fixed a timetable for the provision of written and oral closing submissions from the core participants. The former were to be provided by 22 November 2024, with the latter to be heard between 26 and 28 November.

[26] In June 2024, during Operational Module 6, the Inquiry heard evidence relating to resettlement. The government has operated a policy of moving patients with a learning disability from long stay hospitals to accommodation in the community. The applicants' solicitors requested an opportunity to provide further evidence on the issue outwith the timeframe set in the Terms of Reference. The Chair stated on 27 June 2024:

> "It must be recognised that the formal evidence part of the Inquiry has boundaries and is limited to a large extent by our Terms of Reference which have an end date in June 2021. Nevertheless, the Panel will consider that request, and it may be that before designing any recommendations we will call for further material in one form or another."

[27] On 28 October the Inquiry Panel indicated that it had decided to seek further information in relation to the issue of resettlement. It set out a proposed method of gathering this information, via an informal group discussion format in February 2025, and invited representations from core participants in relation to this by 15 November 2024. The applicants' solicitors responded with a request that closing submissions be put back until after the resettlement sessions had taken place.

[28] The Inquiry has stressed that these resettlement sessions will not be formal evidence hearings for the purpose of the Inquiry's findings but rather will serve to inform the Panel's recommendations. In a statement dated 14 November the Inquiry clarified:

> "…the Panel plans to conduct informal (and entirely optional) information sessions in February 2025 to hear recent and contemporaneous experiences of resettlement by families and patients affected by that issue."

[29] At the applicants' request, the time for response to these proposals was extended to 13 December 2024.

[30] A number of the core participants expressed concern about the timetable for closing submissions and on 21 November the timetable was revised as follows:

(i)	Written closing submissions	21 February 2025
(ii)	Oral closing submissions	w/c 3 & 10 March 2025

[31] In the same communication, it was stated that the resettlement sessions, which remain the subject of discussion with the patient groups, would be rescheduled and take place after March 2025.

[32] The applicants maintain their disagreement with the approach whereby these sessions are scheduled following the conclusion of closing submissions.

[33] NP1, whose son M remains an inpatient at the hospital, has expressed her specific concerns about the proposed approach. Several proposals have been made for his resettlement over the years which have fallen through. NP1 believes that her son's physical and mental health is deteriorating as a result of the unsuitable environment in which he finds himself. Resettlement is a crucial issue for NP1, and

she finds it hard to understand why these sessions would be timetabled after closing submissions if, in the event, they serve to inform the Inquiry's recommendations.

The legal framework

[34] Section 1(1) of the 2005 Act provides that a Minister may cause an inquiry to be held where particular events have caused public concern. Section 5 of the 2005 Act concerns the terms of reference and provides that the functions of the inquiry panel are exercisable only within those terms. As Dame Victoria Sharp explained in *R (EA) v The Chairman of the Manchester Arena Inquiry* [2020] EWHC 2053 (Admin):

> "The Chairman gains his authority and legitimacy from the Terms of Reference. The Terms of Reference define the scope and limits of that authority. It is the starting point for any analysis of how he can, and must, act." (para [45])

[35] Section 17 of the 2005 Act provides:

> "(1) Subject to any provision of this Act or of rules under section 41, the procedure and conduct of an inquiry are to be such as the chairman of the inquiry may direct. …
>
> (3) In making any decision as to the procedure or conduct of an inquiry, the chairman must act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others)."

[36] Section 24 of the 2005 Act relates to the provision of the inquiry's report:

> "(1) The chairman of an inquiry must deliver a report to the Minister setting out—
>
> (a) the facts determined by the inquiry panel;
>
> (b) the recommendations of the panel (where the terms of reference required it to make recommendations).
>
> The report may also contain anything else that the panel considers to be relevant to the terms of reference (including any recommendations the panel sees fit to make despite not being required to do so by the terms of reference)."

[37] There is, therefore, a statutory distinction drawn between the obligation to deliver a report setting out the facts and recommendations as required by the terms of reference and the discretion to make recommendations which are not so mandated.

[38] In *Re JR276's Application* [2023] NIKB 107, Scoffield J observed:

> "The scheme of the legislation provides a generous discretion to the chairman of a public inquiry, both as to process and to the substance of its investigations, and necessarily also reposes a considerable degree of trust in such a chairman in the exercise of the inquiry's powers. That is evident on the face of the statute, which provides (in section 17(1)) that, subject to the Act and rules made under it, the procedure and conduct of an inquiry are to be such as the chairman of the inquiry may direct." (para [37])

[39] In the context of a decision not to designate an individual as a core participant in the Omagh Bomb Inquiry, I commented in *Re Keeley's Application* [2024] NIKB 71:

> "The chair is, of course, much better informed on the detailed issues which will require exploration in order that an inquiry meets its terms of reference than a supervisory court could be. Questions of weight and the evaluation of the merits of a particular application are peculiarly for the inquiry chair and not the courts. Provided the chair adopts a fair procedure, instances of the courts intervening in such decisions will be rare." (para [39])

[40] In *R (the Cabinet Office) v the Chair of the UK Covid-19 Inquiry* [2023] EWHC 1702 (Admin), the Divisional Court in England & Wales said:

> "The powers of an inquiry are not without limits. This is because Chairs of public inquiries are subject to the supervisory role of the courts, although courts should be 'loath to do anything which could in any way interfere with or complicate the extraordinarily difficult task of the tribunal ... courts have to bear in mind at all times that the members of the tribunal have a much greater understanding of their task than the courts.' It is, however, essential for courts to exercise their supervisory jurisdiction where necessary to uphold the rule of law, see *R v Lord Saville ex parte A* [1999] 1 WLR 1855 at 1865H." (para [55])

[41] All these cases, and others to which this court was referred, emphasise the nature of the court's supervisory role over statutory public inquiries. In light of the expertise of those who are appointed to carry out the work of inquiries, and the broad discretion vested in the Chair in relation to the inquiry's procedure and conduct, the court will only exercise a light touch review.

The grounds of challenge

(i) Reasons

[42] There is no statutory duty imposed upon the Chair of a public inquiry to give reasons for any particular procedural decision. However, given the importance of the issues at play, and the desire for transparency in decision making, it will often be the case that reasons should be given. When they are given, such reasons ought to be adequate and intelligible so that the reader understands why a particular course of action has been adopted.

[43] In *South Bucks District Council v Porter* [2004] UKHL 33, the Law Lords confirmed that an applicant for judicial review seeking to impugn a decision on the grounds of a lack of adequate reasons must show that he has genuinely been substantially prejudiced by the alleged inadequacy – see para [36] of the speech of Lord Brown.

[44] The applicant's case is that, in relation to each of the three impugned decisions, the reasons given by the Inquiry were inadequate.

[45] In relation to the decision regarding Ministers, the reasons given by the Inquiry were articulated in the correspondence dated 9 and 15 October. The reasons given were entirely intelligible and adequate. The Inquiry had concluded that, having considered the Terms of Reference, and the other evidence available, it would hear evidence from the Permanent Secretaries at the Department of Health with a combined period of service of 17 years.

[46] No evidence has been adduced at all by the applicants as to how they have been substantially prejudiced by any of the alleged inadequacy in the reasons provided.

[47] Moreover, nowhere in the applicants' pleaded case is there any analysis of how or why the evidence given by the Permanent Secretaries was lacking in any material respect. The Order 53 statement does not contain any averment that the Inquiry ought to revisit the question of calling some or all of the relevant Ministers in light of the evidence heard on 17 and 23 October.

[48] In relation to H30, the correspondence set out above reveals the approach adopted by the Inquiry. It would be neither necessary nor compliant with the section 17 obligation for the Inquiry to require every member of staff across a 22 year period to give evidence. The broad view approach adopted by the Panel is therefore the context for the decision made in relation to H30.

[49] The reasons given for not calling H30 are simple and intelligible. Again, there is no evidence adduced by the applicants which begins to demonstrate that any prejudice has been caused by some inadequacy in the reasons provided.

[50] The allegation in relation to the reasons underpinning the decision to have the resettlement sessions after the closing submissions suffers from a similar infirmity. By virtue of section 24 of the 2005 Act, and paragraph 24 of the Terms of Reference, the inclusion of recommendations in relation to resettlement, and the taking of evidence in relation to events outside the Inquiry's timeframe, are matters of discretion.

[51] Equally, as the Chair has stressed, the manner in which the Inquiry receives any information is a matter properly to be determined by him under paragraph 20 of the Terms of Reference.

[52] Moreover, the Inquiry has sought comments and representations from Core Participants on this issue by 13 December 2024. This challenge is therefore manifestly premature, and it would be entirely inappropriate for a judicial review court to intervene in an ongoing process.

[53] For these reasons, the various claims advanced by the applicants in relation to a lack of adequate reasons are unarguable and leave to apply for judicial review in this regard is refused.

(ii) Procedural fairness and sufficient inquiry

[54] The applicants say that the Inquiry's duty of sufficient inquiry, in order to discharge its obligations under the Terms of Reference, can only be discharged by calling Ministers and H30 to give evidence.

[55] The duty of inquiry is often called the *Tameside* duty after *Secretary of State for Education v Tameside MBC* [1977] AC 1014, which referenced the obligation of a decision maker to take reasonable steps to acquaint himself with the relevant information.

[56] The Divisional Court in England & Wales in *R (Plantagenet Alliance) v Secretary of State for Justice* [2014] EWHC 1662 (Admin) identified the principles relating to the *Tameside* duty in a well-known judgment:

> "1. The obligation upon the decision-maker is only to take such steps to inform himself as are reasonable.
>
> 2. Subject to a *Wednesbury* challenge, it is for the public body, and not the court to decide upon the manner and intensity of inquiry to be undertaken.
>
> 3. The court should not intervene merely because it considers that further inquiries would have been sensible or desirable. It should intervene only if no reasonable authority could have been satisfied on the basis of the

> inquiries made that it possessed the information necessary for its decision.
>
> 4. The court should establish what material was before the authority and should only strike down a decision by the authority not to make further inquiries if no reasonable council possessed of that material could suppose that the inquiries they had made were sufficient.
>
> 5. The principle that the decision-maker must call his own attention to considerations relevant to his decision, a duty which in practice may require him to consult outside bodies with a particular knowledge or involvement in the case, does not spring from a duty of procedural fairness to the applicant, but from the Secretary of State's duty so to inform himself as to arrive at a rational conclusion.
>
> 6. The wider the discretion conferred on the Secretary of State, the more important it must be that he has all relevant material to enable him properly to exercise it." (para [100])

[57] The applicants accept that this represents the present and orthodox legal position. However, they submit that the court ought to depart from that line of authority and hold that the *Tameside* duty is not merely subject to *Wednesbury* unreasonableness but is an aspect of procedural fairness. Since it is well established that procedural fairness is a matter for the court, it ought to determine, on a binary 'yes or no' basis whether the duty has been satisfied in these circumstances.

[58] Reliance is placed on a dissenting judgment of Treacy LJ in *Re GC's Application* [2019] NICA 3:

> "I consider that in some cases a court may find itself obliged to substitute its own view of what constitutes sufficiency of enquiry rather than simply applying the Wednesbury test to the decision maker's view of what those enquiries needed to be." (para [62])

[59] The applicants face a formidable hurdle in advancing this argument. The views of Treacy LJ found no support with the majority in *GC*. Indeed, the orthodox approach has been followed on countless occasions by the courts both in England & Wales and in this jurisdiction over the last 20 years.

[60] In two recent Supreme Court judgments in appeals from Northern Ireland – *Re McAleenon's Application* [2024] UKSC 31 and *CAO v SSHD* [2024] UKSC 32, reference

was made to the *Tameside* duty. In the former Lord Sales and Lord Stephens commented:

> "…it is for the public authority to determine on the information available to it the facts which are relevant to the existence and exercise of its powers, subject to review by a court according to the usual rationality standard. The court has a supervisory role only." (para [40])

[61] In the latter case, Lord Sales and the Lady Chief Justice said:

> "Since in a human rights appeal the FTT is the new primary decision-maker, whose decision supersedes that of the Secretary of State, it is subject to a form of the usual public law duty on a decision-maker to make such inquiries as it may consider to be necessary to inform itself about relevant matters …and will commit an error of law if, being on notice of a vital gap in the evidence, it irrationally fails to make relevant inquiries to address that." (para [48])

[62] Furthermore, the Court of Appeal has stated unequivocally in *Re Hegarty's Application* [2019] NICA 16:

> "…it is for the decision maker and not the court, subject only to *Wednesbury* review, to decide upon whether any inquiry should be made and if so the manner and intensity of any inquiry which is to be undertaken into any relevant factor." (para [55](h)(vii))

[63] There is also a clear and logical reason why the *Tameside* duty is subject only to *Wednesbury* rationality and not the rules around procedural fairness. It is important to recall what Lord Greene MR said in *Associated Provincial Picture Houses v Wednesbury Corporation* [1948] 1 KB 223 :

> "It is true the discretion must be exercised reasonably. Now what does that mean? Lawyers familiar with the phraseology commonly used in relation to exercise of statutory discretions often use the word 'unreasonable' in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly

> be said, and often is said, to be acting 'unreasonably.' Similarly, there may be something so absurd that no sensible person could ever dream that it lay within the powers of the authority."

[64] In *R (DSD) v Parole Board* [2018] EWHC 694 (Admin), the Divisional Court in England & Wales explained:

> "The distinction between relevant considerations, properly so called, and matters which may be so obviously material in any particular case that they cannot be ignored, is not merely one of legal classification; it has important consequences. If a consideration arises as a matter of necessary implication because it is compelled by the wording of the statute itself, the decision-maker must take it into account, and any failure to do so is, without more, justiciable in judicial review proceedings. If, on the other hand, the logic of the statute does not compel that conclusion or, in the language of Laws LJ, there is no implied lexicon of the matters to be treated as relevant, then it is for the decision-maker and not for the court to make the primary judgment as to what should be considered in the circumstances of any given case." (para [141])

[65] Thus, the decision maker's obligation to take into account relevant considerations, and to properly inform himself, are part and parcel of the duty to act rationally. The fons et origo of the *Tameside* duty is rationality, not procedural fairness.

[66] The applicants' case does not begin to meet the threshold for leave on this ground. There is nothing to indicate that the Inquiry failed to take relevant considerations into account or acted irrationally in failing to make sufficient inquiry. Indeed, the Inquiry has been at pains to state that its decisions were reached following a careful consideration of the issues and the obligations imposed by the Terms of Reference. The court bears in mind the particular understanding of the Panel in relation to the issues which are under its consideration and its expertise in such matters.

[67] The applicants have failed to make out an arguable case on this ground and leave is therefore refused.

(iii) Article 2 & 3 procedural obligation

[68] This ground only applies to the decision not to call any Ministers. It is alleged that this decision represents a breach of the duty of the state to carry out an effective investigation in accordance with articles 2 and 3 of the ECHR.

[69] For this purpose, the court accepts that the applicants have the necessary status to bring a claim in relation to the alleged breach of the prohibition on inhuman or degrading treatment provided for by article 3.

[70] There is no doubt that for such an investigation to be effective, it must be independent, prompt, involve the next of kin and ensure a sufficient element of public scrutiny.

[71] In terms of analysing the state's response to investigate such issues, it is necessary to take an overall view of the steps taken - see Garnham J in *Manchester Arena Inquiry* at para [71]. In this case, there is a very substantial police investigation and a significant number of criminal prosecutions being pursued.

[72] It is wholly unarguable to contend that the failure to call between one and seven Ministers of Health to give evidence to a public inquiry could infringe the state's article 3 investigative obligation in these circumstances. The outcomes of the Inquiry and the criminal prosecutions are not yet known. There is simply no basis to say that the Inquiry is lacking in any of the characteristics of independence, effectiveness and public scrutiny.

Conclusions

[73] In the context of coroners' inquests, Girvan LJ stated in *Re Officer C's Application* [2012] NICA 47:

> "Unless it is apparent that a procedural ruling should not have been made the High Court exercising its supervisory jurisdiction should not intervene. It is not the function of the High Court to micromanage an inquest or to act as a forum for a de facto appeal on the merits against a coroner's procedural ruling. A coroner will have only acted unlawfully if he has exceeded the generous width of the discretion vested in him to regulate the inquest in the interest of what he considers to be a full, fair and fearless inquiry. The coroner will have much greater awareness of the issues involved and the evidence likely to emerge in the course of the inquest. He must, accordingly, be accorded a wide margin of appreciation and the High Court must recognise that aggrieved parties alleging procedural unfairness will have an ultimate remedy at the end of the inquest if there is a case that the verdict should be quashed because the inquest has fallen short of proper standards to such an extent as to call into question the lawfulness of the resultant verdict. Any other approach would encourage the proliferation of wholly undesirable judicial review

> challenges to coroner's procedural rulings in the course of an inquest." (para [8])

[74] It is equally not the role of the High Court to micromanage the procedural decisions of public inquiries. There ought to be a strong reluctance on the part of the courts to grant leave in respect to such challenges unless there is a compelling evidence-based case that the Chair has acted unlawfully.

[75] No such case has been demonstrated here. This is precisely the form of procedural challenge which should be deprecated. The applicants and their advisors may profoundly disagree with the decisions made in the course of the Inquiry, but this founds no basis to seek the court's intervention by way of judicial review.

[76] The applicants have not established any arguable case with a realistic prospect of success. Leave is refused and the application for judicial review is accordingly dismissed.