Neutral Citation Number: [2010] EWHC 2220 (Admin)

Case No: CO/8555/2010

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
DIVISIONAL COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 27 August 2010

Before :

LORD JUSTICE THOMAS
MR JUSTICE SILBER

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Between :

THE QUEEN (On the application of SUMAIYA PATEL)	**Claimant**
- and -	
LORD CHANCELLOR	**Defendant**
-and-	
ASSISTANT DEPUTY CORONER FOR INNER WEST LONDON	**Interested Party**

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Mr Ian Wise QC and **Mr Naeem Mian** (instructed by **Imran Khan & Partners**) for the **Claimant**
Mr Ashley Underwood QC and **Mr Alan Payne** (instructed by **The Treasury Solicitor**) for the **Defendant**
The interested party was neither represented nor present

Hearing date: 25 August 2010

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Judgment Approved by the court for handing down (subject to editorial corrections)

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LORD JUSTICE THOMAS:

1. This is the judgment of the court to which each of us has contributed.

I Introduction

2. Mrs Sumaiya Patel (the claimant) seeks to quash the decision of the Lord Chancellor made on 6 May 2010 by which he refused to grant her exceptional funding for legal representation at the inquest into the victims of the bombings which occurred on 7 July 2005. On that day four bombs exploded in London: one on a bus and three on the Underground System and 56 people died and hundreds were injured. Of the 56 people who died 52 were victims and four were bombers including the late and former husband of the claimant, Mohammed Sidique Khan (MSK).

3. The claimant contends that the decision of the Lord Chancellor of 6 May 2010 to refuse to grant her exceptional funding for legal representation into the death of her husband was both unreasonable and irrational in the circumstances of the case.

4. In particular it is contended on behalf of the claimant that as the application for exceptional funding was granted by the Lord Chancellor in favour of the victims' families on the basis of the Significant Wider Public Interest so that their legal representatives could make representations to the Coroner and that they were properly Interested Persons it was inconsistent not to do so in her favour.

5. It is said that the consequence of the Lord Chancellor's refusal to grant funding to the claimant in contrast to the other parties means that the claimant was unable to make any submissions on the issues determined by the Coroner regarding first the resumption of the inquest into the death of her husband, second the joinder of the inquest in the event of resumption, third the scope of the inquest or inquests, fourth the requirements or otherwise of a jury at the inquest and fifth becoming an Interested Person.

6. The case for the Lord Chancellor is that he was entitled and indeed obliged to make the decision to refuse to grant exceptional funding for the reasons which had been clearly explained in the letter of 6 May 2010 and his previous correspondence with the claimant's solicitor.

II The Statutory Framework

7. The regime for the public funding of legal services is contained in the Access to Justice Act 1999 (the 1999 Act) and by section 1 of the 1999 Act, the Legal Services Commission (LSC) has been established with the task of maintaining the Community Legal Service.

8. Whilst there is no general right for funding for participation in inquests, section 6(8) of the 1999 Act provides the Lord Chancellor with a power to authorise funding for the provision of legal representation as it states that

> "The Lord Chancellor –
>
> (a) may by direction require the Commission to fund the provision of any of the services specified in Schedule 2 in circumstances specified in that direction, and
>
> (b) may authorise the Commission to fund the provision of any of those services in specified circumstances or, if the Commission request him to do so, in an individual case."

9. No direction under section 6(8)(a) or authorisation "in specific circumstances" under section 6(8)(b) covering this type of inquest has been made. Consequently, the only route available to the claimant for obtaining funding lay under the latter part of section 6(8)(b); namely by asking the LSC to request the Lord Chancellor to authorise funding for representation in the claimant's individual case.

10. In order to assist the LSC when faced with an application of this nature the Lord Chancellor, pursuant to section 23 of the 1999 Act, issued guidance indicating "the types of cases he is likely to consider favourably" under his power under section 6(8)(b). This guidance forms part of the LSC's Funding Code Decision Making Guidance.

11. Paragraph 27.2.8 of the Funding Code Decision Making Guidance provides (with emphasis added) that:

> "8. Before approving an application I would expect the Commission to be satisfied that either:
>
> **There is a significant wider public interest as defined by the funding code guidance … in the applicant being legally represented at the inquest or**
>
> **Funded representation for the family of the deceased is likely to be necessary to enable the coroner to carry out an effective investigation into the death, as required by Article 2 of ECHR…."**

12. The Funding Code Decision Making Guidance also includes guidance from the LSC. Paragraph 27.4.11 refers to funding which is generally available for legal assistance in preparing for inquests:

> "11. Legal Help is available to prepare a family for the inquest: and, as stated in Main, to make submissions and identify any particular matters which they wanted the coroner to explore. It

> is only advocacy before the coroner that is an excluded service under the Act."

III The Chronology

(a) The adjournment and resumption of the inquest

13. On 31 July 2007 Dr Reid acting both as Inner North London Coroner and as Assistant Deputy Coroner for Inner West London formally adjourned all 56 inquests under section 16(1) (b) of the Coroners Act 1988 following a request from the Director of Public Prosecutions. The request was made on account of the initiation of criminal proceedings against three men who were accused of conspiring with the four bombers and others unknown to cause an explosion.

14. The criminal proceedings were completed on 28 April 2009 and so it became possible to resume the inquests. On 26 November 2009 it was announced that Dame Heather Hallett DBE, a member of the Court of Appeal, had been appointed as Assistant Deputy Coroner for the Inner West London district (the Coroner). She has jurisdiction over the inquest into all the deaths including that of the claimant's former husband.

(b) Hearing on 25 February 2010

15. At a pre-inquest review on 25 February 2010, the Coroner heard submissions as to how the inquest should proceed. During the course of the hearing, lawyers acting for others indicated the role they intended to play and whether they intended to apply for public funding under the provisions to which we have referred. The claimant's solicitor, Mr Imran Khan, after making clear that any involvement the representative of the claimant and the parents of another bomber might have in the inquest would be handled with sensitivity, then stated that:

> "I have no application to be made for funding and in terms of directions we are content to proceed and do as much as we can to assist the inquest".

16. The Coroner subsequently issued directions requiring written submissions to be filed by 16 April 2010:

    (i) By any person who wished to be designated as an Interested Person under rule 20(a)-(g) of the Coroner Rules 1984, setting out the grounds upon which they consider that they should be so designated; and

(ii) Addressing the resumption of and/or joinder of the inquests (i.e. whether the inquests of the victims or the four putative bombers should be resumed and, if so, whether the inquests into all 56 deaths should be heard together).

17. The families of the victims sought public funding in good time. On 2 March 2010 they were granted legal funding for legal representation.

(c) The claimant's application for funding

18. The claimant did not make written submissions to the Coroner. Instead, on 22 March 2010 the claimant's solicitor submitted an application to the LSC for exceptional funding on the basis that the claimant's status as the widow of MSK qualified her as an Interested Person in the inquests. In support of her application for funding, she relied on the fact that:

(i) Although she has never been charged with an offence (having been arrested and interviewed by the police), it was "possible that similar assertions" to those which had been made during the earlier criminal proceedings referred to above (to the effect that she had acted as a conduit for passing information between the UK and Pakistan) might be repeated during the inquests;

(ii) There was a significant wider public interest in her being represented since this might potentially assist (a) "in understanding the events of 7 July 2005", and (b) the Coroner in securing the rights and information sought by other interested parties; and that

(iii) Given the volume of material and likely complexity of legal issues, she would be unable to participate effectively in the inquests without legal representation.

19. On 6 April 2010 the LSC, having expressed its view that the claimant's application did *not* meet the exceptional funding criteria, requested the Lord Chancellor to consider the application under his residual powers. In its memorandum to the Lord Chancellor, the LSC pointed out that the claimant had not in fact identified what evidence she might provide which would assist in an understanding of the events of 7 July 2005 or which would help in securing the rights and information sought by others.

20. By a letter dated 22 April 2010, the Lord Chancellor, whilst accepting that the claimant was financially eligible for funding, refused the application on the grounds that:-

(i) He was not satisfied that it had been established that there was a wider public interest in the claimant being represented. In particular, he noted that, whilst

the claimant might wish to protect her own reputation, such a consideration did not of itself constitute a "wider public interest" within the meaning of the Civil Legal Aid Funding Code (i.e. that representation was necessary for inquests to produce real benefits for individuals *other* than the claimant);

(ii) Whilst the claimant had not sought to rely on Article 2, the Lord Chancellor considered that, since there was no arguable breach of the State's substantive duty under Article 2, no enhanced investigative obligation arose under Article 2 and hence no need for funding; and that

(iii) "there were no other reasons for considering that there should be funded representation in this case".

In addition, the claimant was informed, in the letter, that she was entitled to Legal Help, which she could use to assist her in preparing written questions or raising matters which she wished the Coroner to consider; this was a reference to the provision we have set out at paragraph 12 above.

(d) The hearing on 26-30 April 2010

21. On 23 April 2010 the claimant's solicitor wrote to Mr Martin Smith, Solicitor to the Inquests, to inform him that, "had there been funding", counsel would have made submissions to the effect that:

(1) the Inquests should be resumed;

(2) the Inquests should be joined; and

(3) his clients should be made Interested Persons in the Inquests of some of the deceased.

22. A further pre-inquest review took place from 26 April 2010 to 30 April 2010. At this pre-inquest review the Coroner considered the various written and/or oral submissions:

(i) of those who wished to be designated as Interested Parties;

(ii) relating to whether:

(a) the inquests should be resumed; and
(b) if so, whether the inquests into the Victims' inquests should be heard with the putative bombers' inquests.

23. At this pre-hearing review, it was made clear that some of the families of the victims of the bombing were vehemently opposed to the Victims' inquests being joined with the inquests into the deaths of the putative bombers. Counsel to the Inquest reported the position of the claimant to the Coroner during the course of the public hearing, as ascertained by the Solicitor to the Inquest.

(e) The further application for funding

24. By a letter dated 28 April 2010 the claimant's solicitor submitted further representations to the Lord Chancellor in support of her application for exceptional funding. He asserted (adopting the summary of the claimant's letter kindly provided to us by Mr Wise QC who appeared on her behalf) that:

> "i) Effective participation would enable them to discharge their right to put questions and explore issues as an interested party. Additionally their participation may help other parties to explore issues thereby having the potential to produce real benefits for the other Interested Parties;
>
> ii) The proceedings are on any view 'significant';
>
> iii) Well-documented campaign to establish the full extent of the knowledge of the security services;
>
> iv) [The claimant] is in a 'unique position' as the wife of the alleged ring-leader and her association with the other perpetrators and others. It is difficult to envisage other individuals who could assist the inquest to the same extent;
>
> v) [The claimant] equally anxious to explore the true extent of the knowledge of the Security Services;
>
> vi) Analysis of the intelligence failings may reveal that the atrocity was entirely preventable and the lives of the victims and perpetrators may have been saved;
>
> vii) Volume of material. Extraordinary and unreasonable to expect [the claimant] to deal with by way of legal help; and
>
> viii) No legitimate distinction between those granted funding and [the claimant]"

It was made clear that if funding was refused, an application would be made for judicial review of that decision.

25. By a letter dated 6 May 2010 the Lord Chancellor maintained his refusal of the claimant's application, indicating that:

i) The decisions to provide funding for the families of the Victims were taken on the basis that the significant wider public interest criterion was met;

ii) The significant wider public interest in relation to the Victims' families was primarily the enhanced safety and confidence which the public would derive from the full scrutiny and examination of the evidence which would flow from the Victims' families being represented and pressing for the fullest possible exposure of the facts;

iii) The distinction between the position of the families of the Victims and the claimant arose because of different motivation underlying the applications for funding – in particular, in contrast to the families of the Victims, the claimant's application was in significant part motivated by a desire to be protected against possible allegations that she was complicit in the actions of the bombers;

iv) It was open to the claimant to assist the inquests as a witness; it was unclear how legal representation for the claimant would add to the inquest, or why the claimant would only be able to assist the Coroner with the help of funded representation; and that

v) It was not accepted that the claimant being represented would lead to any additional benefits flowing to the public, or that funded representation was required for any additional benefits to be obtained.

(f) The decision of the Coroner on 21 May 2010

26. In a written decision handed down on 21 May 2010, the Coroner ruled that:

i) The Victims' inquests should be resumed (paragraphs 23-30);

ii) In the absence of proper submissions, all questions relating to the bombers' inquests (including whether they should be resumed) should be adjourned (see paragraphs 15 to 22 of her decision);

iii) In relation to the claimant, the Coroner, having noted that the claimant (a) had been denied funding, (b) wished for the inquests to be joined; and (c) wished to be "interested persons in the inquests of some of the deceased" (paragraph 15), stated (with emphasis added) that:

> "…I make it plain, however, that if any submissions are to be made as to the resumption of the [bombers'] inquests…, **I will require proper and fully reasoned submissions on the issues it is said should be explored. If interested person status is sought, I wish to know the questions the person concerned would wish to ask and in which inquests. Any further delay in filing those submissions will only make it harder to persuade me that, having embarked upon the inquest process as far as the [Victims]… are concerned, it would be practical or appropriate to hear all 56 inquests together**" [paragraph 18].

(g) The application to the LSC for funding of the present proceedings

27. In the meantime, in anticipation of a possible refusal by the Lord Chancellor to grant funding, the claimant's solicitor had sent to the claimant funding forms which she returned; on 14 May 2010 the claimant's solicitor sent to the LSC an application for funding for judicial review proceedings of the Lord Chancellor's decision not to grant funding as set out in his letters of 20 April and 6 May 2010.

28. This was refused by the LSC in a letter dated 20 May 2010 on the basis that the application did not satisfy the test for funding. On 24 May 2010 the claimant's solicitor informed the Solicitor to the Inquests of the refusal and of the intention to appeal. In the event funding was granted, help would be sought for the Coroner in relation to the timetable in the Administrative Court. On 28 May 2010 the claimant's solicitor appealed the decision to refuse legal aid to commence proceedings for judicial review. On 22 June 2010, the claimant's solicitor sent a chasing letter. That appeal was considered by the panel on 9 July 2010 and the decision of the panel in favour of granting funding (subject to means) was notified to the claimant's solicitor on 20 July 2010. The Solicitor to the Inquests was informed the same day.

29. In the meantime, however, the claimant had notified her solicitor that her financial means had changed. As a result of that, it was decided that she needed to complete further funding forms. These were sent out to her on 23 July 2010 and, following a further conversation with her, further forms were sent out for her husband to complete and return. These were received at the offices of the claimant's solicitor on 3 August 2010 and sent out the same day by e-mail to the LSC.

(h) The commencement of the present proceedings

30. On 11 August 2010, the claimant issued the current proceedings seeking:

i) to challenge the refusal of her application for exceptional funding in order to be represented at MSK's Inquest (see paragraph 1 and 11 of the grounds); and

ii) expedition on the basis that the funding is required in order to be represented at and comply with the directions made in the Victims' inquests (see the box marked reasons for urgency).

31. Master Venne made an order requiring the defendant to file detailed grounds by 18 August 2010, and listing the matter for a rolled up hearing on 25 August 2010. He further directed the claimant to serve the Coroner as an Interested Party. On 17 August 2010 an application was made by the Lord Chancellor to vacate the hearing date fixed, but that was subsequently withdrawn in the light of submissions made on behalf of the Coroner as an interested party to these proceedings.

IV The Issues

32. There were three issues for us which we deal with in turn.

i) Was the decision made by the Lord Chancellor irrational or unreasonable?

ii) Should the time limit for the bringing of this application be extended?

iii) How should the court exercise its discretion?

V Was the Lord Chancellor's decision to refuse funding to the claimant irrational or unreasonable?

33. As we have explained at paragraph 11 above, paragraph 27.2.8 of the Guidance provides that before approving an application the Lord Chancellor would expect the LSC to be satisfied that there was a Significant Wider Public Interest. Paragraph 2.4 of the Code defined "wider public interest" as:

> "'Wider Public Interest' means the potential of the proceedings to produce real benefits for individuals other than the client (other than the benefit to the public at large which normally flows from proceedings of the type in question)".

34. We consider that this shows, subject to the latitude (or margin of discretion) accorded to the Lord Chancellor in the exercise of his judgment on what constitutes Significant Wider Public Interest, that:

i) The threshold is high because of the need for there to be not merely a potential of the proceedings to produce real benefits for individuals other than the client (other than the benefit to the public at large which normally flows from proceedings of the type in question) but that the benefits must be substantial;

ii) The benefits must be seen against what would happen if the application was refused;

iii) Those benefits have to be considered in the light of that facts that (i) the inquest is inquisitorial in nature; and (ii) any existing legal representation. In this case the Coroner is assisted by a team of counsel led by Mr Hugo Keith QC; and the Victims' families are legally represented and would be able to challenge the evidence given;

iv) The onus of proving the Significant Wider Public Interest would be on the claimant;

v) Legal Help is available; we are told that this was a sum of £295; this does not appear to have been used in the present case to make representations to the Coroner, but rather to apply for funding.

35. The claimant's challenge has to be looked at solely in the light of the facts known to the Lord Chancellor when he made the decision of 6 May 2010 and in particular the representations made to him. The fact that there might now be additional grounds for granting funding is not relevant when considering this issue (which, despite the opportunity given to the claimant as we will explain, there are not).

36. As we have explained at paragraph 20 above, the initial application of the claimant for funding was refused by the then Lord Chancellor personally. His decision is contained in the letter of 22 April 2010 which ended with the claimant's solicitor being told that should he wish to provide new information to support the application, the Lord Chancellor would be happy to give consideration to that. In consequence a letter was sent by the claimant's solicitor on 28 April 2010 which has been summarised at paragraph 24 above.

37. In our view, the Lord Chancellor was quite entitled to conclude, as he did on 6 May 2010, that he "does not accept that the representation of your clients would lead to any additional benefits flowing to the public or that funded representation is required for any benefits to be obtained, should there be additional benefits". More particularly, he was entitled to conclude that none of the matters relied on by the claimant's solicitor in the correspondence as justifying funding showed the potential of the proceedings producing real benefits for individuals other than the client (other than the benefit to the public at large which normally flows from proceedings of the type in question), let alone that any such benefits would be substantial. It must not be forgotten that the Lord Chancellor had to consider this application from the claimant against the background that there would be others seeking to investigate relevant matters; first the Inquest was inquisitorial and conducted by a very senior judge, second that the Coroner had the benefit of a team of counsel led by Mr Hugo Keith QC and third that the Victims' families had experienced legal representation in each of its teams. Indeed, as was very properly accepted by Mr Wise QC in his clear,

succinct and helpful submissions to us, this battery of legal expertise would be able to question the witnesses called before the Inquest on all matters.

38. We should say that until now, we have been considering the claimant's case without taking account of the need for the court to adopt self-restraint on the grounds that the Lord Chancellor is entitled to latitude in his judgment. Judicial restraint in such cases is underpinned by the separation of powers which means that the Lord Chancellor is entitled to a built-in latitude (or margin of discretion) in this decision making, given the significant expenditure of public funding at stake and the need to balance the wider public interest.

39. The degree of latitude will depend on the subject matter with which the decision is concerned. In our view issues of what constitute "*a significant wider public interest*" are matters which elected Ministers are in a particularly strong position to judge. In consequence, we consider that a substantial degree of latitude must be due to the Lord Chancellor in respect of the kind of funding decision with which this application is concerned. In our view, even which is not the case if we had any doubt as to whether the decision of 6 May 2010 was impugnable, we would then have taken into account the built-in latitude due to the Lord Chancellor in considering his decision. This would have fortified our conclusion that his decision should not be quashed

40. For the purpose of completeness, we add that at various times during his oral submissions Mr Wise QC referred to the lack of reasons given by the Lord Chancellor in his letter of 6 May 2010. We are unable to accept that submission because, as we have explained the Lord Chancellor adopted the correct test in reaching the right conclusion. The claimant must have appreciated why she had lost. There was no need for the Lord Chancellor to deal with each of the eight reasons put forward by the claimant's solicitor in his letters of 28 April 2010 and 6 May 2010 to which we have referred in paragraphs 20 and 25 above. We therefore reject that complaint. For all those reasons, the claim cannot succeed, but we will deal with the two other issues, each of which presented difficulties for the claimant.

VI Should the time limit be extended?

41. The proceedings were not brought within three months of the decision. It was therefore accepted on behalf of the claimant that the application was outside the time limit for bringing the claim, but contended that it would be contrary to the interests of justice for the claim to be shut out on the grounds of delay.

42. We approach this question broadly in the light of the whole of the evidence before us beginning with the pre-inquest review on 25 February 2010. It is clear from that hearing and all the subsequent hearings before the Coroner that, because of the substantial period of time that had elapsed since the bombings on 7 July 2005, there was an overwhelming need that the inquests be heard as soon as was possible, consistent with the interests of justice. It was therefore very important that the application for funding to the Lord Chancellor be made as soon as possible, that the

Coroner be kept informed as to the progress of the application and that any challenge to her decisions or to decisions in respect of funding be mounted as speedily as possible.

43. It is clear from the evidence that the application made for funding was made at a time that was later than those made by others, but it was nonetheless made in sufficient time that no criticism should attach to the claimant's solicitor. The matter was, given the importance of the matter, promptly considered by the LSC and by the Lord Chancellor. Again the claimant's solicitor acted promptly in response to the invitation from the Lord Chancellor to make further submissions and the final decision of the Lord Chancellor was made promptly after the receipt of those further submissions.

44. It should, in our judgement, have been clear to the claimant's solicitor in the light of discussions with the Solicitor to the Inquests and other members of that legal team (to which we have referred) that the Coroner was anxious to make decisions as soon as possible as to whether inquests should be resumed on the bombers and whether the claimant should be considered to be an Interested Party. Those parts of her decision of 21 May 2010 which we have set out at paragraph 26 above made that clear beyond argument by that date.

45. We have set out at paragraphs 27-29 above the period of time that elapsed before a final decision on funding for these proceedings was made by the LSC. The evidence in relation to this was only put before the court by the claimant on the morning of the hearing and so was not as full as it should have been. What is clear is that there was an unexplained delay between the 28 May and 20 July 2010, a period of nearly two months, during which the appeal process took place. Had that delay not occurred, no doubt these proceedings could have been brought significantly earlier.

46. We accept that the claimant's solicitor did on one occasion try to encourage the LSC to deal with the matter more promptly but, bearing in mind what the Coroner had said and the obvious need for expedition, we do not think that what was done was adequate. It seems to us that given the decisions the Coroner had taken and her desire to resume the inquests as soon as possible, any application on the part of the claimant challenging the decision of the Lord Chancellor needed to be brought and determined well before the end of July.

47. One would ordinarily have expected a solicitor in these circumstances to have informed the tribunal which was ultimately affected by the decision to refuse funding (the Coroner in this case) so that the tribunal would have been able to point out (as the Coroner did as soon as it was made an interested party to these proceedings) the very significant effect of delay. We have no doubt that had the Coroner been informed of the delay in the appeal process at the LSC, she would have done what she could to ensure that the appeal process was dealt with speedily so that the challenge to the decision of the Lord Chancellor could have been made and determined well before the end of July. In our experience, when, in matters of such importance, a tribunal

requests the Executive Branch of the State to make decisions more rapidly, very close attention is paid to the tribunal's request. We cannot understand why this was not done.

48. In our judgement it follows that the application for funding was not pursued with sufficient vigour. It is, we regret to say, no excuse to blame the LSC (bearing in mind the very considerable financial pressures it is under), unless it could be shown that every effort had been made to ask the LSC to make the decision much more rapidly than it did and the Coroner has been fully apprised of what was happening.

49. In *Andrew Finn-Kelcey v Milton Keynes Council* [2008] EWCA Civ 1067, Keene LJ made clear the need for a claimant seeking judicial review to act promptly; he referred to some of the many authorities to that effect. At paragraph 22-29 of his judgment he set out the importance of acting promptly in cases relating to planning applications. The considerations to which he there refers are equally applicable in the circumstances of the present case. It must have been abundantly clear to the claimant's solicitor that the need to act promptly was imperative and that the effect of delay might seriously damage the timely conduct of the inquest and might well compel the Coroner to adjourn the commencement, bearing in mind the significant and time consuming preparations that might be required. Those effects were set out in written submissions put before the court on behalf of the Coroner as an Interested Party to these proceedings.

50. If the claimant succeeded in her application, then the Lord Chancellor would have to reconsider his decision; it could not reasonably be expected that that could be done before 6 September. It would then be necessary, if the decision was favourable, for the Coroner to convene a further hearing to consider applications that the inquest of the bombers be resumed and that the claimant be made an Interested Party. That would no doubt have required finding a time on reasonable notice to get all the other parties together for the hearing. The Coroner would then have to have had time to make her decision. In the light of the fact that the inquest is due to commence on 11 October 2010, the further applications and proceedings would inevitably have affected the preparation of the parties for the commencement of the inquest and jeopardised the starting date, even if the Coroner were to decline both applications. If she were to grant them, then there would no doubt have to be a reconsideration of the entire timetable.

51. It is impossible to believe that the claimant's solicitor did not appreciate the very significant consequences that would flow from not making the application to this court promptly and within the time limit. It is accepted that this application was not made within the time. In our judgement enormous prejudice would have been caused if we had granted this application. We are bound to do so because s.31(6) of the Senior Courts Act 1981 provides:

> "Where the High Court considers that there has been undue delay in making an application for judicial review, the court may refuse to grant (a) leave for making the application or (b)

> any relief sought on the application …. if it considers that the granting of the relief … would be detrimental to good administration."

52. We therefore would, if we had come to a different view in relation to the rationality and reasonableness of the Lord Chancellor's decision, have in any event decided that the application could not succeed on account of the failure to make it within the requisite time limit.

VII Discretion

53. As is clear from the claimant's solicitors' letters of 22 March and 28 April 2010 and Mr Wise QC's clear, succinct and helpful submissions, the basis upon which a Significant Wider Public Interest was advanced was that the claimant could provide for the inquest evidence and information which could assist the inquest; furthermore representatives for the claimant would have been in the best position to put questions on the basis of their instructions from the claimant.

54. The provisional index of issues in the Inquests includes at paragraph 12 the following.

> "**The backgrounds of MSK, Panweer, Hussain and Lindsey**:
>
> The lives of the four men prior to 7 July 2005 – upbringing, education, radicalisation, association, overseas travel, expression of extremist beliefs etc."

55. It is obviously a matter of Significant Wider Public Interest to understand why someone such as the claimant's late husband who was born in Dewsbury, Yorkshire and led his life in the United Kingdom should have decided to participate in the murder of a large number of innocent people in London on 7 July 2005. At paragraph 18 above, we have summarised her solicitor's submission that she was in the unique position to help in relation to her husband and others involved in the bombing. It is necessary to refer to it in full:

> "Ms Patel is in a unique position, given that she was both married to the individual who has been characterised as being the 'ringleader' of the attacks on 7 July 2005 and her association with the other perpetrators of the attacks and others who were charged as being allegedly involved …. it is difficult to envisage other individuals who could potentially assist the inquest and thereby the families of the victims in seeking to address the wide-ranging questions to which they want answers, to the same extent as they may. Therefore, it is demonstrably the case that my clients may assist in a tangible way the potential of the proceedings to produce real benefits for individuals/members of the public other than themselves and other interested parties including state agencies. "

In none of these letters did the claimant or her solicitor condescend to give any details as to what the claimant might be able to say which would show that she could contribute to the Significant Wider Public Interest identified by her solicitor and the issue in paragraph 12 of the Inquest's provisional index of issues, obvious though it was that such detail was essential.

56. We therefore afforded to Mr Wise QC and to the solicitor present in court on the claimant's behalf an opportunity to take instructions as to the specific evidence that would be given. We are particularly indebted, as we made clear in court, to Mr Wise QC, his junior, Mr Mian, and to the solicitor, for the efforts they took during the extended adjournment over midday.

57. We were told as a result of taking the claimant's specific instructions that the claimant's position was that she was interested to understand why her late husband and the other bombers acted as they did; that what she was seeking was an opportunity to ask questions of witnesses at the inquest which bore on their knowledge and experience of her husband and others.

58. It is self evident that this took the matter no further. Far from providing any information that might assist the wider public interest, she has flatly and unequivocally declined the opportunity to do so. Although requested by this court to show how she could help establish why her late husband and the others whom she knew acted to murder fellow citizens, she has provided not an iota of evidence to us which could show how in some way she could bring a wider benefit let along a significant benefit to the Inquests or to the understanding of the Victims of the bombing.

59. Even if we had considered the decision of the Lord Chancellor irrational and unreasonable and had been prepared to extend time, we would have seen no basis to exercise our discretion to grant the relief claimed, as there was nothing that, taking the widest possible view of "Significant Wider Public Interest", could be advanced which would justify the test being satisfied.

60. As we have already set out, this inquest has its own substantial legal team, led by Mr Hugo Keith QC. There is no reason that we can discern why the interests of the claimant, on the basis of the information before us, cannot be fully and properly dealt with by her giving a statement of the background of her late husband and others to the legal team acting for the Coroner, on the basis of which the experienced counsel acting for her could ask the requisite questions.

61. Indeed as a resident of the United Kingdom it must have been her duty to have supplied all that information by now. In the absence of any statement or evidence by the claimant to us and given her failure to communicate anything to the Coroner's legal team, we are firmly of the view that we would have refused to exercise our discretion to grant relief. That is because there is no basis on which the Lord Chancellor could properly have come to any decision other than the one he had

reached. Furthermore it is simply wrong to contend that lawyers retained on her behalf could assist in questioning when the claimant has so unequivocally declined this court's invitation to set out any basis on which such questions could be asked. The Coroner's legal team and other interested parties can ask all the questions. She has, in short, despite the indulgence shown by the court refused to provide the information on which the Lord Chancellor could begin to discern any basis on which separate questioning by her legal representatives could assist in establishing why her late husband (and his associates) set about murdering fellow citizens.

Conclusion

62. It is for these reasons, therefore, although we considered the issues sufficiently important to grant permission, we refuse the application for judicial review and the relief claimed.