

## Scope of inquest must be directed to enable jury to answer four statutory questions (*Coroner for the Birmingham Inquests (1974) v Hambleton*)

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**Corporate Crime analysis:** What is the appropriate scope of an inquest where, for example, the identities of the perpetrators of the death/s are at issue? Louise Jones of Guildhall Chambers, Bristol, says practitioners must keep in mind that questions of scope are not ‘hard-edged’ questions, and decisions on scope are for the coroner to make.

*Coroner for the Birmingham Inquests (1974) v Hambleton and others* [\[2018\] EWCA Civ 2081](#), [\[2018\] All ER \(D\) 62 \(Sep\)](#)

### What are the practical implications of this case?

This is an important judgment on the scope of an inquest, with the Court of Appeal noting that it is commonplace in advance of inquests for coroners to rule on their scope, including on whether possible state responsibility requires an Article 2 compliant inquest (ie Article 2 of the European Convention on Human Rights).

Practitioners should note that it is clearly vital to focus on the four statutory questions under [sections 5](#) and [10](#) of the Coroners and Justice Act 2009 ([CJA 2009](#))—ie who died, and how, when and where they came by their death.

It is of interest that the coroner was willing, however, to consider issues for scope which had not underpinned the decision to order the resumption of the inquests. Furthermore, the coroner intended to keep the determination on scope under review. While this is plainly not inviting a second bite at the cherry per se, practitioners will want to bear in mind that if new evidence arises which does relate to the statutory questions at play in the inquest, then a previous decision on scope could be revisited.

Finally, practitioners should keep in mind that questions of scope are not hard-edged questions, and decisions on scope, as on which witnesses to call, are for the coroner—these decisions can only be interfered with by a court of supervisory jurisdiction in the event of a public law error.

### What’s the background to the case?

This Court of Appeal decision arises out of the bombings in two crowded pubs in Birmingham in November 1974 which resulted in 21 deaths. In the immediate aftermath of the killings, inquests were opened but were never concluded, as ‘the Birmingham Six’ were convicted of murder. Those convictions were, of course, later overturned, and in 2015 applications were made on behalf of the deceased’s families for the inquests to be resumed. This application succeeded, and in due course HH Sir Peter Thornton QC, the former Chief Coroner, was appointed to conduct the inquests.

At a pre-inquest review hearing, he set the scope of the inquests. Against the context of extensive police inquiries which had failed to support any new prosecution, he excluded from scope the identities of those who planned, planted, procured and authorised the bombs used (the perpetrator issue), ie evidence relating to the perpetrator issue would not be heard.

### What did the court decide?

The coroner had considered that he had a broad discretion when it came to making a decision on scope. He emphasised that the inquests must focus upon the four statutory questions arising from [CJA 2009, ss 5](#) and [10](#), and that the scope of the inquest had to be directed to providing evidence to enable the jury to answer those questions. He considered that permitting the identity of perpetrators to be in scope would be taking on a proxy criminal trial, which would be potentially unlawful and would raise enormous practical difficulties.

The High Court overturned the coroner's decision and considered that the relevant question for the coroner should have been 'whether the factual issue of the identity of the bombers (and those that assisted them) was sufficiently closely connected to the deaths to form part of the circumstances of the death'.

The Court of Appeal (the Lord Chief Justice, Hallett LJ and McCombe LJ) found that the coroner's approach had been the right one, and allowed the coroner's appeal. The Court of Appeal found that the question on which the High Court had focussed did not arise from the purposes of an inquest identified in [CJA 2009, s 5](#). The coroner was, the Court of Appeal found, correct to consider the question of scope in the context of providing evidence to enable the jury to answer the four statutory questions.

The scope of an inquest is not determined by looking at the broad circumstances of what occurred and requiring all matters touching those circumstances to be explored. The identity of those responsible for the bombings was not a central issue in the inquests, and the coroner's decision to exclude the perpetrator issue from the scope of the inquest was not unlawful in the public law sense.

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