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Thursday, 21 March 2013

(10.00 am)

(In the presence of the Jury)

SUMMING-UP (continued)

THE CORONER: Members of the jury, good morning. We had a very long day yesterday when I was summarising the evidence for you. Thank you for sitting through it so patiently and with such concentration.

I'd like first just to correct one error which I made when I was dealing with the evidence about the fire risk assessment. When I was reminding you about the evidence which Mr Walker, the expert witness gave, I referred to the Local Government Association guidance. That was incorrect, my apologies. The Local Government Association guidance was in fact issued in July 2011, and what Mr Walker was referring to was reliance on a document which was published in May 2006, a sleeping accommodation guide which had been published by the Department for Communities and Local Government. So apologies for that error.

Well, members of the jury, yesterday, early on, you may remember that I told you that the facts are not for me but they are for you, the jury, to decide. When I was talking to you yesterday about the rescue of Mr and Mrs Nuhu and family, I expressed a personal view

1 about a decision which Crew Manager Ford took. In doing
2 that, I think I went further than I should have done.
3 My opinion on that, or indeed on any other evidence, is
4 irrelevant. It's your views and your views alone which
5 count. So you should disregard any view I may express
6 on anything.

7 Yesterday, I explained to you that I wanted you to
8 decide the facts on the balance of probabilities. What
9 that means is deciding whether something is more likely
10 than not to have happened. It's as simple as that.

11 So it's therefore your duty, now, to reach
12 conclusions from the evidence which you've heard. That
13 duty must transcend your feelings of sympathy for any of
14 the people that we've heard about. You must reach your
15 conclusions on the evidence, even if that seems to be
16 critical of people or organisations.

17 So your task now, please, is to decide by what means
18 and in what circumstances each of the six deceased came
19 by their deaths. As I mentioned yesterday, we're going
20 to ask you to prepare a written narrative for each of
21 the deceased, setting out your conclusions on that.
22 What I mean by that is I want you to write out the
23 conclusions which you reach on the central issues. You
24 can do it chronologically, if you wish. You can do it
25 by reference to different themes. It's entirely

1 a matter for you how you go about that. The verdict
2 must be unanimous. That is I ask you all to agree to
3 it.

4 We have prepared for you -- and I say "we" because
5 we've had input from all of the properly interested
6 persons as well as the effort from Mr Atkins and
7 Mr Maxwell-Scott -- a guidance document. I'm going to
8 ask for that to be handed out in a moment. What I'd
9 like you to do is take it with you and read it carefully
10 in your jury room, because I think you'll find it
11 helpful. What I propose to do is just go through a few
12 of the pages now with you just to highlight what it
13 contains, just to give you an idea of the scope of the
14 document that we're giving you. Please, Mr Graham,
15 could you just hand that out. (Handed)

16 You will see it's an eight-page document. If I just
17 refer to you the first page. You see that at the top we
18 make reference to the inquisition forms, which of course
19 we looked at again yesterday, and you'll remember that
20 on the inquisition forms some of the information which
21 needs to be included on the form has already been put
22 in. We looked at that yesterday. What we're suggesting
23 is that sections 3 and 4 of the form be completed simply
24 by saying "See attached narrative verdict" and then
25 we'll attach to the form the document which you write

1 out, setting out your conclusions in the narrative.

2 On page 1, just very briefly looking at it, what we
3 set out initially is broad guidance on what a narrative
4 verdict means, so just explaining that it should express
5 your factual conclusions on what appear to you to be the
6 central issues, and reminding you, as I told you
7 yesterday, that your verdicts must not contain any
8 finding of criminal liability and must not appear to
9 determine any question of civil liability.

10 Then for the rest of that page, and on for the next
11 two or three pages, we set out what the verdict must
12 include, and in order, we hope, to help you, we've set
13 out some words which you might find helpful to express
14 what it is that you might want to say. I should stress
15 this is very much guidance. It's just to try and help
16 to you approach the task which you have to undertake.

17 If you go over on to page 2, in the middle you'll
18 see there's a short sentence -- but an important one --
19 which is that individuals must not be named in your
20 verdicts. Then, in that last paragraph, we go on to
21 explain that the verdicts must not express conclusions
22 on matters of policy or resource allocation. In order
23 to help you understand that, to give you an idea of what
24 we mean by that, we've set out on the rest of that page
25 an example taken from an inquest in very different

1 circumstances from the ones that we have here, but we
2 hope that it will help to illustrate the approach that
3 was taken in a different inquest.

4 Then, going on, we set out some examples from these
5 inquests, from the evidence that we heard, of how you
6 might want to deal with questions of policy or resource
7 allocation if those are matters which crop up in your
8 discussions and you feel are significant.

9 If you go on to page 3, in the middle, again,
10 a short paragraph, which says this:

11 "You must not include any recommendations in your
12 verdicts."

13 Any recommendations which need to be made arising
14 out of the evidence that you have heard in these
15 inquests is a matter for me and not for you, members of
16 the jury.

17 We suggest then -- and you see that's the next
18 paragraph on page 3 -- that the narrative verdict in
19 respect of Catherine Hickman will inevitably be
20 different from those for the other deceased. We're
21 suggesting you might want to consider dealing with the
22 narrative for Catherine Hickman first, but you may not.
23 It's entirely a matter for you.

24 Then, over the page, at the top of page 4, we set
25 out a paragraph in which we suggest a number of matters

1 which you might want to consider in the course of your
2 discussions. They're set out there simply to act as
3 a prompt for you, just as a reminder of some of the
4 matters we've looked at. They are not limiting in any
5 way; it's entirely a matter for you what issues you
6 discuss and what evidence you discuss but they must be
7 issues which are central to what we've been looking at
8 here.

9 You'll see the important guidance at the end of that
10 paragraph at the top of page 4:

11 "You may only include acts or omissions in your
12 verdicts that you consider, on the balance of
13 probabilities, made a more than minimal contribution to
14 Catherine Hickman's death."

15 All right?

16 So that, then, takes up the next few pages. If you
17 go ahead to page 6, at the top of page 6, you'll see
18 that we've then turned to the question of the narrative
19 for Dayana Francisquini, Thais Francisquini,
20 Felipe Francisquini Cervi, Helen Udoaka and
21 Michelle Udoaka, and we remind you that when you're
22 considering the narrative verdicts in respect of those
23 five deceased, you'll need to bear in mind the evidence
24 from Professor Bion as to the likely times of their
25 deaths.

1 We've suggested that other than in respect of the
2 time of death, the narrative verdict for each of those
3 five might be the same, but it might not be if you
4 consider that there are differences and you want to deal
5 with those. Again, as with the guidance for
6 Catherine Hickman, we've set out then some of the
7 matters which you might find helpful to prompt your
8 memories in your discussions, but they are simply
9 prompts for you and they're not necessarily limited.
10 But again, in relation to those five deceased, you
11 should include in your verdicts only acts or omissions
12 which you consider, on the balance of probabilities,
13 made a more than minimal contribution to the deaths of
14 those five deceased.

15 I hope that you'll find it a helpful document. If
16 you have any questions on it or if there's any point on
17 which you think clarification is needed, please set it
18 out in a question and we will endeavour to deal with it.

19 So, members of the jury, that's the task that we're
20 now asking you to undertake. It's for you to decide how
21 you set about that task, but I would just ask you to
22 remember this: that each of you took, right at the very
23 beginning, an oath to return a true verdict according to
24 the evidence, and I ask you all to be true to that oath.
25 You have a duty not only as individuals but also

1 collectively, and that's one of the strengths of the
2 jury system, that each of you takes into the jury room
3 your individual experience and wisdom, and your task is
4 to pool that experience and wisdom, and you do that by
5 giving your views and by listening to the views of
6 others. There will necessarily be discussion, maybe
7 argument, and the need for give and take, all within the
8 scope of the oath which you have taken, and that's the
9 way in which agreement is reached.

10 I shall, in a moment, ask Mr Clark and Mr Graham
11 each to take the oath to, in effect, look after you
12 properly as jurors now considering your verdict, and
13 once they've done that I shall ask you to go to your
14 jury room and to begin your discussions and your
15 deliberations. Just to make it clear, no-one else is
16 permitted to be present in the jury room with you whilst
17 you're having your discussions, and that includes
18 Mr Graham and Mr Clark, whom I know have been providing
19 you with a lot of support over the past few weeks.

20 If you need help with refreshments, then Mr Clark
21 and Mr Graham will be on hand outside the room to help
22 you with that. Just let them know if you need anything.
23 You must not ask them any questions or indeed anyone
24 else any questions nor allow anyone else to take part in
25 your discussions. It's a matter for you, the 11 jurors,

1 and nobody else.

2 If you have any questions, please write them down
3 and pass them to Mr Clark and Mr Graham, and he will,
4 whichever it is, pass them on to me. There may be
5 a slight delay in getting answers to you, because in
6 many cases I may need to consult with the advocates as
7 to how best to answer your questions. We'll endeavour
8 to do that as quickly as we can, but there inevitably
9 will be some delay in getting answers to questions.

10 I would suggest, as far as timing is concerned, that
11 you adopt the timing pattern that we've adopted
12 throughout these inquests, so making a start at
13 10 o'clock and carrying on until lunchtime, have a break
14 for lunch between 1 and 2, come back at 2 after you've
15 had a proper lunch break to clear your heads, and then
16 have discussions in the afternoon between 2 and maybe
17 4 o'clock, but don't go on later than 4 o'clock. That's
18 going to be quite a long day. What I'd like to do is to
19 check you in and out, if I can put it that way. So I'll
20 speak to you briefly just before we break at lunchtime
21 and before we start again in the afternoon, and again
22 when we finish in the afternoon and again tomorrow
23 morning. So we will do that.

24 I think that's all I was going to say before asking
25 Mr Clark and Mr Graham each to take the jury oaths. Is

1 there anything not clear about what I've said? Well
2 done. Don't hesitate to ask questions if you need to.

3 (The Jury bailiffs were sworn)

4 THE CORONER: Thank you very much. Thank you both. Good.
5 Please, members of the jury, go with Mr Clark and
6 Mr Graham, and I look forward to seeing you at
7 1 o'clock, just before the lunchtime break.

8 (The Jury retired at 10.18 am)

9 THE CORONER: Thank you.

10 (10.19 am)

11 (A short break)

12 (1.00 pm)

13 (In the presence of the Jury)

14 THE CORONER: Yes, members of the jury. Thank you for
15 coming in, do sit down. I think one of you has a copy
16 of the guidance notes? Madam foreman, thank you very
17 much. Well, this happens in the best of establishments.
18 We've found an inconsistency. If you have a pen,
19 I wonder if you could make this correction, and then if
20 you could share that with all of your colleagues that
21 would be helpful.

22 If you look at page 7, you'll see that we have
23 a heading, "The condition of the building". Do you see
24 that? The second bullet point refers to the boxing in
25 under the internal staircase within flat 79, and the

1 document at that point reads:

2 "... a minimum of 30 minutes' fire resistance."

3 That is incorrect. It should be the same text as we
4 have on the following page, which is:

5 "... should have provided 60 minutes' fire
6 resistance."

7 So if you could just make that correction so that
8 that's consistent. Apologies for that error creeping
9 in.

10 THE FOREMAN OF THE JURY: So merely from "30" to "60"?

11 THE CORONER: Yes, that's right, and take out "minimum". So
12 it should have "60 minutes' fire resistance". That's
13 what the document should say there. All right? Thank
14 you very much.

15 So yes, really just to say thank you very much, and
16 unless you have any particular problems to raise, then
17 have a break at lunchtime and I'll see you again at just
18 gone 2 o'clock. Thank you very much.

19 THE FOREMAN OF THE JURY: So we're to come back here at
20 2 o'clock?

21 THE CORONER: Yes, if you gather in your jury room and
22 Mr Clark or Mr Graham will bring you in.

23 (1.02 pm)

24 (The short adjournment)

25 (2.00 pm)

1 (In the presence of the Jury)

2 THE CORONER: Members of the jury, thank you very much for
3 reassembling. Unless there are any problems, could
4 I simply ask you to go back to your jury room and carry
5 on deliberating. Thank you.

6 I suggest that we clock off at 4 o'clock
7 this afternoon, so I'll see you then. Thank you.

8 (The Jury retired again at 2.00 pm)

9 (2.00 pm)

10 (A short break)

11 (3.56 pm)

12 (In the presence of the Jury)

13 THE CORONER: Yes, my apologies for keeping you waiting.

14 Thank you very much, members of the jury. Do you have
15 any problems that you are encountering -- well, I won't
16 ask you that. Do you have any issues that you want to
17 raise with me or are you content for the moment?

18 THE FOREMAN OF THE JURY: I think we're fine for the moment.

19 THE CORONER: Good. Thank you very much for all your hard
20 work today. Please come back tomorrow, and we'll start
21 again at 10. So if you'd like to come in here first at
22 10 o'clock and go back to your jury room.

23 Now, you know I'm going to warn you that when you
24 leave here, please, you must not talk to anyone about
25 these matters, especially about what you've been

1 discussing today. It's really important that you keep
2 it to just the group of you when you are discussing
3 matters together, and please don't carry out any
4 research of your own and please don't take any documents
5 out of the building with you. Please just make sure
6 that you leave everything behind in your jury room.

7 Good. Thank you very much and I look forward to
8 seeing you tomorrow. Thank you.

9 (In the absence of the Jury)

10 THE CORONER: I'm very grateful to you all for your
11 attendance. It's very kind of you all to come but you
12 don't actually have to come. I'm not going to say
13 anything substantive to the members of the jury unless
14 all the right people are here.

15 MR COMPTON: No, of course. Madam, you know I can't be here
16 tomorrow because I have my sentencing.

17 THE CORONER: That's no problem at all.

18 MR COMPTON: But I will be back here first thing on Monday,
19 and I will be keep my mobile so I can receive emails.
20 I know that Ms Sanderson is here and Mr Leonard is here.

21 THE CORONER: If we need to be in touch with you I'm sure
22 that someone will be available, but I imagine tomorrow
23 will be a quietish day.

24 Thank you all very much.

25 (3.59 pm)

1 (The Court adjourned until 10 o'clock the following day)

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SUMMING-UP (continued)1

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Day 45 OF Transcription of the
Lakana1 House Fire
Inquest - 21/03/13
Corrected