

**IN THE WEST SUSSEX CORONERS' COURT
IN THE MATTER OF THE INQUESTS TOUCHING THE DEATHS OF
THOSE WHO DIED AT THE SHOREHAM AIR SHOW ON 22ND AUGUST 2015**

DIRECTIONS REGARDING THE WITNESS LIST

1. I have now received and considered submissions from all IPs provided since the last PIRH regarding the initial proposed witness list. That list has been amended and refined by me as set out in version 6 (*appended*).
2. I am providing this short note in advance of the PIRH in September 2022 so that IPs can understand my approach and decisions to date in respect of the current iteration of the witness list which is to be discussed at the forthcoming informal advocates' meeting in July and will then be finalised by me at the September PIRH.
3. My starting position, following on from the *Norfolk* case and the recent High Court ruling regarding my own investigation,¹ is that the factual witness evidence investigated during the forthcoming inquests should only cover matters that fall outside the concluded AAIB investigation.
4. As the High Court stated: "In our judgment, the starting point is therefore that there is no public interest in reinvestigation [§125]... Rather, the Coroner should "*rely on the conclusion of the body with the greatest expertise in a particular area*" [§127]...At the level of principle, there should not be duplicative investigations [§137].
5. At the last PIRH no IP dissented from this remit of my own investigation now being defined as only issues 1 & 2 of the inquests' scope document. That is:
 - (1) The cause of death of each of the deceased.
 - (2) The planning, organisation and preparation for the Shoreham Airshow and the aerobatic display, in respect of consideration given and any steps taken regarding safeguarding members of the public outside the air show, including bystanders and users of the A27.
6. When coming to my decision as to which witnesses to call I have borne in mind that I have a discretion as to the extent of witness evidence in that a coroner is not required to call every witness who might have relevant evidence, but *sufficient* witnesses to undertake a proper inquiry. I also bear in mind that, by virtue of the recent High Court ruling combined with the *Norfolk* decision, the matters that fall within my investigatory

¹ *HM Senior Coroner for West Sussex v (1) CC Sussex Police (2) SoS Transport (3) Mr Hill* [2022] EWHC 215 [here](#)

remit are now rather more limited than may have been anticipated when these inquests were resumed.

7. In addition to members of the AAIB inspection team I will call a few witnesses setting the scene and giving background information regarding the air crash: that is the police SIM and some eye-witnesses. However it seems to me that any matter that Mr Hill, the pilot, might address in his evidence is already covered by the AAIB investigation and I do not propose that he should be called to give evidence to the inquests.

CAA and RSAL

8. I accept the position put forward by the CAA and the AAIB and that the AAIB report has already addressed the CAA's and RSAL's actions regarding the risk assessments and actions taken regarding the areas/roads outside the airport. Specifically:

“Conclusions 34-56 of the AAIB’s report (internal pages 198-200) relate to this issue, and in accordance with Norfolk should be adopted in the inquests. Conclusions 49-52 relate specifically to the risks associated with a display taking place in proximity to congested areas and heavily used major roads. The AAIB found as contributory factors (page 203) that the manoeuvre took place above an area occupied by the public over which the organisers of the flying display had no control, and that the severity of the outcome was due to the absence of provisions to mitigate the effects of an aircraft crashing in an area outside the control of the organisers of the flying display... The relevant safety recommendations made by the AAIB were all made to the CAA.”

Given the extent of matters covered already by the AAIB report I shall not be calling Mr Duncan of the CAA. Mr Rapson of the CAA will however be called to give evidence relevant to the prevention of future deaths ('PFD'). The CAA have offered to provide a statement by Mr Rapson regarding PFD matters and **I direct that this statement should be provided by no later than one week before the 1st September PIRH – that is by no later than 4pm Thursday 25 August 2022 - and is to be served on all IPs at the same time that it is filed with the court**

9. In respect of the RSAL personnel, it seems to me (and I note HFW agree) that Mr Dean and Mr Taylor can best assist in describing any consideration given and any steps taken regarding safeguarding members of the public outside the air show boundary, including bystanders and users of the A27. Whilst I accept that the relevant actions in respect of RSAL may have been covered by the AAIB investigation, both gentlemen can assist me in respect of their dealings with persons from other public bodies or organisations regarding these matters, to help elucidate the various roles played by others in planning and risk assessment of areas outside the airport. As Mr Dean's existing statement does not address this matter and I direct that he provides a further statement setting out any further relevant evidence he can provide to assist in respect of scope issue 2.

I note that Mr Taylor's statement (at page 5) records that in 2003 up to 100 people had congregated on the grass verges by the Sussex Pad A27 junction. The safety issue then considered may have been risk from traffic rather than an air crash, but I direct that Mr Taylor should now provide a further statement addressing scope issue 2 that includes his understanding as to who was responsible for assessing and managing risks of any type to bystanders in this area. **Both these statements are to be provided to me by HFW on behalf of RSAL by no later than 4pm 20 July 2022 and are to be served on all IPs at the same time that they are filed with the court**

10. It appears that neither Mr Davis, nor Mr Evans, had any role in relation to the 'landside issues', their focus instead being on the planning of the flight display. Since the AAIB have already investigated in detail the planning of the flight display it is not a matter these inquests will investigate afresh and so it seems that hearing evidence from Mr Davis and Mr Evans will not assist me.

Other Agencies

11. The AAIB did not make any findings about agencies other than the CAA and those involved in organising and arranging the Airshow itself. The AAIB made no findings in respect of the consideration given by the Police, local authority, Highways Authority or other emergency services as to the risk to bystanders or those on the A27 and did not make any findings as to whether there was or should have been any consideration of road closure or any other steps to protect bystanders and users of the A27.
12. I have therefore sought information from the Sussex Police, the highways authorities and the local councils regarding any persons who held emergency planning roles and responsibilities in relation to the A27 and in particular management of the road traffic, crowds and signage outside of the airfield. Whether that information is to be read or presented orally by a witness is something I will determine at the next PIRH once all IPs have had the opportunity to consider the relevant documents and witness statements obtained.
13. HFW on behalf of RSAL have informed me that they are instructed by their client that the two officers from the Sussex Police who appeared on an earlier iteration of the witness list (PC Collard and PS Jason Edwards) participated in the planning process in respect of the 'landside issues' including participating in a table-top emergency planning exercise on 6 August 2015. However, their participation in the overall planning of the 'landside' issues was limited. In respect of planning regarding the A27, both in terms of traffic management and the safety of bystanders, HFW are instructed that this had been developed over a period of more than 10 years prior to 2015 and that the officers involved earlier are all retired.
14. Sussex Police have stated that the Police were not involved in road planning outside the airfield. I have been told that an event like the Shoreham Air Show is a private event that is primarily the responsibility of the organisers. Sussex Police have provided the

2015 Operational Order approved by the Gold Commander which details the Police's role in the Shoreham Air Show. I note at page 2:

"The Organisers have employed a traffic management company and as in previous years they have formulated a traffic management scheme in liaison with Sussex Police, West Sussex County Council, Adur District Council and the Highways Agency to ensure the free flow of traffic in and out of the airfield... Adequate and clear information and directions signs will be displayed by the company on all approach roads.... The traffic management company will be responsible for providing all signs and cones for the traffic management scheme and will also place no waiting cones"

I also note at page 4

"Police Officers will not as a general rule be tasked to assist with any traffic control during the air show, except in an emergency and then subject to the contingency plans for the airfield."

15. This document may imply that the Sussex Police were aware of traffic management plans but had no role in any advance risk assessment, rather they were to respond to critical incidents if they occurred. In that respect I have noted that on page 5 it states that the Police's Silver commander could consider closing the A27 road if there were an off-site aircraft incident. It may be, as Mr Jones stated in a submission, that the police had a similar incident response role as performed by other organisations, such as the Fire Service, Red Cross, SECAMB etc. However I also note from Stewarts' submissions of 1 April 2022 that they make the valid point that such assertions by the Police are not evidence. As the information regarding the police is not in a witness statement **I have already directed, in a communication sent to Mr Jones on my behalf, that a formal statement regarding the role and responsibilities of the Sussex Police in respect of item 2 of scope should be provided by the Sussex Police by no later than 20 July 2022 and that it is served on all IPs when filed with the court.**

16. Adur and Worthing Council and National Highways have provided statements regarding their involvement with the A27 issues. These have been disclosed to all IPs already. In respect of West Sussex County Council (WSSC) disclosure was given to IPs in 2019 and is available in the sharefile. WSSC have informed me that any Council officer involvement was that the Area Highway Manager at the time was involved in the traffic management discussions, as was the WSSC Highway Manager. HFW similarly have said that they are instructed by RSAL that Mr Candy participated in the planning process in relation to the 'landside' issues leading up to 2015 on behalf of West Sussex County Council Highways. I am informed that neither of people in post at the time are still working at the Council, but the final traffic restriction notice was prepared by the local traffic engineer Mr Grey. My Officer, Ms Gaule has already approached WSSC asking WSSC to provide a witness statement from Mr Grey or another appropriate person, setting out the role and responsibilities of WSSC in respect of item 2 of scope. **I direct that this statement is to be filed by no later than 20 July 2022.**

Bystanders / eye-witnesses

17. In addition to the bystanders identified on the initial witness list, the families represented by Stewarts have proposed that information is heard from seven additional bystander witnesses. It is my view that, in addition to the Police SIM, it is appropriate for some of the background to the crash and the events immediately afterwards to be presented at the inquest hearings from the perspective of members of the public and rescuers outside the airfield. I have added to the witness list two of the people proposed by Stewarts (Dr Jackson and Mr Lewer) although my preliminary view is that all their evidence should be read under r.23(1)(b). I will of course be open to hearing any submissions regarding the need for this bystander evidence being given live. However I will need to be persuaded of the evidential value of oral questioning, given the limited scope of matters that still fall to me to investigate, and of why justice would require me to bring a person to court who could potentially be traumatised (or further traumatised) by being asked to re-live the distressing events of that day in an open public forum.
18. In respect of the other five bystander witnesses put forward by Stewarts (Timberley, Milburn, Wimble, Wood, Woodhatch) they seem to me to add little to the evidence available from bystanders at the crash site that I have already identified to be heard and so I do not propose to call or read their evidence. This is of course subject to any further submissions from interested persons.
19. Stewarts have suggested that they “*may have questions for these witnesses in relation to the road issue and at this stage we would like them to be called, however, our position will be revised after we have had further disclosure and witness evidence on the road and emergency planning issues.*” **I therefore direct that if there is any witness on the present witness list that is identified as a r.23 witness but whom an IP wishes to be called to give live evidence, that IP should set out their grounds for calling the particular witness and the questions or topics that it is proposed should be asked of that witness in writing, to be filed and served by no later than 4pm Friday 26 August 2022.** I will then consider those written submissions and deliver my ruling on them in public at the PIRH on 1 September.
20. In the meantime, the witness list as presently drafted can be discussed further between IPs and CTI at the forthcoming advocates’ meeting in July and any jointly agreed proposals for amendment or addition can be put before me for my consideration. If any disputes remain between IPs that require a judicial decision IPs will then be invited to address those matters in writing by no later than 4pm Friday 26 August and I will deliver my ruling on them in public at the PIRH on 1 September.

Penelope Schofield
Senior Coroner for West Sussex
20 June 2022