Neutral Citation Number: [2021] EWHC 801 (Admin)

Case No: CO/494/2020

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

Royal Courts of Justice,
Strand, London, WC2A 2LL

Date: 31/03/2021

Before:

LORD JUSTICE POPPLEWELL
MR JUSTICE CAVANAGH
and
HIS HONOUR JUDGE TEAGUE QC,
CHIEF CORONER OF ENGLAND AND WALES

- -

Between:

THE QUEEN on the application of
WANDSWORTH BOROUGH COUNCIL

Claimant

- and -

HER MAJESTY'S SENIOR CORONER
FOR INNER WEST LONDON

Defendant

- -
- -

Peter Skelton QC (instructed by **South London Legal Partnership**) for the **Claimant**

The Defendant did not participate in proceedings

Hearing date : 17 March 2021
- -

Approved Judgment

Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email, release to BAILII and publication on the Courts and Tribunals Judiciary website. The date and time for hand-down is deemed to be 4 p.m. on Wednesday, 31 March 2021.

His Honour Judge Teague QC, Chief Coroner of England and Wales:

Introduction

1. On 27 August 2018, Mrs Linda Johns died of bronchopneumonia at St George's Hospital in Tooting. She had previously lived for many years at a council-owned property, 8 Eliot Court, which was known to have contained asbestos during the early years of her tenancy. A consultant pathologist, Dr A. Coumbe, carried out a post-mortem examination which disclosed that the bronchopneumonia that led to Mrs Johns' death had resulted from malignant mesothelioma, a form of cancer that affects the lining of the lungs.

2. The senior coroner for Inner West London ("the coroner") held an inquest at which, having found that Mrs Johns had been exposed to asbestos while resident as the claimant's tenant at 8 Eliot Court, and that such exposure had led to and caused the mesothelioma from which she died, she recorded a short narrative conclusion that Mrs Johns had died from "exposure to asbestos whilst resident at 8 Eliot Court, causing malignant mesothelioma".

3. The claimant council, as the owner and landlord of 8 Eliot Court, now challenges the coroner's conclusion that the mesothelioma from which Mrs Johns died had resulted from exposure to asbestos at that address or, indeed, at all. The claimant seeks an order quashing the coroner's findings and conclusion and substituting a conclusion that Mrs Johns died of malignant mesothelioma, omitting any reference to asbestos. In summary, therefore, the issue to which this case gives rise is whether the coroner was entitled to conclude that it was probable, as opposed to merely possible, that Mrs Johns developed the mesothelioma that caused and led to her death as a result of exposure to asbestos while living in the council's property at 8 Eliot Court.

4. The coroner has adopted a neutral position and has not actively participated in these proceedings.

The facts

5. Mrs Johns was born on 25 May 1967. She was 51 years old when she died. She has a daughter, Kerri Matthews, who was born on 8 January 1984. From June 1989 until her death in 2018, Mrs Johns was a tenant of the claimant authority. In July 1996, she and her daughter moved into a flat at 8 Eliot Court.

6. As with many buildings of the time, asbestos had been used in the construction of the flats. In August 1984, twelve years before Mrs Johns took up residence at 8 Eliot Court, a firm of public analysts had detected a form of asbestos known as amosite inside the flat, specifically in an entrance hall cupboard, a heater cupboard duct, corner ducts in the two bedrooms and a kitchen wall partition.

7. Towards the end of 2003, the council instructed contractors to remove asbestos boards from 8 Eliot Court and, in addition, to replace the existing radiators with a new central heating system. At the request of the contractors, Mrs Johns and her daughter agreed

to vacate the flat while the asbestos was removed. During that operation, an item of equipment malfunctioned, staining and damaging some of Mrs Johns' possessions.

8. There is no dispute as to what happened. In summary, the work, which was expected to take a total of three or four days, began on 17 October 2003 with the removal of asbestos. The contractors entered the flat that morning to remove boards from the meter cupboard, the riser between the lounge and kitchen, some boarding over the toilet and four boards in the bedrooms. In view of the likely presence of asbestos in the boards, the contractors asked Mrs Johns to vacate the property while they carried out that task, and she and her daughter did so. In the course of the work on 17 October, a vacuum cleaner operated by the contractors "exploded", to use their expression, soaking the carpet, sofa, coffee table and video unit, as well as a mobile telephone, with a water-based polymeric substance.

9. In a witness statement dated 12 August 2019, Mrs Johns' daughter Kerri Matthews described the scene that faced them when they returned to the flat at the end of the day:

> "My recollection is that we came home together. We opened the door. I had my own key... We walked in. Our green sofa had this talcum powder stuff on it. There was a hoover-looking vacuum thing that was sitting there… I have no precise memory of my mother clearing up the mess, but she must have done… It did not look like there was any damage to the machine – it looked intact. It looked as if something had happened whereby what it was meant to do was to vacuum dust up but what it had in fact done is blown it out… There were bits of what looked like talcum powder. It was white. It was not distributed evenly. There was a patch on the sofa – it was not the entire sofa that was covered. The majority of the dust fell within a radius of about 1 metre of the hoover but there were bits of dust scattered around the room."

10. Mrs Johns was understandably angry when she discovered the damage to her possessions. The contractors did their best to clean the carpet, without success, and agreed to bear the cost of having the carpet and sofa covers professionally cleaned and repairing her damaged mobile telephone.

11. Three days later, on 20 October, plumbers attended 8 Eliot Court in order to remove the old radiators and install the new central heating system. This time, Mrs Johns was present. Again, some boards were removed from the cylinder cupboard, but it is not clear whether those particular boards were thought to contain asbestos.

12. On 3 November, Mrs Johns wrote to the claimant's housing department seeking compensation for the damage caused to her possessions. On 4 March 2004, following some further correspondence and negotiations, the contractors agreed to settle her claim by paying a modest sum in damages.

13. Thereafter, Mrs Johns continued to reside at 8 Eliot Court until 5 June 2017, when she moved to a new address. Twelve months later, on 29 June 2018, she attended her family doctor's surgery complaining of pain in her lower back. Her symptoms deteriorated rapidly. In July, she was admitted to St George's Hospital where her clinicians diagnosed a metastatic adenocarcinoma. Mrs Johns was too unwell for chemotherapy but received palliative care until her death in hospital on 27 August

2018. Upon being told by her family that Mrs Johns had lived for many years at a council-owned property which had once contained asbestos, the hospital reported her death to the coroner.

14. The consultant pathologist, Dr A. Coumbe, who conducted the post-mortem examination for the coroner, reported that the cause of death was bronchopneumonia resulting from malignant mesothelioma.

15. The coroner opened and adjourned the inquest on 5 September 2018. On 20 August 2019, she held a pre-inquest review hearing pursuant to rule 6 of the Coroners (Inquests) Rules 2013. At that hearing, no doubt having regard to her statutory obligation to conduct the investigation "as soon as practicable" (Coroners and Justice Act 2009, section 1), the coroner decided to receive oral evidence from the pathologist, Dr Coumbe. She appears to have done so with the concurrence of the interested persons, who agreed that it would not then be necessary for Dr Coumbe to re-attend the inquest proper. Even so, it was an irregular way of proceeding, if only because it did not comply with the guidance on pre-inquest reviews, which states that no evidence should be called at a pre-inquest review and no witness should be asked or required to attend: *Chief Coroner's Guidance No. 22*, 18 January 2016, §16.

16. Although the hearing on 20 August was recorded, the recording later turned out to be irretrievable for technical reasons. The coroner, however, took her own note of Dr Coumbe's evidence.

17. The transcript of the inquest hearing proper, which took place on 5 November, shows that Kerri Matthews was personally present and was represented by counsel, as indeed was the claimant. Having adduced from her coroner's officer the usual formal evidence of identification and the time and place of death, the coroner admitted a number of documents in evidence pursuant to rule 23 of the Coroners (Inquests) Rules 2013, namely Dr Coumbe's post-mortem report, a short report from Mrs Johns' family doctor summarising her medical history, a report from Professor Emma Baker dated 17 April 2019 describing the diagnosis and treatment of Mrs Johns' final illness in hospital, a letter from HM Revenue and Customs confirming that Mrs Johns had no history of paid employment (from which it followed that her mesothelioma could not have had an industrial origin), a witness statement from Kerri Matthews prepared by solicitors for the purpose of civil proceedings against the council, and a small bundle of correspondence and other documents concerning the work carried out on behalf of the council in 2003 at 8 Eliot Court and the resulting damage to Mrs Johns' possessions.

18. The small bundle to which I have just referred included the public analysts' report certifying the presence of asbestos in 8 Eliot Court in August 1984, Mrs Johns' letter of complaint to the claimant council dated 3 November 2003 relating to the damage caused to her belongings, and subsequent correspondence from the contractors culminating in an offer of compensation that Mrs Johns appears to have accepted. Also included in the bundle of correspondence are two undated narrative reports from the contractors confirming that on 17 October 2003, an item of their equipment had malfunctioned in the manner I have already described.

19. Having referred to the relevant portions of those documents, the coroner summarised her note of the oral evidence that Dr Coumbe had given at the earlier hearing. In the course of his post-mortem examination of the body of Mrs Johns, Dr Coumbe had found a large bloodstained effusion in the left pleural cavity. Tumour was present encasing the pleural surface of the lung and the inner lining of the chest wall on the left side. There was pleurisy of both lung linings and bronchi, and the airways were inflamed. Initial samples suggested possible malignant adenocarcinoma and further samples confirmed the presence of a malignant epithelioid tumour of the chest wall and lung.

20. Dr Coumbe confirmed the cause of death to be (1a) bronchopneumonia and (1b) malignant mesothelioma. His evidence was that there is an "extremely strong association" between asbestos dust exposure and malignant mesothelioma. He explained that there is "often and usually" a long delay between asbestos exposure and the development of malignant mesothelioma, adding that this was (and I quote directly from the coroner's summary of her note) "entirely consistent with the evidence as presented to him that may have occurred whilst [Mrs Johns] was living in the flat". He went on to express the view that "it was reasonable to assume" that exposure to asbestos while Mrs Johns was living at 8 Eliot Court had led to and caused the malignant mesothelioma from which she later died.

21. In relation to the polymeric substance that had damaged some of Mrs Johns' furniture and belongings, Dr Coumbe told the coroner that there were "no particular health concerns associated with exposure to polymeric coating" and no concern that such material could cause cancer. He said that there is no association between exposure to polymeric coating and malignant mesothelioma, adding that what he called "the polymeric dust explosion from the vacuum cleaner" would not be associated with Mrs Johns' death and would not have caused or contributed to it in any way. However, he went on to say that he was "entirely satisfied on the balance of probabilities that living in accommodation where asbestos exposure has occurred has led to and caused this death", a comment which strayed far beyond the sphere of his medical expertise.

22. At the end of the evidence, but before summing up her findings and conclusion, the coroner indicated to those present that she was "likely to find that Linda died as a result of malignant mesothelioma due to exposure to asbestos in her flat" and also to record a short narrative conclusion to the same effect. Counsel for the interested persons declined an opportunity to address her on the law.

23. The claimant's failure to raise the question of sufficiency of evidence at the inquest, while regrettable, is not without precedent in such proceedings. A similar situation arose in *R (S) v Inner West London Coroner* [2001] EWHC 105 (Admin), in which a claimant, having acquiesced in the coroner's decision not to leave neglect to a jury, was nonetheless permitted to challenge that decision before this court. The court pointed out (at §13 of its judgment) that because of the inquisitorial nature of the proceedings, it was for the coroner to decide whether there was evidence fit to be left to the jury. The same principle applies here. In inquisitorial proceedings, the views and submissions of interested persons are not determinative. The conduct of an inquest is the coroner's responsibility. Accordingly, the claimant's failure to challenge the coroner's provisional findings and conclusion at the time does not preclude it from doing so in this court.

24. In the absence of objection from anyone present, the coroner went on to direct herself correctly on the applicable legal principles and, in particular, reminded herself that she should make factual findings on the balance of probabilities.

25. The coroner then announced her findings and conclusion as to the cause of Mrs Johns' death in these terms:

> "I am entirely satisfied that the cause of her death is that as presented by the pathologist, of 1a bronchopneumonia and 1b malignant mesothelioma and this is completely supported by all the medical evidence in this case from the GP and from the professor who explained that Linda had presented in July with shoulder tip pain, was diagnosed and died within weeks of her diagnosis. The court is entirely satisfied that the only reasonable place that Linda can have been exposed to asbestos was whilst she was resident in Flat 8 of Eliot Court. I am satisfied that she was not exposed to asbestos during the course of her employment having considered the exhibit from the Department of Work and Pensions in relation to her employment. I am satisfied that asbestos was present in the flat based upon the exhibit C2 [*i.e.* the analyst's certificate of August 1984] which confirmed the presence of asbestos fibres (*sic*) at number 8 Eliot Court. I note that these panels were removed in October of 2003 and I make a logical inference that this removal will have also raised dust within the flat, but when the exposure occurred, I cannot say whether it was during the removal of the asbestos or whether it was just during Linda living [in] that flat. But I am entirely satisfied on the balance of probabilities that the source of asbestos to which she was exposed was at 8 Eliot Court. After consideration of the evidence of Dr Coumbe, I am also entirely satisfied that malignant mesothelioma virtually never arises without exposure to asbestos and therefore Linda's malignant mesothelioma was caused by exposure to asbestos and that this occurred whilst she was resident at number 8 Eliot Court and that this exposure to asbestos has led to and caused her death by causing her to develop malignant mesothelioma. This is therefore a natural death and I will make findings and determinations upon the record of inquest that properly reflect this."

The legal framework

26. Subject to an exception that does not apply to the present case, the purpose of a coroner's inquest is to ascertain the four matters specified in section 5(1) of the Coroners and Justice Act 2009, namely who the deceased was and how, when and where the deceased came by his or her death. The sole exception is where a wider investigation into the circumstances of the death is necessary in order to avoid a breach of any Convention rights: section 5(2).

27. Section 10(2) of the Act specifically prohibits the coroner from determining any question of criminal liability on the part of a named person or any question of civil liability. Equally, it is not the function of an inquest to provide a forum for attempts to gather evidence for pending or future criminal or civil proceedings: *R v HM Coroner for Greater London, ex parte Thomas* [1993] QB 610.

28. A coroner's investigation must be sufficient to achieve its statutory purpose. In the well-known words of Sir Thomas Bingham MR in *R v HM Coroner for North Humberside and Scunthorpe, ex parte Jamieson* [1995] Q.B. 1:

> "It is the duty of the coroner as the public official responsible for the conduct of inquests, whether he is sitting with a jury or without, to ensure that the relevant facts are fully, fairly and fearlessly investigated… He fails in his duty if his investigation is superficial, slipshod or perfunctory. But the responsibility is his. He must set the bounds of the inquiry. He must rule on the procedure to be followed. His decisions, like those of any other judicial officer, must be respected unless and until they are varied or overruled".

29. At the same time, the coroner is unlikely to possess the time or resources necessary to undertake an exhaustive forensic inquiry of the kind that may be necessary in adversarial litigation, and is not expected to do so. "It is not necessary to look into every possible issue": *R (Tainton) v HM Senior Coroner for Preston and West Lancashire* [2016] EWHC 1396 (Admin), at §82, *per* Sir Brian Leveson P. The coroner must seek out and record as many of the facts concerning the death as the public interest requires: *Frost v HM Coroner for West Yorkshire (Eastern District)* [2019] EWHC 1100 (Admin), at §29.

30. The level of certainty, or "degree of conclusivity" (*per* Lady Arden) required of factual findings or conclusions in a coroner's inquest is the same as the standard of proof in civil adversarial proceedings, namely the balance of probabilities: *R (Maughan) v HM Senior Coroner for Oxfordshire* [2020] UKSC 46.

31. In jury inquests, the coroner must determine which conclusions or findings to leave to the jury by reference to what has become known as the 'Galbraith plus' test: *R v Galbraith* [1981] 1 W.L.R. 1039; *R (Secretary of State for Justice) v HM Deputy Coroner for the Eastern District of West Yorkshire* [2012] EWHC 1634 (Admin). That test has two components:
    (i) whether there is evidence upon which the jury properly directed can properly reach the particular conclusion or finding; and
    (ii) whether it would be safe for the jury to reach the conclusion or finding.

    In many cases, where there is evidence upon which a jury properly directed could properly reach a particular conclusion or finding, then it is likely to follow that the jury could reach it safely: *R (Chidlow) v HM Senior Coroner for Blackpool and Fylde* [2019] EWHC 581 (Admin). Where, as in the present case, there is no jury, the coroner will naturally consider the safety of any conclusion or finding he or she proposes to make as well as the sufficiency of the evidence available to support it, but need not expressly articulate a self-direction on both limbs of the 'Galbraith plus' test.

32. For causation of death to be established, the threshold to be reached is that the event or conduct said to have caused the death must have more than minimally, negligibly or trivially contributed to it. That question is to be determined on the balance of probabilities. Combining the threshold for causation and the standard to which it must be established, "the question is whether, on the balance of probabilities, the conduct in question more than minimally, negligibly or trivially contributed to death": *R (Tainton) v HM Senior Coroner for Preston and West Lancashire* [2016] EWHC 1396 (Admin), at §41.

33. In civil proceedings, where it may not be necessary to establish that a particular exposure to asbestos was responsible for causing mesothelioma, a different test applies. In such cases, liability "falls on anyone who has materially increased the risk of the victim contracting the disease": *Fairchild v Glenhaven Funeral Services Ltd and Others* [2003] 1 AC 32. However, that principle has no application in coronial investigations, where it is clear that the relevant event "must make an actual and material contribution to the death of the deceased": *R (Tainton) v HM Senior Coroner for Preston and West Lancashire* [2016] EWHC 1396 (Admin), at §62.

The claimant's submissions

34. The claimant does not dispute that there exists a strong and well-established association between malignant mesothelioma and exposure to asbestos dust or fibres or that the evidence available to the coroner was consistent with Mrs Johns having been exposed to asbestos many years before her death, possibly while living at 8 Eliot Court. However, the claimant argues that the totality of the evidence was not sufficient to justify a conclusion on the balance of probabilities that Mrs Johns had developed malignant mesothelioma as a result of exposure to asbestos at 8 Eliot Court.

35. In support of its submission that the coroner's findings and conclusion were not justified by the evidence and were therefore unreasonable, the claimant advances six specific propositions:
    (i) as a matter of generality, living in a property that contains asbestos does not constitute exposure to asbestos;
    (ii) there was no positive evidence that Mrs Johns had ever been exposed to freely circulating asbestos fibres at any time during her tenancy at 8 Eliot Court;
    (iii) although malignant mesothelioma is often caused by exposure to asbestos, there are other possible causes which the evidence did not adequately exclude or address;
    (iv) even if Mrs Johns had developed malignant mesothelioma as a result of such exposure, it could have occurred elsewhere than at 8 Eliot Court;
    (v) the coroner was wrong to rely upon Dr Coumbe's evidence that it was "reasonable to assume" that exposure to asbestos at 8 Eliot Court had caused Mrs Johns's malignant mesothelioma, because that was not a matter on which Dr Coumbe was qualified or entitled to express an opinion; and
    (vi) the coroner failed to apply the 'Galbraith plus' test by asking herself, first, whether there was sufficient evidence upon which to conclude that Mrs Johns developed malignant mesothelioma as a result of exposure to asbestos at 8 Eliot Court and, second, whether such a finding or conclusion was safe.

36. The claimant further submits that there was an insufficiency of inquiry by the coroner in failing to conduct an adequate exploration of potential explanations for Mrs Johns'

malignant mesothelioma other than that she had developed it as a result of exposure to asbestos at 8 Eliot Court.

Discussion and conclusions

37. Until its use was prohibited in the closing years of the last century, asbestos was a popular and commonplace building material, much valued for its cheapness and its insulating and fire-retardant properties. While harmless as long as it is left untouched, asbestos is capable of releasing injurious fibres when disturbed. These freely circulating fibres can lodge in the lungs of those who inhale them and, in some cases, may lead after a latency interval of many years to the development of malignant mesothelioma.

38. That Mrs Johns died from bronchopneumonia resulting from malignant mesothelioma is not in question. There is equally no doubt that asbestos had been present in her flat at 8 Eliot Court throughout the period between 1989 and 2003. The questions that arise are, first, whether there was evidence upon which the coroner could properly find, on the balance of probabilities, that the mesothelioma from which Mrs Johns died had resulted from exposure to asbestos fibres and, if so, whether there was evidence upon which the coroner could properly find, on the balance of probabilities, that such exposure had taken place while Mrs Johns was living at 8 Eliot Court.

39. As to the first question, it cannot safely be assumed that malignant mesothelioma is invariably caused by exposure to asbestos fibres. Although the statistical association between the two is, in Dr Coumbe's words, "extremely strong", it is by no means absolute. By itself, therefore, it is incapable of establishing a causal link in any particular case. To say, as the coroner did, that "malignant mesothelioma virtually never arises without exposure to asbestos and therefore Linda's malignant mesothelioma was caused by exposure to asbestos" is, with respect, to confuse statistical probability with the balance of probabilities. A causal link cannot properly be inferred without some evidence specific to the index case.

40. The public analyst's certificate reporting the presence of asbestos within 8 Eliot Court in August 1984 did not specify that freely circulating amosite fibres had been detected there. It referred only to amosite. Living in close proximity to products or materials that happen to contain asbestos does not necessarily entail exposure to asbestos fibres. The only known event that might conceivably have exposed Mrs Johns to such fibres was the work undertaken by the council's contractors at 8 Eliot Court in October 2003. That is something the coroner implicitly recognised, for she explained in her introductory remarks at the inquest hearing on 5 November that in her investigation she had been "looking at the evidence around the time that asbestos removal was taking place essentially".

41. The evidence available to the inquest was that Mrs Johns and her daughter were not present on the day when the boards were removed from their flat. They could not, therefore, have been exposed to asbestos fibres while the work was in progress. Afterwards, they returned home to find some of their furniture and possessions covered in dust following the malfunction of a vacuum cleaner operated by the

contractors. The composition of that dust is unknown. It may have included asbestos fibres, but there is no evidence that it did. Indeed, Dr Coumbe told the inquest that what he called the "polymeric dust explosion from the vacuum cleaner" would not have caused or contributed to the death of Mrs Johns in any way. The coroner, having recognised that she could not say whether exposure had occurred during the removal of the asbestos, correctly accepted that such exposure was no more than a possibility. Her mistake lay in assuming, without evidence, that Mrs Johns must therefore have been exposed to freely circulating asbestos fibres at some other stage during her occupancy of 8 Eliot Court.

42. Mrs Johns' illness was certainly consistent with exposure to asbestos fibres. The time interval between 2003 and the diagnosis of metastatic adenocarcinoma in 2018 was consistent with the long latency period associated with such exposure. By reference to the fact that Mrs Johns had no history of paid employment, it was possible to exclude an industrial origin for her illness. But those factors, even taken together, could establish no more than a possibility that Mrs Johns' mesothelioma was the result of exposure to asbestos fibres at 8 Eliot Court. They could not support a finding on the balance of probabilities that such exposure had in fact taken place or, if it had, that it had caused her malignant mesothelioma.

43. The only positive suggestion to the contrary came from Dr Coumbe, who declared that it was "reasonable to assume" that exposure to asbestos while Mrs Johns was living at 8 Eliot Court had led to the malignant mesothelioma from which she later died. That, however, was not a matter within his sphere of expertise and it was not an opinion he should have been allowed to express. It was for the coroner to decide on the totality of the evidence available to her.

44. Even if the events of October 2003 had brought Mrs Johns into contact with freely circulating asbestos fibres, the coroner could not safely assume that Mrs Johns had never been exposed to any other source of such a commonplace material during the lengthy latency interval of the illness. In those circumstances, it was impossible to say, on the balance of probabilities, that any exposure that took place at 8 Eliot Court had made an actual and material contribution to her death.

45. The absence of evidence identifying the source of Mrs Johns' illness was not the result of any insufficiency of inquiry. Where this distinguished and experienced coroner fell into uncharacteristic error was not so much in declining to embark upon an exhaustive attempt to exclude all theoretically possible alternative explanations for Mrs Johns' malignant mesothelioma, as in placing greater weight on the limited evidence available than it could properly bear. That evidence was not sufficient to enable the coroner to conclude on the balance of probabilities that Linda Johns had contracted malignant mesothelioma as a result of exposure to asbestos fibres while she was living at 8 Eliot Court.

46. It must be remembered, in fairness to the coroner, that the claimant's failure to raise at the time of the inquest any of the matters it has argued in these proceedings deprived the coroner of the opportunity of considering the submissions this court has heard.

47. If my Lords agree, I would quash the findings in Box 3 and the conclusion in Box 4 of the Record of Inquest dated 5 November 2019. In Box 3 I would substitute the

words: "Linda was diagnosed with malignant mesothelioma in July 2018 and despite treatment this led to and caused her death on 27 August 2018 at St George's Hospital". The conclusion in Box 4 can then read: "Malignant mesothelioma".

Mr Justice Cavanagh:

48. I agree.

Lord Justice Popplewell:

49. I also agree.