

Finance and Public Administration Committee - 13 May 2025

Cost-effectiveness of Scottish public inquiries

Background information

Statutory public inquiries are set up and funded by the government but conducted as independent bodies to investigate matters of public concern. Inquiries are chaired or run by a non-political authority such as a judge or a panel of experts appointed by ministers. Inquiries are expected to report on findings and make recommendations for improvement.

The legislative framework

Since 2007, Scottish public inquiries have been established under the (UK-wide) [Inquiries Act 2005](#). This Act and the subsequent [Inquiries \(Scotland\) Rules 2007](#) contain a range of provisions, including about terms of reference, and powers to summon witnesses to give evidence on oath and to compel the production of documents.

The relevant UK Minister in 2005 stated, “reform of inquiries legislation was long over-due and this Act will enable inquiries to get to the truth more quickly and cost-effectively”.

As such, the UK-wide 2005 Act aimed to improve the administration of public inquiries by encouraging more of a focus on managing costs and improving transparency. For the first time, legislation required an inquiry chair to act “with regard to the need to avoid any unnecessary cost” (whether to public funds or to witnesses or others).

As the legislation impacted devolved areas, a [legislative consent memorandum](#) was sought and approved by the Scottish Parliament¹.

The Scotland Rules relate to evidence and procedure of inquiries, the return or keeping of documents given to or created by the inquiry, and importantly for this inquiry, the awarding of expenses by the chairman. They are materially the same as

¹ The LCM was [approved by Parliament](#), with the SNP and Greens voting against it (NB a short discussion took place in the [Justice Committee on this matter](#)).

the [UK-wide rules](#) which apply to inquiries established by UK Government Ministers; small differences relate to legal representation, written statements, a core participant's right to make an opening statement and some records management provisions. A [House of Lords Committee recently stated](#) they "have not been made aware of any significant differences in approach or operation of the Act in the respective jurisdictions".

Who decides to hold a public inquiry?

The decision to hold a public inquiry is a ministerial responsibility and the minister is accountable to Parliament. There is often considerable pressure on government to announce public inquiries, with calls coming from survivors of events, impacted families, legal representatives, other politicians and the media.

Why are they held?

Jason Beer KC, [one of the UK's leading authorities on public inquiries](#), states that public inquiries are held to address three key questions:

- 1. What happened?**
- 2. Why did it happen and who is to blame?**
- 3. What can be done to prevent this happening again?**

Unlike some other forms of investigation, statutory inquiries can compel witnesses to provide evidence. The [Institute for Government states](#) that public inquiries are often treated as the 'gold standard' of investigations: "this status creates high expectations of inquiries, both for those affected and for the wider public". Anything less than a public inquiry may seem like government is not affording an issue the weight and respect it deserves.

This issue is explored in [a recent article](#) by Professor Emma Ireton of Nottingham Law School and in [evidence she gave to the recent House of Lords inquiry](#). This Committee hopes to hear from her during its inquiry.

Who pays for them?

Scottish public inquiries are funded by the Scottish Government, with [the National Audit Office](#) reminding us that government is accountable to Parliament for its expenditure. As explored later, public inquiries can be very expensive exercises. This was [acknowledged by the Scottish Government](#) in 2023 when pointing out "when we decide whether to convene a public inquiry, we must consider the costs that could arise from it".

The 'sponsoring department' in the Scottish Government has responsibility for funding and monitoring the budget of the inquiry, in liaison with the inquiry itself.

Support for public inquiries

Although independent of government, the inquiry team for a Scottish public inquiry receives considerable support from the Scottish Government. In addition to funding,

public inquiries receive IT and administrative support, as well as seconded staff from the Scottish Government. Inquiry secretaries and solicitors – vital to the successful running of an inquiry – are often civil servants and there is generally a close relationship between the secretary and the sponsoring department throughout the course of the inquiry.

A [recent House of Lords report](#) tells us that since 2019, the Cabinet Office has run an Inquiries Unit, whose remit is for the whole of the UK to “share best practice and to make sure that inquiries are running appropriately”. Inquiry chairs and secretaries are also provided with [general guidance from the Cabinet Office](#). This includes information on setting up an inquiry team, legal support, terms of reference, liaison arrangements, the status of core participants, finance and report recommendations.

In November 2023, [the Scottish Government stated](#) “we have been developing guidance on public inquiries to support not only the operation of inquiries but civil servants who support such inquiries”. SPICe has been unable to find this guidance on the Scottish Government’s website. In [correspondence to the Scottish Government](#), the Committee asked if the Scottish Government has a specific public inquiries unit and (if so) how it works with the Cabinet Office Inquiries Unit (a response is due on 23 May).

Are there alternatives to public inquiries in the UK?

The Cabinet Office guidance states that inquiries should only be considered “where other available investigatory mechanisms would not be sufficient”. The [House of Commons Library](#) presents the following list of alternatives to public inquiries:

- non-statutory ad-hoc inquiries (including independent panels)
- committees of Privy Counsellors
- royal commissions
- departmental reviews or inquiries.

The [recent House of Lords inquiry](#) into public inquiries also discussed some “non-statutory” alternatives, including independent departmental reviews, independent panels and ad hoc inquiries. Summarising in its report, the Lords Committee states:

“They are not set up under the authority of an Act of Parliament, and their chief distinction from statutory inquiries is that they do not have the power to compel the production of evidence. They appear to be the preferred format when the inquiry already has access to all the documentation and evidence required to conduct its work. While they encompass a range of different types of inquiry, non-statutory inquiries are broadly regarded as using more informal procedures, and being shorter and less expensive than statutory inquiries.”

In [response to an FOI request](#) in 2024, the Scottish Government confirmed that since January 2020, “a number of [non-statutory] reviews have been conducted, ranging from small-scale assessments of policy to substantial investigations akin to a public inquiry”.

Areas where more information is needed:

- The decision-making process leading up to the announcement of a public inquiry.
- Whether the 2005 Act supports cost-effective approaches.
- Consideration of alternatives to public inquiries.
- Examples of “substantial investigations akin to a public inquiry”.

Once a public inquiry has been announced

There is usually a gap between the announcement of a public inquiry and its official start date. For example, a public inquiry into the handling of the Emma Caldwell case was [first announced in March 2024](#), with the Scottish Government [informing Parliament in late April 2025](#) that it had just appointed a Chair. In her statement, the Cabinet Secretary for Justice and Home Affairs confirmed that the inquiry would not formally begin until the inquiry’s terms of reference had been discussed and agreed.

How is the Chair selected?

Appointing the chair or members of an inquiry panel is the responsibility of the relevant government minister. The Cabinet Office guidance stresses that the “impartiality of the Chair should be beyond doubt”. The guidance goes on to state:

“Depending on the circumstances, the Chair and panel may need to be legally qualified or have expert professional knowledge...In some cases, but by no means always, this could be a judge or senior barrister. Other types of chair to consider include someone with experience in the field. For some inquiries individuals with experience of running or working in large organisations may be more suitable”.

In Scotland, every public inquiry since 2007 has been chaired by a current or retired judge (the Child Abuse Inquiry was initially chaired by a QC but then replaced by a judge).

Terms of reference

The next step for the minister is developing and agreeing a terms of reference document with the chair. This is an important step as it determines the scope and focus of the investigation. As Members will likely hear during their inquiry, getting the terms of reference right can impact the timescales and costs of an inquiry. A broad and vague terms of reference may lead to a long, complex and expensive inquiry. Too tight a remit risks alienating certain stakeholders and may lead to accusations of government interference.

The recent House of Lords inquiry report concluded:

“In order for an inquiry to be properly established from the start, its terms of reference must be written carefully in order to give the chair the necessary

direction to achieve its aims, recognise the expectations of the public, victims, survivors and other interested parties and to avoid unnecessary cost.”

Terms of references are not required to include details of likely costs or time deadlines. Neither the 2005 Act nor the subsequent rules mention the setting of budgets or inquiry timetables. It is worth noting, that the UK Government originally proposed rules aimed at limiting costs. However, in the summary of responses to the draft Rules consultation, the UK Government stated:

“The Government believes that the submission of an inquiry budget and timetable accurately reflects the current practice in inquiries and that such estimates can help promote transparency in the inquiry’s procedures and can keep an inquiry on track and in proportion to the matters under investigation. However, having reflected on the majority opinion of the consultees, the Government considers that these areas are not appropriate for rules, and, that in practice, their operation could prove too restrictive. The provisions have been removed from the final version of the rules.”

Some inquiry chairs have not reacted well when Ministers have attempted to impose a deadline. For example, Lord MacLean, chair of the Vale of Leven Hospital Inquiry, included the following in the [introduction to his report](#) (which was eventually published in November 2014):

“On 29 July 2009 I met the then Cabinet Secretary for Health and Wellbeing, Ms Nicola Sturgeon, in Glasgow. She thanked me for taking over from Lord Coulsfield. We discussed the terms of the remit. She was very keen on a time limit because, as she said, she wanted a short and sharp inquiry. She expected a report and recommendations on her desk by October 2010. In light of my previous experience as Chairman of two other Inquiries and membership of another (none of which had any time restriction) I demurred to such a time limit and explained that I did not consider it possible to fulfil the terms of such a wide remit within that time scale. I preferred a time limit of “as soon as possible”.”

Areas where more information is needed:

- If guidance is available to help ministers and inquiry chairs develop terms of reference that help ensure cost-effectiveness.
- Reasons why all Scottish public inquiries have been chaired by judges.
- Whether it is appropriate for ministers to expect inquiries to be concluded within an agreed period of time and at a reasonable cost.

The inquiry team and inquiry stages

Once a chair has been announced, he or she will appoint a team responsible for the day-to-day running of the inquiry. In most cases, the inquiry team comprises:

- the secretary to the inquiry (often seconded from the civil service)

- the solicitor to the inquiry (provides legal advice and support)
- the counsel to the inquiry (one or more qualified lawyers)
- any assessor (a specialist in the field, similar to a committee adviser)
- administrative or managerial staff.

In a large public inquiry, it is usual to have one senior barrister acting as ‘counsel to the inquiry’ with additional ‘junior counsel to the inquiry’. They provide legal advice to the chair or panel and question witnesses at oral hearings. The assistance provided by the counsel to the inquiry means that it is possible for the chair to be a subject expert, if appropriate, rather than a judge or lawyer.

After the Chair, the inquiry secretary is probably the most important person for the running of a successful inquiry. The secretary is usually recruited from the civil service; however, this is for the chair to decide. There is nothing to stop the chair recruiting a secretary from the private or third sector.

Inquiry secretaries are like chief executives for these temporary administrations, and their responsibilities include preparing an inquiry work plan, setting up an office, and recruiting and managing staff. The secretary acts as the main contact between the inquiry and the sponsoring department in the Scottish Government, which includes agreeing arrangements for the preparation, monitoring and publication of the inquiry’s budget. Other responsibilities are listed in [the Cabinet Office guidance](#).

There are three main stages of an inquiry: evidence-gathering, oral hearings and report writing. The [NAO estimates](#) that 5% of an inquiry’s time is spent on developing the inquiry terms of reference, appointing the chair and inquiry team; 10% of time preparing for inquiry hearings; 40% holding hearings; and 45% producing the report.

A more detailed description of the various stages is included in the [Cabinet Office guidance](#) (see page 36).

Areas where more information is needed:

- Whether experience of controlling budgets is considered when selecting an inquiry secretary.
- Whether inquiry secretaries are always seconded from the civil service.
- Details of initial discussions taking place between the inquiry secretary and sponsoring department with regards anticipated budget.
- The extent to which departments ensure sufficient budget is set aside for inquiries.
- Whether Parliament has sight of public inquiry spending plans.

Cost of Scottish inquiries

Table 1: Public inquiries since 2007

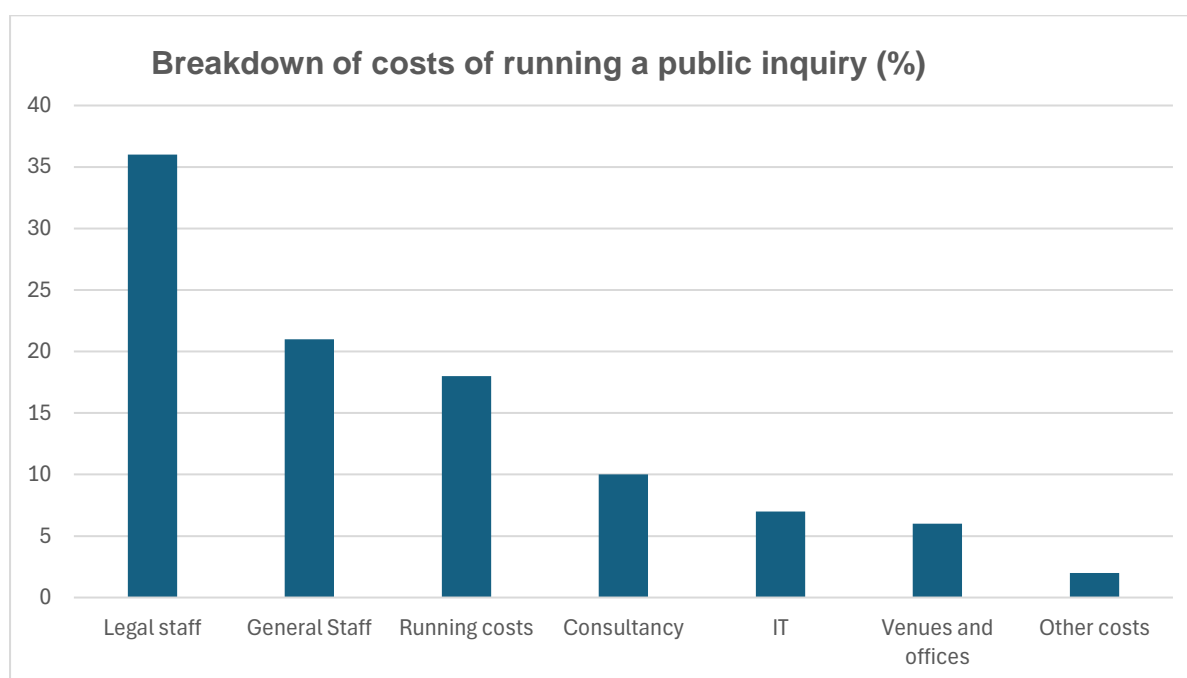
Inquiry title	Date announced	Final report published	Inquiry cost (cash prices)
ICL Stockline (industrial explosion) ²	October 2007	July 2009	£1.9m
Campbell Inquiry (Fingerprints)	March 2008	December 2011	£4.8m
Penrose Inquiry (Contaminated blood)	April 2008	March 2015	£12.1m
Vale of Leven Inquiry (Hospital-acquired infection)	April 2009	November 2014	£10.7m
Edinburgh Tram Inquiry	June 2014	September 2023	£13.1m
Scottish Child Abuse Inquiry	December 2014	Ongoing	£95.3m to Mar 2025
Scottish Hospitals Inquiry	September 2019	Ongoing	£23.6m to Dec 2024
Sheku Bayoh Inquiry	November 2019	Ongoing	£23.8m to Dec 2024
Scottish Covid-19 Inquiry	December 2021	Ongoing	£34m to Dec 2024
Professor Eljamel Inquiry	September 2023	Ongoing	Just started
Emma Caldwell Case Inquiry	March 2024	Not started yet	NA

(Sources: [SN06410.pdf](#), [Investigation into government funded inquiries](#) and individual inquiry reports/websites.)

When put into 2024-25 prices, the total cost of the above inquiries is £230 million (thus far). To put this into context, the amount spent over the past 16 years is about the same as the [annual revenue expenditure of a smallish local authority](#), or slightly more than the Scottish Government's [city and regional growth deal capital investment in 2025-26](#).

² The Stockline Inquiry was a joint SG and UK Gov sponsored inquiry “the first joint inquiry to be held under the Inquiries Act 2005 (the 2005 Act) and the first to be conducted under the Inquiries (Scotland) Rules 2007”.

In 2018, the UK's National Audit Office analysed the costs of 26 inquiries established and concluded across the UK between 2005 and 2018. The following chart shows the percentage breakdown of total costs by broad heading:



Source: [NAO investigation into government funded inquiries \(2018\)](#)

For illustrative purposes, if these proportions were also observed in Scotland, then on the basis of the total Scottish figure of £230 million, around £83 million would have been spent on legal staff, £48 million on general staff and £41 million on running costs.

In its [letters to the Scottish Government](#) and the various inquiry chairs, the Finance and Public Administration Committee has sought detailed breakdowns of costs.

Core participant legal costs

The [Explanatory Notes to the 2005 Act](#) acknowledge that “legal costs of participants often constitute the most significant part of the total cost of an inquiry”. Furthermore, the [Executive Note to the 2007 Scotland Rules](#) states that “the rules continue the previous practice whereby the legal expenses of families who have been bereaved in the incident or accident which led to the inquiry are met by the department which sponsors the inquiry”. The Rules state that “core participants” are people who:

- a) played, or may have played, a direct and significant role in relation to the matters to which the inquiry relates;
- b) have a significant interest in an important aspect of the matters to which the inquiry relates; or
- c) may be subject to significant or explicit criticism.

If a core participant cannot afford to pay their lawyer's fees they can apply to the chair for an award to be made for the cost of legal representation.

Where two or more core participants each seek to be legally represented and the chair considers that – (i) their interests in the outcome of the inquiry are similar; (ii) the facts they are likely to rely on during the course of the inquiry are similar; and (iii) it is fair and proper for them to be jointly represented; “the Chair may direct that those Core Participants be represented by a single recognised legal representative and approve a qualified lawyer for that purpose” (see [Core Participant Protocol](#) for the Sheku Bayoh Inquiry).

Peter Skelton KC writing in Jason Beer KC’s authoritative book on public inquiries, states that “the expenditure of inquiries, particularly those with many core participants, witnesses, and associated lawyers, is difficult to predict or govern”.

Section 40(4) of the 2005 Act permits Scottish Ministers to set additional conditions for the Chair when exercising the power to make awards. For the COVID inquiry, the Scottish Government has set such conditions, and these can be found in the [Determination by Ministers Under Section 40\(4\) of the Inquiries Act 2005](#) issued on 25 October 2022. Ministers state:

“Where the Chair has determined that an award should be made, the legal representatives will agree in advance, with the Solicitor to the Inquiry, hourly rates for counsel and solicitors, subject to the following maximum hourly rates, which are exclusive of VAT:

- i. Senior Counsel (whether a member of the Faculty of Advocates or a solicitor advocate) £200
- ii. Junior Counsel (whether a member of the Faculty of Advocates or a solicitor advocate) £100
- iii. Solicitor with over 8 years’ post-qualification experience £150
- iv. Solicitor with over 4 years’ post-qualification experience £125
- v. Other solicitors and fee-earners of equivalent experience £100
- vi. Trainee solicitors, paralegals and other fee earners £75.

The maximum number of hours that can be taken into account by the Chair in respect of a legal representative for the purposes of determining the level of an award shall be capped at 40 hours per week; however in exceptional circumstances the Solicitor to the Inquiry may authorise an increase in the weekly cap up to 60 hours for counsel or a solicitor during the oral hearings...”

A [similar document](#) was provided to the Sheku Bayoh Inquiry.

Wider costs to public bodies

Public inquiries also have *indirect* costs which the figures above may not capture. These costs are on public bodies participating in public inquiries. A [recent FOI response from Police Scotland](#) reveals that ‘Operation Tarn’, which supports the ongoing Public Inquiry into the death of Sheku Bayoh, has so far cost the organisation £24 million. This includes legal costs of £17 million. In its [draft budget document for 2025-26](#), Police Scotland states:

“Police Scotland has been involved in a number of high-profile public inquiries in recent years which have had significant legal and administrative costs, redirecting both financial and human resources away from other critical areas of policing. The costs of recent inquiries are significantly higher than before and there is further demand in the pipeline”.

Likewise, [Edinburgh City Council incurred costs](#) of almost £2 million in relation to its involvement in the Edinburgh Trams inquiry: “all costs to date have been met from Council budgets”.

Areas where more information is needed:

- The reasons why legal staff and general staff costs are so high.
- Whether the Scottish Government provided determinations under section 40(4) for all inquiries.
- The mechanisms available to ministers *during* an inquiry should they have concerns about spiralling costs.
- Details of action taken by the Scottish Government to help control costs.
- The total cost to the wider public sector (eg. health boards, Police Scotland and councils) of participation in statutory inquiries.

What is an effective inquiry?

The focus of the Committee’s work is cost-effectiveness – and the previous section shows that inquiries are generally expensive - but are they effective?

There is a considerable body of academic literature looking at what constitutes a successful inquiry, often limited to analysis of inquiry recommendations and their subsequent implementation. That is, a focus on outputs as opposed to outcomes.

Inquiries are not just a tool for the improvement of policy and decision-making processes. They also provide opportunities to establish facts, apportion blame and allow individuals and groups to tell their stories and be heard. It is difficult to measure cost-effectiveness when perceptions of administrative justice, reconciliation, resolution and personal/group healing are considered key objectives. And the extent to which these outcomes are met will be subjective and is likely to vary depending on the individual or group concerned.

Going back to the [2005 Act’s Explanatory Notes](#), another key aim of public inquiries is “to help to restore public confidence in systems or services”. Again, this is a difficult outcome to measure.

Recommendations and how they’re followed up

Recommendations are almost always an important and anticipated output of inquiries. In inquiry terms of reference, the Minister should specify whether the inquiry is being asked to make recommendations (the Act also allows inquiries to make recommendations even if this was not in the original terms). The [recent House](#)

[of Lords inquiry](#) considered this issue in some depth. It concludes: “inquiries are failing to meet their aims because inquiry recommendations are not subsequently implemented, despite being accepted by the Government.”

Academics highlight the need for recommendations to be implementable, explicitly stating what needs to be done and who should be responsible for doing it. Mackie and Way (quoted in [Powell 2019](#)) state:

“...in writing recommendations, thought needs to be given to how to provide practical recommendations which are actually capable of or, indeed, likely to be performed. If a recommendation is likely to be difficult to achieve or unwanted by the group that is tasked with carrying it out, then steps should be taken to ensure that the recommendation is broken down and is actually a series of practical doable steps.”

In other words, “more could be done to arrive at practical recommendations of a series of practical doable steps that are clearly ‘owned’ by an identifiable agent”. Martin Powell also found a tendency for some inquiries to “sermonise” in their recommendations. These types of recommendations “in general do not work”.

Members are reminded that the [Committee’s letter to the Scottish Government](#) asks for information on implementation of inquiry recommendations and on the Government’s role in monitoring their implementation.

How is implementation monitoring currently undertaken?

Public policy academics, such as Alastair Stark of Queensland University, identify differences between “the rhetorical commitment” that a government makes to an inquiry’s recommendations and “the reality of the implementation process”.

Moreover, the [Institute for Government](#) found that no process exists for following up the recommendations of an inquiry, with the [House of Commons Library](#) reporting that once an inquiry has reported, the chair’s involvement normally ends, and the secretariat typically disbands. The Institute for Government suggests it is relatively rare for government departments to follow up inquiry recommendations effectively, “risking the recurrence of failures identified in the inquiry process”. The Institute also recommends that following up inquiry recommendations could become an additional ‘core part’ of select committee work.

The [House of Lords inquiry](#) takes up this issue:

“The most frequently expressed view from witnesses was that there was a role for Parliament in monitoring the implementation of inquiry recommendations accepted by the Government.”

The House of Lords report recommended the creation of a Public Inquiries Committee in the UK Parliament which would have a role in monitoring the implementation of public inquiry recommendations. They also write that any new Public Inquiries Committee could be active in:

“...holding evidence sessions or writing to officials to ensure that best practice for running inquiries is being disseminated effectively and that Ministers are making appropriate decisions about establishing and resourcing inquiries.”

Areas where more information is needed:

- Whether the Scottish Parliament has a role in monitoring the implementation of public inquiry recommendations.
- Whether guidance is available for Chairs and inquiry secretaries on how to draft implementable recommendations.
- The measures used to assess whether inquiries are effective.
- Whether outcomes relating to administrative justice, reconciliation and resolution can be met through mechanisms other than a public inquiry.

Public inquiries in other countries

Most democracies across the world hold government-initiated, independent investigations into matters of public concern. COVID inquiries/commissions present a unique opportunity for comparison. We have already seen that the Scottish COVID Inquiry was announced in December 2021 and is still holding public hearings. Indeed, public hearings will continue into 2026 (see [Chief Executive's Update - April 2025](#)). The cost is currently sitting at £34 million.

The following table illustrates the wide range of costs of these investigations around the world. SPICe is still hoping to get costs for all the inquiries listed here (Members will receive updates when available). The scopes, time periods covered, methods and approaches, will all be different. Nevertheless, it is useful to see how different countries have conducted investigations into an event which took place at the same time across the world.

Table 2: COVID inquiries around the world

Country	Date announced	Date finished	Cost
Australia	September 2023	October 2024	£4 million (approx.)
Denmark (first phase of COVID)	June 2020	January 2021	£500k (approx.)
Finland	September 2020	June 2021	
Iceland	September 2021	October 2022	
Ireland	October 2024	Ongoing	
New Zealand	December 2022	Ongoing	£7 million (approx.)
Norway	April 2020	April 2021	
Scotland	December 2021	Ongoing	£34 million (so far)
Sweden	June 2020	February 2022	
UK	May 2021	Ongoing	£160 million (so far)

The Australian Commonwealth Government's COVID inquiry was not a full Royal Commission, nevertheless it was its main inquiry into the response to COVID across

the whole country. The [inquiry's terms of reference](#) required the panel to deliver a report by the end of September 2024. Likewise, the [directive establishing the Swedish commission](#) required the inquiry to finish “no later than 28 February 2022”. The Irish “evaluation” (it is a non-statutory inquiry) was told it should “submit a final report to the Taoiseach in approx. 12-18 months”.

The New Zealand commission's [terms of reference](#) also includes a deadline (“Phase Two report is due by 26 February 2026”). With regards to New Zealand's inquiry situation more generally, the [Institute for Government states](#):

“Based on the indicative terms of reference, the Department of Internal Affairs also advises on appointments of inquiry members (such as the chair and commissioners), and on a timeline and budget that are set for the inquiry at the start, ensuring that inquiries begin with clear expectations – for the chair, inquiry secretariat, government and the public – on scope, duration and cost. While some inquiries still require extensions, chairs must justify any request for additional time or resources to the appropriate minister, and obtain the Minister or Cabinet's agreement, ensuring accountability and efficiency.”

Over the next few weeks, SPICe will provide further briefings examining in more detail how other countries conduct public inquiries. We are currently waiting for information from SPICe equivalents in Finland, Denmark, Norway and Sweden.

Further reading:

House of Commons Library: [Statutory public inquiries: the Inquiries Act 2005](#)

House of Lords inquiry and report: [Public inquiries, enhancing public trust](#)

Institute for Government: [How public inquiries can lead to change](#)

Institute for Government: [Public inquiries, an explainer](#)

National Audit Office: [Investigation into government-funded inquiries](#)

Professor Emma Ireton, Nottingham Law School: [Forensic, policy and truth telling inquiries and UK Public Inquiry Reform](#)

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8 May 2025

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