

Summary note of engagement event, 30 September 2025

On 30 September 2025, Committee members met informally with current public inquiry secretariat and Scottish Government civil servants who, between them, have experience of working for or with Scottish public inquiries.

The purpose of the event was to learn more about the role of public inquiry secretariat in running an inquiry and the work of Scottish Government civil servants' providing advice and support on establishing an inquiry, and being a liaison point for established public inquiries, as well as any lessons that can be learned for the cost-effectiveness of future public inquiries.

This note summarises the discussions that took place. Key points included:

Establishing a public inquiry

- Members heard that the Scottish Government's starting point is to not launch a statutory public inquiry. Alternatives, including non-statutory inquiries and reviews, are generally considered first, and explored exhaustively before an inquiry is launched.
- Ministers receive advice on different forms of inquiry and the implications of each in terms of time and costs. In terms of costs, advice is given at a very broad level, but would generally make reference to the impact on authorities involved in the inquiry.
- However, by the time advice is given, there is usually a lot of momentum and intense campaigning for a public inquiry.
- Decisions to launch an inquiry are not made lightly, and the Government is aware of their significant implications. It is normally a cabinet decision if time allows. At a minimum, the First Minister, Lord Advocate and relevant portfolio Minister will be consulted.
- Ministers always try to engage with the people directly affected and understand their wishes. Discussion will often highlight the length of time public inquiries take to reach a conclusion.
- A key consideration of Ministers will be maintaining the confidence of the campaigners. Terms of Reference must be tight enough to be realistic, but wide enough so that campaigners have confidence in the public inquiry – it is a balancing act.
- The attraction of public inquiries lies in their power to compel. There is a general public belief that without the powers of a public inquiry, they would not be able to access essential evidence. This is based on loss of trust in

authority, including the Parliament, linked to wider suspicion of cover up. The public perceives the legal power of public inquiries as a solution.

- In some cases, non-statutory alternatives have been tried but they failed to remove the appetite for a public inquiry. People's confidence in the alternatives, their value and credibility, is a big part of the problem.

Running and concluding an inquiry

- There is an established practice for running public inquiries.
- The Scottish Government provides guidance and support at the establishment of a public inquiry, particularly in relation to securing premises and providing IT equipment.
- The chair of an inquiry is responsible for both discharging the terms of reference and avoiding unnecessary costs as required by the legislation. It is vital that inquiries have a chair, chief executives and solicitors with the right level of skills.
- There is an inherent tension between running an inquiry effectively and fixing budget and timescales. In wider scope inquiries, it is impossible to know at the outset the extent of necessary investigations. Limitations open up the risk of judicial review.
- In some jurisdictions, inquiries have been limited. That can work, however, what often happens is that the inquiry is perceived as limited and several years down the line there are calls for further, follow-up public inquiries.
- Public inquiries do not have a legal personality, they cannot enter into legal contracts. This means that they will use existing government contracts/frameworks which have already been through a procurement process. The chair of a public inquiry may enter into a contract. They may be unwilling to do so for large contracts.
- Procurement processes can be lengthy and expensive. It was noted that Government contracts are not always the cheapest and sometimes a smaller contract would be less costly for an inquiry (if the chair was willing to enter that contract).
- Members enquired about the role of consultants – this may refer to experts, specialist advice, people writing reports, or agency workers (at various phases of an inquiry, there can be good reasons for employing short-term staff).
- There are controls on solicitors' accounts under the legislation. There are detailed processes already on how to do this, but difficult conversations must be had at the start. Legal expenses must meet the fairness, reasonableness and proportionality tests. Costs of lawyers working in inquiries can be limited by not using external legal firms. It was noted that lawyers working within inquiries might feel unduly exposed if their costs were public.

What could be done differently

- Running an inquiry effectively and efficiently is less about the system, but more about how the chair executes and discharges the terms of reference. There are already frameworks in place and requirements on the chair to consider avoiding unnecessary costs, efficiency, as well as the impact on other organisations.
- It was suggested that the legislation relating to public inquiries as it currently stands is adequate. Efficiency is about managing and controlling costs and expectations at the outset.
- Very careful consideration needs to be given to establishing a public inquiry. Once set up, it must be independent. Terms of Reference must be kept tight and focused.
- Lessons learned reports are important – these should not reinvent the wheel, but be an opportunity to share experience.
- Skills and experience relevant to the subject/nature of the inquiry (and not just professional standing) should be considered when choosing the right type of individual to chair an inquiry. Leadership skills were also considered to be important in the effective running of an inquiry.
- An effective chair, chief executive and solicitor to the inquiry will consider carefully—
 - the composition of the team, managing the number of lawyers involved and considering engaging the services of paralegals (it was noted for example that lawyers need not do redactions)
 - the scope of the inquiry and what is actually necessary to do to discharge the terms of reference
 - lawyers' costs – these should not be a blank cheque, accounts submitted to the inquiry must be scrutinised and challenged where necessary
 - carefully consider who meets the test to have sufficient interest in the subject matter of the inquiry to be considered a core participant
 - careful project management in terms of fulfilling the terms of reference
 - regular reporting of findings.
- The value of a public inquiry is multifaceted. The ongoing work of an inquiry under the 2005 Act can make organisations potentially involved in public service failures look inward and make changes at an earlier stage. Often, organisations are highly defensive at the outset of an inquiry, but their position changes after hearing evidence. The investigation and holding to account in public can contribute to cultural change in advance of any recommendations.

- Members heard that the Scottish Government has produced guidance for government divisions and sponsorship teams on public inquiries and this will be kept under review and refreshed as lessons are learned.
- The group discussed the possibility of having a central budget within Government for public inquiries – it was noted that this might lead to chairs “battling it out” over a central fund while trying to discharge their terms of reference.
- Ensuring cost effectiveness will come from tightness of the running of the inquiry, building up the non-statutory inquiry alternatives and ensuring public trust in those. Additional powers for regulatory organisations should also be considered.
- Cost effectiveness comes down to implementation. Recommendations must be acted upon and embedded to reduce the potential for additional future public inquiries.