

Finance and Public Administration Committee  
27th Meeting, Session 6  
Tuesday 7 October 2025

## Cost-effectiveness of Scottish public inquiries

### Purpose

1. The Committee is invited to take evidence in relation to its inquiry into the cost-effectiveness of Scottish public inquiries from—
  - Patrick McGuire, Thompsons Solicitors Scotland
2. This paper highlights the areas being considered by the Committee as part of its inquiry, along with key issues raised during previous evidence sessions, available at Annexe A.

### Background

3. The Committee agreed on 1 April 2025 to carry out an [inquiry into the cost-effectiveness of Scottish public inquiries](#), with the following remit—
  - to foster greater understanding of the current position with public inquiries in Scotland, including their number, timescales, extensions to remit, costs, categories of spend and outstanding recommendations
  - to enhance clarity around the purpose, framework and decision-making process for establishing public inquiries and their terms of reference, and whether any improvements are required
  - to establish if public inquiries in Scotland deliver value for money, the extent to which spending controls are necessary, and how they might be implemented while maintaining the independence and effectiveness of inquiries
  - to identify examples of good practice (in Scotland or elsewhere) which ensure cost-effectiveness
  - to identify alternatives to the Scottish inquiry model, including how such alternatives may work, deliver outcomes and value for money.
4. The inquiry will not make recommendations on the merits or otherwise of individual Scottish Government decisions on whether to hold a specific public inquiry, or recommendations made by individual public inquiries.
5. The Committee ran a [call for views](#) from 4 April to 9 May 2025. Fifteen submissions were received and are available on the Committee's webpages. In addition, six written submissions were received after the call for views closed, which are available under [correspondence to the inquiry](#). A summary of responses received has also been [published](#).

6. The Committee has also written to the Scottish Government and current public inquiries seeking additional information. Responses to these letters have been received and are linked below:

- [Scottish Government](#)
- [Eljamel Inquiry](#)
- [Scottish Covid Inquiry](#)
- [Sheku Bayoh Inquiry](#)
- [Scottish Child Abuse Inquiry](#)
- [Scottish Hospitals Inquiry](#)

7. A [SPICe briefing](#) providing background information on the area has also been published along with an [updated cost table](#), to inform the evidence sessions for this inquiry.

8. The Committee has taken evidence on:

- [20 May 2025](#), from Professor Sandy Cameron CBE
- [27 May 2025](#), from Rt. Hon. Lord Hardie, Former Chair, Edinburgh Tram Inquiry; Dr Emma Ireton, Nottingham Trent University; Law Society of Scotland; Faculty of Advocates; and Compass Chambers
- [3 June 2025](#), from the Institute for Government and NHS National Services Scotland
- [10 June 2025](#), from the Crown Office and Procurator Fiscal Service and Scottish Police Federation
- [17 June 2025](#), from John Sturrock KC and John Campbell KC.

## Written submission for 7 October

9. A written submission has been received from the witness appearing at the Committee's meeting on 7 October. This is attached at Annexe B. Some key issues raised in this submission are summarised below—

- Thompsons Solicitors has been funded by an award of public expense under the relevant legislation and Inquiry protocols to represent its client groups for all inquiries it has participated in.
- Those affected must have confidence in the Inquiry or it would be a waste of time and money. This confidence comes from:
  - independence from the Scottish Government and the Scottish Parliament, and
  - being able to actively and meaningfully participate in the Inquiry.
- In its submission to the Grenfell Inquiry and in wider publications the Equalities and Human Rights Commission advocate that groups representing those affected must have active and meaningful, not illusory, participation in Inquiries.
- There is an unavoidable and necessary cost to meaningful participation. This means that victims' groups must be legally represented and that such representation comes at a cost to the public purse.

- The level of legal representation and the cost of that representation will vary with the complexity of the subject matter of the Inquiry.
- The Inquiries Act 2005 and the Inquiries (Scotland) Rules 2007 create statutory rights of participation in and representation (at the public expense) at Inquiries for (victims') groups granted core participant status by the Chair of the Inquiry.
- In Thompsons Solicitors' experience every Chair has set out strict guidelines and has forensically assessed all work undertaken and discounted any work that does not meet the criteria.
- Thompsons Solicitors suggests the Committee may wish to consider whether every Inquiry set up was justified given the inevitable cost of setting up the Inquiry rather than whether there is a case to impose cost restrictions on Inquiries that are in the public interest and set up under the current legalisation.
- An example is given of two inquiries into blood contamination and the impact of the differing approaches taken. The approach that embraced meaningful participation is considered to have yielded a better result though this costed more.

## **Other written evidence received**

10. The Committee has also received a written submission from Police Scotland. This is available at Annexe C and the main points from this submission are summarised below—

- Police Scotland are supportive of the public inquiry process and aim to always engage positively and proactively, providing full cooperation to support the aims of each inquiry.
- Public inquiries represent a significant cost to the public as well as to its organisation, though it recognises these inquiries contribute to transparency, public confidence, long-term institutional learning and in some cases answers for families and loved ones.
- Costs can be considerable to Police Scotland as they include legal costs. Costs must be absorbed from revenue streams, and it is "consistently making tough, prioritised, decisions on budget, often at the expense of policing local communities, as well as tackling a range of crime types".
- To date, the direct cost to Police Scotland in supporting the Sheku Bayoh public inquiry is £25,409,629, with £18,087,494 of this being directly attributable to legal costs (total cost of this inquiry is over £51m).
- The submission states that when public inquiry remits are extended, these changes should be clearly explained and published to maintain confidence.
- Recent inquiries have included distinct phases or chapters to address different aspects of the inquiry's remit in a structured and transparent manner, though unforeseen issues, such as the emergence of new evidence, legal challenges, or the need for further investigation can lead to inevitable delays.

- Greater transparency is needed around how recommendations are tracked and implemented. This would ensure inquiries lead to real, measurable change.
- A tight, focussed Terms of Reference along with realistic planning and a realistic budget with strict monitoring should be implemented from the outset of every inquiry.
- If during an inquiry a clear issue is identified, this should be shared/communicated to the relevant organisation timeously. As organisational transformation is an ongoing process, it may be these issues have already been identified and rectified by the time any report is completed.
- Police Scotland use an action tracking software system, this system ensures all recommendations and learning are tracked, their performance monitored and provides real-time reporting on the progress of implementing recommendations. This could be adapted to provide reporting to Parliament.
- Scotland could adopt a proportionate toolbox of alternatives. There are good examples in Australia and New Zealand that include rapid independent reviews (6–12 weeks) to deliver urgent lessons and time-limited statutory inquiries.
- OECD evidence shows that meaningful public engagement, transparent reporting and follow-up improve acceptance of sometimes uncomfortable recommendations. Techniques such as citizen panels, clear public summaries and staged publication of findings help maintain legitimacy.
- To strengthen public confidence, Scotland could adopt the following—
  - A published decision framework for selecting the most appropriate model.
  - Clear, narrow terms of reference and capped timescales for all inquiries or reviews.
  - A permanent system for monitoring and reporting on the implementation of recommendations

## Next steps

11. The Committee will continue taking evidence in relation to the inquiry during October and November and is expected to report in December 2025.

Committee Clerking Team  
October 2025

## Key issues explored during evidence sessions

1. The following key issues were discussed with witnesses at the previous meetings held during May and June 2025—

### Growing demand for public inquiries

- There has been growing demand to hold public inquiries. The Committee explored whether this has arisen due to public service delivery failure.
- Professor Cameron was of the view that if an issue arose, public bodies should acknowledge and address it at an early point and certainly before the need for a public inquiry. If a public body did find itself the subject of an inquiry, at least they could then point to the action they had taken.
- The Scottish Police Federation (SPF) said it believes the general public are not satisfied with the public services they receive. COPFS considered the public's expectation of public organisations has increased and "to a large extent that is quite right".
- John Sturrock KC said there is a need for education, understanding and clarity about the purpose of inquiries, and Ministers perhaps being a bit more focused and clear about what they hope to achieve with inquiries and what the public is entitled to expect from them.
- John Campbell KC said there is "a view that a public inquiry might be a device for getting a difficult problem off a politician's desk".
- It was noted that a public inquiry could be called for to access relevant information or documentation. In some circumstances this information cannot be disclosed, such as during policing inquiries. It was suggested that a duty of candour may be a way of addressing this.

### Assessing value and cost-effectiveness

- Witnesses consider effectiveness should be judged against the specific terms of reference set for each inquiry.
- John Campbell KC set out other ways in which effectiveness could be assessed. For example, a politically motivated inquiry could be judged by those who commission it and by the informed public. Whereas an inquiry into actions judged to be negligent etc. should identify lines of responsibility and recommend measures against recurrence. An inquiry into wasted public money may be more like an audit.
- John Campbell KC stated value for money is often measured by deemed public acceptability and is often guided by press headlines. He believes this "is the wrong measure". Instead, he suggested that the best measure is not overall cost, but the effectiveness of the methods of examination used to investigate the topic, as they correlate to the solutions or answers to be found by the inquiry.
- Professor Cameron said there has been limited research into the public's views on public inquiries.

- It was noted that those affected may still be dissatisfied even after investigation of their complaint and the actions taken.
- The SPF thought there would be “small wins for public inquiries but inevitably not the satisfaction people want”, particularly as many organisations are making changes in advance of a public inquiry.

Decision to establish a statutory public inquiry

- Most witnesses felt Scottish Ministers should consider all the available options, as well as statutory inquiries, and should select the model that would address the issue most appropriately and effectively.
- It was noted by John Sturrock KC that there are trade-offs when deciding to hold an inquiry. The issues of time, cost, quality, justice and outcomes will always be in tension.
- The Institute for Government (IfG) noted that there is a perception that the judge-led, forensic inquiry is seen as the ‘gold standard’. Ministers need to consider when establishing an inquiry whether it should be led by a policy specialist, a multi-disciplinary expert panel, or by a judge.
- Choosing chairs is a matter for Government, though the Crown Office and Procurator Fiscal Service (COPFS) explained the skills judges bring to an inquiry are independence, a background in ensuring fairness and in making complex decisions and writing up those decisions. Judges are also experienced in using the power to compel the provision of evidence, so it is understandable why inquiries have become legalistic.
- John Sturrock KC said co-chairs with specialist knowledge could be appointed. He also commended the document from the Centre for Effective Dispute Resolution in relation to choosing the process to be used when conducting an inquiry.
- The Law Society said the cost impact on public bodies involved with public inquiries is something Ministers should consider when taking a decision to hold an inquiry.
- Before agreeing to set up a public inquiry, SPF said Scottish Ministers should carry out impact assessments for relevant agencies and their services.
- NHS NSS highlighted that inquiries are regularly held parallel to other court proceedings which may consider some or all the same subject matter under different evidential rules. There can also be duplication in the subject matter, such as between the Penrose Inquiry and the UK Infected Blood Inquiry, and the UK and Scottish COVID Inquiries.
- The IfG highlighted New Zealand’s guidance as a good example that supports looking at the topic with a view to identifying the appropriate option for inquiry or review.
- In response to a question about reducing the number of inquiries, John Sturrock KC said, “If you set out clear criteria and have a clear understanding of the basis on which they are initiated, that may or may not have an impact on the number, but you will have far greater clarity and certainty about the growing number of inquiries”.

Inquiry terms of reference

- There is general agreement amongst witnesses that terms of reference (ToR) need to be clear about the purpose of the inquiry. ToRs vary greatly in length and detail and were thought to be getting longer. It was noted, however, that both the Piper Alpha and the Dunblane shootings inquiries had succinct, general ToRs and did not overrun.
- Other jurisdictions have a clearer purpose for their inquiries.
- There have been different approaches taken to drafting ToR, for example, the Scottish COVID inquiry's ToR was drafted through public engagement and consultation.
- On amending ToR mid-inquiry, Lord Hardie said it is "important to get the terms of reference right at the beginning" but that it is also important for the Chair to take a decision, where unforeseen evidence arises. John Campbell KC said it is for the Chair to determine based on the remit of the inquiry, the risk is if the matter isn't looked into, it risks public disfavour.
- The inclusion of an indicative budget and timescale in a ToR has prompted mixed views from witnesses. Some witnesses thought this could curtail an inquiry and therefore its independence. Lord Hardie explained "it would have been difficult to agree a timescale or budget for the Tram inquiry without being aware of the approximate number of prospective witnesses from whom statements might be required or the volume of documents to be considered" and that if budgets and timescales had to be revised upwards this could undermine public confidence in the inquiry. While Professor Sandy Cameron considered agreeing budget increases or timescale extensions was acceptable, COPFS was clear that Ministers should set sharp, focussed ToR to address timescales and costs at the outset. John Sturrock KC said he is comfortable with undertaking a time-bound approach to inquiry.
- Dr Ireton presented one potential solution to the drafting of ToRs is to publish high level guidance for Ministers on identifying an inquiry's core purpose and focus, assessing the need for statutory powers, and selecting a proportionate model aligned to purpose, scale, and cost, would improve transparency and consistency.

Judge-led inquiries

- The decision to appoint judges as inquiry chairs is for Scottish Ministers. If requested, the Lord President will invite expressions of interest and the decision to accept an appointment is for judges themselves. Due to the skill set and the level of experience the pool of judges is small.
- Lord Carloway explained that an inquiry into an unusual death and all those in custody are normally conducted at a Fatal Accident Inquiry in the sheriff court; the more significant incidents (e.g. the Clutha tragedy) being presided over by the local Sheriff Principal or maybe even an experienced sheriff (e.g. the M9 incident).
- Some witnesses considered judge-led inquiries to be overly legalistic, leading to higher costs.

- Dr Ireton said a forensic inquiry might need the specific skills of a judge, whereas a policy expert might be better for an inquiry aimed at policy changes.
- John Campbell KC agreed decisions on appointing a Chair should relate to the purpose of the inquiry.
- In response to a question about the public's trust in judge-led inquiries, John Sturrock KC said the question is really about the attributes of a particular individual and whether they would result in public confidence.
- Lord Hardie argued the legalistic process could be managed through the use of existing Regulations, which allow the chair to limit, and even exclude, the cross-examination of witnesses. He also pointed to a direction he made in the Edinburgh Tram Inquiry to exclude opening statements to avoid extra hearing time and legal representation costs. This approach to opening statements could be made mandatory by amending the Regulations.
- The Lord President explained if a judge is appointed there is substantial knock-on impact. Appointed judges are unlikely to sit in court cases or would only be able to handle a small percentage of their case load. One judge sits for 205 sitting days, equating to 34 criminal trials. There are only 36 senior judges. Currently 3 of those judges are serving on an inquiry amounting to 10% fewer sitting days to hear cases. Appointing a judge has a disproportionate impact on an already over-stretched resource.

#### Length and complexity of public inquiries

- Professor Sandy Cameron said long-running inquiries risk losing public interest and may add financial pressure to witnesses. There is also a risk of "compassion fatigue" for participants. Some people may pass away before the end of an inquiry.
- Some long-running inquiries have taken a modular approach. NHS NSS said clear timetables for 'modules' and detailed ToRs for each 'module' are effective in keeping public inquiries to timetable and remit. It also allows participants to prioritise resources. It was emphasised that broad areas of evidence make it more difficult for core participants to assist the inquiry.
- Responding to a question about whether the complexity of public inquiries is increasing, SPF believed that this is not necessarily the issue. Public organisations are siloed, it said, rather than working together to ensure such an incident doesn't happen again.
- It was noted with lengthy inquiries, e.g. Scottish and UK COVID inquiries, core participants are expected to talk about events that happened five years ago.
- Some delays to inquiries have been caused by the Government or other bodies engaging with an inquiry not being ready with their documentation. This can add several months to timescales.
- Legal professionals noted that being involved in a lengthy inquiry is very demanding with long working hours.
- Dr Ireton stated there is a strong case for greater use of shorter, focused, statutory inquiries, which deliver thematic learning and policy recommendations within 12 to 24 months. This would allow lessons to

be acted on before policy priorities shift, or events recur. She cautioned, however, that the task set for these inquiries had to be achievable within that timescale.

#### Public inquiry costs: general themes

- As of September 2025, the cost of Scottish public inquiries was £249.5 million.
- The Faculty of Advocates said there is often a trade-off between time, cost, and quality. It is generally understood that prioritising two of these factors can reduce control over the third.
- According to Dr Ireton, despite the scale of public investment, and their importance, there has been remarkably little evidence-based work commissioned on what inquiries cost, how they manage those costs, and how spending compares against original budgets. Inquiries are often established, heavily resourced, and concluded with minimal formal evaluation or system-wide learning.
- Appointing a secretary from the civil service could assist the chair in helping the inquiry proceed efficiently, as the Chair will often not have experience in setting up an inquiry and budgetary matters.
- Professor Cameron said the Independent Jersey Care Inquiry (IJCI) had put in place checks and balances to control costs but had “arguably failed miserably”.
- John Sturrock KC proposed that the “conduct of public inquiries and the possibility that costs are out of control is another example of a more fundamental problem in Scotland—namely that our approach to decision making, complex issues, negotiation and addressing tough issues is suboptimal”.
- Lord Carloway commented, “If economy of scale is to be achieved, two things have to be in place: first, a proper secretariat which has built up an institutional memory of how inquiries are successfully conducted; and, secondly, a proper framework of rules within which times for actions can reasonably be stipulated. These are at the core of legal procedures generally. They are not present within the public inquiry set-up.”

#### Core participants’ legal costs

- The number of designated core participants is a major cost driver, and funding awards for legal representation often form the most significant part of the total cost of an inquiry.
- Professor Cameron stated, “It has to be recognised that inquiries are a source of substantial income for some large legal firms and as such the question arises as to the extent to which they are motivated to keep costs to a minimum and within budget”.
- IfG noted the culture is already set with inquiries being more legalistic. Legal firms are involved with multiple inquiries close together and, over time, there has been developed learning of how an inquiry should be run, leading to a more adversarial process.
- John Sturrock KC said the economic system in which lawyers operate requires them to generate revenue and profit. Economic interest is an almost inevitable aspect of lawyers doing their jobs. He added that

good lawyers will look for ways to minimise unnecessary costs, which would be the professional and ethically responsible thing to do.

- Inquiries have taken varied approaches to managing core participants costs, including some limiting the number of core participants and making greater use of joint legal representation for groups of core participants. The Law Society suggested developing cost arrangements e.g. fixed costs for lawyers and other experts called to give evidence.
- NHS NSS said core participants' costs are not reimbursed consistently. Inquiries should set out what costs should be recorded by participants, and these should be published by the inquiry.

#### Possible conflicts of interest

- In response to a question about conflict of interest, an example was given where a legal firm involved in a public inquiry has a pecuniary interest in an inquiry being extended and expressed this to the media. The Law Society noted that it was not clear whether this was them exercising their freedom of speech or whether this would result in the individual being paid more. While Compass Chambers noted that it would not be a relevant conflict of interests if you were advancing your client's position.
- Members explored whether providing advice on the "Rangers" case would present a conflict of interest for legal professionals. COPFS said it is required to keep the Scottish Government up to date on the litigation and the progress of the investigation but noted that as an organisation to be inquired into there is a limit to what COPFS can say about holding a public inquiry. COPFS did not consider there would be a conflict of interest if the inquiry is Scottish judge led, as judges have experience of looking at matters concerning the actions of the COPFS or the Scottish Government.
- The Faculty of Advocates said people in general struggle with understanding what a conflict of interest might be - a process for this could be useful.

#### Cost to public sector bodies and impact on other resources

- Public bodies are expected to subsume the costs of participating in a public inquiry.
- Public sector witnesses said public inquiries are resource intensive for participants, financially and in terms of the time and staff resources required to assemble and share documentation and in attending to give evidence.
- COPFS is often called upon to assist and to be scrutinised by public inquiries. It is currently a party to, or liaising with, six Scottish inquiries and two UK inquiries.
- NSS established a Public Inquiries Team to help the NHS respond to inquiries. Since 2021 they have spent £9 million in legal services to NHS Scotland Boards for public inquiries.
- Costs to COPFS of the Scottish Child Abuse Inquiry from 2017 to 30 April 2025 amounted to approx. £4.8 million. For the Sheku Bayoh Inquiry from November 2019 to 30 April 2025 the total cost was approx.

£1 million. All inquiries from 2017 – 2025 amount to almost £6 million in costs to the COPFS.

- Regarding Police Scotland the Sheku Bayoh Inquiry has cost over £20 million in direct costs, with more than £25 million spent overall. SPF explained this figure, would equate roughly to “500 police officers”. As cost pressures must be absorbed, this increases the burden on overstretched colleagues, affecting their wellbeing, with some choosing to leave the police service.
- Finance issues are routinely raised with the Scottish Government. Specifically, SPF has raised the funding of the Emma Caldwell case with the Cabinet Secretary for Justice and Home Affairs, and though there has not been a response, a meeting has been offered.
- Professor Cameron highlighted the opportunity costs to public bodies of participating in inquiries at a time when their budgets are already under pressure. NHS NSS emphasised the opportunity costs of prioritising public inquiries over day-to-day activities, e.g. not measuring the impact on service delivery.

#### Measures to control costs

- John Sturrock KC said key to controlling costs was the education, training and the competence of the chair or chairs or who manages the process.
- John Sturrock KC referred to Desmond Tutu’s Truth and Reconciliation Commission use of other processes [like restorative justice] and suggested inquiries could have parallel processes with different things happening at different times.
- Warning letters should be made a discretionary part of the process rather than being mandatory as currently provided for. The use of this process can be disproportionate to the matter and can add to the length of an inquiry.
- John Campbell KC said it is possible to track expenditure using management accounting as professionals have a charging rate. The budget can be controlled if this rate is known in advance. Publication of overall accounts would appear to be a necessary part of the process.
- Newer, innovative processes could be deployed to reduce costs, such as artificial intelligence (AI). It was noted that AI is already being used in some public inquiries e.g. the UK COVID inquiry is using a package called “Relativity”.
- The IfG said Cabinet Office are currently underfunded and under resourced to help support innovative work practices.

#### Transparency of inquiry costs

- John Sturrock KC considered there is insufficient transparency and scrutiny, in particular around control over timescales and costs.
- There is no consistency in the way inquiry costs are recorded making meaningful comparisons very difficult.
- John Campbell KC did not think it necessary to publish individual remunerations. When asked about the potential that publication could help to produce culture change, he said this is a “very sensitive and difficult area”.

- There is difficulty in ascertaining costs incurred by public bodies in relation to public inquiries. NHS NSS said this topic is frequently the subject of Freedom of Information Requests.

#### Drafting of inquiry recommendations

- The IfG stated that further consideration should also be given to who drafts recommendations, e.g. a policy specialist, so they are more effective.
- Professor Sandy Cameron said that judges don't always have knowledge of policy areas, which is particularly important when drafting recommendations.

#### Interim reports

- Some witnesses thought there are benefits to publishing an interim report as it may identify changes which are urgently required to systems or processes to prevent recurrence and/or offer staggered publication of inquiry conclusions.
- However, John Campbell KC pointed out that there is a risk with interim reports, because the Chair may change their mind as the inquiry progresses.
- John Sturrock KC felt they need not be titled as interim reports but might be periodic and look at particular issues such as the development of the process, timescales etc. depending on the circumstances.
- It was also highlighted that recommendations should take account of current practice, so that they are more relevant.

#### Responses to inquiry reports

- Witnesses believe that a timescale should be set for the government to respond to an inquiry report. It was suggested by the Faculty of Advocates that an initial response might be expected "within months at most".
- NHS NSS drew the Committee's attention to section 28 of the Fatal Accidents and Sudden Death etc (Scotland) Act 2016, which has a requirement that those to whom FAI recommendations are directed must provide a response to a FAI's Determination within 8 weeks. It suggested that a similar requirement could be introduced requiring participants in public inquiries to report to Parliament with their written response to inquiry reports.

#### Implementation of recommendations

- There is no formal mechanism in Scotland to ensure that public inquiry recommendations are implemented, either promptly or at all. Follow up often falls to survivors, families, and campaigners.
- Witnesses noted repeated tragedies or disasters that could have been avoided had recommendations been acted upon.
- John Sturrock KC considered there should be a systematic approach to the implementation of recommendations. He pointed to 3 reasons why implementation might not happen:

- there is no momentum behind effecting recommendations when reporting after a long-running inquiry,
  - the difficulty of digesting a lengthy report in a busy world,
  - some recommendations made are not acceptable to those who would implement them e.g. because of cost or might already have been addressed.
- In response to a question about making implementation of recommendations mandatory, John Campbell KC said there is a dilemma between a political response and an administrative response. He considered that there is an entitlement to transparency about what has or has not happened in consequence of the recommendations that the inquiry made and why.
- The IfG considered there should be a requirement for the inquiry report to set out an agreed approach to monitoring recommendations.
- The 2024 House of Lords Committee Report recommended the formation of a Joint Parliamentary Committee to monitor government responses to inquiry recommendations and hold the government to account for implementing accepted recommendations.
- It is noted by John Sturrock KC that a new ministerial accountability board is to be established to oversee the implementation of Fatal Accident Inquiry recommendations.
- COPFS noted that the Government and Parliament will have a view on the cost of implementing some recommendations and the impact they might have on the Scottish budget.

#### Scrutiny of public inquiries

- NHS NSS considered a body could be established to support Parliament in deciding whether a public inquiry should be held. It could advise on the risks and opportunities of an inquiry, give advice on effectiveness and value for money, support the administration of a public inquiry, and highlight opportunities for lessons learned. It could also ensure consistency, hold inquiries to account for their conduct, and provide oversight over costs incurred.
- John Campbell KC suggested an annual half-day debate in the Scottish Parliament looking at the progress of inquiries, particularly long-running ones.
- Dr Ireton highlighted different oversight approaches, such as a National Oversight Mechanism (like INQUEST in England and Wales), Audit Scotland, or a parliamentary committee. Australia is pointed to as a strong model of scrutiny with annual evidence-based reports to Parliament clarifying which recommendations have been implemented, which have stalled and why, enhancing accountability and driving action.

#### Improving best practice

- Some witnesses felt having a public inquiries unit could help with standardisation of the approach to public inquiries by providing support and training. There were suggestions this could be delivered by a university, government or a non-departmental public body.

- COPFS could also see the advantages of having an independent body supporting public inquiries.
- The Law Society thought an approach to establishing a statutory or non-statutory inquiry quickly and economically could be to have a 'bank' of appropriately skilled people to staff an inquiry, creating protocols for the development of websites and IT requirements, accounting practices and handling of evidence and documents.
- The Penrose Inquiry produced a 'lessons learned' report which was published as an appendix to the inquiry report. Could there be scope to make these clearer in the process to bring more consistency?
- Dr Ireton said institutional knowledge in the way inquiries are run is lost as there is not a central repository of best practice. She said the Cabinet Office Inquiries Investigation Team do not have the resources or funding to capture lessons learned.
- According to Dr Ireton there is no single 'perfect' model for public inquiries. Scotland's current system has strengths worth preserving.

**The Scottish Parliament's Finance and Public Administration Committee  
Investigation –**

**Cost-effectiveness of Scottish Public Inquiries**

Written Submission by Patrick McGuire, Thompsons Solicitors

*Relevant Experience*

I have considerable experience of the operation of Public Inquiries. I have assisted four groups of victims of disasters and mass-wrongs to successfully campaign for Public Inquiries to be set up and acted as their Recognised Legal Representative (RLR) at those Inquiries. They were:

- The victims and families of those killed as a consequence of the ICL Stockline disaster
- The victims and families of those who died as a consequence of the c.difficile outbreak at the Vale of Leven Hospital
- The victims and families of those killed as a consequence of the contaminated blood scandal
- The patients and families of child patients who were harmed as a consequence of flaws in the construction and design of the Queen Elizabeth Hospital and the Royal Hospital for Sick Children

I also represent 6 different Core Participant (CP) groups at the Scottish Covid-19 Inquiry, and my firm also represented former pupils of private schools in Edinburgh at the Scottish Child Abuse Inquiry.

Thompsons were, and in the on-going Inquiries referred to above are, funded by an award of public expense under the relevant legislation and Inquiry protocols to represent our client groups.

*The Importance of Independence and Meaningful Participation*

I have extensive first hand experience of the vital role that Public Inquiries can serve in relation to victims of disasters and mass-wrongs obtaining answers and believing lessons have been learned through a procedure in which they have confidence because it is independent and is one in which they have had meaningful participation to help shape the outcome of the Inquiry. The victims must have that confidence in the Inquiry or it would be a waste of time and money. As said, the confidence comes from two components, both of which must be demonstrably present:

- Independence from the Scottish Government and the Scottish Parliament; and
- The victims actively and meaningfully participating in the Inquiry

The first point ought to be self-evident. It is acutely important when ‘the state’ in the broadest sense potentially bears the responsibility of the wrongs being investigated by the Inquiry. That is the case in relation to all of the Public Inquiries referred to above. It is also true of the following Public Inquiries:

- The Campbell Inquiry (fingerprints)
- The Edinburgh Tram Inquiry
- The Sheku Bayoh Inquiry
- The Eljamel Inquiry

That is to say, every Scottish Public Inquiry.

The second point has been argued forcefully by the Equalities & Human Rights Commission (ECHR) in their submission to the Grenfell Inquiry and their wider publications. The ECHR advocate that victim groups must have active and meaningful, not illusory, participation in Inquiries.

#### *Unavoidable and Necessary Cost of Meaningful Participation*

Active and meaningful participation means that victims groups must be legally represented and, in turn, that such representation comes at a cost to the public purse. The level of legal representation and the cost of that representation will, of course, vary with the complexity of the subject matter of the Inquiry but none of the above should be new or surprising. The Inquiries Act 2005 and the Inquiries (Scotland) Rules 2007 create statutory rights of participation in and representation (at the public expense) at Inquiries for (victims) groups granted CP status by the Chair of the Inquiry.

#### *Inevitable but not Unlimited Cost of Legal Representation*

In short and in summary if Public Inquiries are to serve any meaningful purpose for victims of disasters and mass wrongs that comes at an inevitable and unavoidable cost to the public purse of providing legal representation to those groups.

With that said, the public funding of such representation is by no means a 'blank cheque'. In my considerable experience I can advise that every Chair to every Public Inquiry in which I have acted as RLR have set out strict guidelines as to which work undertaken by RLRs will fall to be paid by the public purse; and have also forensically assessed all work undertaken by RLRs and discounted any work that does not meet the Chair's strict criteria.

### *Realpolitik*

Setting up a Public Inquiry is a political decision, not a legal one. None of the above should be a surprise to any Scottish Minister who has set up a Public Inquiry or any civil servant advising said minister. Public Inquiries are inevitably expensive. The real issue that the Committee may wish to consider is whether every Inquiry set up was justified given the inevitable cost of setting up the Inquiry rather than whether there is a case to impose cost restrictions on Inquiries that are in the public interest and set up under the current legalisation.

### *A Cautionary Tale*

I will conclude with a cautionary tale in respect of the profoundly damaging impact that taking an overly cost based approach to Public Inquiries can have upon an Inquiry's finding of facts, learning lessons and securing the confidence of victims. I have acted in two Public Inquiries in respect of the contaminated blood scandal. The first was a Scottish Inquiry – the Penrose Inquiry. The second was the UK wide Inquiry – the Infected Blood Inquiry – chaired by Sir Brian Langstaff. At the very first public preliminary hearing of the Scottish Inquiry Lord Penrose said that "every penny" spent on the Inquiry was a penny taken away from the NHS budget. This statement immediately lost the confidence of victims and that confidence was never regained. It further informed the Chair's attitude to the entire Inquiry process including the limited extent to which he permitted the victims to participate and resulted in an anaemic Report with a single recommendation. In stark contrast, Sir Brian Lanstaff put the victims of the contaminated blood scandal at the heart of his Inquiry. The victims were encouraged to fully, actively and meaningfully participate in the Inquiry and they did. The result was a Report that exposed decades of cover up by the NHS, civil service and government and resulted in an unequivocal apology from the Prime Minister, who described the scandal as a "decades long moral failure" of the state and creation of the Infected Blood Compensation Scheme. The Scottish Inquiry failed to expose any of these facts. To echo the language of Lord Penrose, because of the

Chair's attitude to costs and efficiencies every penny spent on his Inquiry was arguably a penny wasted.

## 1. How effective is the current model of public inquiries in Scotland, and to what extent does it deliver value for money?

Police Scotland is fully supportive of the public inquiry process in Scotland and remains firmly committed to engaging with inquiries in a transparent, constructive, and accountable manner.

We recognise that each public inquiry is unique and plays a vital role in ensuring public confidence, scrutinising institutional practices, and identifying opportunities for learning and improvement. Our approach is always to engage positively and proactively, providing full cooperation to support the aims of each inquiry and to contribute meaningfully to the process of truth-finding and reform.

From the perspective of Police Scotland, the current model of public inquiries in Scotland is an effective and essential mechanism for ensuring transparency, accountability, and institutional learning. It provides a robust, independent framework for examining complex and often sensitive issues in depth, and it enables public bodies, including policing, to reflect, learn, improve, and strengthen public confidence.

We have found the inquiry process to be thorough, fair, and well-structured, with clear opportunities for all parties to contribute meaningfully. The model allows for comprehensive fact-finding, and the recommendations that arise from inquiries are often instrumental in driving positive change — not only within Police Scotland but across the wider public sector.

Our experience shows that, while inquiries can be challenging, they are a critical part of a healthy and accountable public service. Police Scotland remains committed to supporting the model and acting on its outcomes.

In response to the question *to what extent do public inquiries deliver value for money*, Police Scotland acknowledges that public inquiries represent a significant cost to the public as well as our organisation. However, we recognise that the value of these inquiries must be considered not solely in monetary terms, but in the context of the wider contribution to transparency, public confidence, long term institutional learning and in some cases answers for families and loved ones.

With regard to costs there is no budgetary provision afforded to Police Scotland in supporting Public Inquiries, the associated costs as outlined are considerable specifically as they relate to legal costs. As a consequence, Police Scotland are challenged with absorbing those costs from revenue streams and consistently making tough, prioritised, decisions on budget, often at the expense of policing local communities, as well as tackling a range of crime types.

Most recently, it is matter of public record that the costs associated with the Public Inquiry into the death of Sheku Boyah to date is £25,627,224.

The cost to Police Scotland in supporting this public inquiry to date is £25,409,629, with £18,087,494 of this being directly attributable to legal costs. Meaning the total cost of this particular public inquiry to date being more than £51million.

When considering value for money, it is important to weigh these figures against the broader benefits that public inquiries provide. These include a clearer understanding of events, informed public debate, and the opportunity for meaningful institutional reform. Inquiries often result in recommendations that help to shape policy, strengthen public services, and enhance public confidence in policing and wider governance.

Police Scotland remains committed to supporting the inquiry process in full and recognises the long-term value that can be achieved through this model

**2. Is there sufficient transparency around the purpose, remits (including any extensions), timescales, costs and effectiveness of public inquiries and what, if any, improvements are required?**

**Transparency around the purpose and remits**

The terms of reference, set by Scottish Ministers under the Inquiries Act 2005, provide clarity on the purpose and scope of each inquiry. Police Scotland supports this approach, as it ensures early transparency and helps manage public and stakeholder expectations. Where remits are extended, we believe these changes should be clearly explained and published to maintain confidence.

**Timescales and Costs**

Inquiries can be complex and sensitive, and while flexibility is necessary, the Chair of each inquiry is responsible for setting the framework and approach, which in recent inquiries has included dividing proceedings into distinct phases or chapters to address different aspects of the inquiry's remit in a structured and transparent manner.

While this approach supports clarity and focus, unforeseen issues – such as the emergence of new evidence, legal challenges, or the need for further investigation – can lead to inevitable delays. Police Scotland acknowledges the importance of maintaining public confidence during such periods and supports regular, accessible updates on revised timescales and associated costs, to ensure continued transparency and accountability.

Similarly, costs are regularly reported in a clear and accessible format, helping the public understand the scale of resources involved.

**Effectiveness, Implementation and suggested improvements**

Public inquiries are valuable not only for uncovering the truth but also for driving improvements. As highlighted by other parties in their published responses, perhaps greater transparency is needed around how recommendations are tracked and implemented. This would ensure inquiries lead to real, measurable change.

**3. Are the current legislative framework and decision-making processes for establishing public inquiries adequate, and what, if any improvements are required?**

There is a clear statutory framework (UK Inquiries Act 2005) which gives Inquiries powers to compel evidence, hold hearings and produce reports which are essential to achieve confidence in the Public Inquiry. Public Inquiries by their very nature are complicated and are prone to becoming long running and costly which can have an adverse effect on victims interests and public trust and confidence in the system.

**4. Are the processes for setting and monitoring costs for public inquiries adequate? What measures should be put in place at the establishment of a public inquiry to ensure value for money and prevent time and cost overruns?**

The current processes for setting and monitoring costs are not fully adequate. While there are mechanisms in place in relation to oversight, in practice inquiries are prone to high, escalating and unpredictable costs as well as long durations. Amendments to terms of reference have a knock-on effect on existing budgets. The participants of an Inquiry have no control or influence on the running time of an inquiry making ongoing budgeting difficult. A tight, focussed Terms of Reference along with realistic planning and a realistic budget with strict monitoring should be implemented from the outset of every inquiry.

**5. What is the best way to ensure cost effectiveness of public inquiries while maintaining their independence?**

There is a delicate balance between cost and maintaining independence. The goal is to maintain public confidence through a fair and impartial process, while managing time and resources responsibly. Setting clear and narrow terms of reference with regular scrutiny from parliamentary committees to ensure the Inquiry stays within the scope and budget without impacting on decisions. Implementation of project management techniques would also assist, including transparent budgeting and cost controls.

**6. What, if any, measures should be put in place to ensure recommendations made by public inquiries are implemented in a timely way?**

If during an inquiry a clear issue is identified this should be shared/communicated to the relevant organisation timeously. As organisational transformation is an ongoing process, it may be these issues have already been identified and rectified by the time any report is completed.

Police Scotland use an action tracking software system, this system ensures all recommendations and learning are tracked, their performance monitored and provides real time reporting on the progress of implementing recommendations. It is also used to provide regular reporting to Police Scotland's Management boards, SPA Committees and HMICS, this could be adapted to provide reporting to Parliament.

- Deliver interim findings to allow lessons to be implemented early.
- Provide deadlines of implementation with required timed updates on progress.

**7. What alternatives to the current model of public inquiries should be considered when particular events have, or could cause, public concern? Are there examples of good practice from other countries that Scotland could learn from?**

Scotland could adopt a proportionate toolbox of alternatives taking inspiration from good examples elsewhere including Australia and New Zealand including rapid independent reviews and time-limited statutory inquiries.

Alternatives for consideration could include:

- Rapid independent reviews (6–12 weeks) to deliver urgent lessons where speed matters most.
- Independent panels or expert commissions that focus on systems learning and victim perspectives without the adversarial nature of some full inquiries.
- Hybrid, time-limited statutory inquiries, retaining powers of compulsion but operating under strict timetables and cost controls.
- Citizen panels or deliberative processes to shape terms of reference and enhance legitimacy.
- Implementation trackers and oversight mechanisms to ensure recommendations lead to real change.

Given the worldwide nature of the Covid Pandemic it may be beneficial to consider how other countries have conducted their public inquiries / reviews into the handling of the pandemic.

Whilst deeper research would be required into the full scope of inquiries around the world, basic research suggests that the Scottish and UK inquiries have run for longer than other countries, and at a higher cost.

Some examples of good practice Scotland could learn from include:

**Australia** — Royal Commissions and time-limited independent reviews

[Key trends and lessons from Australian Royal Commissions and inquiries - Corrs Chambers Westgarth](#)

*Australia's Royal Commissions are powerful and thorough; lessons include rigorous public hearings and clear public reporting, but also that they can be slow and costly — leading Australia to also use targeted independent reviews and to emphasise implementation planning in final reports. Scotland can borrow the Australian emphasis on clear Terms of Reference and a focus on implementation planning while avoiding unnecessary scope creep.*

**New Zealand** ([Public inquiry reform in New Zealand | Institute for Government](#))

*In summary, the Inquiries Act 2013 was introduced and provided flexible options for statutory inquiries with three tiers available:*

- *Government inquiries – typically dealing with narrower and more immediate issues where a relatively quick and authoritative answer is required from an independent inquiry. They are relatively quick, taking an average of 10 months to report.*

- *Public Inquiries – established by the Governor-General on the recommendation of the Government ‘to inquire into, and report on, any matter of public importance’. These report to the Governor-General and parliament, and take on average 1.5 years.*
- *Royal Commissions – also established by the Governor-General in Executive Council. These inquiries are typically reserved for the most serious matters of public importance (recent examples include Covid-19, historical abuse in care and the terrorist attack on the Christchurch mosques). Some of the most complex commissions have taken up to seven years, but the average length is still only 20 months – far shorter than the average UK public inquiry.*

An underlying principle is that an inquiry under the Inquiries Act 2013 should only be established when no alternative mechanism exists or when an independent inquiry is the most suitable option.

**OECD** / general public-engagement practice ([Focus on Citizens | OECD](#))

OECD evidence shows that meaningful public engagement, transparent reporting and follow-up improve acceptance of sometimes uncomfortable recommendations. Techniques such as citizen panels, clear public summaries and staged publication of findings help maintain legitimacy.

To strengthen public confidence, it may be considered that Scotland adopts:

1. A published decision framework for selecting the most appropriate model.
2. Clear, narrow terms of reference and capped timescales for all inquiries or reviews.
3. A permanent system for monitoring and reporting on the implementation of recommendations.