

Finance and Public Administration Committee
32nd Meeting, Session 6
Tuesday 25 November 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—
 - Kate Forbes MSP, Deputy First Minister and Cabinet Secretary for Economy and Gaelic,
 - Donald McGillivray, Director of Safer Communities,
 - Marion McCormack, Unit Head Civil Courts, Justice Transformation and Inquiries, and
 - Emma Thomson, Solicitor, Scottish Government Legal Directorate.
2. This paper highlights the areas being considered by the Committee as part of its inquiry, including Scottish Government guidance on public inquiries which has recently been made available. In addition, to inform the evidence session, a summary of key issues raised during previous evidence sessions is 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](#) 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 can be found at the below weblinks:
 - [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 topic 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
 - [7 October 2025](#) from Patrick McGuire, Thompsons Solicitors Scotland
 - [28 October 2025](#), from Professor Carl Dahlström, Professor of Political Science, University of Gothenburg; Dr Scott Prasser, Public Policy Consultant and Commentator; and Wendy McGuinness, Chief Executive, the McGuinness Institute.
9. On [30 September 2025](#), the Committee held an informal engagement event with civil servants and public inquiry staff. A further engagement event was held on [7 October 2025](#) involving people with lived experience of public inquiries.

Scottish Government guidance for public inquiries

10. The Scottish Government has produced guidance for public inquiries. We understand that this was laid in Parliament in August 2024 and the Scottish Government is now in the process of publishing it. The Committee and Clerks became aware of the guidance when it was referred to by the

Deputy First Minister in her letter to the Committee of 30 May and have sought copies from the Scottish Government since. The guidance was provided to the Committee in October and has been published on the Committee web pages.

11. The guidance is comprised of the following three documents—

- guidance on whether an inquiry should be established,
- guidance for sponsor teams, and
- guidance for inquiry teams

12. The guidance on whether an inquiry should be established highlights the following matters to be considered by Ministers, and the officials advising them, before coming to a decision to hold a public inquiry in Scotland—

- Are the events of the case in question giving rise to serious and widespread public concern? Is that concern justified?
- Is it likely that a public inquiry, its report and recommendations, will satisfy that public concern?
- Are there any other forms of inquiry or investigation under way, or expected, which are likely to address or satisfy the same public concerns?
- How long is the inquiry likely to last?
- What is the likely cost of the inquiry?
- What powers are required by the inquiry?

13. It further notes that “A public inquiry is different to a court or tribunal hearing and is an inquisitorial rather than adversarial process. The inquiry will not ‘hold to account’ any party as is sometimes suggested, though the conclusions of the inquiry may permit certain inferences to be drawn.”

14. The guidance explains that inquiries are usually, though not always, chaired by a judge, “however this is not always appropriate and very much depends on the circumstances of the particular inquiry”. It further points to a House of Lords Select Committee recommendation that the inquiry panel should consist of a single member (the chair).

15. Ministers should consider the terms of reference for an inquiry and whether they “restrict the scope to the issues which have caused concern”, discuss these with the chair and seek legal advice. Terms of reference must be finalised before the start of the inquiry. Ministers may then amend them, “but must consult the chair of the inquiry before so doing and inform Parliament.”

16. In relation to costs, the guidance states that Ministers need to judge, when considering any inquiry, “whether the circumstances of the matter in question justify the considerable expense of an inquiry”. It adds that Ministers may—

- determine the fees and expenses to be paid to the inquiry team, including its chair.
 - determine conditions or limits on the expenses to be paid to core participants and witnesses, which will otherwise be paid at the discretion of the chair.
 - impose restriction notices in relation to the disclosure or publication of any evidence or documents given, produced or provided to an inquiry.
17. The guidance clarifies that once established, inquiries may be suspended or ended by Ministers, subject to specific limitations.
18. It highlights that the government decision to hold or not hold an inquiry may be subject to judicial review and states that—
- “The ECHR contains obligations under Articles 2 and 3 that could be relevant to the establishment of an inquiry. Article 2 of the European Convention on Human Rights is the right to life and is interpreted as meaning that states have to have a system in place for the practical and effective investigation of the circumstances surrounding any death and the determination of responsibility.”
19. The guidance for Ministers does not provide any specific information on responding to or implementing public inquiry recommendations.
20. The guidance for sponsor teams and inquiry teams, which includes more detailed information on the practical considerations of running and supporting a public inquiry, is provided as advice only and is “not intended to provide a prescriptive list to be followed in all circumstances”.
21. It is described as “our collective knowledge to be considered at each stage and represents an attempt to avoid the repetition of the problems which have been encountered by previous statutory inquiries”. Teams are encouraged to familiarise themselves with lessons learned reports from previous inquiries and the statutory framework.

Next steps

22. The Committee is expected to report on its findings in December 2025.

Committee Clerking Team
November 2025

Key issues explored during evidence sessions

The following key issues were discussed with witnesses at the previous meetings held during May, June and October 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 as a way to access relevant information or documentation. It was suggested that a duty of candour may be a way of addressing this. In some circumstances however, due to legal constraints information cannot be disclosed, such as during policing inquiries.
- Public pressure was also noted as a factor in launching inquiries in other countries, such as Australia. Australian royal commissions have "a lot of prestige", however, they are also criticised as being "a whitewash" or ineffective, when they do not provide the expected or desired answers.
- Sweden provides an alternative example. Public inquiries in Sweden do not have specific powers to compel the provision of evidence, however, they are generally held in high regard and complied to. While there is "reasonable satisfaction" with the process for public inquiries and their findings, it has also been the case that an inquiry's conclusions have not been fully accepted by victims and victims' families. It was noted by Professor Dahlström that "there might have been a higher acceptance of that inquiry if there had been the possibility to compel witnesses to give evidence."
- International witnesses also evidenced the link between public inquiries and trust in Government more generally. Professor Dahlström noted

that in Sweden “the public inquiry system over the past couple of decades has been part of building that trust.” In Australia, however, the public is considered to be more sceptical of Government, which appears to increase the value of public inquiries and royal commissions given their independence. The independence of public inquiries is similarly important in New Zealand, where it was noted that these are specifically called “royal inquiries” as a mark of distinction from government inquiries.

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.
- Thompsons Solicitors Scotland said, “public inquiries are a force for good”.

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 familiar with 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".
- Thompsons Solicitors considered there could be more "openness and candour" where Ministers decide not to hold a public inquiry. They could set out clearly in writing why the decision has been made and this should be scrutinised by a committee of the Parliament similar to the process under the fatal accident inquiry legislation.

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.
- Thompsons Solicitors said there should be liaison between the minister and the "recognised victims" while the ToR is in draft form and referred to the strong representations made to the Vale of Leven inquiry and the Scottish Hospitals inquiry that "victims" should be at the heart of those

service-failure inquiries and that this should apply where ToRs are revised mid-inquiry.

- 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.
- In Sweden, public inquiries are initiated by the Cabinet by issuing a commission directive, which sets out the delivery date and budget for the inquiry. All inquiries are normally completed within two years, with the average length currently at 15 months. Budgets are similarly limited, although inquiries are able to request extensions and additional funds from the Government.
- Australian royal commissions have lasted between five months and four years, with an average reporting time of two years. Dr Prasser noted that some inquiries can become “a truth and reconciliation type of body and [...] consume vast amounts of time and resources”, emphasising a need for separate processes.
- The Swedish system includes detailed guidance on the setting up and running of public inquiries, as well as reporting. The provision of guidance for public inquiries was also explored in Australia, although it was strongly resisted by former chairs.
- Similarly to the Swedish system, New Zealand inquiries have budgets and timeframes set in the terms of reference, which can be extended if needed.

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.
- Thompsons Solicitors said ‘bricks and mortar’ inquiries do not need to be led by judges unlike service-failure inquiries where people are directly affected and that this should be supported by guidance to Ministers.
- 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.
- In Australia, royal commissions are usually chaired by a former judge. Sitting judges tend not to be appointed to such commissions as they would have to stand down from judicial office.

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.
- Police Scotland pointed to good examples in Australia and New Zealand that include rapid independent reviews (6–12 weeks) to deliver urgent lessons and time-limited statutory inquiries.
- In Australia, there are examples of royal commissions being closed down by the Government. The Government also has the power to close down any and all inquiries in Sweden.

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.
- Thompsons Solicitors argued that “There absolutely are controls on the work that is done by solicitors who represent core participants. That is not allowed to run away with itself; every single bill of costs is assessed and scrutinised by the chair.” In terms of the costs of representing core participants, Thompsons said that the costs cannot “be diminished [...], if public inquiries are to achieve what they need to achieve for the victims of mass wrongs” and explained that “core participants have a statutory right to make opening and closing statements, to consider documents in advance and to suggest lines of questioning, and all of that requires legal representation”.

- Looking at international examples, the Committee heard that in Sweden, for example, remuneration for public inquiry related work is limited. Typically, the chair receives a salary comparable to the one earned before the public inquiry and members receive compensation for lost income, without additional payments. In Australia, on the other hand, chairs or royal commissions are highly paid.

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.
- It was also noted by Dr Prasser that recommendations generally fall into two categories, with a direct impact on implementation, ie. recommendations that take into account the practicalities involved and whether they are “politically acceptable”, and recommendations that do not.

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.
- New Zealand and Sweden provide relevant examples of such central units. In Sweden, this unit, based within Government, deal with all the practicalities of setting up and running public inquiries. The Department of Internal Affairs in New Zealand helps administer public inquiries and may have a role in managing the budget and processes.
- 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.