



Statutory Inquiries Committee

Corrected oral evidence: Statutory inquiries

Monday 22 April 2024

4.05 pm

Watch the meeting

Members present: Lord Norton of Louth (The Chair); Lord Aberdare; Lord Addington; Baroness Berridge; Baroness D'Souza; Lord Faulks; Lord Grantchester; Lord Hendy; Baroness Sanderson of Welton; Lord Wallace of Tankerness.

Evidence Session No. 7

Heard in Public

Questions 114 - 144

Witnesses

I: Simon Madden, Director, Propriety and Ethics Team, Cabinet Office; Luke Hughes, Deputy Director, Propriety and Ethics Team, Cabinet Office.

USE OF THE TRANSCRIPT

1. This is an corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Simon Madden and Luke Hughes.

Q114 **The Chair:** Good afternoon. Thank you for being with us. Before we get under way, I invite each of you to say who you are for the record.

Simon Madden: Thank you. I am the director of propriety and ethics in the Cabinet Office.

Luke Hughes: I am a deputy director in the propriety and ethics team. I cover inquiries and public appointments.

Q115 **The Chair:** Thank you. There are a number of questions that we would like to put to you, as you know. I will begin with the first, which is to invite you briefly to explain the role and responsibilities of the inquiries unit in the Cabinet Office. As you can imagine, your role and responsibilities are of great interest to us.

Luke Hughes: The inquiries unit has changed somewhat over time. I will give you a short summary of some of those changes, because some of the evidence you have heard so far has been from individuals who have potentially pre-dated some of the more recent elements, so I will bring you up to speed with the work of the team in the unit at the moment.

Support already existed in the Ministry of Justice and in the propriety and ethics team. In 2019, that was formed into a dedicated team focused on inquiries policy, and in 2022 it was firmly settled in the propriety and ethics team. I joined in June last year to head up the inquiries policy, and I brought together our small inquiries policy team with our inquiries sponsorship team, so we now have a team of about five in total working on that.

The inquiries policy side of that team focuses on providing advice and guidance to departments across government. It does this in a variety of ways. First, it corrals written advice and guidance. Over the last couple of years we have set up a digital inquiries hub online, which has over 300 active users from across the cross-government inquiries community. We hold a quarterly meeting with inquiry secretaries and a quarterly meeting with inquiry sponsorship teams. Those networks are thriving and flourishing now and a lot of best practice is being shared among them. It was described to me a couple of weeks ago by a current inquiries secretary as increasingly excellent, and they now correspond regularly and talk regularly among themselves to share best practice. We hold seminars and lunch events and do newsletters and things like that.

We own inquiries policy and we support the inquiries community across government to share best practice and to make sure that inquiries are running appropriately.

The Chair: How well resourced you are?

Luke Hughes: We are resourced to do the job that we are asked to do by Ministers. I think the civil servants who work in that team are some of

the most dedicated, most expert, brilliant civil servants I have worked with. They do a brilliant job of fulfilling the requirement put to them by Ministers.

The Chair: And this is a dedicated team.

Luke Hughes: That is right.

The Chair: You mentioned that you are responsible for sponsoring certain inquiries. How do other government departments undertake sponsorship?

Luke Hughes: It is worth saying that the Cabinet Office directly sponsors three inquiries. We sponsor the Grenfell Tower inquiry, the infected blood inquiry and the UK Covid-19 inquiry. Those sponsorship functions sit with my team, and the other half of the team focuses on inquiries policy and the inquiries community, as I have described. A number of departments have a dedicated sponsorship unit that will deal with the sponsorship of those inquiries. Sometimes it is dedicated just to inquiry sponsorship and sometimes it sits alongside other sponsorship functions that the department might have.

The Chair: Thank you.

Q116 **Lord Faulks:** Good afternoon. Mr Hughes, you talked quite often in your answer just now about an inquiries community. What exactly is the inquiries community?

Luke Hughes: There are a few hundred practitioners involved in working on inquiries in some form. Primarily they are individuals who work in inquiry secretariats and individuals who work in inquiry sponsor teams in departments. As I say, those sponsor teams are sometimes themselves a cluster of best practice and expertise within those departments. It is a mix of civil servants right across that spectrum.

Lord Faulks: From what you are saying, this has changed considerably in the last six months or so. Have things improved?

Luke Hughes: I would put it more like over the last couple of years. I think we have done a much better job of convening that community in various ways. To give you one example, there are six self-sustaining network groups in that community of practitioners on things like knowledge and information management or finance and procurement. We are doing a much better job of that community effectively supporting itself, particularly on sharing best practice for the benefit of secretaries who are standing up new inquiries, which I know has been a bit of a focus from evidence you have heard so far.

Lord Faulks: The Minister, Alex Burghart, wrote a letter to us in which he said: "inquiries have been sharing their lessons learned in a more dynamic way". What does that mean?

Luke Hughes: That comes in a number of forms. We hold some dedicated lessons learned reports. We hold about six of them from individual secretaries who have written those up, as envisaged in particular by the 2014 committee. We also hold over 30 best practice case studies that we commissioned from inquiry secretaries or that were produced by the inquiry secretaries or others in their teams. They cover all manner of things, from procurement and closure of an inquiry to best practice on communications externally—a whole suite of things.

We say that is potentially a more dynamic approach, because those case studies are often more live, more current, more informed by recent experience than a full dedicated lessons learned report. Equally, rather than just written reports, a heavy focus of the networks that I have talked about, and in particular the quarterly meeting that we hold with sponsorship teams and with secretariats, is on best practice sharing. So we have looked at particular issues on the agenda in various ways.

Q117 **Lord Faulks:** Much of the evidence that we have heard has indicated that different styles of inquiry—I do not mean just statutory and non-statutory inquiry—may be appropriate depending on the subject matter. Do you think that the dynamism you have talked about sufficiently allows for that different practice and does not homogenise practice to the extent that it would actually prevent a variable approach?

Luke Hughes: I see why you ask the question, but I genuinely think the answer is no. In a way, it has an opposite effect. It encourages innovation between sponsor teams and secretariats. It is the sort of community where someone has a good idea, tests something slightly and then another inquiry says, “That’s a brilliant idea. We can perhaps do that”.

Examples of innovation include the work that the Independent Inquiry into Child Sexual Abuse undertook with its listening exercise, and the UK Covid-19 inquiry’s work on Every Story Matters, which has been gathering evidence from those impacted by Covid and is directly informing the questioning from the inquiry. Those are examples of where best practice is being shared and innovation encouraged.

Lord Faulks: On the other hand, it could be said that there are very different inquiries with different objectives, and the danger is that you will simply replicate what might have been a good idea in inquiry one but not such a good idea in inquiry two.

Luke Hughes: You could also look at a number of other inquiries that have not taken forward that approach, which is probably because they thought it was not the right way of engaging with the community.

Q118 **Lord Faulks:** Ten years or so ago a committee of this House was told that there was a real bewilderment as to what actually happened to inquiries—whether they gathered dust, whether anything was done as the result of the recommendations. In your unit, what steps have been taken to improve that position?

Luke Hughes: The mandate of my unit is primarily on supporting inquiries themselves to function effectively. The responsibility of responding to inquiries sits with individual government departments. It is clearly something we take an interest in and look at in various mechanisms because of the importance of it, but it is not something that we have a dedicated mandate to do anything on.

Lord Faulks: So that is not an area where there has been much change.

Luke Hughes: There have been a number of inquiries that have reported. I do not think I have evidence of any sort of trends or changes over time in responses to inquiries.

Simon Madden: It is not currently an area on which we have been asked to focus.

The Chair: Thank you.

Q119 **Baroness Berridge:** The whole point of these public inquiries is that they are independent. The Government ~~are~~ is responsible under the legislation for commissioning these inquiries and have a sponsor team. Often there will be a very large team in any government department to be represented at the public inquiry. Now that we have what you have described as this dynamic, which is centred in the Cabinet Office, do you not think there are risks to this and that public inquiries with the unit are too close to government in a number of those functions? The perception of the outsider is that with all this expertise spinning around the Cabinet Office there is merit in having something that sits outside of government to capture this information.

Simon Madden: The type of work and the best practice that we are looking at in the unit are things that relate to how to set up an inquiry, not to the substance of the inquiries themselves. The inquiry chair is always responsible for that inquiry. So the role of the unit that Luke heads in no way seeks to influence or direct the individual work of each inquiry.

Baroness Berridge: I noted down the language, though: The phrase "check that inquiries are running appropriately" is evidence that has just been given. That also led me think: what is the boundary between what an inquiry can ask you as a unit during the currency of an inquiry?

Simon Madden: The main role where you see an interaction between officialdom and the inquiry chair and the inquiry secretary is on issues of the budget and the role of the accounting officer. The inquiry secretary will take the role of the accounting officer, and the Permanent Secretary of the department would be the principal accounting officer. That is a long-established principle. It is principally to make sure that there is adequate provision of money but also to help and provide guidance to the inquiry secretary as the accounting officer, who in turn advises the inquiry chair as to whether this is a good use of public money.

Q120 **Baroness Berridge:** That is something else I want to ask about. Do the

normal procurement rules on spending public money apply so that each inquiry has the procurement rules and the contracts are all done in accordance with procurement rules for each and every inquiry, not rolled over from one inquiry to the next? Is that right?

Simon Madden: There are no call-off contracts, as far as I understand it—Luke might be able to add more—but there are individual procurement exercises for each inquiry when it sets up.

Luke Hughes: Commercial frameworks exist that inquiries can draw upon, just like any other part of government or arm's-length body could call upon.

Q121 **Lord Aberdare:** My first question is rather related to Baroness Berridge's. How does the work that is going on in the inquiries community, which as I understand it is primarily within the Civil Service and among officials, engage with and relate to the inquiries themselves; it is presumably mainly, as you were saying, the chair and the secretary? What is driving this? It sounds like quite a change from most of the evidence we have heard from witnesses so far. I wondered what had brought about a much more well-developed process for supporting inquiries.

Simon Madden: I will take the last bit first, and then perhaps Luke can deal with the other. I think that much of this is the inquiry secretaries themselves, who recognise that they have a unique position. They want to learn what is the best possible way of approaching an inquiry and sometimes how they work best with their chair. Much of the programme, much of the agenda, for those meetings is a bottom-up approach from the inquiry secretaries. They cover topics like how we make sure that the staff working on the inquiry are supported emotionally, from a welfare perspective, given some of the really difficult issues that they have to hear and read about, and how they can support each other to learn best practice around IT contracts and making sure that the broadcast facilities and the online hearing facilities work in the best possible way. They are largely very practical things that come from the inquiry secretaries themselves.

Luke Hughes: That is exactly right. Part of the challenge that the 2014 committee looked at, as I think you have heard in evidence so far, was that when inquiries were stood up they were quite often starting from scratch. I would not want to give the impression that they no longer start from scratch and there is an all-singing, all-dancing Cabinet Office unit that will magic up everything. As Simon said, inquiry secretaries, enabled by us, have come together to make it easier for new secretaries in particular and secretaries who are in the process of an inquiry to share learning and best practice and support each other with our facilitation.

Lord Aberdare: If I am a new secretary getting started on my first inquiry and I come to you, what do I get? Do I get briefings, written material or meetings with other secretaries? Do I get all of the above? What is the process?

Luke Hughes: You will first be engaged by the sponsoring department, so you will have conversations with the sponsoring department. Depending on the department there will be a different level of ~~things-for-action~~ **interaction**, but inevitably you will be pointed in our direction. We will then talk to you on the phone, send you guidance and advice, give you access to the inquiries hub that I mentioned, which has 300-plus active users and all sorts of resources on it. We will add you to our mailing lists and you will be invited to the meetings. You are immediately inducted into the community that I have referred to.

Q122 **Lord Wallace of Tankerness:** You have mentioned the inquiries communities. The Inquiries Act is pan-UK, so are members of the Scottish Administration and the Welsh Administration involved in this community? What sort of interaction do you have with them so that lessons are learned cross-border?

Luke Hughes: Yes, they are engaged and they participate fully. Obviously, we draw appropriate lines depending on whether we are talking about UK Government policy or devolved policy.

Simon Madden: I will add with my wider propriety and ethics hat on that I meet quarterly with my counterparts in Scotland, Wales and Northern Ireland. Often inquiries are one of the areas that we just touch on to make sure that there are no overarching policy concerns that we need to address. We have the operational and the policy concerns at the inquiry level but also more broadly across the different Governments.

Lord Wallace of Tankerness: To pick up a point that Baroness Berridge raised about perceptions, does the inquiries unit have a role to play here? There is some suggestion that if you have a health matter, the Department of Health and Social Care might be involved in the subject matter of the inquiry but also might be the department that is sponsoring it. Can you see that there is a difficulty there, at least from a perception point of view? Do you think that an inquiries unit within the Cabinet Office can perhaps act in a way that takes away some of that perception?

Luke Hughes: I understand the perception. In practice, there are very careful safeguards put up to ~~make-en~~ **ensure** that there is no conflict of interest between the sponsorship role and the response role. In the Cabinet Office, as I said, we sponsor the Covid-19 inquiry and the Grenfell Tower inquiry. The Cabinet Office is a core participant in both and we manage that very carefully, involving ministerial decision-making and official involvement.

Q123 **Baroness D'Souza:** I want to touch on one or two concerns that have already been raised by colleagues. As I understand it, there is a bias, although not necessary exclusively, towards the operational role that you have, which is how to set up. However, several of our witnesses and indeed written testimonies have been concerned consistently with the flexibility of inquiries, how to limit the role of legal counsel, how to agree on terms of reference, especially also how to bring in the public in the best possible way.

As I understand it, you are not regularly publishing guidelines. You have quarterly meetings, but I do not know whether they are documented. You say that you do what you are asked to do. What areas are you not touching on that you believe you should be? What sort of resources do you think you would require in order to fulfil those roles?

Simon Madden: We own the inquiries policy function as well as the operational details that we have described. If there is an overarching cross-Whitehall policy issue on inquiries, Luke's team will deal with that. On guidance, we have an internal live document that we call our inquiries handbook, which has been developed over time but in an accelerated way much more over the last few years.

Baroness D'Souza: Is that publicly available?

Simon Madden: No, it is not publicly available. It is internal. It is a live document in the sense that it is being added to rather than having a revision schedule. It will be for Ministers to decide whether to put that in the public domain. All inquiries, all departments, are in receipt of that inquiries handbook, which is quite comprehensive; it is much more comprehensive than the guidance that existed 10 years ago when the committee last looked at this issue.

Luke Hughes: On the first part of your question, it is not true that we just focus on inquiries once they are up and running. The inquiries handbook that Simon references, the wider advice, the case studies we have and the advice we give live to departmental teams and departmental Ministers also cover the set-up and establishment of an inquiry—considerations such as what best flexible model might work for an inquiry, whether it is non-statutory or statutory, how to establish the terms of reference, appointing a chair, all those things. We can be involved right from the outset in providing that sort of support.

Q124 **Baroness D'Souza:** Do you think there is any space for being innovative? If so, in which direction would you wish to go?

Luke Hughes: I definitely think there is room to be innovative. As I mentioned, cases of innovation come up all the time. Potentially there is more room for innovation in the Act. You heard from Ken Sutton and Bishop Jones last week about a stereotype of an inquiry, and there may well be more flexibility, but that would be a decision for Ministers.

Baroness D'Souza: What about innovation in disseminating the information that you gather and collect?

Luke Hughes: I think it is fair to say that we innovate as far as we are able to in making sure that information is widely accessible.

Baroness D'Souza: But what are the limits set by the Minister?

Luke Hughes: It is a decision for Ministers as to whether to make anything publicly available, but within government we have an absolute

mandate to make sure that best practice is being shared, and we do what we can to do that.

Baroness D'Souza: This also brings up the issue about the degree of independence that inquiries have.

Luke Hughes: Sorry, in what way, if you do not mind me asking?

Baroness D'Souza: In so far as it is able to inform a wider public as to what works and what does not work or what examples would be of use to them in their own inquiries.

Simon Madden: We have seen recently that inquiry chairs are quite able to assert their independence. It is the job of the sponsor department, and certainly as the senior sponsor for three inquiries, which Luke mentioned, my role is to support the inquiry chair and the inquiry secretary in making sure that they have all the resources available to them to fulfil their terms of reference. That is the responsibility of the sponsor team within each department and, indeed, the sponsoring Minister.

Baroness D'Souza: Thanks. I am sure we will come back to this.

Lord Wallace of Tankerness: If I was to submit a freedom of information request for the current inquiries guidance document, what kind of response would I get?

Simon Madden: We would have to consider the request on its merits when it came in, but it is very much an issue of policy development and advice to Ministers at the moment. We should ~~probably~~ wait and see what ministerial decision on publication comes.

Q125 **Baroness Sanderson of Welton:** Thanks for coming today. Mr Madden, you have mentioned that you sponsor three inquiries, and I should say, having worked previously with some of your colleagues, that there is no issue with the independence of the inquiry and the workings of the Cabinet unit. It is absolutely separated and has always been done brilliantly.

Clearly the department has got bigger in recent times and you are much better at sharing the knowledge, but is there merit in you being the only single sponsoring department for a public inquiry? We heard from Bishop James Jones last week that he thinks that would be helpful. We know that the infected blood inquiry would not have anything to do with the Department of Health, and the child sexual abuse inquiry was sponsored by the Home Office, but it was not always an easy relationship for lots of different reasons. I realise you cannot start empire building, but is that something your policy team is considering or has looked at the merits of?

Simon Madden: It is not something that we are looking at specifically. I think the government's position is that the sponsorship of the inquiry best sits with the department that owns the policy for that area. So the sponsor Minister can have the right relationship with the policy area. They are then best placed to be able to look at the response as well while

recognising the distinction between sponsorship and the response. We have no plans at the moment to change those arrangements. I can see why, in very specific circumstances such as infected blood, the Cabinet Office becomes the sponsor, and there may well be exceptions where the Cabinet Office is the best place to sponsor, but I would see those as exceptions rather than the norm.

Baroness Sanderson of Welton: Thank you. That is helpful.

Luke Hughes: Given the length of some of these inquiries, there is a practical benefit to senior officials and Ministers having in mind the work of the inquiry through the sponsor's role before publication and then thinking about the potential response.

Baroness Sanderson of Welton: I am just thinking about those involved and stakeholders. If there is an inquiry it is because something tends to have gone wrong, so there tends to be distrust of whichever department that is, which can be an issue of trust in the inquiry in the first place. It can be overcome, but that is a good point.

Q126 **Baroness Berridge:** Before I come to the specific question, can I draw you back to what you said about the policy? We have talked a lot about inquiry chairs, inquiry secretariats and so on. What is the mechanism for your policy team to know what the people most affected, the victims and the bereaved, think about the process that has just happened to them?

Simon Madden: The individual policy responsibility for each of the issues affecting or being covered by each inquiry sits with the relevant department, not us directly at the centre. We do not take a policy view of each individual inquiry.

Baroness Berridge: If you are looking at the policy to do with the development of the inquiry, the actual mechanism, surely as the policy team in the Cabinet Office you need to be conducting some kind of survey, focus group or talking to the legal representation of the people who have just had probably the biggest issue in their entire lives being the subject of a public inquiry. Is there a mechanism where that information is gleaned as well as talking to the inquiry chair and the secretariat?

Simon Madden: That would emerge from the meetings that we have with inquiry secretaries, either as part of a thematic discussion, part of the lessons learned or the closed down report of each inquiry.

Baroness Berridge: When you are formulating policy and evaluating policy, do you directly meet with the legal representatives or, for instance, the victims groups, like the families groups we heard from for Hillsborough?

Luke Hughes: There have not been any specific meetings with victims groups since I joined in June, but part of the rationale that I had for bringing together the Cabinet Office sponsorship team with the Cabinet Office cross-government inquiries policy team was that the sponsorship

team had real-life expertise in exactly that challenge. My team regularly speaks to the communities, or certainly has in the past, and continues to speak directly to the infected and affected communities for infected blood and the families and survivors of Grenfell Tower, so we do get direct experience in my team.

Baroness Berridge: From the sponsoring department, though?

Luke Hughes: No, from the victims. We sponsor those inquiries directly, so we also talk directly to those communities.

Baroness Berridge: Do you feed that back?

Luke Hughes: Yes, exactly. That is one of the reasons why I brought those two teams together: to better inform how we shape the cross-government policy framework within which individual departments take decisions, because we have that information from the sponsorship function.

Q127 **Lord Aberdare:** Can you say a bit more specifically about lessons learned reports? Are they just part of all of this? What happens to them? Do they get published or not published, and are they actually being produced? One of the answers we got was that either they are not produced or they disappear into the ether.

Luke Hughes: I briefly covered this earlier. We hold six full lessons learned reports from inquiry secretaries. Then we hold about 30 case studies. Our view is that generally the outcome of learning lessons and then sharing best practice is best achieved through a mix of full lessons learned reports that are then shared on the inquiry's hub that I referenced, which everyone has access to internally within that community, and the best practice case studies.

Lord Aberdare: They are not published. They are only internal.

Luke Hughes: No. We are keen to make sure that they are frank assessments and accounts of challenges that inquiries may have faced and that they can be shared in a safe space, so those are probably best suited to internally.

Q128 **Baroness Berridge:** You mentioned a handbook for chairs. There is also something that we have been told is the Cabinet Office guidance to inquiry chairs, which has been in draft for 12 years and there is only a scanned copy version available online. The Government promised to complete this guidance and publish it. Minister Burghart said in his letter that there has been no decision about publishing it. Can you clarify whether there is a difference between this guidance and the handbook that you have referred to, and will both be published?

Luke Hughes: To be very clear, the inquiries handbook that we referenced has superseded that draft guidance, and it is a very different document. It is much more comprehensive and goes through the entire life cycle of an inquiry. As Simon has described, it has genuinely been a

live document over the past few years. It has improved significantly over the last couple of years through the best practice that we have talked about, and it will be a decision for Ministers as to whether to publish it.

Simon Madden: It includes not just guidance from the centre, but the real experience of inquiry secretaries who have done this job throughout the recent past. It is the best articulation we have of the repository of knowledge that would be of best use to a new inquiry secretary.

Q129 **Lord Aberdare:** Again, one of the messages that has come up frequently, as you will know from having followed the evidence as closely as we have, is what happens to recommendations of inquiries. There is a feeling that the inquiry formally ends when the Minister receives the report, and what happens then seems to be very much up in the ether. Is this something else that you have made significant changes to, and what might you be doing to make sure that recommendations are acted on, pursued, followed up, and that the process does not just end with the end of the inquiry?

Luke Hughes: The Government obviously takes the findings of inquiries extremely seriously, given the grave nature of the circumstances under which they are set up and the issues they have been looking at. I know that each government department gives huge consideration in the lead-up to an inquiry's final report and interim reports and significant attention to what happens afterwards.

The heterogeneity in inquiries means that some can be quite straightforward to get a response out for and some involve quite significant cross-government work, costings and things like that. It is ultimately a matter for the lead department to respond. As we have touched on before, my team does not have a specific mandate to focus on the cross-government recommendations follow-up, and I do not have any evidence of particular trends in that.

Lord Aberdare: Does the handbook indicate, for example, how the victims or relatives in an event, where there has been an inquiry, are kept informed or at least informed about what follow-up there has been to the recommendations? It seems that the show moves on without any closure for people who have been fairly intimately engaged with or indeed affected by the issues we are talking about.

Luke Hughes: The inquiries handbook throughout, and certainly in a number of parts, rightly places victims, survivors, affected individuals or communities at the heart of best practice that it outlines for government right from set-up through to conclusion. As I say, we do not specifically mandate the manner in which a department should respond or how to handle those recommendations. That is a matter for the department and its Ministers.

Simon Madden: You may have already said this, but we say as a matter of best practice that unless there is a compelling reason not to do so, departments should be responding to any inquiry's final report within six

months to make sure that there is a proper and full response. However, as Luke has said, it is not currently part of the function of his team to follow up on each department's responsibility in enacting the recommendations.

The Chair: You said that unless there is a compelling reason a department would expect to respond within six months. What is an example of a compelling reason it would not respond in six months, which seems quite generous?

Simon Madden: If there were ongoing legal proceedings, for instance.

Luke Hughes: There have occasionally been circumstances where the particular handling or the interests of the affected community have been such that the Government ~~have~~ has waited for a particular reason. Those are niche and exceptional, but I think it is right that there are those exceptional circumstances.

Baroness D'Souza: As I understand it, all inquiry secretaries are required to produce a lessons learned report, but very often this does not happen. What role can your unit play or does play? Going back to what I was asking, if you had greater resources, would you be able to do that, or is that again dependent on the sponsoring Minister?

Luke Hughes: You are right that we ask inquiry secretaries to produce lessons learned reports. As I say, we hold six of those and it is true to say that they have not always been produced—in fact, the majority of times they are not produced. However, as I say, what are produced and what we think are often more helpful and more relevant are live case studies from those secretaries. Through the course of an inquiry, they will have a particular issue with, say, knowledge and information management. We will ask them to produce a report and they will do so, and we hold more than 30 of those. We find that in practice that can often be a better mechanism for sharing lessons learned.

Lord Faulks: Have I understood you correctly? I think what you are saying, rather more delicately than I am going to put it to you, is that it is a political decision whether or not the recommendations are actioned by a particular Minister. There may be a change of Minister. There may be a change of Government. The Minister may think that the recommendation is no longer relevant. There may be legal proceedings, as you rightly say, or there may be other reasons why the caravan has moved on. However, if I have understood your evidence correctly, that is not something you are seized of. You are there to make sure that there is good practice, and you are improving that and disseminating information widely, but it is beyond the scope of your brief to ensure that the recommendations are carried out.

Simon Madden: It is fair to say that those are ministerial decisions, yes.

Q130 **Lord Hendy:** My apologies to you and to the committee for arriving late. Does the handbook have anything to say about the responsibility of

chairs in relation to recommendations? We know that in some inquiries the chair has reviewed whether interim recommendations have been carried out. Is anything said about good practice for that in your handbook?

Simon Madden: It sets out the Government's view: that chairs routinely should not have a role in monitoring the implementation of recommendations, so it reflects the Government's policy on this as things stand.

Lord Hendy: Does that mean that it says nothing or that it positively recommends against that sort of intervention?

Luke Hughes: I would say that it reflects the Act, which is clear that an inquiry closes after the delivery of its final report. I will add, though, that clearly inquiry practice has been evolving over the last few years. There is the modular approach that the Independent Inquiry into Child Sex Abuse took, the interim reports and the infected blood inquiry, the Manchester Arena inquiry model, which you have already heard about. So clearly practice is evolving, and some of the policy that we put around that reflects that.

Q131 **Lord Addington:** This question follows on from what we have been talking about. In response to the 2014 House of Lords report on the same subject, the Government accepted the recommendation that required legislative change, and it has not happened. Why do you think this is?

Luke Hughes: The then Government in 2014, I think, said that they accepted the recommendation and would bring forward legislation, parliamentary time allowing. They specifically spelled out that it might be unlikely before that parliamentary term ended. It is not for us to account for what has happened since then.

Lord Addington: So you are basically saying that without the political will or any sort of political pressure to carry it through, it is dead?

Simon Madden: Government policy is determined by Ministers with the resource available. It is fair to say at that time, in 2014, it was the coalition Government, so it was a slightly different character of government, but it was a different Government.

Luke Hughes: It would also be fair to say that we know that Ministers are really interested in the work of this committee. They are interested in the inquiries framework generally, and I think they will clearly reflect quite hard on the recommendations of this committee.

Lord Addington: It comes back to the point that without something to make sure that it stays on the political agenda, any recommendation we make may well end up waiting with dust covering it in a filing cabinet somewhere.

Luke Hughes: There will be decisions for Ministers to take, but this will be a busy summer for inquiries, with Grenfell, infected blood and the first

module of Covid, so I do not think it is disappearing from the political agenda.

Lord Addington: No. It is just that it takes a decade to get something to happen and something that people have accepted. What would keep it to the fore, or would it be another body outside reminding them that there has been acceptance?

Luke Hughes: It is right for this committee to propose its recommendations. That will come in a context where inquiries are high on the political agenda, and Ministers will take decisions appropriately.

Simon Madden: Especially at the moment, with 15 live inquiries, which is the highest number that we have ever had.

Q132 **Baroness Berridge:** A practical question here. One of the things we are trying to do is capture the institutional memory and all the activity that has happened. Can you give us some idea as to how many civil servants over how many years have been in the inquiries unit?

Simon Madden: In the inquiries unit itself?

Baroness Berridge: Yes, and how long do they stay during that period?

Luke Hughes: Again, it is a reflection that, coming into this job as I did in the middle of last year, inquiries as a subject matter attracts people who stick around for a significant amount of time. Unlike in the criticism of or reflections on other areas where there is a high Civil Service turnover, that is absolutely not the case on inquiries. We have serious expertise in the team. The head of the team has been working on inquiries in the Cabinet Office for 15 years, so significant expertise has built up. I could not say specifically how many there are since the establishment of the team in 2019, but I would expect it to be a lot fewer than 10.

Simon Madden: The current head of the team has been through all those iterations.

Baroness Berridge: I am really encouraged that someone has stayed for 15 years. That is what you need. It would be useful to have details relative to the other figures you have for the speed of turnover in people in the Civil Service.

Simon Madden: We could write to you with the level of churn in the staff.

Baroness Berridge: Yes. I did not want to use the common parlance but, yes, the level of churn.

Luke Hughes: We will definitely look into it, but I think the numbers might be so low that there might be data protection issues about providing the numbers.

Baroness Berridge: So there are five people in the team.

Luke Hughes: There are five people in total covering inquiries sponsorship and inquiries policy, so the split is roughly half and half.

Baroness Berridge: With 15 inquiries, you are busy.

Luke Hughes: And then significant expertise within departments doing the actual sponsorship.

Simon Madden: That is the important thing to stress. There is a central team in the Cabinet Office looking at very specific things, but that does not take account of the very many colleagues in departments who are looking at their specific areas as well.

Baroness Berridge: Yes. Do you have three inquiries of your own as well at the moment?

Simon Madden: Yes. We will write on that.

Baroness Berridge: Thank you.

Q133 **Lord Faulks:** I want to ask you a question that I hope is not too difficult, but you will tell me if you can help the committee on this. There is a view in what you might call the inquiry community—to use your expression—that there is a problem using material that is provided to parliamentary committees, either in evidence or in their reports, because of the 17th century Bill of Rights. You could, for example, have a situation where a witness has given evidence before a Select Committee and then gives evidence the following week before an inquiry—that is not unheard of, although the time limit may be different—and the inquiry has taken the view that it is not allowed to refer to anything the witness has said before a Select Committee for fear of parliamentary privilege and the protections that arise.

Similarly, recommendations made by parliamentary committees may fall into that same category, which is unfortunate in view of the fact that you said that you thought that politicians were particularly interested in what this committee and other committees might recommend. Can you help the committee at all with the understanding in this area?

Simon Madden: That is very niche casework. Would we be permitted to look at that and write to you on that, if that is not too much of a cat flap?

Lord Faulks: Of course. I absolutely understood that.

Q134 **Lord Wallace of Tankerness:** Since the House of Lords report in 2014 things have obviously moved on, not least with the unit, and it is my understanding that the Ministry of Justice has theoretical responsibility for the 2005 Act. However, if there was to be legislative change, where would the initiative for that come from? Would it come from within the Cabinet? Which officials from which department would be responsible for working up legislative proposals?

Luke Hughes: We work very closely with our Ministry of Justice colleagues. You are right that the Ministry of Justice owns the Inquiries Act, and there is a logic, not just because of history but also because of the relationship between coronial processes and inquests into them, in owning the legislation and how that fits together into a broader framework. We work very closely with that team. It would be the responsibility formally at the moment for the Ministry of Justice to consider legislative change to the Act, but given how closely we work and how closely our Ministers work, I think it would be a shared, organic endeavour.

Lord Wallace of Tankerness: The other question is that in our House's 2014 report a number of recommendations related to the rules. Those rules would require amendment by way of secondary legislation, which does not have quite the same pressure on parliamentary time, but they seem to have fallen by the wayside too. Can any distinction be made between the full legislative programme and the amendment of secondary legislation? Is there a reason why there has not even been much movement in secondary legislation?

Luke Hughes: I do not think I can draw out a different answer from the one we have previously given in relation to primary legislation, but clearly it is a different matter of parliamentary scheduling for the Parliamentary Business and Legislation Committee to consider.

Q135 **Lord Aberdare:** I remain concerned about the lack of process for implementing recommendations. We have heard from at least one chair who, despite the fact that the inquiry no longer formally existed, had some sort of follow-up process or reconvened events. It seems extraordinary to me that there is no real process for pursuing what has happened following specific recommendations from an inquiry. I do not know whether the handbook gives any guidance on this, but do you have any thoughts on what sort of process might be in place to monitor implementation?

We have heard about the possibility of parliamentary oversight and a dedicated parliamentary Select Committee. We have heard about an audit institution, like the NAO, having this responsibility. We have heard about the Australian approach to independent implementation monitoring. Another possibility may be for future inquiries not to end completely when its report is submitted but to have an ongoing possibility.

It seems extraordinary to me that at the moment the curtain comes down, as far as you are concerned. I appreciate that this may be another ministerial issue, but it cannot be right for there not to be a clearer process. One of the strongest messages that has come across in the evidence we have had is that there does not seem to be any formal process for finding out whether recommendations are being implemented.

Simon Madden: At the risk of sounding flippant, which is not what I want to do, we are sitting in the national oversight mechanism. Ministers are accountable to Parliament, and one could see an argument for a greater role for Select Committees. Whether that is departmental Select Committees or whether there is a special Select Committee would be for Parliament to decide, but ultimately Ministers are accountable to Parliament for the statements they make in the House and for the policy that they agree across government.

Lord Aberdare: I accept that, but I also feel that a handbook on inquiries should say something about what might happen next within the current framework, and subject of course to ministerial oversight, but it just seems to be something that is missing at the moment. You have given us a very good story about the developments that have taken place in the guidance, the handbook and the community and all those things, but then the inquiry ends and everything is up in the air and there is no guidance at all at that point, as I understand it.

Luke Hughes: As Simon has mentioned, the government view is that, apart from in exceptional circumstances, they should be responded to within six months. That is an element of the Government's position on responding.

This a very practical point to make, but given the separation that think we rightly, I think, tried to draw between sponsorship functions within departments and response functions—the team that is considering how the Government responds to an inquiry rather than the team that is making sure that the mechanics of the inquiry are working rightly—the inquiry's handbook is totally designed for the sponsorship team. I do not think you would necessarily want that to be the place where you are also getting people to start thinking about how to respond, because those two things should be separate.

Simon Madden: This is specifically in terms of the implementation of recommendations, which I think you are referring to. I do not think it would be our place to suggest how Ministers should be held to account. If the Government accepts recommendations that become government policy, it seems logical that Parliament would then seek to hold Ministers to account for delivery.

Lord Aberdare: It might be your place to say to the chairs and secretaries, "This is what you might think about doing when you've got to that stage at the end rather than all going home and washing your hands".

Simon Madden: We operate within the Act, and the Act sets out quite clearly that the inquiry closes at the point at which the report is handed over.

Baroness D'Souza: Do you think it would be helpful if there were plans for implementation in the event that recommendations are accepted, and equally, if they are rejected, full reasons given—that there should be a

measure of accountability to Parliament as to why they are rejected? We are not holding your feet to the fire, but would that be helpful in the work that you do?

Simon Madden: I am conscious that I am straying into policy areas, which is difficult.

Baroness D'Souza: Which is difficult, I know.

Simon Madden: I think Ministers would look carefully at any recommendations that you make in this area.

Q136 **Lord Addington:** This question follows up on the same point. In your opinion, what is the best device for making sure that this stays within the political agenda and the arena? We all know what happens: there was a great problem yesterday, we have a committee, and then there is another great problem today. Indeed, there are two, and you just do not have the time and energy for going back down, and the reactive nature of certain bits of government are going on. What is the best way of making sure that people do not forget about it or say, "Yes, we'll deal with it after today's problem"? Is there a formal way of doing it? You have already mentioned standing committees. What would be your best way of doing that?

Simon Madden: I think that instinctively Parliament is the best mechanism to drive progress, to hold Ministers to account. That is the established convention. I do not think I can go much beyond that. That takes me into areas of policy that—

Lord Addington: I do not really want to go into the area of policy. If you are saying that it is parliamentarians' job to bring the Government back to it, what in your experience is the best vehicle for making sure that, say, the Official Opposition parties can say, "By the way, why have you not done this?" and Back-Bench committees can turn around and say the same thing? What would be your starter for 10 for making sure that people do not forget about it, so that it does not get swept away by today's headlines?

Luke Hughes: I can provide one reflection, having worked in a number of government departments. You do not need my experience to tell you that Select Committees are taken incredibly seriously by Ministers and senior officials and that departmental Select Committees should rightly hold departments to account for delivery. You have heard evidence from the Institute for Government, but in its 2018 report it reported that there had been six full hearings on inquiries up to 2017. That was much lower than the number of inquiries that had taken place in that period. There is a significant role for Select Committees, departmental Select Committees in particular.

Lord Addington: This is in your experience of making sure that government has to pay attention to this and be brought back to it. I do not think there is any great conspiracy; I favour cock-up, not conspiracy,

for the reason why things go wrong. But you would just go with Select Committees as a way of making sure that government cannot just think it is over or, "Oh, we'll deal with it tomorrow".

Luke Hughes: They are a very effective means of holding government to account, yes, but I seek to reassure the committee that, from my experience, departments take the recommendations of inquiries extremely seriously. They drive a huge amount of change in the way in which government operates all the time.

Q137 **Lord Hendy:** I have two points, one following up on that. Am I right in detecting that you guys really would not be happy if we were to recommend that the Cabinet Office took on a role of monitoring compliance with recommendations? As I understand it, you are much more concerned about the mechanics of how inquiries operate, and that is a role that you would not want.

Simon Madden: If Ministers wish us to take on that role, we do what we are told.

Lord Hendy: Of course.

Luke Hughes: I do not think I would be unhappy or happy, because that is not my role. I would probably be unhappy if I was to do it with no additional resource.

Lord Hendy: Understood. One small second point is this. We have been discussing the following up of recommendations with Ministers being responsible for implementing recommendations, but in many inquiries there are many other parties—in the private sector, and voluntary organisations—that are the subject of recommendations in relation to which the Minister would have no role other than ensuring that recommendations of inquiries are not pointless.

Simon Madden: It is a fair point. Government has many levers to be able to influence organisations within and outside government. The important thing that you are suggesting is that focus on the follow-up recommendations remains at the fore, and the natural accountability mechanism for that would seem to be Parliament.

Q138 **Lord Grantchester:** Can I ask a question preceding Lord Hendy's question about monitoring ongoing recommendations of the Cabinet Office and take you back to clarify for my mind the murky world in the Civil Service? The inquiry closes, there are recommendations, the Government then accepts various numbers of recommendations. In the sponsoring department that is making that inquiry, does that Government acceptance—never mind that it means a change in Government policy—trigger a plan to implement within the department?

Simon Madden: My expectation and experience is that, yes, it would sit with that department to implement those recommendations, unless the recommendations required another government department to do that, in which case it would work closely with that department.

Lord Grantchester: Then it becomes part of government oversight.

Simon Madden: Yes.

Lord Grantchester: You think that there is a definite plan to implement, at the time of accepting a recommendation.

Simon Madden: My experience is that when the response is published and government decides collectively what to agree and what not to agree with, the sponsoring department would be tasked by the sponsoring Minister or the lead Minister in that department to work up a plan to implement those recommendations.

Q139 **Baroness Berridge:** I have two quick points about who you actually speak to. Some inquiries now have panels, so as well as speaking to the chair do you routinely speak to or have a meeting with or get lessons learned from each panel member? Also, about half of the inquiries are converted inquests, so do you regularly speak to the chief coroner about whether they are satisfied that the level of forensic examination that happens during a public inquiry is the same standard as what you would have in an individual inquest?

Luke Hughes: On your first point, just to be clear, we do not talk regularly to chairs across inquiries. We talk regularly to secretaries.

Baroness Berridge: Once they are over, do you speak not just to the chair but to panel members?

Luke Hughes: During the course of an inquiry and afterwards our primary interface is with the secretary to the inquiry, not the chair. I think that is appropriate, given that the chair is independent, and we are supporting in particular the secretaries and the secretariats in their support of the chair. My team does not regularly talk to chairs or panels.

Baroness Berridge: Who is gleaning the lessons learned from the chairs? Sorry if I have missed something earlier.

Luke Hughes: The secretaries who head up the secretariat.

Baroness Berridge: So it is the secretary to the chair, and then they tell you. Okay.

Luke Hughes: The secretaries are effectively responsible for the operation of the inquiry on behalf of the chair, so they are best placed to pull together a holistic view of those.

Simon Madden: If you see an inquiry as a temporary organisation that is set up, the secretary effectively acts as the CEO, and that is who we interface with.

Luke Hughes: On your second point, that is why we work very closely with the Ministry of Justice team: because they are responsible for the coronial system and they work very closely with coroners.

Baroness Berridge: Do you know whether they are specifically dealing with the chief coroner about the standard that we have in a public inquiry as opposed to an inquest?

Luke Hughes: I do not know specifically whether they have had those conversations, but I know that we talk to them regularly about the boundary and interface and when inquests become inquiries, and I am sure they will talk about that as well.

Q140 **The Chair:** Finally, one or two follow-up points on what has been said. Obviously, once the committee has an inquiry's report, it becomes an issue for Ministers or whatever body the recommendations are directed to, so it is left to them to act. You say that you do not monitor in the sense of following up and checking on anything but merely as a matter of record. Do you keep a note of which recommendations have been accepted, just so you have some indication of what has actually happened to an inquiry?

Simon Madden: We will have a record of each government response to an inquiry, yes.

The Chair: So you have some understanding of what has happened, but that is just for record, so internally you have some idea overall of how inquiries have operated.

Simon Madden: Yes.

The Chair: Coming back to the beginning side and following up on Lord Aberdare's question about process, just to get things clear in our minds, an inquiry is announced. Do you wait until you are approached, or are you proactive then in advising the secretariat on the inquiry?

Simon Madden: With the policy function hat on, we have often been consulted by the relevant government department as part of the advice that it has put to its Minister. We will be aware of government's intention to announce an inquiry on a specific thing. We will have no doubt advised by that stage, so it is already on our radar.

Luke Hughes: The Ministerial Code sets out that any Minister should consult the Prime Minister in good time on any proposal to establish an inquiry. There is a requirement for that to come in, and invariably if we are not aware of it before, we are aware of it at that point.

Simon Madden: That would come either through the inquiries unit or through me as the propriety and ethics director.

The Chair: So there is a pre-inquiry stage where you are involved. You are advised, then it is announced that there is going to be an inquiry, and at that point you are approached or you are proactive in advising the secretariat on the different options.

Luke Hughes: Invariably, we have sight of something before the public announcement. We are involved from the very earliest stages. I do not have a concern about our coverage across government.

The Chair: Okay, so it is sort of continuous.

Luke Hughes: Yes.

The Chair: Then they get under way, but you have advised them on how to establish it and the different range of options available—how to go about it?

Luke Hughes: Yes.

Q141 **The Chair:** Fine. Thank you. If this committee was to make one recommendation on how the Cabinet Office could better support the Inquiries Act, what would you say it should be?

Luke Hughes: I am tempted to say, “Keep up the good work”, but I appreciate your point.

Simon Madden: Perhaps if I broaden it out slightly, one can see an argument for addressing the issue of compulsion of witnesses in the space where a non-statutory inquiry may be the most suitable, and currently there is not necessarily a mechanism to do that.

If I could have two, it would perhaps be ~~taking Luke’s~~ to encourage more hybrid models of inquiry—so a mixture of statutory and non-statutory—to recognise that there are different stages or different elements of particular issues. That is something to be explored.

The Chair: On your first point, the mechanism—I take your point about non-statutory—how do you get people to actually answer the questions? What would be the mechanism for achieving that?

Simon Madden: It may result in legislation; that is why I said “one” rather than “I”. But you can see that there is a gap there where it might benefit from being filled, just to make sure that there is maximum flexibility open to Ministers and to a chair.

Luke Hughes: Less flippantly than my previous response, to Simon’s point, there is space for us to innovate, as I said, within the Act. To Ken Sutton’s point about there being a stereotype of a public inquiry, we rightly reflect the different models, including a potentially hybrid non-statutory/statutory approach to Ministers. The committee drawing out that flexibility and the Government’s use of it would be helpful.

The Chair: We take that point: there is a range of options that are available, and it is a case of moulding one that is most appropriate to the purpose of that particular inquiry.

Simon Madden: And, crucially, not to fall into the trap of a judge-led inquiry. There is a danger that the public now perceive a public inquiry as

something led by a judge akin to a courtroom rather than the range of models that are available.

Q142 **Baroness D'Souza:** There are a number of bodies undertaking research. Do you have any internal research and in which particular areas?

Simon Madden: We have research, if we could call it that, around the different models that are deployed for each inquiry, but nothing that would look at the efficacy of each model, if you see what I mean.

Baroness D'Souza: I am not entirely sure I do. You look at the different models?

Simon Madden: We would not evaluate necessarily.

Baroness D'Souza: Not lessons learned.

Simon Madden: A lessons learned report from the inquiry itself, yes, but we do not then evaluate necessarily the different models on an ongoing basis.

Baroness D'Souza: What is the research, then?

Simon Madden: I was saying that the research, if you can call it that, is an understanding of the different models used for each inquiry.

Baroness D'Souza: All right, so the mechanics of it.

The Chair: Yes, it is identifying the options that are available.

Simon Madden: And how often those are used.

The Chair: Yes, exactly.

Q143 **Baroness Berridge:** On public confidence, the bedrock here is that the public have confidence in this as a mechanism to address the event that has usually happened. Do you poll or get any research on the level of public confidence that there is? My sense is that public confidence is declining in this as a model of giving redress, and I think I would have said that even pre the Post Office. Do you do any of that kind of research to see what levels of public confidence there are?

Luke Hughes: As far as I am aware, we have not directly commissioned any, but I know there has been some, and I know that one of the aspects you have seen—

Baroness Berridge: We have seen some other stuff, but I wondered whether you did something yourself on that.

Luke Hughes: In one of our get-togethers with inquiry secretaries, we have looked at that sort of evidence. I cannot quite remember which way the trend line goes, but I would reflect that there is often a natural call for a statutory inquiry. I think the public still rightly see the value in what an inquiry can bring, particularly a statutory inquiry.

The Chair: Yes, it is not the challenge. There is public trust in holding an inquiry. The problem is then what happens to inquiry recommendations, and that is what we need to address when it comes to trust.

Q144 **Baroness Sanderson of Welton:** Following on from that, and to go back to recommendations—I totally take your point about the oversight mechanisms—Ken Sutton made a point last week. We have talked a lot about it being the Government’s responsibility to follow up on the recommendations, which is not your role, but public confidence is about whether the inquiry is seen to have done its job. You make a note of how many are agreed or not agreed.

Is there a piece of work that might be for you that is looking at the recommendations more generally, how many are accepted, the different models? You have talked about your quarterly meetings, something to the chairs in your handbook, the guidance and how they themselves ask for recommendations—that is, a number—and how easy they are to deliver. I totally take your point that you should not be the oversight mechanism, but there is a post bit here, which Lord Aberdare is trying to address, that just drops off a cliff. In your policy team and in the practice of the inquiries themselves, there might be something in that.

Simon Madden: You could see a role for the handbook perhaps including considerations for chairs to make shorter recommendations, more deliverable recommendations, and perhaps create a distinction between observations and recommendations. That may well help to ensure that there is a practical programme that can be brought together, but that is just my own observation.

Luke Hughes: I agree. The specific formulation of recommendations is really important and vital to the Government being able to accept and implement. You are also right that there are significant differences across inquiries in the numbers. There are 200-plus recommendations. Others have far fewer, so I agree it would be a—

Baroness Sanderson of Welton: There is no one else doing that. The department will not look at other inquiries necessarily. You are the central repository that could make an argument or look at that to see what we can learn from it.

The Chair: It could be interesting to do a correlation between recommendations accepted and relate it to the type of inquiry that is actually undertaken. That could be valuable in forming the creation of a new inquiry.

Thank you both. That has been extremely helpful from our point of view. We are very grateful for you being with us this afternoon, answering our questions. If there is other material, or anything you wish to follow up on—not least in response to Lord Faulks’s question, which as you say may be quite niche but not unimportant—we would be very pleased to hear from you, but for the moment thank you both. That has been extremely helpful. Thank you.