



Statutory Inquiries Committee

Uncorrected oral evidence: Statutory inquiries

Monday 29 April 2024

4.05 pm

Watch the meeting

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

Evidence Session No. 8

Heard in Public

Questions 145 - 160

Witnesses

I: Alex Burghart MP, Parliamentary Secretary, Cabinet Office; Luke Hughes, Deputy Director, Propriety and Ethics Team, Cabinet Office.

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Examination of witnesses

Alex Burghart and Luke Hughes.

Q145 **The Chair:** Welcome to this afternoon's session, Minister. We welcome back Mr Hughes. Before we get under way, could I invite you both to formally identify yourselves for the record?

Alex Burghart: I am the Parliamentary Secretary in the Cabinet Office.

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

The Chair: Thank. I will put the first question, Minister, which is just to invite you to explain what your roles and responsibilities are and how they relate to inquiries.

Alex Burghart: That is a very good question. I do not know whether you remember "Yes Minister", but Jim Hacker was the Minister for Administrative Affairs and I sometimes feel that that is my job now. In common with Jim Hacker, nobody really knows what the Parliamentary Secretary in the Cabinet Office does. I have a number of roles in the department. I help to look after the central government functions. I also have a responsibility for the constitution and I am partially involved in the sponsorship of public inquiries.

The Chair: Given the range of responsibilities, how much does the issue of public inquiries really impinge on a day-to-day basis? How much are you involved in taking the initiative in respect of inquiries?

Alex Burghart: It very much depends on which Select Committee is looking into public inquiries at any one time. I was told when I started the role that it would be quite feast and famine with regard to the inquiries that the Cabinet Office sponsors. Obviously the Covid inquiry is well under way and the Grenfell Tower inquiry is in its closing stages. I am sure that, when we get to the conclusion of that, there will be a great deal of work for me to do. On a weekly basis, or a monthly basis more accurately, my job is signing off Parliamentary Questions that have been asked on the subject of the inquiries that we sponsor.

The Chair: Thank you. We have a range of questions to follow up.

Q146 **Baroness D'Souza:** I would like to go back to something that we rather pestered Mr Hughes with last week, which is to inquire further about what kind of measures the inquiry unit can and does take to improve support provided to new inquiries when they wish to launch. In particular, I would like to know more about the lessons learned and how these are regularly and systematically transferred to new inquiries that are set up. I ask because, looking back over the witness statements that we have had in the last few weeks, quite a large number of our witnesses have said, "We don't know that there are reports. We don't know what happens to them. We don't get any feedback". There is not the kind of support that I think there could be, and I wondered whether I could put that to you.

Alex Burghart: It is a fair question to ask. What has probably happened is that when many of your witnesses were involved in statutory inquiries, did not have the benefit of the unit, which was set up in 2020. This was not part and parcel of the 2005 Act. It has evolved in the Cabinet Office very much to meet the sorts of concerns that previous inquiries have raised and that your committee is looking into. There is a very great deal of activity going on in the Cabinet Office to help inquiries to think about things when they are setting up, but also to share good practice on an ongoing basis. Luke may want to come in here.

Baroness D'Souza: Could you give one or two examples about the sharing of best practice? All inquiry secretaries, I think, are required to produce lessons learned reports, but many of them do not.

Alex Burghart: That is true. You are right in saying that the Cabinet Office sets an expectation that there will be a lessons learned report after each inquiry. Not all inquiry secretaries have produced those reports. However, we allow a degree of flexibility. Often the learning is captured in other ways. There might not be a formal report. However, they might feed into one of a number of processes that exist, which then go on to feed into the learning of other inquiries.

I am not going to pretend that we always get everything that we want. At the same time, I do not want to give you the impression that there is lots of stuff just disappearing into the ether. That is really not how we operate at the moment.

Baroness D'Souza: Would you say, therefore, that there are regular reports—they may not be formal; they could be informal—and that if you are not satisfied you at least feel that you are sharing lessons learned and that it is providing support to new inquiries? Again, that has come across from our witnesses, sometimes on very recent inquiries, I might add.

Alex Burghart: I am confident that, at the moment, that work is absolutely going on. Luke, do you want to illustrate the sorts of things that we are working on at the moment?

Luke Hughes: That is exactly right, Minister. As I outlined briefly last week, there are several ways in which we do this sharing of best practice. To summarise very briefly, there are these particular case study reports, by which we mean that when an inquiry secretary has a particular challenge, has come through a slightly tricky few months or has done a particularly excellent and slightly innovative job on something, we will commission them to write a report. We hold 30 of those and those are very live, recent and helpful pieces of advice that other inquiries then go on to use or at least consider.

We also, as I have said, have these quarterly meetings, and those are now thriving communities. Last week, I reported that seven underlying networks have already been established, supported by us, for inquiries to share best practice on things such as knowledge and information

management or communications. I can report that two more have been set up as of today, so we now have nine of these networks. It is a genuinely working community. I was speaking to a secretary to a major inquiry who said that, just the day before, he had been speaking to two other secretaries about a challenge he had faced.

Finally, you asked for an example of sharing best practice. At one of the recent iterations of this quarterly meeting, we looked in particular at the procurement of data management systems. Inquiries, as you know, have to deal with up to a million documents. It is obviously a big exercise in managing that data. An inquiry reported on quite an innovative way in which it had approached that, and a lot of inquiry secretaries were very interested in that. We are doing it in a much more dynamic and, I think, effective way.

Baroness D'Souza: There have been obviously changes, and that is good to learn. However, one or two of those witnesses have said quite clearly to us that, come the end of an inquiry, that is it—finished, nothing more, no feedback and no questions. Would you say that that no longer occurs?

Luke Hughes: It may still be true that there are some inquiry secretaries who leave, go on to do different things and maybe do not stay in touch. We have a very active current network and we routinely exchange with recent secretaries as well to get best practice out of them.

Baroness D'Souza: This is my last point on this, if I may. I am sure others may have questions. Are there any moves to ensure that the lessons learned reports, such as the ones you have, are published and put into the public domain?

Alex Burghart: I had better take that one. We would always have to consider those things on a case-by-case basis. I would be reluctant to commit to publishing the reports as we receive them. We are asking that people are extremely frank with us, and we would not want to begin a process that reduced people's candour about how they thought things were working or how things had worked that they had worked on. From time to time, the Government may want to say things about general lessons that have been learned over a period.

Baroness D'Souza: Do you mean guidelines, for instance?

Alex Burghart: Yes, we have internal guidelines at the moment. We have a live document, which is a handbook for inquiries. We update that very regularly, but it is an internal document. In preparing for this inquiry, I have wondered whether we should publish it. If we were to do that, it would definitely need a bit of work before we got to that point. I am happy to hear the committee's views on that.

Q147 **Baroness Berridge:** Thank you, Minister. We have heard a lot about the inquiry secretariat and sharing best practice. When we heard from Bishop James Jones and Ken Sutton, it was very clear that the inquiry secretariat

and the chair are very different roles. Would it not be better to have this unit sitting outside of government, because there would not be a problem with independence? The chairs and the former chairs, who have a different skill base and experience, could then share their knowledge as well.

Alex Burghart: This is an interesting idea and I have been pondering it as this afternoon has approached. Rather than setting up a new unit, which will inevitably end up being paid for by the Government—even if it is arm’s length, the Government will have some say over how it is run—the use of other mechanisms that are available to parliamentarians is probably a better way of keeping an eye on how the recommendations of inquiries are being implemented or not implemented.

Committees such as yours, or committees for particular departments, have plenty of powers to call former chairs and ask them what they think or to call Ministers and say, “You haven’t responded to this”, or, “You said you would do that and you haven’t done it”, or, “You did this, but is it working?” That is probably a more useful, dynamic and cost-effective model than setting up a new independent statutory unit with powers and resources to keep an eye on all inquiries.

Baroness Berridge: Perhaps coming at it from a different angle, where a new inquiry is being set up, and perception of the people who are most affected by it, this is supposed to be independent, but often the government department is one of the biggest parties to that inquiry. For the main groups of users or the people who need the outcome of the inquiry, it is all sitting in this hub that is not well understood. The Cabinet Office as a department is not perhaps the best well-understood department. They are meant to be independent, so having it also as an independent commission, or whatever you would call it, from the perspective of the victims or affected groups would be better for the whole nature of what we are trying to do here.

Alex Burghart: This is a very important question. I went back and read the *Hansard* for the debate on the then Inquiries Bill. It was interesting that the issue of independence, ministerial involvement and Civil Service involvement was one of the main points of contention. However, 19 years on and 23 inquiries in, I am not aware of any evidence that Ministers or officials have sought to interfere with independent inquiries. In fact, time and experience has shown that inquiries are capable of retaining their independence.

It is also the case that, in many instances but not all, the involvement of officials and Ministers throughout the life of an inquiry means that they are tightly bound into it when it finds. There are some instances where public perception is such that the Government have taken the decision not to have an inquiry based in what might naturally be the host department. The infected blood inquiry was one of those. Having that flexibility gives you the best of both worlds.

The Chair: I will come back particularly to the point of capturing best

practice, because we are distinguishing between that and monitoring recommendations, which we will come on to. You get reports from some inquiries about best practice but, you are indicating, not all. Do you chase up to try to get reports on best practice from those who have not reported? Also, Mr Hughes mentioned that it captures basic recent evidence, so presumably inquiries since the inquiries unit was set up. Is there any backward look at earlier inquiries to try to glean evidence there in terms of best practice?

Alex Burghart: On your first point, as Luke mentioned, we are reliant on the inquiry secretaries to do this work. If they do not do it, they do not do it. In those instances where they do not prepare a formal report for us, there are other, more informal, ways of making sure that we capture at least some of that learning. That is much easier to do and less onerous on them.

On your other point, I am not aware of any comprehensive attempt to go back and learn all the lessons of inquiries since 2005. However, in the accumulation of improved process through the inquiries handbook, we have a rolling body of improved knowledge.

Baroness Berridge: I have a quick point on this. I am not quite with you about inquiry secretariats not doing it, because I understood that they were paid by the taxpayer to do the role of the inquiry secretariat. Is it possible that it will be part of their contract or terms of engagement that they do a lessons learned, because it is essential for the public? As they are being paid by the taxpayer, could it not be part of the contract that they produce this?

Alex Burghart: That is a fair point. I will look into that.

Q148 **Lord Aberdare:** Before I ask my main question, following up on that, when you get a lessons learned report, which I hope is more often than it has been, is there no formal process about what happens to it then? I understand your point that you might not be able to publish them all, but what is happening to them? One of our witnesses said that they seem to go into a bit of a vacuum. That is what we are hearing.

Alex Burghart: It is a reasonably well-populated environment, with staff working in the Cabinet Office and the networks that they disseminate learning through, which covers people who are currently working on inquiries and people who are setting up new inquiries. So I do not recognise the characterisation of learning going into a vacuum at all.

Lord Aberdare: It might be helpful to answer the question and Baroness Berridge's point if there was some reporting: "We have had these lessons learned reports. They are here and available to the networks and so forth to which they should properly be made available".

Luke Hughes: We could definitely consider that as well. I mentioned last week the inquiries hubs. That is a digital space that has over 300 active users. Those really are active users from right across inquiry secretariats and sponsor teams. All those lessons learned reports go on there. They

get read on there and we will refer back to them and discuss them through the various forums that exist.

Lord Aberdare: One would hope then that the kind of people who have been giving us evidence would be aware that those were there.

Luke Hughes: This probably again comes back to the point that this was established two years ago, so it is timing.

The Chair: Perhaps publishing a list of those who have produced lessons learned might encourage those who have not produced them to do so.

Lord Aberdare: This is another area where we have heard a great deal of evidence about formal monitoring of recommendations and action resulting from that monitoring. Assuming that there should be a good process for doing that, what might the best process be for overseeing it, perhaps addressing the question of whether there is a process after inquiries have finished for making recommendations happen?

Alex Burghart: As I said to Baroness Berridge a few moments ago, there is a role here for both Houses of Parliament and for Select Committees. That is probably the best, most independent, most durable and most cost-effective route. Your powers as committees to summon people are strong and tested. It would enable different aspects of different inquiries to be picked up by different committees, or there might be a committee such as your own that persists and chooses to consider these matters. My strong preference is for these things to be done by Parliament.

Lord Aberdare: That addresses the secondary bit of the role. The people who really have an interest, it seems to me, in their recommendations being pursued and implemented are the people who have been involved in the inquiry, the chairs not least, and of course the victims and others affected.

With the inquiries completing at the point that they submit their reports to the Minister, we have heard of two effective approaches. One is where inquiries go on for so long that they are able to produce interim reports and then you can do a bit of following up, because they are still there, as to their interim recommendations. The other one that we have heard about is a number of chairs who have, pretty well on their own initiative, reconvened in some sort of informal way subsequently to see what has happened. They do not get much support or resourcing to do that.

It seems to me that it should be the next stage when Parliament comes in and says, "Has this actually happened?" It is the people who have really been engaged who have that primary interest and knowledge about what should be happening.

Alex Burghart: Yes. The best system would be for Select Committees to do this work. If a chair of a former inquiry were to write to a chair of a Select Committee and say, "I have concerns", I think that nine times out of 10, maybe considerably more, the chair of that Select Committee

would probably think, "Let's have a look at this. Let's get the Ministers in and let's get in some of the people who were involved in the inquiry and ask the questions". There are existing structures capable of handling a challenge such as this.

Lord Aberdare: It has not been happening and I do not see why.

Alex Burghart: It may be because former chairs are content.

Lord Aberdare: The chairs no longer exist, of course.

Alex Burghart: Unless they are no longer with us, they are all very intelligent people and capable of being proactive.

Q149 **Baroness D'Souza:** Would there be a case for the Government making a Statement in either House, or possibly both Houses, about which recommendations have been agreed? There would also be a case for reporting back when those recommendations have been implemented by a Select Committee.

Alex Burghart: As far as I am aware, that ordinarily happens. At the conclusion of an inquiry, the Government will make a statement, saying that they agree with certain recommendations or all of them and what action they will take. Then the Government will normally announce as changes take place. Parliament is very capable of holding Ministers to account. My colleagues and I were asked questions in the Chamber recently. We have to answer Written Questions on a daily basis. We are sometimes encouraged by Written or Oral Questions in Parliament to make statements. It is a very well-established process that is at everybody's disposal. I hope that Parliament will make further use of it.

Baroness D'Souza: Do you mean formally, as a formal mechanism as part of an inquiry that recommendations accepted are reported back to Parliament? That gives one a very clear way of monitoring whether there has been implementation.

Alex Burghart: I cannot think of an instance where, following an inquiry, the Government have not reported back to Parliament on how they intend to handle the recommendations.

Baroness D'Souza: There are many cases where recommendations have not been implemented, however.

Alex Burghart: That is true. The Government are the Government. They are able to say, "We're not accepting this recommendation".

Baroness D'Souza: Are they able to say, "We are accepting it and not implementing it"?

Alex Burghart: In that case it is for Parliament to hold the Government to account and say, "You said you would do this and you haven't done it. Explain yourself".

Baroness D'Souza: We do not have a lot of success in proceeding in

that way.

Alex Burghart: We are talking about the mechanism by which the Government can be held to account for whether they are doing what they said they would do. The best mechanism for that is standard parliamentary process. Everything else is more likely to fall by the wayside as time goes on.

Q150 **Baroness Sanderson of Welton:** Thanks for coming today. I take your point about the holding to account and the overarching mechanisms for that. Is there a step before that in terms of implementation? You will know that, when the recommendations come in, very often they are cross-government. It is very difficult. You know that from the Grenfell inquiry, and I declare an interest. Nick Hurd and I helped set up an implementation board to try to drive delivery of that. It was very difficult even then to drive those recommendations through Whitehall.

I am wondering, now that you have the unit, whether it could or should be looking at what a better process would be, not the overarching holding to account but the actual drive to implement and speed that up. Is that something that the unit should be, could be or is looking at? It is true that there are a lot of chairs and a lot of inquiries. There is a problem with recommendations that is undermining the point of inquiries, because people feel that the recommendations are not being delivered. To be fair, sometimes they are being delivered more quickly than people think, as is the case with Grenfell. There is also a point about how you communicate that to people. All this is work that needs to be done. Who would be responsible for that?

Alex Burghart: It would very much depend on the inquiry in question. Some inquiries are relatively narrow and focus on specific incidents, the recommendations of which are likely to affect only one department. Some recommendations are complex and require cross-government co-ordination. In achieving that, this is the standard difficult question in government of how you co-ordinate government action.

Baroness Sanderson of Welton: If somebody does not take responsibility somewhere in some department and it is cross-cutting, is that the Cabinet Office?

Alex Burghart: It would be the Cabinet Office if the Prime Minister said it was. I cannot think of specific instances, but I am sure there are instances where exactly that will have been done, but as a matter of government policy, rather than just because it was something that came out of an inquiry.

Baroness Sanderson of Welton: I see what you are saying. I suppose that I am asking whether there should be—I get that it is on the say-so of the Prime Minister—something more formal than that to enable the process to be a bit quicker. It will probably take a Minister to push it through and it probably falls to the Cabinet Office, I am afraid, Minister.

Alex Burghart: Please do not attribute powers too great to a junior Minister in the Cabinet Office. You are right to the extent that, where government departments have to co-ordinate to deliver something, that will fall to us, or we will play a role in that work, as we would do even with work that did not come out of an inquiry.

Baroness Sanderson of Welton: I understand, yes.

Alex Burghart: Equally, if we were to insert ourselves into the implementation of every inquiry recommendation, we would require a great deal more resource and would probably get in the way some of the time.

Baroness Sanderson of Welton: I totally agree with that. It is just whether, now that you have the unit, you are looking at that as a way to solve this problem that exists, as opposed to inserting yourself into an inquiry.

Alex Burghart: If we had more resource, I suppose we could look at lessons learned from implementation as well as from setting up the inquiry. However, I cannot commit to doing that, because I do not have the resource.

Baroness Sanderson of Welton: You could commit to looking to get the resource, if that is something the department may wish to look at in future.

Alex Burghart: We could certainly commit to consider something such as that.

Baroness D'Souza: Should the report itself from the inquiry have an implementation plan as a matter of course?

Alex Burghart: I just have to check what you are asking. If you are asking for the chairs of inquiries to draw up an implementation plan, that would probably sit outwith the skills of a lot of our very able people who chair inquiries. They have never worked in government and do not know how the machinery of government works. They might spend a lot of time drawing up an implementation plan that HMG would then look at and say, "It's not really how it works and we're going to have to do our own anyway".

Baroness D'Souza: It is always the Government who draw up the implementation plan, then.

Alex Burghart: Yes. Where the recommendations affect government, it would always be us.

Lord Hendy: I take the point that you made earlier about parliamentary supervision of the implementation of recommendations. The model you appear to imply is rather an ad hoc one, where a Select Committee thinks that there ought to be some follow-up to recommendations, or you postulated the example of an assiduous chair who says to the committee,

"You ought to look into this". How would you feel about a committee that was dedicated to systematic examination of the implementation of recommendations?

Alex Burghart: It would be a matter for Parliament as to whether it wanted to set up such a committee. If such a committee was set up, we would co-operate with it. As I say, I can certainly see the advantages of greater use of Select Committees' powers and authority to look into questions such as these.

Q151 **Baroness Berridge:** The inquiries that we have are viewed very highly by the public. This is the *crème de la crème* that you get if your issue gets to a public inquiry. It seems that there are beginning to be perceptions out there that, sometimes due to the recommendations not getting enacted, it might not deliver everything you wanted. Have you cast your mind to what you would grab for as the Minister if we had a situation where the victims groups and the media were saying, "This inquiry hasn't delivered"? What change would you then recommend to rescue the reputation of our *crème de la crème* public inquiry system?

Alex Burghart: I agree with you that public inquiries are held in pretty good regard. We have good evidence for this, in that there are a lot of people pushing for public inquiries and they believe that the system works. On those terms of understanding, the 2005 Inquiry Act has been a success. We can talk about fine tuning but, 19 years on, it is clear that it has been well used and people want to use it. One charity said in 2005 that no judge should engage with any inquiry set up under this Act because it would be compromised by Ministers and the Civil Service. Those fears have been dispelled. So I think there is trust in inquiries.

Sometimes the Government will not accept certain recommendations that inquiries have made. It must be the Government's prerogative to do that. The point I am making is that I do not think that government refusal to accept all recommendations damages faith in inquiries. It might sometimes damage faith in the Government, but the Government have to weigh up how much money they have, how much time they have and how popular they want to be. I do not think that the inquiry system itself or confidence in it is under threat, but it is true that people will not always get what they want out of it.

Baroness Berridge: Sorry, what I meant was this. Before that stage where you are saying yea or nay to recommendations, you have a situation where they are just saying, "It's taken far too long". In that situation, would you not say, "There should be some time limits imposed here"? More generally, when you have that cry—before you have even reacted to the report—that they are unhappy with the inquiry itself, what would you say?

Alex Burghart: As a constituency MP rather than a Minister, this is something you hear from constituents. "Inquiries always take a very long time. They are always very expensive. Why can't people just get on with it?" That is probably because there are some inquiries that are very long

and very expensive. Those ones tend to be the most complex, high-profile cases. There are also lots of other inquiries that are shorter and lower profile, cost less and get results.

There are perhaps two pieces of work to be done there. First, we should all constantly be asking ourselves whether there are things we are doing that are leading to runaway costs or unnecessary delays. I would be very interested to hear what your committee has to say on that. Secondly, there is perhaps another piece of work on making sure that those inquiries that do very well get the credit they deserve. There have certainly been some like that in recent years.

Baroness Berridge: This is a point of detail on secondary legislation. In 2014, the Government accepted a recommendation that you were going to change the inquiry rules. That is done by secondary legislation, not by primary legislation, so why has that not been done?

Alex Burghart: Can you remind me which?

Baroness Berridge: I thought you had seen the questions in advance, Minister.

Alex Burghart: I have not, sadly.

Baroness Berridge: Sorry, I thought that was our practice. In our 2014 report, the previous Select Committee report on public inquiries, the Government accepted recommendations to amend the inquiry rules of 2006. They can be amended by secondary legislation by statutory instrument. Have you any idea why they have not been amended?

Alex Burghart: Which inquiry rules do you mean in particular?

Baroness Berridge: It is page 11 of the inquiry rules.

Alex Burghart: Which number recommendation was it? I am sorry.

Baroness Berridge: That is fine. It is 26 and 27.

Alex Burghart: To keep it simple, first, it was the coalition Government who responded to the report in 2014. We are a different Government and not bound by everything that the coalition agreed to do. Secondly, we are in listening mode and we will listen to what you say in response to this inquiry and then take a view.

Baroness Berridge: It is a strange time in the political cycle for this, but if we were to recommend changes to the primary legislation, what would your comments be on that?

Alex Burghart: I do not think we will have primary legislation on this subject in this Parliament, to be completely honest with you. I would be very surprised if that opportunity presented itself.

The Chair: On the inquiry rules, there were those that, in response to the 2014 report, the Government accepted but have not yet

implemented. One they rejected was that they should simplify the rules about sending out Maxwell letters to witnesses, because they were so complex and time consuming. Given what you have just said and that they were a different Government, might the Government be willing to revisit this?

Alex Burghart: I am always interested to hear intelligent people's views on these things. My current understanding of the Maxwellisation process is that it is long and cumbersome, but necessary. If there is a better way of doing it, I would be very interested to hear. Scrapping Maxwellisation would be pretty controversial and would upset many people who are involved in and affected by inquiries.

Baroness D'Souza: It would make it a great deal easier if the material from the inquiries was in the public domain. One of our witnesses has suggested that the Maxwellisation letters, as it were, could simply refer back to the text that is available to all.

Alex Burghart: Yes, but obviously there are sensitivity reasons that mean that not all information that is provided to an inquiry will be made public, the most obvious instance being national security. Equally, there may occasionally be other concerns. If there is a better way of doing Maxwellisation, government should consider it, but it would not be a good idea to get rid of Maxwellisation.

Q152 **Baroness Sanderson of Welton:** My question is about types of inquiry. You rightly say that the Act is being used very well. It is a success and is very well understood. Despite the flexibility in the Act, increasingly we are seeing the Act being used in only one way for a certain type of inquiry. We are getting the big, statutory, judge-led, adversarial style. I take your point that there are some smaller, older inquiries, but this is for the big crème de la crèmes.

The committee would be interested to know why you think that might be and whether Ministers can do anything to change that up a bit. These are the big, expensive inquiries. Ken Sutton said to us that one thing he thought was difficult with the Act was the hierarchy it had created. My own view is that it is not that. It is about the ability to compel evidence. We would be interested to know your thoughts on this.

Alex Burghart: I think that is right. I have to declare an interest. The Essex mental health inquiry—my constituency is in Essex—started off as a non-statutory inquiry on the grounds that it would be able to move more quickly and would be cheaper. It proved to be ineffective specifically because it could not compel witnesses and people were not coming forward. The Secretary of State took the view, rightly in my opinion, to turn it into a statutory inquiry, which was very popular with victims' families.

I saw the evidence session that Bishop Jones and Ken Sutton had with you and they make an eloquent case for why non-statutory inquiries have a place in the options that are available. To a certain extent, one is dealing with public perception; to a certain extent, one is dealing with

practicalities. In having those things in mind, you have to try to choose the best form of inquiry for the situation that you are faced with when circumstances arise.

Baroness Sanderson of Welton: It is going to be statutory, is it not? Look at Lucy Letby. It is very difficult.

Alex Burghart: I do not think that is quite right. The Angiolini inquiry that is going on into police officers is an example of a non-statutory inquiry under way. The Metropolitan Police said that it would participate fully, so there was no need to go to a statutory inquiry. It meant that it could get on with the job more quickly.

I agree with you to the extent that, in part of the world, a view has developed that only statutory inquiries will get you results. Sometimes it is necessary to resist that and say, "We think this can work". If it does not, you may have to go with a statutory inquiry, but it is worth having those different options available.

Q153 **Lord Aberdare:** Some of the evidence we have received has commented that this seems to be becoming a rather binary thing. Either you have a statutory inquiry, where you can require witnesses and so forth, or you have a non-statutory inquiry. One or two have asked, "Couldn't there be more options? Couldn't it be more flexible? Couldn't there be some sort of hybrid inquiry?"

The statutory ones tend to have a single chair who is a judge. Tend, I say. A lot of the evidence I have seen, particularly in the written evidence, has suggested that very often a judge is not the most appropriate person, particularly in inquiries where there are victims and aggrieved parties represented, and that there are huge advantages to a panel. I do not quite see why there could not be more flexibility to say "You can have a statutory inquiry, but it doesn't have to be a judge. It could be a panel and the terms of reference could be narrower than some are".

Alex Burghart: It is a very fair observation. There certainly ought to be no bar in principle to the idea that different phases of inquiries might be set on different statutory bases. If you wanted to start something quickly in non-statutory but then move into statutory at phase 2, we should all be open to that idea. It would be useful to get your insight into whether you think the legislation would allow for something such as that or any complications that might arise from it.

I hold our judges in very high esteem, but I do not think that every inquiry should be led by a judge. There are lots of other capable people in our country who could oversee these things. There is a potential risk in certain circumstances with an adversarial approach.

My first job in government was in 2010, where I worked on the Munro review of child protection in the Department for Education, which had been set up by Tim Loughton. One idea that Professor Eileen Munro was very keen to seed into the minds of the child protection establishment

was that, although you sometimes need to identify people who have done bad things, it is at least as important to work out why the system did not get the result it wanted.

That systemic approach is very hard to achieve when you have a purely adversarial approach, because people become defensive. They are worried that they will be held individually to blame, whereas the sort of approach that is used, I think, in the aviation industry when looking at why accidents have taken place is much better at system learning. That is a more productive output. These are difficult things for an inquiry to weigh up.

The Chair: When you are talking about looking at it from a systemic point of view, that might also influence the person who would be appropriate to chair it in their actual understanding of the system.

Alex Burghart: Yes, quite so.

Luke Hughes: Crest Advisory is a consultancy that works in this area, and I think you have heard evidence from a witness associated with it. You may have already seen this evidence, but it did a survey last year. Finding out what happened was seen as significantly more important to impacted communities than making recommendations. I say that because, in our advice to Ministers about models, it is relevant that the idea of a statutory inquiry having teeth and being able to get to the truth may well be more applicable to that first phase of finding out what happened. Then a panel of experts may be better placed to do the recommendations.

Baroness D'Souza: Ultimately, the purpose of any inquiry is to ensure that whatever happened will not happen again.

Luke Hughes: Indeed, it is, but it might be that experts, or people with a different set of skills, are better able to draft those recommendations.

Q154 **Baroness Berridge:** In terms of the lens of inquiries, which we are dealing with here, as far as you understand it, is it possible to have a non-statutory inquiry but just have a certain element of it that has the statutory powers? At the moment, do you have to convert the whole thing into the statutory inquiry?

Alex Burghart: I suspect, but I do not know—please do not hold me to this; I am happy to check for you—that you would effectively need to stage your announcements, so say, “We are announcing a non-statutory inquiry. Once we have the findings of the non-statutory inquiry, there will be a statutory inquiry. It will be chaired by this person and it will have the opportunity to do some of the work that the non-statutory inquiry could not do”. I am not quite sure how one would phrase it or present it.

Baroness Berridge: I am wondering whether, even at the moment, the non-statutory inquiry can have, as it is happening, an element that is a statutory inquiry, just to get the powers that we are all talking about of compelling. When you have gone X amount of the way down the road,

you could say, "It is just for this element of the inquiry".

Alex Burghart: The legal conundrum is that, if you give a non-statutory inquiry statutory powers, it may be difficult to call it a non-statutory inquiry. I would need to do some more thinking as to what sort of hybrid form might be profitable.

Baroness Berridge: It seems as well that parts of IICSA were more non-statutory inquiry research, rather than the other parts that were statutory with the hearings and compelling evidence.

Baroness Sanderson of Welton: It is a really interesting idea of a statutory inquiry becoming non-statutory. We have had non-statutory becoming statutory, but we have not necessarily done it in reverse, which is genuinely quite interesting.

Luke Hughes: I think you would have to set it up as two separate entities and set that out from the outset. That would be the way to do it.

The Chair: Either something is statutory or it is not.

Q155 **Lord Hendy:** There is a Cabinet Office document called *Inquiries Guidance*, which is for chairs and secretaries of statutory and non-statutory inquiries. Is that a document that you are aware of?

Alex Burghart: Yes, I am, and it is no longer current.

Lord Hendy: No, it has not been current for a very long time, has it? It was published in draft form in 2012 and our predecessor committee was told in 2014 that it was permanently in draft form so that it can be updated, but, as I understand it, it has not been updated.

Alex Burghart: It has not been updated. It has been completely superseded by the inquiries handbook that the Cabinet Office holds, which I have in my folder here. This was the document that I was referring to slightly earlier, which we iterate on a regular basis based on lessons learned. It forms a core component of the documentation that we share with people who are working on inquiries or about to set them up.

Lord Hendy: Can I ask you about the inquiries handbook a little more? You had some questions about that earlier. How big is it?

Luke Hughes: It is 120 pages or so.

Lord Hendy: Does it take into account the lessons learned reports such as they are, those that have been received?

Alex Burghart: Lessons learned reports are the sorts of things that would prompt us to update the handbook.

Lord Hendy: Is there somebody in your department whose task it is to keep this updated as those reports and other information come in?

Luke Hughes: That is exactly the role of my team. My team owns that handbook. As the Minister said, it is a live document, so we use it as a repository of best practice.

Lord Hendy: Presumably it is in electronic form. Is it in hard copy as well from time to time?

Luke Hughes: Yes, if people print it off.

Alex Burghart: I have a print-out here.

Lord Hendy: You say that access to it is available through the hub that you described this week and last week, but those who can access it have to know that it is there. How would secretaries and chairs of inquiries know that this document is there to be looked at?

Luke Hughes: We have an absolute mandate from Ministers to make sure that we are in touch with all inquiry secretariats and sponsor teams across government departments, so we are in touch with all secretaries and chairs. Their teams are plugged into these networks and proactively offered access by our team to these sorts of resources.

Lord Hendy: Every secretary of a new inquiry, such as the two that you tell us have very recently started, would be aware of this document and would presumably immediately go to it to see what can be learned that they do not have to invent again.

Luke Hughes: Yes, exactly. I would just slightly correct the two things that are new that I referred to. They are networks of sharing best practice that have been established in the community. They are not new inquiries. For new inquiries, a new secretary would have access to this. We would send it to them.

Lord Hendy: They would have access, but are they told to go and look at it, and do they look at it?

Luke Hughes: Yes and yes.

Lord Hendy: What about chairs of inquiries?

Luke Hughes: I expect—it would be up the relevant secretary—the secretary would provide it either in whole or in part to the chairs for reference. The secretary is the best customer for the nature of the subject matter it covers, in terms of the set-up of an inquiry, the framework in which it operates and best practice. As I think was described last week, they are effectively the CEO of the inquiry, so it is best for them to use that information.

Lord Hendy: Presumably the lessons learned go beyond administrative or executive functioning of the inquiry. There might be other aspects of particular interest to chairs, might there not?

Luke Hughes: There may well be, but that is properly a matter for the secretary, considering their relationship with the chair and what sort of advice that chair needs.

Lord Hendy: You mentioned earlier that it was not in your mind to publish the document and make it publicly available. I wonder whether some form of it could not be put in the public domain so that people such as the bereaved, injured and so forth in a public inquiry could have access to what had been learned from previous inquiries.

Alex Burghart: Yes. As I said to Lord Norton earlier, it has been on my mind as to whether we should publish this document. It is currently in the process of being updated, so I would hesitate to do it right at this moment. I am certainly happy to say to the committee that, if we find that there is good reason not to publish it in the form it has, there might be a version that we could make fit for public consumption, even if that was a table of contents or something. I am happy to think about this in more detail.

Lord Hendy: That would be very helpful. I speak for myself only. Finally, I wonder whether you could perhaps articulate more clearly than I understood it what the reasons are for non-publication.

Alex Burghart: This document has always been constructed for an internal Civil Service audience, not for the general public. The moment that you turn it into a public document, there may be a lot of things that would need to be explained to a wider audience. That is a bigger piece of work and it is not the primary function of the people who are working in this area. Their job is to make sure that the internal audience is aware that lessons have been learned, that there is guidance and that this is how the guidance works. It is more that we have different priorities.

Q156 **The Chair:** There is one thing we have not touched upon and that is how the inquiries unit deals with the inquiries that are set up in Scotland. Is that completely outwith your area of interest or do you look at what is going on?

Luke Hughes: We look at what is going on. Secretaries of inquiries that are set up in Scotland or other devolved Administrations are absolutely part of the community that I have talked about. They have access to all these resources. We have to be very clear about where UK Government policy begins and ends. They are absolutely part of it.

The Chair: The network is not simply an English network. It is a UK network.

Luke Hughes: That is correct.

Q157 **Lord Aberdare:** One topic we have not covered as much in this meeting as in many of them is the interests of victims and the bereaved. Many inquiries, by no means all, have as one of their purposes a degree of getting out the facts and an element of consolation, if you like, or—I cannot think of the right word—of meeting those needs. Going back to

the follow-up of recommendations, if groups representing victims and the bereaved are uncomfortable after an inquiry as to what has happened as a result and whether their hopes have been in any way met or fulfilled, what should they do or what do they do? What guidance do they have?

The inquiry no longer exists. The chair has gone, so presumably it is the sponsoring department and the Minister whom they might approach, who will give them some of the same answers that you have given us about why nothing has happened. That seems to me to be a potential weakness in the system that we have. I also feel that the fact that the shutters come down with such finality is a potential weakness. I am thinking of it here specifically from the point of view of those victims and bereaved groups.

Alex Burghart: To go back to a number of conversations we had earlier, say a victim in my constituency wrote to me, as a constituency MP rather than a Minister, saying, "I am unhappy about the fact that this hasn't been done. There was a recommendation. It hasn't been followed through. What am I to do?" If I was a Back-Bencher I would say, "I will ask questions for you in Parliament". I would say, "You should write to another Minister"—or I would offer to write to the Minister on their behalf—"and you should write to the chair of the relevant Select Committee to suggest that they take evidence from Ministers and perhaps the chair of the inquiry, in order to ascertain why this hasn't been done and whether it will be". To return to the theme, there are good mechanisms for holding Ministers and governments to account in Parliament. They should be used.

Luke Hughes: As described, we sponsored the Grenfell inquiry, the infected blood inquiry and the Covid inquiry. Clearly, the infected blood inquiry and the Grenfell Tower inquiry are coming to an end shortly. Rightly, those inquiries have invested a lot of effort in winning over the trust of the impacted communities. They do that in a variety of ways, including support services. It is a real important point that we are considering very carefully what happens at the end of those inquiries in terms of effective management and support for those groups of people, and the role of lead government departments in providing that sort of support.

Lord Aberdare: I am slightly puzzled about the sorts of things that the Minister has, quite rightly, described. I do not think we have seen much evidence of that happening and yet we seem to have a lot of evidence of people not being happy. They are missing a trick, perhaps.

Q158 **Baroness D'Souza:** I know that Lord Norton will ask you a question about how best government can support the operation of the Inquiries Act. Before that, in an ideal world where you had the resources that you do not have, what areas you would like to see expanded? All our witnesses, when we have asked them, "What's the one thing that should happen to make this system of inquiries have more impact?", have talked about an expanded Cabinet unit that can do many of the things we have been talking about today. I would love to hear from you as to what areas

you think could be expanded, which would perhaps reveal what you think the weaknesses are.

Luke Hughes: Some of this has come out in this committee hearing, as well as last week and in evidence you have heard already. In the small inquiries unit that we run, as described, we have a mandate to support inquiries and things. There is a long shopping list of to-dos. For instance, we have to do a bit of internal research on the different sorts of recommendations that inquiries make and how those are structured and followed through.

There may well be more that we could do about procurement and setting up of inquiries right at the start. It is absolutely true that, while the situation is much better than it was a couple of years ago, a new inquiry, particularly when it is sponsored by a department that maybe has not set up an inquiry recently, will face some bureaucratic hurdles in procuring IT and setting up finance systems, document management systems and that sort of thing. We are actively looking at working through a long to-do list of areas where, within existing resourcing, we could provide a bit more guidance, support and commonality. That is a work in progress and we have made significant progress over the last couple of years. We are still working on that, so I would not want you to think that what we do now is the end.

Alex Burghart: Luke is absolutely right in that. As I said earlier on to Baroness Berridge, there is a value, a lot of the time, in there being a host department in terms of the policy and the development of recommendations. In terms of employing people, getting office space and setting up the mechanics of how things are going to work, there is almost certainly scope for having central resource that can administer that so the inquiry can get on with the policy work, the inquiry and concluding how things can be improved.

Q159 **Lord Grantchester:** Can an inquiry be considered a success if the inquiry's recommendations that have been accepted by the Government have not been implemented? Should there be an urgency to implement inquiry recommendations that are accepted by the Government?

Alex Burghart: The success of an inquiry is based on whether it has got to the bottom of an issue and whether people have confidence that it has got to the bottom of the issue. It will always be a matter for the Government as to what recommendations they take forward at what speed. The Government have to be the guardian of the mandate they have from the public, the resources they have stewardship of and the time at their disposal. I would not say that the inquiry was unsuccessful if the Government had not taken on all of its recommendations.

Lord Grantchester: It is not so much recommendations but when the Government say they accept something and then do not do it. Can the inquiry therefore be judged successful?

Alex Burghart: It is the same issue really. The Government say they will do things and then change their mind. That is a matter for the

Government. It is not a fault of the inquiry. I would not say that the inquiry had failed. It might have done a very good job.

Lord Grantchester: The Government could have failed.

Alex Burghart: The Government are always allowed to take a different view. A lot of the time, that is not what happens. Inquiries make recommendations, Governments implement them and things get better. The fact that that has been happening, by and large, over the past 19 years is a sign that the system is working rather better than it did when it was far more fragmentary and there was a deal of legal confusion over how inquiries ought to be set up. However, there are still outstanding issues. We must always be looking at ways in which we can make learning more effective and reduce cost and time, but those are difficult questions.

Lord Grantchester: You are saying that there could be different outputs from an inquiry, one of which would be lessons learned. Another could be policy changing in the future. It does not necessarily mean that that inquiry has not been in some regard useful if nothing happens. That is how I am interpreting what you are saying.

Luke Hughes: Without taking anything away from the importance of action and mistakes not being repeated, we cannot overlook, as you have heard yourself multiple times, the importance of catharsis and victims' stories. The infected blood inquiry and the Post Office Horizon inquiry are brilliant current examples of the importance of shining a light on individual stories and those stories being told publicly. Clearly, it is very important that mistakes are not repeated, but it is also very important to the public and to impacted communities that there is an element of catharsis or at least public telling of what has happened to them as well.

Q160 **The Chair:** You touched earlier on the natural tendency nowadays, if something goes wrong, to press for an inquiry to be set up—"We must have an inquiry". Not only that, but when you set up an inquiry there is a tendency to want it to be a statutory inquiry. How do you respond to those who might ask, "Are we having too many inquiries?"

Alex Burghart: It is something to guard against. Today we have been talking about statutory and, to a lesser extent, non-statutory inquiries. There are other ways in which government and public bodies go about solving things and investigating how things have happened. By and large, that is how the bulk of learning happens. We should bear that mind. In answer to your question, we ought to be very wary of creating process that might lead to hundreds of inquiries being set up automatically every year at great cost when there might be better ways of doing things, but I do not think we are there yet.

The Chair: It is a question of quantity but also, as you say, the flexibility. The gold standard is not necessarily a statutory judge-led inquiry. There are a range of other options for how you inquire and find out what went wrong and what should be done about it.

Alex Burghart: Absolutely, yes. As I say, in most instances inquiries and investigations do not become statutory inquiries, even when there is pressure for them to be so. The challenge for the system is always to choose a type of investigation or inquiry that is not necessarily what the campaigners are asking for and to you show that that can get results. Often, that is the case.

The Chair: Yes, it may enhance the status of statutory inquiries to hold it in reserve rather than rush to it straight away. Finally, just picking up on what Baroness D'Souza was asking, is there anything missing in terms of resources that we could recommend to help the inquiries unit to do an even better job?

Alex Burghart: I will save Luke from having to answer the question of whether he would like more resource. You must make the recommendations that you see fit, but I do not think that large amounts of additional resource will be made available to my unit in the Cabinet Office. That does not mean that there are not ways in which we can improve our processes and broaden our horizons.

The Chair: Minister and Mr Hughes—I am resisting the temptation to refer to Sir Humphrey—may I thank you both very much indeed for being with us this afternoon? That has been very helpful to us in our inquiry. We look forward to producing a report in due course and getting the Government's response to that report. Thank you.