

Public Administration and Constitutional Affairs Committee

Oral evidence: [Inquiry into the Recommendations of the Infected Blood Inquiry \(Stage 1\)](#), HC 1566

Tuesday 17 March 2026

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Members present: Simon Hoare (Chair); Richard Baker; Charlotte Cane; Sam Carling; Peter Lamb; John Lamont; Richard Quigley; Luke Taylor.

Questions 1-55

Witnesses

[I](#): Professor Andrew Williams, Head of Department, University of Warwick, and Rosanna Ellul, Policy and Parliamentary Manager, INQUEST.

Written evidence from witnesses:

– [Add names of witnesses and hyperlink to submissions]

Examination of witnesses

Witnesses: Professor Andrew Williams and Rosanna Ellul.

Q1 Chair: Good morning, colleagues, and good morning to our witnesses. As a Committee we take up the cudgels, if you will, and begin some further work on public inquiries, in particular—although I am sure we will range a little—spurred by the some of the recommendations from the Infected Blood Inquiry and its roll-out.

Welcome to both our witnesses. Would you please, for the record and in two sentences, introduce yourselves by name and then position within your organisation?

Professor Williams: I am Andrew Williams. I am professor of law at the University of Warwick, and head of department there as well.

Rosanna Ellul: I am Rosanna Ellul. I am the policy and parliamentary officer at the charity INQUEST.

Q2 Chair: Thank you very much indeed. We are grateful to you both for your time this morning.

Professor Williams, let me start with a scene-setter to you; we would appreciate your overview on this. Public inquiries go on for a very long time, cost an awful lot of money and appear to be the go-to solution, almost like when people used to say, “Let’s set up a royal commission.”

Does the plethora of public inquiries, notwithstanding the relatively high bar of ministerial agreement for one to be held, mean that we are in danger of seeing them lose their impact and potency by number? Does their duration mean that, in the course of the time that an inquiry takes, the questions to which they were seeking to identify answers answer themselves or become redundant, or, rather like the Schleswig-Holstein question, we forget why we were asking the questions in the first place?

Your overarching thoughts on that would be helpful as a scene-setter—and, Ms Ellul, we will ask you that question as well.

Professor Williams: The starting point has to be the value of public inquiry. Is public inquiry a valuable tool—something that can achieve a form of justice that other processes cannot or have failed to do?

If we start with the idea that public inquiry has a valuable constitutional and public benefit, almost for a public right to justice—an avenue of doing all sorts of things: getting to the truth, learning lessons, finding out how a systemic problem or particular problem needs to be resolved—then it is something that one cannot dismiss simply because of practice. But if you start with that idea that public inquiry is a good thing in principle, as an idea, then there is the question of practice, as you said. If it is used in a way that does not achieve the goals or purposes of a public inquiry, then yes, there is something wrong with the public inquiry system, rather than the public inquiry as an idea. It is important to separate those two issues.



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The Infected Blood Inquiry is a good example of where it was seen as an absolutely necessary process in order to achieve many different aspects of justice for those affected, but it was a long time coming and a long process and it cost a lot of money. However, I do not think anyone involved or, probably, the public would have seen that as either a waste of time or a waste of money.

Whether the same is true of all inquiries is something we can discuss, but you start with the value and then you move on to the practice and see how the system might be reviewed or repaired so as to retain the value without being lost in the problems of cost and time and all those other aspects on which one could critique specific public inquiries over many years.

- Q3 **Chair:** Do you think societally and among the commentariat we either have fallen or are in danger of falling into a trap of length equals value, and length equals seriousness of issue?

Professor Williams: I don't think so. The length of inquiries is more the product of the process than due to the thought that it is a valuable aspect in its own right. In other words, sometimes an inquiry's having taken an immense amount of time is warranted because of the complexity of the issue. The Infected Blood Inquiry is an example of a matter that stretched over decades and continues to affect those impacted by the wrongdoing. Length is not necessarily an issue. There is no reason why a public inquiry into something very focused cannot be achieved in a reasonably short period of time.

- Q4 **Chair:** You are a professor of law. If I am wrong, tell me, but I am going to guess that you take a keen interest in this and may look at international comparisons. Is there another country—another jurisdiction—that achieves as impactful an outcome in addressing wrongs and writing policy, but in a more focused, shorter and cost-efficient way?

Professor Williams: There are jurisdictions—Australia and New Zealand, for example. Some of the processes of inquiry in the Scandinavian countries—

- Q5 **Chair:** If I was from the BBC and held a microphone under your nose and said, "Professor Williams, name me the country you most admire"—if you were starting from scratch and had to go and look at how another country does it—which country would you choose?

Professor Williams: I would not choose one. I would start from scratch in this country with a different approach towards how we imagine that public inquiry should be achieving the goals that it could achieve. There are many problems that could be ironed out.

- Q6 **Chair:** I am pretending to be a BBC journalist, and now you are pretending to be a politician by answering the question you wished I had asked rather than the one I did ask. You mentioned a number of countries. Which of those does it best?

Professor Williams: They all have flaws. The problem is that there is not a best model that one can easily achieve.

Q7 **Chair:** Which one does it with fewer flaws?

Professor Williams: I suppose Australia is getting towards that, because they have a system of identifying different forms of inquiry for different purposes. There is no one model.

Q8 **Chair:** So they have a pick and mix, if you will?

Professor Williams: I think so.

Q9 **Chair:** Thank you. Ms Ellul, the same question to you, as a starter for 10.

Rosanna Ellul: From an inquest perspective, we agree with a lot of what Andrew said about the value of public inquiries. We recently did a family consultation day with victims and bereaved people from across major inquiries—the infected blood scandal; the Post Office-Horizon scandal—and there was a real sense that inquiries have major and valuable roles to play in public life. The ability to compel witnesses and compel evidence is one. The ability to get to the truth is another. There is also a value in the cathartic impact of hearing from victims and the bereaved.

There are major benefits from public inquiries, but there are lots of flaws in the way that they run. You mentioned the time they take. There are practical ways that inquiries could be sped up, and they should be sped up. The Hillsborough law will hopefully have benefits there. However, from the perspective of the families we work with, the major thing that undermines the value of inquiries is the fact the implementation of the recommendations is so patchy and piecemeal.

Q10 **Chair:** You will be aware that the chair of the Infected Blood Inquiry highlighted that. Between the Cabinet Office and this Committee, we are very keen to have more formalised, strategic tracking, not so much of the policy detail—that will be up to individual Select Committees to track—but of the recommendations the inquiry chair made to Parliament and to Government in the overarching umbrella. That is in part why we are having today's session, and doubtless others. Do you see that as a helpful initiative?

Rosanna Ellul: Absolutely. Generally, more parliamentary scrutiny is really welcome. Parliament already plays a useful role in holding the Government to account, following through on what progress they have made when they have committed to a recommendation.

What INQUEST really feels about parliamentary scrutiny is that it needs to be serviced and enhanced by a separate, dedicated oversight body. One of the reasons for that is that, if you just scrutinise individual inquiries, you miss out on the wider system.

Q11 **Chair:** Yes, that is what we are trying to do. We are trying to track common themes that run through both outcome implementation and the operation of the system to achieve those things.



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You mentioned you facilitated a public engagement thing. Could you give us a word or two about your assessment—and I appreciate it would be your assessment and would be treated in that way—of whether there is any sign of growing participant cynicism in the public inquiry process? Yes, it is a good way to be heard and to get somebody's experience on the record, and there is a cathartic process in that—officialdom has heard me—but have we been able to track any reduction in the expectation of the delivery of change through the process over recent years?

Rosanna Ellul: On whether there is palpable cynicism, definitely. There is a sense that inquiries are not delivering the change—that all this time and money is going into them, and they are not resulting in that really necessary preventive change.

On whether there has been a reduction in their ability to make change, there are really good examples of public and non-statutory inquiries leading to positive change, so it is still possible. I probably would not be able to say whether there has been a decline in the trend, but it is patchy, piecemeal and fragmented, rather than consistently resulting in the change that it should.

Q12 **Chair:** I do not know whether there are any thoughts or evidence on this, but there is a tendency for the chair to chair the inquiry, write and publish the report, and do the press conference, and then undoubtedly have a sit-down bilateral with the sponsoring Minister to walk them through it. Then there is a warm handshake and, "Thank you very much for all your efforts; leave it to us now," sort of thing.

Do you see any merit in more continued involvement of an inquiry chair with the sponsoring Minister, tracking, chasing, monitoring and triaging recommendations? Sometimes it happens, but it does seem rather piecemeal.

Rosanna Ellul: It is, and that is partly because of different interpretations of the Inquiries Act. We have worked on some inquiries such as Grenfell, where the chair said, "It is not in my gift to continue to monitor the recommendations," whereas it has happened in other inquiries, such as Manchester Arena. There is inconsistency there.

The benefit of chairs continuing to monitor and follow up is that they are the experts in this area, and often they get the buy-in—

Chair: Because they have heard the whole picture, haven't they?

Rosanna Ellul:—from a lot of the victims and affected people. The major drawback of that, in and of itself, and if that were the only sort of solution to the problem of implementation, is that it is still inquiry-specific and only looking at that one issue, whereas, as we know from inquiries, they are often connected to other inquests or previous investigations, and there is learning from one inquiry across lots of areas of public health. It needs to be supplemented, or done in tandem, with a dedicated oversight body.

Chair: Thank you very much.

Q13 **John Lamont:** Good morning. Ministers currently have the power to initiate a public inquiry. Do you think they should retain that power?

Professor Williams: I do not think they should have exclusive power. At the moment, it is generally accepted that Ministers have that exclusive discretion and most reviewers over many years at different locations have suggested that should remain the case; the House of Lords inquiry into public inquiries confirmed that. I think there are too many problems with that for it to be an exclusive power.

It used to be that the Houses of Parliament would be able to provoke a public inquiry, and that was something that the Public Administration Committee back in 2004 suggested should be retained—that Parliament should have some possibility of ordering an inquiry. I think there are good reasons for that because, as the Infected Blood Inquiry you are following up on suggested, Ministers will potentially be calling for an inquiry into themselves or their office, and that creates a potential conflict of interest.

If you have a conflict of interest, even if it is perceived to be so, then of course you would expect that person not to be the best person to make the decision. I think there should be some kind of joint or parallel process that would provoke an inquiry where a Minister was conflicted or there was good cause to order an inquiry, if the Houses of Parliament thought that necessary. There may be other ways of achieving that.

Q14 **John Lamont:** So the Minister should still have the power but there should be other options for initiating an inquiry as well?

Professor Williams: Yes. There is nothing wrong in a Minister's having the power to order a public inquiry, subject to review; that could be a normal process of review. But in many instances the Minister is confronted by an issue that is not necessarily a concern of the Department they lead but is something that they are connected to because of their role. In those circumstances I think it is quite right that a Minister, who has access to information that the public and other agencies may not, would have that ability to order a public inquiry.

Q15 **John Lamont:** Sometimes you hear from Ministers that cost has a bearing; they think inquiries just cost too much. Is that a reasonable excuse, do you think?

Professor Williams: We should not see it as an excuse; it is a factor that should be taken into account. Clearly, any inquiry is going to cost a significant amount of money. The question is whether it is beneficial to do so; just as with our other justice systems, we do not necessarily interrogate the cost of any particular proceedings but we have an eye to the overarching costs. Costs are important, but they should not be seen as a way of saying no to a public inquiry into something demanded by the circumstances.

We have to go back to what the purpose of a public inquiry is: it is something that other processes cannot satisfactorily resolve in one form or another. If we see public inquiry as a necessary tool, a constitutional tool

in public administration—restoring trust in institutions and so forth—then we certainly need an acknowledgment that it will cost money.

What those costs go on, I think, is a subsidiary question. We might like to talk about the legal costs that are invariably incurred, but that flows from the actual dependency on law and lawyers that has become part of the character of public inquiries over the last 20 years. I think that sort of legalisation of the process inevitably increases the costs over what is reasonable.

- Q16 **John Lamont:** In your evidence you suggested there were some shortcomings in how Ministers determine what is meant by public concern. Given the alternative process that you suggested at the start of the response to my question, can these concerns be dealt with by that alternative process, or is that something Ministers need to determine?

Professor Williams: It is both. But, again, again, I think that having some sense of criteria would be really useful, so that it goes beyond just an interpretation of a moment and looks at the kind of issues that need to be assessed in order to say, "The public inquiry is the right format for addressing these matters of concern".

At the moment, we do not have a definition. There is not one in statute or in practice. There is no sort of guidance. It is a political decision, in effect. Sometimes it is provoked by the courts, through judicial review—there is a case going through the courts at the moment on the killing of Sean Brown—and that is where there is an obligation to order a public inquiry, because there is no other option. So there are different aspects of public inquiry that one needs to consider; there is no one-size-fits-all, or one-solution-fits-all, approach.

- Q17 **John Lamont:** You mentioned judicial review. There are obviously very clear tests for when a judicial review can be applied for. Do you think that similar tests—well, not necessarily similar, but equivalent-type tests—should be applied for a public inquiry?

Professor Williams: They are very different. The presumption of any kind of judicial review is that something exceptional has to have happened—something irrational or some process flaw. There are the Wednesbury rules—if we are talking about the legal aspect, which we do not really need to here—which are established rules that one follows, because judicial review is a process that is sort of in the exception rather than the rule.

- Q18 **John Lamont:** But surely a public inquiry should be the exception as well?

Professor Williams: Well, quite—but it will be a different set of criteria.

- Q19 **John Lamont:** I am not suggesting that it should be the same criteria that you would have for a judicial review, but in terms of the standards required to meet the thresholds—

Professor Williams: I think there are some straightforward questions that could be processed. It may be that that is happening in practice,



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given the Government's interest in having a business case presented to the Cabinet Office if any Minister wants to call a public inquiry. It was Baroness Anderson who called it that. I am not quite sure what "business case" means, or whether that is the right terminology—it probably is not—but there is a sense that one has to—

Chair: A "cost-benefit analysis" might be better.

Professor Williams: Yes—a cost-benefit analysis is probably more accurate and allows for the idea of the benefits being fairly intangible but a significant part of it. I do not think it is beyond us to come up with a set of criteria that would at least be a framework for both Parliament and the public, as well as Ministers, to think about when a public inquiry is the best vehicle for addressing something that is of major concern.

Q20 **John Lamont:** Thank you. Rosanna, do you have any thoughts on the ability of Ministers to initiate statutory public inquiries?

Rosanna Ellul: I do agree that there is a sense that maybe there is a conflict of interest when Ministers are tasked with, or given discretion on, calling inquiries on issues that might implicate them or their Departments. I also definitely agree that the lack of a business case—or clear cost-benefit analysis—results in an inconsistency in when inquiries are called. It also results in delays in eventually setting up inquiries.

One thing I would add to any consideration of a clear definition of sufficient concern or public concern to warrant an inquiry would be some way of incorporating the views of the affected—the victims or the bereaved. A clear example of why that is so important is the ongoing Lampard inquiry into mental health-related deaths in Essex, which INQUEST is a core participant of.

Families had called for a public inquiry into those deaths for years and years. Initially, the Government said, "We're not going to hold a public inquiry; it is going to be a non-statutory inquiry." Then, over the course of that non-statutory inquiry, the then chair said, "I do not have the powers to conduct this inquiry." Only 11 staff out of 14,000 came forward; given that they did not have the powers to compel witnesses, the inquiry could not function.

A statutory inquiry was then announced. But, in that time, families were still left to fight and campaign. The distress caused by that delay in having a full inquiry was really deep, and deaths were still happening in that area at that time. I think that ensuring that the voices of victims and the bereaved are central to ministerial or parliamentary decision making could prevent that delay, and that is really important.

Q21 **John Lamont:** Do you think that Parliament should have a role, or a joint role with Ministers, in initiating a statutory public inquiry?

Rosanna Ellul: I think that Parliament could have a role, provided that it is also looking at the things I have just mentioned.



Q22 Richard Quigley: Professor Williams, you alluded to the potential conflict of a Minister's being the one who calls for a public inquiry when they might be responsible for the Department that has caused the wrongdoing or harm. Could you be a bit more specific about how we could guard against that? What would good look like—I would say perfect, but there is no perfect, so what would good look like?

Professor Williams: If we assume that there is a conflict in the circumstance, then it goes back to what Sir Brian Langstaff said about the idea of group-think and a culture of drawing the wagons when something happens. It is not necessarily malicious or ill-intended, but that is the possibility. If one looked at an alternative—going back to what Rosanna mentioned about those most affected by a particular scandal or tragedy—there are other agencies that are perhaps more capable of assessing whether a matter is of significant moment, plus bringing systemic issues that involve a Government Department in its operation, or a state agent in some form, that would be able to propose that a public inquiry be presented.

We might talk about the Independent Public Advocate's role in a moment. There is the Equality and Human Rights Commission and there is the ombudsman system. We have a number of agencies whose job it is to look at individual problems, but also to assess systemic problems that come through repetition. It varies depending on the kind of issue provoking an inquiry.

If it is a moment or an event that has gone wrong, it might be less easy to identify systemic issues. They might not be obvious, but there are others which are a drip feed over a period of time, such as the Infected Blood Inquiry or many of the NHS inquiries, where there are multiple victims over many years. In those circumstances, the information is acquired over time, and it is the job of those agencies I mentioned to look at patterns. They may be in a position to suggest that a public inquiry is a necessary process of getting to the truth.

Q23 Richard Quigley: Do you think then, because it is a Minister's decision, that they may sit at a desk and say, "No, there's no need for a public inquiry in this instance", but then when political pressure builds around them from the press or whatever else, they end up creating a public inquiry that was not necessarily required?

Professor Williams: I am not sure whether it is necessarily not required. There is the possibility, with recent inquiries, that one would say that other forms would have been appropriate. I think many people consider the Orgreave inquiry to be something that could have been resolved through a different process. Political pressure clearly is a great driver for public inquiries; we see that with many of the public inquiries that many see as both necessary and successful, the Infected Blood Inquiry being one of them. That took years of political pressure. Hillsborough, too. You have a whole stream of them, and I think that is the point—political pressure alone is not something that we can rely on, I suppose, although it can be effective on occasions.

Q24 Richard Quigley: Rosanna, if you have anything to add, please do.

Rosanna Ellul: Probably nothing that I did not already say.

Richard Quigley: Thank you for being honest—that saves us all a lot of bother.

Chair: If only all witnesses did that.

Richard Quigley: Exactly—this would be a much shorter process.

Chair: And colleagues.

Q25 Richard Quigley: And colleagues, yes. The Public Office (Accountability) Bill, known as the Hillsborough Law, that you just mentioned, aims to put a legal duty on public services to act truthfully and to fully support investigations. Do you think that it will have the impact it is intended to, bearing in mind the cultural issues that you have raised in your report?

Professor Williams: There are a number of factors. One is that it might reduce the need for statutory inquiries. If you have a duty of candour, in other words coming to tell the truth and to respond effectively, then the Bill provides for Ministers and any public actor to provide the information that they are requested to. The form of inquiry might change, but that duty only kicks in when an inquiry is called, not in the prelude towards saying a public inquiry is required. It will have some impact on the form, but not necessarily on the actual calling of public inquiries.

Rosanna Ellul: The Hillsborough law does include a duty on public bodies to introduce new ethical standards by introducing more candour and transparency before an inquiry. That could precipitate culture change which then, in turn, could reduce the need for inquiries, which often happen because people are trying to find out why and how something was covered up. It would hopefully prevent that cover-up in the first place. That is one thing. Secondly, during the inquiries there are stronger provisions to disclose and be honest in a timely way, so it could speed up public inquiries and take that criticism about how time-consuming they are out of the equation slightly.

Q26 Richard Quigley: You mentioned the lack of outcomes previously. Do you think that the lack of institutional knowledge within this place because of the churn of staff and everything else is a factor in that? Is there a better way for us to make sure that outcomes are followed through?

Rosanna Ellul: In terms of the recommendations of inquiries? I do think that yes, the lack of organisational memory within Parliament or Select Committees, because of staff and MPs changing over a lot, as well as the capacity of Select Committees and the resourcing to look thoroughly and comprehensively at the recommendations being made will hinder proper scrutiny. Of all the public inquiries that have happened, there have been over 3,000 recommendations made, so I think there are real problems in giving that role solely to Parliament to properly look at what progress has been made and what action has been promised and not delivered. I do

think that there is a role to play in Parliament, but it needs to be in tandem with a body that has more resource and capacity to do that.

Q27 Chair: It sounds like a sort of inquiry regulator.

Rosanna Ellul: What INQUEST has proposed is a national oversight mechanism—a new, independent, public body that would oversee and monitor recommendations from inquests, public non-statutory inquiries and other official investigations. We work on state-related deaths, so we have proposed a body that would look at state-related deaths or major public failings such as Grenfell or Hillsborough.

The mechanism that we have proposed would collate the information, such as what recommendations have been accepted, the progress on those recommendations and where they have been rejected. It would be able to then analyse what is coming out of all these inquiries to provide much richer evidence based on where the failings are happening and what needs to change across Government. It would then have proper powers to follow up on those, whether working with existing regulators or prosecution bodies, or working with Parliament in a formalised role to escalate concerns to a Select Committee.

I think that arrangement of a body feeding into Select Committees to triage and alert where there are real concerns would be a better use of the resources that are available in Parliament and would be able to provide expertise in that way.

Q28 Chair: Why can the inquiry chair themselves not do that?

Rosanna Ellul: The reporting and the tracking of recommendations?

Chair: If they feel that they have made x number of recommendations, and the Minister and/or the Government have paid lip service to them and precious little progress is seen, then surely they can write to whoever is sitting in this Chair, or the Departmental Select Committee Chair to say that they need to have this on their radar. What sort of alarm-bell-ringing value would another body tracking the outputs of an inquiry have, when ultimately, at the end of the day, the only people who are going to shift the dial are parliamentarians?

Rosanna Ellul: The role of an inquiry chair formally ends when the inquiry is over; as we talked about earlier, there has been practice where certain chairs have extended it or they have issued recommendations part-way through the inquiry process and have monitored progress that way. It does happen, and it could happen, that chairs alert Parliament to recommendations, but recommendations require long-term sustained follow-up, particularly when they fall off the political or media agenda. If the follow-up was only given to an inquiry chair, then that would be extending the time that that inquiry is live, indefinitely potentially, and that does not necessarily get to the bottom of the problem of inquiries being too long.

Q29 Chair: I envision them as the penholder, because it is their



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recommendations.

Rosanna Ellul: A lot of chairs, I think, would say that they do not have the power to keep doing that.

Q30 **Chair:** I agree; therefore, there needs to be a reset on that side. I think cross-party, we are all keen to streamline the arm's length body regulation landscape to try to get more direct democracy rather than yet another phalanx of well-intentioned, good, professional people adding to the national discourse but delivering nothing apart from the ability to ring an alarm bell when other people can ring it.

Professor Williams: Can I just support on that, because it might be useful? Involving the chair is not a bad idea, but you have to remember how long these chairs engage in these inquiries—maybe the length is an issue, but invariably, some of the NHS inquiries require a great deal of time and effort. To expect one person to carry that mantle is quite a task.

I think INQUEST's proposal suggests that, given that public inquiries are part of our justice landscape, having a proper form of expert and timely review of recommendations would support Parliament in its challenge to Ministers if things were not getting done. A chair could certainly be involved in that, but I think it is quite an onerous task for one person to take on board, potentially indefinitely, when you are dealing with cultural and systemic aspects that will run over years. That would be the rationale for having a body that was reviewing recommendations.

Chair: How I saw it working was that the sponsoring Minister would, on a regular basis, communicate in writing to the inquiry chair, to say, "You made 30 recommendations; here's the spreadsheet." Then the inquiry chair would look at it in a reactive way, and might say, "Gosh, I really thought they might have made a bit more progress on that," or, "They haven't even started on that one, which I thought was the most important. What mechanism have I got to alert Parliament that I don't think sufficient energy"—for want of a better phrase—"is being deployed? Oh, I know—my recourse is now to write to the Public Administration and Constitutional Affairs Committee, which may then passport it down to the Departmental Select Committee."

Speaking back to the growing public cynicism about what Parliament is for, which I was asking Ms Ellul about, if Parliament is for anything, it is to represent the interests of constituents and the citizenry at large. Personally—I may be abusing my position here—I am not entirely convinced that we need another body to ring an alarm bell for us; we should be doing that job. On the subject of that job, let us turn to Charlotte Cane.

Q31 **Charlotte Cane:** The Infected Blood Inquiry report recommends that if it appears to this Committee that there is sufficient concern to justify a public inquiry, we could recommend that there be one to an appropriate Minister. How impactful would that process be?

Professor Williams: I do not think it would be, straightforwardly.

Q32 **Charlotte Cane:** Why not?

Chair: Well, thank you very much for coming in!

Professor Williams: It is a way of putting on pressure, which goes back to the point about political pressure; it is a very focused political pressure. It leaves it in the hands of a Committee, which is made up of political members. There is a sense that the independence of public inquiries and their creation should be seen and trusted by the public, and expertise is more valued when evaluating whether something deserves, would benefit from and would override the cost of a public inquiry. That trust is held not necessarily in the political realm, but in the more specialist realm. But it does depend—

Q33 **Chair:** But Ministers establish them.

Professor Williams: Yes, they do, but we are talking about provoking a public inquiry in circumstances where the Minister is perhaps reluctant.

Q34 **Chair:** That is not what the chair of the Infected Blood Inquiry was suggesting at all; we would be there not as a pressure, but as an assessor and adviser to a Minister.

Professor Williams: Yes.

Q35 **Chair:** It is not, "We have tried the Minister, but we have hit a locked door so let us go round and try the Committee." I think you have advocated a misinterpretation of what the chair suggested.

Professor Williams: Perhaps, but in the round, he was speaking about—and I was talking to—the circumstances where a public inquiry is refused. That is in the recommendations in section 11, which he really focused on. It would be in circumstances in which a refusal takes place that there would be some review of it by this Committee. That is what I was speaking to.

Q36 **Charlotte Cane:** If you do not think that that would be very impactful, what other mechanisms might be? I think you mentioned a referral method—how might that work?

Professor Williams: As I mentioned earlier, it would require that bodies engaged with the review, victims or those affected by the wrongdoing be engaged in reviewing and referring a matter, because they can see the systemic issues. A number of parties that receive this information could contribute to that.

Where this is in tune with Sir Brian Langstaff's recommendations is that there are relevant systemic issues over a long period of time, both historical and current, that are hugely complex and not a product of a sudden event requiring a public response. In that form, where large numbers of people are affected over a period of time, the agencies that accumulate the information and look at whether things are being done in response are the parliamentary ombudsman, potentially the Independent Public Advocate, the Victims' Commissioner and the Equality and Human Rights Commission. Those agencies accumulate information about



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systemic problems that are visited over a number of years but are not being resolved effectively by the current justice system. This is just an idea in conceptual form, but such a grouping could be much better placed to have the information to advocate for a public inquiry than a Select Committee.

Q37 Charlotte Cane: Would they recommend it to the Minister individually, or would they all have to agree to recommend it?

Professor Williams: There would have to be some degree of agreement, sure. That referral would inevitably have to be based on some kind of criteria—it is worth suggesting generally that that should be applied in any case, when determining whether a public inquiry is warranted.

Who that body would refer to, whether that was the Select Committee or a Minister, would be a matter to be discussed. It is something that has not been posited yet—it has not even been thought through—but it is a possible avenue of exploring alternatives where, and this is where Sir Brian Langstaff was most taxed, a public inquiry was not called when it should have been, 17 years or 20 years ago. That was his concern. He valued the public inquiry, but he did not see it as something that was taking place at an early enough stage to do real good, and people died as a result of that delay in getting some kind of justice.

He was very concerned about the idea that something that merits a public inquiry should receive a public inquiry. How do you do that if Ministers are reluctant over successive Governments and over time? That is what he was looking at: if somebody refuses a public inquiry, that should be open to scrutiny. Whether some other system should be provoked is a matter to be discussed. Fundamentally, I think that is what he was really concerned about.

Q38 Charlotte Cane: So the referral method would need those bodies to come together of their own volition, as it were, and decide whereas, if it were going through the Select Committee, this Committee would probably invite the relevant bodies to come and give evidence. Their concerns would then be on the public record and then this Committee could go to the Minister. You don't think that would work?

Professor Williams: I am more sceptical, because of time and because of expertise. I think there is a sense that that would delay matters even further.

If you have bodies that are accumulating the information about a wrongdoing that is not being addressed, putting that through a Select Committee may be one way—it may be a successful way of getting the matter before Parliament and directly at the Minister. It is another form of pressure. But maybe we need to be talking about a system of public inquiry that is constructed afresh through a different process. That is more about design and the longer term.

One must not forget that Sir Brian Langstaff said that his recommendations were interim only. He thought the whole Inquiries Act



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required reform and he came up with these recommendations because he realised that changes to the Inquiries Act would take a lot of time and effort. I am talking about the time and effort that would be required for a substantial radical change in how we approach public inquiries.

Q39 Charlotte Cane: You mention the new Independent Public Advocate. What role might they play, or is it too early to judge?

Professor Williams: It is very early to judge. The Independent Public Advocate has only just started her role. I think you may be seeing Cindy Butts at some point. It will be interesting to hear her views about where she sees her role.

She is certainly engaged in—well, provoked by—those major incidents. She only comes into play when the Minister declares a major incident. But, as a standing advocate, she is in the position of looking at how people have been affected by disaster, scandal or tragedy, of the kind that a major incident would entail. She is in that position of advocating for those most affected—that is her role.

I think her actual role going forward will depend on the resources that she is given, as well as the remit. She will undoubtedly talk for herself, but I would see that a standing advocate would be interested in the idea of what is the best form of justice for those who are affected by concerns that are major, in one form or another—people who have suffered considerable loss, death or whatever. I think she has some way to go in terms of developing that remit, but it is something that should involve consideration. That was the original concept of the IPA, when Theresa May proposed it in the manifesto—that they would be an advocate for the best form of justice when things go wrong. The public inquiry is inevitably part of that landscape.

Q40 Charlotte Cane: This is perhaps a question mainly for Rosanna. There are often calls for a public inquiry and sometimes those are, frankly, more about pushing the item up the agenda, getting it heard and making sure that people are aware of the issue, so how would we put in place something that can actually tell the difference and ensure that we are having public inquiries on things that are of genuine wide public interest, rather than saying yes to something that was more about making sure that the issue got on the public agenda?

Rosanna Ellul: Generally speaking, I think better and clearer guidance on what warrants a public inquiry would be welcome to help manage public expectations. As I said before, we should ensure that victims and affected people's views and testimony are incorporated at an early stage to make those kinds of decisions.

On the Independent Public Advocate, as you said, that role has quite a restricted remit. I do not know whether they would be working across a sufficient range of incidents always to be in the role of making decisions on whether a public inquiry is warranted. I also think there is a question of whether they have the powers to do that. But the idea of working with

other existing bodies that could feed into those decisions I think is a sensible idea.

Q41 **Charlotte Cane:** How do we get a mechanism that could judge that the bar of sufficient concern has been met?

Professor Williams: For this Committee, or as a conceptual role?

Charlotte Cane: Whoever is deciding whether to have a public inquiry.

Professor Williams: We come back to that point that I was saying before, about having criteria that would look at when a public inquiry is most apt. Then we are looking at the kind of processes, I think, which would include whether all existing methods of review—criminal prosecution or other regulatory process—have been exhausted, or whether there is some moment that required immediate concern.

The nature of public inquiry should also be open, so it is not a one-size-fits-all approach. When we talk about whether a public inquiry is called, we have to be open to the idea that different forms could be appropriate in different ways. Sir Michael Bichard's Soham murders inquiry was a very different—very quick, but very effective—approach to a matter of national public concern, but very different from an inquiry covering systemic issues over a period of time, like infected blood, undercover police or those other really long historical ones.

I think we have to have a flexible process of review. I cannot create an easy checklist—nor would you want an easy checklist—because it would require such a degree of expert analysis to say, "The public inquiry is both the most cost-effective and public-trust process to satisfy the moment, the concern." There are many things one could put in, and I do not think that that would be beyond us, but a checklist, no.

Chair: I know you want to come in, Mr Baker, but Mr Lamb has a question, and he has to leave imminently, so I will take Mr Lamb first.

Q42 **Peter Lamb:** Under the current system, regardless of how much pressure is brought to bear on the Government, if the Government are determined not to have an inquiry, nothing can be done to force them to have one, outside perhaps a judicial review into that decision. Do you think that there is any answer to that problem?

Professor Williams: The only answer is that the power does not rest—as I said right at the beginning—simply with the Minister if a public inquiry is the best vehicle for getting to the truth of a matter, in circumstances that require the restoration of public trust in institutions or to resolve matters of what happened when and why, and those kind of deep questions.

As I say, you are always going to have that problem of a Minister being a potential barrier to achieving that alternative form of justice. The judicial review point is always there where death or articles 2 or 3 of the European convention are involved. That is always a possibility where a public inquiry is being refused irrationally or for other reasons.



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There is always an avenue for trying to provoke an inquiry regardless of a Minister's refusal. With the killing of Sean Brown, the case in Northern Ireland that is going through the courts at the moment, the courts are saying that a public inquiry is the only form of fulfilling the state's obligations to properly investigate the death. There are some ways of looking at it legally in existence, but when that is necessary, I think that as soon as you put all the power in one Minister, you create a barrier.

Prior to 2005, the Houses of Parliament had a role: they could vote on obtaining a public inquiry. That is another avenue that would be democratic and have that sense of being available, but it was taken away by the Inquiries Act in 2005—this Committee was against that.

- Q43 **Richard Baker:** Professor Williams, on your point about bodies such as the EHRC or the PHSO making the referral to the Minister on a decision not to hold an inquiry, I am struggling to see how that would be more impactful in terms of pressure than the referral being done via a Select Committee. Is it not the reality that, given the dearth of statutory powers to make that any more impactful, if we are not going to have reform of statute, which takes time, as you said, a parliamentary process is more likely to have a bigger impact, because after all, it is—whether you like it or not—a political process?

Professor Williams: You might be right. The idea of these bodies being involved is a matter of both information and expertise. With the best will in the world, Parliament does not necessarily have that direct contact with it. It may have reports, be able to keep in touch with those things or call them before Committees, but it is a fairly ad hoc process. This is what these regulatory bodies—the Care Quality Commission and so forth—do; it is their job. They look at these issues and whether they merit some kind of referral.

- Q44 **Richard Baker:** Absolutely, I understand that. But I do not think that equates to political pressure or impact in terms of the decision overall. That is my point. Of course, Committees can tap into that expertise as part of the process.

Professor Williams: I agree that it does not create the political pressure, but it does create public pressure, which is different.

- Q45 **Sam Carling:** This question is primarily to you, Ms Ellul. Do you think that there should be a difference between how recommendations coming from statutory public inquiries are monitored and scrutinised compared with those coming from other routes, for example prevention of future death reports or investigation bodies?

Rosanna Ellul: No, I think that all the different types of investigations that result in recommendations should be included in formal scrutiny and follow-up. Legal processes that issue official recommendations include coroners' prevention of future death reports and recommendations from statutory and non-statutory inquiries. Sometimes when a public inquiry is not set up, an official review or other type of investigation will be set up, including earlier investigations after state-related deaths such as the

Independent Office of Police Conduct investigations, for example. INQUEST has advocated for all of those processes to be included in follow-up.

That is for a few key reasons. The first is that those processes are all interlinked. It is not actually helpful to look at public inquiries as just one process; they are heavily connected with those earlier investigations and have a bearing on the recommendations that are made. The key example there is the Grenfell Tower fire, where it was revealed that the coroner's warnings about fire safety at an earlier inquest into the deaths following a fire at Lakanal House were not heeded; they were ignored, and those recommendations were left to fall in the civil service. That is a strong reason why all recommendations need to be included and be interlinked.

Another reason why it is important that other types of process are included is that the purpose of these investigation types is different. A coroner has four statutory questions to answer around how someone came about their death. Public inquiries are often wider in scope and the public are consulted on their terms of reference. Some earlier investigations are looking at the systems level. These processes are all capturing quite different evidence, but all of it is important in pinpointing how to prevent future deaths and harm. That is another reason why you need to look across the piece.

Finally, including other investigation processes is the way to ensure that recommendation oversight is genuinely preventative, because some of those processes happen closer to the harm or the death taking place. If you can monitor earlier in the process, you could prevent changes and investigations being needed further down the line.

Those are some of the key reasons. Ultimately, the legal system for investigating deaths and harm is really complex and interlinked, so if we are going to have—as we should—proper oversight of recommendations, that has to be in attendance with the already quite complicated system. It does not make sense to just pick one of those processes and only look at those recommendations.

Q46 Sam Carling: Thank you. The Grenfell example was particularly interesting, in terms of an early warning that went unheeded. Do you see a trend that when we have an inquiry into a major issue, when we look back, find a coroner's report from a while back that flagged the same issues?

Rosanna Ellul: Definitely. The Grenfell example is one of the most shocking, but in our work we regularly see coroners making prevention of future death reports that highlight the same issues. Sometimes, it is the same coroner issuing multiple repeated reports on the same concerns that go unheeded, sometimes for years, and can then result in a higher escalation of the type of investigation.

Professor Williams: From the experience of the NHS inquiries, from Bristol Royal infirmary to Mid Staffordshire and so forth, it is well known that, because recommendations were not followed in those early inquiries,

the later ones were necessary, but were repeating exactly the same issues that had not been addressed. The public inquiry system, with regard to those particular inquest ideas, is already demonstrating the failure to follow through on these things.

Sam Carling: Thank you. That is helpful.

Rosanna Ellul: To add to the Grenfell point, the coroner's warning from Lakanal House was not heeded—speaking candidly, that recommendation was treated with contempt, which was revealed at the Grenfell Tower inquiry—and did not lead to the change needed. There is nothing to prevent such a tragedy or a recommendation not being heeded from happening again.

Q47 **Sam Carling:** Sure. We have talked a lot about various options for the monitoring and oversight process, but to take it back to first principles, what key elements does the process need to include? What key features should we be looking at when designing it?

Rosanna Ellul: Our work with bereaved families has been clear about the key principles that they think should comprise good, robust monitoring, oversight and follow-up. They include making sure that the system is independent, thorough and comprehensive, that it is not a fragmented approach, and that there are powers—some kind of teeth—to ensure that where change is committed to, there is follow-through, or that the implementation actually happens. That consultation with families is what led us to develop the national oversight mechanism proposal.

Just to be clear about why we are proposing a national oversight mechanism in addition to parliamentary oversight, it is not about taking away the role of Parliament. Parliament is the constitutionally appropriate body to be holding the Government to account on a lot of these issues. We see the national oversight mechanism as strengthening and enhancing that role of Parliament, given some of the issues around Select Committees' resources, capacity and expertise across all these different areas.

On the idea of a Chair being the only way of following that up, as I think we have mentioned, it is quite an onerous task; it is only inquiry-specific; it does not look at inquests. There is no existing body like a national oversight mechanism. We do have a complicated regulatory system, but there is no one body that has central responsibility for looking at all these processes. Families also tell us that they are in the position of continuing to fight and campaign to ensure change after these long, protracted legal processes take place. They want someone else to take on that responsibility, and they think it is a duty of the state to set that up.

Finally, there is already a model that works of an independent public body servicing the work of Parliament: the National Audit Office and the Public Accounts Committee. The NAO is a really well-resourced, independent organisation that is able to conduct comprehensive, detailed analysis. It can and does produce its own reports and issue them to the public and to Government, but it also sends its analysis to the PAC to inform and focus



the work of that Select Committee. As I said, that is a better way of using the resources and the value that Parliament has. That model of the NAO and the Public Accounts Committee is something we could look at for follow-up in terms of a national oversight mechanism working with Select Committees.

- Q48 **Sam Carling:** That is a really useful parallel to draw; thank you for that. Finally from me, we have already talked a bit about how different chairs of different inquiries have had varying views on this, but it would be interesting to hear your views. When should scrutiny of the implementation of an inquiry's recommendations come to an end? Is it when the Government say, "We're not going to do it"? Is it when they have done it? When should it end?

Rosanna Ellul: That is a difficult question, because you need to independently test some of the Government's assertions that a recommendation has been completed and implemented. I would advocate for long-term, sustained scrutiny. It might be the case that, once it has been proven that a recommendation has been properly implemented and is working, scrutiny does not need to be as regular, but there is value in returning to recommendations, particularly when a recommendation has been rejected and there is clear rationale for that. It is completely right that the Government and other organisations do not have to accept every recommendation, but there can be instances where concerns arise that warrant looking again at those recommendations. There should be flexibility in the scrutiny; a one-size-fits-all blanket approach to when scrutiny begins and finishes would not work. It probably has to be on a recommendation-by-recommendation basis.

Professor Williams: There are different types of recommendation. You are investigating this question because Brian Langstaff made recommendations about public inquiries. That was not in the remit of the inquiry, but it is something that you are reviewing. It depends on the recommendation. Some require the setting up of bodies, some require cultural change, some require all sorts of different elements. I do not think you can have a cut-off point.

- Q49 **Luke Taylor:** This is a good opportunity to come in with a slightly later question that fits with what we are talking about. You have given quite a detailed explanation of how you envision the national oversight mechanism working and what its roles will be, but how will it interact with Parliament? What would the different responsibilities of the different bodies be, and how would they co-ordinate?

Rosanna Ellul: I hope that a national oversight mechanism would have a very close and formalised working arrangement with Parliament. It would have the expertise and resources to look at all the recommendations, track progress and action in response to them, and provide analysis. That could then be shared with Parliament where it has key issues of concern or where it thinks some areas require more parliamentary focus or follow-up—escalating particular concerns, almost winnowing down the vast array of information that results from different types of investigation, and

helping Parliament to do targeted follow-up. It would benefit from a formalised arrangement like the NAO and the Public Accounts Committee's. That would be a more coherent way of ensuring that both bodies can work well together.

Q50 Luke Taylor: Secondly, I think there is a recommendation that the mechanism should be able to impose sanctions. What would that consist of? How would that system work? Again, how would parliamentary oversight validate proposed sanctions?

Rosanna Ellul: We consulted families and legal experts when we were developing the proposal for a national oversight mechanism, and the issue of enforcement came up a lot. It comes from genuine frustration that it is extremely easy to be given a potentially lifesaving recommendation and just ignore it—to let it fall by the wayside. The converse argument is that these are recommendations, so it is democratically appropriate that you cannot enforce them; there are often clear and good reasons why a recommendation cannot be taken forward. The problem is that that rationale is often not forthcoming, and responses to recommendations are often late, are completely absent, or do not provide a clear rationale as to why the Government are taking a certain position.

In terms of sanctions, we are not saying that a national oversight mechanism would be able to enforce recommendations. We have said that it needs the right of access to the correct information on what Government or other organisations are doing in response to inquiry chairs' warnings or in response to coroners' warnings. There should be stronger duties to report into the national oversight mechanism and make transparent what action an organisation is taking. Where those reporting duties and, potentially, timeframes to respond are not met, there should be sanctions. It is important to do this because it is ensuring that recommendations and their response are taken a lot more seriously. Giving teeth to the reporting duty is a way of doing that and will hopefully prevent responses or recommendations from just being filed away and ignored.

Q51 Luke Taylor: That is helpful. Finally from me, to whom would the national oversight mechanism be accountable?

Rosanna Ellul: One of the key principles that families talked about was independence—making sure that this is an independent organisation. We have proposed that a national oversight mechanism, like the National Audit Office, should be accountable to Parliament and its budget come from Parliament; it should not be an arm's length body of a Government Department. That is crucial to reassure families and victims that this body is completely independent, but also because the mechanism, to work properly, will span all areas of Government. There would be a conflict if it were a body within one Government Department; it needs to look across Government at how it works in its entirety.

The mechanism should be accountable to Parliament, but a close working relationship with Government will be useful. Our hope is that having more transparency and organisations being able to take recommendations much

more seriously will feed into and inform Government's policy making and inform a more preventative approach to public safety and public interest issues.

- Q52 **Richard Baker:** Rosanna, I want to return to questions about the role of Parliament in the scrutiny and monitoring of implementation of inquiries' recommendations. I think you have pointed out in your evidence that relatively few public inquiries are followed up by Select Committees. In fact, of the 68 public inquiries that took place between 1990 and 2017, only six have been followed up by a parliamentary Select Committee—a surprisingly low number. You have talked about how a national oversight mechanism could help Committees to engage more in that kind of scrutiny of the recommendations of inquiries. Are there any other factors you could raise or proposals you could make to encourage Select Committees to be more proactive in engaging with the work of inquiries?

Rosanna Ellul: This is an example we raised in our evidence submission, but the recent work of the HCLG Committee in following up on the Grenfell Tower inquiry is a really good example of why parliamentary intervention in this area is so useful. That Committee heard from survivors, victims, and the bereaved about their thoughts on the pace of change following that inquiry. That evidence session informed the Committee's further questioning of Government and the fire brigade. That was a really useful approach. It led to a series of letters and interventions in the House, including the Committee calling for a national oversight mechanism to be set up. So that process was really useful in keeping the recommendations on the parliamentary-public-media agenda, and doing it in public by issuing public letters that require a response is something that could be emulated across different inquiries. That type of scrutiny is definitely really valuable.

- Q53 **Richard Baker:** You have talked about the positive example of the HCLG Committee and the Grenfell inquiry. Did that give you any insight into the work that Select Committees can do to follow up the recommendations of inquiries that perhaps other mechanisms would not be able to achieve, particularly in Parliament?

Rosanna Ellul: Calling Ministers or other people to give evidence is the clear answer there. That is a real benefit that Parliament has. But as I have said before, that would be strengthened and further informed by having a body that was able to help the Committee target areas to ask Ministers about, in terms of areas where progress on recommendations that they have committed to is slow, rather than expecting Select Committees to do all that work themselves. Given everything that Select Committees already have on their agenda and the fact that they have to respond to sometimes urgent issues, expecting them to do that long-term, sustained follow-up without a dedicated research body will not work.

- Q54 **Richard Baker:** This perhaps reflects points that Professor Williams made earlier in terms of a referral mechanism. Committees have an important role, but they have to, at the very least, draw on the expertise that lies in bodies and agencies outwith Parliament and ensure that there is strong



collaboration with them to make that process work.

Rosanna Ellul: Yes, that is right. As I said, the Housing, Communities and Local Government Committee heard from people affected by the Grenfell Tower fire, but the national oversight mechanism that we have proposed would also have this formalised way of working with victims and bereaved families. There is an argument that if there was a national oversight mechanism working with Select Committees, you might not have to call families back to give evidence again on these issues that are deeply traumatising for them. While there is real benefit in hearing from families, and that should happen, there are more instructive ways of doing it that do not constantly put them in the public and ask them to go over these issues and keep essentially fighting for these changes.

Q55 **Richard Quigley:** As we are in danger of this meeting going on as long as a public inquiry, I will be brief.

Chair: It will be cheaper.

Richard Quigley: Yes, slightly—it depends where you are taking us for lunch, Chair. You have done very well at explaining how to change the system, but if you had a magic wand, what would Government do to improve the role it plays in public inquiries?

Professor Williams: I think you need to reconceptualise public inquiry as a form. It needs to be reconsidered, root and branch. This is what Brian Langstaff was after. It needs to be independent of Government, fundamentally, if there is to be trust in the whole process of that kind of review.

Rosanna Ellul: Government needs to set up a new independent public body, which could be called a national oversight mechanism, to provide proper, thorough and comprehensive oversight and follow-up of official recommendations, to ensure that future deaths and future harm are actually prevented.

Chair: Thank you, both. You have given us much food for thought. If you have what I always describe as a “Columbo” moment—if you remember the American TV detective show, he always had that question just as he was leaving—and there is something you wished you had said to plant in our minds, do feel free to drop the Committee a note on it. Thank you very much indeed for your evidence this morning.