

1. Have you had any involvement in any formal sharing of best practice for running an inquiry? If so, which body coordinated this?

Answer: No

2. In addition to the use of Restriction Orders, can you list any other situations where a non-legal inquiry chair would require legal advice from the counsel to the inquiry?

Answer: there were a number of legal issues which arose during my Inquiry on which I received submissions from the parties and from CTI. Some were easier than others.

- (i) There was a difficult decision on CP status after an application from those who were injured in the explosion who wanted separate representation from the bereaved. It involved consideration of legal principles. My decision was appealed to the Court of Appeal.
- (ii) There were also difficult decisions on representation, as conflict situations developed between witnesses who were represented by the same organisation.
- (iii) A number of decisions had to be made involving Articles 2 and 3 of the European Convention of Human Rights. There was considerable discussion in the Inquiry about the effect of those Articles in practice.
- (iv) Issues as to what the media could be allowed to report. This did involve argument based on existing case law. At some stages during the Inquiry the media instructed lawyers to represent them.
- (v) Claims for privilege from witnesses against self incrimination and how to deal with them in practice.
- (vi) Requests for applications which some witnesses wanted me to make to the Attorney General for immunity from prosecution.
- (vii) Issues as to whether it was possible to continue with the Inquiry while criminal proceedings were still pending.
- (viii) Prosecution under s. 35 of the Inquiries Act 2005 for breach of a s. 21 notice.

- (ix) It was necessary in the Report to analyse the legal framework and requirements of existing legislation namely the licensing regime and the Health and Safety at Work Act.

It is important that I emphasise that I am not suggesting that Chairs who are not legally qualified cannot deal with similar issues with the help of CTI, but it may be more difficult for them to take a different view of the law from CTI than for a legally qualified Chairman. I on occasions did take a different view. If in reality the decisions on legal matters are to be taken by CTI rather than the Chairman then perhaps the Rules ought to provide for that.

3. How can a chair ensure that the inquiry is following an inquisitorial rather than adversarial approach? Does the chair have power over this?

Answer: Yes, the Chair does have power over this in my view. It is up to the Chair to set the tone of the Inquiry. For example, the Chair needs to make clear at the beginning of the Inquiry that the aim of the process is not to find scapegoats for the terrible events which have happened but to find out what happened so that it never happens again. Most people attending the Inquiry agree that the most important aim that can be achieved by an Inquiry is to make recommendations to ensure that the same thing does not happen again. That is unlikely to be achieved by taking an adversarial approach. Changing the habits of advocates who have probably spent their working lives being adversarial is not easy but can be done. The important thing is that the search for truth is not obstructed by witnesses being intimidated so that they are not able to give their best evidence and it is the Chairman's job to ensure that that doesn't happen. It is very important that while the Inquiry team may have a view of the evidence before they ask questions that they are prepared to alter their view in the light of the answers that they receive. That is why I am not in favour of questions which are so overloaded with information that the answer is, and is intended to be, irrelevant.