

Written evidence from LORD LILLEY (STI0003)

One key issue is: what sort of person (by professional formation or experience) should run inquiries.

There are two reasons for setting up an inquiry.

One reason is to hold some persons or body to account for a past event.

The other reason is to learn lessons from past events which may guide future policy.

Judges and lawyers may well be best suited for the first purpose. Their natural approach is to establish whether people did 'the right thing' or behaved badly.

But judges and lawyers are probably the least well suited to learn lessons, to think through what we should do in future.

For the latter purpose we should learn from aviation accident inquiries. Their overriding priority is to learn how to make us safer in future – not to apportion blame for the past. I don't know what is the professional formation of those who carry out aviation inquiries. But I doubt if they are usually judges or advocates.

The current inquiry into the Covid pandemic is a case in point. What is needed is a fairly speedy analysis of lessons to be learned that could be useful in handling or preventing future pandemics. But because it is being led by a judge and lawyers its approach is primarily to apportion blame. So, for example, it starts with the assumption that a crime – sorry, a mistake – must have been made (late lockdown) rather than whether lockdowns proved worthwhile or not and what they achieved at what cost. It looks for the perpetrators rather than lessons for the future.

Moreover, because it is about apportioning blame, participants have to approach it as defendants with legal counsel at great cost. Most serious of all, it makes the process incredibly longwinded. Other countries had published reports on lessons learned from the pandemic while our inquiry was still being set up. (The time taken by statutory inquiries may appeal to governments setting them up – they may hope that the issue will have lost salience by the time the inquiry publishes its conclusions.)

Similar criticisms could be made of inquiries into hospital scandals.

I hope the Committee will recommend that in future inquiries whose main purpose is to learn lessons for the future should not be led by judges or lawyers. People with experience of policy making or creating and running systems would be far more appropriate. That would include business people, engineers, civil servants etc.

16th March 2024