Written evidence from Sir Brian Leveson (STI0027)

This document was produced using a written record of an interview with Sir Brian Leveson, conducted by a member of the Statutory Inquiries Committee's secretariat. This summary of Sir Brian's remarks has been drafted by the secretariat of the Committee and has been approved by Sir Brian for submission as written evidence. The conversation took place from 10:00-11:30 on Wednesday 10th April 2024.

Introduction

- Sir Brian was nominated to chair an inquiry into the culture, ethics and practice of the press ("The Leveson Inquiry") in July 2011. Sir Brian was a Lord Justice of Appeal between 2006-2013 and President of the Queen's Bench Division between 2013-2019.
- Sir Brian has served as Investigatory Powers Commissioner since 2019.
- In 2014, he was a witness to the previous House of Lords Committee on Statutory Inquiries.

Improvements to the Act

- The Act and Rules are largely fit for purpose, but Rule 13 on warning letters, or "Maxwellisation", needs to be reformed, as this process can be very lengthy and delay the publication of an inquiry's final report and recommendations. As chair of the Leveson Inquiry (and to speed up that process), Sir Brian sent individuals who were subject to criticism a much shorter letter than other inquiries. These letters briefly stated the criticism, the facts supporting it and the evidence for this. To save time, the latter two pieces of information were simply a hyperlink to the relevant document of evidence the inquiry had received. This system relied on all of the inquiry's evidence being publicly available via its website.
- Some of the flexibility inherent in the Act is useful. For example, the choice of appointing extra assessors (or panellists) and the power to merge core participant groups. This latter power helps reduce costs by minimising the number of lawyers who need to be instructed.

Role of Ministers and the Cabinet Office

- One of the reasons that inquiries last so long and cost so much is because the terms of reference for the inquiry are too wide. Rather than focussing on the key purpose of learning lessons and avoiding the recurrence of an event of public concern, inquiries investigate too

widely and collect too much information. Narrower terms of reference are needed.

- An Inquiries Unit in the Cabinet Office should ensure that 'lessons learnt' papers are published at the conclusion of an inquiry. They should ensure that good practice is shared between inquiries, to help make their administration more efficient. Concluded inquiries should also publish a 'working paper' on how inquiries should be organised and run. After the Leveson Inquiry reported, the Cabinet Office intended to write a 'working paper' and Sir Brian offered to assist with this. However, he is unsure if the document has been produced.

Purpose of inquiries

- Inquiries should be into systemic issues, which are in danger of reoccurring if recommendations for change are not implemented. Inquiries should not be set up only to establish the facts of contentious events.
- The primary purpose of inquiries is to make recommendations for change which will prevent an event of public concern recurring. Inquiries should not be subsumed into a wider 'truth and reconciliation' process, where victims and survivors seek redress for a past event. This should be pursued through Parliament and the civil and criminal courts instead.
- Sir Brian gave the example of his inquiry into the press: he did not attempt to investigate and reach a conclusion on every single example of press misbehaviour. Instead, he looked at a *sufficient* number of examples to make recommendations about how public policy should be changed. The aim was not to draw conclusions about every single instance of the issue which was being investigated, as this would have taken too long and would be unnecessary to achieve the aim of the inquiry.

Judges as inquiry chairs

- As a judge, Sir Brian advised the Lord Chief Justice on the appointment of judges as inquiry chairs. Many of these judges would not have agreed to take up the position of inquiry chair if they knew how long their inquiry would last. The recent profusion of statutory inquiries means that there are not enough senior judges to discharge extra duties as inquiry chairs.
- Appointing judges to inquiries can bring disadvantages. For example, once their inquiry has concluded, serving judges may feel they cannot speak out about the Government's implementation of their inquiry's recommendations, because of their need to be impartial. In contrast,

inquiry chairman who are KCs or not legally qualified are freer to hold the Government to account.

- Some inquiries would benefit from being chaired by a scientific expert. They could be supported by a legal assessor who can advise on points of law.

Change since 2014

- Inquiries have been established more frequently since 2014. There are too many, sometimes because they are being established to delay the Government's response to an event of public concern. Recent inquiries have also lasted too long and cost too much because their terms of reference are now longer and less well defined.

Role of victims and survivors

- The proper role of victims and survivors in an inquiry will depend on what the inquiry is trying to achieve. Their testimony should provide context for the inquiry chair about the ramifications of the event of public concern.
- However, the inquiry should not attempt to draw conclusions on the experience of every single victim and survivor, or their family. The purpose of an inquiry is to prevent an event recurring, rather than to be a 'truth and reconciliation' process. The examples provided by victims and survivors should be sufficient to support the evidence-gathering process rather than exhaustive.
- Ministers will sometimes need to say "no" to the call from victims, survivors and their families for a public inquiry.

Inquiry follow-up

- In general, the more contentious the recommendation, the more likely that politicians will not implement it and therefore the greater need to scrutinise implementation.
- One model for scrutinising the implementation of inquiry recommendations could be a joint committee of both Houses of Parliament.
- Another option would be for inquiry chairs to monitor the implementation of their recommendations. However, this would require money, resources and a secretariat, which are not available to chairs once their inquiry concludes.
- Pressure groups and representatives of victims and survivors can scrutinise implementation. However, this informal scrutiny will not

always be sufficient, as these groups may not in fact agree with the inquiry's recommendations and feel that they 'do not go far enough'.

- In conclusion, no report should be left to 'wither on the vine'.

One change…

- Sir Brian said that if only one part of the Act and Rules could be changed, it should be Rule 13, on Maxwellisation, to make this process quicker.
- Regarding the general operation of the Act, Sir Brian's one change would be for Ministers to have a greater focus on the purpose of the inquiry and draft the narrowest terms of reference which could be used to achieve that.

ENDS

25 April 2024