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Judge-led Public Inquiries in the UK: The Gold Standard?

Introduction

In an atmosphere of palpable societal concern, government initiation of a public inquiry in the aftermath of a crisis, disaster, or even wrongdoing, is a common feature of the UK's political system. The inevitability of this probing instrument into public sector preparedness to tackle COVID-19, for example, was mooted even in the early stages of the pandemic in 2020. This creeping presence in the popular lexicon and acute public outcry for its establishment is indicative of the significance it holds in finding accountability, with 32 appointed since the UK's Inquires Act 2005, of which are 15 currently ongoing. These full statutory versions, ranging from the Edinburgh Tram Inquiry to the Death of Dawn Sturgess, are joined on the review roundabout by less formal, ad hoc investigations including non-statutory inquiries, independent panels and Royal Commissions. This latter measure was historically much more in the favour of the ruling elite, with almost 400 exercised between 1830 and 1900. This number drastically declined to a point at which only 3 have been set up since the 1990s; in contrast to its Australian and New Zealand counterparts, the reduced popularity of this weaker form of investigatory power appears to be the victim of a creeping predominance of judicial type measures. In 2019, however, both the Conservative and Labour manifestos promised Royal Commissions across the criminal justice system, substance abuse, and health and safety legislation. Although quickly criticised as outdated and ineffective in consensus building, their unlikely resurrection does not easily disband with a wider discussion on the utility of statutory public inquiries. A tendency to adopt forensic style investigations, with enforcement of the production of evidence readily backed by the courts, that proliferate a judicial tone of seeking blame, threatens to overshadow the important understanding of more deep-rooted societal issues. The extent to which non-statutory inquiry types can now escape these litigious tendencies, however, remains dubious.

This chapter provides an overview of the development of public inquiries in the UK. It continues to detail the habitual patterns of behaviour concerning truth-seeking and accountability that have emanated in the statutory process, and the associated weaknesses in accommodating broader processes of social change[1] and/or complex cultural matters[2] - unpacked here through the examples of racism and social housing. Concerns with the popularity of the statutory approach are extended into adversarialism seemingly catalysed by Section 21's legal disclosure measures, with limits on the privilege of self-incrimination of witnesses played out in the cases of the Manchester Arena Bombing, and Bloody Sunday and Ladbroke Grove inquiries. Against the backdrop of the

ongoing COVID-19 inquiry, a consideration that judicial capture drives a reluctance of individuals to aid these truth-seeking activities for fear of personal consequences is submitted.

Types of Inquiry

Public inquiries are appointed in the wake of a crisis.[3] They arise from public anxiety about harm, inequality, or injustice; uncertainty or disagreement about the reality, nature, and resolution of such crises; and they follow from an impetus that 'something must be done'. They are institutions of last resort, instigated when there is widespread suspicion that relevant state authorities lack the requisite powers and independence necessary to investigate or that, worse still, those authorities may be complicit in the alleged wrongdoing.[4] As **table one** shows below, the frequency of inquiries, into a range of social issues, has increased significantly since the 1990s.[5] This may reflect a broadening of public outrage into areas of social risk such as child abuse and medical malpractice.[6] It may also demonstrate a growing tendency by the government to use inquiries as part of a blame avoidance strategy: the appointment of an inquiry can be a short-term cost for government ministers (of acknowledging that something has gone wrong), but once this short-term cost is paid, an inquiry becomes a venue-shifting strategy that allows governments and ministers to refrain from addressing the issue for as long as the investigation continues – which could last years.[7]

TABLE ONE: List of Public Inquiries, 1990 to 2022

Inquiry	**Dates**	**Type**	**Investigation**
Piper Alpha	1988-1990	Statutory	Fire that killed 167 people on Piper Alpha oil platform
Hillsborough	1989-1990	Non-Statutory	Deaths of 96 people at Hillsborough Football Stadium
Bingham	1991-1992	Non-Statutory	Collapse of a bank
Mirror Group	1992-2001	Statutory	Alleged abuse of its pension funds
Scott	1992-1996	Non-Statutory	Approval of arms exports to Iraq
Allitt	1993-1994	Statutory	Deaths and injuries of 13 children caused by a nurse
Dunblane	1996	Statutory	Shooting of 18 people at Dunblane Primary School
North Wales Child Abuse	1996-2000	Statutory	Child sexual abuse in Welsh care homes
Pennington Group	1996-1997	Non-Statutory	Outbreak of E. coli

Ashworth Special Hospital	1997-1999	Statutory	Abuses in a mental health unit
Stephen Lawrence	1997-1999	Statutory	Death of Stephen Lawrence and the police response
Southall Rail	1997-2000	Statutory	Southall rail crash
BSE	1997-2000	Non-Statutory	UK's response to BSE outbreak
Bloody Sunday	1998-2010	Statutory Non-Statutory	Deaths of civilians killed by British soldiers in Northern Ireland
Sierra Leone	1998	Non-Statutory	Ministerial involvement in the sale of arms
Bristol Royal Infirmary	1998-2001	Statutory	Care of children receiving cardiac surgery
MV Derbyshire	1998-2000	Statutory	Sinking of MV Derbyshire with a loss of 44 lives
FV Gaul	1999-2004	Statutory	Sinking of FV Gaul with a loss of 36 lives
Thames Safety	1999-2000	Non-Statutory	Safety on the River Thames
Ladbroke Grove	1999-2001	Statutory	Railway crash
Train Protection	1999-2001	Statutory	Rail safety
Royal Liverpool	1999-2001	Statutory	Post-mortems and handling human tissue/organs
Marchioness–Bowbell	2000-2001	Non-Statutory	Collision between the pleasure steamer and dredger
Victim Identification	2000-2001	Non-Statutory	Establishing victim identities after transport accidents
Shipman	2000-2005	Statutory	Murders by Dr Harold Shipman
Hammond	2001	Non-Statutory	Ministers granting a visa
Victoria Climbié		Statutory	
"Three Inquiries"	2001-2005	Statutory	Hospital patient safeguarding measures
Foot and Mouth	2001-2002	Non-Statutory	Foot and mouth disease outbreak
Equitable Life	2001-2004	Non-Statutory	Financial crisis at the Equitable Life Assurance Society
Holyrood	2003-2004	Non-	Construction costs of the Scottish Parliament

		Statutory	building
Hutton	2003-2004	Non-Statutory	Death of Dr David Kelly
Soham Murders	2003-2004	Non-Statutory	Child protection measures in Police
Butler	2004	Non-Statutory	Use of intelligence which led to the Iraq War
Zahid Mubarek	2004-2006	Non-Statutory	Murder of Zahid Mubarek in custody
Rosemary Nelson	2004-2011	Statutory	Murder of Rosemary Nelson and the police response
Robert Hamill	2004-2011	Statutory	Death of Robert Hamill and police investigation
Billy Wright	2005-2010	Statutory	Murder of Billy Wright's inside a prison
2005 outbreak of E. coli	2005-2009	Statutory	Outbreak of E. coli
Redfern	2007-2010	Non-Statutory	Unsanctioned removal of human organs
ICL	2008-2009	Statutory	Factory explosion that killed 9 people and injured 45
Fingerprint	2008-2011	Statutory	Procedures used to verify fingerprint evidence
Penrose	2008-2015	Statutory	HIV/hepatitis C infections from transfused blood
Baha Mousa	2008-2011	Statutory	Death of Baha Mousa, detained by the UK Army
Northern Trusts	2008-2011	Statutory	C. difficile outbreak
Bernard Lodge	2009	Statutory	Death in custody
Vale of Leven Hospital	2009-2014	Statutory	Outbreak of C. difficile
Iraq	2009-2016	Non-Statutory	Govt. decisions/actions before and during Iraq War
FV Trident	2009-2011	Statutory	Sinking of FV Trident with a loss of seven lives
Al-Sweady	2009-2014	Statutory	Detention and death of Iraqi nationals
Azelle Rodney	2010-2013	Statutory	Death of Azelle Rodney, who was shot by the police
Mid Staffordshire NHS Foundation Trust	2010-2013	Statutory	Serious failings in standards of hospital care

Detainee	2010-2013	Non-Statutory	Mistreatment of detainees after 9/11
Leveson	2011-2012	Statutory	Ethics of the press and phone hacking
Historical Institutional Abuse	2012-2017	Statutory	Systemic institutional failures of care of children
Morecambe Bay	2013-2015	Non-Statutory	Maternity and neonatal care
Harris Review	2014-2015	Non-Statutory	Self-inflicted deaths of youths in custody
Edinburgh Tram	2014 –	Statutory	Delay and cost of Edinburgh Trams project
Litvinenko	2014-2016	Statutory	Death of Alexander Litvinenko
Scottish Child Abuse	2014 –	Statutory	Historical cases of child abuse by care institutions
Child Sexual Abuse	2015 –	Statutory	Failure by major institutions to protect children
Undercover Policing	2015 –	Statutory	Use of of undercover police operations
Anthony Grainger	2016 –	Statutory	Death of Anthony Grainger, who was shot by police
Renewable Heat Incentive	2017 –	Statutory	Political scandal related to renewable energy scheme
Grenfell	2017-	Statutory	Fire in Grenfell Tower, which caused 71 deaths
Blood Contamination	2017-	Non-Statutory	HIV/hepatitis C infections from contaminated blood
Manchester Arena	2019-	Statutory	2017 Manchester Arena terror attack
Brook House	2019-	Statutory	Mistreatment at Immigration Removal Centre
Sheku Bayoh	2019-	Statutory	Death of Sheku Bayoh, policy response and racism
Jermaine Baker	2020-	Statutory	Death of Jermaine Baker, shot by police
Muckamore Abbey	2020-	Statutory	Abuse of patients at Muckamore Abbey Hospital
Coronavirus (UK)	2021-	Statutory	UK's response to Covid-19 pandemic
Post Office Horizon IT	2021-	Statutory	Implementation and failings of Post Office IT system
Coronavirus (Scotland)	2021-	Statutory	Scotland's response to Covid-19 pandemic
Death of Dawn Sturgess	2021-	Statutory	Death of Sturgess, exposed to nerve agent Novichok

Proponents often identify functionalist, democratic purposes for an inquiry such as: establishing the facts and causes of what happened; learning lessons to prevent recurrences; facilitating public catharsis that could enable reconciliation; rebuild public trust by providing a reassurance that the issues have been properly investigated; hold actors and institutions to account; and allowing a government to demonstrate that 'something is being done'.[8] Yet a significant body of the existing scholarly literature is critical of the ability of inquiries to perform truth-seeking and accountability functions. Instead, it is argued that inquiries often close down the space for scrutiny and accountability, particularly of systemic or structural harms and inequalities.[9] From either this functionalist or critical perspective, the ultimate function of an inquiry is the same: to demonstrate that the failure can be dealt with or that there has been no failure at all.[10]

Inquiries can vary widely in their appearance, but they all share some basic features. They are *ad hoc* institutions created to investigate a specific event or issue and dissolved once its task is concluded); they are independent of the executive and other public bodies (such as the police); they are established by the government; they are discretionary, which means that there is no requirement to have an inquiry (and many inquiries are called for but never created, unlike a legally mandated inquest[11]); they are concerned with the past; and they are expected to allow public scrutiny of the facts (for instance, via public hearings, declassified evidence or a public report). This last point on publicness is critical to an inquiry's purpose: offering some symbolic reassurance of "an open, transparent society where, if a disaster arises, the voices of the powerless are not ignored and the powerful are held to account".[12] There are two broad categories of inquiries: *non-statutory* inquiries and *statutory* inquiries. Each has advantages and disadvantages in fact-finding and accountability-seeking. Non-statutory inquiries lack legal powers and rely on the cooperation of those involved. They are also not required to hold public hearings (though many do). As we discussed below, they can facilitate a more inquisitorial, less adversarial approach, and enable sensitive evidence to be given in camera.[13] Statutory inquiries, by contrast, have a format defined and underpinned by law (most often, this is the 2005 Inquiries Act). This means, for example, that public inquiries possess powers to take evidence under oath and compel the production of witnesses and evidence. But the law also imposes duties: statutory inquiries are also legally obligated to ensure that the public can watch the inquiry and view the evidence.

A further distinction can be made between inquiries led by a current or retired judge and those that are led by senior figures from other professions that tend to command a high degree of public trust, such as civil servants, scientists, social workers, doctors and engineers (ref). Statutory inquiries are almost always led by a judge (which is unsurprising given that the chair must navigate and employ legal process). While non-statutory inquiries vary, governments have still tended to appoint a judge. Out of 76 inquiries undertaken since 1990, 53 were chaired by current or retired judges.[14] When inquiries are not led by a judge, they are often criticised as a lesser form of investigation. In 2009, the Iraq 'Chilcot' Inquiry – a non-statutory inquiry led by a panel of retired civil servants, diplomats and historians to investigate Britain's participation in the 2003 Iraq War –was criticised for not being led by a judge and for its legal powers to require evidence under oath, and its desire not to focus explicitly apportioning individual blame. The late MP Michael Meacher argued that the inquiry was "in keeping with this insidious culture of nonculpability".[15] The judicial style of inquiry is regarded as the 'gold standard' of investigation. This preference for judicial expertise is based on a long-standing perception, held by both elites and popular culture, that the

legal method is the most rigorous and objective means of determining facts.[16] Moreover, the juridical method is perceived to be independent, neutral and without prejudice. In part, this perception is a result of the decline of public trust in government and parliament, whose conduct may be the subject of an inquiry.[17] Even quasi-judicial inquiry provides 'symbolic reassurance' to the public because the judiciary has a long tradition of independence from government.[18]

Despite their popularity, statutory inquiries have some weaknesses. Firstly, statutory inquiries are usually the most lengthy and expensive. Secondly, and more fundamentally, judicial inquiries often employ *juridical* epistemology. That is, they produce knowledge according to the philosophical and methodological foundations of legal thinking. This juridical approach is well-suited to investigate fine-grained behaviour in a discrete event but less capable of addressing complex sociological and structural pathologies.[19] This is a limit well understood by legal practitioners. One senior judicial figure noted that such inquiries are less helpful where "issues of social or economic policy with political implications are involved".[20] Of course, many inquiries are appointed precisely because the nature of the controversy involves such issues. As such, governments often ask judges to "take the hard decisions" even when judges may not be able to do so.[21]

The Limits of Juridical Thinking

A good illustration of the limits of the juridical approach is Lord Macpherson's 1997 inquiry into the death of Stephen Lawrence. The black British teenager had been murdered while waiting for a London bus in 1993. Macpherson's report was ground-breaking because it identified a serious failure to identify and prevent "institutional racism" in the Metropolitan Police Service, the Civil Service, the NHS and the judiciary.[22] This broke with previous accounts (notably Scarman's inquiry into the 1981 Brixton Riots) that denied the existence of institutional racism. Macpherson found a "collective failure" of state institutions to provide services to people "because of their colour, culture or ethnic origin".[23] For the first time in official discourse, the institutions of the state were complicit in racism and the perpetuation of social disadvantage Macpherson wrote that this racism took the form of "…lack of understanding, ignorance or mistaken beliefs… unfamiliarity with the behaviour or cultural traditions of people or families from minority ethnic communities… stereotyping of black people as potential criminals and troublemakers".[24] Macpherson's account of institutional racism was limited, however, because he did not delve into the question of what created the discourse of knowledge upon which the unwitting racism relied.[25] Put simply, where do these beliefs come from? How did they emerge and where are they reproduced? The capacity of Macpherson's inquiry for fact-finding and lesson-learning was therefore fundamentally limited because the roots of racism were unaddressed; at worst, racism could be understood as an entirely accidental phenomenon for which a governmental response was not required.

Full statutory inquiries are well suited to address troubling events that have discrete timelines and where fact-finding rests on the forensic tracing of individual knowledge and behaviours. This, in turn, facilitates the attribution of responsibility and the identification of regulations that might prevent future occurrences. Some troubling events, however, are partly caused by complex sociological phenomena with an extensive history. Juridically-minded inquiries are often reluctant to engage with such concerns through "restraint", that is, determining that some matters lie outside of the expertise of the juridical inquiry, and "deference", that is, deciding that some matters such

as whether the correct ethical or political policy was followed, should be left to elected politicians.[26] From 2011 to 2012, the Leveson inquiry examined unethical practices in the media. Leveson's inquiry – with its cross-examination of politicians, journalists and other figures – was very effective at unravelling a linear, forensic account of how the press used practices such as phone-hacking. However, the inquiry was far less comfortable when witnesses complained of a wider journalistic and societal culture that encouraged the journalistic trivialisation and sexualisation of violence against women, or a "sense of impunity" held by some parts of the press due to their concentrated economic and social power. Leveson concluded that his inquiry was not the place to address the "sociological factors" behind such social pathologies, and he "doubt[ed] whether [the inquiry] would have had the expertise" to undertake such an analysis.[27] A similar concern has been raised about the Grenfell Tower inquiry, appointed to investigate the fire in a London housing block that killed 72 people. This inquiry is well suited to its terms of reference to investigate the immediate causes of the fire, decisions relating to the design and construction of the building, the suitability of safety regulations, and the actions of authorities on the night of, and before the fire. These terms of reference, however, do not easily accommodate wider questions about the role of race, religion and social class in the provision and maintenance of social housing; neoliberal economic reforms, or the political culture of deregulation.[28] This hinders a wider analysis of inequality and social housing in Britain.[29] Nevertheless, a strict adherence to clearly defined legislative steps is embedded in the very fibre of the Inquiries Act, to be explored next.

The Problem of Adversarialism

The growing reliance on courts and judicial means for addressing a broader array of "moral predicaments public policy questions, and political controversies" is helpfully categorised by Hirschl into three interrelated streams: (1) the spread of legal discourse into the political sphere, (2) the ability of courts and judges to determine public policy outcomes, and (3) an emerging deference to courts and judges to deal with issues of 'mega-politics'.[30] This process of judicialization in British politics has gained traction amongst scholars, with extension to the use of judicial review,[31] EC membership,[32] and a rise in litigation of government.[33] Though supposedly not adversarial in the manner of courtroom drama in which there will be a winner and loser, a clear trend of such combative means can also be extrapolated from the development of judge-led public inquiries, and specifically the statutory measures of legal disclosure provided by the 2005 Inquires Act. Though the act specifically states that no inquiry panel has the power to determine any person's civil or criminal liability, it does not preclude the inferring of liability in the course of the procedure and encourages that no panel be inhibited by this possibility (Section 2). This ethos drives the entrenchment of powers of compulsion in the act and stipulates that evidence may be taken on oath, and individuals compelled to do so, by notice of the chairman of the inquiry (section 21), with enforcement of this provision by the High Court or Court of Session by virtue of Section 36 not shied away from (e.g. the Billy Wright Inquiry). In tandem with this, although undertaking from the Attorney General can engage the privilege against self-incrimination, the enforcement power and sanction housed in Section 35 are still of concern to witnesses. These legal measures will be explored further here, and their impact on the pursuit of truth-finding discussed and unpacked through the example of COVID-19.

Section 21 of the Inquiries Act 2005 outlines the power of the Chairman in the course of proceedings. The legislation stipulates that this may take the form of the insistence of attendance at a time and place stipulated in the notice to give evidence or produce documents relating to the matter in question, or indeed the submission of a written statement and associated materials. Despite the failure to comply with this notice bearing the risk of 51 weeks imprisonment as outlined in Section 35, refusal to give evidence has recently come to the attention of the media in the inquiry into the Manchester Arena bombing,[34] in which the Terms of Reference included an investigation into the radicalisation of Salmen Abedi. A Notice to the Respondent to attend proceedings was issued to Abedi's older brother, who subsequently left the UK and failed to arrive on the stipulated date. In *Chairman of the Manchester Arena Inquiry v Romdhan [2021] EWHC 3274 (Admin)* a bench warrant was thus sought by virtue of section 36 (1) (a) of the Inquiries Act. During the proceedings, the defence contended that the purpose of Section 36, and the true intention of Parliament at the time of drafting, was to secure compliance with Section 21 and the quest for evidence; in that sense, they continued, the legislative intention was the obtaining of information, rather than the punishment of an individual. Though noting its extreme nature, the judge disagreed that a warrant would discourage the Respondent from returning to the jurisdiction and therefore undermine this purpose, and permitted its issue based on its necessary and proportionate means.

Barriers to truth-finding again raise their head, however, when an acknowledgement is given to Section 22 and the caveat that no compulsion to give evidence can be made if they would not be permitted in civil proceedings. Section 14 of the Civil Evidence Act 1968 proffers the mechanism of privilege against self-incrimination, outlining a person's right to refuse to answer a question or produce evidence that might evoke proceedings for an offence or the recovery of a penalty. An undertaking from the Attorney General is oftentimes a measure sought within a public inquiry to circumvent this issue – a clear example of this being the Bloody Sunday Inquiry. Stressing the need to uncover the truth concerning the demonstration in Londonderry on January 30 1972, and the absence of charge to decide whether or not prosecution should be brought against individuals from the British Army who opened fire on Catholic civil rights supporters, all legitimate and proper means to remove the hindrance of self-incrimination was considered to access valuable information. Lord Saville expressed that in fact without such an undertaking, a witness could bear the additional burden of inference of criminal behaviour should they decline to answer questions or produce documents.[35] An important note about the scope of the privilege here, however, is that absolute immunity from prosecution cannot be assumed. Here we again return to the example of the Stephen Lawrence Inquiry. The five individuals who had previously faced prosecution for the teenager's murder, but whose cases had either subsequently been discontinued by the CPS, or had secured acquittal through private prosecution, declined to give evidence. The Attorney General undertaking established that no evidence in the course of the inquiry would be used against them in criminal proceedings, except "where he or she is charged with having given false evidence in the course of this Inquiry or with having conspired with or procured others to do so".[36] Two of the five were subsequently convicted of Stephen Lawrence's murder. A similar situation arose in the Ladbroke Grove Inquiry, convened in the wake of the death of 31 people following a collision between a Thames Train commuter train and a high-speed First Great Western train. In addition to the caveat of false evidence above, the undertaking asserted that the privilege did not cover "any other manifestation of the documents, whether retained originals or any copies, which the police or other investigators were able to obtain".[37] Network Rail Infrastructure Ltd. was later prosecuted

by the CPS for health and safety offences. Furthermore, the evidence used against that person by an employer in separate disciplinary proceedings also does not fall under the breadth of the privilege, as discussed in the Undercover Policing Inquiry.

If the purpose of these powers of compulsion is thus to aid truth-finding, the adverse impact of such judicial tools on the reluctance of individuals to take part for fear of personal consequence must be considered. In the course of the aforementioned Billy Wright Inquiry, for example, the refusal of witness Mr Paisley to succumb information concerning the police officer who had disclosed information around the destruction of files for money resulted in a fine of £5,000, and an order to pay a contribution of £3,000 to the cost of the inquiry.[38] This very tangible punishment, coupled with the sort of reputational damage that surfaced for tabloids post-Leveson Inquiry,[39] creates a palpable tension with the pursuit of a robust understanding of the situation at hand. Certainly, the attrition between holding individuals and organisations to account and the objective of lesson learning has been discussed in the context of the pandemic.[40]

One former inquiry member, Sir Lawrence Freedman, has argued against having a Covid inquiry that is judge-led precisely because that will not be the most effective way to uncover the facts of what happened in government during the pandemic. Reflecting on his own experience as a member of the Iraq 'Chilcot' Inquiry, Freedman recalled how they were advised against a judicial approach:

> Everybody lawyers up if you've got a judge, every witness will come with their own lawyer, the bereaved families will want to bring their lawyers who will want a right to cross-examine, and it will go on and on. You have to have witnesses feeling that they can respond to the questions…we didn't find that a problem in Chilcot…one of our witnesses said, "actually, with you, I'll say what I think," He was involved with another judge-led inquiry, and said, "there I was told that must say: 'yes', 'no', or 'I can't remember'". You don't want that; you want people to feel able to unload themselves…for many of the witnesses, for whom this will be a very traumatic and memorable experience, this is an opportunity for them to get it out: what they went through, what they saw at the time.[41]

Indeed, Freedman goes further to say that "interrogating witnesses may provide the spectacle, but in this case, most of the evidence can be gathered away from hearings".[42] The key to an effective coronavirus inquiry will be a range of expertise – such as public health, medicine, statistics, epidemiology, economics, and policy-making – who can uncover facts from archival evidence. The popular cultural desire to put the government 'in the dock' would, in this case, be counterproductive.

Conclusion: Back to the Future for Inquiries?

Public inquiries are important instruments for fact-finding, accountability-seeking, and lesson-learning. Whether viewed positively or sceptically, they perform a crucial function in drawing a line and moving on from events that provoke widespread public concern. Inquiries are used frequently and focus on a wide range of social and political issues. As we have shown, the dominant approach for a public inquiry is the judge-led, statutory model. This demonstrates the considerable public

trust enjoyed by the courts and senior legal practitioners and shows the cultural belief that the juridical method is one of the most effective ways of learning the facts of an event. Yet, judicially led and juridically minded inquiries have important limitations: they are reluctant to investigate widespread, historically embedded social issues such as racism or gendered inequalities, and the courtroom style of investigation can lead to adversarialism that impedes openness and candour.

Amidst these limitations, practitioners and researchers are beginning to explore alternative models of inquiry that could be used to complement or in place of judicial style inquiries. For example, "independent panels" can provide a different style of investigation. Rather than holding hearings, panels gather archival information and produce a wide-ranging historical account. Panels have been used in this way to investigate the Hillsborough tragedy and the 2011 riots. Untroubled by the problem of reluctant witnesses and the need to find fault, this type of inquiry can satisfy public expectations differently.[43] The return of the Royal Commission has also been considered. Commonplace in the 19th Century, these have fallen entirely into disuse in recent decades (the last one, examining reform of the House of Lords, finished in 2000). Unlike most inquiries, Royal Commission focuses on widespread policy problems rather than discrete events. They could complement other public inquiries by providing a system within which to examine the complex and deeply policy challenges – such as institutional racism, misogyny or wealth inequality – that arise out of concerning events.[44] Finally, it is being recognised that inquiries need more diversity. Inquiry members are often old, white and male. Simply in terms of gender diversity, between 1990 and 2017, there were just six inquiries with a female chair – which is the same as the number of inquiries led by someone called Brian and fewer than the number of inquiries chaired by someone called either Anthony or William.[45] Moving beyond the lure of the inquiry led by the wise old judge, toward some of the instruments of the past, could be an important development in preventing and learning lessons from the most worrying problems of the twenty-first century.

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