



House of Commons
Public Administration Select
Committee

The Iraq Inquiry

Ninth Report of Session 2008–09



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Report, together with formal minutes

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The Public Administration Select Committee

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioner for England, which are laid before this House, and matters in connection therewith, and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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Committee staff

The current staff of the Committee are Steven Mark (Clerk), David Slater (Second Clerk), Pauline Ngan (Committee Specialist), Louise Glen (Senior Committee Assistant), Lori Verwaerde (Committee Assistant) and Shane Pathmanathan (Committee Support Assistant)

Contacts

All correspondence should be addressed to the Clerk of the Public Administration Select Committee, Committee Office, First Floor, 7 Millbank, House of Commons, London SW1P 3JA. The telephone number for general enquiries is 020 7219 5730; the Committee's email address is pasc@parliament.uk

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Conclusions and recommendations

1. While we welcome the Government's announcement that an inquiry into Iraq will be held, that it will have a broad scope, and that it will aim to learn lessons from the decision to go to war, the conflict and its aftermath, there is a strong risk that the inquiry as currently constituted will not be able to pursue what should be its fundamental purpose: to identify the truth and ensure that the executive can be held properly accountable for its decisions and conduct in relation to Iraq. This fundamental purpose should be encapsulated within the inquiry's formal terms of reference. (Paragraph 6)
2. We recommend that consideration be given to splitting the inquiry into two stages: the first stage to concentrate on the British decision to go to war; and the second stage to consider the broader lessons from the conflict and its aftermath. (Paragraph 7)
3. The need for effective accountability and public confidence demands that the inquiry be conducted as openly and publicly as possible. We recommend that the Government reconsiders its decision to conduct the Iraq inquiry in private. There needs instead to be a presumption in favour of the inquiry proceeding in an open and public manner. There should be only very limited exceptions to this general rule, which would be best decided by the members of the inquiry itself, not by the Government. (Paragraph 16)
4. In setting up the Iraq inquiry, the Government has—in our view wrongly—adopted the top-down process that we warned against. One way of putting this right, at least in part, would be to give Parliament a formal role in establishing the inquiry. (Paragraph 18)
5. It is not too late now for the Government to allow, at minimum, a debate and free vote in the House of Commons on its proposal for an inquiry. It is wrong in principle that the executive alone should determine the terms of this inquiry, when the conduct of the executive is a central part of what the inquiry will have to consider. (Paragraph 18)
6. Given the nature of the inquiry and the scope of the issues it is considering, we believe that the Iraq inquiry would benefit from the inclusion of members with political experience as a minority of its membership. (Paragraph 20)
7. The Iraq inquiry is a unique opportunity to explore issues about which there has been significant public disquiet for some time. Only if the inquiry is conducted in a manner which is legitimate and credible—and is seen to be so—will the public be assured that it is not a whitewash. We welcome the fact that there is to be an inquiry. But it is the wrong kind of inquiry, decided and announced in the wrong kind of way. We urge the Government to reconsider the way in which the Iraq inquiry will be conducted, so that this key opportunity to restore public confidence is not missed. (Paragraph 21)

1 Introduction

1. We have a long-standing interest in public inquiries. The Public Administration Select Committee's 2005 report on *Government by Inquiry* examined various types of public inquiry, and identified a set of principles to guide how inquiries should be set up and operated.¹ In 2008, our report on *Parliamentary Commissions of Inquiry* considered the possibility of Parliament initiating inquiries into matters where the conduct of the executive was in question.² That report was prompted in particular by demands for an inquiry into Iraq, which at that time the Government appeared reluctant to establish.

2. Since then the Government has accepted the need for an Iraq inquiry, and on 15 June 2009 the Prime Minister announced that such an inquiry would be set up. In this short report we consider the purpose of an inquiry into Iraq, and whether the form of the inquiry announced by the Government will meet this purpose. In particular, we examine the decision for the inquiry to operate in private, the manner in which the inquiry was established, and its membership. This report does not consider in detail all aspects of the inquiry announced by the Government, but instead focuses on what we consider to be the key concerns about how the inquiry was constituted and how it will operate.

3. In coming to our conclusions, we drew on the findings of a seminar that we held on 11 June to consider the possible form and conduct of an inquiry into Iraq. The seminar, which was held under the Chatham House rule, brought together key figures including chairs of previous inquiries, Members of both Houses of Parliament, former diplomats and others with relevant knowledge and expertise.

1 Public Administration Select Committee, First Report of Session 2004–05, *Government by Inquiry*, HC 51–I

2 Public Administration Select Committee, Ninth Report of Session 2007–08, *Parliamentary Commissions of Inquiry*, HC 473

2 Purpose of the Iraq inquiry

4. The scope of the Iraq inquiry, as announced by the Prime Minister, covers an eight-year period that encompasses the circumstances leading up to the decision to go to war, the military conflict itself, and the post-conflict administration of Iraq. The inquiry will focus on the lessons to be learned from Britain's involvement in Iraq. We share the Government's belief that the inquiry should be constructive and that it should seek to identify the policy lessons to be learned from Iraq, particularly if there are lessons that could be applied to the UK's involvement in other conflicts (such as Afghanistan).

5. There is, however, another fundamental reason for holding an Iraq inquiry. In the words of one of our seminar participants, an inquiry needs to "get at the truth" and to be seen to be getting at the truth. This is vital to restoring the loss of public confidence in governing processes and institutions that has resulted from the UK's involvement in Iraq. There is also a justified expectation—demanded in particular by the relatives of British soldiers who have died in Iraq—that the inquiry will enable the executive to be held to account for its decisions and conduct.

6. While we welcome the Government's announcement that an inquiry into Iraq will be held, that it will have a broad scope, and that it will aim to learn lessons from the decision to go to war, the conflict and its aftermath, there is a strong risk that the inquiry as currently constituted will not be able to pursue what should be its fundamental purpose: to identify the truth and ensure that the executive can be held properly accountable for its decisions and conduct in relation to Iraq. This fundamental purpose should be encapsulated within the inquiry's formal terms of reference.

7. Participants at our seminar suggested that it would be sensible to split the inquiry into two parts. This would help clarify the distinct (although related) parts of the inquiry, and would also allow the inquiry to report on the first part with relative speed. **We recommend that consideration be given to splitting the inquiry into two stages: the first stage to concentrate on the British decision to go to war; and the second stage to consider the broader lessons from the conflict and its aftermath.**

8. We examine below several further aspects of the announced inquiry that we believe the Government needs to reconsider. Only if the following issues are addressed will the inquiry help to restore public confidence in government.

3 Openness of inquiry proceedings

9. The Government has announced that the Iraq inquiry is to be modelled on the Franks inquiry into the invasion of the Falkland Islands.³ The Franks inquiry comprised a committee of Privy Counsellors that deliberated in private. As all of the inquiry's members were Privy Counsellors, they were able to see sensitive documents including Cabinet minutes and intelligence assessments on Privy Council terms.

10. We believe the decision to allow the Iraq inquiry to operate in private, following the Franks inquiry model, is totally unsatisfactory. There was firm agreement at our seminar that the more public the inquiry's proceedings could be, the better, and that openness was vital to securing public confidence in the inquiry. Several participants identified the example of openness set by the Hutton inquiry into the circumstances surrounding the death of Dr David Kelly,⁴ which was conducted in public and published most of the evidence it received; one noted that "Hutton showed you can publish more than you think you can without bringing down government". The inquiry might, in particular, consider following the example of the Hutton inquiry in publishing documentation and evidence on an inquiry website.

11. The Prime Minister has argued that conducting the inquiry in public "would mean a long inquiry, lasting years, in which everybody would be represented by a lawyer rather than by themselves".⁵ It is true that inquiries conducted in public tend to last for longer, and invite legal representation, but these problems can be and have been overcome in other inquiries. They also need to be set against the benefits of holding proceedings in public.

12. On the involvement of lawyers, the opinion of participants at our seminar was that legal representation would only be required if the inquiry were to examine the culpability of individuals, rather than policy issues. The focus of the inquiry announced is, rightly, on policy issues: this should greatly reduce the need for legal representation.

13. On the issue of timescale, the unanimous view expressed by those at our seminar was that the public would have greater confidence in a slightly longer, public inquiry than a shorter, private one. The Saville inquiry into Bloody Sunday may well be in the Prime Minister's mind as an unwelcome precedent to be avoided for a long-running and expensive inquiry held in public.⁶ But, with astute chairmanship and a clear timescale, inquiries held in public can be both efficient and cathartic, as Lord Hutton's example shows. Holding proceedings in private would also keep the public in the dark for the best part of a year and put undue weight of expectation on the inquiry's report; openness would allow the public to follow proceedings from the outset.

3 *Falkland Islands Review*, Cmnd 8787, January 1983. The inquiry into the actions of the UK Government in the period leading up to the Argentine invasion of the Falkland Islands was announced on 6 July 1982 and chaired by Lord Franks.

4 *Report of the Inquiry into the Circumstances Surrounding the Death of Dr David Kelly CMG*, Session 2003–04, HC 247, 28 January 2004. The inquiry was announced on 21 July 2003 and was chaired by Lord Hutton.

5 HC Deb, 15 June 2009, col 36

6 The inquiry into the events leading to the loss of life in Londonderry on Bloody Sunday, 30 January 1972, was announced on 29 January 1998 and chaired by Lord Saville. The Bloody Sunday inquiry has yet to report.

14. We are therefore very concerned at the proposal that the Iraq inquiry should be conducted wholly behind closed doors. The inquiry will need to consider sensitive documents such as security and intelligence reports, and there are sound arguments for protecting the most sensitive material from public disclosure. However, the fact that the inquiry would need to consider some sensitive evidence *in camera* does not provide a blanket justification for the inquiry as a whole to operate in private. The lack of openness, on the contrary, works against the purposes of having the inquiry, by undermining public trust in it.

15. A wider point also emerged from our seminar about the importance of allowing those running an inquiry to decide how it operates in practice: this was the case with the Hutton inquiry. Key decisions about the inquiry's operation, such as whether to hold particular inquiry proceedings in public or in secret, should be left to the judgement of the inquiry's chair and members rather than being settled in advance by the Government. For the Government to do otherwise could serve to fuel a perception that the inquiry's terms are being fixed by the executive in its own favour.

16. The need for effective accountability and public confidence demands that the inquiry be conducted as openly and publicly as possible. We recommend that the Government reconsiders its decision to conduct the Iraq inquiry in private. There needs instead to be a presumption in favour of the inquiry proceeding in an open and public manner. There should be only very limited exceptions to this general rule, which would be best decided by the members of the inquiry itself, not by the Government.

4 Establishing the inquiry: the role of Parliament

17. Given that a key purpose of the inquiry is to restore the public's faith in governing processes, we were dismayed at the manner in which the inquiry was established. The legitimacy and credibility of the inquiry would have been better served had a process of prior consultation been undertaken about the inquiry's purpose, form and operation. Our Chairman pointed this out to the Prime Minister in a letter sent before the announcement of the inquiry:

...if the inquiry is to be seen as legitimate, it cannot be a top-down process, with the Government simply telling Parliament and the public what is to happen. There needs to be a process of engagement on the inquiry's purpose, terms of reference, membership and procedures. The risk otherwise is that it will be dismissed as "another cover-up".⁷

18. **In setting up the Iraq inquiry, the Government has—in our view wrongly—adopted the top-down process that we warned against. One way of putting this right, at least in part, would be to give Parliament a formal role in establishing the inquiry.** This used to be the case when inquiries into important matters of public concern were created under the provisions of the *Tribunals of Inquiry (Evidence) Act 1921*.⁸ It is also the case that the Franks inquiry—which the Prime Minister has said the Iraq inquiry is modelled on—was formally approved by the House of Commons on 8 July 1982 following a debate on a substantive motion (two days after the Franks inquiry was announced).⁹ **It is not too late now for the Government to allow, at minimum, a debate and free vote in the House of Commons on its proposal for an inquiry. It is wrong in principle that the executive alone should determine the terms of this inquiry, when the conduct of the executive is a central part of what the inquiry will have to consider.**

7 See the annex to this report.

8 This requirement is no longer in force as the *Inquiries Act 2005*, which superseded the 1921 Act, removed the need for formal parliamentary approval before a statutory inquiry could be established.

9 HC Deb, 8 July 1982, col 469–508

5 Membership of the inquiry

19. The announcement of the inquiry's membership without wide consultation also gives us cause for concern. We do not intend to cast aspersions on the calibre of the inquiry's chair and members. We are confident they will perform their investigatory duties with the utmost integrity and diligence. It is, however, unfortunate that the manner in which the membership was decided potentially lays the Government open to the accusation that it has stacked the inquiry with establishment figures unlikely to raise serious criticisms about the Government's conduct on Iraq.

20. The other observation we would make on the membership of the inquiry concerns the lack of members with political experience. We understand the Government's argument that members should be independent and non-partisan in order for the inquiry to be credible. We agree that the majority of members of the inquiry should be independent of party politics; but the inclusion of a small number of politicians not themselves involved in the decisions under scrutiny would add a practical dimension to the inquiry's work from which it would benefit—as was the case with the Butler inquiry into the intelligence on weapons of mass destruction.¹⁰ They could also help to ensure a cross-party consensus on the implementation of the inquiry's recommendations. **Given the nature of the inquiry and the scope of the issues it is considering, we believe that the Iraq inquiry would benefit from the inclusion of members with political experience as a minority of its membership.**

¹⁰ *Review of Intelligence on Weapons of Mass Destruction*, Session 2003–04, HC 898, 14 July 2004. The inquiry was announced on 3 February 2004 and chaired by Lord Butler.

6 Conclusion

21. The Iraq inquiry is a unique opportunity to explore issues about which there has been significant public disquiet for some time. Only if the inquiry is conducted in a manner which is legitimate and credible—and is seen to be so—will the public be assured that it is not a whitewash. We welcome the fact that there is to be an inquiry. But it is the wrong kind of inquiry, decided and announced in the wrong kind of way. We urge the Government to reconsider the way in which the Iraq inquiry will be conducted, so that this key opportunity to restore public confidence is not missed.

Annex: Letter from the Chairman of the Committee to the Prime Minister

I was delighted to hear that an Iraq inquiry is likely to be announced in the near future. I understand you may have asked the Cabinet Secretary for his advice.

It was therefore timely that, last week, the Committee held a seminar under the Chatham House rule on how the inquiry that you have promised should be conducted. The seminar brought together key figures, including former inquiry chairs, Members of both Houses, former diplomats and others with relevant knowledge and expertise.

The Committee has carried out detailed work in the past on inquiries. We produced a report in 2005, *Government by Inquiry*, that considered the effectiveness of previous inquiries and made wide-ranging recommendations about the conduct of future inquiries. In 2008 the Committee produced a further report, *Parliamentary Commissions of Inquiry*, looking specifically at how Parliament could be involved in establishing inquiries in areas where the conduct of the executive was in question.

Several interesting points emerged from our seminar.

First, there was general agreement that, if the inquiry is to be seen as legitimate, it cannot be a top-down process, with the Government simply telling Parliament and the public what is to happen. There needs to be a process of engagement on the inquiry's purpose, terms of reference, membership and procedures. The risk otherwise is that it will be dismissed as "another cover-up".

It was also felt that it would be appropriate for the Government to seek formal parliamentary endorsement of the inquiry's terms of reference and membership, to avoid the perception that this is simply a case of the executive fixing an inquiry into its own conduct. This was always the case with inquiries under the *Tribunals of Inquiry (Evidence) Act 1921*. If you announced a Parliamentary Commission of Inquiry, using similar provisions to that Act through a parliamentary resolution, it would also reflect your wider commitment to the centrality of Parliament.

There was firm agreement that the more public the inquiry's proceedings could be, the better. It was also felt that the inquiry could be helped to report with relative speed if it was split into two parts: one on the decision to go to war; another on the post-conflict phase.

I expect that the Committee will make a short report to the House arising out of the seminar. But in the light of what may be a short timetable for an announcement, I wanted to bring the points above to your immediate attention.

I would of course be happy to discuss this with you if you would find it helpful.

15 June 2009

Formal Minutes

Thursday 18 June 2009

Members present:

Dr Tony Wright, in the Chair

Mr David Burrowes
Paul Flynn
David Heyes
Kelvin Hopkins

Julie Morgan
Mr Gordon Prentice
Mr Charles Walker

Draft Report (The Iraq Inquiry), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 21 read and agreed to.

Annex agreed to.

Resolved, That the Report be the Ninth Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

[Adjourned till Thursday 25 June at 9.45 am]

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2008-09

First Report	Lobbying: Access and Influence in Whitehall	HC 36
Second Report	Justice Delayed: The Ombudsman's Report on Equitable Life	HC 41
Third Report	Ethics and Standards: Further Report	HC 43 (<i>HC 332</i>)
Fourth Report	Work of the Committee in 2007-08	HC 42
Fifth Report	Response to White Paper: "An Elected Second Chamber"	HC 137
Sixth Report	Justice denied? The Government response to the Ombudsman's report on Equitable Life	HC 219 (<i>HC 569</i>)
Seventh Report	Further Report on Machinery of Government Changes	HC 540
Eight Report	Good Government	HC 97

Session 2007-08

First Report	Machinery of Government Changes: A follow-up Report	HC 160 (<i>HC 514</i>)
Second Report	Propriety and Peerages	HC 153 (<i>Cm 7374</i>)
Third Report	Parliament and public appointments: Pre-appointment hearings by select committees	HC 152 (<i>HC 515</i>)
Fourth Report	Work of the Committee in 2007	HC 236 (<i>HC 458</i>)
Fifth Report	When Citizens Complain	HC 409 (<i>HC 997</i>)
Sixth Report	User Involvement in Public Services	HC 410 (<i>HC 998</i>)
Seventh Report	Investigating the Conduct of Ministers	HC 381 (<i>HC 1056</i>)
Eighth Report	Machinery of Government Changes: Further Report	HC 514 (<i>HC 540, Session 2008-09</i>)
Ninth Report	Parliamentary Commissions of Inquiry	HC 473 (<i>HC 1060</i>)
Tenth Report	Constitutional Renewal: Draft Bill and White Paper	HC 499
Eleventh Report	Public Services and the Third Sector: Rhetoric and Reality	HC 112 (<i>HC 1209</i>)
Twelfth Report	From Citizen's Charter to Public Service Guarantees: Entitlement to Public Services	HC 411 (<i>HC 1147</i>)
Thirteenth Report	Selection of a new Chair of the House of Lords Appointments Commission	HC 985
Fourteenth Report	Mandarins Unpeeled: Memoirs and Commentary by Former Ministers and Civil Servants	HC 664 (<i>HC 428, Session 2008-09</i>)

Session 2006-07

First Report	The Work of the Committee in 2005-06	HC 258
Second Report	Governing the Future	HC 123 (<i>Cm 7154</i>)
Third Report	Politics and Administration: Ministers and Civil	HC 122 (<i>HC 1057,</i>

	Servants	<i>Session 2007–08)</i>
Fourth Report	Ethics and Standards: The Regulation of Conduct in Public Life	HC 121 (<i>HC 88, Session 2007–08)</i>
Fifth Report	Pensions Bill: Government Undertakings relating to the Financial Assistance Scheme	HC 523 (<i>HC 922)</i>
Sixth Report	The Business Appointment Rules	HC 651 (<i>HC 1087)</i>
Seventh Report	Machinery of Government Changes	HC 672 (<i>HC 90, Session 2007–08)</i>
Eighth Report	The Pensions Bill and the FAS: An Update, Including the Government Response to the Fifth Report of Session 2006–07	HC 922 (<i>HC 1048)</i>
Ninth Report	Skills for Government	HC 93 (<i>HC 89)</i>
First Special Report	The Governance of Britain	HC 901
Session 2005–06		
First Report	A Debt of Honour	HC 735 (<i>Cm 1020)</i>
Second Report	Tax Credits: putting things right	HC 577 (<i>HC 1076)</i>
Third Report	Legislative and Regulatory Reform Bill	HC 1033 (<i>HC 1205)</i>
Fourth Report	Propriety and Honours: Interim Findings	HC 1119 (<i>Cm 7374)</i>
Fifth Report	Whitehall Confidential? The Publication of Political Memoirs	HC 689 (<i>HC 91, Session 2007–08)</i>