

E. Relationship with Other Legal Proceedings

- (2) But an inquiry panel is not to be inhibited in the discharge of its functions by any likelihood of liability being inferred from facts that it determines or recommendations that it makes.

The Explanatory Notes to section 2 of the 2005 Act explain the purpose of these provisions as follows:¹⁷⁴ **2.144**

8. The purpose of this section is to make clear that inquiries under this Act have no power to determine civil or criminal liability and must not purport to do so. There is often a strong feeling, particularly following high profile, controversial events, that an inquiry should determine who is to blame for what has occurred. However, inquiries are not courts and their findings cannot and do not have legal effect. The aim of inquiries is to help to restore public confidence in systems or services by investigating the facts and making recommendations to prevent recurrence, not to establish liability or to punish anyone.
9. However, as subsection (2) is designed to make clear, it is not intended that the inquiry should be hampered in its investigations by a fear that responsibility may be inferred from a determination of a fact.

Section 2(1) of the 2005 Act has only been considered once to date by the courts, in the context of a challenge to the terms of reference of the Billy Wright Inquiry.¹⁷⁵ **2.145**

(3) Sequencing

It is not uncommon for issues to arise as to whether a public inquiry should commence before or after other related proceedings (or, indeed, whether it should run concurrently with such proceedings). **2.146**

To the observer it may seem a waste of public funds for more than one set of proceedings to consider the same set of circumstances. Yet it is clear that each set of proceedings (criminal, civil regulatory/disciplinary, and inquiry) performs different functions and has a different purpose. The issue then becomes one of timing or sequencing—which set of proceedings should run first, or can proceedings run concurrently with each other? **2.147**

In general terms, it is normally appropriate for any technical, professional, internal disciplinary, other internal or criminal investigation to take place *before* an inquiry. This is because, first, the outcome of that investigation can assist in determining whether a public inquiry is needed and, if so, what its focus and parameters should be. Secondly, information gathered in the course of such an investigation or proceedings can be used to assist in informing any subsequent inquiry. **2.148**

¹⁷⁴ Explanatory Notes to Inquiries Act 2005, paras 8 and 9.

¹⁷⁵ See *Re an application by Steven Davis for leave to apply for judicial review*, judgment of Weatherup J of 6 August 2007, discussed at paras 2.114–2.116 above.