



# AGO

Attorney General's Office

## **Request for an Inquest into the Death of Dr David Kelly**

Schedule of responses to issues raised in the course of the consideration as to whether to make an application under s.13 of the Coroners Act 1988

9<sup>th</sup> June 2011

<p>1.</p>	<p>A failure to pursue available lines of inquiry at the Inquiry and the existence now of new evidence means that a full Inquest is now “necessary or desirable in the interests of justice”.</p>	<p>The investigation carried out by Thames Valley Police was thorough. The process conducted by the Inquiry was arguably more thorough than would have occurred at an inquest. Neither the Inquiry nor any Inquest is required to pursue every conceivable line of inquiry – only that which is relevant to its subject and is sufficient to allow it to reach an accurate conclusion.</p> <p>See the responses from Lord Hutton</p>
<p>2.</p>	<p>The non statutory Hutton Inquiry established by the Secretary of State for Constitutional Affairs and commended to the Coroner by the Lord Chancellor as an adequate means to satisfy the requirements of a Coronial Inquest under section 17A of the Coroners Act 1988 was not in fact an adequate inquiry.</p>	<p>The Inquiry conducted a thorough investigation into the circumstances surrounding Dr Kelly’s death. It was assisted by counsel to the Inquiry. All relevant parties were legally represented and had access to the same material and were afforded the same opportunities to challenge evidence as would have occurred at an Inquest. The only differences of any significance between the process of the Inquiry and that of an Inquest was that the Inquiry had no power to compel witnesses and evidence was not taken on oath. Lord Hutton was not in any way hampered by the lack of powers of compellability and heard from every witness he sought evidence from. The significance of evidence given on oath is very much reduced when the evidence is expert medical or scientific evidence or can be corroborated by documentary, photographic or other evidence.</p> <p>See also the responses from Lord Hutton</p>

3.	<p>The conclusions of the Hutton Inquiry which were accepted by the Coroner without a substantive hearing were not the result of a full, frank and fearless investigation. Had the Inquiry been so, much of the evidence now available could have been put before and taken into consideration by Lord Hutton.</p>	<p>This is a qualitative judgment not supported by the evidence. None of the evidence or material provided to the Attorney General appears to undermine the conclusions of the Inquiry. The Oxfordshire Coroner did hold a hearing to determine whether to resume the Inquest into Dr Kelly's death pursuant to section 17A of the Coroners Act. The Kelly family and the Government were legally represented at that hearing. At the hearing Mr Gompertz QC for the Kelly family argued that there were no exceptional reasons justifying the resumption of the Inquest. On behalf of the Government, the Treasury Solicitor made no submissions.</p> <p>See the responses from Lord Hutton</p>
4.	<p>The Coroner refused to resume the Inquest and rejected relevant evidence following the findings of the Hutton Inquiry despite representations made and evidence submitted to him as to the exceptional reasons why an Inquest should in fact be held.</p>	<p>The Coroner gave full and careful consideration to whether there were exceptional reasons allowing him to resume the Inquest and explained his decision when giving judgment. It was open to anyone aggrieved with this decision and who had sufficient <i>locus</i> to seek to judicially review the Coroner.</p> <p>See transcript of Coroner's judgment.</p>
5.	<p>As Secretary of State, Lord Falconer set up a public Inquiry into the circumstances of Dr Kelly's death. Then acting as Lord Chancellor, he exercised his powers under section 17A to take the investigation from the Coroner to the Inquiry. At the conclusion of the Inquiry he declared himself satisfied with the results thus</p>	<p>It was open to the Secretary of State to open a Public Inquiry into this matter. He was answerable to the Prime Minister, Parliament and, potentially, the courts for so doing. As section 17A of the Coroners Act 1988 allows the Lord Chancellor to suspend an Inquest and transfer the investigation to an Inquiry, it cannot amount to an irregularity of proceedings for the purposes of an application under section 13.</p>

	<p>requiring the Coroner to find “exceptional reason” to reopen the Inquest. This exercise by one individual of the powers of two positions within the governmental executive represents a fundamental irregularity in the proceedings by which Dr Kelly’s death was investigated.</p>	<p>See letter from the Ministry of Justice (‘MoJ’) of 24.02.11</p>
6.	<p>It was improper to use section 17A in the circumstances of this case. It was intended that the power should be used in cases of particular public importance to provide an investigation into a death or deaths that goes beyond the Coronial remit. In the past it had been used in the Ladbroke Grove and Shipman Inquiries – which were 1921 Act Inquiries.</p>	<p>Section 17A does not limit the use of this power in the way described. As such it cannot be argued that its use was in anyway improper.</p> <p>See letter from MoJ dated 24.02.11 See responses from Lord Hutton</p>
7.	<p>Lord Falconer chose to set up an <i>ad hoc</i> Inquiry rather than a 1921 Act Inquiry with the result that Lord Hutton had no powers to compel witnesses to give evidence or that such evidence should be on oath. Further, the terms of reference given to Hutton were to investigate the circumstances surrounding the death of David Kelly. They did not include a requirement to find cause of death.</p>	<p>It was a matter for Lord Falconer to decide the format of the Inquiry. The approach he adopted mirrored that used in a significant number of other public inquiries. Lord Hutton was satisfied that the lack of powers of compellability did not hinder the Inquiry as those witnesses he wished to give evidence all complied with his request. Nor did Lord Hutton consider that the quality of his investigation was in any way reduced by the fact that evidence was not given on oath. Much of the crucial evidence given to the Inquiry was expert medical or scientific evidence or was corroborated in some way.</p> <p>Section 17A specifically allows an Inquiry to take the place of an Inquest and Rule 36 of the Coroners Rules 1984 does not apply to an Inquiry. It is not accepted that simply because the wording of the Inquiry Terms of Reference did not include a requirement to find the</p>

		<p>cause of death, that in any way invalidates the findings of the Inquiry or justifies an application now being made for an Inquest. Lord Hutton did make detailed findings as to how Dr Kelly came by his death in any event.</p> <p>See responses of Lord Hutton</p>
8.	<p>Section 17A requires a judge-led Inquiry. Lord Hutton, whilst a serving judge at the time of appointment, retired before publishing his report.</p>	<p>Lord Hutton was a serving judge at all relevant times. Moreover, Lord Hutton was a distinguished judge of great experience.</p> <p>See letter from MoJ dated 24.02.11</p>
9.	<p>As the Hutton Inquiry was hastily called and conducted, there were no equivalent preparatory proceedings that would have happened had the Inquest continued. These hearings would normally consider the involvement of properly interested persons, defining the scope, depth and breadth of the Inquest and the need for a jury. This led to the exclusion of potentially properly interested persons from the coronial process.</p>	<p>Whilst the Inquiry was set up promptly after the death of Dr Kelly, Lord Hutton and his team of lawyers thereafter carried out a thorough exercise of planning how the Inquiry should run and the evidence that was to be called.</p> <p>See the responses of Lord Hutton.</p> <p>The Oxfordshire Coroner has commented to the Attorney General that there is no statutory provision for pre-Inquest proceedings and that whilst such hearings have in recent years become more common, in the Coroner's view they were relatively rare in 2004. As they have no statutory base, they can take many forms. The Coroner is of the view that the hearing on 16<sup>th</sup> March 2004 could be so described.</p> <p>No "properly interested persons" (as defined by the Coroners Rules) were in fact excluded either from the Inquiry or from the proceedings</p>

		<p>before the Coroner so the issue if of no relevance. Prior to the hearing at which the Coroner considered whether the Inquest should be resumed, prior notice was published seeking applications from anyone who considered themselves properly interested in the proceedings. That request was repeated by the Coroner at the public hearing. No-one applied. Anyone who had applied and whose application was unsuccessful would have been able to challenge that decision by way of judicial review.</p> <p>See the transcript of the proceedings of 16.03.04 before the Oxfordshire Coroner.</p>
10.	<p>Had the Inquest been continued, witnesses would have been examined under oath. The proceedings before Hutton were not subject to the usual rules of evidence that would have applied in an Inquest.</p>	<p>This criticism is without foundation. It ignores the test the Oxfordshire Coroner was required to apply: – namely were there exceptional reasons to resume the Inquest? No interested party claimed there were such reasons and the Coroner gave careful consideration to whether there were in fact such reasons. His decision was not challenged.</p> <p>See transcript of proceedings of 16.03.04</p> <p>It is not accepted that because witnesses at the Inquiry were not required to give evidence under oath that it made any difference of any kind to the evidence received or the weight that could properly be attached to it. Other than repetition of a general view that evidence given under oath is more desirable, no example has been provided of when it may have made a difference in this case. Nor has any example been given of any significant difference created by the fact</p>

		<p>that the Coroners Rules did not apply to the Inquiry. Both an Inquest and an Inquiry are inquisitorial in nature, rather than adversarial. There are no parties as such. Lord Hutton was an extremely experienced judge with many years experience of dealing with evidence and he and his legal team ensured the evidence was both fully considered in terms of scope and properly tested. Moreover, the interested parties at the Inquiry were all represented by highly experienced counsel</p> <p>See the responses of Lord Hutton.</p>
<p>11.</p>	<p>The lack of powers of compellability meant that Hutton was unable to compel witnesses such as the Kelly dentist and Supt Young of Thames Valley Police ('TVP') who could give evidence as to the extent and nature of the police investigation.</p>	<p>No witness requested by Lord Hutton to give evidence refused to do so and the issue of powers of compellability is entirely irrelevant. Lord Hutton was fully aware of the evidence that could be given by Dr Kelly's dentist but did not consider it took the matter any further. Neither an Inquest nor an Inquiry is required to call every witness who has given a statement to the police. It is not accepted that the evidence that could potentially be given by Dr Kelly's dentist or Supt Young would have assisted Lord Hutton. Any of the interested parties at the Inquiry could have requested these witnesses to be called (in exactly the same way as they could have done at an Inquest) but no such applications were in fact made.</p> <p>See also the responses from Lord Hutton.</p>

<p>12.</p>	<p>The lack of applicability of the rules of evidence that would have applied at an Inquest meant that the evidence provided by witnesses was not tested through cross examination by representatives of other properly interested persons to the proceedings. Evidence was accepted at face value with minor clarification only.</p>	<p>The lack or otherwise of rules of evidence is of no consequence if one looks at the quality of the investigation. The criticism also appears to ignore the fact that the process, both at an Inquest and at an Inquiry is inquisitorial rather than adversarial. It also ignores the fact that all properly interested parties were present, were represented by legal teams of great experience and seniority, had access to the same material they would have had had there been an Inquest, and were given the same opportunity to ask questions of witnesses. The value of any argument that they did not ask the questions that correspondents have subsequently argued should have been raised, is entirely dependent on the merits of the correspondents' views.</p> <p>See also the responses of Lord Hutton.</p>
<p>13.</p>	<p>If the Lord Chancellor makes an order under section 17A the Coroner must adjourn the Inquest unless there are "exceptional circumstances". After adjourning, he nevertheless met with the Department for Constitutional Affairs ('DCA') official in order to request that he be allowed to take further evidence from Dr Hunt as to the cause of death. This was a clear attempt to resume his investigation. And an irregularity in proceedings.</p>	<p>The Oxfordshire Coroner opened the Inquest on 21<sup>st</sup> July 2003 and heard evidence of Dr Hunt's preliminary views on the cause of death. These views were based on Dr Hunt's post mortem examination. Dr Hunt's views were that cause of death was likely to be haemorrhage as a result of incised wounds to the left wrist. The toxicology and histology tests were carried out quickly and within a few days Dr Hunt was able to inform the Coroner that as a result he needed to expand on the cause of death by indicating that co-proxamol and heart disease would be given as contributory causes.</p> <p>In the meantime the Oxfordshire Coroner had been contacted by the Department of Constitutional Affairs (DCA) and told that the Lord Chancellor would be making a request that the Inquest be adjourned</p>



		<p>under section 17A(1). The Coroner contacted the DCA and explained that if the Inquest was to be adjourned immediately he would have to register the death with an incomplete cause of death, thereby making a statement he knew to be false. The Lord Chancellor accepted the point made by the Coroner and in a letter to the Coroner from the Private Secretary to the Lord Chancellor dated 12<sup>th</sup> August 2003 it was written "The Lord Chancellor accepts that, before formally adjourning the Inquest under section 17A(1), you may need to take evidence from the pathologist and the analyst on the cause of Dr Kelly's death." The Coroner subsequently took further evidence, registered the death as due to the causes now on record and then adjourned in compliance with the request made under section 17A(1). There was no irregularity.</p> <p>See transcript of proceedings of 16.03.04</p>
14.	<p>The Hutton Inquiry was described by Lord Falconer as adequate to satisfy the requirements of a Coronial investigation. And yet the requirement of Rule 36 of the Coroners Rules was not met in that the place of Dr Kelly's death is not stated, the time of death only recorded in broad terms, and the cause of death subject to grave doubts.</p>	<p>Rule 36 does not apply to an Inquiry. Its purpose is to limit the scope of any Inquest into determining, if possible, the matters set out in the Rule. Section 17A specifically allows the Lord Chancellor to transfer proceedings to an Inquiry. It is not accepted that there is any doubt over where Dr Kelly died or the cause of death. It is not possible to determine precisely time of death.</p> <p>See report of Dr Shepherd.</p>

15.	Lord Hutton never understood that once the Lord Chancellor had made the order under section 17A, Lord Hutton's primary duty was to perform the duties normally carried out by the Coroner.	Section 17A places no duty on Lord Hutton. Lord Hutton's duty was to carry out an Inquiry that fulfilled the Terms of Reference given to him.
16.	Parliament intended that when Section 17A was exercised, the Inquiry should be conducted by a judge having powers to compel with evidence given on oath.	Parliament's intention is reflected in the wording of its statutes. Section 17A is not limited in the way described.
17.	Upon a review of the evidence now available, there was insufficient evidence available to the Hutton Inquiry at the time to reach the conclusion that Dr Kelly had deliberately killed himself and that the primary cause of death was as recorded on the death certificate.	The circumstances of Dr Kelly's death were the subject of careful investigation by both the TVP and the Hutton Inquiry. All the evidence pointed conclusively to Dr Kelly having taken his own life. That evidence has been further strengthened by the independent reports of Dr Shepherd and Professor Flanagan.
18.	It was assumed that, as Mrs Kelly had been prescribed co- proxamol, the empty blister packs of these tablets found in Dr Kelly's jacket pocket must have belonged to her. However, this was never established adequately at the Inquiry. It was not established whether Mrs Kelly would normally have had such a number of tablets, whether she had recently obtained a repeat prescription, or when and from where the tablets had been dispensed.	<p>There were no assumptions made. The police investigated the matter as far as it was possible to do so.</p> <p>Thames Valley Police report:</p> <p>"Following the discovery of Dr Kelly's body a search was made of his house. Mrs Janice Kelly was present and was asked to show officers any medicines in the house. Mrs Kelly showed the officers a drawer in her bedroom where there were 4 x 10 packs of co-proxamol in foil blister packs. These were not contained within a box. She also directed the officers to a kitchen drawer where a full box of 10 x 10 packs of co-proxamol were kept.</p>

		<p>The full pack was issued to Mrs Kelly on the 20th May 2003 by the White Horse Medical Practice in Faringdon.</p> <p>Mrs Kelly stated that her husband would never take any sort of tablet, not even for a headache but that he was aware that she was prescribed co-proxamol as a painkiller. He also knew that she kept her supplies of these tablets in her bedside cabinet and in a kitchen drawer.</p> <p>The markings on the packets recovered from Dr Kelly's body and those prescribed to his wife were compared and found to be identical.</p> <p>The manufacturers of the tablets were approached to ascertain if it was possible to trace the history of the recovered packets. The Technical Manager told officers that each batch release would contain approximately 1.6 million packets which were distributed to numerous companies and could end up in chemists anywhere in Britain."</p>
19.	<p>The evidence given by Dr Allan as to the ingestion and levels of paracetamol and dextropropoxyphene in Dr Kelly's blood was not subjected to scrutiny. The timing of the tests he carried out is unknown, as is the time of death. Both are essential in reaching conclusions about blood drug levels.</p>	<p>The findings of Dr Allan are strongly supported by the independent review carried out by Professor Flanagan.</p> <p>See report by Professor Flanagan</p>

20.	<p>In September 2004 the British Medical Journal ('BMJ') published an article pointing out that the level of paracetamol and dextropropoxyphene in the blood is not an accurate indicator of the amount ingested.</p>	<p>The relevance of this article to the case is unclear. The measure of the drugs in the samples tested is clearly the key indicator in determining the potential effect on the body. Professor Flanagan found that the levels of the drugs taken from blood and vitreous humour were consistent with the ingestion of up to 29 co-proxamol tablets.</p> <p>See report of Professor Flanagan.</p>
21.	<p>Although Dr Allan found the quantity of paracetamol and dextropropoxyphene in the blood to be three times the therapeutic dose, it was at least three times less than would normally be found in a fatal dose. Although 29 pills were said to be missing, the residue of only a fragment of a pill was found in the stomach. Were tests done on the vomit?</p>	<p>Professor Flanagan states:</p> <p>"Dextropropoxyphene is a very toxic drug in overdose. Co-proxamol was implicated in 300 – 400 deaths from overdose each year in England and Wales and in almost a fifth of drug related suicides in the years immediately prior to the withdrawal of its product licence at the end of 2007. The United Kingdom National Poisons Information Service Toxbase documents that the fatal doses of co-proxamol may be as little as 10 – 20 tablets in an adult."</p> <p>Professor Flanagan further states: "generally blood dextropropoxyphene concentrations above 1 microgram per millilitre are indicative of serious toxicity, but there are many reports of deaths involving dextropropoxyphene alone in which the post mortem blood dextropropoxyphene concentrations were less than 1 microgram per millilitre."</p> <p>Neither Dr Shepherd nor Professor Flanagan consider that testing the vomit would have assisted in any material way.</p> <p>See further the reports of Dr Shepherd and Professor Flanagan.</p>

22.	There is no evidence Dr Allan tested for more exotic drugs such as ricin or saxitoxin or for poisons that may be delivered transdermally.	There may always be drugs that have not been tested for. Professor Flanagan confirms that Dr Allan tested for a wide range of compounds. The evidence, toxicological and other, is entirely consistent with the cause of death as found.
23.	There was no independent verification of blood test results.	It would be unusual for blood tests to be independently verified without apparent reason. There has now been such a review carried out by Professor Flanagan.
24.	Why was Dr Allan's testing of blood confined to one site sampling – NCH/43 Heart blood? The site of sampling may be critical in producing elevated levels.	<p>Professor Flanagan reports that it is of no significance that tests were done on only one blood sample. Tests done on the sample of vitreous humour were consistent with the drug levels found in the blood. Further, the levels of paracetamol and dextropropoxyphene found in the stomach contents tested were consistent with the ingestion of a life threatening overdose of co-proxamol.</p> <p>See report of Professor Flanagan.</p>
25.	Lord Hutton reported that Dr Allan had found paracetamol and dextropropoxyphene in blood and stomach contents but in giving evidence, Dr Allan only states that the stomach contents were only tested for paracetamol. The failure to test for dextropropoxyphene in the stomach means it cannot be stated that Dr Kelly ingested any co-proxamol.	Dr Allan did test the stomach contents for dextropropoxyphene as was clear from the statements he had provided and which were before the Inquiry. It has also been confirmed by Professor Flanagan who has independently reviewed the test results.

26.	Dr Allan's report suggests that only one of five blood samples taken was tested. Why?	See above. Professor Flanagan does not consider this to be of any significance.
27.	Given the amount of water left in the bottle by the body, he would not have been able to swallow 29 pills.	<p>Dr Shepherd expresses the view that in his opinion it is "entirely possible to ingest 29 or more objects (including tablets) and particularly those that are designed to be swallowed, using only 300 mls of water."</p> <p>See Dr Shepherd's report.</p>
28.	Dr Kelly would have become progressively more thirsty as he lost blood and yet there was water left in his bottle.	<p>Why Dr Kelly did not drink all the water in the bottle is not known, could not be determined then or now and is indicative of nothing more than the fact that the bottle found next to his body contained some water. Dr Shepherd comments that he was unable to find any medical references that indicate that an individual suffering from acute blood loss will also suffer from acute thirst.</p> <p>Small quantities of dextropropoxyphene found in a sample of the water is consistent with contamination of the contents of the water bottle with saliva from someone who had ingested dextropropoxyphene recently.</p> <p>See report of Professor Flanagan</p>

29.	The measured blood concentration of dextropropoxyphene of 1 mcg/ml corresponds to about 60 mg in the body. Two tablets of co-proxamol contain 65 mg dextropropoxyphene. Thus the amount in his blood represents less than two pills and could not be an overdose and could not have contributed to death.	The amounts found in the blood of Dr Kelly were consistent with the ingestion of up to 29 co-proxamol tablets.  See report of Professor Flanagan.
30.	The ratio of dextropropoxyphene to paracetamol in the blood is inconsistent with ingestion of co-proxamol as is the lack of dextropropoxyphene in the stomach.	See report of Professor Flanagan
31.	Given Dr Kelly's employment, Dr Allan should have checked to analyse the blood for those materials he came in contact with during the course of his inspection duties – notably super toxic biological and chemical weapons.	Such speculative tests would only be of relevance if the totality of the medical, forensic and psychiatric evidence was not entirely supportive of the cause of death as found. Dr Allan did test for a very wide range of compounds.  See report of Professor Flanagan.
32.	The vomit found at the scene was not tested for co-proxamol nor were two relevant mortuary samples NCH/33 and NCH/34.	Neither Professor Flanagan nor Dr Shepherd see any significance in this and the fact that these additional tests were not carried out does not undermine the thoroughness of the forensic examination.  See reports of Dr Shepherd and Professor Flanagan.

33.	<p>The levels of paracetamol and dextropropoxyphene were given but no consideration was given to post mortem changes in drug levels. Further, as Dr Kelly lost blood it is difficult to back calculate the number of tablets that may have been consumed without knowing how much blood was lost.</p>	<p>The relevance of post mortem effects is considered by Professor Flanagan. The number of pills ingested is only of relevance to cause of death if there were evidence to suggest that the drug was introduced into his body in some other way. There is no such evidence. All the evidence there is points to the conclusion that Dr Kelly ingested a large number of co-proxamol pills that had belonged to his wife. The levels of the drug found in various samples taken from his body was of a level of toxicity consistent with the cause of death as found.</p>
34.	<p>Dr Allan refers to a “significant amounts of dextropropoxyphene” found in the urine. This as a measurement is pointless and should have been queried by Hutton.</p>	<p>Dr Allan tested for paracetamol and dextropropoxyphene in samples of blood, vitreous humour and stomach contents – measurements for each were consistent with the ingestion of a sufficient number of co-proxamol pills to constitute a toxic dose.</p> <p>See report of Professor Flanagan</p>
35.	<p>Lord Hutton did not properly investigate the possibility that Dr Kelly did not intend to kill himself. He had made plans to meet with his daughter and had not put his affairs in order. There was insufficient evidence of an intent to die to support a conclusion of suicide.</p>	<p>The ingestion of a large number of pills by a man who never took pills, coupled with the severity of the wounds inflicted and the choice of a secluded place in which to carry out these actions are all strongly indicative of an intent to die. Dr Kelly’s wife gave evidence that prior to his leaving for a walk he was in a deeply distressed state. She said she thought that he had a broken heart, he looked desperate, distracted and dejected, and he could not put two sentences together, he could not talk at all. These issues were all considered by Professor Hawton and Professor Gudjonsson. At the time Professor Hawton was a Consultant Psychiatrist in the Oxfordshire Mental Health Care</p>



		<p>Trust, a Professor of Psychiatry at the University of Oxford and Director of the Centre for Suicide Research at Oxford University Department of Psychiatry. He had been involved in research on suicide and attempted suicide since 1973 with expertise in the nature, causes, treatment and prevention of suicidal behaviour and had received three international awards in recognition of his research contributions in that field. Professor Gisli Gudjonsson was at the time a Professor in Forensic Psychology.</p> <p>Both experts interviewed close family members, visited the scene and were given access to documents held by the police investigation team. Both reached the view that Dr Kelly had committed suicide.</p> <p>It is not unusual for individuals to take their own lives whilst having agreed to future meetings.</p> <p>See also the responses from Lord Hutton.</p>
36.	<p>Expert psychiatrists, Pritchard and Timms queried the finding. Pritchard argued that there was no evidence of intent before Hutton. Hutton had failed to ask Hawton whether in his expert opinion he thought Dr Kelly had killed himself. As a result, the conclusion was based on Lord Hutton's interpretation of psychiatric evidence. Timms argues that suicide by cutting the wrists was very uncommon.</p>	<p>See above.</p> <p>Professor Hawton was questioned at length at the Inquiry and had already provided a detailed statement. It is absurd to suggest that Professor Hawton was not aware that he had been called as an expert in this field and that in being questioned it was his views as an expert that were being sought. In reply to a question from Lord Hutton, Professor Hawton replied "I think that taking all the evidence together, it is well nigh certain that he committed suicide".</p> <p>See also the responses from Lord Hutton.</p>

37.	<p>Lord Hutton visited Mrs Kelly at home. It is to be assumed that he took evidence from her and yet none has ever been revealed. As she may well have had important evidence as to her husband's state of mind it was vital he made this public in a public Inquiry.</p>	<p>Lord Hutton, together with James Dingemans QC (leading counsel to the Inquiry) visited Mrs Kelly and her daughters a few days after he was appointed to conduct the Inquiry. His visit was to express his sympathy and to assure her that he would conduct a full and thorough Inquiry. He took no evidence from her. The only evidence from Mrs Kelly was that given by her by radio link to the Inquiry.</p> <p>See responses of Lord Hutton.</p>
38.	<p>The Inquiry spent comparatively little time considering medical evidence. Of the 24 full days of hearings, only half a day was taken up with medical evidence leading to the conclusion that the scrutiny it was subjected to was unacceptably limp.</p>	<p>The thoroughness of any investigation is not determined by the length of time it takes to carry out. The medical and forensic evidence relating to cause of death was straightforward in comparison with other evidence relating to the complex chain of events leading up to Dr Kelly's death.</p> <p>See responses of Lord Hutton.</p>
39.	<p>Vital witnesses who would have been in a position to provide valuable evidence were not called by Hutton.</p>	<p>No witnesses have been identified who could conceivably be considered vital or who had evidence to give that could be considered forensically valuable who were not, in fact, called.</p>
40.	<p>Hutton did not investigate what clothing Dr Kelly was found in. The Inquiry heard that Dr Kelly was found wearing a Barbour type jacket. In conflict with this, contemporaneous reports in newspapers claimed he was found in cotton shirt and jeans</p>	<p>The following clothes were recovered from the body of Dr Kelly;</p> <ul style="list-style-type: none"> <li>A green 'Barbour' waxed jacket;</li> <li>A blue, grey and white-striped shirt;</li> <li>A pair of blue denim jeans;</li> </ul>

		<p>A brown leather belt with a white metal buckle which was done up at the waist. On the brown leather belt, over the right hip area, was a 'Virgin Atlantic', Velcro closed pouch;</p> <p>A pair of beige socks;</p> <p>Underpants; and,</p> <p>A pair of walking-type boots, brown leather, with the laces done up in double bows.</p> <p>Ruth Absalom gave oral evidence at the Hutton Inquiry and said the following of the clothing;</p> <p>Q. How was he dressed?</p> <p>A. Normally. I did not take that much notice.</p> <p>Q. Do you remember whether he was wearing a jacket or ...?</p> <p>A. Well, he had obviously got a jacket on but whether it was a suit or an odd jacket and odd trousers I have no idea. We just stopped, said hello, had a chat about nothing in particular.</p> <p>In her police statement she said, "He was wearing a light coloured shirt and what appeared to be a tweed jacket that was open at the front. I cannot remember what else he was wearing...."</p> <p>It is apparent that the meeting of Dr Kelly and Mrs Absalom was of little significance to Mrs Absalom at the time and her description of the clothing is vague. However, she does mention a jacket in both accounts which does not confirm the press reports that Dr Kelly was wearing only a cotton shirt and jeans.</p>
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41.	<p>It was reported that a Mr Paul Weaving may have been the last person to see Dr Kelly alive. Despite this he was not called to give evidence.</p>	<p>This appears to be based on a story in The Guardian published the day after the body was discovered, "Paul Weaver (sic), a farmer, may have been the last person to see him....Dr Kelly seemed happy enough and smiled at the farmer." The article does not source this quote but gives the impression it is Mr Weaving himself.</p> <p>Mr Weaving was interviewed by police on the 20th July 2003. He had known Dr Kelly for 20 years and did not see him that day. He had been supervising grass cutting on Harrowdown Hill and describes one man he saw who was walking a dog. Police Statement - "I left the Longworth area at around 7pm and returned home. Apart from the man walking his dog as previously described, I saw nobody else whilst there."</p>
42.	<p>Hutton failed to call DC Shields – one of two detectives who attended Dr Kelly's body.</p>	<p>DC Shields did not attend Dr Kelly's body and had no relevant information to assist the Inquiry.</p>
43.	<p>Hutton failed to call Dr Eileen Hickey the forensic biologist who was at the scene for most of the day.</p>	<p>Dr Eileen Hickey attended the scene to assist Roy Green. He was the senior reporting scientist and her role was subservient to that. Her police statement states: "I assisted Roy Green in his examination of the scene and I acted under his direction. This entailed note-taking, photography and testing various areas at the scene for blood." Roy Green was the obvious choice of expert to give oral evidence and the appearance of his assistant would have added nothing to that evidence.</p> <p>See also the responses from Lord Hutton.</p>

<p>44.</p>	<p>Hutton failed to call Mai Pedersen who offered to give evidence. She was conversant with Dr Kelly's conversion to Baha'i and on the strength of Dr Kelly's right hand.</p>	<p>Thames Valley officers travelled to the United States and interviewed Mai Pederson. She declined to make a statement. Ms. Pederson provided an account of her association with Dr Kelly and included details such as his avoidance of taking pills and the fact he had previously broken his arm. She also detailed their shared Baha'i faith and her views on the unlikelihood of him committing suicide. The last time she saw him in Washington DC he had appeared "very ashen, drawn pallor that concerned me." However, she put this down to tiredness rather than stress.</p> <p>Discussions were held between senior police officers and the Hutton Inquiry team to consider the relevance of her evidence. There was nothing offered by Ms Pederson that could not be adduced from family members. Whilst she had declined to make a written statement her account was nevertheless known to the Inquiry.</p> <p>See responses from Lord Hutton.</p>
<p>45.</p>	<p>Robert Jackson, former MP has evidence regarding Dr Malcolm Warner. Warner told Jackson that he was asked to view Kelly's corpse on the day it was found. Dr Warner did not mention this when he gave evidence to the Inquiry.</p>	<p>Dr Malcolm Warner was Dr Kelly's GP. He was visited by officers from the investigation team to view his medical records. He provided a statement in which he outlined that he had been Dr Kelly's GP for some 25 years but had not seen him since 1999.</p> <p>Dr Warner was not called to the scene and there is no record that he ever saw Dr Kelly's body. The body of Dr Kelly was identified by the family.</p>

<p>46.</p>	<p>Local friends and neighbours of Dr Kelly may have had knowledge of his thoughts and views on the day of his death. This was not investigated.</p>	<p>In the days following the discovery of Dr Kelly's body a house-to-house operation was conducted in Southmoor, Longworth and the routes between the two villages. This included any "premise which overlooked the possible routes taken." In total 167 premises were identified and visited. This was a large operation and took some weeks to complete.</p> <p>A checkpoint was established on the public footpaths that cross Harrowdown Hill woods in an effort to identify potential witnesses to the movements of the deceased.</p> <p>In addition a policy was set by the Senior Investigating Officer to identify everyone who may have had recent contact with Dr Kelly in order to establish if they had any relevant information. Where practical statements were obtained from everyone having direct, phone or e-mail contact with the deceased after the 1st May 2003.</p> <p>This was a lengthy and in depth investigation conducted largely in the glare of enormous press interest. Every effort was made to identify and interview anyone who may have had knowledge of his thoughts and views on the day of his death.</p>
<p>47.</p>	<p>Nigel Cox received an answerphone message from Dr Kelly in relation to plans on 23 July 2003. Despite reporting this to TVP, no-one retrieved the voicemail or followed this up.</p>	<p>Dr Kelly was a member of the Hinds Head crib team. He last played for them on the 9th July 2003. Every other member of that team was interviewed by officers from the investigation team. Nigel Cox was amongst these.</p>

		<p>Thames Valley Police did listen to the answer machine message and included the details of the message in the subsequent statement provided by Mr Cox.</p> <p>However, the investigation team, were already aware of matters which occurred sometime after the above phone call which were more proximate to the time of Dr Kelly's death, such as arrangements to see his daughter. This call was therefore considered to be of little relevance. These were also matters considered by Professor Hawton.</p>
48.	Hutton failed to call any expert in a clinical discipline relating to the cause of death – such as a vascular surgeon. This would have been done at an Inquest.	A vascular surgeon is not an expert in the causes of death – that is the work of a forensic pathologist. There is nothing to suggest that a Coroner would have sought further medical evidence as to cause of death over and above that given by Dr Hunt.
49.	A video recording exists of the Foreign Affairs Committee and the Security and Intelligence Committee taking evidence from Dr Kelly. He appears in this video to be in good spirits. These should have been considered by the Inquiry and would rightly have been done so by an Inquest. The Attorney General should watch the video.	The observation of television footage of Dr Kelly answering questions by an individual with no expertise in psychiatry or of the detection of suicidal intent is of no worth in comparison with the expert evidence given by Professor Hawton and Professor Gudjonsson.
50.	The Inquiry heard evidence from Rachel Kelly that her father had been detained and his mobile confiscated in Iraq on 19 May 2003 when he attempted to enter. It was discovered he had an incorrect visa. She believed her	The relevance of this is not clear, nor is it clear how the Inquiry could be expected to explore the issue, if it existed, in any meaningful way. Professor Hawton spoke with the family before compiling his report and would have been told of any events considered significant.

	<p>father had been greatly upset and embarrassed by the events but the Inquiry failed to explore whether there was any significance in this and Dr Kelly's death a few months later.</p>	
51.	<p>It was recorded that Dr Kelly was found wearing a Barbour jacket. However readings from Radcliffe Meteorological Centre – about 7 miles from Southmoor, reported that July was warmer than average and would have been a minimum of 16C when he left for his walk. There was no rain. Why wear a Barbour jacket rather than simply a jersey.</p>	<p>The observation is speculative. The Inquiry into how Dr Kelly came by his death was thorough and exhaustive. Thames Valley Police conducted their investigation as a potential homicide investigation. All relevant matters were pursued and investigated. Dr Kelly was found wearing a Barbour jacket. It was open and he had only a shirt on beneath it.</p>
52.	<p>Mrs Kelly described him changing into jeans and (walking?) shoes but did not mention the jacket. The report in the Guardian stated that Dr Kelly had left home in just a cotton shirt and jeans.</p>	<p>See above. There is no source given for the report in The Guardian and is contrary to the evidence given by Ruth Absalom that Dr Kelly was wearing a jacket.</p>
53.	<p>Mrs Kelly mentions that Dr Kelly took a telephone call shortly before leaving. She assumed it was the MOD. This was not investigated.</p>	<p>The matter was investigated. Dr Kelly took a call from the MOD at 14.52.</p>



54.	Why was Susan Melling, a neighbour who had spoken to Paul Weaving, not called?	Mr and Mrs Melling were also interviewed by police officers in the days following the death of Dr Kelly. Mr Melling assisted in the search of Dr Kelly with Mr Weaving, however neither had any further information to assist the investigation.
55.	The three officers – DC Coe, PC Sawyer and PC Franklin all gave evidence to the Inquiry about finding the body which differed regarding the approach to the body and where DC Coe was.	It is inevitable that honest witnesses, recalling details to the best of their memory, will give accounts that may vary, sometimes widely. All courts recognise this. How important such variation is depends entirely on how relevant the evidence is to the issue in question. The accounts of the officers does not appear to differ in any significant way. Lord Hutton had considerable experience in presiding over complex and difficult criminal trials and was very well equipped to make findings of fact in these circumstances.
56.	Roy Green's final report was not before Lord Hutton.	Roy Green's statement of 27 <sup>th</sup> September 2003 was available to the Inquiry.
57.	Evidence before Lord Hutton but not released suggests Dr Kelly had suffered an earlier injury to his elbow. This might have affected his ability to cut himself. It was not referred to by Dr Warner when giving evidence. This was a serious failure by Dr Warner and Lord Hutton. It also calls into question the suicide verdict.	See report of Dr Shepherd.

58.	Dr Warner probably saw the body at Harrowdown Hill. If he had not identified the body how did Sarah Pape know at 10.30 that the body was that of Dr Kelly?	Thames Valley Police has confirmed that there is no record of Dr Warner having seen the body of Dr Kelly.  There is a difference between formal identification and recognising that the body found was that of Dr Kelly.
59.	No-one gave oral evidence to the Inquiry identifying the body as that of Dr Kelly.	There is no requirement that oral evidence of identity is taken. At an Inquest the Coroner may accept hearsay evidence in statement form if the requirements of Rule 37 of the Coroners Rules are satisfied inasmuch as the interested persons do not challenge the contents of the statement. There was ample evidence before the Inquiry to prove that the body found was that of Dr Kelly, including evidence given of DNA testing. No application was made for oral evidence to be given.
60.	On 17 <sup>th</sup> July Dr Kelly agreed flight details with the MOD for a journey to Iraq later in the month. This is inconsistent with a determination to take his own life.	The overwhelming evidence is that Dr Kelly took his own life.
61.	ACC Page gave evidence to the Inquiry about DNA testing – a subject in which he was not an expert.	ACC Page gave evidence based on the examinations carried out by Roy Green and others.
62.	Lord Hutton should have confirmed that all the blood at the scene belonged to Dr Kelly. He should have asked the scientists who carried out DNA testing to give evidence about where samples had been taken from and inquire into the degree of confidence he had with his findings.	A thorough examination of the scene was carried out by Dr Hunt, Roy Green and others – conducted as a potential homicide case. All appropriate tests were done. Roy Green confirms that DNA testing provided “extremely strong scientific support that blood tested from the deceased’s clothing and items at the scene originated from Dr David Kelly rather than from another unrelated person”.

63.	David Broucher gave evidence that Dr Kelly had once told him he might be found dead in the woods. Later, Rachel Kelly cast doubt on Mr Broucher's recollection on when that meeting took place. Lord Hutton found it happened in February 2002. Broucher later claimed he had met Kelly in 2002 and 2003. This should have been more rigorously examined.	The issue was sufficiently examined. In any event, the issue is of very little relevance as all the available evidence pointed conclusively to Dr Kelly having taken his own life.
64.	DC Shields, Dr Hickey and at least three scenes of crimes officers were not called to give evidence. Indicative of rejection of evidence.	Neither an Inquiry nor an Inquest require every witness that could give evidence to be called. The witnesses named would simply give evidence already given by others.
65.	Roy Green stated that some of his tests were still ongoing but he was never asked for the results. ACC Page purported to give evidence on the results of the tests but he is not an expert. The evidence was not challenged. This is indicative of irregularity of proceedings.	It is not suggested that the evidence given by ACC Page was wrong or that there was any basis to challenge the findings of Roy Green.

<p>66. Evidence not on oath; body moved; Only one of the 3 officers that went to the body was questioned; differing account from DC Coe and finders as to the number of officers present; the presence of the third man; whether the creation of the common approach path could have obliterated evidence of Dr Kelly being carried to the scene. These are all matters that Lord Hutton should have investigated and are examples, with others, of insufficiency of inquiry.</p>	<p>The scene was treated as a potential murder scene and the investigation proceeded accordingly.</p> <p>It has not been explained how evidence given on oath might have differed in any way from that given, most of the relevant information as to cause of death being medical or scientific and therefore capable of corroboration in other ways.</p> <p>As to the issue of the position of the body, Lord Hutton commented on the fact that in his wide experience – indeed the experience of any individual with even a slight acquaintance with court processes – witnesses may recall events differently.</p> <p>See responses from Lord Hutton.</p> <p>The Thames Valley Police have compiled a comparison of the evidence given in relation to the position of the body as found. In fact all the evidence, including the photographic evidence is consistent save for the testimony of the two individuals who first found the body. In respect of one of those individuals, his original statement to the police was consistent with the evidence of others that the body was found lying on the ground. Only in giving evidence to the Inquiry did that alter. It is not suggested that this was anything other than faulty recall.</p> <p>Further, all the available forensic evidence is consistent with Dr Kelly dying where the body was found and inconsistent with it having been moved.</p> <p>See Annex TVP3 for further detail.</p>
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67.	<p>Lord Hutton has said subsequent to the Inquiry that he believed that there was little serious dispute as to the background facts and that unnecessary time could be taken up by cross-examination on subjects which were not directly relevant. This indicates he had already made his mind up prior to hearing evidence.</p>	<p>It is a reasonable assumption to make that, given the circumstances surrounding the death of Dr Kelly, that he had taken his own life. That did not prevent the Police from investigating the matter as a potential homicide nor did it result in Lord Hutton not carrying out a thorough Inquiry.</p> <p>There <u>was</u> no serious dispute as to the background facts and few questions were asked by those present at the Inquiry as properly interested persons.</p>
68.	<p>The final death certificate in relation to Dr Kelly's death was registered on 18<sup>th</sup> August 2003 before the Inquiry started hearing evidence.</p>	<p>The death certificate reflects the findings of the Oxfordshire Coroner before he adjourned the Inquest. Nothing in the findings of the Inquiry would require the details recorded to be altered.</p>
69.	<p>The death certificate was irregular in that it does not identify place of death nor have any explanatory note from the Coroner. It states an Inquest was held on 14<sup>th</sup> August 2003, which is incorrect and it gives date of death as 18<sup>th</sup> July, although this was not established.</p>	<p>It is not accepted that these points are of any importance. The death certificate accurately records that on 18<sup>th</sup> July 2003 Dr Kelly was found dead on Harrowdown Hill. The Inquiry was not able to be more specific nor could any resumed Inquest, had that occurred. The certificate also records that the Inquest was adjourned.</p>
70.	<p>The death certificate gives neither time nor place of death. These are fundamental. If Dr Kelly did commit suicide he must have done so where he was found.</p>	<p>There are occasions when it is not possible to state either time or place of death. In Dr Kelly's case, the time of death cannot be ascertained with any great accuracy other than it occurred some time after he was last seen and some time before his body was found. It is accepted that the certificate could read that Dr Kelly died on</p>

		Harrowdown Hill but the fact that it simply states that he was “found on Harrowdown Hill” is neither evidence that he may have died elsewhere nor a matter that could lead to the ordering of an Inquest.
71.	The secret recommendation from Lord Hutton that certain documents such as the <i>post mortem</i> report should not be made public for 70 years was irregular and would not have been open to the Coroner or to an Inquiry under the 1921 Act.	<p>There was nothing secret about the Inquiry that was carried out by Lord Hutton. The public had access to transcripts of the evidence given and the final Report went into considerable detail. The recommendation – and it could be no more than that – was designed to protect the Kelly family from further public incursion into their private lives.</p> <p>See responses from Lord Hutton.</p> <p>The recommendation could not in any event form the basis of a justification for an Inquest.</p>
72.	Dr Hunt failed to take a rectal temperature until some 7 hours after being given access to the site and 5 hours after he was given permission to carry out a full site examination. This delay rendered any assessment of the time of death more difficult. This was not challenged by Hutton.	<p>Of necessity, such a reading could only be taken towards the end of any examination carried out by Dr Hunt as is indicative of the care taken by him.</p> <p>Even so, it now appears that regardless of when the temperature was taken, the calculation of time of death would not be accurate enough to assist evidentially</p> <p>See the report of Dr Shepherd.</p>

<p>73. Despite Dr Hunt's finding that Dr Kelly died between 4.15 pm and 1.15 am, a helicopter equipped with thermal imaging technology failed to spot the body although it flew over the site the body was found at 2.50 am. This failure was not queried by Hutton.</p>	<p>Thames Valley Police has provided the following explanation:</p> <p>In 2003 Thames Valley Police were in the fortunate position of having access to two helicopters shared with other forces in a consortium. It was common practice for the helicopter to be deployed during incidents such as this. The helicopter crew comprise of a pilot and an observer who is trained in the use of the technical equipment on board the aircraft.</p> <p>During the early hours of the 18th July 2003 the crew were deployed to survey an area which included Harrowdown Hill in the search for Dr Kelly.</p> <p>The thermal imagers fitted to police helicopters including those of TVP/Chiltern Air Support Unit are invaluable in searching large areas, particularly at night, whether for suspects, missing people or other uses. The thermal imager essentially produces a picture based on the different heat values of all in its view.</p> <p>The equipment used is not penetrative so cannot look through water, buildings or other cover such as tree canopies. In some cases the location of an individual can be given away by the transference of heat from them to the object they are adjacent to. For example, if someone hides in a wheelie bin the bin will become warmer where they touch so will stand out but you can't see through it.</p>
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	<p>In the case of woods or copses, unless it is winter or the woods are sparsely populated with trees, the leaf canopies and branches very often preclude any meaningful thermal imager search as the thermal imager cannot penetrate the leaf canopy.</p> <p>The helicopter is often best employed in searching the open areas leaving ground parties to search any wooded areas. It is sometimes possible to find someone in a wooded area and certainly if such an area was part of a wider search area the crew would attempt to do so. However, unless the individual sought was in a bit of a clearing or other open area they would be unlikely to be found. If they happened to be at the base of a tree in an area densely populated by trees then the canopy of that tree and others would in most cases prevent any location by the thermal imager fitted to the helicopter.</p> <p>Two flights were made in the early hours of 18/7/03 as follows: At 0250 it deployed to search for Dr Kelly. At 0320 it arrived on scene At 0405 running low on fuel it went to base to refuel.</p> <p>At 0425hrs it re-launched. At 0435hrs it arrived back on scene. At 0445hrs it resumed back to base. (The pilot was running out of legal flying hours.)</p> <p>The infrared camera used was a FLIR Leo 2. The camera was subject to routine maintenance in line with aircraft maintenance schedules. It was working correctly at the time of the incident having been last serviced on 27th June 2003.</p>
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		Both aircraft owned by Chiltern Air Support Unit have had their thermal image cameras upgraded since 2003 but the same basic principle applies that thermal imagers are not penetrative.
74.	In August 2010 Dr Hunt gave an interview to the Sunday Times in which he commented on his findings. In commenting he gave information that is inconsistent with and went further than his evidence to Hutton. This is highly irregular but suggests that Hutton's Inquiry did not go as far as a Coroner in examining, testing and exhausting the evidence provided by the witnesses he called.	<p>The evidence before Lord Hutton, including photographic evidence, was consistent with a large amount of blood at the scene. It is a mistake to assume that in an inquisitorial process, all evidence is given orally. The interview with The Sunday Times and the justification for it is a matter for Dr Hunt but there is nothing in the account that undermines the findings of the Inquiry.</p> <p>See responses of Lord Hutton and report of Dr Shepherd.</p>
75.	In particular, in the Sunday Times, Dr Hunt suggests there was more blood on the body and around it than he did to Hutton and explains that it had soaked into the ground, thereby providing an explanation why others had not seen much.	<p>Lord Hutton had photographic and other evidence as to the amount of blood at the scene. The statement of Roy Green, the forensic biologist who examined the scene, also stated "The leaf litter nature of the ground meant that it would have been very absorbent to blood".</p> <p>See also report of Dr Shepherd.</p>
76.	Dr Hunt stated that he had searched every part of Dr Kelly's body for needle marks but had found nothing. This is not evidence that there had been no foul play.	<p>Dr Hunt would no doubt have been criticised had he not examined the body carefully for needle marks. Dr Hunt carried out a particularly careful examination in which he specifically searched for any evidence that Dr Kelly had been subjected to force or any form of coercion. He found none.</p> <p>See further the report of Dr Shepherd.</p>

77.	Dr Hunt sought to give greater weight to the role played in the death by the hardening of Dr Kelly's arteries. This sudden provision of fresh evidence indicates an anxiety on Dr Hunt's part that the evidence he gave to Hutton was not sufficient to support the conclusions found.	See the report of Dr Shepherd.
78.	Dr Hunt was inexperienced, having only 7 years experience and on the Home Office list for 2.	Dr Hunt carried out a careful and thorough examination that has not been undermined by any of the criticisms made of him.  See the report by Dr Shepherd.
79.	Dr Hunt used a speculative approach guessing at possible causes of injury and bruising.	It is part of the role of the forensic pathologist to try and interpret what he has found and what are, in his view, the likely or possible causes for it. Unless the cause is clear and without doubt, the pathologist's interpretation is inevitably based on his experience and learning. An expert witness will make it clear how certain his findings are or can be. Forensic pathologists are, by definition, well versed in expressing their conclusions in accordance with the applicable evidential standards employed by different courts.
80.	Dr Hunt considered that the removal of Dr Kelly's watch by Dr Kelly is indicative of the fact that he removed it to facilitate the cutting of his wrists. But he does not know when the watch was removed or by whom.	No-one can know precisely what happened when Dr Kelly died but in the complete absence of any evidence of third party involvement in his death it is logical to assume that Dr Kelly removed his own watch. It is also logical to assume that if he wished to cut his wrist he might want to remove his watch first.

81.	Dr Hunt delayed in taking the temperature of the corpse. The toxicologist found a trace of acetone in the blood. Even a trace means that metabolism continued for at least twelve hours after the last meal. As this had been taken at 13.00 on 17 <sup>th</sup> July it is highly probable he remained alive at 01.00 on 18 <sup>th</sup> . What had Dr Kelly been doing since entering the wood at mid-afternoon?	It is not possible to tell what time Dr Kelly died. It is not possible to know what he did before he died. It is not clear how an Inquest could determine that which is not known.
82.	If vomiting had been passive it would have entered the lungs. Were the lungs tested for vomit?	The lungs were examined in the <i>post mortem</i> . Dr Hunt does not report the presence of vomit.
83.	Why was there no attempt to discuss the reported levels of paracetamol and dextropropoxyphene in relation to the time of death? Was this because Dr Hunt's failure to take a rectal temperature for so long made time of death vague?	<p>It is not known how many pills were ingested nor when death occurred. All that is certain is the amounts of paracetamol and dextropropoxyphene found in the samples taken from the body.</p> <p>The timing of the taking of a rectal temperature is indicative of the care he took in examining the scene rather than a proper subject of criticism.</p>
84.	Dr Hunt stated that he reviewed his findings with Dr Nat Cary. How and when?	It is not known whether he did, when or how. It is not at all unusual for experts to discuss their work or to share experience. Dr Hunt is a respected and highly experienced forensic pathologist.

85.	Both Dr Hunt and Dr Hawton attach some importance to Dr Kelly removing his watch and spectacles. However, there is no evidence Dr Kelly always wore spectacles and it is believed by some that Dr Kelly wore his watch on his right hand.	Both witnesses have some expertise in this matter and if there was an issue about spectacle wearing or watch wearing that was of significance it is not unreasonable to assume that the legal team representing the family would have raised it. It is not clear why it is considered the spectacles and watch may not be Dr Kelly's but there is no evidence to suggest they were not.
86.	No forensic evidence was given as to how the knife was used to inflict the wounds noted. A study of the knife shape and wound geometry would have been illuminating.	Both Dr Hunt and Dr Shepherd state that the wounds were consistent with having been made with the knife found at the scene.
87.	Dr Hunt reported that the body of Dr Kelly weighed 59kg. The report states the body was of an adequately nourished man. Dr Watt believes a weight of 69 or 79 kg would be closer to the mark. A mistake in weight would have an impact on time of death calculations.	Dr Shepherd reports that he believes this to be an error and agrees that a weight of 59kg appears low. However the impact this discrepancy has on estimating time of death is moot given the failings of the Hessnge's nonograms.  See report of Dr Shepherd.
88.	Dr Watts' calculations as to time of death based on his assessment of Dr Kelly's weight is that he may have been dead by 06.15 on 17 <sup>th</sup> July. The body may not be that of Dr Kelly.	Dr Watts' calculations gave rise to Dr Shepherd's conclusions about the accuracy of the Hessnge's nonograms used by forensic pathologists. But this means no accurate time of death can be given. The body was definitely that of Dr Kelly.

89.	Dr Hunt speculates that Dr Kelly taking his glasses off was indicative of suicide. As the glasses were bifocals, it was more likely he had already taken them off to walk through the woods.	As stated above, no great reliance was placed on what could be read into the removal of Dr Kelly's spectacles.
90.	Dr Hunt relied on the removal of the watch as indicative of suicide. However, DC Coe's evidence was that the watch was on top of the knife. If that is correct that knife was not used to make the cuts. This discrepancy was not examined.	Dc Coe reported that when he first attended the scene he witnessed Dr Kelly's watch as being "on top" of the knife. Dr Hunt sets out that the knife was actually "adjacent" to Dr Kelly's watch. Photographs taken show that both descriptions could be considered accurate as a short section of the strap appears to rest on the handle of the knife whilst the bulk of the watch is adjacent.
91.	The Pathologist's report mentions broken branches close to the body. Were the branches freshly broken consistent with disturbance by a third party? This was not explored.	The scene was very carefully examined by Dr Hunt, the police and Roy Green. They found no evidence of any struggle or disturbance. Indeed the evidence suggested the contrary.
92.	Dr Hunt refers to Dr Kelly having removed his spectacles but there is no evidence to suggest why he needed spectacles and whether he would have been wearing them in any event – if they were, for instance, only for reading.	The common image of Dr Kelly was that of man who regularly wore spectacles. It is not unreasonable for Dr Hunt to have assumed that he had removed his spectacles. No great weight is attached to the issue and it is of little or no significance when considering the weight of evidence. It is not clear why it is considered the spectacles found were not Dr Kelly's but there is in any event any evidence to suggest the spectacles were not his.

93.	Dr Hunt remarks on there being no obvious signs of trampling of the undergrowth and yet we know a number of people had stood or kneeled in the area adjacent to the body. Did Dr Hunt not notice this?	The police scenes of crime officers, Dr Hunt and Roy Green are all specialists in examining scenes where deaths have occurred. The police treated this as a potential homicide case as did Dr Hunt and Mr Green. The Inquiry was entitled to base its findings on their evidence as would any Inquest.
94.	Dr Hunt attributes cardiac toxicity to dextropropoxyphene but did not consider the likely greater importance of metabolite propoxyphene. This absence of information makes Dr Hunt's speculation more uncertain than it purports to be.	Dr Allan's conclusions are strongly supported by the independent review carried out by Professor Flanagan. Dr Hunt was entitled to rely on the expertise of the toxicologist.
95.	The abrasions to Dr Kelly's head might be consistent with him being dragged. Dr Hunt did not consider this and Hutton did not inquire.	Dr Hunt took care to consider all evidence that pointed to the possibility of force being used against Dr Kelly. Had Dr Hunt, who examined the body, believed that dragging was a possibility he would no doubt have said so. There was no evidence that suggested dragging. Further, the forensic evidence, the blood and blood spattering patterns were all indicative of Dr Kelly receiving his injury and dying where he was found.
96.	If Dr Kelly intended to kill himself, why did he only cut one wrist when cutting both would have meant a faster death.	Not known, but it might be assumed that the damage done to the wrist may have made holding a knife difficult. Suicides take many forms and not all are either fast or painless.
97.	Following the Hutton Report, Dr Frost and other doctors wrote to the Coroner expressing the view that the cause of death found was highly improbable. The letters were not replied to or mention by the Coroner when he heard	The Oxfordshire Coroner considered whether there were exceptional reasons for resuming the Inquest and sought representations from interested parties. He explained in his ruling that it was not appropriate for him to enter into correspondence on the case. Dr Frost and his colleagues are in no different position from any other member

	<p>representations as to whether to reopen the Inquest. This constitutes a rejection of relevant and persuasive evidence which may have had a material and substantive difference to the outcome of the Coronial proceedings.</p>	<p>of the public. The conduct of Inquests is carefully regulated and only those who have a right to take part in the process or are accorded "interested person" status under the Coroners Rules by the Coroner have any right to engage. The Coroner nevertheless explained that he had read all that had been sent to him and considered it against all the other evidence. Any individual who felt aggrieved at the Coroner's decisions could have sought to challenge them by way of judicial review.</p> <p>See transcript of proceedings of 16.03.04.</p>
98.	<p>The comments of the Coroner were such that they created the impression that Lord Hutton's conclusions were of the same quality as might be reached by the Coroner himself.</p>	<p>The statutory duty on the Coroner was to consider whether there were exceptional reasons for resuming the Inquest. He did so and explained his conclusions.</p> <p>See transcript of proceedings of 16.03.04</p>
99.	<p>Two weeks prior to the hearing, the Coroner gave an interview to the media in which he expressed the view that he was seeking closure. This indicates he had already made up his mind.</p>	<p>See responses above which already deal with the adequacy of the hearing held by the Coroner in which he determined the statutory question as to whether to resume the Inquest.</p>

100.	Ambulance technician Bartlett gave an interview to the press in which he stated that when he saw the body the left sleeve was rolled up and you could see “a wound with some dried blood around it”. This contradicts Dr Hunt’s account to the Sunday Times where he says “there were big thick clots of blood inside the sleeve which came down over the wrist”. This gives rise to the question about the volume and distribution of blood at the scene.	<p>There was before the Inquiry photographic evidence of the body and surroundings as well as the findings of Dr Hunt and others.</p> <p>On blood see Dr Hunt, the report of Dr Shepherd and the statement of Roy Green.</p>
101.	Mr Bartlett also claimed that when he arrived at the scene, Dr Kelly was “lying flat out some distance from the tree. He definitely wasn’t leaning against it ... the body was far enough away from the tree for someone to get behind it”. The searchers who found the body gave evidence to Hutton that Dr Kelly had been found propped up against the tree. This gives rise to questions about whether Dr Kelly’s body had been disturbed.	<p>See Annex TVP3 on the accounts of the position of the body.</p> <p>There is no obvious reason why Dr Kelly’s body should be moved and the available forensic evidence is all strongly supportive of the fact that he had died where he was found.</p>
102.	The trail of vomit is indicative of Dr Kelly being on his back. When found initially he was sitting up against the tree. He must have been moved into that position. Later witness refer to him being on his back so he must have been moved a second time.	<p>Dr Kelly was found on his back. He was not found sitting up against the tree.</p> <p>See Annex TVP3</p>



103.	One of the paramedics told a newspaper that the body had been moved. As he was not informed about the position of the body as found by the searchers how could he have known it was moved?	Lord Hutton referred to the evidence of Louise Holmes in his report stating that she had found a “body slumped against the bottom of a tree”. As is set out in Annex TVP3, that account is inconsistent with the accounts given by others and the forensic evidence. The paramedic may have read the relevant section of the Hutton Report or had it put to them.
104.	The post mortem report states the left hand was over the right side of Dr Kelly’s shirt. Elsewhere in the report he states the left hand was to the left of the body. This discrepancy should have been investigated.	The body and scene were extensively photographed. At the scene the left hand was to the left of the body.
105.	PC Sawyers’ failure to set the time and date stamp on the camera that took photographs of the body and scene was extraordinary and means that Lord Hutton’s view of the body position, which was based on those photographs, is untenable as it is not possible to say when they were taken. This should have been questioned by Hutton.	Lord Hutton (or any court) is entitled to accept the evidence of a police officer or other professional witness as to when photographs were taken. Speculation that the photographs were not contemporaneous is fanciful and not supported by any evidence of any kind. Also there is no evidence that the body was moved before photographs were taken and clear evidence that it had not been moved at that time.
106.	The evidence from the ambulance crew – wrist up, wound covered in blood – differs from that of PC Sawyer – wrist down wound not visible. This suggests the body and/or wound was interfered with.	If it is suggestive of anything it is that the recall of honest witnesses of the same scene is not always identical. The photographic evidence is quite clear as to the position of the body when first seen.

<p>107. The doctors calculated that for Dr Kelly to die from blood loss he would need to lose approximately 2700mls of blood. They consider it impossible for that quantity of blood to be lost through the ulnar artery. "Indeed to lose 500mls thought it would be unlikely".</p>	<p>See the report of Dr Shepherd. He states: "It has been suggested that the complete severance of the ulnar artery would not result in fatal haemorrhage as there would be retraction of the artery by the internal elastic and muscular components of the wall of the artery and by the formation of platelet blood clots within the lumen.</p> <p>This is clearly erroneous since any first aider and practising doctor will be aware that the severing of an artery requires immediate first aid treatment with compression of the site of the injury and/or the application of a tourniquet, this "first aid" will be followed by surgical treatment of the damaged blood vessel in order to prevent continuing life threatening haemorrhage. These comments apply equally well to the ulnar artery as they do to the radial brachial or any other major artery within the body,</p> <p>If the normal physiological responses to a severed artery were the spontaneous retraction of the artery with clot formation and cessation of blood loss then there would be no need for emergency action following the severance of a major blood vessel. This is not the everyday experience of paramedics and A&amp;E departments.</p> <p>It is common forensic pathological experience that individuals can and do die as a result of solitary injuries to arteries or other blood vessels whether homicidally, suicidally or accidentally inflicted. I have seen any cases of death from haemorrhage following incised injuries to the wrist in my career and I had a case in the last year (HSL82) in which a young individual died solely as a result of a self inflicted, solitary incision of her left lunar artery."</p>
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108.	The doctors opine that it is very unusual to die from an injury to the wrist.	See the report of Dr Shepherd.
109.	Witnesses gave differing accounts of the blood at the scene. "It would have been a simple matter to collect all the blood stained/soaked leaf litter, soil and nettle leaves and then to elute the haemoglobin by immersion in cold water". The quantity of blood lost could then be calculated.	Dr Shepherd does not consider this practical.  See the report of Dr Shepherd.
110.	In the absence of evidence of blood lost, a calculation should have been made of the blood remaining in the body.	Dr Shepherd does not consider this practical.  See the report of Dr Shepherd.
111.	The ulnar artery was severed but not the radial which suggests the wound was caused by the knife being drawn from the inside of the wrist outwards. This may well have been done by a third party. There is no mention by Dr Hunt of the direction of the cuts.	Dr Hunt and Dr Shepherd are Forensic Pathologists whose expertise is in the examination of scenes of death in order to inform an investigation. Both the Police and Dr Hunt treated the investigation as a potential homicide and Dr Hunt carried out a careful and detailed post mortem examination which was photographed. Both Dr Hunt and Dr Shepherd are satisfied that the injuries were self-inflicted.

112.	<p>If there is insufficient blood at the scene this suggests Dr Kelly was killed elsewhere and his body brought to the scene. The body may initially have been positioned incorrectly to be consistent with livor mortis and the vomit stains – thus requiring the movement of the body. Or those setting the scene may have been disturbed by the searchers before they had placed the body correctly and supplied the bottle knife, etc.</p>	<p>None of those who carried out a detailed examination of the scene expressed any suspicion as to the amount of blood at the scene. The body was not moved and the forensic evidence is strongly consistent with Dr Kelly cutting his wrist and dying where he was found. These suggestions are not capable of any substantiation.</p>
113.	<p>It is very surprising that a top rank microbiologist and world expert in toxic substances would choose an inept and uncertain method of suicide. Why would he choose to cut the deeper artery and with a blunt knife?</p>	<p>People chose many varied ways of taking their own life, not all of them fast and painless. Professor Hawton and Professor Gudjonsson, both experts in this field, did not suggest there was anything suspicious about the method chosen by Dr Kelly.</p>
114.	<p>A single artery completely severed would have rendered it more unlikely that he could have bleed to death as a severed, as opposed to partially severed artery retracts.</p>	<p>Dr Shepherd does not agree.</p> <p>See report of Dr Shepherd</p>
115.	<p>A blunt knife would have induced speedier clotting</p>	<p>The comment is suggestive of the assertion that Dr Kelly did not take his own life. There is no evidence to support that theory. All the evidence points to the conclusion that he committed suicide. Neither Dr Hunt nor Dr Shepherd express any doubt as to the cause of death.</p>

116.	Given Dr Kelly's scientific knowledge it is unlikely he would have chosen to cut the deeper ulnar artery to the more accessible radial.	This is an entirely speculative comment of no evidential significance given the weight of evidence that has been reviewed.
117.	Dr Hunt stated he found rigor mortis. However, if Dr Kelly dies from haemorrhage it is unlikely there would be significant rigor mortis.	See post mortem report by Dr Hunt and report by Dr Shepherd. Neither found any evidence that was inconsistent with the conclusions reached as to cause of death.
118.	Dr Hunt reported that there was a pool of blood extending for 2 to 3 feet from Dr Kelly's left arm at the time he was examining the body. This was not noted by others who attended the scene including those who put electrodes to his chest.	All those attending the scene of a potential homicide have particular functions to carry out. None of those individuals whose particular responsibility it was to examine the site for evidence relating to cause of death expressed any concern as to the amount of blood at the scene. The scene was also extensively photographed and the bloodstaining is visible.
119.	Dr Kelly was an intelligent man. As acting director at Porton Down he would have been familiar with test animals being put to sleep. It is preposterous to suggest that he decided to take his own life by cutting his wrists with an unsuitable and blunt knife and by swallowing co-proxamol tablets. If they were self inflicted it is highly unlikely they were done with the intention of killing himself.	Professor Hawton is an internationally acknowledged expert in the psychiatry of suicide. Had there been any merit in this suggestion he would no doubt have raised it.

120.	<p>Did Dr Kelly have the strength to cut his own arm? Dr Hunt noted the old operation scar on his right elbow but did not follow through. Coupled with the evidence of Mai Pedersen this gives rise to real doubt</p>	<p>It is axiomatic that a person intent on taking their life might carry out actions that are painful and that they would not do, in other circumstances. The post mortem examination found nothing to suggest a physical cause that would <u>prevent</u> Dr Kelly cutting his wrist.</p> <p>See report of Dr Shepherd</p>
121.	<p>Dr Hunt made no assessment of whether the knife at the scene was sharp or blunt. There was no evidence that the knife at the scene was the knife used.</p>	<p>Thames Valley Police has indicated:</p> <p>The "Sandvik" knife was a stainless steel penknife found near to Dr Kelly's left hand. The single blade, which was curved and measured approximately 7.5 cm in length, was exposed. The blade and the handle were heavily stained with blood especially on the right side.</p> <p>DNA:</p> <p>Swabs were taken from three areas of the knife. Two of these areas were bloodstained and the third was from an area free from blood stains.</p> <ol style="list-style-type: none"> <li>1. Taken from the blade which gave a full profile with a match probability of less than 1 in 1 billion to David Kelly.</li> <li>2. Taken from the handle of the knife. This produced a full profile with a match probability of less than 1 in 1 billion to David Kelly</li> <li>3. Taken from a non bloodstained area which produced a partial profile (10/20 alleles) which gave a match probability of less than 1 in 3000 to David Kelly</li> </ol>

		<p>In effect there is no foreign DNA on the knife as the swab that produced the incomplete profile still matched Dr Kelly in all 10 of the 20 alleles produced and more importantly none of them did not match his profile. If that had been the case then the DNA could not have come from him.</p> <p>During the examinations of the knife a number of hairs were removed from its surfaces. 12 of these were animal in origin, probably from a rabbit. Of more interest were 6 human hairs that appeared to have been cut (these had no roots). Microscopic comparison of these hairs with the reference samples of hair from Dr Kelly showed that the hairs recovered from the knife could have come from Dr Kelly's wrist.</p> <p>In the opinion of the reporting scientist (Roy Green) the presence of blood and cut hairs on the knife shows that this was the implement that was used to cut Dr Kelly's wrist.</p>
122.	Dr Hunt does not mention the lack of arterial rain.	Roy Green is a forensic biologist and blood pattern analyst whose expertise includes the forensic analysis of blood spattering. It was a sensible division of responsibilities between Dr Hunt and Roy Green to leave the analysis of arterial rain to Mr Green. The pattern found was consistent with Dr Kelly cutting his wrist and dying where his body was found.
123.	Roy Green gave no assurance that the blood mentioned by others was in fact blood, human blood or Dr Kelly's.	The blood tested from the scene, from Dr Kelly, his clothes and items found with him, matched that of Dr Kelly.

124.	Dr Hunt attributes death to blood loss but does not attempt to calculate the amount of blood lost. This renders the conclusion speculative.	There is no practical way to measure blood loss.  See report of Dr Shepherd
125.	Professor Hawton simply repeats Dr Hunt's findings about glasses and watch and relies on them without questioning the issue.	Professor Hawton is an internationally respected expert in the psychiatry of suicide. Lord Hutton was fully entitled to give weight to his expertise and his conclusions. No requests were made by any of the interested parties for other experts to be consulted nor indeed was any challenge made to Professor Hawton's evidence by the interested parties.
126.	The searchers who found the body made no mention in their statements of other items found around it such as the knife, watch, bottle of water and cap. Nor were they asked at the Inquiry whether they had seen them.	The searchers who found the body gave details of the search and the circumstances in which they found the body. It was not their function to carry out an examination of the scene and evidence was not taken from them for that purpose.
127.	Early witnesses described the body as sitting up against the tree. Later witnesses described the body as being on its back. PC Sawyer described Dr Kelly's jeans as "ridden up" suggesting the body had been hurriedly dragged from a sitting up position to a laying on its back position. DC Coe must have moved the body or was involved in it.	See Annex TVP3 as to the evidence on the position of the body when found. DC Coe did not move the body. There was no evidence to suggest the body had been moved rather it supports that it hadn't. The suggestion is entirely speculative.



128.	Both ambulance crew witnessed the left palm hand up but neither reports seeing wounds. These may have been caused after the body had been seen by them.	The ambulance crew made statements to the police. Both saw blood. One stated that before they approached the body they stood back to allow photographs to be taken. They were not there to examine the scene and they were not asked, therefore, in any detail as to what they saw. As one states: "... I could see some blood around this area, but no wound was visible. I was more involved in other things to take specific interest in this so I can't add anymore to what I saw of this." The suggestion that the wounds were caused post mortem is without evidential foundation and contrary to all the available evidence.
129.	ACC Page described a sighting by a local of three individuals dressed in dark clothing acting suspiciously.	The police carried out an investigation and identified the three individuals as police officers who had been engaged in the search. See Annex TVP4.
130.	Witnesses state that DC Coe was at the scene with two other officers but DC Coe stated that he was accompanied by only one officer. There is also an issue about whether they were in plain clothes or black. This needs examination.	DC Coe's error is explained in Annex TVP1. No issue over their clothing requires investigation.
131.	DC Coe, now retired, gave an interview to the media in which he claimed that he didn't see a lot of blood – there was "some on his left wrist but it wasn't on his clothes". "I didn't see any bloodstains on the bottle".	There is ample evidence, including photographic, of the amount of blood at the scene and where and how it was distributed.

132.	There were no fingerprints on the knife found with Dr Kelly. This was not investigated by Lord Hutton.	See Annex TVP2.
133.	No fingerprints were recovered from the blister packs of pills.	See Annex TVP2.
134.	No fingerprints were found on the watch found near Dr Kelly.	See Annex TVP2.
135.	No fingerprints were found on the mobile phone in Dr Kelly's jacket.	See Annex TVP2.
136.	No material was found attached to the knife found in the vicinity of Dr Kelly's body and allegedly used by him to cut his wrist nor were any fingerprints found on it.	The blood on the knife came from Dr Kelly. There were also hairs found on the knife that could have come from Dr Kelly.
137.	No fingerprints were found on the bottle of water.	See Annex TVP2.
138.	The lack of fingerprints were not the subject of scrutiny by the Inquiry and may not have been the subject of evidence from TVP. Their lack needed to be investigated, particularly as no gloves were found nearby.	See Annex TVP2.

139.	Although TVP carried out DNA testing on blood found and the watch and linked it to David Kelly, they did not determine who owned the watch.	It is not unreasonable to assume that the watch found next to the body and which had on it blood that could be identified to have come from Dr Kelly, was his watch.
140.	No DNA match was found on testing Dr Kelly's spectacles. This suggests either that they were wiped before testing or they were not Dr Kelly's spectacles.	<p>This supposes that DNA evidence is available from every item seized during an investigation. Thames Valley Police in Annex TVP" that:</p> <p>"A leading UK Forensic Service Provider have provided the following statistics with regard to the success rate in recovering a usable DNA profile:</p> <ol style="list-style-type: none"> <li>1. Mobile Phone 30%</li> <li>2. Spectacles 20 % "</li> </ol> <p>The lack of recoverable DNA from the spectacles in therefore not unusual and is not of forensically important.</p> <p>See Annex TVP2</p>
141.	TVP failed to use mobile phone tracking to determine where Dr Kelly was and where he had been.	This was considered. See Annex TVP5.
142.	The knife found by the body was never identified by the Kelly family as belonging to Dr Kelly – only a photograph of the knife was shown to the daughters.	Identification by photograph is evidentially sufficient.

143.	On 16.08.10 a vascular surgeon Michael Gaunt gave an interview to Radio 4 in which he stated he had reviewed “the transcripts of the Hutton Inquiry and the post mortem report”. How did Gaunt access the post mortem report?	It is not known what material Mr Gaunt based his interview on. It is irrelevant to the issue before the Attorney General.
144.	A number of people attended the site the body was found at before the forensic scientists arrived. There was no evidence about whether the presence of those who had been there – Louise Holmes, Paul Chapman, DC Coe, PC Sawyer, PC Franklin and others – was detected. If several people can attend the scene without their presence being detected, there is no sound basis to exclude the presence of others with malevolent intent.	Dr Hunt, Roy Green and scene of crime officers all examined the scene. None found any evidence of the involvement of others in Dr Kelly’s death.
145.	Dr Frost has stated he can prove that Dr Kelly was not Andrew Gilligan’s prime source.	The evidence given by Professor Hawton and Professor Gudjonsson was not based on whether Dr Kelly was in fact the primary source or not.
146.	Dr Watt had information that a badger watcher visited Harrowdown Hill on a number of occasions on the night of 17 <sup>th</sup> /18 <sup>th</sup> July. Dr Kelly’s familiarity with the Hill would suggest he knew of the activities of the badger watchers. This suggests that he either would not have committed suicide there as he knew he might be spotted or his actions were a plea for help.	The evidence that Dr Kelly took his own life at Harrowdown Hill is overwhelmingly strong. Given the wide-ranging nature of the investigation carried out by Thames Valley Police and the publicity this case has raised, it is more than curious that if any individual had information relating to the death they would not have come forward long ago – particularly if that individual was a regular visitor to Harrowdown Hill.

147.	Dr Hunt was given a warning by the Pathology Disciplinary Board over an error in the report on Aircraftman Christopher Bridge.	This does not in any way diminish the reliability of his report in this case which has, in any event, been reviewed by Dr Shepherd.
148.	Janice Kelly stated on the morning of 18 <sup>th</sup> July that her husband had been held in a “safe house” some time earlier in the month. This is possible evidence that he had been kidnapped and held against his will.	The reference to a safe house was to somewhere they could stay to avoid the attentions of the media.
149.	Dr Kelly had no motive for suicide as he realised before his death that he was in the clear as far as being Andrew Gilligan’s prime source.	Dr Kelly’s mental state at the time was given careful consideration by Professor Hawton and Professor Gudjonsson. They have particular expertise in this field and evidence on which to form their opinion.
150.	Professor Hawton based his conclusions on Dr Kelly being under huge pressure on conversations he had had with Mrs Kelly. He entirely failed to consider or give evidence about Mrs Kelly’s mental state.	As an internationally renowned expert in the psychiatry of suicide, it might reasonably be expected that Professor Hawton had experience in dealing with bereaved members of the family and assessing the material he was given.
151.	<p>The Coroners Act 1988 inter alia requires that investigation into a death of specified characteristics is conducted under oath with the Coroner having powers to compel witnesses to attend.</p> <p>Could Parliament have intended fundamentally to change the basis of inquiry into such a death</p>	It is a long established rule of statutory interpretation that Parliament’s intention in passing a statute is to be read from the wording of the statute itself. Neither the Oxfordshire Coroner, nor Lord Hutton – then a sitting Lord of Appeal in Ordinary – had any issue with the legality of Lord Falconer’s actions. His actions were allowed by section 17A.

by inserting Section 17A into the Coroners Act 1988?

I consider that the answer to the preceding question is "No!".

There is nothing in the wording of Section 17A of the Coroners Act 1988 that contains the express or implied meaning that lesser standards of inquiry are permissible when the inquiry is conducted by a judge.

Nor am I able to trace any intention that a lesser standard of inquiry would be acceptable during discussion of the clause in Parliament of the Access to Justice Bill which became Section 71(1) of the Access to Justice Act 1999.

I conclude that in the absence of a clear intention expressed by Parliament that the minimum requirements of taking evidence under oath etc, apply to the investigation of any relevant death that such requirements also apply to any valid Section 17A inquiry.

The failures of the Hutton Inquiry in this context are such as to render the Hutton Inquiry of insufficient rigour to constitute a "public inquiry conducted or chaired by a judge".

	In other words, I conclude that on that basis the Hutton Inquiry is not an Inquiry of the nature specified in Section 17A of the Coroners Act 1988.	
152.	It has emerged from an FOI response by Thames Valley Police that a Police helicopter landed at Harrowdown Hill at around 10.55 on 18th July 2003. The existence of that helicopter landing was concealed from the Hutton Inquiry (at least in oral evidence) as was its purpose. One question which remains to be answered is whether or not such a helicopter landing was "innocent" or had some more sinister purpose. If the helicopter landing was "innocent" one has to ask why Thames Valley Police (in the persons of ACC Page, PC Franklin, PC Sawyer and others) withheld information about it from the Hutton Inquiry.	<p>The helicopter did land at 10.55hrs on 18th July 2003 (as disclosed in the Freedom of Information reply).</p> <p>The aircraft crew were asked to provide aerial photographs and video of the scene to assist in the investigation. Having done so they landed and handed the video and 35mm film to an officer on the ground so that it was in their immediate possession. This was some time after the discovery of the body.</p> <p>The information was not withheld from the Hutton Inquiry. It is of no relevance to the matter being inquired into.</p>
153.	Can a knife of the kind found be sharpened sufficiently to cause the wounds found?	<p>This question was received after Dr Shepherd completed his report. He was asked to comment and stated:</p> <p>"I cannot see why any blade cannot be sharpened to some extent however the features of the injuries suggest that the weapon used was not "razor" or "Stanley knife" sharp."</p>

154.	Can a knife of the kind found produce the wounds described?	This question was received after Dr Shepherd completed his report. He was asked to comment and stated:  "Yes"
155.	Can such a knife produce the wounds in the applicable circumstances – including the lack of arterial rain?	This question was received after Dr Shepherd completed his report. He was asked to comment and stated:  "Yes"  There was arterial rain found consistent with Dr Kelly cutting his wrist and dying where found – Roy Green.
156.	Was David Kelly capable of using the knife in such a way (given his alleged difficulty in cutting meat)?	This question was received after Dr Shepherd completed his report. He was asked to comment and stated:  "Yes"
157.	Is Dr Hunt's description of the wounds simply wrong?	This question was received after Dr Shepherd completed his report. He was asked to comment and stated:  "No"
158.	Is there a better fit explanation for the wounds described?	This question was received after Dr Shepherd completed his report. He was asked to comment and stated:  "No"





Attorney General's Office

9<sup>th</sup> June 2011

159.	Was a 110ft radio mast erected by the police in the Kelly garden used to contact the Prime Minister when en route to America?	There are well established methods of contacting the Prime Minister and Ministerial colleagues, wherever they are, through the No 10 switchboard.  The mast was erected to assist police communications for the purpose of the investigation in an area of variable signal strength.
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**The Daily Mail's Ten Unanswered Questions – Daily Mail 14 May 2011**

160.	<p>Why were there no fingerprints on Dr Kelly's knife, pill packets, water bottle, glasses, mobile or watch? He wore no gloves. Police knew this when they gave evidence to Hutton but the absence of prints wasn't mentioned.</p>	<p>It is not unusual for fingerprints not to be retrieved from these types of articles. See Annex TVP2.</p> <p>Given the success rate for retrieving fingerprints at that time, the only conclusion this provides is that no fingerprints were retrieved. It is not supportive of any other theory.</p>
161.	<p>Lord Hutton said photographic evidence showed Dr Kelly's body was found propped against a tree, yet the first paramedic to reach the scene said he was originally flat on his back. Who moved the body and why?</p>	<p>Lord Hutton in his report referred to the evidence given by Louise Holmes, who originally found the body. Referring to the evidence she gave he reported "She saw the body of a man at the base of the tree, with his head and shoulders slumped back against it." With the exception of the companion searcher, Paul Chapman, all other witnesses referred to finding the body of Dr Kelly lying on its back. The original statement by Paul Chapman to the police, made closer to the time, also referred to the body lying on its back. Honest witnesses may recall the same scene differently. Further, the forensic evidence supports the proposition that Dr Kelly had not been moved from where he died. The body was not moved.</p> <p>See the responses of Lord Hutton, the report of Dr Shepherd and Annex TVP3.</p>
162.	<p>Detective Constable Coe of Thames Valley Police, who guarded Dr Kelly's body after it was found, has admitted concealing the presence of an unidentified man at the scene. Why?</p>	<p>DC Coe made a simple error of recall when giving evidence. The man was not in any event at the site of the body. See Annex TVP1.</p>

163.	In 2003 Dr Kelly's friend Mai Pederson, told police Dr Kelly couldn't cut steak because of an old injury to his right arm. How could he have slashed his left wrist? She also said he had a pill phobia.	It is axiomatic that an individual who wishes to take their own life may perform actions that are painful in order to achieve that object. Dr Shepherd found nothing that would physically prevent Dr Kelly from either cutting his wrist or swallowing pills.  See Report of Dr Shepherd.
164.	Former MP Robert Jackson has said Dr Kelly's GP, Dr Malcolm Warner, told him he saw the corpse immediately after its discovery. When Dr Warner gave evidence to the Hutton Inquiry he failed to report this. Why?	Thames Valley Police have no record of Dr Warner seeing the body. The body was in fact identified by the family. It is not clear what this claim purports to support.
165	All medical and scientific reports and photographs of Dr Kelly's body were secretly classified for 70 years by Lord Hutton after the death. On what legal basis was that done and why?	Lord Hutton recommended that certain personal material should remain closed for 70 years to protect the Kelly family from further media intrusion into their bereavement. Since then certain of those documents, such as the post mortem, have been made public.
166.	The death certificate does not state where he died, as it should, but was registered midway through the Hutton Inquiry anyway, before Hutton concluded how he died. Why?	There are occasions when it is not possible to state either time or place of death. In Dr Kelly's case, the time of death cannot be ascertained with any accuracy other than it occurred some time after he was last seen and some time before his body was found. It is accepted that the certificate could read that Dr Kelly died on Harrowdown Hill but the fact that it simply states that he was "found on Harrowdown Hill" is neither evidence that he may have died elsewhere nor a matter that could lead to the ordering of an Inquest.

		The death certificate reflects the findings of the Oxfordshire Coroner before he adjourned the Inquest. Nothing in the findings of the Inquiry would require the details recorded to be altered.
167.	According to Dr Kelly's widow, police stripped wallpaper from their sitting room on the night of his disappearance. Why?	Thames Valley Police have no record of any wallpaper being stripped and there is no reference to it in the search documentation. The officer that spent the night at the Kelly house confirms that the house was searched (in the presence of a family member) but no wallpaper was stripped. The Police liaison officer appointed to Mrs Kelly following the death has no recollection of this ever being mentioned.
168.	Several key witnesses did not appear at Hutton. They included Paul Weaving, supposedly the last person to see Dr Kelly alive; DC Shields, one of the first police first at the scene; Dr Eileen Hickey, the forensic biologist who attended Harrowdown Hill. Why?	Mr Weaving did not see Dr Kelly as reported and so had no useful evidence to give. The evidence of DC Shields and Dr Hickey merely repeated evidence given by others. There is no requirement to call every witness who has made a statement.
169.	A 110ft communications mast was erected outside Dr Kelly's house immediately after he was declared missing early on July 18. Was it used to communicate with Tony Blair (en route to Tokyo from Washington) and/or his spin chief Alastair Campbell?	Telephoning the No 10 switchboard to arrange a call to the Prime Minister, wherever he is, does not require a 110 foot communications mast to be erected in the Kelly's garden.  The mast was erected to assist police communications for the purpose of the investigation in an area of variable signal strength.