

Examination of the Holocaust Memorial Bill Factsheet

The Bill

The [Holocaust Memorial Bill](#) was introduced by the Government on [23 February 2023](#).

The [Bill](#) contains two substantive provisions:

- Clause 1 permits the Secretary of State to incur expenditure for the purposes of constructing, operating and maintaining a memorial commemorating the victims of the Holocaust and an accompanying centre for learning;
- Clause 2 provides that sections 8(1) and 8(8) of the London County Council (Improvements) Act 1900 (which require the land at Victoria Tower Gardens to be laid out and thereafter kept and maintained for use as a garden open to the public) does not prevent, restrict or otherwise affect the carrying out of any of the activities described in Clause 1, in relation to the land described in that section.

As is evident from these two clauses, the Bill does not make provision for the building of a Holocaust memorial and learning centre, nor does it determine that such a memorial will be built at Victoria Tower Gardens. The Bill only makes provision for expenditure to build and operate such a memorial and learning centre in an unspecified location, and that the 1900 Act cannot be used to prevent this in relation to the land at Victoria Tower Gardens.

As the Bill was considered in the opinion of the Clerk of Legislation to be *prima facie* hybrid, after receiving its First Reading on 23 February the Bill was [referred to the Examiners of Petitions for Private Bills](#). The Bill cannot receive its Second Reading until the Examiners report.

Government bills are occasionally referred to the Examiners, but these are invariably in cases where hybridity is expected and not contested (for example, in the cases of the bills making provision for the HS2 high-speed railway). The last occasion a Government bill was referred to the Examiners for a determination as to hybridity was in the case of the [Local Government Bill](#) in 2010.

The Examiners

The Examiners of Petitions for Private Bills are primarily responsible for considering whether private bills deposited before Parliament are compliant with relevant [Private Business Standing Orders](#).

When a public bill is referred to the Examiners, the Examiners (in accordance with Private Business Standing Order 224) consider whether Private Business Standing Orders 4 to 68 are applicable to the Bill (i.e. whether the Bill is 'hybrid') and, if so, whether such Standing Orders have been complied with.

The Examiners do not consider the merits of the Bill – in this case, the principle of a Holocaust memorial and learning centre – nor the proposed design or location of the memorial. The principle of the Bill will be considered by the House of Commons as and when the Bill is debated at Second Reading, and issues relating to the design or location of the memorial will be subject to separate planning processes. The role of the Examiners is solely to consider the issue of potential hybridity and the applicability of, and compliance with, the Private Business Standing Orders.

The current Examiners are the Clerk of Bills in the House of Commons, the Deputy Head of the Legislation Office in the House of Lords, Counsel for Domestic Legislation in the House of Commons, and Assistant Counsel to the Chairman of Committees in the House of Lords.

Hybridity

A [hybrid bill](#) is commonly understood to mean a public bill which affects a particular private or local interest in way which is different from how the private or local interests of other persons or bodies within the same category or class are affected. This conception is based on a 1962 ruling of Mr Speaker Hylton-Foster.

For example, the bills making provision for the HS2 high-speed railway are considered hybrid because, within the class of the general public, the interests of certain individuals – for example, those who are having their properties purchased or otherwise impacted by the construction or operation of the new train line – are affected differently to other members of the public.

If a bill is found to be hybrid, it follows the same [stages](#) through Parliament as other bills do, but after Second Reading there is an additional petitioning phase. During this time, individuals and organisations who are directly and specially affected by the bill's provisions can submit a petition against the bill, outlining their objections and what they wish to be done to address them. These petitions are considered by a specially appointed select committee, which can make amendments to the Bill or impose requirements on the bill's promoter to address petitioner concerns. The [High Speed Rail \(Crewe - Manchester\) Bill](#) is currently undergoing this process.

Memorials

When a bill is referred to the Examiners, interested parties are able to submit representations for the consideration of the Examiners asserting that the Private Business Standing Orders are applicable to the Bill and that they have not been complied with. These submissions are called [memorials](#).

In relation to this Bill, memorials were received on behalf of [London Historic Parks and Gardens Trust](#), the [Thorney Island Society and Residents of Westminster](#), [Baroness Deech and Holocaust Survivors](#), the [Buxton Family and the Thomas Fowell Buxton Society](#), and [Westminster City Council](#). A further memorial was received – from [Sir Peter Bottomley MP](#) – after the submission deadline.

All memorialists who submit memorials by the submission deadline are entitled to appear before the Examiners at the examination.

Memorials against public bills referred to the Examiners are rare – there have only been a handful of cases in the post-war period.

The Government also submitted [written representations](#) in advance of the examination.

The examination

The examination of the Holocaust Memorial Bill was held on Monday 17 April 2023. It was a public session, and a [video recording](#) and a [written transcript](#) of the hearing is available on the Parliamentary website.

At the examination, the Examiners first heard from Robbie Owen of Pinsent Masons LLP, the Parliamentary agent for the Government, setting out the Government's case as to why the Bill should not be considered hybrid. The Examiners then heard from representatives of each of the memorialists in turn – Alastair Lewis of Sharpe Pritchard LLP for the London Historic Parks and Gardens Trust and the Thorney Island Society and Residents of Westminster, Baroness Deech and Dr Martin Stern on behalf of the memorial from Holocaust survivors, Richard Buxton on behalf of the Buxton Family and the Thomas Fowell Buxton Society, and Mustafa Latif-Aramesh of BDB Pitmans LLP for Westminster City Council – making the cases outlined in their memorials. Mr Owen was then given an opportunity to respond to the memorialists.

At the end of the examination, the Examiners adjourned to deliberate in private.

After the Examiners had determined that the Bill was hybrid (see below), a further examination was held (with the same parties as appeared previously) on Thursday 18 May to consider, in light of the finding of hybridity, which of the Private Business Standing Orders applied to the Bill and whether they had been complied with. A [video recording](#) of this session is available, and a written transcript of the hearing will be published shortly [on the Parliamentary website](#).

The Examiners' report

The Examiners announced their decision as to hybridity and the applicability of and compliance with the Private Business Standing Orders during the public hearing on Thursday 18 May. They subsequently published a report to the House, with an accompanying Statement of Reasons, on Monday 22 May.

The Examiners found that the Holocaust Memorial Bill was hybrid, and that Private Business Standing Orders 4, 4A, 10, 11, 38 and 39 were applicable to the Bill.

The Examiners found that each member of the public has a private interest which is affected by the Bill, as removing the protection offered by the 1900 Act – which provided a benefit to each member of the public by preserving the Gardens as a green space open to the public – exposes the land at Victoria Tower Gardens to the normal planning processes for the purposes of building a Holocaust Memorial and an accompanying centre for learning.

The Examiners also considered that the private interests of those who live close to Victoria Tower Gardens are affected differently from the private interests of other members of the public, as they are affected to a greater degree by the loss of the protection afforded by the

1900 Act than people who live far away from the Gardens. The Examiners believed that residents of an area have a particular interest in the amenities, including green spaces, provided therein, and therefore an interest in the removal of a specific legal protection relating to such a space, and that local residents would be particularly affected – more than those people who live far away from the Gardens – by the consequent lack of certainty that the removal of the protection in the 1900 Act would introduce as to the future of the space.

The Examiners' findings as to hybridity in relation to this Bill do not:

- determine whether the Bill can proceed – this is a decision for the Standing Orders Committee to make (see below).
- prevent the building of a Holocaust memorial and learning centre, or prevent its building at Victoria Towers Gardens – the Examiners' determination simply means that, if the Bill is to be proceeded with, it must follow the hybrid bill procedure.
- make decisions as to whether certain individuals or groups can or cannot petition against the Bill – the Examiners' views on whether certain private interests are or are not affected by this Bill are only relevant in the context of determining hybridity. Consideration of a petitioner's 'right to be heard' on a petition against the Bill will be undertaken by the select committee appointed to oversee the petitioning period.

Next steps

If a bill is found non-compliant with the Private Business Standing Orders by the Examiners, it is referred to the Standing Orders Committees of the two Houses (the Committee of the House of Commons first). The House of Commons Standing Orders Committee is made up of MPs, including the Deputy Speakers.

The Standing Orders Committees can decide to dispense with the relevant Standing Orders and allow the Bill to proceed, to allow the Bill to proceed with conditions, or to prevent the Bill from proceeding.

Resources

Bill page on the Parliamentary website, including the Bill and Explanatory Notes, all memorials received, the transcripts of the examinations, and the Examiners' report:

<https://bills.parliament.uk/bills/3421/publications>

Parliamentlive.tv recordings of examination hearings:

- First day:
<https://parliamentlive.tv/Search?Keywords=examination&Member=&MemberId=&House=&Business=&Start=10%2F04%2F2023&End=10%2F05%2F2023>
- Second day:
<https://parliamentlive.tv/Event/Index/88d26b31-9d02-4708-87f9-989aa5cd85d6>

Overview of hybrid bill procedure:

<https://guidetoprocedure.parliament.uk/collections/j7BhK4fw/hybrid-bills>

Private Business Standing Orders:

<https://publications.parliament.uk/pa/cm5801/cmstords/SO2019Priv.pdf>