Public Office (Accountability) Bill 2025

Briefing for Committee Stage, House of Commons, November 2025

1. Hillsborough Law Now (HLN) has worked closely with the Government for over a year to ensure that the Public Office (Accountability) Bill meets the key pillars of the original Hillsborough Law, which was introduced to Parliament in 2017. HLN, supported by INQUEST and JUSTICE, welcomes this Bill, and seek to work with this Committee and parliamentarians to further improve it.

2. HLN is a campaign which is committed to bringing to fruition the legacy project of the Hillsborough families, formulated at the conclusion of the 2016 inquests which righted an iconic miscarriage of justice and found that the 97 were 'unlawfully killed'. The aim of the legacy project was to bring about legal and cultural change to prevent the corruption and official cover-up which had allowed that miscarriage to pertain for 27 years, happening to others.

3. Although remarkable for its industrial scale and its outright corruption, the Hillsborough cover-up was by no means unique. Indeed, there has been a pervasive culture of denial and institutional defensiveness in this country which has been a theme of responses to disasters and scandals to which state bodies and officials have contributed. For that reason, HLN has been supported by families and survivors from a wide range of public tragedies, including Grenfell, Manchester Arena, Covid, Infected Blood, Post Office, Nuclear Test Veterans, Zane Gbangbola, Primados, Orgreave, and the Chinook disaster. Many families whose loved ones have died in the custody or care of the state and have gone through the inquest process are also supportive of the campaign.

4. A number of senior judges and chairs of Public Inquiries have either supported Hillsborough Law or called for a statutory duty of candour. Hillsborough Law is supported across the political spectrum, as demonstrated at Second Reading. The original 2017 Bill was sponsored by MPs from the Labour Party, Conservatives and Liberal Democrats, as well as from the Scottish National Party, Social Democratic and Labour Party and Green Party. The campaign has been supported by the former Bishop of Liverpool, James Jones, and INQUEST and JUSTICE.

5. The Bill is based upon the original Hillsborough Law – the Public Authority (Accountability) Bill 2017. It substantially meets the three pillars of the original version: (1) establishing a practical and enforceable duty of candour, (2) establishing an ancillary 'duty to assist' official investigations, and (3) rebalancing legal representation for families where the state is itself represented.

6. In progressing the Bill, both the Government and the campaign agreed that further work was needed during its passage through Parliament. The Government has committed to advancing an amendment to include Combined and Local Authority inquiries in the scope of the 'duty to assist', and to produce secondary legislation to extend it further to the Health and Safety Executive, Care Quality Commission, Independent Office for Police Conduct, and healthcare investigatory body or Ombudspeople investigations, amongst others.[1]

7. In turn, HLN and the Government have continued to engage on the below issues, and HLN has indicated that it will seek amendments and improvements to a number of provisions, including (but not limited to):

    a. **Command responsibility rather than corporate liability: clause 5 and clause 11.**
    b. **Application to the Intelligence Services: clause 6 and Schedule 1.**
    c. **Compliance with the duty of candour and assistance: Requirements to promote and maintain high standards, Consultation with unions, and "whistleblowing": clause 9.**
    d. **Enforcement of the duty of candour and assistance: Elements of the backstop offence of misleading the public (clause 11).**
    e. **Commencement.**
    f. **Miscellaneous matters.**

8. There can be no doubt that if this Bill is enacted, with certain improvements set out below, and properly rolled-out and implemented, it will cause landmark cultural

[1] During the Second Reading debate on the Bill, the Prime Minister said "I can also announce that the Government intend to bring forward an amendment to extend this duty to local authority investigations in England, which will make sure that when an inquiry or investigation is set up by a local authority—for example, the Kerslake inquiry into the Manchester Arena bombings—there can also be that duty of co-operation and candour in the search for the truth." See HC Deb 3 November 2025, vol 774, col 656.

changes in the way that public authorities operate, and how public officials fulfil their mission to serve the public. In preventing cover-ups and obfuscation, not only will victims and survivors of wrongdoing and failures receive swifter justice, and not only will progressive change be expedited, but there will be greater confidence in public authority governance particularly when things go wrong. The provisions provide duties and powers which will make inquiries, inquests and investigations more efficient, and remove the hurdles which currently lead to some inquiries going on for years and years. In so doing, the provisions will save considerable amounts of public money.

9. Although this is a Government Bill, Hillsborough Law has always been expressly cross-party. We hope that MPs and peers from across both Houses, the Devolved Administrations, and all the campaigns, will continue to work with us to ensure this legacy project becomes a reality as quickly as possible.

a. <u>Command responsibility</u>

The issue

10. *The duty of candour and assistance applies to both public authorities and individuals. Where the duty falls on an authority, responsibility for compliance and enforcement measures must land on individuals, otherwise they are rendered ineffective. The clause 5 and clause 11 offences require intent or recklessness: concepts which are difficult to apply to a legal rather than natural person. Where the criminal law has corporate offences involving proof of intent or recklessness, liability is established by attributing the mental state of directing minds to the corporation. That may be appropriate in some contexts, but here proof of wrongdoing or failure leads only to liability on the authority and a fine paid by the taxpayer.*

11. The original 2017 Bill dealt with this by making the Chief Officer/Executive responsible for the discharge of the corporate duty. That is both fair and practical as it places the responsibility on the person with the ability to ensure that the authority acts properly, and the high hurdle of intent/subjective recklessness ensures that he/she does not get prosecuted for inadvertence or if he/she is misled by others. It also provides an effective deterrent. Prosecution of a corporation just means the taxpayer pays a fine.

12. The current iteration of the Bill does contain clause 2(5) which imposes a duty on the Chief Officer/Executive to take all reasonable steps to ensure corporate compliance, but that is not command responsibility, is far weaker and would be ineffective. Command responsibility is straightforward and places the responsibility for discharge of the corporate duty on the head of the body.

13. We cannot envisage a circumstance where clause 2(5) would be enforced. 'All reasonable steps' could include deferring to the authority's lawyers or senior leadership team (SLT). That is precisely what happened in the Kerslake Inquiry, following the Manchester Arena attack, when the former Chief Constable of Greater Manchester Police provided a false narrative, regarding the police response. At the subsequent Public Inquiry, he accepted that he had made a "very grave error" but blamed his lawyers and SLT.[2] It is vanishingly unlikely he would have taken the risk of misleading Lord Kerslake if he had command responsibility.

14. Schedule 3 extends both clause 5 and clause 11 offences to officers within authorities (for example managers who deal with particular investigations or statements), but only where they can be identified as the wrongdoers. This is a welcome provision but only complementary to command responsibility. It will catch or deter those contemplating a cover-up lower down the authority, but it will not impose command responsibility on those at the top.

15. The 2014 Healthcare Regulations have been ineffective in this regard, partly because enforcement only applies to the organisation and not the command.

16. A fine on a public body, paid by the taxpayer, does not concentrate minds in the way that personal responsibility does. In the recent joint inquest into three self-inflicted deaths at HMP Lowdham Grange, the hearing was adjourned twice due to the Ministry of Justice failing to comply with directions for disclosure. The coroner's courts ultimately took the highly unusual step of fining the Ministry of Justice because of this.[3] This example shows that existing powers to fine organisations who fail to comply with directions for disclosure do not effectively address the persistent lack of candour and transparency from public bodies. Clear responsibility on a Chief Executive for the

[2] Sky News, 'Manchester Arena bombing: Former chief constable admits 'inexplicable' error in misleading inquiry' (2021).

[3] INQUEST, 'Inquest into the self-inflicted deaths of three men at Lowdham Grange finds multiple failures contributed to their deaths' (2025).

Department's breach would have acted as a deterrent which could have prevented the breach in the first place and the resulting delays to the inquest.

Our recommendation

17. As the above examples illustrate, the lack of command responsibility substantially reduces the effectiveness of the provisions for no good reason. Rectifying the problem is straightforward: we seek the following amendments:

    a. **Insert a new s5(2)**: "Where the duty falls on a public authority or other body, responsibility for the discharge of that duty falls on the Chief Officer or Chief Executive for the purposes of this section." Existing (2) and (3) would then become s5(3) and (4) respectively.

    b. **Insert new s11(2)**: "Where the act or statement is made by or in the name of the public authority, responsibility for it lies on the Chief Officer or Chief Executive for the purposes of this section". The following sub sections renumbered to fit.

b. Carve out for Intelligence Service officers: s6 and Schedule 1

The issue

18. *Clause 6 applies the provisions of the Bill to the Intelligence Services (ISs) as to other public authorities, with one (sensible) caveat.[4] However, by a device buried in Schedule 1 of the Bill, and by an amendment to another Act, the provisions are disapplied to individual officers and the extent of application to the ISs is corporate only. Subject to national security safeguards, the Bill should apply to the ISs as it applies to all other public servants. Furthermore, for no apparent reason, ISs have been omitted from the list of public authorities covered by the Bill in Schedule 2.*

19. The Government had agreed that there should be no carve-out – disapplication of the provisions of the Bill – for the Intelligence Services. This is massively important. If the provisions should apply to police officers and local authority workers, Cabinet Office

[4] clause 6(2) which affects clause 2(3) only. See para 21 of this briefing.

officials, and NHS Trusts, why should it not apply to those who serve the public by keeping it safe? The Bill is not a threat to public servants, it is designed to realign public bodies with their mission to serve the public. In doing so the provisions empower ordinary public servants, and narrow the opportunities for those who would require them to mislead and obfuscate. Clear evidence shows the ISs are not immune from the problems the Bill seeks to solve: far from it. At the Manchester Arena Inquiry the Security Service put forward a false narrative concerning the two key pieces of intelligence they had prior to the bombing.[5] In the recent BBC case, the Security Service misled three different courts and tribunals.[6]

20. Those who have campaigned for the new law have always recognised it must be read subject to other public interests. The original 2017 Bill expressly stated that the provisions should be read subject to existing laws regarding national security, privacy and data protection. Neither the original 2017 Bill nor the current Bill require disclosure of any material which can be lawfully restricted from publication now on the grounds of national security. However, what must be required is that what is asserted publicly by the Intelligence Services is truthful and candid, and the same obligations to proactively assist official inquiries and investigations should apply to them as it applies to others.

21. Clause 6(1) of the Bill asserts that Intelligence Services are to be subject to the provisions of the Bill as is any other public authority. Clause 6(2) inserts a caveat that the Services, but not individual officers, should be subject to the clause 2(3) duty to inform an inquiry or investigation that their acts may be relevant or that they hold relevant information or material. The purpose of that caveat is to prevent inadvertent disclosure by officers before the Service has had an opportunity of considering national security issues.

22. In assisting the Government, we accepted this caveat subject to clause6(3) which ensures, so far as is possible, that the Service has all relevant information, so as to be able to fulfil the clause 2(3) obligation that would have otherwise fallen on individual officers. What s6 does not affect in any way is the operation of clause 2(4) – the provision of information and material – by both the Service and individual officers. By

[5] Manchester Area Inquiry Volume 3: Radicalisation and Preventability (2023), §24.53-81.

[6] See BBC News, 'Judges order 'robust' inquiry into MI5 false evidence' (2025); Attorney General -v- BBC, and 'Beth' -v- Investigatory Powers Tribunal [2025] EWHC 1669 (KB).

the time clause 2(4) kicks in, the Service will have made the clause 2(3) notification, and will therefore be positioned to address national security issues arising in the discharge of clause 2(4) by itself or its officers. Had the Government sought to disapply the provisions to Intelligence Officers completely, it should have done so in clause 6(2) by specifying the obligations under clause 2 do not apply to individual officers, rather than specifying clause 2(3) only. Whereas clause 6(1) is capable of being read as applying to the ISs only corporately, the caveat in clause 6(2) makes clear that it is to be read as applying to individual officers as well. Furthermore, the limiting of the caveat to clause 2(3) and not (4) puts that point beyond argument.

23. Schedule 1 of the Bill deals with the process by which the provision of information and material pursuant to clause 2(4) is to be made – by an amendment to the Inquiries Act 2005. The inclusion of new s23A(10) to the Inquiries Act is the problem because it prevents the operation of clause 2(4) with respect to Intelligence officers. To make the point clear: this is a provision buried in a Schedule, creating a new section in another Act, to prevent a provision within this Bill from working effectively. Furthermore, not only would this provision disapply the provisions to intelligence officers but it would also disapply the requirement in new s23A(3) for the heads of the Intelligence Services to comply with the corporate duties.

Our recommendation

24. Given the Government's clear promise that there would be no IS carve-out, the clear wording of clause 6 (as above), and the fact that the Schedule 1 provisions relate to the way in which information and material is to be provided pursuant to clause 2(4), we understood the new s23A(10) was designed to safeguard the way in which sensitive intelligence service material was to be produced from public servants outside of the ISs (for example Home Office officials or Counter Terrorism Police), not restrict what is required. This appeared to be the effect of the words within the parentheses, and would have been a reasonable limitation. We therefore propose the **new s23A(10) (within Schedule 1 Para 1(2)) should be amended** to:

> "A compliance direction should be given to a public official working for an intelligence service or the head of such a service pursuant to s2(4) and s2(5) of the PO(A)A 2025 as applicable to any other public authority, but may not be given to any other public official if it would require the official to provide

information relating to security or intelligence, within the meaning of s1(9) of the OSA 1989, and any such public official is not required to provide any such information in response to a direction given in breach of this subsection."

25. A similar amendment should be made to para 2(11) with respect to non-statutory inquiries, para 4(9) with respect to inquests, para 5(13) with respect to Fatal Accident Inquiries (Scotland).

26. Schedule 2, Part 2, para 2(1) (and Part 3, para 4(1)) omit the intelligence services from the meaning of "public authority" in Part 2, Chapters 1, 2, and 3 of the main Bill, which include the duty of candour and assistance, associated offences and provision relating to standards of ethical conduct for no apparent reason (although they could fall within paras 2(1)(k) and (2), and para 4(1)(j) and (2)(a)).

For clarity "the intelligence services" should be added to the lists of PAs in Schedule 2, paras 2(1) and 4(1) respectively.

c. Compliance with the general Duty of Candour: Consultation and Whistleblowing protection

The issue

27. *We seek amendments to clause 9 requiring consultation with unions and staff associations regarding the formulation and revision of Codes of Practice, and a requirement of enhanced "whistleblowing" protections.*

28. In establishing a general 'duty of candour' the Bill requires public authorities, public officials and servants to act with candour in undertaking all of their duties, not limited to the duties relating to inquiries and investigations under s2. Compliance is to be ensured by codes and policies, clauses 9-10, with a backstop criminal offence, clause 11, which criminalises misleading the public.

29. The general duty of candour is 'always on': it applies in the course of all official duties and is not limited to the context of investigations and inquiries.

Our recommendation

30. Given that the required Codes apply to and empower public servants generally, it is essential that public authorities are required to take all reasonable steps to promote and maintain codes formulated in consultation with relevant bodies, in particular trade unions.
31. An essential element of ensuring that the duty of candour is practical and effective is to empower the vast majority of public servants who seek to fulfil their mission to the public. There are numerous examples where public servants have been required or encouraged to obfuscate or mislead the public and official investigations. In clause 9(5)(a)(b) the Bill recognises the role of public servants in ensuring their authority, and others within it, act in accordance with its ethical code, including with reference to existing legislation regarding 'protected disclosures'.

32. Given that existing provisions relating to protected disclosures have not proved effective in regard to empowering public servants to ensure their authorities act with integrity, these provisions need to be strengthened.

33. We have seen the amendments proposed by Professor Hayes at Liverpool University, with respect to requirement to promote and maintain, consultation and enhanced whistleblowing protections and we adopt them (See Appendix 1)

d. <u>Enforcement of the general Duty of Candour</u>

The issue

34. The offence of misleading the public at clause 11 is aimed at deterring wrongdoing related to the system rather than individual gain or loss (which are adequately covered by the offences in clauses 12 and 13). Proof of 'harm' is therefore inappropriate and will render clause 11 ineffective in a number of contexts. The defence of 'journalism' is too wide, and will open the door to spurious defences. Agreement with the Devolved Administrations should be sought to include devolved matters within the remit of the offence.

35. The clause 11 offence is set at an appropriately high threshold:

a. As with clause 5, there has to be intent or recklessness (meaning that the offender must foresee the risk but choose to take it). Hence mere accidental or inadvertent misleading is not enough.
b. The misleading has to be "seriously improper". An act or statement is seriously improper if it:
    i. Involves significant or repeated dishonesty about a matter of significance to the public, and, it caused, contributed, or had the potential to cause harm, and departed significantly from what would be expected in the proper discharge of the person's duties, and
    ii. A reasonable person would view it as seriously improper in all the circumstances.

36. There are a number of exclusions relating to:
    a. The exercise of devolved matters,
    b. Journalism,
    c. An act necessary to the proper function of an intelligence service,
    d. The armed forces but only when engaged on active service.

37. In contradistinction to the section 'Carve out for Intelligence Service officers: s6 and Schedule 1' above, the exclusions in clause11 relating to intelligence services and the military are *not* carve-outs, and are very narrowly drawn. Both the intelligence services and military will be fully covered by this offence, other than in very specific circumstances limited to operational matters.

38. The provision of this new offence (and the clause 5 offence dealing with the 'duty to assist') are vital to making the duty of candour practical and effective, rather than merely aspirational. It is important to recognise that they are different to the codified 'misconduct in public office' (MiPO) offences in clauses 12 and 13. The new offences enforce the proper functioning of public authorities and official investigations, and prevent cover-ups. The MiPO offences deal with individual wrongdoing by the misuse of office for personal gain or to cause detriment, or through gross negligence. The new clause 5 and clause 11 offences are therefore complementary to, but distinct from the MiPO offences, both in principle and in practice.

Our recommendation

39. There are two amendments we seek with respect to clause 11 (offence of misleading the public):

a. **Clause 11(3)(b)**. Following from the distinction between clause 5 and clause 11 on the one hand and MiPO on the other, it is important to recognise that many criminal offences are directed at a 'victim', whilst others interfere with public order, justice or administration (characterised as crimes to protect the individual or the system respectively). The former would include assault and theft, the latter would include perverting the course of justice, official secrets, or disorderly behaviour. The clause 11 offence falls plainly within the second group. The current iteration of (3)(b) inappropriately and unnecessarily adds the ingredient of 'harm' to a victim. However, the fact that this is contrary to principle is not the central objection. The real problem is that it would significantly reduce the effectiveness of the provision, which aims to deter cover-ups or obfuscation, rather than punish actual harm to identifiable individuals (although harm and victims may in fact be caused). In some cases, this would not be problematic, but it would negate the provision in others where it absolutely should apply: for example, the falsification of crime statistics, or the false denial of something previously admitted by state agents to the media concerning a matter of substantial public interest (both actual real-life cases).

We seek the deletion of clause 11(3)(b) and clause 11(8) "harm" definition.

b. **Clause 11(4)(b)** excludes acts done "for the purposes of journalism" from the offence. If the purpose of this exclusion is to exempt public service journalists (for example, those working for the BBC) from scope it should say just that (excluding them from the definition of public authorities and servants). Otherwise, public officials and servants are not journalists, and there is no reason to exempt a lie asserted in the course of writing or broadcasting.

Subject to clarifying that public service journalists are not public officials for the purpose of this Bill we seek the deletion of clause 11(4)(b).

c. In the alternative, **'journalism' must be tightly defined to prevent its use as a bogus defence**, such as that recently asserted by Stephen Yaxley Lennon in a different context.[7] This should be made clear by an addition to clause 11(8) to preserve free speech without negating the purpose of the provision:

> "For the purposes of sub section (4)(b), 'journalism' applies to articles for media outlets and news sites. It does not extend to press statements, commentary, and social media posts".

40. Finally, we have concerns about the application of clause 11 to devolved matters. As this is a UK Government Bill, the Sewell Convention and §14 of the MoU on Devolution 2012, denote that it should not include provisions regarding devolved matters without the agreement of the relevant Devolved Administration. We seek such **agreement from each of the DAs regarding the application of clause 11 to devolved matters**.

> If such agreement is forthcoming, clause 11(4)(a) should be deleted by amendment.

e. Commencement

The issue

41. Clause 25 provides that most of the Bill only comes into force when the appropriate authority (primarily the Secretary of State) chooses to do so. The 2017 Bill brought the provisions into force on enactment, or 6 months thereafter where codes or regulations were required.

42. None of the provisions within this Act require the setting up of new bodies or institutions. Required new codes and regulations are within existing frameworks (primarily ethics or legal aid). Consultations regarding implementation have already started (and in reality, the background work has been undertaken over the last 12 months). There is no reasonable basis for building in open-ended delay, and therefore the commencement scheme of the 2017 Bill should be adopted. There is an urgent need for the general provisions and the specific ancillary 'duty to assist' tools to be

[7] BBC News, 'Tommy Robinson cleared of terror offence after not giving police access to this phone' (2025). He was acquitted on a different basis.

applicable as soon as possible. There are a number of ongoing inquiries and investigations to which these provisions should apply. A good example is the Orgreave Inquiry.

Our recommendation

43. We therefore propose that **clause 25 be amended** to read:

> "This Act shall come into force on Royal Assent, save for sections 9, 10 and 18 (which require the provision of Codes or Guidance), which will come into force 6 months thereafter."

f. Miscellaneous

i. Application to Devolved Matters: the issue

44. As stated above, by convention and the 2012 MoU, a UK Government Bill has to defer to the DAs on devolved matters. Therefore, the current iteration of the Bill is drafted to apply across the UK but subject to that deference.

45. In our view, none of the provisions which are so limited are likely to be problematic to the DAs, and we therefore seek maximum and expedited collaboration with them to consider and agree amendments to apply the provisions accordingly. We advance this proposition with some confidence as many of those behind this project are from Scotland, Wales and N Ireland, and various political leaders from each DA have supported Hillsborough Law.

46. The relevant provisions include:
    a. Clause 11(4)(a) (as above)
    b. Clauses14, 15, and 16 regarding MiPO
    c. Clause 18
    d. Clause 21
    e. Clause 22
    f. Clause 24 (in particular the application of the clause 11 offences, and clause 18 legal aid)
    g. Schedule 3

h. Schedule 6 (including legal aid provisions).

47. We also seek the same degree of collaboration to extend the 'duty to assist' to other investigations by secondary legislation as has been committed to by the UK Government, but which may relate to devolved matters: Schedule 1 Part 6, para 7.

ii. Mental element required for clause 5(1)(b): the issue

48. There is a baseless anomaly between the mental state required for breach of the s2 duties.

49. The s5 offence – failing to discharge the duty of candour and assistance – is set at an appropriately high level, to encourage compliance and deter cover-ups and obfuscation, rather than seek prosecutions other than in the most egregious examples.

50. The duties, set out in s2, include a duty to inform the investigator of relevant involvement or knowledge (3), to provide all material and information relevant to the investigation expeditiously and proactively (4), and the (5) duty referred to above. The current s5(1) sets the mental element of failing to discharge the (3) duty as 'intent', and the failure to provide the information itself (4), and the (5) duty, as 'intent' or 'recklessness' (being cognisant of a risk but choosing to take it nevertheless). This is a baseless distinction and anomaly: the mental element should be the same. It is easily rectified.

Our recommendation

51. We seek an amendment to **simplify s5(1)(b)**, redrafting it as follows:

> "they intend that their failure will impede the inquiry or investigation achieving its objectives, or are reckless as to whether it will do so".

iii. Expeditious application of 2(4) to all applicable inquiries and investigations: the issue

52. There is an anomaly in the application of Compliance Notices with respect to inquiries and other relevant investigations.

53. With respect to inquiries, Schedule 1 requires the chair to issue a compliance notice as soon as reasonably practicable after the inquiry is established. It is essential that the same should apply to inquests, FAIs and other applicable investigations or the purpose will be defeated.

Our recommendation

54. **Paras 4(2), 5(2) and 6(2)** should be amended accordingly by the insertion of the following words:

> "as soon as reasonably practicable after commencement of the investigation" in new Sch 5 para 2A(1), s10A(2), and s17BA(1) respectively.

iv. Government department responsibility: the issue

55. Schedule 2, Part 2, para 2(5) appears to make responsibility for acts done by a government department corporate only. There is an exclusion for civil servants exercising their functions wholly outside of the UK.

56. The purpose of deeming what is done by an office holder as done by the department itself is unclear. If those words are simply to avoid putting command responsibility on a Minister for the actions of his/her department with respect to compliance with the duties of candour and assistance then it goes too far.

Our recommendation

57. Responsibility should lie with the Chief Executive of the department (usually the Permanent Secretary), and there would be no objection to an amendment which makes that clear.

> The words "or by the holder of a particular office" should be deleted.

58. Schedule 2, Part 2, para 3(6)(b), (7) excludes civil servants from inclusion as "public officials" if they exercise all their functions outside the UK. We do not see why this exception should be made.

> These sub-paras should be deleted.

v. Application to acts outside the jurisdiction: the issue

59. The fact that the act is committed outside of the UK should be clearly irrelevant.

60. Schedule 3, Para 1(1)(a) and (b) are open to being construed cumulatively: that is, to be caught by the clause 5 and clause 11 offences an individual has to be both a UK national and habitually resident in the UK. There have been many cases where former public officials have retired abroad and been non-compliant with official investigations.

Our recommendation

It is imperative that this is made certain, and this can be done by simply adding the disjunctive "or" at the end of para 1(1)(a).

61. Whereas it is to be hoped that the devolution issue can be resolved generally regarding clause11, this amendment would be required and would not create a problem even if it is not.

Para 1(2) should apply to both clause 5 and clause 11, and the words "or s11" should be added after "s5" accordingly.

62. For similar reasons as stated above in relation to Schedule 2, Part 2, para 2(6)(b), (7), we seek that:

Schedule 4, para 3(1)(d), and (2) should be deleted.

Pete Weatherby KC
Elkan Abrahamson
Deborah Coles
Nathan Oswin
Debbie Caine
(Directors of HLN)

14 November 2025

The **Hillsborough Law Now** campaign is a broad coalition of families, activists, leaders, and everyday people who want justice. Hillsborough Law is the legacy project of the Hillsborough families, supported by the many campaigns of bereaved families from other contexts, and those affected by state-related scandals. It has been cross-party from its inception, and the original 2017 Bill was sponsored by all of the main political parties and those from the devolved jurisdictions. Many chairs of inquiries and senior judges have supported a statutory duty of candour and a level field for representation by state parties and those who may have been bereaved or affected by state failures. Families and Hillsborough Law Now has led the campaign and assisted the Government in crafting the Bill, supported by INQUEST and JUSTICE.

INQUEST is the only charity providing expertise on state related deaths and their investigation. For four decades, INQUEST has provided expertise to bereaved people, lawyers, advice and support agencies, the media, and parliamentarians. Our specialist casework includes deaths in prison and police custody, immigration detention, mental health settings and deaths involving multi-agency failings or where wider issues of state and corporate accountability are in question such as the Hillsborough disaster or Grenfell Tower fire. INQUEST coordinated a Family Listening Day with bereaved families and victims to hear from those most affected on what a 'good' Hillsborough Law would look like, resulting in our report *All or Nothing, A Report on the Hillsborough Law Family Listening Day*.

JUSTICE is a cross-party law reform and human rights organisation working to strengthen the UK justice system. It is the UK section of the International Commission of Jurists. Our vision is of fair, accessible and efficient legal processes in which the individual's rights are protected, and which reflect the country's international reputation for upholding and promoting the rule of law. In 2020, JUSTICE's *When Things Go Wrong* working party, chaired by Sir Robert Owen, supported the introduction of a Hillsborough Law.

For further information on the Public Office (Accountability) Bill, please contact info@hillsboroughlawnow.org, Rosanna Ellul rosannaellul@inquest.org.uk or Emma Snell esnell@justice.org.uk

Appendix 1

s(9) Public Office (Accountability) Bill 2025. Code of ethics and duty of candour

Professor Lydia Hayes, University of Liverpool, School of Law and Social Justice.

1. **Take all reasonable steps to promote and maintain high standards**

Chapter 2 requires public authorities to implement 'a duty of candour' on those who work for them. Public authorities are thus the custodians of a general duty of candour. Section 9(1) requires a public authority to 'promote and take steps to maintain high standards of ethical conduct at all times by people who work for the authority'. This is insufficient to secure the culture change across public authorities that the government intends because it suggests the requirement can be met by any steps, however small or inconsequential.

We seek amendment to s9(1)

replace the words 'promote and take steps to maintain high standards' with the words 'take all reasonable steps to promote and maintain high standards'.

An 'all reasonable steps' formulation at s9 will bring consistency for the general duty of candour with wording at s2(5) in respect of the duty of candour and assistance. It will also bring some consistency in an employment context with Equality Act 2010. The relevance of drawing on the Equality Act is that equality legislation has driven powerful culture change across public authorities and other employment contexts. Section 109 Equality Act 2010 provides that in proceedings against an individual (A) it is open for their employer (B) to show that B took *all reasonable steps* to prevent discrimination.

The 'all reasonable steps' amendment to s9(1) would actively advance culture by requiring public authorities, as employers, to take all reasonable steps, such as provision of training, information, policies and guidance for those who work for public authorities. It will also strengthen protection of workers against disciplinary action being taken unfairly, for example in circumstances where the public authority employer had not provided appropriate

information in an appropriate way, for example failing to train on induction, failure to train people who work for the authority, lack of workplace information and notices etc.

2. **Adopt a code which sets standards of conduct required of people who work for a public authority**

Section s9(4) states that a public authority's code of ethical conduct 'must' set out '*expectations that people who work for the authority should act in accordance with a duty of candour'* (s9(4)(a). We are concerned that this is insufficiently robust to place adequate weight of responsibility on public authorities.

We seek an amendment at s9(4)(a):

Replace the words 'expectations that people who work for the authority should act in accordance with a duty of candour' with the words 'require that people who work for the authority must act in accordance with a duty of candour'.
Correspondingly amend s9(3)(a) by replacing the word 'expected' with the word 'required'.

3. **Requirement to consult representatives of recognised trade unions**

The Government's objective to secure culture change through promoting and maintaining high standards of ethical conduct and a duty of candour across public authorities requires attention at all levels within authorities and at all times. To be effectively and practically implemented this needs positive engagement and collaboration with trade unions in the workplace.

S9(3) provides that public authorities must adopt a code of ethical conduct and make people aware of the consequences for failing to act in accordance with the code. S9(4) requires that a code of conduct 'must' explain the practical ways in which the standards set by the code are to be met (s9(3)(b)) and sets out the disciplinary consequences for failing to act in accordance with the code (including any circumstances where such failure may amount to gross misconduct) (s9(3)(c)). The requirement to maintain high standards of ethical conduct and a duty of candour via disciplinary mechanisms are matters relevant to collective bargaining as per s178(1) Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA).

We seek an amendment by addition at 9(3) to make clear that adoption of a code of ethical conduct must be accompanied by consultation and ongoing engagement with trade unions.

This would clarify that trade union representatives can draw on existing rights under TURLCA to paid time off for training about matters relevant to collective bargaining. As a consequence, that will include training about promoting and maintaining high standards of ethical conduct and a duty of candour. It will also make clear that union representatives should draw on their existing TULRCA rights to paid time off for union duties for collective and individual representation of members in relation to a code.

We seek an addition to s9(3) to effectively engage unions with the general duty to promote and maintain high ethical standards and a duty of candour:
Add new s9(3)(d) Consult with representatives of recognised trade unions with a view to the making and maintenance of a code of ethical conduct to enable the public authority and all those who work for it to co-operate effectively in promoting and maintaining a code to ensure ethical conduct, and in checking the effectiveness of that code.

The amendment seeks to effectively and actively engage unions with the public authority's responsibility for a duty of candour by drawing its phrasing from s2(6) Health and Safety at Work Act 1974 (HSAW). HSAW s2(6) has the practical effect of engaging unions with an employers' general duty to ensure health, safety and welfare.

4. **Protection from detriment, including bullying and harassment**

It is clear from evidence of failure of candour within public authorities that existing measures to protect 'whistleblowers' are insufficient to remove fear of reprisal and do not adequately protect persons making protected disclosures. The provisions at s9(5) are insufficient to support the government objective of securing culture change across public authorities. Disclosures about potential breach of a code of ethical conduct may fall outside the existing statutory definition of 'protected disclosure'. The overarching provisions at s1(2) require the creation of conditions within public authorities that are conducive to candour, transparency and frankness. Maintaining high standards of ethical conduct across public authorities will require consideration of specific protections to promote candour, transparency and frankness.

In concert with Whistleblowers UK we seek amendment to create a new s9(5) as follows:

(5) A public authority's code of ethical conduct must also contain information about the following matters—

(a) the steps that a person who works for the authority may take if they believe that another person who works for the authority has failed to act in accordance with the code;

(b) the making by any person of disclosures which are protected disclosures in terms of section 43B of the Employment Rights Act 1996 or which would be such disclosures had they been made by a worker or employee, including information about any policies the authority has adopted in relation to the making of such disclosures;

(c) the affording of enhanced protection to any persons making disclosures under paragraphs (a) or (b), including policies ensuring that those persons are not subjected to bullying, harassment or any other form of detriment in relation to the making of such disclosure.

(d) how people who do not work for the authority may complain about the conduct of the authority or of people who work for it, including information about any person other than the authority to whom such complaints may be made.

ENDS

Further information mailto:Lydia.Hayes@liverpool.ac.uk