

From the Minister of Finance

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Matthew, a chara

PUBLIC OFFICE (ACCOUNTABILITY) BILL

I am writing to inform the Committee of the introduction of the Public Office (Accountability) Bill (known as the 'Hillsborough Law') to Parliament on 16 September.

The Bill is to be found at [Public Office \(Accountability\) Bill - Parliamentary Bills - UK Parliament](#).

Background

This Bill responds to institutional failings highlighted by the Inquiries into Hillsborough, Grenfell, Infected Blood and Windrush by establishing duties of candour for public servants; a legal duty of candour at investigations and professional duty of candour in daily work.

In December 2024, the Executive agreed to explore whether the British Government's proposed legislation for a duty of candour could be implemented on a UK-wide basis, as a means of responding to the relevant recommendation of the Infected Blood Inquiry (IBI). A cross-departmental working group, led by the Department of Finance, was established to manage the work here and the interface with Whitehall.

In light of the short timescales to which the British Government was working to introduce legislation, in March I got agreement by urgent procedure to the provisions of the Bill being extended here, subject to an assessment of risk prior to any legislative consent motion. This enabled officials to liaise with counterparts in Whitehall to contribute to the drafting of the Bill in short order.

The Bill was not, however, introduced in April, but the delay in introduction has allowed officials further time to ensure that the drafting of the Bill was sufficient to

effect the policy intention here, engage with further policy development, and, to a limited extent, consider the potential impact of those policies.

Engagement with Cabinet Office and Ministry of Justice officials has been positive and productive, but the development of policy and the process of drafting has, with some exceptions, not allowed officials to engage beyond their own departments. Such engagement will be necessary to understand properly the impact of the legislation.

For this reason, I am not yet bringing forward a legislative consent memorandum. That memorandum will be brought forward as soon as possible but only in light of the assessment of the impact of the Bill as introduced and the consideration of the Executive, which is necessary given the Bill's cross-cutting nature.

The Bill

The Bill comprises five parts.

Part 1 of the Bill contains a purpose clause which summarises the policy objective of the Bill: to ensure that public authorities and officials perform their functions in the public interest and with candour, transparency and frankness at all times.

Part 2 and **Schedules 1-3** of the Bill place public authorities and public officials under **duties of candour**.

In this Part, only Chapters 1 and 2 presently extend here; the policy contained in Chapter 3 is yet to be considered by the Executive.

Chapter 1 (clauses 2 to 8) creates a **legal duty of candour and assistance** on public authorities and officials at inquiries, inquests and other investigations. Under this duty, public bodies and officials will be required to assist inquiries, inquests and other investigations to achieve their objectives: with candour; promptly and proactively; with full disclosure of evidence; and without favour to their own position. There are criminal sanctions in cases of non-compliance.

The duty is “always on” and has a two-stage process. Firstly, authorities and individuals should notify an inquiry or investigation if they think their acts or information that they hold might be relevant to the inquiry or investigation. The inquiry or investigation itself can disapply or qualify the ‘duty to notify’ if necessary. Secondly, authorities and individuals must provide whatever information and assistance is required by the inquiry or investigation, according to their direction. This is triggered when the investigating authority or proceeding authority writes to a body or person to give them direction.

The duty applies to inquiries established under the Inquiries Act 2005 ('statutory inquiries'), non-statutory inquiries established by ministers, and coroners' investigations. The Bill provides for powers to make regulations extending the duty to other types of investigation. The duty will be subject to exemptions for sensitive or privileged information mirroring those in the Inquiries Act 2005 and other relevant legislation.

Chapter 2 (clauses 9 and 10) establishes a **duty on public authorities to promote and maintain ethical conduct**. They must produce a code of ethics that will include duties relating to candour. They will need to make those working for the authority aware of the code and set out the consequences or noncompliance.

Chapter 3 (clause 11) sets out a new **offence of misleading the public**.

Schedule 1 sets out how the duty is applied in specific types of inquiries and investigations.

Schedule 2 sets out the meaning of 'public authority' and 'public official' for the purposes of this legislation.

Schedule 3 makes provisions in relation to the offences in this Part, including extra-territorial jurisdiction, consent, time limits, liability of individual officers of bodies, and proceedings against unincorporated bodies.

Part 3 (clauses 12-17) abolishes the common-law criminal offence of **misconduct in public office** and replaces it with two statutory offences. This follows the Law Commission's recommendations in their 2020 report, *Misconduct in Public Office* ([LC 397](#)).

Schedule 4 lists the Holders of Public Office subject to the new statutory offences in Part 3.

Schedule 5 makes consequential amendments to other legislation.

The equivalent common-law offence is prosecuted in this jurisdiction, on all but identical terms as in England and Wales. Although the Law Commission review considered only England and Wales, it is understood that the same issues apply here. The Executive agreed that this element of the Bill should also be extended here, subject to an assessment of risk. The Bill has been drafted so that it applies only to England and Wales at introduction, on the understanding that it can be extended during the passage of the Bill.

Part 4 and Schedule 6 of the Bill provides for legal aid for victims of disasters or state-related deaths by expanding non-means-tested legal aid to bereaved families for inquests in England and Wales where a public authority is an Interested Person. It also includes further measures aimed at addressing issues around the conduct of legal representatives at inquests, enabling a cultural change in the way in which the state approaches inquests.

Part 4 does not extend here.

Part 5 of the Bill makes the necessary provision for Crown application, consequential repeal, interpretation, commencement, extent, and delegated powers.

Next Steps

Following the introduction of the Bill, it is my intention that:

- through the cross-departmental working group, Departments engage with the wider public sector on the Bill, in parallel with equivalent engagement in other parts of the UK;
- that officials likewise continue their engagement with the criminal justice organizations on the reform of misconduct in public office; and
- that Departments should make an assessment of the effect of the Bill's provisions within their own areas of responsibility.

This analysis, in combination with the views of the Committee for Finance, will inform how I will advise the Executive in respect of its support for a legislative consent motion, to be scheduled in due course.

A handwritten signature in black ink, appearing to read "JOHN O'DOWD".

**JOHN O'DOWD MLA
MINISTER OF FINANCE**