



House of Lords  
House of Commons  
Joint Committee on Human  
Rights

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# Human rights and the proposal for a “Hillsborough Law”

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**Third Report of Session 2023–24**

*Report, together with formal minutes relating  
to the report*

*Ordered by the House of Lords  
to be printed 15 May 2024*

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## Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders.

The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

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## Summary

The terrible suffering of the families of the 97 people who died in the Hillsborough disaster was compounded by a protracted failure over the following decades to uncover and acknowledge the truth of what happened and the mistakes made, and to start to apply some of the lessons learnt.

The State has an obligation under Articles 2 and 3 of the European Convention on Human Rights (ECHR) to conduct effective investigations into incidents where life-threatening injuries have been sustained or lives have been lost in suspicious circumstances, particularly where the State appears to bear some responsibility. This obligation also requires the State to ensure the effective involvement of victims and families in those investigations.

The inquests and inquiries that follow major incidents in which lives are lost must be able to establish the facts, reach conclusions and recommend changes to lower the risk of future harm. Public authorities involved in such incidents too frequently act defensively, appearing to focus on protecting their reputation or avoiding liability rather than on openly and honestly addressing their failings and correcting flaws in their systems. In too many cases, families continue to struggle to participate effectively.

The Review of the Hillsborough disaster conducted by Bishop James Jones in 2017, and work by the campaign group Hillsborough Law Now, together resulted in a series of proposals designed to alter the way in which official inquiries into major incidents are approached and conducted. Their proposals were: the creation of a statutory duty of candour applicable to all public authorities; guaranteed funding for legal representation at inquests and inquiries for bereaved families; and the creation of an independent public advocate, with a remit to step in immediately after a disaster and to support, and give voice to, those affected.

The adoption of these three elements of a “Hillsborough Law” would help ensure that the State’s investigative obligations under Article 2 and 3 ECHR are being met. A broad statutory duty of candour would go further than existing duties, requiring transparency and openness that could help the search for the truth and tackle institutional defensiveness. A statutory guarantee of proportionate funding for bereaved family members should assist them to participate in inquests and inquiries, helping to ensure that their vital perspective is not lost. A standing public advocate will provide timely support through the often daunting maze of rules and procedures that follow major incidents.

There have been a number of developments in relation to each of these three aspects of a Hillsborough Law since our evidence session in July 2023, which appear to indicate that the Government is at last listening. Relevant provisions are included in the Victims and Prisoners Bill and the Criminal Justice Bill currently making their way through Parliament, and summarised in the Government’s response to Bishop Jones’ Review, published on 6 December 2023. We welcome these steps but are not persuaded that they go far enough - particularly in relation to the creation of a broad statutory duty of candour for all public authorities and their employees. It has taken too long to reach this point. We urge the Government not to lose this new impetus.

# 1 Introduction

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## The Hillsborough tragedy

### *The events of 15 April 1989*

1. The disaster at the Hillsborough football stadium on 15 April 1989 was one of the greatest peacetime tragedies of the last century in the UK. Over 50,000 fans attended the ground for a football match between Liverpool and Nottingham Forest, who were competing for a place in the FA Cup Final. 95 people, mainly men but also women and children, died that afternoon, and many more suffered severe injuries, as the result of a crush in the Leppings Lane terrace, following the admission of a large number of supporters through exit gates. A further victim died in 1993 when he was taken off life support, and another died in 2021 after suffering severe and irreversible brain damage on the day.<sup>1</sup> The youngest victim was just 10 years old, and the oldest 67.<sup>2</sup>

2. The purpose of this report is to consider the human rights implications of a proposed “Hillsborough Law”. While its focus is on legal principles and requirements, when considering these matters, the Committee has kept at the forefront of our minds those 97 people who lost their lives and the rights of the families they left behind.

### *Early investigations*

3. At the time, much of the popular media portrayed the Hillsborough disaster as the fault of the fans and criticised their behaviour in the immediate aftermath, causing additional pain for the anguished survivors and families of the deceased.<sup>3</sup> A public inquiry that was held shortly after the disaster, led by Lord Justice Taylor, produced an interim report, which found that the main cause of the disaster had been “the failure of police control”, though that inquiry was conducted without full access to documents relating to the response of the emergency services.<sup>4</sup> That public inquiry was followed by a deeply controversial inquest, conducted between April 1990 and March 1991, which reached verdicts of “accidental death” in respect of those who died.<sup>5</sup> There were also civil legal claims, criminal and disciplinary investigations, judicial reviews, judicial scrutiny of new evidence, and the unsuccessful private prosecution of the two most senior police officers in command on the day in 2000.

4. Despite all this legal activity, many bereaved families and survivors were sure that the true context, circumstances and aftermath of Hillsborough had not been adequately explored, established and made public. Their campaign for the truth continued.

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1 BBC News, ‘Hillsborough: Timeline of the 1989 stadium disaster’ (8 April 2022): <https://www.bbc.co.uk/news/uk-england-merseyside-47697569> [accessed 25 April 2024]

2 *HM Attorney General v HM Coroner of South Yorkshire and HM Coroner of West Yorkshire* [2012] EWHC 3783

3 Right Reverend James Jones, ‘The patronising disposition of unaccountable power’: A report to ensure the pain and suffering of the Hillsborough families is not repeated, HC (2017–18) 511, paras 1.15 to 1.25; Nick Mitchell, ‘Why people are angry about The Sun’s coverage of Hillsborough’, *The Independent* (27 April 2016): <https://inews.co.uk/news/media/sun-hillsborough-coverage-4291> [accessed 11 April 2024]

4 Rt Hon Lord Justice Taylor, *The Hillsborough Stadium Disaster Interim Report* (August 1989)

5 Independent Office for Police Conduct, ‘Hillsborough investigation’: <https://www.policeconduct.gov.uk/our-work/investigations/hillsborough#:~:text=The%20initial%20inquests%20in%20March,a%20verdict%20of%20accidental%20death.> [accessed 11 April 2024]

### ***The Hillsborough Independent Panel and new inquests***

5. In 2009, Andy Burnham, then Secretary of State for Culture, Media and Sport, announced the Government’s intention to effectively waive the rules restricting the publication of public records to enable disclosure of all documents relating to the disaster. In January 2010, the then Home Secretary, Alan Johnson, set up the Hillsborough Independent Panel, chaired by James Jones, Bishop of Liverpool. Its remit was to oversee full public disclosure of relevant information, in consultation with the Hillsborough families, and to report on how that information added to public understanding of the tragedy and its aftermath.

6. The Panel’s Report, published in September 2012, reviewed more than 450,000 pages of evidence, much of which was not available to previous investigations.<sup>6</sup> Its Report backed up the key finding of the Taylor report about a failure of police control but went further, describing the extent to which the safety of the crowd at Hillsborough was “compromised at every level”, with minimum standards unmet and deficiencies that were “well known”. It found that, as families had long believed, some public authorities had attempted to create an altered account of events that sought to blame the fans for what happened. It also cast significant doubt over the adequacy of the original inquest, the scope of which had been limited as a result of the coroner’s assertion that there were no actions that could have changed the fate of the victims after 3.15pm that day.

7. In December 2012, following publication of the Hillsborough Independent Panel’s report, the then Attorney General Dominic Grieve QC successfully applied to the High Court for the original inquests to be quashed and fresh inquests to be held.<sup>7</sup> Those new inquests took place between March 2014 and April 2016 and reached a conclusion of “unlawful killing”, with numerous failings by the police, as well as errors by the ambulance services, identified as contributing to the deaths.<sup>8</sup> Crucially, in response to the question whether any behaviour on the part of football supporters may have caused or contributed to the dangerous situation at the turnstiles, the jury answered “no”.<sup>9</sup>

### **Bishop Jones’ Review**

8. In 2016, Bishop Jones was commissioned by the then Prime Minister, Theresa May, to produce a report on the experiences of the Hillsborough families, so that their “perspective is not lost”. *‘The patronising disposition of unaccountable power’: A report to ensure the pain and suffering of the Hillsborough families is not repeated* (‘the Jones Report’) was published in November 2017 and was the result of a year’s work, including meetings with the families in groups and individually.<sup>10</sup> In his foreword, Bishop Jones expressed the hope that: “those responsible for our national institutions listen to what the experiences of the Hillsborough families say about how they should conduct themselves when faced by families bereaved by public tragedy.”<sup>11</sup>

6 [The Report of the Hillsborough Independent Panel](#), HC (2012–13) 581

7 [HM Attorney General v HM Coroner of South Yorkshire and HM Coroner of West Yorkshire \[2012\] EWHC 3783](#)

8 [Hillsborough Inquests, archived website](#)

9 [Hillsborough Inquest Jury Questionnaire: question 7](#)

10 Right Reverend James Jones, ‘The patronising disposition of unaccountable power’: A report to ensure the pain and suffering of the Hillsborough families is not repeated, HC (2017–18) [511](#)

11 *Ibid.* p 1

9. In the Report, Bishop Jones described how the families: “found that when in all innocence and with a good conscience they have asked questions of those in authority on behalf of those they love the institution has closed ranks, refused to disclose information, used public money to defend its interests and acted in a way that was both intimidating and oppressive.”<sup>12</sup>

10. It is clear from the evidence we heard that our witnesses felt the lessons of the Hillsborough tragedy remained unlearnt. Evidence we have examined suggests that some of the same issues continue to have an impact in major public inquests and inquiries - such as the Manchester Arena Inquiry - and in smaller, though no less important, inquests, which take place on a daily basis across England and Wales.

11. Bishop Jones described three of his Report’s 25 points of learning as “crucial”, namely:

- a) The creation of a Charter for Families Bereaved through Public Tragedy - a charter inspired by the experience of the Hillsborough families.
- b) The facilitation of the ‘proper participation’ of bereaved families at inquests, including through (i) publicly-funded legal representation for bereaved families at inquests at which public bodies are legally represented and (ii) the establishment of an ‘independent public advocate’ for bereaved families.
- c) A ‘duty of candour’ for police officers.

12. The Jones Report also warmly welcomed the Conservative Government’s manifesto commitment<sup>13</sup> to create an independent public advocate to act for bereaved families after a public disaster.<sup>14</sup>

13. As discussed further below, the latter two points of learning listed above, as well as the introduction of an independent public advocate, have been taken forward to form the basis for much of the content of what is now the proposed Hillsborough Law.

## What is the “Hillsborough Law”?

14. The “Hillsborough Law” is not a law but a proposal for one. It is the shorthand used for the proposed Public Advocate and Accountability Bill,<sup>15</sup> produced by the Hillsborough Law Now group, which forms the basis of their campaigning. This Bill has not yet been introduced into Parliament. The aim of the group is to encourage Government to legislate for the proposals it contains. The Hillsborough Law’s starting point was Andy Burnham’s Private Member’s Bill, the Public Authorities (Accountability) Bill, which was introduced into Parliament in March 2017, but which “fell” when it had not been passed into law by the time of the 2017 General Election. The Hillsborough Law now also takes elements from Maria Eagle MP’s Private Member’s Bill, the Public Advocate (No. 2) Bill, which had its second reading on 15 July 2022, but “fell” when it had not become law by the time of the

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12 Ibid. p 2

13 Conservative and Unionist Party Manifesto 2017, *Forward, Together: Our Plan for a Stronger and a Prosperous Future*, p 44

14 Right Reverend James Jones, ‘The patronising disposition of unaccountable power’: A report to ensure the pain and suffering of the Hillsborough families is not repeated, HC (2017–18) 511, p. 94

15 Hillsborough Law Now: <https://hillsboroughlawnow.org/what-we-do> [accessed 3 May 2024]



prorogation of Parliament in October 2023. Its purpose was “to establish a public advocate to provide advice to, and act as data controller for, representatives of the deceased after major incidents.”<sup>16</sup>

15. The three key elements of the proposed Hillsborough Law, treated in more detail in the subsequent chapters of this Report, are:

- a) the introduction of a statutory “duty of candour” on all public authorities;
- b) providing better access to funding for legal representation at inquests and inquiries for bereaved families; and
- c) the establishment of an independent public advocate to provide assistance to persons who are bereaved after major incidents.

## Government response to Jones Report

16. On 6 December 2023, after a wait of more than six years, the Government published their response to the Jones Report.<sup>17</sup> In that response, the Government set out how they have taken action and intend in future to take further action, to meet Bishop Jones’ points of learning. In particular, they addressed the three crucial points of learning listed above, starting by the Government signing a Charter for Families Bereaved through Public Tragedy, known as the Hillsborough Charter.<sup>18</sup> According to a statement made by the Deputy Prime Minister, by doing so:

the Government is reaffirming its commitment to a continuing culture of honesty and transparency in public service and the wider public sector, in line with the existing frameworks and the underpinning values of the Seven Principles of Public Life (the Nolan Principles), including in response to public inquiries.<sup>19</sup>

**17. We welcome the Government’s signing of the Hillsborough Charter and its commitment to honesty and transparency in the public sector, features that can only benefit the protection of human rights.**

18. This report will consider the extent to which the Government’s actions and commitments meet the further concerns of Bishop Jones, taken forward by campaigners for a Hillsborough Law, in the context of their impact on human rights protection.

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16 [Public Advocate \(No. 2\) Bill \[Bill 47 \(2022–23\)\]](#)

17 HM Government, [A Hillsborough Legacy: the Government’s response to Bishop James Jones’ report to ensure the pain and suffering of the Hillsborough families is never repeated](#), CP 990, December 2023

18 [Government signing the Hillsborough Charter](#), Statement of Oliver Dowden, Deputy Prime Minister, on 6 December 2023

19 *Ibid.*

## 2 The Committee’s inquiry

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### Background to the inquiry

19. On 15 March 2023, Ian Byrne MP, chair of the All-Party Parliamentary Group on Public Accountability wrote to the Committee, inviting us: “to consider holding an Inquiry into the merits of a ‘Hillsborough Law’ and how this would elevate, entrench, and safeguard those duties set out in the European Convention on Human Rights.”<sup>20</sup> We replied, agreeing to hold a one-off evidence session on the ways in which human rights are engaged by current processes for conducting public inquiries and coronial inquests, with a focus on the lessons of the Hillsborough inquiry, as laid out in the 2017 Jones Report.<sup>21</sup>

### The evidence session

20. We held our evidence session on 19 July 2023. As described in the letter to Ian Byrne, its purpose was to explore whether a new legal framework for public inquiries and inquests would help improve the protection and enforcement of human rights in the aftermath of untimely deaths. We took evidence from five witnesses at the heart of the development of the proposed “Hillsborough Law” and experienced in the work of public inquiries more broadly.

### *The witnesses*

21. Bishop James Jones chaired the Hillsborough Independent Panel which led to the quashing of the original inquests in September 2012. The key learning points from his 2017 Report were used to inform the content of the Public Advocate and Accountability Bill, often referred to as the “Hillsborough Law”.

22. Andy Burnham is Mayor of Greater Manchester. A Private Members’ Bill (PMB) put forward by Mr Burnham in 2017, when he was an MP, was the basis for the original “Hillsborough Law”.

23. We also heard from Elkan Abrahamson, a solicitor, specialising in major public inquiries and inquests, who represented 20 families at the Hillsborough inquests; Anna Morris KC, a barrister specialising in inquest and inquiries in Garden Court North Chambers in Manchester who also represented a number of families at the Hillsborough inquest; and Pete Weatherby KC of Garden Court Chambers, a human rights barrister who specialises in public inquiries, inquests, criminal, public, prison and police law and who helped to draft Andy Burnham’s PMB.

24. We were grateful to our witnesses for providing further written and supplementary evidence after the oral evidence session in July 2023.

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20 [Letter from Ian Byrne MP to the Chair of the Joint Committee on Human Rights](#) (15 March 2023)

21 [Letter from the Chair of the Joint Committee on Human Rights to Ian Byrne MP](#) (28 April 2023)

## Subsequent developments

25. Following our oral evidence session and our receipt of additional written evidence, it became apparent that the Government’s response to the Jones Report was on the verge of publication. We concluded that we ought to wait to consider that response before reporting on the issue.

26. Also subsequent to our oral evidence session was the introduction by the Government of the Victims and Prisoners Bill, currently before Parliament, which includes provision for the appointment of Independent Public Advocates,<sup>22</sup> and more recently the Criminal Justice Bill, which would require a new code of practice for ethical policing which has been described as including an organisational duty of candour.<sup>23</sup>

27. This report seeks to assess how these developments affect the call for a Hillsborough Law.

## Which human rights are engaged?

28. Human rights protect individuals against the power of the state and can be relied upon to ensure that the state takes steps to protect them against other threats. Our domestic legal framework requires public authorities to act compatibly with the human rights guaranteed under the European Convention on Human Rights (ECHR) and gives us the right to hold public authorities to account if they fail to do so.<sup>24</sup> Each of the three proposals in the Hillsborough Law are designed to support this accountability. Openness, transparency and candour, effective investigations and support for victims’ families are all important to ensure both that public authorities can be held to account and that lessons are learned, so that human rights infringements are not repeated.

29. More specifically, the ECHR rights that are most likely to be engaged by the proposed Hillsborough Law are the right to life (under Article 2 ECHR); the prohibition on inhuman and degrading treatment (under Article 3 ECHR); and the right to a fair trial (under Article 6 ECHR). They may be engaged in the following ways:

- a) Article 2 and 3 ECHR place an obligation on the state to carry out an effective official investigation where there is reason to believe that an individual has sustained life-threatening injuries in suspicious circumstances or suffered inhuman and degrading treatment (the “investigative obligation”). A statutory “duty of candour” could improve the efficacy of such investigations, which may be hindered by public authorities failing to be forthcoming about their involvement. A duty of candour may, however, give rise to concerns about the right to a fair trial protected under the common law and under Article 6 ECHR, as it could be seen to run counter to the right to remain silent and the right not to self-incriminate (both established elements of the right to fair trial).
- b) One requirement of effective investigations under Article 2 and 3 ECHR is that they involve the family of the victim to the extent necessary to safeguard

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22 [Victims and Prisoners Bill \[HL Bill 57 \(2023–24\)\]](#)

23 [Explanatory Notes to the Criminal Justice Bill \[HL Bill 31 \(2023–24\) - EN\]](#), para 155

24 See, in particular, section 6 and 7 of the Human Rights Act 1998

his or her interests. An independent public advocate would be intended to provide support to victims and families so as to improve their involvement in investigations and inquiries.

- c) Inquests are the mechanism through which the State most frequently meets its investigative obligation under Article 2 ECHR. The effective involvement of families in investigations is a distinct requirement of Article 2, and this may be improved by providing better access to funding for legal representation at inquests. Greater parity between public authorities and families represented at inquests could also improve the search for the truth of what took place and whether substantive Article 2 rights have been respected.
- d) We also heard that the appalling experiences of the Hillsborough families in the decades following the disaster saw them suffer “indignity heaped on indignity”.<sup>25</sup> Article 3 ECHR, which protects against inhuman and degrading treatment, requires treatment to reach a high threshold of severity before the right is engaged. Nevertheless, the European Court of Human Rights has recognised that in extreme cases, including where they have been involved in frustrated attempts to secure information about what has happened to their family member, relatives of victims may suffer inhuman and degrading treatment in their own right.<sup>26</sup>

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25 [Q7](#) (Elkan Abrahamson)

26 *Janowiec and others v Russia* [App Nos 55508/07 and 29520/09, 21 October 2013](#) at para 177: “The court has always been sensitive in its case-law to the profound psychological impact of a serious human rights violation on the victim’s family members who are applicants before the court. However, in order for a separate violation of article 3 of the [ECHR] to be found in respect of the victim’s relatives, there should be **special factors in place giving their suffering a dimension and character distinct from the emotional distress inevitably stemming from the aforementioned violation itself. The relevant factors include the proximity of the family tie, the particular circumstances of the relationship, the extent to which the family member witnessed the events in question and the involvement of the applicants in the attempts to obtain information about the fate of their relatives.**”

## 3 A Duty of Candour

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### What duty of candour is proposed?

30. The duty of candour proposed by Hillsborough Law Now, set out in their draft Public Advocate and Accountability Bill, would place an obligation on all public bodies, public servants and officials to:

- a) Act in the public interest and with transparency, candour and frankness; and
- b) Assist court proceedings, official inquiries and investigation where their acts or omissions may be relevant, including by acting without favour to their own position, making full disclosure of relevant documents, material and facts, and setting out their position on relevant matters from the outset of the proceedings, inquiry or investigation.<sup>27</sup>

31. This more specific aspect of the proposed duty would apply in respect of inquests and inquiries. Inquests are public court hearings held by a coroner whose purpose is to determine who died and how, when and where the death happened. Depending on the circumstances, they may be held with or without a jury.<sup>28</sup> Public inquiries are investigations into matters of public concern, conducted by a senior official, often a judge, with the aim of establishing the facts, finding out what happened and why, who may be accountable, and to try to learn lessons to prevent a recurrence.

32. As we were told by Pete Weatherby KC, the proposed duty of candour would: “not only require public authorities and corporations responsible for public safety to tell the truth, it would require them to proactively assist the process, from the outset ...”<sup>29</sup>

33. The proposed duty of candour would be enforceable in court, including by way of judicial review,<sup>30</sup> and would also be backed up by criminal sanctions (discussed further below).<sup>31</sup>

### Why is a duty of candour needed?

34. Andy Burnham told us that:

The lack of a duty of candour in the first instance allows public authorities to create false narratives and to shift blame on to victims. That is what happens and is still happening. In particular, when those false narratives are amplified through the media, as was the case with the Hillsborough disaster, they become extremely hard to shift.<sup>32</sup>

35. Elkan Abrahamson added:

The reaction from many people to our suggestion that there should be a Hillsborough law was, “What do you mean you need a law to get people to

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27 Clause 6 of the Public Advocate and Accountability Bill

28 Ministry of Justice, *A Guide to Coroner Services for Bereaved People* (2020), p 20

29 Written evidence from Peter Weatherby KC ([HBL0002](#))

30 Clause 6(9)

31 Clause 8

32 [Q6](#)

tell the truth? Why do people not have to tell the truth anyway?” Yet they do not, and positions are adopted that are counter to the truth and to the dignity of those who died and that threaten the lives of us all.<sup>33</sup>

36. A duty of candour in inquiries and inquests is particularly significant in human rights terms because these are the processes by which the UK generally meets its obligation to investigate deaths under Article 2 ECHR. A duty of candour is also particularly appropriate in inquests and inquiries because they are different to court proceedings, in that they are inquisitorial rather than adversarial processes. An adversarial court process pits two parties against each other, with the court essentially establishing criminal or civil liability by deciding which party is the winner and which is the loser. Each party is entitled to defend itself rigorously against that liability. In an inquisitorial process, the aim is generally to establish what happened, sometimes so that lessons can be learned, with participants in the inquest or inquiry there to assist in achieving this aim.<sup>34</sup> For this reason, participants in inquests and inquiries have particular reason to be open and forthcoming.

37. Despite this, the saga of the Hillsborough inquests demonstrates that public authorities can approach these proceedings in a defensive and adversarial manner. As Pete Weatherby KC told us:

Without requirements of openness and candour, it is no surprise that processes become adversarial in this fashion. Lawyers will advise their clients to avoid admissions, officials will try to avoid censure, managers will try to protect the reputation of the institution, and unscrupulous people will lie. As night follows day, this massively prolongs the process, retraumatises those most affected, prevents timely change to protect life and limb, and wastes substantial amounts of public money.<sup>35</sup>

38. Mr Weatherby emphasised that such a culture of institutional defensiveness was not limited to the Hillsborough inquests, but has been repeated in other inquiries including the Bloody Sunday Inquiry, the Mid Staffordshire NHS Inquiry, the Grainger Inquiry, the Manchester Arena Inquiry and the Grenfell Inquiry in which:

there were the clearest examples of institutional, corporate, and personal denial and obfuscation of the true facts. Institutional denial, responding to inquiries in litigation mode, rather than with candour and transparency is a pervasive approach, because it is allowed to be. It will not change until there is a clear legal requirement to do so.<sup>36</sup>

39. In a similar vein, a 2020 report from JUSTICE, *When Things Go Wrong*, found that in both inquests and inquiries, “lack of candour and institutional defensiveness on the part of State and corporate interested persons and core participants are invariably cited as a cause of further suffering and a barrier to accountability”. We further note that in her 2017 review of deaths and serious incidents in custody, Dame Elish Angiolini concluded:

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33 Q7

34 Neither inquests nor inquiries can establish criminal or civil liability. See Pinsent Masons, ‘A guide to public inquiries’ (24 June 2021): <https://www.pinsentmasons.com/out-law/guides/a-guide-to-public-inquiries> [accessed 12 April 2024]

35 Written evidence from Peter Weatherby KC ([HBL0002](#))

36 Ibid.

“it is clear that the default position whenever there is a death or serious incident involving the police, tends to be one of defensiveness on the part of state bodies”.<sup>37</sup> Similar views have been expressed in the reports of the statutory Anthony Grainger inquiry, which commented on “an unduly reticent, at times secretive attitude” within Greater Manchester Police<sup>38</sup> and the Daniel Morgan Independent Panel, which found that the Metropolitan Police “did not approach the Panel’s scrutiny with candour, in an open, honest and transparent way”.<sup>39</sup>

40. We heard how an effective duty of candour would oblige public authorities to approach a public inquiry from the start with a clear account of the events under scrutiny, their part in them and what if anything went wrong. This should enhance the prospect of the victims and their family members getting access to the truth, rather than being faced with efforts to protect the reputation of the public authorities involved and to avoid future legal liability.

41. Such an approach from public authorities would also mean that all those involved in the inquiry would start with a better understanding of which issues are in dispute, and which are not. The court would be able to identify issues more quickly, which would also help in the fulfilment of Article 2 requirements. In *Jordan v UK*, the European Court of Human Rights held that, in order to satisfy Article 2, any investigation had to “be prompt and proceed with reasonable expedition”.<sup>40</sup>

42. Pete Weatherby explained how a process including elements of a duty of candour had been adopted, with some success, in the February 2023 report into the events during the UEFA Champions League Final in Paris in May 2022<sup>41</sup> and how he believed this had benefited the speed with which the review could proceed:

Getting those position statements, which were essentially the tool of the duty of candour, allowed us to then send supplementary requests for evidence, picking up on things in those position statements one against the other, and identifying the kernels of evidence that were in dispute. ... The whole review involving thousands of pages and many witnesses was done, written and published in six months.<sup>42</sup>

**43. “Institutional defensiveness” appears to remain a problem for public authorities, particularly when they are involved in public inquiries and inquests. This hinders efforts to establish the truth when things go wrong and stands in the way of fulfilling the State’s investigative obligations under Article 2 and Article 3 ECHR.**

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37 The Rt Hon Dame Elish Angiolini DBE QC, [Report of the Independent Review of Deaths and Serious Incidents in Police Custody](#) (2017), para 17.2

38 HHJ Teague QC, *Report into the Death of Anthony Grainger*, HC (2017–19) 2354, para 10.8

39 The Report of the Daniel Morgan Independent Panel, HC (2021–22) 11-I, p.1114. This report recommended “the creation of a statutory duty of candour, to be owed by all law enforcement agencies to those whom they serve, subject to protection of national security and relevant data protection legislation.”

40 (2003) 37 EHRR 2

41 The review panel on the event required that “stakeholders provide all relevant material and information in their possession, and indicate any material, or any part of any material produced to the Review which should not be published, and to indicate why.” [Independent Review: 2022 UEFA Champions League Final](#) (February 2023), p. 11

42 Written evidence from Peter Weatherby KC ([HBL0002](#))

## Protecting the privilege against self-incrimination

44. Article 6 ECHR protects the right to a fair trial. As already well established within domestic law, Article 6 guarantees a right to remain silent and not to self-incriminate.<sup>43</sup> The purpose of this guarantee is to protect the accused against improper compulsion by the authorities, thus avoiding miscarriages of justice and securing the aims of Article 6.<sup>44</sup> While not an absolute right,<sup>45</sup> “the principle that “a man cannot be compelled to incriminate himself” has been described by the courts as “perhaps the most fundamental rule of the English criminal law”, on the basis that “it is better by far to allow a few guilty men to escape conviction than to compromise the standards of a free society.”<sup>46</sup> Any legal requirement for an individual to provide information that could expose them to criminal prosecution risks violating a right to remain silent and not self-incriminate. A duty of candour applicable to circumstances where public authorities may have been at fault, and particularly where members of the public have suffered injury or been killed, plainly throws up a risk of self-incrimination.

45. The Hillsborough Law appears to take this risk of conflict between a duty of candour and Article 6 ECHR into account. Pete Weatherby informed us that “the longstanding privilege against self-incrimination ... is written into the Act so that that can be legitimately put forward by anybody that the Act would otherwise cover.”<sup>47</sup> We note that under the Hillsborough Law, duties including the duty to assist court proceedings, official inquiries and investigations would not apply to individuals who are suspects in criminal proceedings.<sup>48</sup> Furthermore, the proposed Bill provides that no offence of failing to comply with the duty of candour would be committed by an individual “to the extent that he or she reasonably asserts the privilege against self-incrimination.”<sup>49</sup> This appears to be consistent with the approach currently taken in inquest proceedings and statutory inquiries, the rules governing both of which expressly permit witnesses to refuse to answer questions if the answers would incriminate them.<sup>50</sup> While the limit on the duty of candour proposed in the “Hillsborough Law” would inevitably allow some witnesses to avoid volunteering information or answering questions going to criminal responsibility, it is a necessary provision to protect the privilege against self-incrimination and the guarantees of Article 6 ECHR.

## Enforcement of the proposed duty of candour

46. Given the apparent distance between expectations of openness and reality, a key question for any duty of candour is how well it can be enforced. In this regard, it is notable that the duty of candour proposed by Hillsborough Law Now would be backed up by criminal sanctions. If the proposals became law, it would be an offence for the chief executive of a public authority to intentionally or recklessly fail to discharge the duty to assist proceedings, inquiries or investigations. It would also be a criminal offence for

43 O’Halloran and Francis v. the United Kingdom [GC], 2007, § 45. The privilege against self-incrimination is also part of the common law and has a statutory basis in [section 14\(1\) of the Civil Evidence Act 1968](#)

44 John Murray v. the United Kingdom [GC], 1996, § 45

45 While Article 6 is absolute in its guarantee of a fair trial, specific elements of the right such as the privilege against self-incrimination are not. See *Brown v. Stott* [2003] 1 AC 681

46 *Lam Chi-Ming v. R* [1991] 2 AC 212

47 [Q 20](#)

48 See clause 6(4) of the Public Advocate and Accountability Bill

49 See clause 8(6) of the Public Advocate and Accountability Bill

50 The Coroners’ (Inquest) Rules 2013, Rule 22 and Inquiries Act 2005, section 22



individual public servants or officials “to mislead the general public or media” or to mislead proceedings, inquiries or investigations in relation to which the duty of candour applies. Creating criminal sanctions within the Hillsborough Law might be thought to improve the prospects of public officials complying with the duty of candour. Pete Weatherby told us:

There has to be a big stick in the background. We describe it as a backstop. We hope it is successful and will never need to be used.<sup>51</sup>

47. We heard that a further advantage of a clear statutory duty of candour with serious sanctions would be the protection it would offer to public servants - often junior - in standing up to senior officials. As Pete Weatherby noted: “it would stop what happened in Hillsborough, which was senior officers telling junior officers to tell lies.”<sup>52</sup> Creating a clear statutory obligation, with serious consequences, that junior officials can point to could avoid them having to persuade senior colleagues of the need for or importance of transparency.

48. We are also aware, however, that there are arguments against the imposition of criminal sanctions for breach of the duty of candour. The risk of prosecution could lead public authorities to be overzealous in their approach to disclosure, creating a disproportionate administrative burden. It could also have the opposite effect, with fear of the serious implications of inadequate candour resulting in greater caution and creating a perverse incentive to cover up.

49. While introducing criminal sanctions for failure to comply with a duty of candour may have the desired effect of ensuring public authorities take the duty seriously, thereby increasing compliance, we note that the NHS duty of candour is already backed up with potential criminal sanctions, regulated by the Care Quality Commission. As discussed below, it does not appear that this has ensured the NHS duty of candour is always effective in practice.

**50. Introducing criminal sanctions for breach of a duty of candour may increase the prospect of the duty being taken seriously, offering greater external mechanisms to pursue public institutions that fail to comply. However, including criminal offences on the statute book is not alone sufficient to ensure compliance. Effective enforcement in practice, together with wider efforts to support culture change within the public sector, are also needed if the transparency and openness sought by the Hillsborough Law is to be established.**

**51. Given the importance of transparency, including criminal sanctions in any statutory duty of candour appears justified, but the right not to self-incriminate, protected at common law and under Article 6 ECHR, must also be respected.**

## Existing and proposed duties

52. The proposal to introduce a general statutory duty of candour does not come against a blank landscape. There already exist a range of obligations and guidance on candour, applicable in particular contexts or to particular public authorities.

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51 Q 22

52 Q 19

## Inquests

53. Currently, public authorities involved as interested persons in inquests are subject to guidance in respect of candour but not to any statutory obligations. The existing guidance states that public authorities are supposed to:

- (1) Remain committed to supporting the inquisitorial approach and assisting the coroner to find the facts of what happened and learn lessons for the future.
- (2) Approach the inquest with openness and honesty, including supporting the disclosure of all relevant and disclosable information to the coroner.<sup>53</sup>

## Judicial review

54. The concept of a duty of candour already exists in domestic public law. In judicial review proceedings, public authority defendants have a duty “to co-operate and to make candid disclosure ... of the relevant facts and ... the reasoning behind the decision challenged”.<sup>54</sup> The proactive nature of this obligation, and the principle underpinning it, was clearly expressed by Lord Justice Singh in a 2018 decision:

It is the function of the public authority itself to draw the court’s attention to relevant matters; ... to identify ‘the good, the bad and the ugly’. This is because the underlying principle is that public authorities are not engaged in ordinary litigation, trying to defend their own private interests. Rather, they are engaged in a common enterprise with the court to fulfil the public interest in upholding the rule of law.<sup>55</sup>

55. The duty of candour in judicial review does not have the same enforcement mechanisms proposed in the Hillsborough Law. It is essentially “self-policing”, relying on the lawyers conducting the litigation to respect it. Breach of the duty is not an offence or legally actionable, but it may result in the court drawing adverse inferences against the party that is in breach and potentially a penalty when the costs of the litigation are decided. Legal commentators have also stated that there is a lack of clarity as to the exact requirements on public authorities, for instance the rules around disclosure of documents. In the absence of formal rules governing the duty, public authorities may be able to avoid disclosing important information.<sup>56</sup>

## NHS

56. Health and care professionals are also already subject to both statutory and professional duties of candour. A statutory duty of candour arises under Regulation 20 of the Health and Social Care Act (Regulated Activities) Regulations 2014. This provides that all health service bodies have a duty to “act in an open and transparent way with

53 Ministry of Justice, *A Guide to Coroner Services for Bereaved People* (2020), Annex A, p. iii

54 *Belize Alliance of Conservation Non-Government Organisations v Department of the Environment* [2004] UKPC 6 at §86

55 *R (Hoareau and Bancoult) v SoS for the FCO* [2018] EWHC 1508 (Admin), para 20

56 Tom Hickman, ‘Candour Inside-Out: Disclosure in Judicial Review’, UK Constitutional Law Association (16 October 2023): <https://ukconstitutionallaw.org/2023/10/16/tom-hickman-kc-candour-inside-out-disclosure-in-judicial-review/#:~:text=Thirdly%2C%20the%20duty%20of%20candour,civil%20litigation%20to%20regulate%20disclosure.> [accessed 12 April 2024]

relevant persons in relation to care and treatment provided to service users” with specific obligations to notify patients and provide a factual account and apology arising after a notifiable safety incident occurs.<sup>57</sup>

57. There is also a professional duty overseen by regulators of specific healthcare professions such as the General Medical Council (GMC), Nursing and Midwifery Council (NMC) and the General Dental Council (GDC). It requires health care professionals to be open and honest with patients when something that goes wrong with their treatment or care causes, or has the potential to cause, harm or distress; and also to be open and honest with their colleagues, employers and relevant organisations, and take part in reviews and investigations when requested.<sup>58</sup>

58. Unfortunately, however, it is far from clear that the existing duty of candour is being met by the NHS. The Parliamentary and Health Service Ombudsman published a report in June 2023, raising “a disconnect between the increasing levels of activity and consciousness about patient safety and the level of progress we see on the frontline”.<sup>59</sup> The report found “that the physical harm patients experienced was too often made worse by inadequate, defensive and insensitive responses from NHS organisations when concerns were raised.” Specific factors identified included “a failure to be honest when things go wrong”, “a failure to respond to complaints in a timely and compassionate way” and “inadequate apologies”.

59. Similar points were raised by the Ombudsman in a letter to the Secretary of State for Health on 23 August 2023, in which he reiterated a previous call for “a thorough review by the Department and Health and Social Care and NHS England to scrutinise the lack of compliance with the Duty of Candour” stating that “it is unacceptable that Trusts still fail in meeting this duty nearly a decade after it was introduced.”<sup>60</sup>

60. We note that a review of the duty of candour was announced in December 2023 and is now underway.<sup>61</sup>

## Police

61. Since 2020, police officers “have a responsibility to give appropriate cooperation during investigations, inquiries and formal proceedings, participating openly and professionally in line with the expectations of a police officer when identified as a witness.”<sup>62</sup> This forms part of the police Standards of Professional Behaviour. A failure to comply

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57 Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 20 ([SI 2014/000](#))

58 Nursing and Midwifery Council, ‘Read the professional duty of candour’: <https://www.nmc.org.uk/standards/guidance/the-professional-duty-of-candour/read-the-professional-duty-of-candour/> [accessed 3 May 2024]; General Medical Council, ‘The professional duty of candour’: <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/candour---openness-and-honesty-when-things-go-wrong/the-professional-duty-of-candour> [accessed 3 May 2024]

59 Parliamentary and Health Service Ombudsman, *Broken trust: making patient safety more than just a promise*, HC (2022–23) 1444

60 [Letter from Rob Behrens CBE, Parliamentary and Health Service Ombudsman, to Steve Barclay MP, Secretary of State for Health and Social Care, 23 August 2023](#)

61 Department of Health and Social Care, ‘Duty of Candour review’ (16 April 2024): <https://www.gov.uk/government/calls-for-evidence/duty-of-candour-review/duty-of-candour-review#call-for-evidence-questions> [accessed 3 May 2024]

62 The Police (Conduct) Regulations 2020, Schedule 2

with the duty is an internal misconduct matter, meaning that a breach could result in disciplinary sanctions up to dismissal. Equally, any decision whether to investigate or initiate disciplinary proceedings is for the police themselves to take.

### ***Government response to Jones Report and introduction of the Criminal Justice Bill***

62. Since our session on the Hillsborough Law took place, the Government formally responded to Bishop Jones’ Report. The Government’s response referred to the Criminal Justice Bill, which was introduced to Parliament on 14 November 2023, and its provision for a type of duty of candour on the police, under the general heading “ethical policing”.<sup>63</sup>

63. The Bill would create a statutory duty on the College of Policing to issue a code of practice about ethical policing, under existing powers in section 39A of the Police Act 1996. The explanatory notes for the Bill refer to Bishop Jones’ call “for the establishment of a ‘duty of candour’ for police officers” and notes that a similar recommendation has been made by other bodies. It is envisaged in the explanatory notes to the Bill that the code of practice about ethical policing will complement the existing duty of cooperation that applies to individual police officers.

64. Rather than imposing any duties directly on rank and file officers, the Bill requires a code of practice to be issued which will then set out actions that chief officers should take “for the purpose of securing that persons under the chief officer’s direction and control act ethically”. The ‘duty of candour’ element of this derives from the fact that the Bill specifies that acting ethically includes, in particular: “acting in an open and transparent way in relation to the way in which the police have conducted themselves.” However, under the Bill, acting ethically does not require this openness and transparency if it would prejudice the interests of national security; the prevention, detection, investigation or prosecution of any offence; or any rules on disclosure.<sup>64</sup> We can envisage how being candid about failings by the police could indeed make the prevention, investigation or prosecution of crimes harder in some cases - for example by providing a basis for a suspect to challenge the reliability or lawfulness of police conduct leading to their arrest or prosecution. It appears that such consequences could be a justification for failing to act with candour.

65. It is unclear from the Bill what steps Chief Officers may be asked to take to ensure ethical conduct from their officers, including how any requirements placed on individual officers might be enforced. While not specified in the Bill it seems likely that this would be through internal disciplinary procedures. Unlike the proposed Hillsborough law, the Bill does not create a duty that could be enforced through the criminal courts, or by victims or bereaved family members in the civil courts.

66. Obviously, but importantly, the Bill’s ‘duty of candour’ would apply only to the police. The Bill does not make provision for any wider duty of candour for other public authorities or their employees.

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63 Criminal Justice Bill [Bill 155 (2023–24)]

64 By contrast, the Hillsborough Law would subject the duty of candour “to existing laws relating to privacy, data protection and national security” (clause 6(5))

67. **While taking a step in the right direction, the current provisions of the Criminal Justice Bill do not offer the same opportunity for change as would a general statutory duty of candour. By focusing on the police alone and appearing to rely on internal disciplinary processes for enforcement, the Criminal Justice Bill would not meet the calls of the Hillsborough Law Now campaign.**

## Conclusions

68. **A general statutory duty of candour would help to ensure that the priority for public bodies is to establish what has gone wrong and needs to be changed in order to prevent future deaths, rather than protecting individuals and institutions from censure. It would also help inquiries become more effective and less protracted, benefiting the bereaved and survivors, and thus fulfilling the UK’s obligations under Articles 2 and 3 ECHR.**

69. The Government maintains that there is no need for a broad statutory duty given the existence of offences under the Inquiries Act 2005,<sup>65</sup> the offence of misconduct in public office, and “a broader framework of duties on public officials, made up of codes that govern the way those in Government behave” including the Nolan Principles, the Civil Service and Special Adviser Codes.<sup>66</sup>

70. **A variety of existing laws and guidance require openness from public authorities and cooperation with official investigations and inquiries. This patchwork demonstrates longstanding recognition that openness and transparency from public authorities is of real importance. Yet from the evidence we have received, it is far from clear that existing duties of candour are operating to ensure this openness and transparency.**

71. ***The Government should consider introducing a statutory duty of candour and extend it to all public authorities, as called for in the Hillsborough Law.***

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65 Including offences of distorting or altering evidence given to the inquiry panel or suppressing or concealing relevant documents (Inquiries Act 2005, section 35)

66 HM Government, [\*A Hillsborough Legacy: the Government’s response to Bishop James Jones’ report to ensure the pain and suffering of the Hillsborough families is never repeated\*](#) (December 2023), CP 990

## 4 Legal Representation and the inequality of arms

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### What equality of arms means

72. Equality of arms is an element of the right to a fair trial, recognised by the European Court of Human rights under Article 6 ECHR and meaning that “each party must be afforded a reasonable opportunity to present his case under conditions that do not place him at a disadvantage vis-à-vis his opponent”.<sup>67</sup> In the context of inquests, an inquisitorial process, the term is used to mean that every interested person recognised by the Coroners court should be afforded an equivalent opportunity to represent their interests before the Coroner.

73. Equality of arms can be undermined by one party being better resourced than another. In inquests, the concern is that interested persons that are public authorities will be able to access legal representation at the expense of the state while others, notably the family of the deceased, may not. This will prevent families both being able to assist the coroner in identifying and exploring the issues and also challenging narratives put forward by those representing the public authorities.

74. During the first inquests into the tragic deaths at the Hillsborough stadium, publicly funded representation was provided jointly to South Yorkshire Metropolitan Ambulance Service and Trent Regional Health Authority, as well as to Sheffield City Council. Senior South Yorkshire Police officers were represented by five separate legal teams. Meanwhile, no public money was provided for the families’ legal expenses, meaning they had to self-fund. As outlined in the Jones Report, at the ‘mini-inquests’, one solicitor represented the interests of over 90 families. At the ‘generic inquest’, one barrister represented 43 families, one family was represented by the mother of the person who had died, and the remaining families had no representation.<sup>68</sup> In his oral evidence to us, Bishop Jones characterised not being “equally legally represented at the first inquest” as “a denial of the human rights of the families.”<sup>69</sup>

75. At the fresh inquests that took place between 2014 and 2016, the families of the victims received public funding for legal representation, following a decision from the then Home Secretary, Theresa May MP. As the Jones Report explains: “Funding was not subject to means testing and was provided for the full period from before the quashing of the original inquests by the High Court in December 2012 through to the months following the conclusion of the fresh inquests in April 2016.”<sup>70</sup> The Jones Report also explains how important this funding was to the families:

The provision of funding was widely welcomed by the families, who described the difference it had made to their experience of the fresh inquests—and their

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67 [Öcalan v. Turkey \[GC\]](#), 2005, § 140

68 Right Reverend James Jones, ‘The patronising disposition of unaccountable power’: A report to ensure the pain and suffering of the Hillsborough families is not repeated, HC (2017–18) [511](#), para 2.12

69 [Q 5](#)

70 Right Reverend James Jones, ‘The patronising disposition of unaccountable power’: A report to ensure the pain and suffering of the Hillsborough families is not repeated, HC (2017–18) [511](#), para 2.30

outcome. For example, Barry Devonside, father of Christopher Devonside, expressed the view that: ‘If the families’ current legal teams had not been funded the families would not be where they are now.’<sup>71</sup>

## What does the Hillsborough Law propose?

76. The proposal in the Public Advocate and Accountability Bill is for bereaved families who are designated as “interested persons” or “core participants” in “inquests and public inquiries relating to deaths or serious injuries” to be “entitled to publicly-funded legal assistance and representation at the same level or in proportion to the resources provided to ... public authority or private entity” interested persons or core participants.<sup>72</sup> The schedule to the Bill provides detail on how this would be achieved, with the Legal Aid Authority tasked with determining the number of legal representatives and their seniority, as well as the estimated hours to be spent on the inquest by each of them, in order to establish proportionality between the bereaved and the public authorities.

77. Anna Morris KC provided us with a simple explanation of how ensuring representation for families in inquests, the usual mechanism for investigating suspicious deaths, supports the investigative obligation under Article 2 ECHR:

The Article 2 positive duty to have an effective investigation is served in a number of ways by coroners’ courts. Coroners’ courts hear inquests that can last a day, a week or a month, and improving the participation of the families not only improves the investigation quality but arguably will improve the quality of the investigations that take place within the coronial jurisdiction, helping them to identify issues more quickly and identifying learning that can prevent future deaths more quickly.<sup>73</sup>

## Existing inquest funding for bereaved relatives - Exceptional Case Funding (ECF)

78. Chairs of statutory public inquiries have a power under the Inquiries Act 2005 to award amounts in respect of the legal representation of witnesses and other interested persons. In deciding whether to exercise this power they must take into account the financial resources of the applicant as well as whether such a payment is in the public interest. Furthermore, the power (including the requirement to take into account financial resources) is explicitly subject to “such conditions or qualifications as may be determined by the Minister.”<sup>74</sup> While public inquiries would be expected to set up a scheme by which the families of victims will obtain publicly funded legal representation, this is not guaranteed by statute.<sup>75</sup>

79. Most formal inquiries into deaths take the form of inquests, however, like those that followed the Hillsborough disaster. The inquest system does currently allow for limited

71 Right Reverend James Jones, ‘The patronising disposition of unaccountable power’: A report to ensure the pain and suffering of the Hillsborough families is not repeated, HC (2017–18) [511](#), para 2.33

72 Clause 9(1)

73 [Q 15](#)

74 Inquiries Act 2005, section 40(4)

75 See, for example, the [costs protocol established for the Covid Inquiry](#), March 2022. In that inquiry, the [Prime Minister made the chairman’s power to award legal costs subject to a positive condition that the financial resources of victim’s families should not be taken into account.](#)

funds to be made available to some bereaved families at inquests and public inquiries through a form of legal aid called Exceptional Case Funding, intended for those whose human rights would be breached if they did not receive legal aid.

80. The Lord Chancellor’s Exceptional Funding Guidance sets out some of the factors that caseworkers should take into account in deciding exceptional funding applications in relation to inquests. It is based on section 10(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which says that funding must be granted where “the procedural obligation under Article 2 ECHR arises and, in the particular circumstances of the case, representation for the family of the deceased is required to discharge it.”<sup>76</sup>

81. As discussed above, Article 2 ECHR (the right to life) requires Contracting States to take appropriate steps to safeguard the lives of those within their jurisdiction, including carrying out an effective investigation into deaths where the state is implicated. Such an effective investigation requires the effective participation of bereaved families - and for this purpose effective participation in the formal process that is an inquest, often involving complex legal arguments and medical evidence, will generally require legal representation. Without it families may be left “going into those forums traumatised, bereaved and confused”.<sup>77</sup>

82. ECF should therefore be available in cases where Article 2 ECHR is engaged. We were told, however, that in 2022 only 750 of the 36,000 deaths reported to coroners automatically engaged Article 2 rights.<sup>78</sup> In other cases Article 2 may be engaged, but this may be disputed and only established after legal argument - which may itself require legal representation. We recognise that if bereaved families are not properly advised and do not recognise the relevance of the rights engaged and their potential eligibility for ECF, these arguments may never be made.

83. We also heard that in other cases where Article 2 is not directly engaged in this way, public authorities may still get representation when families will not.<sup>79</sup> Ms Morris KC provided a powerful example of how the engagement of Article 2 does not appear to be a satisfactory point of distinction:

The inquests into the deaths of the members of the public that died in the London Bridge attacks were ruled not to engage Article 2 ECHR. There was therefore no funding for the families of those who died. Six families were represented by one King’s Counsel and one Junior counsel, pro bono. In contrast, the Security Services instructed three King’s Counsel and several junior counsel, and three different police forces each instructed King’s Counsel and junior counsel. Because the engagement of Article 2 ECHR is currently the criteria for the grant of Exceptional Case Funding, the families of the perpetrators of the terrorist attacks automatically received funding for their inquests, as they were killed by state agents.<sup>80</sup>

76 Legal Aid, Sentencing and Punishment of Offenders Act 2012, section 10(3)

77 [Q 15](#) (Anna Morris KC)

78 [Q 15](#) (Anna Morris KC)

79 In respect of inquests for which Exceptional Case Funding is not available (or where it is not yet clear if the ECF criteria are met), there is the possibility of families obtaining limited funding for legal costs through the ‘Legal Help’ scheme. Legal Help is a form of means-tested legal aid which can cover some preparatory steps for an inquest, but will not cover the cost of a lawyer representing a family at the inquest hearing.

80 Written evidence from Anna Morris KC ([HBL0001](#))



84. Other areas in which ECF is generally unavailable because Article 2 rights will not be engaged were also pointed out to us.<sup>81</sup> They include deaths involving healthcare in state detention; self-inflicted deaths of voluntary patients who are under community mental health teams or in the direct care of a mental health trust; deaths in supported accommodation run by local authorities where the person has been placed there by a public authority or safeguarding provisions; and Armed Forces veteran suicides.

85. A further point made by Anna Morris KC in her evidence to us is that the statutory duty on Coroners to report matters that arise during the investigation that in their view continue to pose a risk of future deaths, a duty that arguably plays an important role in protecting the right to life, applies in all inquests - not just those in which Article 2 is engaged:

Many state agencies view these Reports as a form of criticism and therefore conduct themselves with institutional defensiveness to avoid both critical findings and a report being issued.<sup>82</sup>

Particularly against this background of institutional defensiveness, it is arguable that the Coroner’s ability to meet this important duty is not supported by an inquiry in which the family is unrepresented and thus less able to play an active part.

## Previous reviews and Government response

86. Bishop Jones’ call for “Publicly funded legal representation [to] be made available to bereaved families at inquests at which a public authority is to be legally represented” is from the first such call. Other significant reviews have made similar recommendations, including the Angiolini review into deaths and serious incidents in police custody<sup>83</sup> and the Bach Commission report on the right to justice,<sup>84</sup> and it has also been a recommendation of the two previous Chief Coroners, HHJ Peter Thornton KC in 2016 and HHJ Mark Lucraft KC in 2017:

The Chief Coroner therefore recommends that the Lord Chancellor gives consideration to amending the Exceptional Funding Guidance (Inquests) so as to provide exceptional funding for legal representation for the family where the state has agreed to provide separate representation for one or more interested persons.<sup>85</sup>

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81 [Q 15](#) (Anna Morris KC)

82 Written evidence from Anna Morris KC ([HBL0001](#))

83 The Rt Hon Dame Elish Angiolini DBE QC, [Report of the Independent Review of Deaths and Serious Incidents in Police Custody](#) (2017), para 44: “For the state to fulfil its legal obligations of allowing effective participation of families in the process that is meaningful and not “empty and rhetorical” there should be access for the immediate family to free, non-means tested legal advice, assistance and representation immediately following the death and throughout the Inquest hearing.”

84 Fabian Policy Report, [The Right to Justice: The final report of the Bach Commission](#) (September 2017), para 15: “Where the state is funding one or more of the other parties at an inquest, it should also provide legal aid for representation of the family of the deceased.”

85 [Report of the Chief Coroner to the Lord Chancellor, Third Annual Report: 2015–2016](#) and the same recommendation was made in almost identical terms in the [Report of the Chief Coroner to the Lord Chancellor, Fourth Annual Report: 2016–2017](#)

87. In its response to Bishop Jones’s Review, published on 6 December 2023,<sup>86</sup> the Government noted that the means test had been removed for ECF in 2022 and for applications for Legal Help for inquests in September 2023, and undertook to “consult on expanding the provision of legal aid for inquests following public disasters where the IPA is deployed, and in the aftermath of a terrorist incident.”<sup>87</sup> The Government added that:

public bodies should not have limitless access to public funds to spend on legal representation, and their spend should be proportionate compared to that of bereaved families. The Government will therefore set out, through guidance, its expectation that central government public bodies and their sponsoring department publish their spend on legal representation at inquests and inquiries, and reaffirm that this spend should be proportionate compared to that of bereaved families and should never be excessive.<sup>88</sup>

## Conclusions

88. **The Joint Committee on Human Rights has previously called for families involved in inquisitorial inquests to be “given non-means tested funding for legal representation at inquests where the state has separate representation for one or more interested persons”.**<sup>89</sup> We welcome the removal of means testing for ECF and legal help at inquests and recent statutory inquiries providing non-means tested funding to families. However, the evidence we have considered indicates that there remains a real risk of inequality of arms in terms of access to legal advice and representation between the public bodies and officials appearing before an inquest or inquiry and bereaved families.

89. **Inequality between the State and bereaved families hinders the effective involvement of families in the inquest process, as may be required by Article 2 ECHR. By leaving the process unequal, it may also damage the ability of inquests to get to the truth of events and provide an opportunity for lessons to be learned to prevent future tragedies and loss of life.**

90. ***We urge the Government to take steps to ensure that families receive proportionate legal representation at inquests and inquiries whenever the state has its own representation. If a consultation on the extension of legal aid in inquests that follow public disasters is considered necessary, it should be launched at the earliest opportunity. While seeking to reduce the spending of public authorities on legal representation inquest may be appropriate, Government must be careful not to simply reduce the quality of representation overall, as this risks damaging the ability of inquests to serve their statutory and Article 2 ECHR purpose.***

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86 HM Government, *A Hillsborough Legacy: the Government’s response to Bishop James Jones’ report to ensure the pain and suffering of the Hillsborough families is never repeated*, CP 990, December 2023

87 HM Government, *A Hillsborough Legacy: the Government’s response to Bishop James Jones’ report to ensure the pain and suffering of the Hillsborough families is never repeated*, CP 990, December 2023

88 HM Government, *A Hillsborough Legacy: the Government’s response to Bishop James Jones’ report to ensure the pain and suffering of the Hillsborough families is never repeated*, CP 990, December 2023, p 4

89 Joint Committee on Human Rights, Tenth Report of Session 2017–19, *Enforcing Human Rights*, HC 669, HL Paper 171, para 74

## 5 Independent Public Advocate

91. The proposal in the Hillsborough Law for the creation of an independent public advocate, also called for in the Jones Report, has found form in recent legislative proposals from the Government. An independent public advocate could help to ensure effective participation of victims and families in investigations and inquiries that follow major incidents, in accordance with the procedural investigative obligation imposed by Articles 2 and 3 ECHR.

### Victims and Prisoners Bill

92. The Victims and Prisoners Bill, when first introduced into Parliament, included provision for independent public advocates to provide support and assistance to the victims of major incidents and their families. The explanatory notes to the Bill explained:

The Independent Public Advocate arises from the lessons learned from the 1989 Hillsborough Disaster. The investigation and inquests that followed that tragedy were heavily criticised and the families had to fight for many years to get to the truth of what happened on that fateful day ... Introducing The Independent Public Advocate has been a long-standing Government commitment which was set out in the 2017 Queen’s Speech. The IPA will provide advice and support to the bereaved and the injured following a major incident and through any investigation, inquest and inquiry that follows.<sup>90</sup>

93. On 14 September 2023, we wrote to the Lord Chancellor about the Victims and Prisoners Bill, then awaiting reintroduction to the House of Commons at the beginning of the 2023–24 session.<sup>91</sup> In that letter, we welcomed the introduction of an independent public advocate. However, we noted the written evidence we had received from witnesses including Inquest<sup>92</sup> and oral evidence from Bishop Jones criticising the Bill’s failure to establish a standing advocate, rather than an advocate appointed by the Secretary of State following a particular incident. Bishop Jones had noted that:

in the immediate aftermath of a public tragedy when people are disorientated, grief-stricken, bereaved, traumatised, that is the very moment when they need an independent public advocate. To wait two weeks or two months for the Secretary of State to work out whether or not the public tragedy merits an IPA overlooks the pressing need in the immediate aftermath of there being an advocate for those who have been affected.<sup>93</sup>

94. We said that we shared those concerns. We considered that the Bill should be amended to require the establishment of a standing public advocate who is fully independent of Government and able to take action to provide support to victims in the immediate aftermath of major incidents. We attached an amendment to the Bill, designed to achieve that end.

90 [Explanatory Notes on the Victims and Prisoners Bill](#) [Bill (2023–24) 286 - EN], paras 398, 400

91 [Letter from Chair of the Joint Committee on Human Rights to the Lord Chancellor](#) (14 September 2024)

92 Written evidence from INQUEST ([VAPB0017](#))

93 [Q 10](#)

95. On 27 November 2023, the Government announced that it intended to: “put this vital role on a permanent footing” so that the independent advocate “is readily available around the clock and can be deployed quickly in the face of an emergency - advising victims on how to access vital financial, physical and mental health services and ensuring they understand their rights.”<sup>94</sup>

96. Amendments were made to the Bill at Report stage in the Commons.

- a) Clause 29 now provides for the ‘standing advocate’. It says that the “Secretary of State must appoint an individual as the standing advocate for victims of major incidents” and describes the function of the standing advocate as advising the Secretary of State “as to the interests of victims of major incidents, and their treatment by public authorities in response to major incidents”; “to advise other advocates as to the exercise of the functions of those advocates” and making reports to the Secretary of State.<sup>95</sup>
- b) Clause 30 of the Bill provides for the appointment of advocates for victims in respect of particular major incidents. Clause 33(4) outlines the function of those advocates as including:
  - i) helping victims understand the actions of public authorities in relation to the incident, and how the views of victims may be taken into account;
  - ii) informing victims about other sources of support and advice;
  - iii) communicating with public authorities on behalf of victims in relation to the incident;
  - iv) assisting victims to access documents or other information in relation to an investigation, inquest or inquiry.

97. In his oral statement to the House of Commons on the publication of the Government’s response to Bishop James’s Review on 6 December 2023, the Lord Chancellor said that the Independent Public Advocate introduced by the Bill: “will make sure those affected by major incidents know their rights, can access support services, and have their voices heard at inquests and inquiries.”<sup>96</sup> The response itself explained that: “Following the strong and powerful points made during evidence sessions and during the House of Commons Committee Stage of the Victims and Prisoners Bill, the MoJ recognises the importance of speed in IPA deployment, and as such, have introduced measures to create a permanent IPA, who can be on the ground within hours following a major incident.”<sup>97</sup>

98. While this statement speaks of being on the ground within hours, it appears from the amendments made to the Victims and Prisoners Bill, and the accompanying explanatory notes, that the standing advocate would have no function of providing support and guidance to victims and bereaved families (unless it considered such a function to be an appropriate step to facilitate the exercise of, or be incidental or conducive to, the functions

94 Ministry of Justice, ‘Permanent Independent Public Advocate to better support disaster victims’ (27 November 2023): <https://www.gov.uk/government/news/permanent-independent-public-advocate-to-better-support-disaster-victims> [accessed on 3 May 2024]

95 Clause 29(2)

96 HC Deb, 6 December 2023, [col 345](#) [Commons Chamber]

97 HM Government, *A Hillsborough Legacy: the Government’s response to Bishop James Jones’ report to ensure the pain and suffering of the Hillsborough families is never repeated*, CP 990, December 2023, para 3.1.4

of the standing advocate or another advocate). Only individual advocates appointed in respect of specific major incident are given specific responsibility for providing support and guidance for victims and bereaved families.

## Conclusions

99. We welcome the creation of the roles of the standing and incident specific advocates for victims of major incidents. If implemented correctly, the advocates who fulfil those roles will provide crucial help to victims navigating the often daunting maze of rules and procedures that follow major incidents.

100. We are particularly pleased that the Government has recognised the importance of a speedy response to any major incident and amended the Victims and Prisoners Bill to include a standing advocate. We consider it crucial that the appointment of a standing advocate is not delayed once the Victims and Prisoners Bill becomes law. *The Minister should provide an explanation to the Joint Committee on Human Rights and the Justice Select Committee if no standing advocate is appointed within three months of the Bill gaining Royal Assent.*

101. We also remain concerned that there may be a delay in the appointment of individual public advocates following major incidents, when it appears to remain their role to provide support directly to victims and bereaved family members. This could result in a gap in the support given in the immediate aftermath of such tragedies. We urge the Government to take steps to ensure that no such gap occurs. *The Government should consider providing an undertaking that if an advocate is not appointed in respect of a major incident within 72 hours of that incident taking place, the Minister will attend before Parliament to explain this delay and will do so on a weekly basis until an appointment takes place.*

# Conclusions and recommendations

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## Introduction

1. We welcome the Government’s signing of the Hillsborough Charter and its commitment to honesty and transparency in the public sector, features that can only benefit the protection of human rights. (Paragraph 17)

## A Duty of Candour

2. “Institutional defensiveness” appears to remain a problem for public authorities, particularly when they are involved in public inquiries and inquests. This hinders efforts to establish the truth when things go wrong and stands in the way of fulfilling the State’s investigative obligations under Article 2 and Article 3 ECHR. (Paragraph 43)
3. Introducing criminal sanctions for breach of a duty of candour may increase the prospect of the duty being taken seriously, offering greater external mechanisms to pursue public institutions that fail to comply. However, including criminal offences on the statute book is not alone sufficient to ensure compliance. Effective enforcement in practice, together with wider efforts to support culture change within the public sector, are also needed if the transparency and openness sought by the Hillsborough Law is to be established. (Paragraph 50)
4. Given the importance of transparency, including criminal sanctions in any statutory duty of candour appears justified, but the right not to self-incriminate, protected at common law and under Article 6 ECHR, must also be respected. (Paragraph 51)
5. While taking a step in the right direction, the current provisions of the Criminal Justice Bill do not offer the same opportunity for change as would a general statutory duty of candour. By focusing on the police alone and appearing to rely on internal disciplinary processes for enforcement, the Criminal Justice Bill would not meet the calls of the Hillsborough Law Now campaign. (Paragraph 67)
6. A general statutory duty of candour would help to ensure that the priority for public bodies is to establish what has gone wrong and needs to be changed in order to prevent future deaths, rather than protecting individuals and institutions from censure. It would also help inquiries become more effective and less protracted, benefiting the bereaved and survivors, and thus fulfilling the UK’s obligations under Articles 2 and 3 ECHR. (Paragraph 68)
7. A variety of existing laws and guidance require openness from public authorities and cooperation with official investigations and inquiries. This patchwork demonstrates longstanding recognition that openness and transparency from public authorities is of real importance. Yet from the evidence we have received, it is far from clear that existing duties of candour are operating to ensure this openness and transparency. (Paragraph 70)
8. *The Government should consider introducing a statutory duty of candour and extend it to all public authorities, as called for in the Hillsborough Law.* (Paragraph 71)

## Legal Representation and the inequality of arms

9. The Joint Committee on Human Rights has previously called for families involved in inquisitorial inquests to be "given non-means tested funding for legal representation at inquests where the state has separate representation for one or more interested persons". We welcome the removal of means testing for ECF and legal help at inquests and recent statutory inquiries providing non-means tested funding to families. However, the evidence we have considered indicates that there remains a real risk of inequality of arms in terms of access to legal advice and representation between the public bodies and officials appearing before an inquest or inquiry and bereaved families. (Paragraph 88)
10. Inequality between the State and bereaved families hinders the effective involvement of families in the inquest process, as may be required by Article 2 ECHR. By leaving the process unequal, it may also damage the ability of inquests to get to the truth of events and provide an opportunity for lessons to be learned to prevent future tragedies and loss of life. (Paragraph 89)
11. *We urge the Government to take steps to ensure that families receive proportionate legal representation at inquests and inquiries whenever the state has its own representation. If a consultation on the extension of legal aid in inquests that follow public disasters is considered necessary, it should be launched at the earliest opportunity. While seeking to reduce the spending of public authorities on legal representation inquest may be appropriate, Government must be careful not to simply reduce the quality of representation overall, as this risks damaging the ability of inquests to serve their statutory and Article 2 ECHR purpose.* (Paragraph 90)

## Independent Public Advocate

12. We welcome the creation of the roles of the standing and incident specific advocates for victims of major incidents. If implemented correctly, the advocates who fulfil those roles will provide crucial help to victims navigating the often daunting maze of rules and procedures that follow major incidents. (Paragraph 99)
13. We are particularly pleased that the Government has recognised the importance of a speedy response to any major incident and amended the Victims and Prisoners Bill to include a standing advocate. We consider it crucial that the appointment of a standing advocate is not delayed once the Victims and Prisoners Bill becomes law. *The Minister should provide an explanation to the Joint Committee on Human Rights and the Justice Select Committee if no standing advocate is appointed within three months of the Bill gaining Royal Assent.* (Paragraph 100)
14. We also remain concerned that there may be a delay in the appointment of individual public advocates following major incidents, when it appears to remain their role to provide support directly to victims and bereaved family members. This could result in a gap in the support given in the immediate aftermath of such tragedies. We urge the Government to take steps to ensure that no such gap occurs. *The Government should consider providing an undertaking that if an advocate is not appointed in*

*respect of a major incident within 72 hours of that incident taking place, the Minister will attend before Parliament to explain this delay and will do so on a weekly basis until an appointment takes place. (Paragraph 101)*



# Formal minutes

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**Wednesday 15 May 2024**

## **Members present:**

Joanna Cherry MP, in the Chair

Lord Alton of Liverpool

Lord Dholakia

Jill Mortimer MP

## **Human rights and the proposal for a “Hillsborough Law”**

Draft Report (*Human rights and the proposal for a “Hillsborough Law”*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 101 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Third Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available (Standing Order No. 134).

## **Adjournment**

Adjourned until 22 May at 2.45pm

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee’s website.

### Wednesday 19 July 2023

**Elkan Abrahamson**, Director and Head of Major Inquiries, and Family and Child Law Advocate, Jackson Lees; **Andy Burnham**, Mayor, Greater Manchester; **The Right Reverend James Jones KBE**

[Q1–14](#)

**Anna Morris KC**, Barrister, Garden Court Chambers; **Pete Weatherby KC**, Barrister, Garden Court North

[Q15–25](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee’s website.

HBL numbers are generated by the evidence processing system and so may not be complete.

- 1 Broudie Jackson Canter ([HBL0003](#))
- 2 Garden Court North Chambers ([HBL0002](#))
- 3 Garden Court North Chambers ([HBL0001](#))

# List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee’s website.

## Session 2023–24

Number	Title	Reference
1st	Draft Investigatory Powers Act 2016 (Remedial) Order 2023: Second Report	HC 464 HL 39
2nd	Safety of Rwanda (Asylum and Immigration) Bill	HC 435 HL 62
1st Special Report	Safety of Rwanda (Asylum and Immigration) Bill: Government Response to the Committee’s Second Report	HC 647

## Session 2022–23

Number	Title	Reference
1st	Legislative Scrutiny: Public Order Bill	HC 351 HL 16
2nd	Proposal for a draft State Immunity Act 1978 (Remedial) Order	HC 280 HL 42
3rd	The Violation of Family Life: Adoption of Children of Unmarried Women 1949–1976	HC 270 HL 43
4th	Protecting human rights in care settings	HC 216 HL 51
5th	Legislative Scrutiny: National Security Bill	HC 297 HL 73
6th	Legislative Scrutiny: Northern Ireland Troubles (Legacy and Reconciliation) Bill	HC 311 HC 79
7th	Draft State Immunity Act 1978 (Remedial) Order 2022	HC 895 HL 103
8th	Draft Bereavement Benefits (Remedial) Order 2022: Second Report	HC 834 HL 108
9th	Bill of Rights Bill	HC 611 HL 132
10th	Legislative Scrutiny: Strikes (Minimum Service Levels) Bill 2022–2023	HC 1088 HL 157
11th	Human Rights Ombudsperson	HC 222 HL 175
12th	Legislative Scrutiny: Illegal Migration Bill	HC 1241 HL 208

13th	Proposal for a Draft Investigatory Powers Act 2016 (Remedial) Order 2023	HC 1264 HL 210
1st Special Report	Human Rights Act Reform: Government Response to the Committee’s Thirteenth Report of Session 2021–22	HC 608
2nd Special Report	Legislative Scrutiny: Public Order Bill: Government Response to the Committee’s First Report	HC 649
3rd Special Report	Protecting Human Rights in Care Settings: Government Response to the Committee’s Fourth Report	HC 955
4th Special Report	Legislative Scrutiny: Northern Ireland Troubles (Legacy and Reconciliation) Bill: Government response to the Committee’s Sixth report	HC 1179
5th Special Report	The Violation of Family Life: Adoption of Children of Unmarried Women 1949–1976: Government Response to the Committee’s Third Report	HC 1180
6th Special Report	Legislative Scrutiny: Strikes (Minimum Service Levels) Bill: Government response to the Committee’s Tenth Report	HC 1315
7th Special Report	Human Rights Ombudsperson: Government Response to the Committee’s Eleventh Report	HC 1489
8th Special Report	Legislative Scrutiny: Illegal Migration Bill: Government Response to the Committee’s Twelfth Report	HC 1790

### Session 2021–22

Number	Title	Reference
1st	Children of mothers in prison and the right to family life: The Police, Crime, Sentencing and Courts Bill	HC 90 HL 5
2nd	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, Part 3 (Public Order)	HC 331 HL 23
3rd	The Government’s Independent Review of the Human Rights Act	HC 89 HL 31
4th	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill (Part 4): The criminalisation of unauthorised encampments	HC 478 HL 37
5th	Legislative Scrutiny: Elections Bill	HC 233 HL 58
6th	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill (Parts 7 and 8): Sentencing and Remand of Children and Young People	HC 451 HL 73
7th	Legislative Scrutiny: Nationality and Borders Bill (Part 1) – Nationality	HC 764 HL 90

<b>Number</b>	<b>Title</b>	<b>Reference</b>
8th	Proposal for a draft Bereavement Benefits (Remedial) Order 2021: discrimination against cohabiting partners	HC 594 HL 91
9th	Legislative Scrutiny: Nationality and Borders Bill (Part 3) – Immigration offences and enforcement	HC 885 HL 112
10th	Legislative Scrutiny: Judicial Review and Courts Bill	HC 884 HL 120
11th	Legislative Scrutiny: Nationality and Borders Bill (Part 5)— Modern slavery	HC 964 HL 135
12th	Legislative Scrutiny: Nationality and Borders Bill (Parts 1, 2 and 4) – Asylum, Home Office Decision Making, Age Assessments, and Deprivation of Citizenship Orders	HC 1007 HL 143
13th	Human Rights Act Reform	HC 1033 HL 191
1st Special Report	The Government response to covid-19: fixed penalty notices: Government Response to the Committee’s Fourteenth Report of Session 2019–21	HC 545
2nd Special Report	Care homes: Visiting restrictions during the covid-19 pandemic: Government Response to the Committee’s Fifteenth Report of Session 2019–21	HC 553
3rd Special Report	Children of mothers in prison and the right to family life: The Police, Crime, Sentencing and Courts Bill: Government Response to the Committee’s First Report	HC 585
4th Special Report	The Government response to covid-19: freedom of assembly and the right to protest: Government Response to the Committee’s Thirteenth Report of Session 2019–21	HC 586
5th Special Report	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, Part 3 (Public Order): Government Response to the Committee’s Second Report	HC 724
6th Special Report	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, Part 4 (Unauthorised Encampments): Government Response to the Committee’s Fourth Report	HC 765
7th Special Report	Legislative Scrutiny: Elections Bill: Government Response to the Committee’s Fifth Report	HC 911
8th Special Report	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill (Parts 7 and 8): Sentencing and Remand of Children and Young People: Government Response to the Committee’s Sixth Report	HC 983
9th Special Report	Human Rights and the Government’s Response to Covid-19: Digital Contact Tracing: Government Response to the Committee’s Third Report of Session 2019–21	HC 1198
10th Special Report	Legislative Scrutiny: Nationality and Borders Bill: Government Responses to the Committee’s Seventh, Ninth, Eleventh and Twelfth Reports	HC 1208

**Session 2019–21**

<b>Number</b>	<b>Title</b>	<b>Reference</b>
1st	Draft Jobseekers (Back to Work Schemes) Act 2013 (Remedial) Order 2019: Second Report	HC 146 HL 37
2nd	Draft Human Rights Act 1998 (Remedial) Order: Judicial Immunity: Second Report	HC 148 HL 41
3rd	Human Rights and the Government’s Response to Covid-19: Digital Contact Tracing	HC 343 HL 59
4th	Draft Fatal Accidents Act 1976 (Remedial) Order 2020: Second Report	HC 256 HL 62
5th	Human Rights and the Government’s response to COVID-19: the detention of young people who are autistic and/or have learning disabilities	HC 395 (CP 309) HL 72
6th	Human Rights and the Government’s response to COVID-19: children whose mothers are in prison	HC 518 HL 90
7th	The Government’s response to COVID-19: human rights implications	HC 265 (CP 335) HL 125
8th	Legislative Scrutiny: The United Kingdom Internal Market Bill	HC 901 HL 154
9th	Legislative Scrutiny: Overseas Operations (Service Personnel and Veterans) Bill	HC 665 (HC 1120) HL 155
10th	Legislative Scrutiny: Covert Human Intelligence Sources (Criminal Conduct) Bill	HC 847 (HC 1127) HL 164
11th	Black people, racism and human rights	HC 559 (HC 1210) HL 165
12th	Appointment of the Chair of the Equality and Human Rights Commission	HC 1022 HL 180
13th	The Government response to covid-19: freedom of assembly and the right to protest	HC 1328 HL 252
14th	The Government response to covid-19: fixed penalty notices	HC 1364 HL 272
15th	Care homes: Visiting restrictions during the covid-19 pandemic	HC 1375 HL 278
1st Special Report	The Right to Privacy (Article 8) and the Digital Revolution: Government Response to the Committee’s Third Report of Session 2019	HC 313
2nd Special Report	Legislative Scrutiny: Covert Human Intelligence Sources (Criminal Conduct) Bill: Government Response to the Committee’s Tenth Report of Session 2019–21	HC 1127
3rd Special Report	Legislative Scrutiny: Overseas Operations (Service Personnel and Veterans) Bill: Government Response to the Committee’s Ninth Report of Session 2019–21	HC 1120

<b>Number</b>	<b>Title</b>	<b>Reference</b>
4th Special Report	Black people, racism and human rights: Government Response to the Committee's Eleventh Report of Session 2019–21	HC 1210
5th Special Report	Democracy, freedom of expression and freedom of association: Threats to MPs: Government Response to the Committee's Third Report of Session 2019	HC 1317
6th Special Report	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, Part 4 (Unauthorised Encampments): Government Response to the Committee's Fourth Report	HC 765
7th Special Report	Legislative Scrutiny: Elections Bill: Government Response to the Committee's Fifth Report	HC 911