PUBLIC OFFICE (ACCOUNTABILITY) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Public Office (Accountability) Bill as brought from the House of Commons on 16 July 2026 (HL Bill 42). The Bill was first introduced in the 2024-26 Session of Parliament, when it completed its Second Reading and Committee stage in the House of Commons. A carry-over motion was passed in relation to the Bill on 27 April 2026. This version of the Bill includes the amendments made to the Bill during its Committee stage.

- These Explanatory Notes have been prepared by the Ministry of Justice in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.

- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

Table of Contents

These Explanatory Notes relate to the Public Office (Accountability) Bill as brought from the House of Commons on 16 July 2026 (HL Bill 42)

Overview of the Bill

1 The Public Office (Accountability) Bill gives effect to the commitment in the Labour Party's 2024 manifesto to introduce a 'Hillsborough Law' which will "place a legal duty of candour on public servants and authorities and provide legal aid for victims of disasters or state-related deaths". The Hillsborough disaster is a great stain on British history – this Bill aims to ensure that what happened following the disaster can never take place again. Public officials will be bound by duties of candour with criminal and professional consequences and action will be taken to help empower bereaved families to effectively participate in inquests where the state is involved — helping to address any imbalance of power and promote transparency and fairness. Part 1 of the Bill contains a purpose clause which summarises the policy objective of the Bill: to ensure that public authorities and officials perform their functions in the public interest and with candour, transparency and frankness at all times.

2 Part 2 and Schedules 1 to 3 of the Bill place public authorities and public officials under duties of candour. Chapter 1 (Clauses 2 to 9) creates a legal duty of candour and assistance on public authorities and officials at inquiries, inquests and other investigations. Under this duty, public bodies and officials will be required to assist inquiries, inquests and other investigations to achieve their objectives: with candour; promptly and proactively; with full disclosure of evidence - and without favour of their own position. There would be criminal sanctions in cases of non-compliance.

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

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

5 Clause 7 ensures that the public record offices and keepers of public records are not subject to the duty of candour and assistance in relation to their record keeping duties.

6 Chapter 2 (Clauses 10 and 11) establishes a duty on public authorities to promote and maintain ethical conduct. They must produce a code of ethics that will include duties relating to candour. They will need to make those working for the authority aware of the code and set out the consequences of non-compliance.

7 Chapter 3 (Clause 12) creates an offence of misleading the public. An official or authority commits an offence if they act with the intention of misleading the public or are reckless as to whether their act will do so and they know, or ought to know, that their act is seriously improper.

8 Part 3 and Schedules 4 and 5 of the Bill abolish the common law criminal offence of misconduct in public office and replace it with two statutory offences. This follows the Law Commission's recommendations in its 2020 report, *Misconduct in Public Office* (LC 397). Including this measure is aimed to support the Government's fight against corruption and serious wrongdoing in public office. Schedule 4 lists the Holders of Public Office subject to the new statutory offences in Part 3. Schedule 5 makes consequential amendments to other legislation.

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

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

Policy background

Duty of Candour

11 In 2009 the Government established the Hillsborough Independent Panel to oversee full public disclosure of relevant information held by state bodies. The Panel's report, published in 2012, led to an apology from the then Prime Minister for what he called the "double injustice" faced by Hillsborough families: "The injustice of the appalling events – the failure of the state to protect their loved ones and the indefensible wait to get to the truth. And the injustice of the denigration of the deceased – that they were somehow at fault for their own death."

12 Following the Panel's work, a new investigation into criminal and police misconduct allegations was conducted, alongside a new set of inquests. The new inquests concluded in 2016, with the jury reaching a conclusion of 'unlawful killing' in respect of each of those who died.

13 Following the inquests, the Government commissioned Bishop James Jones – the Chair of the Hillsborough Independent Panel – to produce a report on the experiences of the Hillsborough families. His report identified a series of points of learning for government and other public bodies.

14 In parallel with Bishop James' work – and responding to the same issues – the Public Authority (Accountability) Bill was developed by campaigners and introduced as a Private Members' Bill by the Rt Hon Andy Burnham. The Bill, which became known as the "Hillsborough Law", fell when Parliament was dissolved for the 2017 General Election.

15 In September 2024 the Prime Minister committed to implement a duty of candour. The Prime Minister said this would be not only a law for Hillsborough:

> "It's also a law for the sub-postmasters in the Horizon scandal, the victims of Infected Blood, Windrush, Grenfell Tower, and all the countless injustices over the years suffered by working people at the hands of those who were supposed to serve them. Truth and justice concealed behind the closed ranks of the state…"

Parity of Arms

16 The Hillsborough Law Now campaign has sought to establish parity of arms at inquests. As part of their commitment to introduce a Hillsborough Law, the Government committed to provide legal aid for victims of disasters or state-related deaths.

17 The Bill ensures that the families of victims of disasters or state-related deaths are entitled to non-means tested legal advice and advocacy at inquests involving public authorities named as interested persons. The Bill also provides greater support for bereaved families to participate fully and effectively in inquests, inquiries and other investigations where the state is involved; and introduces new requirements and guidance for public authorities to ensure their actions support the inquisitorial nature of these processes.

Coroner investigations

18 Under section 1 of the Coroners and Justice Act 2009, a coroner must conduct an investigation into a death of which they become aware if they suspect that the cause of the death is unknown, unnatural or violent, or that it occurred in custody or other state detention. The investigation may include a court hearing called an inquest unless, prior to that stage, the coroner is satisfied that the cause of death has become clear. All deaths in custody or other state detention must have an inquest. In some cases, for example non-natural deaths in custody or state detention, the inquest must be held with a jury.

19 The investigation and inquest process must provide answers to four statutory questions: who has died and when, where and how they died. To enable the death to be registered, the coroner must also provide a medical cause of death and specified personal information about the deceased person.

20 The investigation process is intended to be fact-finding, and, by law, the coroner cannot determine civil or criminal liability on the part of a named person. The process is therefore inquisitorial and is not a forum for one side to 'prove' a case against another. Instead, the coroner hears relevant evidence, and the participants support the coroner to identify appropriate questions in order to arrive at factual answers to the four statutory questions. It is essential that all participants engage with the investigation process in a way which supports this inquisitorial ethos.

Public inquiries

21 A public inquiry is a major independent investigation established by a government minister to inquire into particular events of public concern, for example:

a. following a tragedy or a series of events leading to large-scale loss of life or serious injuries.

b. where there has been an apparent failure in public, regulatory or investigatory systems or services, with a significant impact on public confidence.

c. where the state's investigative obligations under Articles 2 and 3 of the European Convention on Human Rights cannot be met through other processes

d. where there are other events of serious concern, including in matters of public policy or delivery.

22 Very broadly, there are two types of inquiries: statutory inquiries (i.e. established under the provisions of the Inquiries Act 2005 and supporting Rules) and non-statutory.

23 While an inquiry is an important, inquisitorial investigatory process, it is not a mechanism to establish guilt or innocence. An inquiry cannot determine a person or an organisation's civil or criminal liability, and it cannot make awards for damages or determine any criminal or civil sanctions.

24 For affected persons, dealing with a coroner's investigation and inquest process or a public inquiry can be a difficult and, in some situations, a potentially retraumatising process. This can be particularly acute where a death or serious harm may have occurred as a result of action or inaction by public bodies, or where the state participates in an inquest or public inquiry process, often through legal representatives

Current legal aid regime for inquests

25 The current legal aid regime for inquests consists of two services: "legal help" and advocacy. Legal help (advice and assistance) is available to bereaved family members at all inquests, subject to a means and merits test. The means test for legal help can be disapplied if:(a) legal help is

requested in conjunction with a successful Exceptional Case Funding (ECF) application for advocacy at the inquest; or (b) where, if the applicant were to make such an application for ECF, the application would be reasonably likely to succeed.

26 Legal aid for advocacy (i.e. representation at the inquest itself) at inquests is currently available only through ECF where:

- The Director of Legal Aid Casework (DLAC), determines that legal aid is required to prevent a breach or there is a risk of breach of the European Convention on Human Rights (ECHR). In effect this is mainly made in relation to the procedural obligation under Article 2 ECHR (right to life); or

- The DLAC makes a "wider public interest determination" that the provision of advocacy for the individual at the inquest is likely to produce significant benefits (e.g. identification of dangerous practices or systemic failings) for a class of persons, other than just the applicant and the members of the applicant's family.

Calls for change

27 Both Bishop James Jones' report 'The Patronising Disposition of Unaccountable Power'[1] and the House of Commons Justice Committee's inquiry into the coroner service in 2021[2] called for publicly funded legal advocacy to be available for bereaved families at inquests where public bodies are represented. Both reports also set out that it can be challenging for grieving and bereaved families to apply for ECF and to comply with the means and merits tests. The Bishop James Jones report highlighted a perceived "inequality of arms" between the families of victims and public bodies and that public bodies could spare "no expense on their own legal advice and representation" while bereaved families were often forced to go without representation. The report also confirmed that the experiences of the Hillsborough families demonstrate the devastating and lasting impact a major incident can have on those affected. Other reports over the years have called for a review of the provision of legal aid for families at inquests, including Lord Bach's 2017 report of his Commission on "The Right to Justice".[3]

Expanding legal aid for inquests

28 The Government committed to provide legal aid for victims of disasters or state-related deaths. The Public Office (Accountability) Bill expands non-means tested legal aid to cover all inquests where a public authority (defined in Part 2 of Schedule 2 to the Bill) is an interested person. This means that where a public authority is an interested person, legal aid will be available for bereaved families.

29 This includes, but is not limited to, inquests where local authorities, Government departments, the NHS, the armed forces, schools, the police or any other body performing functions of a public nature are in receipt of representation at an inquest.

Misconduct in Public Office

30 The criminal offence of misconduct in public office is an offence in the common law of England and Wales, and Northern Ireland, dating back hundreds of years, with its terms

---

[1] 'The Patronising Disposition of Unaccountable Power' report, Bishop James Jones

[2] Available through the UK Parliament website https://committees.parliament.uk/work/430/the-coroner-service/publications/

[3] Bach Commission Report: The Right to Justice (Dec. 2017), https://lordslibrary.parliament.uk/research-briefings/lln-2017-0093/

established through case law rather than in legislation. The offence is committed by a public office holder who, while acting as such, either willfully neglects to perform their duty or misconducts themselves to such a degree that it amounts to an abuse of the public's trust in that office. It carries a maximum sentence of life imprisonment.

History of the offence and calls for its reform

31 Although it is a historical and relatively infrequently used offence, the potential for its reform in the common law of England and Wales has been raised in a number of official publications. In brief, these included:

- The "Royal Commission into Standards of Conduct in Public Life" (the Salmon Commission) which followed allegations of corruption within local government. As part of its work, the Commission highlighted the challenges of attempting to put the common law offence of misconduct in public office on a statutory footing and ultimately recommended not doing so.
- The Committee on Standards in Public Life (CSPL), which published a consultation paper entitled "Misuse of Public Office" where it recommended that the offence be put on a statutory basis; that consent of the Director of Public Prosecutions should be required to prosecute the offence; and that there may be challenges in defining the boundaries of public office.
- The Joint Committee on Parliamentary Privilege considered the work of the CSPL and noted the high level of support for the proposals to put the offence on a statutory basis.
- The Law Commission carried out a review of corruption more generally in the late 1990s. Their recommendations relating to corruption were largely but not wholly adopted in the Home Office's 2003 draft Corruption Bill (which was never enacted).

Review of the common law offence by the Law Commission (LC397)

32 As the number of prosecutions for the offence began to rise in the mid-2000s, the Law Commission undertook a thorough review of the common law offence as part of their 11th programme of reform. The review reported in December 2020, concluding that there were several problems with the offence, including the clarity of its elements, and increasing use in contentious contexts.

33 The Commission made 22 recommendations for reform of the common law offence, including that it be abolished and replaced with two new statutory offences that broadly replicate the common law: a 'breach of duty in public office' offence and a 'corruption in public office' offence. To provide greater clarity about who was caught by the offences, the Commission also recommended that a list of all those public office positions within scope of the new offences should be included in the legislation supported by a functional test to determine when they are acting as a public officer holder for the purposes of the offences. The Commission further recommended that consent of the Director of Public Prosecutions should be required to prosecute the offence (to ensure that the right cases are prosecuted, and to prevent vexatious private prosecutions), and that the maximum penalties for the new offences be specified between 10- and 14-years' imprisonment.

The Government's response

34 In line with the Commission's recommendations the Government intends to abolish the common-law offence and replace it with two new statutory offences, which together will cover the two broad types of offending currently caught by the common law offence. As set out below these offences will be "breach of duty to prevent death or serious injury"; and "seriously improper acts". To ensure clarity of scope in terms of who the new offences will apply to, there will also be a statutory list of 'public office holders', and functional tests (to determine when someone is 'acting in public office') will be integrated into the elements of the two offences. There is no intention to widen or change the scope of the common law offence as it currently exists, or the type of conduct it captures. The new offences are intended to continue to capture wrongdoing at the most serious level and will apply UK wide. In relation to Scotland, the two new offences do not abolish or replace any existing offences in Scots law.

Legal background

35 The Bill amends the following legislation:

36 The Inquiries Act 2005, including sections 27 to 30 dealing with the powers and procedures of statutory inquiries; and sections 35 to 56 (dealing with offences and enforcement under that Act).

37 The Coroners and Justice Act 2009, including Section 36 dealing with reports and advice to the Lord Chancellor from the Chief Coroner; Section 42 dealing with the Lord Chancellor's power to issue guidance; Section 45 dealing with the coroners rules; and Schedules 5 and 6 which relate to the powers of coroners in investigations conducted in England and Wales and offences under that Act.

38 The Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016, in relation to the powers of the procurator fiscal in investigations conducted in Scotland under that Act.

39 The Coroners Act (Northern Ireland) 1959, which deals with the powers of coroners in investigations conducted in Northern Ireland and offences under that Act.

40 The Legal Aid, Sentencing and Punishment of Offenders Act 2012, including: Section 10 which relates to civil legal aid for exceptional cases; Schedule 1 which relates to civil legal services; and Part 3 which relates to availability of advocacy.

41 The Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013.

42 The Civil Legal Aid (Merits Criteria) Regulations 2013.

43 The Bill repeals Section 46 of the Victims and Prisoners Act 2024, which requires the government to review whether additional duties of transparency and candour should be imposed on public servants in relation to major incidents.

44 The Bill also makes consequential amendments to the following legislative provisions: section 69A of the Charities and Trustee Involvement (Scotland) Act 2005, section 178A of the Charities Act 2011 and section s6 of the Criminal Justice and Courts Act 2015.

Territorial extent and application

45 Parts 1-3 of the Bill extend to England and Wales, Scotland, and Northern Ireland.

46 Part 4 of the Bill extends to England, Wales and Scotland.

47 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions.

Commentary on provisions of Bill

Part 1: Introduction

Clause 1: Purpose of Act: implementing duty of candour etc

48 This clause sets out what the main purpose of the Bill is and the measures in the Bill intended to achieve this purpose. This is to ensure that the measures in this Bill are understood in this context.

49 The main purpose of the Public Office (Accountability) Bill is to ensure that public authorities and officials perform their functions in the public interest with candour, transparency and frankness. It does this by imposing new requirements on public authorities and public officials and by making provision about parity at inquiries and investigations.

Part 2: Performance of Public Functions

Chapter 1: Duty of candour and assistance

Clause 2: Duty of candour and assistance

50 This clause places a duty of candour and assistance on public authorities and public officials in relation to an inquiry or investigation in the circumstances described.

51 Subsection (1) mandates that a public authority or official must at all times act with candour, transparency and frankness when interacting with inquiries and investigations.

52 Subsection (2) specifies that the duty outlined at subsection (1) is referred to in this chapter as the duty of candour and assistance.

53 Subsection (3) places a proactive duty on a public authority or public official to notify the person leading an inquiry or investigation where they have grounds to believe that their acts are or could be relevant to the inquiry or investigation or if they otherwise have information likely to be relevant to the inquiry or investigation. This does not oblige authorities or individuals to actively monitor all investigations or inquiries and search for information on a speculative basis to assess its relevance. It is assumed that authorities will, as a matter of course, be aware of inquiries and investigations which have relevance to them.

54 Subsection (4) mandates that a public authority or official must provide all the assistance that they can reasonably give to help an inquiry or investigation meet its objectives. They must provide information where such information is likely to be relevant to the inquiry or investigation, draw attention to information that is likely to be of particular significance, correct any errors or omissions in information provided, in the case of a public authority provide a position statement, and where requested to by the person leading an inquiry or investigation, provide further information, clarification or comply with other requirements, as far as reasonably practical. Clause 3(4) makes further provision about when the obligation under clause 2(4) arises.

55 Subsection (5) provides that where a public authority is subject to the duty of candour and assistance, the public official who is in charge of the authority (for example, the chief executive of a local authority) must take all reasonable steps to secure that the authority complies with the obligations set out in subsection (3) and (4).

56 Subsection (6) specifies that when complying with the duty of candour and assistance, a public authority or official must act expeditiously and without favour to their own, or another person's position.

57 Subsection (7) explains that Schedule 1 makes further provision about the inquiries and investigations in relation to which the duty of candour and assistance applies, and contains a power to extend the duty to other types of investigations.

58 Subsection (8) states that this section is subject to further provision in section 3.

Clause 3: Section 2: further provision

59 This clause makes further provision about the duty of candour and assistance.

60 Subsection (2) specifies that the obligation outlined in clause 2(3), for a public authority or public official to proactively notify the person leading an inquiry or investigation if their acts are, or they have information that is, relevant, is subject to any requirements or exemptions specified in a notice published by the person leading the inquiry or investigation. Where the subject-matter of an inquiry or investigation means that large numbers of public authorities and public officials are likely to hold relevant information (for example, the UK Covid-19 Inquiry), it may be impractical and disruptive if they each notified the inquiry or investigation. This provision ensures that the person leading the inquiry or investigation can issue a notice stating that they do not want persons to notify them, or that they only want specific categories of person to make notifications. This subsection disapplies the obligation outlined in section 2(3) for Ministers, government officials and devolved administrations in relation to local authority investigations only, as the obligation to provide information to those inquiries also does not apply.

61 Subsection (3) requires authorities or individuals to make a notification pursuant to clause 2(3) as soon as reasonably practicable after they first become aware of the establishment of the inquiry or investigation. As soon as reasonably practicable includes considerations of safety. For example, current or former members of the armed forces, in cases where they are concerned that their identity cannot become publicly known, may need to delay giving a notification until the inquiry or investigation has secure means put in place to enable such notification to be given safely. In such cases individuals are not required to make a notification until they have contacted their current or former employer, or another third party, and the employer or third party has contacted the head of the inquiry or investigation so that secure arrangements can be put in place before such notification shall take place. The individual, authority or third party must take the above actions without delay.

62 Subsection (4) states that the obligation under clause 2(4) (for a public authority or public official to provide all assistance as they can reasonably give to assist an inquiry or investigation to meet its objectives) applies if and when they are given a direction by the person leading the inquiry or investigation and must be complied with as specified in the direction (this direction is referred to as a “compliance direction” in other parts of the Bill).

63 Subsection (5) sets out that the person leading an inquiry or investigation may require a public authority or public official to provide information of a particular description, at a particular time or in a particular way (e.g. an oral or written statement). They may also dispense with the obligation to provide a position statement under clause 2(4)(e).

64 Subsection (6) provides that the person leading an inquiry may only dispense with the obligation to provide a position statement if they consider that compliance with that obligation would be detrimental to the efficient and effective conduct of the inquiry. They must provide reasons for their decision.

65 Subsection (7) provides that the duty of candour and assistance does not require a public authority or official to breach any prohibition or restriction imposed by an enactment or rule of law and is subject to exceptions provided for by or under this Act or any other enactment. (The meaning of “enactment” is set out in clause 23.) This subsection confirms that the duty of candour

and assistance does not affect any prohibition, restriction or exception set out in an enactment, or recognised by the Courts, at the time the duty takes effect.

Clause 4: Extension of duty to other persons with relevant public responsibilities

66 Clause 4 sets out how persons who are not public authorities can be subject to the duty of candour and assistance in relation to an inquiry or investigation.

67 Subsection (1) extends the duty of candour and assistance to bodies or individuals who are not public authorities or officials but had a “relevant public responsibility” in connection with the incident that an inquiry or investigation is being held in connection with.

68 Subsection (2) defines "relevant public responsibility". A relevant public responsibility arises when (i) a person had a health and safety responsibility in relation to the incident or (ii) a person was a service provider to a public authority and provided a service in relation to the incident that had a significant impact on the public.

69 Subsection (3) sets out when a person had a health and safety responsibility and when a person carried out activities as a service provider to a public authority. A person had a health and safety responsibility when they had a responsibility under health and safety legislation (defined in subsection (5)) towards members of the public, or their own workers, in connection with the incident. A person carried out activities as a service provider to a public authority if they had a direct contract with the authority to carry out the services. For example, if, in an event similar to the Post Office Horizon scandal, a public authority contracted with a private company to supply computer software, and defects in that software resulted in significant impacts on members of the public, that company could be subject to the duty of candour and assistance.

70 Subsection (4) provides that an incident that occurs on the Parliamentary Estate is treated in the same way as an incident that occurs elsewhere. For incidents on the Parliamentary Estate, the Corporate Officer of the House of Lords, the Corporate Officer of the House of Commons and both Corporate Officers acting together are considered to have health and safety responsibilities.

71 Subsection (5) provides definitions for terms used in this section, specifying "health and safety legislation" as including any enactment dealing with health and safety matters, especially under the Health and Safety at Work etc. Act 1974. It also defines “Parliamentary Estate” as any building or other premises occupied for the purposes of either House of Parliament.

Clause 5: Offence of failing to comply with duty

72 Clause 5 sets out the offence of failing to comply with the duty of candour and assistance and the applicable penalties.

73 Subsection (1) states that a person commits an offence if they fail to comply with the duty of candour and assistance in respect of an inquiry or investigation, and they intentionally did so to impede the inquiry or investigation or, in the case of failure to comply with the obligations set out in clause 2(4), did so recklessly as to that possibility.

74 Subsection (2) provides that on being found guilty, the person may face:

- on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);

- on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
- on summary conviction in Northern Ireland, to imprisonment for a term not exceeding six months or a fine not the statutory maximum (or both);
- on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

75 Schedule 3 sets out further details of the offence.

Clause 6: Protected information

76 Clause 6 makes provision about how the duty of candour and assistance applies to a relevant public authority and to protected information. The definition of 'relevant public authority' is set out in clause 8. It includes the intelligence services, Defence Intelligence, the National Crime Agency and police forces in exercise of their counter-terrorism and other national security functions. "Protected information" is also defined in clause 8.

77 Subsection (1) provides that the duty applies to relevant public authorities and those that work for them.

78 Subsection (2) modifies the application of the duty in respect of certain individuals. The duty in clause 2(3) - for authorities and officials to notify an inquiry or investigation where they have reason to believe their actions or information are relevant - does not apply: (a) to individuals who work for a relevant public authority, other than the heads of those authorities when responding on behalf of their service; or (b) to any other public official or public authority that is not a relevant public authority if making a notification would result in disclosure of protected information.

79 Subsection (2A) provides that subsection (2B) applies where a public authority is in possession of protected information that was provided by a relevant public authority and is exempted from making a notification under clause 2(3) by virtue of the exemption under clause 6(2)(b) (ie notification would result in the provision of protected information). The public authority exempted from making a notification is referred to as the "recipient authority".

80 Subsection (2B) sets out that the recipient authority must inform the relevant public authority that it has relied on the exemption to notify in relation to the protected information it holds and the relevant public authority must act in accordance with its duties under clause 2(3). For example, if a government department holds protection information that has been provided to them, whether directly or indirectly, by an intelligence which is relevant to an inquiry, the department would not be required to make a clause 2(3) notification but would instead notify the intelligence agency which would itself act in accordance with clause 2(3).

81 Subsection (2C) provides that where the obligation under clause 2(4) would require an individual who works for a relevant public authority, other than the head of that authority, to provide protected information to an inquiry or investigation, the individual must instead provide that information to the head of the authority they work for.

82 Subsection (2D) provides that where the head of the relevant public authority receives information from an individual, they must provide that information to the inquiry or investigation by: (a) such a time that the person leading the inquiry or investigation may require in adherence with clause 3(5)(a), or (b) as soon as reasonably practicable if no such requirement is imposed.

83 Subsection (2E) provides that the duty on the head of the relevant public authority to provide information to the inquiry or investigation does not apply where either of two conditions are met.

84 Subsection (2F) sets out the first condition, which is that an application has been made under any enactment or rule of law for the protected information to be subject to restrictions on disclosure. This could include, for example, an application for public interest immunity.

85 Subsection (2G) sets out the second condition, which is that representations are made to a Minister requesting that the inquiry or investigation be converted into a statutory inquiry established under the Inquiries Act 2005.

86 Subsection (2H) provides that where an application is made for the protected information to be subject to restrictions on disclosure in accordance with an enactment or rule of law, the information must be provided to the inquiry or investigation to the extent required to enable the application to be determined.

87 Subsection (2I) requires that the person leading the inquiry or investigation suspend it where a Minister, having received representations, requests them to do so on grounds that the relevant matters are likely to be adequately investigated through a statutory inquiry that is being or is to be held. Subsection (2J) sets out that subsection (2I) does not apply to inquests and instead existing procedures for conversion into a statutory inquiry continue to apply as set out in Paragraph 3 of Schedule 1 to the Coroners and Justice Act 2009.

88 Subsection (3) sets out that the head of each relevant public authority must ensure that the authority has in place arrangements designed to secure that those who work for the authority comply with procedures for informing the authority that they have information of relevance to an inquiry or investigation.

89 Subsection (3A) defines (a) a person who works for a relevant public authority as including one who did but no longer works for such an authority and (b) that a 'Minister' has the same meaning as defined in the Inquiries Act 2005 (section 1(2)), but for inquests also includes the Lord Chancellor.

Clause 7: Information contained in public records

90 Clause 7 provides that information contained in a record transferred to a relevant authority is not treated as information held for the purposes of the duty by the relevant authority or any person who works for the authority. This means that the relevant authority and its employees are not subject to the duty in respect of the records.

91 Subsection (1) describes the information to which this clause applies - information contained in records transferred to a relevant authority under the legislation set out.

92 Subsection (2) specifies that any information described in subsection (1) is not to be treated as information held by the relevant authority or any person who works for the authority. This has the effect that the relevant authority and its employees are not subject to the duty of candour and assistance in relation to information contained in records.

93 Subsection (3) defines a "relevant authority" to include the Public Record Office, the Keeper of Public Records, the Keeper of the Records of Scotland, the Public Records Office of Northern Ireland and any other person with responsibility for records under arrangements made with a relevant authority.

Clause 8: Transitional provision in relation to this Chapter.

94 This clause sets out the transitional provisions for this Chapter.

95 The clause states that the duty of candour and assistance applies to all inquiries and investigations regardless of whether they started before and are ongoing on the date the Act is passed or are started after the date the Act is passed. The application of the duty in these circumstances does not require parts of proceedings that have already been completed to be run again.

Clause 9: Interpretation of this Chapter

96 This clause sets out the definitions of terms used in this Chapter:

a. "duty of candour and assistance" means the duty under clause 2(1);

b. "head" means, in relation to a relevant public authority, the Director General of the Security Service, Chief of the Secret Intelligence Service, Director if the Government Communications Headquarters, Chief of Defence Intelligence, Director General of the National Crime Agency and the relevant senior officer of the metropolitan police force;

c. "inquiry" means an inquiry under the Inquiries Act 2005 or a non-statutory inquiry described in paragraph 2 of Schedule 1 or a local authority inquiry described in paragraph 4 of Schedule 1;

d. "investigation" means an investigation under the Part 1 of the Coroners and Justice Act 2009; an inquiry under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016; inquests under the Coroners Act (Northern Ireland) 1959 or an investigation specified, or of a description specified, in regulations under paragraph 7 of Schedule 1;

e. "position statement" means a statement given by a person setting out their position on matters relevant to the inquiry or investigation;

f. "protected information" means information that relates to security or intelligence, within the meaning given by section 1(9) of the Official Secret Act 1989, or information relating to defence produced or held by Defence Intelligence that the disclosure of which would be damaging or information (consistent with the meanings in section 2 of the Official Secrets Act 1989), or information relating to the criminal intelligence function of the National Crime Agency, or information relating to counter-terrorism and national security functions of a police force;

g. "public authority" has the meaning given by paragraph 2 of Schedule 2;

h. "public official" has the meaning given by paragraph 3 of Schedule 2;

i. "relevant public authority" means an intelligence service, Defence Intelligence, the National Crime Agency or a police force exercising counter-terrorism or other national security functions;

j. Subsection (1A) defines "counter terrorism and other national security functions" in subsection (1) as functions of a police force carried out under a collaboration agreement made under section 22A of the Police Act 1996 for the purpose of addressing, on a collaborative basis with other police forces, threats posed to national security. It defines "head" in relation to the relevant senior officer of the metropolitan police force in subsection (1), as an officer of that force, of at least the rank of a Commander with overall responsibility for the conduct of the arrangements made under the collaboration agreements;

k. Subsection (1B) applies the reference to a collaboration agreement in subsection (1A)(a) to the Police Service of Scotland, the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve as a reference to any memorandum of understanding or other agreement made for the purpose mentioned in subsection (1A)(a);

l. Subsection (2) defines "in charge" as meaning, in the case of an authority with a board of directors, the chief executive and, in any other case, to the individual working for the authority who carries out functions corresponding to those of a chief executive (this can include more than one individual);

m. Subsection (3) defines "chief executive" in clause 2 as meaning the individual working for the authority who, alone or with others, is responsible for the general functions of the authority.

Schedule 1: Application of Duty of Candour and Assistance

Part 1: Inquiries under the Inquiries Act 2005

97 This Part of the Schedule amends the Inquiries Act 2005 to give the inquiry chair the power to apply the duty of candour and assistance by inserting a new section 23A which incorporates the process for applying the duty into the inquiry process.

98 Paragraph 1(1) specifies that the following amendments will be made to the Inquiries Act 2005.

99 Paragraph 1(2) inserts a new section 23A into the Inquiries Act 2005.

100 New section 23A(1) requires the Chair of the inquiry to give a compliance direction, as soon as reasonably practicable after the start of the inquiry, to a public authority, public official or person who had a relevant public responsibility in connection with the incident to which the inquiry relates. This obligation only arises if the chair considers that the person's acts are relevant or they hold information that is or may be relevant to the inquiry and, in the case of an individual, where they would be of assistance to the inquiry (for example, the inquiry is not obliged to send duplicative compliance directions for the same material to all individuals who have it). This does not prevent the Chair from giving further directions (see subsection (2)).

101 Under new section 23A(3), if a compliance notice has been given to a public authority or a body that had a relevant public responsibility, the Chair must also give a compliance direction to the individual who, in the Chair's view, is in charge of the authority or body (for example, a Chief Executive.) This will place a direct duty on the individual in charge of the authority or body to ensure compliance with the duty.

102 New section 23A(4) to (7) set out what a compliance direction is and what details the direction must contain.

103 New section 23A(8) to (9) provides that evidence, documents and other things that could not be required from a person under the Inquiries Act 2005 cannot be required under the duty of candour and assistance. This includes protection for privilege and public interest immunity.

104 New section 23A(10) stipulates when a compliance direction requiring the provision of protected information can be given to a public official. A notice requiring the provision of information relating to security or intelligence (within the meaning given by s1(9) of the Official Secrets Act 1989), may only be given to a public official who works (or used to work) for an intelligence service. Should a compliance direction be given in contravention of this section, the recipient of the information should not respond with the provision of any information relation to security or intelligence. As regards all other types of protected information, a compliance notice can only be given to a public official who works (or used to work) for a relevant public authority (defined in clause 8)

105 New section 23A(10) requires that, before a chair gives a compliance direction to an individual who works (or worked) for an authority, the chair must consult the authority for the purpose of ensuring that compliance with the obligations imposed by virtue of the direction will assist the inquiry to meet its objectives.

106 New section 23A(11) confirms that a person ceases to be subject to the duty of candour and assistance when the inquiry ends.

107 New section 23A(12) defines terms used in the section.

108 Paragraph 1(3) to (5) makes consequential amendments to the Inquiries Act 2005.

Part 2: Non-statutory inquiries

109 This Part (paragraph 2 of Schedule 1) makes provision for non-statutory inquiries by providing a framework to enable the application of the duty of candour and assistance to public authorities and public officials.

110 Sub-paragraph (1) sets out what is meant by a non-statutory inquiry for the purposes of this paragraph and provides that a minister must have (i) caused the inquiry to be held (ii) required a report to be delivered to the Minister for publication and (iii) given written confirmation that the inquiry relates to events that have caused, or are capable of causing public concern or there is public concern that particular events have occurred.

111 Under sub-paragraph (2), the Chair must issue a compliance direction as soon as reasonably practicable after the start of the inquiry to a public authority, public official or person with a relevant public responsibility in relation to the incident to which the inquiry relates, if the Chair considers that the person's acts are relevant to the inquiry or they have information relevant to the inquiry; and, in the case of an individual, where they would be of assistance to the inquiry (for example, the inquiry is not obliged to send duplicative compliance directions for the same material to all individuals who have it .) This does not limit the Chair's ability to issue further directions (sub-paragraph (3)).

112 Where the Chair has given a compliance notice to a public authority or a body that had a relevant public responsibility, sub-paragraph (4) requires the Chair to give a compliance direction to the individual in charge of the public authority or body.

113 Sub-paragraphs (5) to (7) set out what a compliance direction is and what details the direction must contain.

114 Sub-paragraph (8) explains what is meant by a report in subsection (1)(b).

115 Sub-paragraphs (9) and (10) provide that the list of provisions of the Inquiries Act 2005 specified in sub-paragraph (9) apply to non-statutory inquiries as if they are statutory inquiries, particularly regarding evidence handling, notice content, and public access restrictions.

116 Sub-paragraph (11) stipulates when a compliance direction requiring the provision of protected information can be given to a public official. A notice requiring the provision of information relating to security or intelligence (within the meaning given by s1(9) of the Official Secrets Act 1989), may only be given to a public official who works (or used to work) for an intelligence service. Should a compliance direction be given in contravention of this section, the recipient of the information should not respond with the provision of any information relation to security or intelligence. As regards all other types of protected information, a compliance notice can only be given to a public official who works (or used to work) for a relevant public authority (defined in clause 8).

117 Sub-paragraph (12) means that the duty of candour and assistance of an authority or individual ceases when the inquiry ends. It provides that a non-statutory inquiry is considered to have ended in the same way as a statutory inquiry, set out under section 14 of the Inquiries Act 2005.

118 Sub-paragraph (13) provides definitions for terms used in this section, aligning them with the definitions in the Inquiries Act 2005.

Part 3: Local Authority Inquiries

119 This Part (paragraph 4 of Schedule 1) makes provision for inquiries called by local authorities by providing a framework to enable the application of the duty of candour and assistance to public authorities and public officials.

120 Sub-paragraphs (1) and (2) set out what is meant by a local authority inquiry for the purposes of this paragraph and provide that (i) a local authority must have caused the inquiry to be held, (ii) that the inquiry must only be concerned with local authority matters, (iii) that the inquiry must produce a report, and (iv) that the local authority must have given written confirmation that the inquiry relates to events that have caused, or are capable of causing death or serious physical or psychological harm, or substantial economic loss to one or more persons as a result of the conduct as set out.

121 Sub-paragraph 2A (2A) has the effect that UK government ministers and departments, and those who work for them, and devolved government ministers and departments, and those who work for them, are not under an obligation to make a notification under clause 2(3) in respect of local authority inquiries.

122 Under sub-paragraphs (3) and (3A), the Chair must issue a compliance direction as soon as reasonably practicable after the start of the inquiry to a public authority, public official or person with a relevant public responsibility in relation to the incident to which the inquiry relates, if the Chair considers that the person’s acts are relevant to the inquiry or they have information relevant to the inquiry; and, in the case of an individual, where they would be of assistance to the inquiry (for example, the inquiry is not obliged to send duplicative compliance directions for the same material to all individuals who have it). This does not limit the Chair’s ability to issue further directions (sub-paragraph (4)).

123 Where the Chair has given a compliance notice to a public authority or a body that had a relevant public responsibility, sub-paragraph (5) requires the Chair to give a compliance direction to the individual in charge of the public authority or body.

124 Sub-paragraphs (6) to (8) set out what a compliance direction is and what details the direction must contain.

125 Sub-paragraph (9) explains what is meant by a report in sub-paragraph (1)(c).

126 Sub-paragraph (10) provides that the list of provisions of the Inquiries Act 2005 applies to local authority inquiries as if they are statutory inquiries, particularly regarding evidence handling, notice content, and public access restrictions.

127 Sub-paragraph (11) (a) and (b) provide that a compliance direction may only require information that is or is mostly about subjects connected with the local authority's functions that have happened within the local authority's area, and the inquiry cannot demand information from central government or a devolved government.

128 Further, sub-paragraphs 11A and 11B stipulates when a compliance direction requiring the provision of protected information can be given to a public official. A notice requiring the provision of information relating to security or intelligence (within the meaning given by s1(9) of the Official Secrets Act 1989), may only be given to a public official who works (or used to work) for an intelligence service. As regards all other types of protected information, a compliance notice can only be given to a public official who works (or used to work) for a relevant public authority (defined in clause 8).

129 Sub-paragraphs (12) and (13) mean that the duty of candour and assistance of an authority or individual ceases when the inquiry ends. It provides that a local authority inquiry is considered to have ended in the same way as a statutory inquiry, set out under section 14 of the Inquiries Act 2005.

130 Sub-paragraph (14) provides definitions for terms used in this section.

Part 4: Investigations under the Coroners and Justice Act 2009

131 This Part of Schedule 1 amends the Coroners and Justice Act 2009 ("the 2009 Act") to enable coroners to apply the duty of candour and assistance. Specifically, it inserts a new paragraph 2A "Power to apply the duty of candour and assistance" into Schedule 5 of the 2009 Act regarding the powers of coroners, as follows.

132 New paragraph 2A(1) requires the coroner to give a compliance direction to public authorities, public officials or a person who had a relevant public responsibility, if the person is an interested person in the investigation. This does not limit the coroner's ability to give further directions (sub-paragraph (2)).

133 Where the coroner has given a compliance direction to a public authority or a body with relevant public responsibility, new paragraph 2A(3) requires the coroner to give a direction to the individual that the coroner considers to be the leader of the authority or body with a relevant public responsibility (unless the coroner considers that it would be contrary to the efficient and effective conduct of the investigation). This places a direct duty on the individual to ensure compliance with the direction.

134 New paragraph 2A(4) and (5) set out the meaning and content of a compliance direction.

135 New paragraph 2A(6) clarifies that those under the duty of candour and assistance need to have regard to the purpose of the investigation as set out in the assistance notice to understand its objectives and how to assist the investigation.

136 New paragraph 2A(7) applies the specified existing procedural provisions in paragraph 1 of Schedule 5 to the Coroners and Justice Act 2009 to the duty of candour and assistance.

137 New paragraph 2A (8) provides that the duty of candour and assistance does not require the provision of information that could not have been required under the Coroners and Justice Act 2009 or that are permitted or required to be withheld on grounds of public interest immunity, for example if it relates to national security.

138 New paragraph 2A(9) and (9A) stipulates when a compliance direction requiring the provision of protected information can be given to a public official. A notice requiring the provision of information relating to security or intelligence (within the meaning given by s1(9) of the Official Secrets Act 1989), may only be given to a public official who works (or used to work) for an intelligence service. Should a compliance direction be given in contravention of this section, the recipient of the information should not respond with the provision of any information relation to security or intelligence. As regards all other types of protected information, a compliance notice can only be given to a public official who works (or used to work) for a relevant public authority (defined in clause 8).

139 New paragraph 2A(10) states that the duty ends when the investigation concludes or is discontinued. New paragraph 2A(11) defines the meaning of key terms by reference to the Public Office (Accountability) Bill 2025.

140 Schedule 6 of the Coroners and Justice Act 2009 is amended to add the offence of failing to comply with the duty of candour and assistance (see Schedule 1 paragraph 4(3).

Part 5: Inquiries in Scotland into fatal accidents and sudden deaths

141 This Part amends the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016, to include provision for the duty of candour and assistance by inserting new sections 10A and 20A into the 2016 Act.

142 New section 10A(2)& (3) require the procurator fiscal to give a compliance direction to a public authority, a public official, or a person who had a relevant public responsibility in connection with the incident to which the inquiry relates, if the procurator fiscal is satisfied that the person's acts are or may be relevant to the inquiry, or that the person otherwise has information likely to be relevant to the inquiry. This does not limit the procurator fiscal's ability to give further directions if required to do so by the sheriff (subsection (4).

143 Where the procurator fiscal has given a compliance direction to a public authority or a body with relevant public responsibility, new section 10A(5) requires the procurator fiscal to give a direction to the individual they consider to be the leader of the authority or body with a relevant public responsibility, unless the procurator fiscal considers it would be contrary to the efficient and effective conduct of the inquiry. This places a direct duty on the individual to ensure compliance with the direction.

144 New section 10A(6) to(9) set out the definition of a compliance notice and what it must contain.

145 New section 10A(10) allows a person to claim that they cannot comply with a requirement or that it would be unreasonable to do so. The sheriff must consider such claims and may revoke or vary the direction accordingly. Subsection (11) states that when assessing claims under subsection (10)(b), the sheriff must weigh the public interest in receiving the assistance against the burden on the individual.

146 New section 10A(12) confirms that the duty of candour and assistance does not override existing legal protections. Specifically, it does not require the disclosure of privileged information or information protected by public interest immunity, as defined under the Inquiries Act 2005.

147 New section 10A(13) stipulates when a compliance direction requiring the provision of protected information can be given to a public official. A notice requiring the provision of information relating to security or intelligence (within the meaning given by s1(9) of the Official Secrets Act 1989), may only be given to a public official who works (or used to work) for an intelligence service. Should a compliance direction be given in contravention of this section, the recipient of the information should not respond with the provision of any information relation to security or intelligence. As regards all other types of protected information, a compliance notice can only be

given to a public official who works (or used to work) for a relevant public authority (defined in clause 8).

148 New section 10A(14) clarifies that the duty of candour and assistance ceases to apply once the inquiry ends.

149 Subsection (15) defines the key terms used in this section.

150 New section 20A(1) & (2) provide that the sheriff may require the procurator fiscal to give a compliance direction to a person who is a public authority or public official or had a relevant public responsibility in connection with an incident to which the inquiry relates, if the person is a participant in the inquiry, or the person is cited to attend and give evidence at the inquiry.

151 New section 20A(3) provides that where a compliance direction is given to a public authority or other body under section 20A(1)(b), a compliance direction must also be given to the individual appearing to the sheriff to be in charge of that authority or body unless the sheriff considers it would be contrary to the efficient and effective conduct of the inquiry.

152 New section 20A(4) provides that subsections (6) to (15) of section 10A apply for the purposes of section 20A as they apply for the purposes of that section.

Part 6: Investigations under the Coroners Act (Northern Ireland) 1959

153 This Part amends the Coroners Act (Northern Ireland) 1959, to include the duty of candour and assistance by inserting a new section 17BA.

154 The new section provides coroners in Northern Ireland with the power to issue a compliance notice to public authorities or officials and makes provisions about compliance directions and the exemptions from providing information with the same effect as those set out above in the Coroners and Justice Act 2009. Specifically, a compliance direction requiring security and intelligence information or other protected information (defined in clause 8) may only be given to a public official who works or used to work for an intelligence service or other relevant authority as defined in clause 8 and after the coroner has consulted the authority the individual works or worked for. Should a compliance direction be given in contravention of this section, the recipient of the information should not respond with the provision of any information relation to security or intelligence.

Part 7: Power to extend duty to other investigations

155 Paragraph 7 of Schedule 1 gives a power to the appropriate national authority to make regulations that extend the duty of candour and assistance to other specified investigations.

156 Paragraph 7(1) allows the national authority to define specific investigations or types of investigations to which this duty may apply.

157 Paragraph 7 (2) restricts the investigations that can be brought into scope to certain types, including criminal, regulatory, or supervisory investigations, investigations into public services, and public functions.

158 Paragraph 7(3) permits the Secretary of State to extend the duty to persons who are not public authorities or public officials where they have a relevant public responsibility related to the incident subject to the investigation specified in the regulations.

159 Paragraph 7(4) provides that any regulations must include provisions to secure that:

- restrictions on the provision of information that apply to civil proceedings in the High Court or the Court of Sessions (in Scotland) also apply in relation to the duty of candour and assistance

160 The rules of law regarding evidence or documents that are permitted or required to be withheld on grounds of public interest immunity apply and a compliance direction requiring security and intelligence information or protected information (defined in clause 8) may only be given to a public official who works or used to work for an intelligence service or other relevant authority as defined in clause 8 and after the person leading the investigation has consulted the authority.

161 Paragraph 7(5) confers powers to enable the regulations to assign functions to individuals, provide for exceptions or modifications to the duty of candour and assistance and amend existing laws for the purpose of applying the duty of candour and assistance to specified investigations. For example, procedures similar to those in section 19 of the Inquiries Act 2005 may need to be put in place if sensitive information may be shared as a result of the duty of candour.

162 Paragraphs 7(6) to (12) set out definitions and clarify procedural aspects.

163 The regulations are subject to the draft affirmative procedure for making regulations but may be made under made-affirmative procedure where a statement is made by the authority that, by reason of urgency, it is necessary to make the regulations without a draft being laid and approved in accordance with the affirmative procedure. Where the made affirmative procedure is followed, the regulations will cease to have effect after 40 days unless draft regulations are laid in Parliament and approved by a resolution of both Houses within that period.

Schedule 2: Meaning of 'public authority' 'public official' etc

Part 1: Introductory

164 This Schedule defines the terms "public authority" and "public official" for the purposes of Part 2 of the Bill. Part 2 of the Schedule defines the terms for the purposes of Chapters 1 and 3 of Part 2 of the Bill. Part 3 of the Schedule defines "public authority" for the purposes of Chapter 2 of Part 2 of the Bill.

Part 2: Meaning of 'public authority' and 'public official' in Chapter 1 and 3 of Part 2

165 Paragraph 2(1) lists some types of bodies that are public authorities, including a government department, a Minister of the Crown, the Scottish Ministers, the Welsh Ministers, a Northern Ireland devolved authority, the regular or reserve forces, police forces and policing bodies, local authorities, NHS bodies and a school or further education provider. A local authority in Scotland includes that authority's capacity as an education authority as defined in section 135 of the Education (Scotland) Act 1980.

166 In addition to the list in sub-paragraph (1), sub-paragraph (2) provides that a body may be considered a public authority if it performs functions of a public nature, provided it is not an excluded body. This "public function" test is based on section 6 of the Human Rights Act 1998 (HRA), which uses similar wording. It is intended to extend to bodies which may not be core public authorities (such as government departments) but nonetheless have public functions (this can include private companies and charities). The government's intention is that this provision should be interpreted in light of the established HRA case law regarding what constitutes public functions.

167 Sub-paragraph (3) specifies that where a body performs both public and private functions, only its public functions are in scope of the duty of candour and assistance. This means it could not be required to provide information about its private functions (for example, in the case of the Public Service Broadcasters in relation to their reporting activities).

168 Sub-paragraph (4) excludes the courts and the various legislatures of the United Kingdom from the duty.

169 Sub-paragraph (5) clarifies that if a body that is a government department does something, which is regarded in law as done by the Crown or by a specific office holder, it should be treated as if the department itself did it for the purposes of Chapter 1 of Part 2.

170 Sub-paragraph (6) clarifies that the duty applies to former public authorities.

171 Paragraph 3(1) defines "public official" for the purposes of Chapters 1 and 3 of Part 2 of the Bill in three ways: those working for public authorities, those who hold an office under a public authority or those that hold a relevant office, as described in sub-paragraph (3).

172 Paragraph 3(2) clarifies that an individual is a public official only to the extent of their functions as such an official.

173 Paragraphs 3(3) to (5) defines when an individual holds a "relevant public office".

174 Paragraphs 3(6) to (11) set out when an individual is not a public official for the purposes of Chapter 1 and 3 of Part 2 of the Bill. This includes where the individual is acting in a judiciary capacity or acting on the instructions of an individual acting in a judicial capacity; is employed by the Civil Service but is appointed to exercise functions wholly outside of the United Kingdom; or is serving as a non-executive member of a local authority that operates executive arrangements.

175 Sub-paragraph (12) extends references to public officials to those who formerly held such positions.

Part 3: Meaning of 'public authority' in relation to Chapter 2 of Part 2

176 Paragraph 2(1) lists various entities recognised as public authorities, including government departments, the devolved governments, the regular or reserve forces, police forces and policing bodies, local authorities, NHS bodies, schools and any other body meeting specific conditions outlined in sub-paragraphs (2) and (3). This is subject to the exclusions in sub-paragraph (6). A local authority in Scotland includes that authority's capacity as an education authority as defined in section 135 of the Education (Scotland) Act 1980.

177 Sub-paragraph(2) sets out a two-limb test for identifying other public authorities which are not expressly named in sub-paragraph (1). First, a body must have been established by royal prerogative, enactment, or any other way by a Minister of the Crown, government department or devolved government. Second, appointments to the body must be made wholly or partly by the Crown, a government department or a devolved government. Both conditions must be satisfied for a body to meet the test.

178 Sub-paragraph (3) provides that a body should be treated as a public authority if it exercises specified public functions. These bodies are to be treated as public authorities only in relation to their specified public functions. In practice this means a body that has a mixture of private and public functions only needs a code of ethical conduct in relation to its public functions.

179 Sub-paragraph (4) defines "specified public functions" as functions of a public nature described in regulations made by the appropriate national authority. This allows Ministers and devolved governments to extend the requirement to adopt a code of ethics to private bodies carrying out public functions.

180 Sub-paragraph (5) provides that the regulations are subject to the affirmative procedure.

181 Sub-paragraph (6) excludes the UK Parliament, the devolved legislatures, and the Courts from the requirement to adopt a code of ethics. This is in recognition of long-standing conventions around the independence of the judiciary and Parliament's ability to regulate its own affairs. These

institutions have their own processes for establishing and enforcing ethical standards. Implementation Bodies established under the Strand Two of the Belfast Agreement (also known as 'North-South Bodies') are also excluded from the scope of the Bill.

Schedule 3: Offences under Part 2 – Related Provision

182 This Schedule establishes further detail of the offences under Clause 5 and 11.

183 Paragraph 1(1) of the Schedule establishes the extra-territorial jurisdiction of the offence. A person outside the UK can only be prosecuted under sections 5 and 11 if they are:

a. a UK national,

b. habitually resident in the UK,

c. a UK-incorporated body.

184 If the offence occurs abroad, it can be prosecuted anywhere in the UK, and treated as if committed locally. In Scotland, proceedings can be brought in the sheriff court district where the person is apprehended or held or any district the Lord Advocate chooses.

185 Paragraph 2 sets out where the consent of the Director of Public Prosecutions in England & Wales or the Director of Public Prosecutions for Northern Ireland is required before proceedings for an offence under sections 5 or 11 may be brought.

186 Paragraph 3 provides that where a body commits an offence, and a relevant person (e.g. director, manager, partner) consented or connived, both the individual and the body are liable. This could include:

a. directors, managers, secretaries,

b. LLP members with management roles,

c. general partners in limited partnerships,

d. any person managing a body.

187 Paragraph 4 makes provision for unincorporated bodies, where proceedings must be brought in the name of the body, not its members. Officers or members may still be liable under paragraph 3. For the purposes of proceedings under clause 5 clause 11, unincorporated bodies are treated like corporate entities regarding the service of documents, court procedures and fines, which must be paid from the body's funds. Any fine imposed on a body must be paid out of the body's funds.

Chapter 2: Standards of ethical conduct

Clause 10: Expected standards of ethical behaviour

188 This clause makes provision for an obligation on public authorities to promote and take steps to maintain high standards of ethical behaviour and adopt a code of ethical conduct.

189 Subsection (1) places a duty on public authorities to promote and take steps to maintain high standards of ethical behaviour all times by people who work for the authority.

190 Subsection (2) defines ethical behaviour as behaviour which is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. These are commonly known as the 'Seven Principles of Public Life' or the 'Nolan Principles' and were first set out by Lord Nolan in the first report by the Committee on Standards in Public Life.

191 Subsection (3) specifies that to discharge the duty specified in subsection (1), a public authority must adopt a code of ethical conduct, outlining the standards of behaviour expected by people who work for the authority. Public authorities must take steps to ensure that those who work for the authority are aware of the code and the consequences if they do not comply with it. It will be for authorities to decide what sanctions should be put in place for breaches of the code, which could include disciplinary action and professional sanctions. Codes must be made publicly available (subject to the exceptions set out in subsection 10).

192 Subsection (4) specifies that the code of ethical conduct must set expectations that people who work for the authority should act in accordance with a duty of candour in relation to their work, explain the practical ways in which the standards set by the code are to be met, set out the disciplinary consequences for failing to act in accordance with the code and promote ethical behaviour, candour, transparency and frankness in all parts of the authority. What acting with candour means will vary between public authorities depending upon their functions. Each code should explain how those working for the authority can demonstrate candour in the context of their particular organisation, its functions, and the individual’s specific role.

193 Subsection (5) provides that the code of ethical conduct should also set out:

- how those working for the authority can report suspected breaches of the code within their organisation;
- how employees can make protected disclosures (as defined in subsection (11)), otherwise known as ‘whistleblowing’ (this will involve referring to protections provided for in legislation and any whistleblowing policies an authority has in place); and
- the process for how people outside the authority can make complaints about the conduct of the authority or the people who work for it, including information about any person other than the authority to whom complaints can be made.

194 Subsection (6) allows public authorities to satisfy the requirement to adopt a code by adopting a document prepared by another organisation, with or without modification. In practice, this means an authority could adopt a code issued by an umbrella body, such as a government department, a membership body, or professional association.

195 Subsection (7) permits public authorities to specify that its code applies with modifications in certain circumstances or in respect of individuals of a certain description. There may be some workers to whom it would not be appropriate to apply the code in its entirety. Similarly, there may be certain circumstances where it is not appropriate for the code to apply in its standard form. This subsection ensures that public authorities have flexibility when drafting a code to make provision for these cases.

196 Subsection (8) requires that where public authorities rely on subsection (6) to modify the application of their code to certain people or circumstances, they must set out in their code what modifications apply and explain why such modifications are necessary.

197 Subsection (9) allows public authorities to revise their code of ethical conduct as needed.

198 Subsection (10) provides that public authorities may exclude from their published code anything they consider necessary to protect information relating to an identified or identifiable individual, information that is commercially sensitive or where disclosure is contrary to the public interest. This provision allows that, for example, national security organisations would be able to remove sensitive information when publishing their code.

199 Subsection (11) sets out the definition of "protected disclosure" in relation to England, Wales, Scotland and Northern Ireland.

200 Subsection 11A clarifies that the obligation to adopt a code of ethical conduct will fall on schools themselves in England and Wales rather than local authorities, and those working for the schools will be considered as working for the proprietor of the school. This is consistent with other obligations on schools, including in relation to setting conduct and disciplinary action. In Northern Ireland, the obligation to adopt a code of ethical conduct will fall on the Board of Governors in grant-aided schools, and those working for the schools will be taken as working for the Board of Governors rather than any other body. In Scotland, responsibility for adopting a code of ethical conduct for public schools under the management of an education authority (see section 135(1) of the Education (Scotland) Act 1980) will lie with local authorities. This subsection also clarifies that the obligation to adopt a code of ethical conduct will fall on governing bodies of designated institutions (DIs) in the further education sector in England and Wales, rather than any other body (for example, the corporate body that owns the DI) and staff who work at the DI are deemed to work for the governing body.

201 Subsection (12) defines public authority for the purposes of this section as having the meaning given in Part 3 of Schedule 2. It also clarifies that, for the purposes of this section, the definition of "works for" in section 23(3) should be read as if paragraph (h) of that subsection was omitted. This ensures that codes of conduct do not need to apply to individuals who exercise functions on behalf of an authority but may not be directly accountable to it.

Clause 11: Guidance

202 This clause requires public authorities to have regard to guidance issued for the purposes of Chapter 2. This guidance may be issued by the UK government or by the devolved governments in relation to devolved matters.

203 Subsection (3) requires that the appropriate national authority must publish any guidance it issues under this statement in such a manner as it considers appropriate to bring it to the attention of those public authorities to which it applies.

Chapter 3: Misleading the public

Clause 12: Offence of misleading the public

204 Subsection (1) creates a new offence of misleading the public. The offence extends to the whole of the UK. It applies where a public authority or public official acts with the intention of misleading the public (or is reckless as to that possibility) and they know, or ought to know, that their act is seriously improper. A definition of "act" is set out in the Bill's general interpretation provision at clause 23(1). "The public" is defined in subsection (8) to mean the UK public or a section of the UK public. The offence does not apply to individual interactions e.g. a teacher speaking to the parents of a student, or a NHS doctor advising a patient or where it may be needed to mislead someone as part of your job e.g. as part of undercover operations. This offence is intended to capture the most serious instances of public officials or authorities misleading the public. For example, the chief executive of a hospital instructing staff to lie to the press about a major incident in order to avoid criticism, a police force issuing a public statement that they know gives a false account of events or a cover-up by a government department about the harmful consequences of a policy. It is not intended to apply to instances of accidental or inadvertent misleading.

205 Subsection (2) provides that an act is only seriously improper if it meets the condition in subsection (3), and a reasonable person would consider it to be seriously improper taking account of all the circumstances of the case. Relevant circumstances would include, for example, consideration of whether an act:

a. was done under the direction or influence of another. If a junior employee acted at the direction of their manager, that would make it less likely that their conduct should be viewed as seriously improper.

b. Involved making a statement in the course of a general public debate. The offence is not intended to stifle public debate or prevent people from expressing opinions. For example, unprepared comments made by Ministers during political interviews should be viewed differently to a formal statement made by the Minister and released through a government department.

206 Subsection (3) provides for a minimum set of criteria which an act must satisfy in order for an act to be considered seriously improper. The act must:

a. have involved dishonesty that was significant or repeated in respect of matters of significant concern to the public.

b. caused, or contributed to causing, harm to one or more other persons or had the potential to do so (harm is defined in subsection (8)); and

c. departed significantly from what is to be expected in the proper exercise of the person's functions as a public authority or public official.

207 Together, these conditions ensure that the offence only applies in relation to particularly culpable conduct. The subsection (3) condition is necessary but not sufficient for an act to be seriously improper; if it is satisfied, a judge or jury will then need to decide whether a reasonable person would consider the act seriously improper.

208 Subsection (4) provides that the offence does not apply to an act done for the purposes of journalism by a recognised news publisher (as defined by s56 of the Online Safety Act 2023) or a person in the course of working for such a publisher.

209 Subsection (5) sets out that the offence is triable either on indictment (with a maximum term of 2 years' imprisonment) or summarily.

210 Subsection (6) sets out two defences to the offence. First, it is a defence for a person to show that their act was necessary for the proper exercise of any function of an intelligence service, or the armed forces when engaged on active service. A person in this case may also include those who work with the intelligence services or armed forces when engaged on active service to ensure the proper exercise of their functions. Second, it is a defence for a person to show that they otherwise had a reasonable excuse for their act.

211 Subsection (7) sets out a partial reverse burden in relation to the reasonable excuse defence. The Defendant will need to raise facts to suggest they have a reasonable excuse, and the burden is then transferred to the prosecution to disprove this beyond reasonable doubt. By contrast, the burden in relation to the subsection (6)(a) defence rests with the defendant.

212 Subsection (8) sets out various definitions. In particular, public authority and public official carry the same meanings as they do for the purposes of the duty of candour and assistance.

213 Further provision is made in relation to offence in Schedule 3.

Part 3: Misconduct in public office

Clause 13: Seriously improper acts

214 Subsection (1) creates a new offence where a person who holds public office (pursuant to clause 16 and Schedule 4) uses their office to obtain a benefit (for themselves or another person) or to cause another person to suffer a detriment, and they know, or ought to know by an objective standard, that their act is seriously improper. A definition of "act" is set out in the Bill's general interpretation provision at clause 25(1).

215 Subsection (2) paragraph (a) defines "uses" for the purposes of this section. The word is to be given its ordinary meaning and includes using or failing to use a power or position. It also includes using or failing to use any power or position that they *claim* to have, but do not in fact have.

216 Subsection (2) paragraph (b) defines benefit and detriment to mean *any* benefit or detriment, whether temporary or permanent, and includes financial gain or loss, protection or enhancement of or damage to a person's reputation, and benefits or detriments of a physical or sexual nature. This list is non-exhaustive, and the meaning of benefit and detriment is intended to be wide and to capture the full range of conduct currently caught by the common-law offence. The inclusion of "protection or enhancement of or damage to a person's reputation" is intended to capture seriously improper conduct by a public official with the aim of protecting the reputation of a person or organisation.

217 Subsection (2) paragraph (c) sets out that an act is deemed seriously improper if a reasonable person would consider it to be so. This is designed to reflect the common law offence's concept of an act constituting an "abuse of the public's trust". This seriousness threshold ensures that the offence only captures conduct worthy of criminal sanction, and does not capture, for example, routine decision-making undertaken by public officeholders in the course of their official duties, including decision-making implementing a political mandate, unless that conduct is seriously improper. Subsection (3) (a to e) sets out a non-exhaustive list of factors the jury must consider when determining whether an act is seriously improper. At paragraph (b), the breach of trust is not exclusively limited to vulnerable individuals, but the jury must have particular regard where a breach of trust does involve a vulnerable individual. Subsection (4) clarifies that the above list in subsection (3) is not exhaustive and that the jury can have regard to any other matters it considers relevant.

218 A defence is set out in subsection (5) where a person charged can show they had a reasonable excuse for their act. This might include difficult or unusual circumstances that require a public official to disregard minor infringements when investigating more serious offences. For example, not taking immediate action on minor benefits infringement in order to uncover a larger scale benefits fraud.

219 Subsection (6) sets out a partial reverse burden in relation to the defence. The Defendant will need to raise facts to suggest they have a reasonable excuse, and the burden is then transferred to the prosecution to disprove this beyond reasonable doubt.

220 Subsection (7) sets out that the offence is indictable only with a maximum penalty of 10 years' imprisonment.

221 Subsection (8) sets out that proceedings for the offence can only be brought by or with the consent of the Director of Public Prosecutions in England and Wales, or the consent of the Director of Public Prosecutions in Northern Ireland. In England and Wales, this is not the personal consent of the Director, but general consent by a prosecutor. It also captures the consent of the Director for the Serious Fraud Office where matters relate to the competence of the SFO to prosecute. This has

been included to safeguard against the risk of spurious claims against public officials, including politicians, and ensure that only those cases which are serious in nature and justify criminalisation are prosecuted.

Clause 14: Breach of duty to prevent death or serious injury

222 Subsection (1) creates a new offence where a person who holds public office (as defined in clause 16 and Schedule 4) causes, or creates a significant risk of causing, another person to suffer critical harm, in breach of a duty to prevent such harm.

223 The specific elements of the offence are set out in paragraphs (a) to (d) of clause 14(1).

224 Subsection (1)(a) sets out that the offence can only be committed where the person is under a duty to prevent critical harm (or risk of critical harm) which arises by virtue of their office. The intention is that this applies to office holders whose role inherently involves such a duty to prevent harm, such as service personnel, firefighters, policing and other such roles where someone is reliant on that office holder to protect them from critical harm. It does not apply to office holders whose role does not place them under a duty to protect others from critical harm.

225 Subsection (1)(b) sets out that the offence can only be made out if the person knows or ought to know they are under the duty described above. Criminal liability therefore requires an awareness, on the part of the office holder, of their obligations.

226 Subsection (1)(c) provides both the conduct and the mental elements of the offence. To commit the offence, the office holder must:

- breach their duty by causing, or creating a significant risk of causing, another person to suffer critical harm. There is no requirement that the critical harm materialises. All that is required is that a significant risk of critical harm be caused; and
- do so intentionally or recklessly.

227 R v G [2003] UKHL 50 is the authoritative statement of recklessness and states that "a person acts recklessly… with respect to: (i) a circumstance when he is aware of a risk that it exists or will exist; (ii) a result when he is aware of a risk that it will occur; and it is, in the circumstances known to him, unreasonable to take the risk."

228 Subsection 1(d) provides a seriousness threshold which must be satisfied to establish the offence. The act which constitutes the breach must fall far below the standard of what could reasonably be expected of the person in the circumstances. Honest mistakes, or finely balanced operational decisions, made in challenging circumstances will not be captured. A definition of "act" is set out in the Bill's general interpretation provision at clause 23(1) and includes omission or a course of conduct.

229 A defence is outlined in subsections (2) and (3) where a person charged can show that they had a reasonable excuse for their act. The Defendant will need to raise facts to suggest they have a reasonable excuse, and the burden is then transferred to the prosecution to disprove this beyond reasonable doubt.

230 Subsection (4) sets out that the offence is indictable only with a maximum penalty of 14 years' imprisonment.

231 Subsection (5) sets out that proceedings for the offence can only be brought by or with the consent of the Director of Public Prosecutor in England and Wales, or the Director of Public Prosecutions in Northern Ireland. In England and Wales, this is not the personal consent of the Director, but

general consent by a prosecutor. It also captures the consent of the Director for the Serious Fraud Office where matters relate to the competence of the SFO to prosecute. This has been included to safeguard against the risk of spurious claims against public officials and ensure that only those cases which are serious in nature and justify criminalisation are prosecuted.

232 Subsection (6) provides that the matters at subsection (1)(a) (whether a duty exists, and whether it arises by virtue of the person's public office) are to be determined as matters of law by the judge.

233 Subsection (7) sets out definitions for the purposes of this provision. "Critical harm" means death or serious injury. In England, Wales and Northern Ireland, "serious injury" means grievous bodily harm within the meaning of the Offences Against the Person Act 1861. In Scotland, "serious injury" means "severe injury (including psychological injury)".

Clause 15: Territorial application of sections 13 and 14

234 Clause 15 makes clear that the offences at sections 13 and 14 apply throughout the UK, and that a person can commit the offences outside of the United Kingdom if, at the time of the act, they are either a UK national, or habitually resident there.

235 Where acts are committed outside the UK, the offences can be prosecuted anywhere in the UK and will be taken as having been committed there. In Scotland this means the proceedings can be taken in any sheriff court district where the person is apprehended or in custody, or in such sheriff court as the Lord Advocate may determine.

Clause 16 and Schedule 4: Holders of public office

236 Subsection (1) outlines that a person is a public office holder for the purposes of Part 3 of the Bill if they fall within Schedule 4.

237 Subsection (2) says that whether a person receives remuneration in respect of the office they hold is irrelevant to the question of whether they are a "public office holder".

238 Subsection (3) provides a delegated power for the appropriate national authority to amend the list in Schedule 4 by regulations, to specify further holders of public office, or to omit, or modify the description of, a holder of public office in the Schedule. "Appropriate national authority" is defined in the Bill's clause regarding Regulations.

239 Subsection (4) sets out that regulations made under this clause are subject to the affirmative procedure.

240 Schedule 4 lists the holders of public office for the purposes of the definition at clause 15 of the Bill, which determines who is in scope of the offences at clauses 12 and 13 of the Bill.

241 Paragraph 21 of the Schedule sets out when someone, other than a civil servant, will be caught by the offences by virtue of providing core functions to those in state detention. The definition of "state detention" is set out at paragraph 21(3) and (4), and will capture for example prison and police custody, compulsory mental health patients, secure accommodation for children, and immigration detention facilities. "Core functions" is defined at paragraph 21(2) to mean custodial functions – for example prison officer functions as well as probation functions or escort functions; and functions involving the provision of healthcare or education if it is carried out in a place of state detention. These paragraphs ensure that the offences capture those providing custodial functions in private facilities or under contract (e.g. private prisons, court escort services), and those providing healthcare and education services in places of state detention. If a specific role is not listed in the Schedule, it may nevertheless be within scope of the offences if the role meets the three requirements set out at paragraph 27 of the Schedule ("Other public bodies and offices"), which are:

242 First, that they are a member of a body, or holder of an office (or work for / exercise functions on behalf of that body or office) which was established by:

- virtue of His Majesty's prerogative, an enactment; or
- in any other way by a Minister of the Crown, a government department, the Scottish Ministers, the Welsh Ministers or a Northern Ireland devolved authority.

243 Secondly, that, in the case of a body, it is wholly or mainly constituted by appointment made by the Crown, a Minister of the Crown, a government department, or the Welsh Ministers; or in the case of an office, appointments to that office are made by the Crown, a Minister of the Crown, a government department, or the Welsh Ministers; and

244 Finally, that they exercise functions of a public nature by virtue of that status. This last point is a matter of law for the Judge to determine. As set out at paragraph 27 (5) (a) & (b), in determining this, the Judge should consider whether a person, in performing their role, is fulfilling one of the responsibilities of government such that the public has a significant interest in the discharge of those responsibilities. This is based on the test used to determine whether someone is performing a public function under the common law offence.

Clause 17: Abolition of common law offence: England and Wales

245 This clause abolishes the common law offence of Misconduct in Public Office in England and Wales.

246 Subsection (2)(a) and (b) provide for where the common law offence will still apply:

- in respect of acts done before the commencement of this section; or
- in respect of acts which begin before the commencement of this section and continue after commencement

247 Subsection (3) provides that the abolition of the common law offence does not affect the liability of a person for anything other than common law misconduct in public office, nor does it affect liability under the tort of misfeasance in a public office (which Part 3 does not affect in any way).

Clause 18: Abolition of common law offence: Northern Ireland

248 Clause 18 abolishes the offence of Misconduct in Public Office under the common law of Northern Ireland. Subsection 2(a) and (b) of clause 18 provide for where the common law offence will still apply:

- In respect of acts done before the commencement of this section; or
- In respect of acts which begin before the commencement of this section and which continue after commencement.

249 Subsection 3 of clause 18 provides that the abolition of the common law offence in Northern Ireland does not affect the liability of a person for anything other than common law misconduct in public office, nor does it affect liability under the tort of misfeasance in a public office (which Part 3 does not affect in any way).

Clause 19: Consequential amendments

250 This clause sets out that Schedule 5 makes amendments to other legislation which are consequential on this part.

Part 4: Participation of persons at inquiries and investigations

Clause 20: Parity etc at inquiries and investigations

251 This clause introduces Schedule 6, which contains amendments to other legislation to enable participation at inquiries and coroner investigations in England and Wales, and provides for certain definitions used elsewhere in the Bill to apply to Clause 18 and Schedule 6. Further provision is made in Schedule 6 to confer a power to extend legal aid by regulations to bereaved family members where a public authority is a participant in an inquiry in Scotland into a fatal accident or sudden death.

252 UK inquiries are statutory or non-statutory inquiries for which a UK Minister is responsible.

Schedule 6: Conduct of public authorities at inquiries and inquests

Part 1: Inquiries under the Inquiries Act 2005

253 The Inquiries Act 2005 is amended as follows:

254 Sub-paragraph 2 amends the Inquiries Act 2005, inserting a new section 34(A) to allow guidance to be issued by the Lord Chancellor for core participants that are public authorities regarding their conduct, how a public authority should engage legal representatives and a power for the chair of the inquiry to report any concerns regarding the conduct of a public authority or its legal representatives.

255 Sub-paragraph 3 contains a provision for the Lord Chancellor in respect of UK statutory inquiries, to make rules which contain an overriding objective and specifies what this objective may cover.

Part 2: Non-statutory inquiries

256 Sub-paragraph 1 specifies where the provisions of Part 1 of Schedule 6 apply to a relevant non-statutory inquiry as they would an inquiry under the Inquiries Act 2005 with the modifications set out in sub-paragraph (3) below.

257 Sub-paragraph 2 defines the term 'relevant non-statutory inquiry' referred to in subsection (1).

258 Sub-paragraph 3 defines the modifications referred to in subsection (1).

Part 3: Investigations under Part 1 of the Coroners and Justice Act 2009

259 Paragraph 3(2) creates a requirement for the Chief Coroner to include in their annual report to the Lord Chancellor the matters reported under paragraph 2A of Schedule 5 to the Coroners and Justice Act 2009 (concerns over conduct of public authorities).

260 Subparagraph 3 inserts new subsections 2(A), 2(B), 2(C) and 2(D) into section 42 of the Coroners and Justice Act 2009. These make provision for the Lord Chancellor to issue guidance to interested persons that are public authorities setting out the principles that should guide their conduct at or in connection with investigations under Part 1 of the Coroners and Justice Act 2009. The guidance may include provision about what a public authority should or should not do for the purposes of supporting a senior coroner and assisting affected persons to participate in the investigation. Interested persons that are public authorities must have regard to this guidance.

261 Sub-paragraph 4 inserts a new section 42A into the Coroners and Justice Act 2009. This section imposes a duty on public authorities, where they are subject to the duty of assistance in Section 2(4) of this Act in respect of an investigation, and the authority is an interested person in relation to the investigation. The duty includes a duty to engage legal representation only if, and so far, as, the public authority considers it both necessary and proportionate. In addition, the public authority must take such steps as are necessary to secure that those representatives conduct themselves with due regard to the conduct that is expected as set out in the guidance issued in section 42(2A) of the Coroners and Justice Act 2009. In determining whether the engagement of legal representatives is necessary and proportionate, the public authority should have particular regard to: the comparative position of affected persons in respect of their means to engage legal representation; the nature and extent of the authority's disclosure (and other) obligations to assist the investigation; and the importance of the issues under investigation and the need for those issues to be investigated fairly, proportionately, expeditiously and cost-effectively.

262 Sub-paragraph 5 amends section 43 (coroner regulations) so that the Coroners regulations can make provision about reports made under paragraph 2A of Schedule 5 to the Coroner and Justice Act 2009 (concerns over conduct of public authorities).

263 Sub-paragraph 6 amends section 45 of the Coroners and Justice Act 2009 so that Coroners rules can include provision for regard to be had to an overriding objective of such description as the rules may specify. The overriding objective may include objectives which allow for ensuring affected persons are able to participate fully and effectively in the proceedings, that the inquisitorial nature of the proceedings is to be maintained and that affected persons are given sufficient information about the process of proceedings.

264 Sub-paragraph 7 inserts a new paragraph 2(A) into Schedule 5 of the Coroners and Justice Act 2009 to enable a senior coroner to raise concerns over the conduct of a public authority or its legal representatives and report this to the relevant person or authority. Any person or organisation which the coroner reports their concerns over behaviour to must make a written response to it. Any report received under this provision must be forwarded to the Chief Coroner.

Part 4: Legal aid at inquests

Amendments of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)

265 Paragraph 4(2) of Schedule 6, updates section 10 (4a) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to reference Part 1 of the Coroners and Justice Act 2009. The Coroners Act 1988 has largely been repealed and replaced by the Coroners and Justice Act 2009, except in relation to section 13 applications (see below).

266 Paragraph 4(3)(a)(i) updates Schedule 1, Part 1, paragraph 41 (1) LASPO reference "Part 1 of the Coroners and Justice Act 2009." This amendment updates the legislation to reflect the repeal of the Coroners Act 1988 Act and ensures that legal help can be provided for inquests under the Coroners and Justice Act 2009.

267 Paragraph 4(3)(a)(ii)) updates Schedule 1, Part 1, paragraph 41 LASPO to ensure applications under section 13 of the Coroners Act 1988 remain in scope of civil legal services (regardless of our updating references to the Coroners and Justice Act 2009). Section 13 of the Coroners Act 1988 allows bereaved family members to submit a request to open or reopen inquest proceedings to the High Court. In these circumstances, legal help and legal representation would be provided rather than legal help and other legal services (i.e. advocacy).

268 Paragraph 4(3)(b) amends Schedule 1, Part 3 of LASPO to insert a new paragraph 24A. This paragraph sets out the conditions under which an individual can access advocacy services at

inquest proceedings. Legally aided advocacy will be available to an individual at an inquest into the death of a member of that individual's family, where the following conditions are met:

- A public authority must be named as an interested person at the inquest; and,
- Advocacy must have not already been made available to another family member of the deceased in relation to the same inquest or an inquest that is linked to the initial inquest. A senior coroner determines whether an inquest is linked (i.e. whether several deaths stemming from the same causative event can be held as a single inquest covering generic issues between the parties).

269 This new paragraph also sets out a list of individuals who could represent their related public authority, if acting in the capacity of a statutory office holder (for example, a chief constable of a police force or the Director General of the Independent Office of Police Conduct). This makes provision for legal aid for advocacy to be available in relation to inquests where a public authority is represented by those named persons. Provision is also made for legal aid for advocacy to be made available where a person is appointed to attend or follow an inquest by a Government department (making them an interested person in accordance with section 47(2)(l) of the Coroners and Justice Act 2009.

270 Sub-paragraph 5 provides a definition of a family member that reflects the existing definition within LASPO.

271 Sub-paragraph 6 provides a definition of "chief constable"; it also provides definitions of "interested person" and "senior coroner", reflecting those in Part 1 and Schedule 3 of the Coroners and Justice Act 2009 respectively. The definition of a public authority is also set out, reflecting that of Schedule 2 paragraph 2 of the Bill.

Amendments of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 – Paragraph 5

272 Sub-paragraph (a) updates regulation 5, subparagraph (m) of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 to allow for the financial means test to be disapplied when an individual applies for 'other legal services' (which in the context of legal aid for inquests, means advocacy) at inquests where a public authority is named as an interested person.

273 Sub-paragraph (b) updates the same regulation as above, to allow for the financial means test to be disregarded when an individual applies for legal help at an inquest where a public authority is named as an interested person.

274 Sub-paragraph (c) is a purely technical amendment to facilitate the above changes.

Amendments of the Civil Legal Aid (Merits Criteria) Regulations 2013 (the Merits Regulations) - Paragraph 6

275 Sub-paragraph (2) makes a technical change to ensure "other legal services" (which provide for advocacy services at an inquest) will be available as an appropriate form of civil legal services at an inquest where a public authority is represented. It also changes the definition of "other legal services" and provides for additional legal services to be comprised within "other legal services". This will mean that, for bereaved family members who have advocacy funding, they will be able to claim funding for advice and assistance for inquest under the same legal aid file.

276 Sub-paragraph (3) amends the Merits Regulations so that other legal services is an appropriate type of civil legal service in relation to inquests where a public authority is named as an interested person at an inquest. The merits regulations are also amended so that legal representation is an

appropriate form of civil legal service in relation to an appeal to the High Court to open or re-open an inquest (under section 13 of the Coroners Act 1988).

Exercise of other power in relation to legal aid – Paragraph 7

277 Paragraph 7 of Schedule 6 makes clear that nothing in Part 4 of Schedule 6 to the Bill affects the exercise of the Lord Chancellor's powers to make orders and regulations about legal aid.

Part 5: Miscellaneous and final provisions

Clause 21: Crown application

278 Subsection (1) states that this Act binds the Crown.

279 Subsections (2) and (3) make clear that whilst the Crown itself cannot be held criminally liable, a Crown agent or servant is not immune from prosecution for any of the Act's offences, by virtue of their status as a Crown agent or servant.

280 Subsection (4) makes clear that nothing in the Act affects His Majesty in his personal capacity.

Clause 22: Consequential repeal

281 This provision repeals section 46 of the Victims and Prisoners Act 2024, which required a review of the extent to which additional duties of transparency and candour should be imposed on public servants in relation to major incidents. This Bill imposes a new duty in relation to investigations into major incidents, and the requirement under section 46 is therefore met and that provision is no longer needed.

Clause 23: Power to make consequential provision

282 Subsection (1) provides a delegated power for the Secretary of State to make by regulations provision consequential on this Act or any regulations made under the Act.

283 Subsection (2) provides for Scottish Ministers to make by regulations provision that is consequential on Part 4 of Schedule 1, or regulations under this Act made by Scottish Ministers.

284 Subsection (3) provides for Welsh Ministers to make by regulations provision consequential on regulations under this Act made by Welsh Ministers.

285 Subsection (4) provides for a Northern Ireland department to make by regulations provision that is consequential on Part 5 of Schedule 1 or regulations under this Act made by that department.

286 Subsection (5) makes clear that this power includes a power to amend, repeal, or revoke provision made by an enactment passed or made before the end of the Session in which this Act is passed. A definition of "enactment" is provided in the general interpretation section at clause 23.

287 Subsection (6) sets out that regulations made under this clause are subject to the affirmative procedure, to the extent that they amend, repeal or revoke primary legislation. The requirements of the "affirmative procedure" in relation to regulations made by each of the appropriate national authorities, is set out at clause 22 of the Bill.

288 Subsection (7) sets out that regulations made under this clause which do not amend, revoke or repeal primary legislation, are subject to the negative procedure. The requirements of the "negative procedure" in relation to regulations made by each of the appropriate national authorities, is set out at clause 22 of the Bill.

Clause 24: Regulations

289 This section outlines the procedures for making regulations under the Bill.

290 Subsection (1) sets out who the "appropriate national authority" is in relation to regulations under the Act:

291 Paragraph (a) sets out that the appropriate national authority will be the Secretary of State, unless one of the other paragraphs in this section apply;

292 Paragraph (b) sets out that the appropriate national authority if regulations contain only provision relating to Scottish devolved matters, is the Scottish Ministers;

293 Paragraph (c) sets out that the appropriate national authority if regulations contain only provision relating to Welsh devolved matters, is the Welsh Ministers;

294 Paragraph(d) sets out that the appropriate national authority if regulations contain only provision relating to Northern Ireland devolved matters, is a Northern Ireland department.

295 Subsection (2) makes clear that the Secretary of State cannot make regulations relating to devolved matters, without the consent of the relevant devolved authority.

296 Subsection (3) allows regulations made under this Act to include consequential, supplementary, incidental, transitional, or saving provisions and provides for regulations to make different provision for different purposes or areas.

297 Subsection (4) specifies that regulations made by the Secretary of State, or the Welsh Ministers are to be made by statutory instrument.

298 Subsection (5) clarifies that a Northern Ireland department's power to make regulations under this Act is exercisable by statutory rule according to the Statutory Rules (Northern Ireland) Order 1979.

299 Subsections (6) to (8) outline the parliamentary procedures applicable to regulations made by the Secretary of State, Welsh Ministers, and Northern Ireland departments, differentiating between negative procedures (which allow annulment through resolution), and affirmative procedures (which require prior approval by resolution).

300 Subsection (9) refers to the Interpretation and Legislative Reform (Scotland) Act 2010 for definitions of negative and affirmative procedures applicable to regulations made by Scottish Ministers under this Act.

301 Subsection (10) states that provisions subject to the negative procedure may alternatively be made subject to the affirmative procedure.

302 Subsection (11) ensures that any draft regulations under the Act are not treated as hybrid instruments for the purposes of Standing Orders of either House of Parliament.

303 Subsection (12) clarifies that "Secretary of State" includes the Chancellor of the Duchy of Lancaster.

304 Subsection (13) clarifies that subsection (2) does not apply to regulations made under section 21(1). That is, regulations made by the Secretary of State under the power to make consequential provision by regulations, may relate to devolved matters without the consent of the relevant devolved authority.

305 Subsection (14) clarifies that this section does not apply to regulations under section 25, which is the power to commence by regulations.

Clause 25: General interpretation

306 This section provides definitions for terms used throughout the Bill.

307 Subsection (1) defines various terms:

308 “act” - includes an omission or a course of conduct;

309 “appropriate national authority” is defined as per clause 22;

310 “body” - encompasses various entities beyond individuals, such as body corporates, corporations sole, partnerships, unincorporated associations, and similar organisations formed outside the UK;

311 “court”- includes bodies exercising the State’s judicial power;

312 “enactment” - makes clear that this includes subordinate legislation, and enactments or instruments made by or under the authority of the devolved legislatures;

313 “further education provider” – is defined by definitions in other legislation and has different meanings across the different parts of the UK;

314 “government department” - means any department of His Majesty’s Government;

315 “intelligence service” – means each of the Security Services, the Secret Intelligence Service and the Government Communications Headquarters;

316 “local authority”- is defined differently for the different parts of the UK;

317 “Minister of the Crown” - is defined with reference to the Ministers of the Crown Act 1975;

318 “NHS body”- is defined differently for the different parts of the UK;

319 “Northern Ireland devolved authority”- means the First Ministers and deputy First Minister in Northern Ireland, acting jointly; a Northern Ireland Minister; or a Northern Ireland Department;

320 “police force” means those police forces in the Police Act 1996, as well as certain specialist forces (the British Transport Police Force, the Civil Nuclear Constabulary, the Ministry of Defence Police), and the Police Services in Scotland and Northern Ireland;

321 “policing body” means a police and crime commissioner, as well as the equivalent oversight bodies for the specialist or regional forces (Mayor’s Office for Policing and Crime, Common Council of the City of London, British Transport Police Authority, Civil Nuclear Police Authority and the Secretary of State, as it relates to Ministry of Defence Police) and the Scottish Police Authority and Northern Ireland Policing Board;

322 “primary legislation” means any Act of the UK or a devolved legislature, a measure of Senedd Cymru or Northern Ireland legislation.

323 “regular or reserve forces” - adopts the definition from section 374 of the Armed Forces Act 2006, and includes an association established for the purposes of Part 11 of the Reserve Forces Act 1996;

324 “school” - is defined by reference to definitions in other legislation.

325 “United Kingdom national” – means a British Citizen, a British Overseas Territories citizen, a British National (Overseas) or a British Overseas citizen, as well as a person who is a British subject or British protected person under the British Nationality Act 1981.

326 Subsection (2) sets out who “the person leading” an inquiry or investigation is in the various formats covered by the Bill.

327 Subsection (3) sets out what is meant by reference to a person who “works” for another, making clear that this includes those under contract, apprenticeships, agency workers, constables, or in Crown employment.

328 Subsection (4) elaborates on "Crown employment," specifying its meaning in relation to different parts of the UK and including service in regular or reserve forces and employment by associations linked to reserve forces.

329 Subsection (5) explains the meaning of ‘relates to devolved matters’ in Scotland, Wales, and Northern Ireland by reference to the legislative competence of the devolved legislatures.

Clause 26: Extent

330 This provision sets out the territorial extent of the Public Office (Accountability) Bill, specifying Part 1, Part 2 and Part 3 extend to England, Wales, Scotland and Northern Ireland and Part 4 extends England, Wales and Scotland only.

331 Subsection (2) makes clear that any amendment or repeal made by the Act has the same extent as the provision amended or repealed.

Clause 27: Commencement

332 This outlines the commencement arrangements for the Public Office (Accountability) Bill.

333 Subsection (1) establishes that Part 5 of the Act comes into force on the day it is passed.

334 Subsection (2) provides for the rest of the Act to come into force for regulation-making purposes on the day on which the Act is passed, and for all remaining purposes, on such day appointed in regulations by the appropriate authority.

335 Subsection (3) authorises the appropriate authority to make transitional or saving provisions by regulations in connection with the commencement of any provisions.

336 Subsection (4) allows these regulations to make different provisions for various purposes or areas.

337 Subsection (5) defines "the appropriate authority" as the Secretary of State, except for regulations to bring into force Part 4 of Schedule 1, where Scottish Ministers are the appropriate authority and Part 5 of Schedule 1, where the Department of Justice in Northen Ireland is the appropriate authority.

338 Subsections (6) and (7) specify that commencement regulations under clause 23 are to be made by statutory instrument, or by statutory rule in Northern Ireland, as per the Statutory Rules (Northern Ireland) Order 1979.

339 Subsection (8) specifies that for the purposes of this section, “Secretary of State” includes the Chancellor of the Duchy of Lancaster.

Clause 28: Short title

340 This provision establishes that the Act may be cited as the Public Office (Accountability) Act 2026.

Commencement

341 Clause 25 outlines the commencement arrangements for the Bill. In summary:

- Part 5 of the Bill comes into force on the day the Bill is passed;

342 The rest of the Bill comes into force:

- For the purposes of making regulations, on the day on which the Act is passed;
- For remaining purposes, on such day as appointed in regulations made by the appropriate authority.

Financial implications of the Bill

343 Impact assessments have been prepared for each part of the Bill and cover the financial implications on public bodies which derive from this Bill. The main financial implications arise from the expansion of non-means tested legal aid where a public authority is named as an interested person at an inquest. The Government estimates this will cost between £65-180m per annum, with a further estimated cost of up to £3.1m per annum of operational costs to the Legal Aid Agency.

Parliamentary approval for financial costs or for charges imposed

344 A money resolution is required where a Bill authorises new charges on the public revenue – broadly speaking, new public expenditure. There is an exemption from this requirement in relation to increased expenditure on the administration of justice. However, the provision in clause 10 and Schedule 6, providing for legal aid in England and Wales to be made available, without a means test, to bereaved family members at inquests where a public authority is an interested person, will result in an increase in expenditure by public bodies, including the Legal Aid Agency and public authorities, which falls outside of this exemption. As these bodies are funded in whole or in part by money provided by Parliament, these provisions will require the cover of a money resolution

345 No ways or means resolution is required for the Bill because it does not authorise any new taxation or other similar charges.

Compatibility with the European Convention on Human Rights

346 The Government considers that the Public Office (Accountability) Bill is compatible with the European Convention. The Lord Chancellor and Secretary of State for Justice and Deputy Prime Minister, the Rt Hon. David Lammy MP, has made a statement under section 19(1)(a) of the Human Rights Act 1998 to this effect.

Environment Act 2021 section 20 statement

347 The Lord Chancellor and Secretary of State for Justice and Deputy Prime Minister, the Rt Hon. David Lammy MP, is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Trade between Northern Ireland and the rest of the UK

348 The Lord Chancellor and Secretary of State for Justice and Deputy Prime Minister, the Rt Hon. David Lammy MP, is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would affect trade between Northern Ireland and the rest of the United Kingdom. Accordingly, no statement under section 13C of the European Union (Withdrawal) Act 2018 has been made.

Related documents

349 The following documents are relevant to the Bill and can be read at the stated locations:

- The Law Commission's Report on Misconduct in Public Office, 3 December 2020.

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	**Extends to E & W and applies to Wales?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Scotland?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Northern Ireland?**	**Legislative Consent Motion process engaged?**
Part 1: Implementing duty of candour etc							
Clause 1	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Part 2: Performance of Public Functions							
Clause 2	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 3	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 4	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 5	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 6	Yes	Yes	No	Yes	Yes	Yes	No
Clause 7	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 8	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 9	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 10	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 11	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 12	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Part 3: Misconduct in Public Office							
Clause 13	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 14	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 15	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 16	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 17	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 18	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 19	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Part 4: Participation of Persons at Inquests and Inquiries							
Clause 20	Yes	Yes	No	No	No	No	No
Part 5: Miscellaneous and Final Provisions							
Clause 21	Yes	Yes		Yes		Yes	
Clause 22	Yes	Yes		Yes		Yes	

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	**Extends to E & W and applies to Wales?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Scotland?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Northern Ireland?**	**Legislative Consent Motion process engaged?**
Clause 23	Yes	Yes		Yes		Yes	
Clause 24	Yes	Yes		Yes		Yes	
Clause 25	Yes	Yes		Yes		Yes	
Clause 26	Yes	Yes		Yes		Yes	
Clause 27	Yes	Yes		Yes		Yes	
Clause 28	Yes	Yes		Yes		Yes	
Schedules							
Schedule 1	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Schedule 2	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Schedule 3	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Schedule 4	Yes	Yes	Yes	No	No	No	No
Schedule 5	Yes	Yes	Yes	Yes	Yes	No	No
Schedule 6	Yes	Yes	No	No	No	No	No

PUBLIC OFFICE (ACCOUNTABILITY) BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Public Office (Accountability) Bill as brought from the House of Commons on 16 July 2026 (HL Bill 42).

Ordered by the House of Lords to be printed, 16 July 2026

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS