

# Impact Assessment

## De Minimis Self-Certification Form

### Instructions:

The **De Minimis (DM) self-certification** form provides **justification** as to why a measure is going down the De Minimis route, rather than needing a full Impact Assessment (IA) and Regulatory Policy Committee (RPC) clearance.

The analysis should be summarised in the **Explanatory Memorandum (EM)** to explain why the measure has qualified as De Minimis and thus why there is **not a full IA accompanying the measure**.

## ***De Minimis Self-Certification Form***

<b>Title of Measure</b>	“Duty of Candour” provisions in the Public Office (Accountability) Bill		
<b>Lead Departmental Contact</b>	Sam Wright, Duty of Candour Team, Propriety and Constitution Group		
<b>Directorate</b>	Propriety and Constitution Group		
<b>EU Exit –</b>  No	<b>Non-EU Exit – Domestic –</b>  Yes	<b>Non-EU Exit – EU or International –</b>  No	
<b>Legislative / Non-legislative</b>	Legislative		
<b>Estimated NPV (if calculated)</b>			

Please see the [instructions](#) at the top of this document before completing the form

### **Policy Overview**

The Hillsborough disaster happened over 35 years ago. The injustices that followed affected the victims and their families for decades, and were exacerbated by the failings of the proceedings that followed, in particular the initial coroner's hearing and inquests into the deaths soon after the disaster, and the Lord Justice Stuart-Smith investigation in 1997-98.

In 2009 the Government established the Hillsborough Independent Panel to oversee full public disclosure of relevant information held by state bodies and to set out how that information should affect public understanding. 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.”*

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.

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.

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 MP. The Bill, which became known as the “Hillsborough Law”, was not supported by the then Government and fell when Parliament was dissolved for the 2017 General Election.

The 2024 Labour Party Manifesto included a clear commitment to a duty of candour, and at the 2024 Labour Party Conference the Prime Minister committed to its introduction into Parliament by April this year. As the Prime Minister set out, this is 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...."*

35 years have now passed since the Hillsborough disaster. Inevitably much has changed. But important gaps still remain in the legal framework which this Bill will address. And so, inspired by the 2017 Private Members' Bill, the "duty of candour" provisions in the Public Office (Accountability) Bill will include three main elements relating to candour and public sector culture:

1. A **legal duty on public authorities and officials to assist** inquiries, inquests and specified investigations - with criminal sanctions in cases of non-compliance.
2. A **broader legal duty on public authorities to promote and maintain** high standards of ethical conduct and candour.
3. **An offence of 'misleading the public'**, designed to capture the most serious incidents of misleading the public – behaviour like that seen after Hillsborough where officials intentionally spread a false narrative to protect their reputation, causing harm as a result.

### **Policy Objectives and Intended effects**

When things go wrong, public bodies and officials should serve the interests of the public - not aim to protect their own reputation. At inquests, inquiries and other investigations, they should give full, truthful and candid accounts - to serve accountability and to enable lessons to be learned.

**So, under our provisions, public officials and authorities will be under a legal duty to assist inquiries and investigations.** The duty will include requirements on public bodies and officials to:

- o Act with candour;
- o Provide all relevant information without favour to their own position;
- o Draw attention to information likely to be particularly significant.
- o Co-operate with the inquiry/investigation in whatever way the inquiry/investigation requests (in so far as they are able to do so);
- o Act with expedition.

The duty will apply to current and former public authorities and public officials. This includes ministers, officials, employees of public authorities including police forces and local authorities, and any person exercising public functions.

The duty will apply when an individual or authority is asked to assist with an inquiry, inquest or investigation in relation to their role.

This duty will apply to statutory inquiries established under the Inquiries Act 2005, non-statutory inquiries established by ministers, and coroners' investigations. These will be set out on the face of the Bill.

It is also intended that the duty will apply to a range of other investigations such as police misconduct investigations, local authority inquiries, NHS investigations and potentially certain others. This level of detail will appropriately be set out in secondary legislation following formal consultation.

The duty will be subject to exemptions for sensitive or privileged information that are intended to mirror those in the Inquiries Act and other relevant legislation, as is the case in the 2017 Act.

The duty may be applied on the day that it is brought into force by a commencement regulation which will be after the Bill reaches Royal Assent. Once in force, the duty may be applied in respect of an inquiry or coroner's investigation that is in progress on the day the duty comes into force..

Where the duty is applied to an investigation by regulations, the regulations may provide that the duty is to apply to an investigation that has already commenced.

The Bill will contain criminal sanctions for the most serious breaches.

But it is not enough to simply change the law: we need to change the culture in public services. Away from institutional defensiveness - or what Bishop James Jones has called "*the patronising disposition of unaccountable power*" - and towards openness to challenge. Away from protecting institutional reputations - and towards protecting and serving the public.

**So the Bill will also include a broader legal duty on public authorities to promote and maintain high standards of ethical conduct and candour, based on the Nolan Principles of honesty, integrity, objectivity, accountability, selflessness, openness and leadership. And it will go further - requiring that all public bodies define in their ethical codes the obligations of candour placed on staff in their day to day duties.**

The approach here is to set minimum standards but to apply them flexibly. Authorities will define their own candour obligations on their staff. These will be informed by examples elsewhere - such as the NHS or policing - but not bound by those examples. The approach will be to learn from experience and to tailor obligations to the nature of the organisation.

To minimise the burden on individual organisations, authorities will be able to meet the obligation by updating or amending existing codes or adopting codes from umbrella bodies. Central government will issue guidance and draw together examples and best practice. To ensure proper coverage of public services, powers will also be taken to apply the duty to private bodies discharging public functions.

**Finally, for the most serious cases of wrongdoing, we are creating an offence of ‘misleading the public.’ This offence is designed to capture the most serious incidents of misleading the public – behaviour like that seen after Hillsborough where officials intentionally spread a false narrative to protect their reputation, causing harm as a result.**

This offence is targeted at misleading the public, and will not apply to individual interactions. It is intended to have limited implications for frontline health, education and local government workers in their daily work - only capturing cases of widespread cover-up, and serious dishonesty.

To have committed the offence, a public authority or official must have (i) acted with the intention to mislead the public or be reckless as to whether their actions would do so and (ii) known, or ought to have known, that their act was seriously improper. By “reckless”, we mean the criminal standard of a person acting with the knowledge that there is a risk that they might mislead the public and taking that risk without reasonable justification. It does not include accidental mistakes or inaccuracies.

The threshold of “seriously improper” is high in order to ensure only the most serious acts are caught by the offence.

We also recognise the importance of not impeding on the operational functions of the intelligence services and armed forces, as well as journalistic activity. For that reason specific protections for these functions have been included.

### **Policy options considered, including any alternatives to regulation**

The previous Government sought to further similar objectives through adoption of the voluntary Hillsborough Charter. Other public bodies also adopted the Charter. The Charter committed Government to a number of principles, including

- Placing the public interest above our own reputation.
- Approaching forms of public scrutiny - including public inquiries and inquests - with candour, in an open, honest and transparent way, making full disclosure of relevant documents, material and facts.

Although the adoption of the Charter was a positive step, it lacked legal force and definite effect. The Charter alone will also not meet the current Government’s manifesto commitment or the

Prime Minister's commitment to Hillsborough families and others bereaved or affected by public tragedy and institutional defensiveness more broadly.

### **Direct Costs to Business**

#### **The legal duty of assistance imposes zero or minimal direct costs on business.**

- No impact on individual businesses is expected under the Bill's provisions other than in limited conditions.
- Those conditions are, first:
  - 1) They are delivering functions of a public nature (e.g. operating a private prison); and
  - 2) They have information that is relevant to an investigation within scope of the duty (i.e. an inquest or a public inquiry); and
  - 3) Application of the duty affects the behaviour of the business in respect of that investigation (e.g. they assist the inquiry or inquest whereas in the absence of the duty they would have not done so, incurring administrative or legal costs as a result).
- And second:
  - 1) The business has a responsibility under health and safety legislation for matters relating to the health and safety of the public or a section of the public.
  - 2) Where a business has this responsibility, they must come forward where they have information that is relevant to an investigation into an incident which is within scope of the duty (i.e. an inquest or a public inquiry); and
  - 3) Application of the duty affects the behaviour of the business in respect of that investigation (e.g. they assist the inquiry or inquest whereas in the absence of the duty they would have not done so, incurring administrative or legal costs as a result).
- Given the extensive legal powers already available at a statutory inquiry or an inquest, and given the small number of non-statutory inquiries which impinge on the private sector, these conditions are likely to be met only on a very small number of occasions. Although it is not possible to meaningfully monetise the costs of business in these circumstances, we believe them likely to be within the de minimis threshold.
- The Bill also contains a power to extend the legal duty of assistance to other investigations (beyond inquiries and inquests). Further consideration of the impact to

business will be necessary when secondary legislation is developed and brought forward.

**The Bill's code of ethics provisions apply in the first instance only to public sector bodies and so impose zero cost to business.**

- The Bill also contains a power to extend the code of ethics requirements to private companies delivering public functions. Further consideration of the impact to business will be necessary when secondary legislation is developed and brought forward.

**Wider Impacts and Transfers**

The legal duty of assistance will have some financial impact on public sector organisations. Overall, we anticipate that the net impact to the public sector is likely to be positive.

**Costs**

- The legal duty of assistance will generate some new costs on public bodies in limited circumstances. These are:
  - 1) They have information that is relevant to an investigation within scope of the duty (i.e. an inquest or a public inquiry); and
  - 2) Application of the duty affects the behaviour of the public body in respect of that investigation (e.g. they assist the inquiry or inquest whereas in the absence of the duty they would have not done so, incurring administrative or legal costs as a result).
- There will also be some limited costs in preparing for the application of the duty in terms of training and the development of practice guidance. Given the extensive legal powers already available at a statutory inquiry or an inquest and that those public bodies which engage in such investigations will already require legal and administrative support to do so, our assessment that the extent of 'new' costs in the support of these investigative processes are likely to be low.
- The Bill also contains a power to extend the legal duty of assistance to other investigations (beyond inquiries and inquests). Further consideration of the impact to business will be necessary when secondary legislation is developed and brought forward.
- The code of ethics provisions will create new burdens on public authorities, including local authorities. The provisions have deliberately been drafted to allow maximum flexibility in terms of implementation. Given that most, if not all, public bodies will already be covered by a form of code, it is not anticipated that the impact in terms of costs to be substantial (some lawyers' time to assess compliance, some management time, and some training). The scale of these costs will depend on the number of public bodies within scope and implementation plans informed by the legislation (the extent of the codes, how much can be standardised, etc), which can only be fully determined after Royal Assent. A further assessment of impact will take place alongside development of our implementation plans

and underpinning guidance, and a new burdens assessment developed at the appropriate time.

### Savings

- Inquiries under the Inquiries Act 2005 have historically been longer and more costly than those undertaken on a ‘non-statutory’ basis. Comparisons are difficult for a number of reasons: available data is incomplete; the nature and complexity of the matters under investigation may differ; and the costs of inquiries in each category vary significantly.
- The legal duty to assist provisions supports the effective delivery of non-statutory inquiries by giving them formal powers. This may lead to fewer inquiries being established under the Inquiries Act.
- The following published costs are illustrative of the disparity between the two forms of inquiry:
  - Inquiries under the Inquiries Act:
    - The Grenfell Tower Inquiry (final report in 2024) reported total direct costs of £173m ([link](#))
    - The Infected Blood Inquiry (final report in 2024) reported total direct costs of £140m ([link](#))
    - The Manchester Arena Inquiry (final report 2021) final reported costs of £35m ([link](#))
    - The Covid Inquiry (ongoing) current reported costs of £108m ([link](#))
  - Non-statutory inquiries:
    - Daniel Morgan Independent Panel (final report 2021) final costs of £17.6m ([link](#))
    - Gosport Independent Panel (final report 2018) reported costs of £13m ([link](#))
    - The Iraq Inquiry (final report 2016) reported costs of £13.1m ([link](#))
- As the figures above illustrate, if the Bill’s provisions lead to more inquiries taking place on a non-statutory basis rather than under the Inquiries Act, the potential savings over time are in the tens or hundreds of millions.
- Savings may also emerge from the duty increasing the likelihood of investigations ‘getting it right first time’. Although this is not capable of being estimated in the round, the experience of Hillsborough illustrates the point, since the failure of the initial investigative processes have led to - among other processes - two new non-statutory inquiries and a new set of inquests.

### Non-monetisable benefits

- The Bill’s provisions are intended to improve investigative processes and address the culture of institutional defensiveness described by Bishop James Jones in his 2017 report as “*The Patronising Disposition of Unaccountable Power*”. Successful implementation

should also lead to non-monetisable benefits in terms of improved public trust in our institutions.

### **Impacts on Small Businesses**

This legislation will impose no new costs to small businesses, other than in very limited circumstances described above.

### **Public Sector Equality Duty (PSED)**

No specific impact is anticipated on those protected under the Equality Act.

### **Data protection Impact**

The legislation provides that regulations must include provisions to ensure that the exemptions regarding the disclosure of certain types of information contained in the Inquiries Act 2005, (legally privileged information, PII, self-incrimination) are secured for investigations to which the duty is applied. Also included is an exemption for personal data subject to data protection legislation.

### **Politically sensitive?**

There is significant interest in the Bill from campaigners, activists and the families of victims to public disasters. The 2024 Labour Party Manifesto included a clear commitment to a duty of candour, and at the 2024 Labour Party Conference the Prime Minister committed to its introduction into Parliament by April this year.

### **Text for Explanatory Memorandum**

There is no significant impact on businesses, public sector bodies or local authorities with the introduction of this Bill.

An Impact Assessment has not been prepared for this Bill because the cost to businesses is *de minimis*—the Bill seeks to act as a catalyst and a driver to encourage wider cultural change across the public sector.

### **Review Provision**

These provisions will be a catalyst for the public sector to reflect on the meaning of candour and how it can be embedded at the heart of public service. We will lead implementation through a ministerially-led board including leaders from the public sector.

A post-implementation review (PIR) will not be conducted. However, we will commission an annual independent assessment - making clear which areas of the public sector are rising to this challenge and any which are failing to do so.

**SCS Policy Sign off:** Matt Lewsey  
**off date:** 11/09/2025

**SCS Policy Sign**

**SCS Analyst sign off:** Lisa Jordan  
**date:** 11/09/2025

**SCS Analyst Sign off**