

JUSTICE North

Briefing for Members of the House of Lords in advance of Oral Question re the Hillsborough Law on 22 April 2025.

17 April 2025

Introduction

1. In its manifesto the Government made a commitment to introducing Hillsborough Law, which would “*place a legal duty of candour on public servants and authorities and provide legal aid to victims of state-related deaths.*”¹ This commitment was reiterated by the Prime Minister last September, who promised that a Hillsborough Law would be introduced before the 36th anniversary of the disaster – on the 15th April 2025.²
2. This deadline has come and gone, and there are growing concerns amongst Hillsborough families and organisations representing them that the proposed legislation has been significantly watered down. The Hillsborough families have been clear that the government must not retreat from its commitment to implement a legally enforceable duty of candour, or its promise of providing legal representation.³ However, some families have been told that the government’s draft is based on authorities signing a charter and does not include provisions on funding.⁴
3. For the reasons set out in this briefing, **JUSTICE calls on the government to introduce the version of the Hillsborough Law as supported by families.** This version was previously introduced to Parliament in 2017 as the Public Authority (Accountability) Bill and attracted cross-party sponsorship. It was scheduled for a Second Reading in May 2017, but fell after the 2017 General Election. We urge Peers to interrogate the government on the steps being taken to ensure the Hillsborough Law is robust, enforceable, and properly reflects the needs of the Hillsborough families, and all those impacted by state-related deaths or other public tragedies.

¹ [Labour Party Manifesto 2024](#), p. 73.

² Jenny Coleman, “[‘Hillsborough Law’ on the table by anniversary – PM](#)”, *BBC News* (September 2024).

³ INQUEST, “[‘All or Nothing’ A report on the Hillsborough Law Family Listening Day](#) (2025).

⁴ David Conn, “[‘Hillsborough families call for ‘all or nothing’ law as Labour expected to break pledge](#)”, *The Guardian* (April, 2025).

Statutory Duty of Candour

4. Hillsborough Law, as contained in the Public Authority (Accountability) Bill, would establish a statutory duty of candour: a codified requirement on public servants, public authorities and other adjacent corporations to assist investigations, inquests and inquiries of all kinds proactively and truthfully, at the earliest possible opportunity.⁵ This duty would be discharged through, amongst other things, the early provision of position statements and full disclosure of all relevant documentation.⁶
5. As highlighted in our 2020 report *When Things Go Wrong*, a statutory duty of candour would significantly enhance the participation of bereaved people and survivors, by guarding against institutional defensiveness and fostering a 'cards on the table' approach to investigations. Institutional defensiveness, such as that which marred the investigations following Hillsborough, is invariably cited as a cause of further suffering and a barrier to accountability.⁷ The perception of defensiveness during investigations into tragedies like Hillsborough, also risks undermining public confidence and trust in investigations and the institutions involved in them and more broadly.
6. A statutory duty of candour would improve the effectiveness of investigations, strengthening their ability to reach the truth and identify appropriate steps to prevent future tragedies.⁸ Moreover, by directing the investigation to the most important matters at an early stage, a statutory duty of candour has the potential to facilitate earlier findings and, in turn, reduce costs.⁹ The Under Cover Policing Inquiry, which has been beset with delays caused in large part by a lack of disclosure on the part of the police,¹⁰ has as of December 2024 cost the taxpayer £102.79 million.¹¹ A statutory duty of candour would greatly assist in guarding against these kinds of protracted investigations, and the escalating costs that come with them.

⁵ [Public Authority \(Accountability\) Bill](#), clause 1.

⁶ [Public Authority \(Accountability\) Bill](#), clause 1(3).

⁷ JUSTICE, [When Things Go Wrong: The response of the justice system](#) (2020), para 4.4, INQUEST, '[Family reflections on Grenfell: No voice left unheard \(INQUEST report if the Grenfell Family Consultation Day\)](#)' (2019); The Rt Hon Dame Elish Angiolini DBE QC, [Report of the Independent Review of Deaths and Serious Incidents in Police Custody](#) (2017), para 17.2; The Rt Rev Bishop James Jones KBE, '[The patronising disposition of unaccountable power': A report to ensure the pain and suffering of the Hillsborough families is not repeated](#) (2017), p.18.

⁸ JUSTICE, [When Things Go Wrong: The response of the justice system](#) (2020), para 4.32-49.

⁹ JUSTICE, [When Things Go Wrong: The response of the justice system](#) (2020), para 4.32-49.

¹⁰ Undercover policing inquiry: Chairman urged to quit, *BBC News* (March 2018); Connor Woodman, '[A Brick Wall of Silence At Undercover Policing Inquiry](#)', *Centre for Crime and Justice Studies* (February 2018).

¹¹ '[About the Inquiry](#)', *Undercover Policing Inquiry*.

7. In sum, a statutory duty of candour would:
- (a) improve participation,
 - (b) promote public confidence,
 - (c) ensure that investigations are effective, and
 - (d) help reduce delays and costs.
8. However, for a duty of candour to achieve these aims, it must be enforceable. There are strong reasons to think that a “duty” based on authorities signing a charter will not be sufficient to ensure compliance. A Hillsborough charter, directed at ensuring openness and transparency from its signatories, already exists.¹² However, whilst it was signed by all police forces in 2021,¹³ for example, this appears to have had little impact on the culture of secrecy and protectionism.¹⁴ Baroness Casey’s review of the Metropolitan Police published and Dame Vera Baird’s inquiry into the experiences of people taken into custody by the Greater Manchester Police, published in 2023 and 2024 respectively, both raised concerns regarding transparency and defensiveness.¹⁵
9. As this example demonstrates, any duty of candour introduced must include robust enforcement mechanisms, that have real consequences for those in breach. This is the only way prevent institutional defensiveness and encourage a cultural shift toward greater transparency. Hillsborough Law achieves this through the availability of criminal sanctions for Chief Officers or Chief Executives who intentionally or recklessly fail to discharge the duty, and for officials who intentionally or recklessly mislead the public, media, court proceedings or investigations, or impede the discharge of the duty.¹⁶ This would be subject to the privilege against self-incrimination, meaning that no offence would be committed to the extent that this privilege is asserted.¹⁷

¹² Bishop James Jones’ Charter for Families Bereaved through Public Tragedy, requires signatories to commit to approaching “*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.*” The Rt Rev Bishop James Jones KBE, ‘[The patronising disposition of unaccountable power’: A report to ensure the pain and suffering of the Hillsborough families is not repeated](#)’ (HC 511, 2017), p.7.

¹³ College of Policing, ‘[Bereaved families supported by new charter](#)’ (2021).

¹⁴ For example, Baroness Nuala O’Loan DBE, [The Report of Daniel Morgan Independent Panel](#) (2021), p. The Rt Hon Dame Elish Angiolini DBE QC, [Report of the Independent Review of Deaths and Serious Incidents in Police Custody](#) (2017); The Rt Rev Bishop James Jones KBE, ‘[The patronising disposition of unaccountable power’: A report to ensure the pain and suffering of the Hillsborough families is not repeated](#)’ (2017); Mark Ellison KC, [The Stephen Lawrence Independent Review](#) (2014).

¹⁵ See Baroness Casey DBE CB, [An independent review into the standards of behaviour and internal culture of the Metropolitan Police Service](#) (2023); Dame Vera Baird KC, [The Baird Inquiry: An Independent report into the experience of people who are arrested and taken into custody by Greater Manchester Police with a focus on women and girls](#) (2024), p.158.

¹⁶ [Public Authority \(Accountability\) Bill](#), clause 3.

¹⁷ [Public Authority \(Accountability\) Bill](#), Clause 3(6).

Parity of Legal Representation

10. Hillsborough Law also includes provisions for public funding for legal assistance and representation for bereaved families and survivors at inquests and inquiries, at the same level or in proportion to the resources available to the public or corporate bodies.
11. As it stands, to access publicly funded legal representation at an inquest bereaved families must apply for exceptional case funding (ECF). ECF will only be granted where it is required by Article 2 of the European Convention on Human Rights or where representation is in the “wider public interest” such that it “is likely to produce significant benefits for a class of person, other than the applicant and members of the applicant’s family.”¹⁸
12. This means that many families are still left to navigate complex legal processes alone and in the midst of grief, whilst state and corporate interested persons are typically able to deploy ranks of solicitors, junior barristers and KCs.¹⁹ Examples of these circumstances include self-inflicted deaths of voluntary patients in mental health settings or under the care of a mental health trust in the community, deaths in supported accommodation or in care settings where the person has been placed by a public body or local authority.²⁰
13. Whilst the position for public inquiries is different - all core participants can apply to have their legal costs covered – there are concerns about lack of parity in the level of representation available to bereaved and survivor core participants, as compared with state core participants.
14. In this context, the claim that bereaved families’ and survivors’ effective participation can be guaranteed by the coroner or inquiry chair and the “inquisitorial” nature of the process is to ignore reality.²¹ To truly level the playing field for bereaved families and survivors, public funding must be available in cases where the State has agreed to provide separate representation for one or more interested persons, as set out in Hillsborough Law.

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¹⁸ Legal Aid Agency, ‘[Inquests – Exceptional Cases Funding – Provider Pack](#)’, 15 May 2020, p. 3.

¹⁹ JUSTICE, [When Things Go Wrong: The response of the justice system](#) (2020), para 5.18.

²⁰ JUSTICE and INQUEST, [Judicial Review and Courts Bill: Joint Briefing for House of Lords Committee Stage](#) (2022), paras. 7-12.

²¹ JUSTICE, [When Things Go Wrong: The response of the justice system](#) (2020), para 5.2, 5.18.