

LEGISLATIVE CONSENT MEMORANDUM

Public Office (Accountability) Bill

1. This legislative consent memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru¹ if a UK Parliamentary Bill makes provision in relation to Wales that has regards to devolved matters.
2. The Public Office (Accountability) Bill (“the Bill”) was introduced in the House of Commons on 16th September 2025. The Bill can be found at: [Public Office \(Accountability\) Bill - Parliamentary Bills - UK Parliament](#)

Policy Objective(s)

3. 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 Bill aims to ensure that what happened following the disaster can never take place again. The Bill provides for public officials to be bound by duties of candour with criminal and professional consequences. The Bill will also ensure that 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.

Summary of the Bill

4. The Bill is sponsored by the Ministry of Justice.
5. The key provisions of the Bill cover:
 - Imposing a duty on public authorities and public officials to act with candour, transparency and frankness.
 - Making provision for the enforcement of that duty in their dealings with inquiries and investigations.
 - Requiring public authorities to promote and take steps to maintain ethical behaviour within all parts of the authority including the production of a mandatory code of ethics that includes duties relating to candour.
 - Creating an offence of public authorities and public officials misleading the public.

¹ Please note in accordance with Welsh Government policy we refer to the legislature in Wales as “Senedd Cymru” on first use and “the Senedd” thereafter unless the context stipulates otherwise.

- Creating further offences in relation to the misconduct of persons who hold public office and to abolish the common law offence of misconduct in public office.
 - Making provision enabling persons to participate at inquiries and investigations where the conduct of public authorities may be in issue, and for connected purposes.
 - Expanding non-means-tested legal aid to bereaved families for inquests in England and Wales where a public authority is an Interested Person.
 - Including further measures aimed at addressing issues around the conduct of legal representatives at inquests.
6. In 2009 the UK Government established the Hillsborough Independent Panel following which, a new investigation into criminal and police misconduct allegations was conducted, alongside a new set of inquests. 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 and in parallel, 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. In September 2024 the Prime Minister committed to implement a duty of candour.

Engagement with UK Government

7. My Officials received an initial draft text of the Bill on 28th February 2025. There has been limited engagement and involvement with the development of the Bill, with UK Cabinet Office engagement being predominantly on a "for information" basis.
8. My Officials have met with UK Government Officials; providing commentary and lines of questioning to ascertain the purpose, scope and impact of the proposed Bill. However, my Officials only received certain proposed clauses, and draft Bill notes during these discussions and did not receive a final and full draft of the Bill until Thursday the 11th of September, three working days before planned introduction and the final explanatory notes until 15th September, the day before introduction.
9. We recognise the challenges faced in producing such a Bill given both the political and public interest, and pressure, alongside the urgency with which it is was driven, but ensuring adequate engagement to understand the scope, implications and impact ahead of introduction has been challenging. In particular, we have recognised the critical importance of the UK Government's continuing discussions on the content of the Bill with Hillsborough survivors, bereaved families and representative groups such as Hillsborough Law Now. However, there is also a vital need for consultation with affected organisations and public bodies, and for consideration of differential impacts in Wales, which needs to take place

on the basis of clear proposals for the content of the legislation.

Amendments to Existing Legislation and Implications for Other Legislation

10. The Bill amends the following legislation (that applies to Wales):

- 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).
 - 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 coroner's 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.
 - 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.
 - The Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013.
 - The Civil Legal Aid (Merits Criteria) Regulations 2013.
 - 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. Section 46 is repealed by the Bill.
 - 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 6 of the Criminal Justice and Courts Act 2015.
11. The Bill is creating a new offence of misleading the public (clause 11) and abolishes the common law offence of misconduct in public office subject to transitional provision (section 16).

Provisions in the Bill for which consent is required

12. In my view, due to its cross-cutting nature, almost the entirety of the Bill makes provision in relation to Wales for a purpose within the legislative competence of the Senedd or which modifies the functions of Devolved Welsh Authorities (DWAs), or both. Specifically, the parts of the Bill which make relevant provision for the purposes of Standing Order 29 are:

- Clauses 1 to 5 and 7 to 10 (Implementing the duty of candour etc and performance of public functions);
- Clauses 12 and 14 to 16 (Misconduct in Public Office);
- Clauses 18 (partially), 20 to 25 (Miscellaneous and final provisions); and
- Schedule 1 (Parts 1, 2 and 6) and Schedules 2 to 4 and 6 (partially).

13. For completeness, the parts of the Bill which do not make relevant provision for the purposes of Standing Order 29 are clauses 6, 11, 13, 17, 19, 26, Schedule 1 (Parts 3 to 5) and Schedule 5.

14. The parts of the Bill which make relevant provision are below.

- Clause 1 summarises the purpose and effect of the Bill. Since the Bill largely meets the test in SO29, this provision also meets that test and so makes relevant provision.
- Clause 2 and Schedule 1 impose a 'duty of candour and assistance' on public authorities which relates to the non-reserved matter of inquiries and applies to various DWAs. These provisions therefore make relevant provision.
- Clause 3 is inextricably linked to the duty of candour and assistance, (supplementing it and defining its scope) and so makes relevant provision for the same reasons as clause 2.
- Clause 4 extends the duty in clause 2 to certain entities which are not public bodies. Since it extends a duty which constitutes relevant provision, this clause also makes relevant provision.
- Clause 5 and Schedule 3 provide that it is an offence to breach the duty of candour and assistance. This offence is within the legislative competence of the Senedd and this provision in any event relates closely to clause 2. For these reasons, these provisions make relevant provision.
- Clause 7 makes transitional provision about the temporal scope of the duty of candour and assistance (i.e. whether it will apply to an inquiry begun at a specific point in time). For this reason, it is closely linked to clause 2 and makes relevant provision for the same reasons.
- Clause 8 and Schedule 2 provide definitions of key terms relating to the duty of candour and assistance and so makes relevant provision for the same reasons as the duty itself. In particular, Schedule 2 defines "public authority" and "public official". These provisions therefore make relevant provision.
- Clause 9 imposes a duty on public authorities to promote and take steps to maintain high standards of ethical conduct by people who work for them. The definition of public authorities (contained in Schedule 2) includes the Welsh Ministers, local authorities and other DWAs. This clause therefore makes relevant provision because it confers functions on DWAs.
- Clause 10 confers a function on the Welsh Ministers of issuing guidance on matters relating to Chapter 2 of Part 2 of the Bill and

imposes requirement that public bodies (which include DWAs) have regard to guidance issued under this clause. Since it confers functions on the Welsh Ministers and DWAs, this clause makes relevant provision.

- Clause 12 creates an offence of committing a seriously improper act whilst holding a public office. Those capable of committing this offence include the First Minister of Wales, the other Welsh Ministers, the Counsel General, Members of the Senedd or any body or office established by the Welsh Ministers. The Senedd has the legislative competence to create an offence of a similar type in respect of these individuals and entities, and the clause therefore makes relevant provision.
- Clause 14 defines the territorial scope of, among other things, the offence created by clause 12 and therefore defines its scope. Therefore, this clause makes relevant provision for the same reasons given in respect of clause 12.
- Clause 15 and Schedule 4 define when an individual “holds public office” for the purposes of Part 2 and how the definition can be amended (in some cases by the Welsh Ministers or only with their consent). This provision therefore defines the scope of the offence created by clause 12 and makes relevant provision for the same reasons as given in respect of that provision. In addition, this clause makes relevant provision because it confers functions upon the Welsh Ministers.
- Clause 16 abolishes the offence of misconduct in public office which affects the potential criminal liability of office holders such as those listed in Schedule 4 and so has a material impact on devolved matters. For this reason, this clause constitutes relevant provision.
- Clause 18 and Schedule 6 make provision and amendments to legislation which, among other things, requires public authorities to have regard to certain matters and make provision about when public authorities may engage legal representative to represent them at UK inquiries. In making such provision, clause 18 and Schedule 6 confer functions upon public authorities (some of which are DWAs) and so constitute relevant provision. However, amendments made by these provisions in relation to other matters (e.g. legal aid and coroners) are not making relevant provision.
- Clause 20 repeals section 46 of the Victims and Prisoners Act 2024. Section 46 required the Secretary of State to review whether additional duties of candour and transparency should be imposed on public officials. This provision is within the legislative competence of the Senedd and relates, ultimately, to the functions of DWAs (as public bodies). It therefore constitutes relevant provision.

- Clause 21 confers functions on the Welsh Ministers to make consequential provision and so constitutes relevant provision.
- Clause 22 relates to the powers of the Welsh Ministers to make regulations under the Act and confers on them the function of giving or withholding of consent in relation to the making of regulations by the Secretary of State. It therefore constitutes relevant provision.
- Clauses 23 to 25 (general interpretation, extent and commencement) are operational parts of the Bill. Since most of the Bill makes relevant provision, these provisions also make relevant provision for the same reasons given in relation to other clauses.

Powers to make subordinate legislation

15. The Bill confers the following regulation-making powers on the Welsh Ministers:

- Clause 15(4) – Power to amend the definition of “holds a public office” for the purposes of Part 3 of the Bill by way of adding, omitting or modifying so long as the regulations contain only provision relating to Welsh devolved matters. Regulations under this provision are subject to the affirmative procedure.
- Clause 21(3) – Power to make provision which is consequential upon regulations made under the Bill. Regulations under this provision are subject to the affirmative procedure if they amend, repeal or revoke any provision of primary legislation or Northern Ireland legislation and to the negative procedure if they do not do so.
- Paragraph 7(1) of Schedule 1 – Power to extend the duty of candour and assistance to certain types of investigation. Regulations under this provision are subject to the affirmative procedure unless they are made in urgent cases (see paragraph 8 of the Schedule) and contain provision relating to specific investigations (as opposed to only investigations of a specified description). In such cases the regulations must be laid before the Senedd as soon as reasonably practicable and will cease to have effect after 40 days unless approved by a resolution of the Senedd.
- Paragraph 4(4) of Schedule 2 – Power to specify functions of a public nature for the purposes of paragraph 4(3) of Schedule 2 (the effect of which is to make an entity which exercises those functions a “public authority” for the purposes of Chapter 2 of Part 2 of the Bill). Regulations under this provision are subject to the affirmative procedure.

16. It should be noted that in the event that the Bill does not get Royal Assent before 1 January 2026, references to statutory instruments and the

procedures for SIs in the Senedd may well have to be amended pursuant to Part 2A of the Legislation (Wales) Bill.

UK Government view on the need for consent

17. Representatives from the MoJ undertook their own devolution analysis with the Welsh Office and have indicated which parts of the Bill they consider require the consent of the Senedd (this analysis is reproduced at Annex A of the Explanatory Notes).
18. The Welsh Government's Principles on UK Legislation in devolved areas states that primary legislation in devolved areas should be enacted by the Senedd. However, they also acknowledge there may be instances where it is in the best interest of Wales to take provisions in UK Bills. This Bill, as noted above, makes provision in respect of both devolved and reserved matters and therefore it may be in the best interests of Wales to take provisions in this UK Bill in accordance with the Principles.
19. The UK Government and Welsh Government agree consent is required for clauses 1, 2, 3, 4, 5, 7, 8, 9, 10, 12, 14, 15, 16, 18 (partially), and Schedules 1 (but not for Parts 3, 4 and 5 of that Schedule), 2, 3 and 4 and the LCM process is engaged.
20. The UK Government and the Welsh Government agree that consent is not required for clause 11.
21. However, in terms of the clauses that will engage the consent motion process there are some differences of opinion between the UKG and the WG. Annex A of the Explanatory Notes to the Bill contains a summary of whether the LCM process is engaged for each clause whereas the UKG Devolution Analysis contains an overview of competence for each Part of the Bill for Wales, Scotland and Northern Ireland. The Devolution analysis references the Devolution Guidance Note (DGN) in paragraph 1 but does not mention the test set out in SO29.
22. The Welsh Government considers that the LCM process is *not* engaged for clauses 6, 13 and 17 and Parts 3 to 5 of Schedule 1 and Schedule 5. Clause 6 applies the new duty to an intelligence service as it applies to other public authorities, so relates to "national security" which is a reserved matter, Clause 13 creates an offence in respect of a person who holds public office and it is arguable this could be considered as an "offence against the person" which is a reserved matter under paragraph 4(1)(b) and (2)(b) of Schedule 7B to GoWA given it is listed in the category of offences which are reserved. Paragraph 4(2)(b) of Schedule 7B of GoWA reserves 'other offences against the person.... that are triable only on indictment'. A person who commits an offence under clause 13(4) is liable on conviction on indictment to imprisonment for a term not exceeding 14 years. Clause 17 introduces Schedule 5 which makes amendments to legislation that are consequential on Part 3 of the

Bill in areas which are expressly reserved in Schedule 7A of GoWA. The WG considers the LCM process is partially engaged for clause 18.

23. Conversely for Schedule 6, UK Government do not consider the LCM process is engaged but Welsh Government considers it partially is as it does modify the functions of Devolved Welsh Authorities due to the duties being a function of a Public Authority (see also Clause 18 which introduces Schedule 6).
24. The UK Government has not provided legal analysis on clauses 19, 20, 21, 22, 23, 24, 25, 26 but Welsh Government consider clause 19 does not require an LCM as the provision relates to the Crown and (agents of the Crown) and the Crown is a reserved matter. Clauses 20-25 are devolved matters and require an LCM. Clause 26 does not as it relates to the operative part of the Bill and has no legal effect.

Reasons for making these provisions for Wales in the Public Office (Accountability) Bill

25. I consider that in the case of the Public Office (Accountability) Bill, as a matter of principle the UK Government's legislative proposal would also be appropriate for Welsh circumstances. This is a high-profile Bill that has been supported and called for by stakeholders and welcomed to prevent future failures and miscarriages of justice for Welsh Citizens.
26. The Bill has been significantly in the public eye. Given the sensitive nature of the Bill's origins, I believe it is desirable for UK citizens to know that the same basic legal protections apply wherever in the UK a future incident might take place. I believe there are benefits to consistent rules governing different public servants irrespective of their direct employer. The Bill also appears to strike an appropriate balance between promoting a culture of honesty and transparency, while allowing for different specific measures and approaches to enforcing that culture in the circumstances of individual areas.
27. Whilst some provisions in the Bill appear to duplicate (or may expand on) existing mechanisms within Wales (a Duty of Candour was established under the Health and Social Care (Quality and Engagement) (Wales) Act 2020 and Ethical Framework within Local Government via the Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001) the Bill would expand and enhance expectations across the public sector, driving an improved performance culture and providing reassurance for the public and public officials.
28. The Bill cuts across reserved and devolved subject matter and could neither be delivered in the same manner, nor in the same timescale in a Senedd Bill at this time.

29. I therefore believe that it would be desirable in principle for the Bill to extend to Wales and applied equally to both reserved and devolved areas.
30. However, as noted above, limitations on sharing documentation and engaging more broadly outside of Welsh Government, as well as delays in receiving a full and final draft, have made engagement and consultation challenging. A number of lines of questioning remained unaddressed.
31. The impact and implications of this Bill are significant for Wales and its citizens as well as Welsh organisations. Without the ability for us to engage fully with our stakeholders we have been limited in our ability to assess and understand the impact the Bill may have on existing Welsh legislation and Welsh Services. There is complexity and nuance regarding the application of the Bill in Wales that is critical for us to consider. The other devolved administrations have shared similar views and concerns about the overall lack of engagement.
32. There is some concern, in some policy area as to how holders of a public office is defined, where the individual or authority does not expressly fall under one of the other definitions or categories.
33. The concept of “reasonableness” creates legal uncertainty (at the outset at least) about what is and isn’t reasonable in the context of this particular duty as “reasonableness” is not defined within this proposed legislation.
34. The threshold for the offence is high. It provides for an offence with intent or through recklessness, rather than just carelessness or negligence but proving intent to mislead may be challenging.

Financial implications

35. Broadly the measures in the Bill relate to behaviours and the creation of supporting documentation by Public Authorities – some limited costs related to preparation are expected. In relation to the Misconduct in Office measures, as there is no intention to widen or substantially change the scope of the criminal law, the cost of these changes is expected to be negligible.
36. 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 UK 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. It is part of UK Government’s view that public authorities or their responsible government departments should have to contribute towards the cost of legal aid for bereaved families where they are an Interested Person at an inquest. However, this is not a legislative requirement, and Legal Aid remains a reserved matter in Wales. So, whilst there is a cost implication, our expectation is that any additional cost will be met by UK Government. We

would need to ensure the funding flows appropriately to the places where it is required. On that basis, overall, no financial implications have been identified.

Conclusion

37. In my view it is appropriate to deal with these provisions in this UK Bill given the high profile and cross-cutting policy nature. Such an approach will reduce complexity, maximise the clarity and coherence of the law and allow for a consistent approach across the UK. It expands and enhances existing provisions within Wales alongside expectations across all public services. Alternative or similar Welsh-made provision could not otherwise be delivered within a suitable time frame. Some key provisions of the Bill are reserved, meaning that Welsh legislation could not fully replicate the scheme in this legislation or do so in an entirely coherent way.
38. However, the impact of the Bill requires more analysis of the nuanced application of the clauses in the Bill.
39. Therefore, whilst I am supportive of the principles in the Bill, I will be seeking further information on the operation of the Bill before I am able to recommend the Senedd provides its consent.

Huw Irranca-Davies MS,
Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs
2nd October 2025

Annex A of the Explanatory Notes to the Bill contains the UK Government's conclusions on which provisions of the Bill require the consent of the Senedd, copied below.

Provision	Wales	
	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes
Clause 2	Yes	Yes
Clause 3	Yes	Yes
Clause 4	Yes	Yes
Clause 5	Yes	Yes
Clause 6	Yes	Yes
Clause 7	Yes	Yes
Clause 8	Yes	Yes
Clause 9	Yes	Yes
Clause 10	Yes	Yes
Clause 11	Yes	No
Clause 12	Yes	Yes
Clause 13	Yes	Yes
Clause 14	Yes	Yes
Clause 15	Yes	Yes
Clause 16	Yes	Yes
Clause 17	Yes	Yes
Clause 18	Yes	No
Clause 19	Yes	
Clause 20	Yes	
Clause 21	Yes	
Clause 22	Yes	
Clause 23	Yes	
Clause 24	Yes	
Clause 25	Yes	
Clause 26	Yes	
Schedule 1	Yes	Yes
Schedule 2	Yes	Yes

Provision	Wales	
	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?
Schedule 3	Yes	Yes
Schedule 4	Yes	Yes
Schedule 5	Yes	Yes
Schedule 6	Yes	No

