

# **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 (Standards) 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 <a href="#">instructions</a> 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 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, and to establish professional duties of candour for staff.
3. **An offence of 'misleading the public'** - aimed squarely at those who aim to mislead the public or cover up the truth.

## **Policy Objectives and Intended effects**

### **What are we going to do?**

At the public inquiry into the Hillsborough disaster, the chairman - Lord Justice Taylor - condemned the evidence of senior police officers, which he described as '*defensive and evasive*'. The Hillsborough Independent Panel later found that over 100 statements given by more junior officers had been amended before being provided to the inquiry to remove or alter comments unfavourable to the South Yorkshire Police.

This Bill establishes a new duty of candour and assistance at inquiries, inquests and other investigations - backed by criminal sanctions.

### **How are we going to do it?**

The duty establishes new obligations on public bodies and officials to help investigations to find the truth: providing information and evidence with candour; proactively; and without favouring their own position.

This duty will apply to statutory inquiries and coroner's investigations, strengthening and reinforcing existing powers to compel evidence. It will also apply at non-statutory inquiries, giving chairs formal powers for the first time. And the Bill gives ministers the power to extend the duty to more types of investigation through secondary legislation.

This legal duty is focused on the public sector, but also applies to some private bodies: those delivering public functions; those with a relevant health and safety responsibility; as well as relevant public sector contractors - such as in the Horizon scandal.

For those who do not comply with this new duty - the Bill sets out clear criminal sanctions, including prison sentences.

## **Professional duties of candour**

### **What are we going to do?**

This Bill will embed candour at the heart of public service - requiring professional duties of candour to be put in place across the public sector.

### **How are we going to do it?**

The Bill will require all public bodies to establish a professional duty of candour for staff, to be set out within a wider code of ethics. These obligations will be underpinned by a new duty requiring public bodies to promote the ethical conduct of their employees.

Professional duties of candour will be tailored to the sectors to which they apply: meaningful to staff and responsive to the needs of those who use an organisation's services. Authorities will be legally required to set out the consequences for staff who do not comply, including potential disciplinary sanctions up to and including gross misconduct.

Codes of ethics will be based on the Nolan Principles of honesty, integrity, objectivity, accountability, selflessness, openness and leadership. All codes will be required to meet minimum standards - including ensuring that they set out clear processes for internal concerns and public complaints.

These requirements will apply to all public authorities.

### **Offence of misleading the public**

#### **What are we going to do?**

As the scale of the disaster at Hillsborough was becoming apparent, police lied about its cause - saying that Liverpool fans had broken into the stadium. This false account was broadcast internationally and was the first explanation of the cause of the disaster to enter the public domain. In fact, as the Taylor Inquiry would later find, the main reason for the disaster was the failure of police control.

The Bill includes a new offence - aimed squarely at those who aim to mislead the public or cover up the truth. It has been designed with Hillsborough at the front of mind.

#### **How are we going to do it?**

This new offence 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.

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, or a police force issuing a public statement that they know gives a false account of events. It is not intended to apply to instances of accidental or inadvertent misleading.

The Bill sets out a minimum set of criteria which an act must satisfy in order for an act to be considered seriously improper. The act must:

- Have involved dishonesty that was significant or repeated in respect of matters of significant concern to the public;
- Caused, or contributed to causing, harm to one or more other persons or had the potential to do so, and
- Departed significantly from what is to be expected in the proper exercise of the person's functions as a public authority or public official.

Together, these conditions ensure that the offence is properly targeted at particularly culpable conduct.

### **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 relevant health and safety responsibility or is a relevant public sector contractor.
  - 2) Where a business meets these criteria, 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.

**The Bill's offence of misleading the public applies to public officials and public authorities only.**

### **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.

### **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**