

Second Reading Briefing

Constitutional Law and Human Rights Sub-committee

Public Office (Accountability) Bill

October 2025



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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors. We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful, and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

The Public Office (Accountability) Bill was introduced in the House of Commons on 16 September 2025. The Bill gives effect to the manifesto commitment by the Labour Party to introduce legislation 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 Explanatory notes state that Part 1, clause 1 of the Bill "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": Public Office (Accountability)

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 8) create 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 to their own position. There would be criminal sanctions in cases of non-compliance.

Specific Comments

Application to Scotland

The duty of candour under the Bill applies across the UK. The provisions which specifically apply to Scotland are contained in Part 1 and Part 2 Chapters 1 and 2, (ie Clauses 2- 10) Part 5 (miscellaneous and final provisions clauses 19-26) as well as Schedules 1-3 and 5.

Part 2 Chapter 3 which in clause 11 creates the offence of misleading the public and Part 3 which creates the offence of Misconduct in Public office do not apply to Scotland. The Government should explain why these offence provisions exclude Scotland.

Schedule 1 part 4 amends 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 to which that Act applies.

The Explanatory Notes Annex A extent and application in the United Kingdom make clear that the Legislative Consent (or Sewel) Motion process is engaged.

In respect of the duties around 'inquiries and investigations' in Part 2 Chapter 1 and Schedule 6 these provisions do not include Investigations by the Mental Welfare Commission for Scotland under sections 11 or 12 of the Mental Health (Care and Treatment) (Scotland) Act 2003. This omission needs further consideration and may need consultation with the Commission. We suggest inquiries and investigations under that Act should be covered, not least because they can include investigations into deaths, which are analogous to Fatal Accident Inquiries, which are covered by the Bill.

The Explanatory Notes refer in paragraph 47 to section 69A of the Charities and Trustee Involvement (Scotland) Act 2005. This reference is incorrect and should actually be to the Charities and Trustee Investment (Scotland) Act 2005.

For further information, please contact:

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