

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

VICTIMS AND PRISONERS BILL

Third Sitting

Thursday 22 June 2023

(Morning)

CONTENTS

Programme order amended.
Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 26 June 2023

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The Committee consisted of the following Members:

Chairs: JULIE ELLIOTT, STEWART HOSIE, † SIR EDWARD LEIGH, MRS SHERYLL MURRAY

Antoniazzi, Tonia (<i>Gower</i>) (Lab)	† Jones, Fay (<i>Brecon and Radnorshire</i>) (Con)
† Argar, Edward (<i>Minister of State, Ministry of Justice</i>)	Logan, Mark (<i>Bolton North East</i>) (Con)
† Baillie, Siobhan (<i>Stroud</i>) (Con)	† McMorris, Anna (<i>Cardiff North</i>) (Lab)
† Bell, Aaron (<i>Newcastle-under-Lyme</i>) (Con)	† Nici, Lia (<i>Great Grimsby</i>) (Con)
Butler, Rob (<i>Aylesbury</i>) (Con)	† Phillips, Jess (<i>Birmingham, Yardley</i>) (Lab)
† Champion, Sarah (<i>Rotherham</i>) (Lab)	† Reeves, Ellie (<i>Lewisham West and Penge</i>) (Lab)
Colburn, Elliot (<i>Carshalton and Wallington</i>) (Con)	Throup, Maggie (<i>Erewash</i>) (Con)
† Daby, Janet (<i>Lewisham East</i>) (Lab)	Anne-Marie Griffiths, Bethan Harding, <i>Committee Clerks</i>
† Eagle, Maria (<i>Garston and Halewood</i>) (Lab)	
† Heald, Sir Oliver (<i>North East Hertfordshire</i>) (Con)	† attended the Committee

Witnesses

The Right Reverend James Jones KBE, Chair, Hillsborough Independent Panel (2009-12)

Ken Sutton, Advisor to the Hillsborough Independent Panel (2009-12)

Lord Wills, Minister of State for Justice (2007-10)

Nick Hurd, Independent Adviser to the Prime Minister on Grenfell

Tim Suter, Solicitor, Manchester Arena Inquiry and Hillsborough Inquests

Ruth Davison, Chief Executive, Refuge

Ellen Miller, Interim CEO, SafeLives

Public Bill Committee

Thursday 22 June 2023

(Morning)

[SIR EDWARD LEIGH *in the Chair*]

Victims and Prisoners Bill

11.30 am

The Chair: We are now sitting in public and proceedings are being broadcast. I call the Government Whip to move a motion to amend the programme order agreed on Tuesday. The purpose of the motion is to enable us to hear from a witness who was unable to give evidence on Tuesday because of technical difficulties.

Ordered,

That the Order of the Committee of 20 June be amended, in paragraph (2), in the Table, in the entry for Thursday 22 June until no later than 1pm, at end insert “; SafeLives”—(*Fay Jones.*)

Examination of Witnesses

The Right Rev. James Jones and Ken Sutton gave evidence.

The Chair: We will now hear oral evidence from the Right Rev. James Jones, chair of the Hillsborough Independent Panel, and Ken Sutton, who was adviser to the panel. I remind all Members that questions should be limited to matters within the scope of the Bill, and that we must stick to the timings in the programme order that the Committee has agreed to. I welcome our witnesses and invite them to make a brief opening statement.

Rt Rev James Jones: No, thank you very much. I am happy to answer the questions. I welcome the proposal to set up an independent public advocate.

The Chair: Mr Sutton, would you like to say anything?

Ken Sutton: Thank you for the invitation. I headed up the secretariat that supported the Hillsborough Independent Panel and worked with Bishop James Jones in that capacity, as I have done ever since. I hope that my experience can shed some light on the independent public advocate.

Q164 Maria Eagle (Garston and Halewood) (Lab): It is good to see you, Mr Sutton, and the Right Rev. James Jones; you were my constituent when you were Bishop of Liverpool, and we have had dealings over many years through our work on Hillsborough. It is good to see you both. The Hillsborough Independent Panel was set up in 2010 and completed its work by 2012. It did a fantastic job of looking through many documents and setting out the truth that families had been searching for since 1989. Bishop, why was the panel able to do what numerous legal proceedings over the years appeared to fail to do? What was it about how you went about your work that meant that it was successful in difficult circumstances?

Rt Rev James Jones: We had to gain the trust of the families, understandably. At the outset, families were not instantly persuaded that the panel, which was set up by the Government, would do what we were charged with doing, which was to access all the documents available from public authorities, analyse those documents with a team of experts, and write an account, so that there would be greater public understanding of what happened on that day. In the end, I think we gained the confidence of the families, and due to their tenacity and the expertise of the various panel members, we were able to shed light on what happened on the day and in the aftermath.

Q165 Maria Eagle: Did the panel have particular powers that ensured that the job could be done while maintaining the trust of the families, who of course, after 21 years, were disinclined to trust public authorities and investigations because so many of them previously had not come through with the facts?

Ken Sutton: I think the success of the panel did not come from its powers; as a non-statutory form of inquiry, we did not have any powers. I think the success of the panel was built on the relationship that the panel members and the secretariat established with the Hillsborough families from the start of the work. At the heart of that—I think this is very relevant to today—was the fact that the panel listened to the families. That may sound like a very simple statement, but the experience of the Hillsborough families and others was that they were not listened to. Individual Hillsborough families made the point to the panel, and to me, that they felt listened to for the first time when the panel was established. There is a clue there for the work of the independent public advocate going forward: they should, first and foremost, be listening to the families affected.

Rt Rev James Jones: To add to what Ken has said, Maria, the title of the second report, which was about learning from the families’ experiences, was “The Patronising Disposition of Unaccountable Power”. That is exactly how the families felt that public authorities were treating them over those years.

Q166 Maria Eagle: Bishop James, you have said on record that you support the establishment of an independent public advocate. What would that person or persons do that would add to what happens in the aftermath of a disaster, which is that there are inquiries, possibly public ones, inquests if there have been fatalities, and possibly ongoing legal cases thereafter? What would the establishment of an independent public advocate add to that landscape?

Rt Rev James Jones: Contrary to the Government’s proposal, I believe that there should be a standing independent public advocate. Why? Because in the immediate aftermath of a public tragedy, people are grief-stricken and traumatised. They are unprepared and disorientated, and they no longer feel in control of their life. It is in that immediate moment that they need an advocate—somebody who will represent them to Government and signpost them to the agencies that are available to support them in that moment of trauma.

Q167 Maria Eagle: You have said that there should be a standing advocate, but do you have a view about who should call on the advocate to get involved in any particular circumstances? Should it be the standing advocate themselves? Should it be done only if the

families ask for it? Or should the Secretary of State perhaps be the person to decide? Do you have a view about that?

Rt Rev James Jones: I do. I think the independent public advocate should have the right to engage with the families, but the families should also have a right to call upon the IPA if the IPA has not taken that initiative. My view is that the independence of the IPA has to be at the moment of decision. Unless the IPA is free to make the decision about engaging with the family or families, then I think the IPA is just a public advocate, and not an independent public advocate.

Q168 Maria Eagle: So independence is very important to the way in which you see these things. You will have had a chance to look at the Bill and its proposals. Do you think that Bill provides enough independence?

Rt Rev James Jones: I am afraid I do not. I welcome the Government's initiative, and I welcome their determination to continue to listen to various parties as they shape this appointment. However, I do not think that that independence is sufficiently guaranteed by the Bill as it stands; I think it can be guaranteed only if it is a standing appointment.

Q169 Maria Eagle: Are there powers or other roles that you think the advocate should have, apart from those you have already set out? For example, the Hillsborough Independent Panel had the power of data control, and could collect and look after all the information, which you duly did, before it was published. Do you recall that some of the Hillsborough families could be cynical about whether things were going to be revealed—until they were—because of the use of freedom of information, and because the Government could avoid handing out certain documents, which would give rise to suspicions about what was being held back? In the circumstances of Hillsborough, after many years, there were a lot of suspicions. Do you think that the independent public advocate has a role—and if so, what—in ensuring that those suspicions do not arise?

Rt Rev James Jones: I do think the IPA has a role, but I think there is a difference between the IPA and the Hillsborough Independent Panel. I will leave it to Ken to differentiate those two things. As to your question about what specific responsibilities the IPA should have, I would list them as follows. First and foremost, the IPA should be able to instruct all implicated agencies to keep, and not to destroy, public records. We should not have to wait until a panel or public inquiry is set up to instruct those agencies to keep all records. Secondly, I think the IPA could call on all implicated agencies to adopt the charter for families bereaved through public tragedy, which in essence calls on those agencies not to put their reputation ahead of the interests of the families of the victims and the survivors.

I think, too, the IPA can advise the Government on the setting up of an appropriate review, be that a public inquiry under the Inquiries Act 2005, an independent panel or a different form of review or commission. I think, too, the IPA is in a good position to advise the Government on the terms of reference for such an inquiry or panel. One problem that I have observed over the years is that terms of reference are often cobbled together at very short notice, at the last minute, and are not adequate to the task.

The IPA could also advise the Government on the sponsoring Department. I draw attention to the infected blood inquiry: the families were very concerned about the fact that the sponsoring Department was the Department of Health, which was implicated in many of the allegations. Indeed, I was asked by the families whether I would petition the Prime Minister to transfer the sponsorship of that inquiry from the Department of Health to the Cabinet Office, which Theresa May, when she was Prime Minister, did, to the satisfaction of the families. The IPA could also have a role in scrutinising whether lessons really have been learned from the inquest or inquiry, so that those lessons can be embedded across Government and prevent future tragedies.

Ken Sutton: It was crucial to the success of the Hillsborough Independent Panel in the task that the bishop has described that it was, and was seen to be, impartial and certainly not merely an advocate for the families. Had that not been the case, we would not have had the success in publishing the documents that were published, because we would not have had the trust of the public authorities in exercising that role. I think it is important to distinguish the role of the panel from the role of an independent public advocate, going forward.

There is one other point that I think is relevant. I had the privilege of consulting the Hillsborough families about the membership of the panel, but I was very conscious that I was doing that 20 years after Hillsborough. If we were talking about a similar disaster now, where an advocate was needed, that is not the conversation that would be relevant to the families at the time of the disaster. The Bill is in some danger of creating a conversation with families that is not the right conversation to have at the moment of bereavement. I worry that the well-intentioned idea of consulting the families about prospective advocates would be more damaging than helpful at that time, and that it is wrongly placed in the process.

That is why I agree with the bishop that the better option would be for the independent public advocate to be appointed in advance, so they can discuss with the families the help that they can bring, and be immediately available for that purpose. That does not rule out there being a panel of advocates; I can well see that the independent public advocate might want to bring in a panel, or advise on other panel members being appropriate. That might be relevant for reasons to do with skills, if there are other panel members, geography, or possibly the multiplicity of incidents, if there is more than one at the same time, which is conceivable in the terrorist context. There is some learning from the Hillsborough Independent Panel, but it is important to distinguish that what the panel did is not what the independent public advocate would be doing.

Q170 Maria Eagle: Do you think that the independent public advocate should have the power to appoint a panel like the Hillsborough Independent Panel to try to do the job that the panel did, which was to get at the truth, albeit many years later?

Ken Sutton: Honestly, I do not think it is a matter of powers; I think the independent public advocate will have a voice. The importance for me is the authority of the person in taking forward this work. That person would have the authority, and maybe in legislation could be entitled to express a view on what form of inquiry should go on alongside their work.

If I put myself momentarily in the shoes of South Yorkshire police, I would not have wanted or welcomed the panel being created through an independent public advocate who is there, by definition, for the families. The decision on an inquiry has to be for the Government, but the independent public advocate, having talked with the families in the immediate aftermath, would be well placed to offer advice on the form that that inquiry should take.

The Chair: Could I just interrupt for a moment? We do not have a lot of time and we have quite long answers. Does anybody else want to ask a question? Would you mind if I interrupt, because I want to get other people in? Sir Oliver Heald and then Sarah Champion. Please can we have short answers?

Q171 Sir Oliver Heald (North East Hertfordshire) (Con): It is made clear in the Bill that the work of the independent public advocate is not to carry on a legal activity, but in the inquest that followed your work, it was clear that the inquest had learned a lot from what you had done, and made sure the witnesses were able to put forward their case. What would you like to say about the difference between the lawyer representing the families and the role of the independent public advocate in supporting them, and how the two mesh together?

Ken Sutton: They are very different roles. It is welcome that the Government recently made it clear that the purpose of the independent public advocate is not to be the legal advocate for the families involved. I think the independent public advocate would have a role in making sure that the inquest or inquiry properly engages the families as participants. I am conscious of your remarks, Chair.

The Chair: I think we got there. Oliver, do you want to ask one more?

Sir Oliver Heald: No, that was the point I wanted to get at. Thank you.

Q172 Sarah Champion (Rotherham) (Lab): Thank you both very much for the evidence you have given. It has clarified in my mind what an independent public advocate is. Do you both feel that part 2 meets the objective that you think should be at the core of the role, or does it need work?

Rt Rev James Jones: Could you specify what bit of part 2 you are referring to, in terms of needing more work?

Sarah Champion: No, because it is not in front of me. Do you think that the Bill would get you the independence that you want, and give the families a voice?

Rt Rev James Jones: At the risk of repeating myself, no, I do not. I think independence can be assured only by there being a standing public appointment.

Ken Sutton: I agree.

Sarah Champion: Thank you very much.

Q173 Janet Daby (Lewisham East) (Lab): Good morning. Do you think that the duty of candour should be extended to include public servants, so that they have to proactively tell the truth? Shall we start with you, Bishop?

Rt Rev James Jones: Yes, I think that there should be a duty of candour on all public officials. Anybody who accepts public office should bind themselves according to their own conscience to speak with candour and not to dissemble when called upon to give the truth and an account of what has happened. But I do not think that that is part of this Bill.

Janet Daby: It is not, but it could be included, so it is important to get your perspective. Ken?

Ken Sutton: The bishop referred to how the independent public advocate could urge the public authorities not only to adopt the charter, but to live by it. I think the influence of the independent public advocate would be to bring about more candour in the terrible circumstances that we are imagining, beyond what would otherwise be the default. Unfortunately, we have seen many examples where candour has not been apparent in those kinds of circumstances. The IPA could help to hold public authorities to a position of candour.

Janet Daby: Thank you very much.

Q174 Siobhan Baillie (Stroud) (Con): This may be my misunderstanding, but I want to ask about the argument for having a standing independent public advocate rather than somebody brought in to respond to a specific incident. I understand why you would want a standing IPA—if they are primed and ready, they can respond with more speed—but there is merit in having somebody dedicated to a particular incident, especially in awful circumstances where there are a number of different national incidents all at once.

Is it the proposal that a standing IPA would basically step aside once the specific IPA got involved? How do you see it all working in practice? That is what I cannot get my head around.

Ken Sutton: I certainly have not seen them standing completely aside. The independent public advocate would have an authority through that office that would be beneficial going forward.

Siobhan Baillie: It is basically doubling up.

Ken Sutton: But I can see that they might decide that, for a particular tragedy, an advocate with medical experience, let us say, would be appropriate. We were greatly aided on the Hillsborough panel by Dr Bill Kirkup, whose work was decisive to the outcome of the Hillsborough independent panel. I can see circumstances in which that kind of advocate could be brought on board when you know the nature of the so-called incident. But I do not see the independent public advocate washing their hands, as it were, of an incident going forward.

Siobhan Baillie: Bishop?

Rt Rev James Jones: If we look at Hillsborough, we see that it was the immediate aftermath that compounded the tragedy—the role of the emergency service, the police, the media, the coroner. Within 48 hours, a narrative was being shaped over which the bereaved and the survivors had no control whatever.

My concern about not having a standing IPA is that there would inevitably be a process in which the Lord Chancellor would then consult with his team to see

whether or not they should set up an IPA. But even in that short space of time, a false narrative can be created. I feel that in that short space of time, too, the families, who are disorientated and traumatised, feel even more bereft.

Q175 The Chair: Does either witness want to make any last comments?

Rt Rev James Jones: Just to say thank you very much for inviting us. We stand ready—we have made this point to the Government—to share out of our own experience information that would help to shape the IPA. The Government have put it on the record that they want to continue to consult, and the families themselves have much to contribute to this proposal.

The Chair: Mr Sutton?

Ken Sutton indicated dissent.

The Chair: Thank you very much for speaking so clearly to us on a very difficult subject. We are very grateful.

Examination of Witness

Lord Wills gave evidence.

11.56 am

Q176 Maria Eagle: Lord Wills, welcome. You have been promoting a Bill in the House of Lords to establish a public advocate since 2014, I think. What are the differences between your Bill and the one that this Committee is scrutinising? Do you think that the current draft will achieve any of the aims that you were seeking to achieve with your Bill?

Lord Wills: I thank the Committee for inviting me to give evidence today. Let me start with the good bits of the Bill. The Government have endorsed the concept of an independent public advocate and have seen through the promise they made in the 2017 Queen's Speech. I am grateful for that, and grateful to all the Ministers and officials who contributed.

In my view, however, the Bill is flawed in two main areas. When the Justice Secretary introduced the Bill on Second Reading, he said that

“in order to deliver justice, victims must be treated not as mere spectators of the criminal justice system, but as core participants in it.”—[*Official Report*, 15 May 2023; Vol. 732, c. 583.]

Exactly right—but that is not what the proposals for the independent public advocate do. They do not give the families effective agency.

As I understand it, the Bill gives the Secretary of State unfettered powers to appoint an independent public advocate or not to do so, and unfettered powers to dismiss an independent public advocate. It also gives the Secretary of State sole right to require the independent public advocate to produce a report. As I understand the Government's proposals, the independent public advocate will not have the right enjoyed by the independent reviewer of terrorism legislation, for example, to be an independent office that has the right to produce reports on its own initiative. In that way, the Bill does not fulfil the original intention of my Bill, which was to give bereaved families and surviving victims of public disasters effective agency.

Secondly, and crucially, the Bill does not give the independent public advocate the power to convene something like the Hillsborough independent panel, which after two public inquiries and, for the families, decades of campaigning was the first time that full transparency was achieved in finding out why Hillsborough happened, and what happened in the crucial hours and days after, when, as the bishop so rightly said, a false narrative was being created that was enormously distressing for the families, who were already suffering unimaginable grief.

Q177 Maria Eagle: You have said that the families should have agency and that transparency is important. Are things missing from the current draft that, if they were included, would improve matters and bring it a bit closer to the view you formed when drafting your own Bill?

Lord Wills: I recognise that, as Ken Sutton said, in the end the Government have to have the final say. My original Bill denied them that. I can see the case for the Government having the ultimate say, but there is a halfway position between that and this Bill as drafted. This Bill could and should fetter the Secretary of State and the Government in such a way that they must, for example, have regard to the wishes of the families, to the public interest, to full transparency and so on. That would be quite a significant fetter on Executive power, and I would like to see it incorporated in this Bill. It would not give the families full agency, but that itself is complicated: there is a question of which families and how you define the families, which is for the detailed drafting of this Bill. It would give the Secretary of State some sort of discretion, but we have to go further than this Bill does in giving the families better agency.

Q178 Maria Eagle: You were a Justice Minister when the Hillsborough independent panel was established, and you had to grapple with some of the issues about how it would work. My understanding is that that experience led you to believe that wider reform was needed. What lessons from your experience of helping to establish the parameters of the Hillsborough independent panel were reflected in your Bill? What gaps in how other disasters have been dealt with was your Bill designed to plug? What can we do to this Bill to make sure it does that wider job?

Lord Wills: It is important to remember that at the time the Hillsborough independent panel was established, there had already been two public inquiries chaired by distinguished judges, both of which were flawed in different ways and both of which had failed to prevent the false narrative that the bishop referred to—the cover-up by the police, the brutal commentary in some of the popular press—from taking root, causing enormous trauma for the bereaved families. What I was concerned about was making sure that finally, in any kind of panel and if any documents were to be released, the families should have full transparency. There were issues with that to do with data protection regulations. We thought we would get round them by putting the panel in the position of data controllers, so they would have the power to review all the relevant documentation and would then be able to publish their report. As it happened, they did publish a very large number of the documents they reviewed, although not all; a few were redacted.

Crucially, I think the fact that the panel had seen everything gave the families confidence that they were getting something very, very close to the full transparency that they had been denied up until that point. That was a crucial lesson.

The other point that might be worth making is that setting up the Hillsborough independent panel, which is now seen as a great success due to the work of the bishop and Ken Sutton—indeed, all the panel—was not easy. Politicians and Ministers often have mixed motives, and while everyone was extremely sympathetic to the families, pretty much the entire Cabinet, for various reasons, was against my efforts to set up the panel in the way that I did. Fortunately, the one member of the Cabinet who did support me was the one who really mattered, and that was the Prime Minister.

Maria Eagle: Thank you.

Q179 Sir Oliver Heald: Lord Wills, do you agree with the idea of having a standing appointment rather than an appointment for a particular incident? Could you also explain how you see the independent public advocate? Is it an impartial person, as described by Ken Sutton, about the panel? What sort of person would it be in terms of qualifications and skills? Do you agree that this person should not be able to take part in legal activity? In other words, if they were at an inquest they would be there as an interested person but represented by a separate lawyer. Do you want to comment on that?

Lord Wills: Yes, I believe it should be a standing appointment, for the reasons that the bishop set out extremely well. In the turmoil of the aftermath of a big public disaster, it is important that someone is on the ground immediately to support the families. I do believe that, and I think it is a perfectly achievable position to have. A secretariat could be drawn together at short notice—a standing secretariat, as it were. It would be doing work within the civil service, but when a public disaster happened it could be brought to bear to act as a secretariat for the independent public advocate.

I hate to think of what might happen. If you imagine a big terrorist incident, for example, the Government would be in turmoil anyway, and then they would have to find the time and space to go through all the selection processes, find out people's availability and negotiate terms of reference. In the meantime, the poor families are left without anyone to support them, as they always have been up until now. It rather defeats the object of this whole exercise. So I am in favour of having a standing appointment.

As for who the independent public advocate should be, when I originally drafted my private Member's Bill I had it in mind that it would almost certainly be a lawyer of some sort, and they would function in a similar but not identical way to the reviewer of terrorism legislation. In other words, they would be a distinguished lawyer with a lot of experience in these sorts of areas. Every public disaster is different and it would be very difficult to find someone who had expert knowledge in every possible area, but the broad parameters would be the same.

The main point would be to be able to guide the families through all the various processes that might be taking place, and above all to secure full transparency about what had happened and produce a report on it. As I say, I had it in mind that it would be a lawyer. They

are usually extremely useful in these circumstances—I do not speak as a lawyer—but it is not impossible to imagine that it could be someone else with a similar sort of expertise.

Forgive me: there was another part to your question, but I have forgotten it.

Q180 Sir Oliver Heald: If there were a following inquest, it is proposed that the independent public advocate would be an interested party but would not be able to carry on legal activity himself or herself; they would be represented. Do you agree with that?

Lord Wills: I do agree with that. That is one part of the Bill that is probably sensible. I can understand why it is in there and I can see possible conflicts of interest with professional lawyers, so I do agree.

Sir Oliver Heald: Thank you very much.

Q181 Janet Daby: Good afternoon, Lord Wills. We last met when you spoke to the Justice Committee, of which I am a member. Do you believe that the independent public advocate should have the ability to access all data, communications, documents and other information to avoid future cover-ups? If so, do you think that the Bill achieves that?

Lord Wills: The prevention of a cover-up is essential in the wider interests of our democracy. People are losing faith in our democratic institutions. When they feel that Governments are covering up things that are crucial to them, they lose faith. In my view, that is worrying and dangerous. We have to do everything we can to protect against that, so anything we can do to raise the barriers against those sorts of cover-ups is crucial. That is why I would also support the introduction of a duty of candour.

We have to accept that a cover-up is part of the pathology of a big public disaster. It is human nature. When something happens like Hillsborough, the Manchester Arena bombing or Grenfell Tower, it is a huge story for the nation, and obviously those in power at the time, who feel they might be blamed for it, will feel that they have to cover up in some way. We saw what the police did with Hillsborough: they created a false narrative as part of that cloud of unknowing that they wanted to create, to cover up. What they feared, rightly in the end, was that they would be blamed for it.

That is true of pretty much every public disaster: obviously the details are different, but there is that essential pathology. There is always a risk of cover-up. I hope this Bill, suitably amended, will raise the barriers against that, but it does not mean that we can drop our vigilance against the potential.

Q182 Janet Daby: You mentioned this point, and want to press you a little further. The Bill would require the Secretary of State to publish a copy of the report made by the independent public advocate in whatever manner they considered appropriate. What do you think about that measure, specifically the part about what they consider appropriate?

Lord Wills: Again, the Secretary of State has too much unfettered discretion. I am not opposed to them having the ultimate responsibility, but you have identified there a very good example of giving the Secretary of State what, in my view, they should not have.

Q183 Sarah Champion: Lord Wills, thank you for all the work you have done in this field. I want to build on Janet's point. You have repeated that the Bill gives the Secretary of State unfettered powers. On re-reading part 2, it strikes me that it does not say very much at all about the powers that the independent advocate would have. What would you like to see in the Bill?

Lord Wills: You have put your finger on the whole problem with the Bill—lots of powers to the Secretary of State and very few for the independent public advocate. There are various details of the Bill where the drafting could be improved.

I return to two main points. In some way, families have to be given effective agency, and that must mean some fettering of the powers on the Secretary of State. I am agnostic about the way to do that, and I have always accepted that my private Member's Bill was not perfect. I am agnostic about how you fetter the Secretary of State, but something like ensuring that the Secretary of State "has regard to" the wishes of the bereaved and surviving victims would be a good start in making a way forward.

The other point, as I have said, is transparency, which I cannot stress enough. We have to get to the truth as quickly as possible. The Hillsborough Independent Panel did a magnificent job in a very short space of time, when it was inevitably more difficult, because 20 years had elapsed. Therefore, my view is that there has to be a presumption—not a requirement, because there has to be an element of discretion—in the statute in favour of an independent Hillsborough-type panel being set up. The important point is it is not adversarial. Big public inquiries very easily become adversarial; all sides have lawyers that argue and dispute, so that often a fog of dispute comes over these events. The Hillsborough Independent Panel had none of that. It was an impartial search for the truth. There must be a presumption in favour of a similar type of panel in all future public disasters. That should not be an absolute requirement, but there should be a presumption in favour of it.

The Chair: Thank you very much for your evidence, Lord Wills. That concludes this session.

Lord Wills: Thank you.

Examination of Witnesses

Nick Hurd and Tim Suter gave evidence.

12.14 pm

The Chair: Our next witnesses are Nick Hurd, the independent adviser to the Prime Minister on Grenfell, and Tim Suter, a solicitor at the Manchester Arena inquiry and the Hillsborough inquest. Welcome, Nick; you are appearing via Zoom. Who wants to lead off the questions? Is it Maria again?

Maria Eagle: I am happy to, but I do not wish to monopolise.

The Chair: No, let's hear from—

Jess Phillips (Birmingham, Yardley) (Lab): The expert.

Q184 Maria Eagle: Thank you, Chair. Thank you for appearing, Mr Hurd and Mr Suter. Mr Hurd, will you set out what problems you came across in your role as

adviser to the Prime Minister on Grenfell? As a former Minister and in that role, you must have had a lot of contact with families affected by disaster. In those roles, what has your experience been of the main problems in the aftermath of a terrible public disaster like that, which affects so many people, and what should we do to address them?

Nick Hurd: Thank you for the welcome, Chair, and thank you for the question, Ms Eagle. Every disaster has its own specific context. I will take a minute to clarify my role in Grenfell and how it came about before answering your question.

The specific context of the Grenfell disaster was that, at the time, I was Minister for Policing and the Fire Service. I had some involvement in the co-ordination of the response in the aftermath, which was inadequate. The combination of the disaster and the response resulted in a situation in which there was zero trust—negative trust—between the communities affected and the state in the form of both the local authority, which many blamed for the disaster, and the national Government, which many blamed for the inadequate response to the disaster. I was asked by the then Prime Minister, Theresa May, to play a special role. It might have had some parallels with the role that Tessa Jowell played in a different context, that of 7/7. My role was to build a bridge of communication between the communities affected—the bereaved, survivors and residents close to the tower—and the state, in particular the central Government, who were more involved in the aftermath than they had expected to be. That was the specific context: I was not an independent advocate, but a Minister trying to build bridges of trust and communication.

To answer your question, I think that the central point is the one that Michael Wills made. The central difficulty that I faced was the lack of trust that the community felt and their lack of agency. In the specific context of Grenfell, many felt that they were victims of the state, and they found it difficult to believe that the state had an interest in supporting them or that they had any agency or voice in that process. In hindsight, that was one of the biggest challenges that we faced. I support the emphasis that Michael Wills put on it.

Q185 Maria Eagle: Thank you. I will come to you in a minute, Mr Suter, because your role was slightly different. Mr Hurd, what do you think about transparency? Grenfell has not lasted 34 years like Hillsborough did, but time has passed and there is still a feeling that a lot is not known about what went on, inquiries are still ongoing and there has not been a definitive outcome. Do you feel that the independent public advocate as proposed in the Bill—or a version of that advocate if the proposals are amended—could offer something positive to stop the lack of trust and prevent families from feeling excluded, "done to" and that they are not being told the truth, which often happens in the aftermath of disasters?

Nick Hurd: If set up in the right way and with the right individual, the role could be very valuable in helping families to believe that there is someone on their side, given that of course they do not understand the system—why should they?—and feel that it is not listening to them and is not on their side. In principle, I am supportive.

I would enter a caveat around expectation, however. To the point that I think you were making, sometimes it takes a long time to get to the truth and to justice, which is the word that is used in the Grenfell context; “accountability” is a softer word. That process takes time. In the case of Grenfell, the public inquiry is generally extremely well regarded for the rigour of its processes and how it is led, but it is inevitably going to take quite a long time to get to the point of ultimate truth and accountability. I doubt that there is very much that an independent public advocate can do to speed up the process in the context of formal public inquiries and inquests. I would have a concern about expectation management and about how the thing is set up in a way that the system is required to respond to an independent public advocate.

Q186 Maria Eagle: Thank you. Mr Suter, you have acted as solicitor to the Manchester Arena inquiry and have had professional involvement in the aftermath of a number of disasters. Do you have any general observations about the proposal for an independent public advocate? Given your experience, would it be helpful in your professional opinion?

Tim Suter: Thank you for the question, and thank you to the Committee for inviting me along today. Let me just give you some context about my experience. I am a solicitor, and for the last 15 years I have helped those conducting inquests, inquiries and investigations. You referred to the new inquest into the Hillsborough disaster; I was the solicitor to that, and I am the current solicitor to the Manchester Arena inquiry. I also assisted the inquests into the Birmingham pub bombings and the 7/7 inquests. Through those and other investigations, I have had lots of experience and exposure to the difficult issues that those cases have to investigate, but also to the bereavement and anguish that those who are at the heart of those investigations go through. It is clear to me that the role of an IPA is very valuable. To be frank, I think there is some confusion in the Bill about the role that the IPA could and should fulfil, but at its core I fully support the need for an IPA.

As people gave their evidence, I jotted down words that absolutely ring true for me—references to “anguish”, “impotence”, “distrust”, “patronising” and “lack of access to power”. I have experienced all those things. On the flip side, there was talk of “agency”, “voice”, “empathy”, “the truth” and “compassion”. At its heart, that is the purpose of an inquisitorial process such as an inquest or inquiry. If the IPA can help with that in the right way, I think it is absolutely right.

Q187 Maria Eagle: You might not have read the details of the Bill, but if you have, do you have a view about whether the current draft would do that job? If you have concerns about it, do you have any views, given your experience, about what the Bill ought to say in order to make a difference?

Tim Suter: I think the bishop summarised it very well in referring to a standing IPA. In my mind, I have characterised it as a standing office—the office of the IPA—whereby there is almost a chief IPA who is appointed. That would be a process that happens as soon as the Bill receives Royal Assent. It would be properly resourced; or it may not be resourced, but it should be absolutely firm that the resources for the chief IPA to fulfil their job are available. I think they should have the power to

appoint IPAs in the light of a particular disaster. They may or may not be involved themselves; it depends on the nature of the disaster.

There are some issues in the Bill as well about the terms of appointment and the resignation of the IPA. I did not really understand why that is there. It needs to be much more forceful and brought almost into line with how the 2005 Act is framed, which is much clearer about the appointment process and the need for that appointment only to be terminated in very particular circumstances.

I have some questions—perhaps points of granularity—about how an IPA is going to advocate on behalf of those under 18. For the Manchester Arena inquiry, many of those affected were under 18. No one should be excluded just because of age from the vital work that an IPA would do. For me, that came across as needing a little bit more work and analysis. There was an intriguing reference to “no immunity” in the Bill as well, which I thought seemed a little out of kilter—perhaps I just do not know the detail. Why does the Bill refer directly to the IPA having no immunity? Then you go through to the process of reporting; as far as I can see, a report is not necessarily laid before Parliament, where it would get the protection of parliamentary privilege. All of felt that it needed to be reviewed with a little bit more scrutiny.

Sir Oliver Heald: Having a standing appointment or an office would mean that you could have speedy action. I was asking the previous witnesses whether they thought the role should be an impartial one, as the Hillsborough panel inquiry was. What sort of skills and qualifications should the person have? Do you agree that that person should not be able to undertake legal activity? For example, at an inquest, they would be an interested party and could be represented, but they would not be doing the representation themselves.

Nick Hurd: Oliver, good to see you. I have not thought it about very deeply.

The Chair: I should say, we do not have much time.

Sir Oliver Heald: I have just one more question, Chair, which will be very quick. Please go on, Mr Hurd.

Nick Hurd: I am quite attracted to the idea of a standing body because I think it can begin to accumulate knowledge, experience and insight into what is required in these situations. The Government system struggles with that, not least with people moving on. I am attracted in principle to the idea of a standing body and my instinct, like yours, is that the person leading that should not be engaged in legal activity. That would be my instinct as well.

Tim Suter: I find the point about impartiality quite difficult because I think the role of the IPA is, in its very nature, to assist the victims of that disaster. I am not sure you can do that if you are properly going to be impartial. I have a question: they must be independent of Government, but I question whether that is different from the impartiality point. They should be able to really advocate on behalf of the particular victims.

There is also a question about how disaster is always, by its very nature, complex. There will be different types of victim—those who are bereaved, those who have

suffered physical harm, those who have suffered mental harm. They will all have different needs from the IPA, which leads you through to the question about perhaps needing a number of IPAs and how that duty of impartiality would work across all of them. That gets quite complex.

As for skills, I would say this, but I think you probably have to have a lawyer. That may be something that everyone has a different view on. In terms of not undertaking legal work, I strongly agree with that. We may get on to it, but I do not think that they should be an interested person in an inquest, because there is a real risk of duplication and confusion. Provided that a bereaved family has access to a lawyer and that lawyer is properly funded so there is equality of arms, they should be the person who is standing up and advocating on behalf of a family in an inquest, not the IPA.

Q188 Sir Oliver Heald: So you would not be in favour of clause 28.

Tim Suter: No.

Q189 Sir Oliver Heald: Can I just ask you one final question, if there is time? One of the impressions I have had is that the Hillsborough Independent Panel report and the way it conducted its business affected the way in which the consequent and subsequent inquest was conducted. I know that Lord Goldring, who chaired that, went to great efforts to hear the voices of the victims and families. Would you agree with that? Do you think that, in fact, it has changed the nature of inquests of this sort?

Tim Suter: Yes, I think the change was happening before Hillsborough. The 7/7 inquests were actually the process that introduced pen portraits—the memorialisation of the deceased—and the opportunity to say, “This was my loved one, and this was who they were as a person.”

Q190 Sir Oliver Heald: That was Dame Heather Hallett, wasn't it?

Tim Suter: That was Dame Heather Hallett. That actually came from an inquiry into an air crash in Canada, so taking learning internationally is really important. Hillsborough was a journey—it has been a very long journey—where I have had the privilege to take a small part, but yes, it did give a voice to families. It undoubtedly could have done more; any process can always do more. That is why I would support the role of the IPA to be able to report on the experiences of victims in these processes, because I think being able to be held to account for the process you have been involved in has to be of real value. You need to ensure that there is still judicial independence in that process, and not going behind the decisions reached, but I think it is absolutely understanding the experience of those. The Hillsborough inquests were a very important part of that.

The Chair: We have three more people. We have Janet Daby, then Sarah Champion, then Jess Phillips.

Q191 Janet Daby: Good afternoon. My questions are about legal aid, and whether it should be extended as non means-tested legal aid to all cases where there are mass fatalities and where public bodies are potentially at fault. I am interested in your opinion on that. Can we start with you, Tim?

Tim Suter: I do not know all the ins and outs of the legal aid regime. For a public inquiry, section 40 allows the chair to make the provision for lawyers—for legal representation—at public expense. In that sense, there is already the ability to grant funding. For inquests, I absolutely agree that it goes to equality of arms, and that there must be the ability for bereaved families to be properly legally represented. It makes my job harder, sometimes, but that is a thoroughly good thing—that I can be asked, “Why are you advising the chair or the coroner to take this view? Have you taken this into account?” Having that makes it a proper inquisitorial process—a search for the truth—so yes, I agree.

Q192 Janet Daby: Thank you, Tim. Would you agree on that, Nick, in terms of equality of arms and as a matter of right?

Nick Hurd: Yes, I do. It came up in the Grenfell context. You will understand that what I call the system tends to try to stay rational in these situations and try to respect their processes and structures, but in my experience in these seismic moments it is better to be decisive, up front and generous and just show that you are on their side with a decisive offer such as that.

Q193 Janet Daby: I have a further question on the area of duty of candour. Do you believe that should be extended to public servants so that they must proactively tell the truth? Can I start with you, Nick?

Nick Hurd: I have discussed this with the bishop. I am, again, in favour in principle of the duty of candour.

Janet Daby: Wonderful. Tim?

Tim Suter: The duty of candour obviously makes sense. I would just urge some caution in terms of the process of, the role of, the IPA for getting access to material, if that is a duty that is brought in. I think there is a risk of duplication of effort and added complexity if the IPA is to have the role of gathering and holding material. I think it should have the ability to direct public authorities to retain material, but I do not think it should go further. I think there might also need to be a check in the Bill about the role of FOIA, the Freedom of Information Act, because for the 2005 Act, an inquiry is not a public authority that is subject to FOIA. Here, I think that does not necessarily carry across, so that probably needs to be looked at.

Q194 Janet Daby: So you are saying that the independent advocate should have the right to have access to the information, but the information should be held within the public body. Is that what you are saying?

Tim Suter: I think the organisation should retain it, because there will be materials that are subject to legal professional privilege and materials that are subject or potentially subject to public interest immunity; there will be other confidences attaching to materials. Embarking on a process of redaction of that material by the IPA—when, gosh, you are in the foothills of what is going to be a very long process, I suspect—will take the IPA away from its key job of advocating on behalf of the families to make sure they get access to services. So I would urge caution.

The Chair: I had better go to Jess now, because she has not had a question, and then Sarah.

Q195 Jess Phillips: I want to focus in on the trust that both of you have in the idea of the Secretary of State appointing the public advocate. It would be lovely to hear in this Committee some evidence from the victims commissioner; the Secretary of State is responsible for putting them in place, but they have not done so. Similarly, we have not had a human trafficking commissioner—from the Home Office—for more than a year. So do you have any concerns about the role of the Secretary of State in appointing this person—even if it is done at pace in certain cases?

Nick Hurd: I would have genuine concerns about that, fully respecting the need for speed and decisiveness. There need to be systems in place so that not least those affected by the disaster at that moment in time have some confidence in the integrity of the process, because ultimately, the individual who is appointed to that role has a very short window of opportunity to build trust. People will form a view very quickly about whether they are useful, so the recruitment is critical and I would think the system would be well advised to build in processes that increase the chances of trust from early doors.

Tim Suter: I agree wholeheartedly with that. I wrote down four words: speed, trust, confidence and independence.

Q196 Jess Phillips: On the point that you made, Tim, about the person being a lawyer—as my colleague, Maria Eagle, pointed out, all the lawyers nodded—I am just wondering. I am somebody who has been a victim advocate who got to the truth my entire career and I do not have a law degree. Do you think that there is also potentially some need for special expertise in how to deal with, specifically, bereaved people and people who have suffered terrible abuses? I am thinking of big national disasters such as child abuse in children's homes or something like that, where there is a big state actor. Do you think that there is potential for other skills to be important in that?

Tim Suter: Absolutely. In saying that a lawyer can do it, I completely agree with you. That is actually something I have seen improve remarkably through the course of the cases that I have been involved in—to the extent that for the Manchester Arena inquiry, there was something called the NHS resilience hub and it was fantastic. It was able to guide, support and assist the bereaved and victims. On the need for victim support and people who have specialist skills, I absolutely agree there is a role for that within the IPA.

Q197 Sarah Champion: A quick clarification—which Act is the 2005 Act that you referred to?

Tim Suter: Sorry, I used my shorthand for the Inquiries Act 2005: section 1—matter of public concern, set up inquiry.

Q198 Sarah Champion: Got it. You mentioned under-18s. In clause 27, under-18s are mentioned twice. Subsection (4) refers to the advocate providing “support” to such persons, but subsection (5) says they “may not represent” such persons. What is the distinction between the two and why do you say the Bill does not go far enough?

Tim Suter: I only looked at it quickly, but I just thought that it is almost saying that the IPA, through another support agency, can give you the voice of that child, or that person who is under 18, but it is not representing. I do not know where representing features in terms of the IPA.

Q199 Sarah Champion: So what would you like to see?

Tim Suter: I would like the IPA to be able to directly represent, subject to parental consent, someone who is under 18. It is just as important for those under 18, if they want to, to have that agency through the IPA. I think there is a real risk it gets lost.

On the Manchester Arena inquiry, we had a number of people under 18 giving evidence and they expressed the impact of the bombing on them so well, so clearly and so powerfully, and there is a real risk of creating a lacuna.

Q200 Sarah Champion: In terms of both getting to the truth and getting closure for those involved, how does having their representation help with that?

Tim Suter: I just think that there is a risk that they will not be able to access services in the same way and I think we all realise that those under 18 may have a need for very specialist services. So, just making sure that it is absolutely crystal clear that the IPA can help those victims under 18 to access the services that are more specialist is going to be important.

The Chair: If there are no further questions, that concludes this evidence session. Thank you very much, gentlemen.

Examination of Witnesses

Ruth Davison and Ellen Miller gave evidence.

12.42 pm

The Chair: We will now hear evidence from Ruth Davison, chief executive of Refuge, and from Ellen Miller, interim CEO of SafeLives. Ms Miller, thank you very much for coming; I know there was a problem on Tuesday, so thank you for coming in person.

Q201 Jess Phillips: We do not have very long, so I will be as brief as possible.

First and foremost I suppose, could you give a brief assessment of whether you think what is currently in the Bill will make a big difference to the victims that you support—victims of domestic violence and, in lots of cases, sexual violence?

Ruth Davison: Speaking as Refuge, we are obviously the largest provider of specialist services to women who are experiencing gender-based violence, particularly domestic abuse. We absolutely support the intention of this Bill and its founding principles: to give greater voice and power to victims. Unfortunately, however, as it stands, my best description of it is a missed opportunity. Without any funding attached, we do not see any opportunity for the transformational change that these women desperately, desperately need.

To give you some sense of scale, still one in four women in this country will experience domestic abuse in their lifetime. It is one of the most heinous and prolific crimes that we have in this country, yet when we are calling for full funding of community-based services, which is only estimated at £238 million a year by the Women's Aid Federation, we are not seeing any traction on that.

So, while it is great that there is a duty to collaborate and it is very positive that statutory bodies come together and look holistically at the needs of victims, without a corresponding duty to fund, I am afraid we do not think it will make any difference to the women we are supporting, the vast majority of whom do not report to the police anyway, because confidence in the police and criminal justice system is so low and re-traumatisation is so high, as you try to work through that process, that they are not really included in the scope, even though they are covered by the technical definition.

Q202 Jess Phillips: On that specific point, do you think it would be important to put explicitly in the Bill that the victims code and all the rights that come with it should apply to anybody even if they do not report?

Ruth Davison: Absolutely. I understand that the victims code focuses on criminal justice practitioners, but I would absolutely enshrine not just four overarching principles but the specifics of the code in the law. We met some survivors, here, two days ago. One of the panel asked them whether they knew what the code was. Only one woman in that room knew what the code was, never mind knew how to uphold and access her rights. They absolutely need to be listed in the Bill and they need to be legally enforceable as a last resort.

Q203 Jess Phillips: To pick up on that point, do you think that they need to also be enforceable with victims of domestic abuse going through the family court?

Ruth Davison: Absolutely, I do. Victims who are experiencing domestic abuse, through no fault of their own, are suddenly having to navigate housing, the family courts and social services, as well as the criminal justice and policing system. There is no tied-up approach and yet we know that so much trauma and so much post-separation abuse is perpetrated in the family courts at the moment.

Q204 Jess Phillips: Ellen—now we can finally hear you.

Ellen Miller: Thank you; I am real! It is a shame the link does not reach as far as Blackpool, but never mind.

I will focus in on two things. We would much rather have this Bill than not. There are two things I would focus on. The first is duties. The second is teeth.

I spent 20 years in local government. I would liken putting in a duty to collaborate to when somebody puts in a planning application, send an email to the Environment Agency and, three months later, it sends one back saying, "No, we haven't got any record of protected newts." Any duty that you can effectively discharge by email, you might as well not bother putting in. That is what we have at the moment. If I may politely do so, I would suggest that, instead, we look at a duty to listen—to listen to survivors and hear what their lives are like, and to see them as real people.

Secondly, we should look at a duty to acknowledge the level of need. You have heard about the joint strategic needs assessment. That exists in so many other fields of the social sector and social change work; why can we not have that for victims and survivors of domestic abuse?

Thirdly, there is the duty to act. When I say that, I do not just mean the duty to act on people who come to the police force at a moment of crisis, which is the majority of people for whom there is funding at the moment. We have to have that, but at the moment the system we have is a bit like having an NHS that is just A&E. We are never going to solve the systemic issues around domestic abuse unless we have a duty to not just immediately protect, but to prevent and ensure recovery, and to allow people to have the lives they should have the right to.

I would put those duties in the Bill, if you want to take my advice on it.

Jess Phillips: Oh, I will.

Ellen Miller: The other area is teeth. I have worked in the field of victims for a long time. I have seen so many atrocious things that are not in line with the victims code of practice. The code of practice is great, if only it happened. A screen when you go into court that is 4 foot high—that is not protecting a witness. Giving them a fold-out leaflet in English—that is not telling somebody what their rights are. This just does not happen. Please, let's have some teeth. Let's have some accountability around this. Let's recognise the rights that should be there.

Q205 Jess Phillips: On the independent domestic violence adviser and independent sexual violence adviser clauses in the Bill, SafeLives is obviously the organisation that at one time, called Caada—Co-ordinated Action Against Domestic Abuse—was the absolute pioneer of the IDVA position. There has been quite a lot of discussion against the idea that the definition of an IDVA and ISVA is the be-all and end-all.

Ellen Miller: Absolutely, and that is why I really wanted to come down, apart from the duties point. There was a history; there was initially funding for the equivalent of A&E-type stuff. In order to make that credible, the IDVA role was set up. In the past, the IDVA has been associated very much with only doing those really high-risk cases.

Let us deconstruct what an IDVA is. An IDVA is somebody who has gone through a 12-day training programme. This is not a master's degree or an impossible bar; it is a really basic level of minimum threshold that you should get to. Everybody who works in domestic abuse should have the right to that level of training. We expect it in the care sector—we expect care workers to know how to safely manage cases, to report safeguarding, and to understand the dynamics of power and control within the care setting. We expect that in care. We should expect that in domestic abuse.

To us, the biggest provider of IDVAs, it is a programme of knowledge—a starting point. It does not give you cultural competence, which you have if you are a "by and for" organisation. It does not give you in-depth knowledge around things like non-fatal strangulation, honour-based violence and so on. It is your basic core

concepts. It gives a bit more power and respect to individuals who do not have parity with the police officer, the psychiatrist and the social worker—it gives them a status. I wish it was not the case that you need a badge to be respected and listened to, but on the other hand it gives the credibility of a level of basic knowledge. To me, it is about a set of learning, so it is therefore useful, but it is only a starting point.

Ruth Davison: I would build on that, and echo what the Domestic Abuse Commissioner said to the Committee on Tuesday, which is to look at and value all the community outreach roles. When we are in the context of an absolute drought of funding, there is a potential unintended consequence of elevating the IDVA and ISVA roles over and above other roles that are equally skilled and vital—as Ellen said, particularly those roles that focus on cultural competencies and serve the “by and for” community. There is a real concern from us as a sector that we could unintentionally, by elevating one role, make it even harder to access funding for those culturally specific roles in the “by and for” services, which are already six times less likely to receive statutory funding.

Q206 Siobhan Baillie: Ellen, you talk about having teeth, but what does that look like? We have seen suggestions that police officers have their pay docked, for example, if they do not enforce the code. What do you mean by that? What does enforcement look like?

Ellen Miller: I would look at enforcement through the inspection and reporting regime. First, we must ensure that there is a Victims’ Commissioner and a Domestic Abuse Commissioner, and that they have the right to be very public and open. Ruth will have done this, and we have done this: when you have data and look at the differences in the level of funding, it is absolutely shocking and it is not reported. Some things that, for example, the victims grant gets spent on are just jaw-dropping. There is not that level of accountability. Accountability comes through inspections, the roles of the independent commissioners and reporting—and the right to properly kick-off in a way that will actually lead to something. There needs to be the equivalent health and care ombudsman: a proper complaints process.

Ruth Davison: I agree with what Ellen is saying. It comes back to putting the four overarching principles into the Bill. We have already seen reports saying, “That won’t go far enough. It won’t lead to the cultural change that is so necessary if victims are actually to be able to access those rights—not for those rights to just exist on a piece of paper that they may or may not be able to read even if they receive it, but to be acting throughout the whole process.”

Missing from the Bill as a whole is a recognition of how far there is to go in terms of tackling culture. The fundamental understanding of domestic abuse and of many of the crimes that are faced by women in this country is missing. We are calling for mandatory training for police forces, which would lead to the kind of enforcement and teeth that Ellen is talking about.

Q207 Sarah Champion: Thank you for what you are bringing to the table, and for what you do in your daily lives. Ruth, you spoke about the event at the beginning of the week with some of your service users. In the Bill,

the victims code compels each criminal justice body to take reasonable steps to promote awareness. Is that enough?

Ruth Davison: No, it is not enough. You were there at the event, so you heard women saying, “What is this?” If they do not know what it is, it is not being upheld at the moment. We do not think that reasonable steps to raise awareness and make people aware of the code is adequate. Making it enforceable gives it teeth. I feel like I am repeating what Ellen is saying, but we need to go further.

These are women who are in a period of crisis in their lives. They may be being forced to flee their home with their children in the middle of the night, leaving friends, family, pets, and toys behind. They are dealing with all these institutions through no fault of their own. Those institutions need to have very clear and holistic approaches to their support. That is what is done on the frontline of community-based services, whether or not they enter the criminal justice system, report to the police and have their case dismissed due to lack of evidence, or endure the re-traumatisation of testifying again and again in the family court or in the legal case. Recognising that holistic support is essential, and embedding that in the Bill through the victims code being enforceable feels like a critical part of it, alongside the funding I am calling for.

Q208 Sarah Champion: It is usually the police who are the frontline staff that people go to first. Do they know about the victims code?

Ruth Davison: If they do, I do not think they are communicating it—so, no. I still think we find absolutely shocking responses from frontline policing, and at the moment obviously the level of police-perpetrated domestic abuse and sexual offences coming to light is only deterring people further from reporting to the police. The first place that many of them come—the frontline—is the national domestic abuse helpline or their local frontline community service, not the police. That needs to change, because police need to understand the dynamics of domestic abuse. I often say that if I spotted a suspicious package on the bus on my way here and I phoned it in, no one would say, “But what are you wearing and why were you on that bus on your own at that time of the day? Had you been drinking?” People would say, “Tell us where the package is,” and they would deal with the package, not start to interrogate me as if I were the criminal.

Far too many victims are unfortunately still receiving victim-blaming language and feeling as if they are criminalised themselves when they come forward. That is even before you get to the points made very well by Southall Black Sisters on Tuesday about the absolutely desperate need for a firewall to separate statutory services from immigration services, because women thinking they could be criminalised or lose their right to stay in this country is another massive deterrent to them feeling safe to come forward.

Ellen Miller: Can I add to that? There should also be a firewall to separate independent support for victims from the statutory organisations that have so often let down these individuals. That is why people are not going to the police. People are worried that their children will be taken away from them. They are worried about getting the father of their child in huge amounts of

trouble. They are worried about what it might mean to them—they may not speak English in a particularly strong way, but have had it explained and know their rights. They may feel they do not have any chance of having their rights realised. Independence really matters, and that is something that is absolutely not universal in the support for victims. It is very hard, in some places, to get independent support. We see that in care: we have the independent health advocate, which is again written into the Care Act, but we do not have that provision for survivors of domestic abuse. That is a legislative issue.

Q209 Sarah Champion: I have two very quick questions, if I may, Chair. I am grateful that the Minister has tabled amendments around counselling notes. You were talking about the chilling effect of not having the firewall. I do not know if you have seen the Minister's amendments, but why should it not be automatic that counselling notes are used or accessed by police?

Ruth Davison: Maybe this comes back to understanding the dynamics of domestic abuse. An abuser will isolate you, gaslight you, tell you no one will believe you and cut off your routes to support. Something we hear time and again from survivors who come to us—survivors who phone the helpline and come to community-based services—is the unbelievable relief of someone believing you, having some empathy, listening to you and treating you like a human being. Obviously, there is then all the practical guidance that the independent advocates are able to give, but not having anywhere to speak and being silenced through these processes that are highly traumatic is dangerous for women, dangerous for their mental health, dangerous for their children and dangerous for their recoveries. Having a safe space in counselling as well as with your independent advocate in a community-based service is absolutely critical. That should not be automatically accessible by the police—who we know unfortunately have a whole habit of using that against you and looking into your past, rather than the past and motivations of the perpetrator. A firewall is absolutely essential if we to start to see confidence rebuild.

Ellen Miller: There is something about what this crime is, as well. Intimate violence does the most awful, traumatic things to your brain, and it gives you the hugest impacts that will stay with you for a lifetime. I myself have survived sexual violence—35 years ago, briefly, in an attack. That stays with me forever. The gap between that happening then and going forward to a case and prosecution—what that did to me. I have worked with survivors of sexual and domestic abuse

and violence. How can we leave people—women, mothers, fathers—without someone to help them sort that out? They have been severely damaged by what has happened to them, and it feels to me callous and appalling that we then have ISVAs who have to say, “Well, I know you really, really need support, but the choice is you can have support or you can have justice.” That is just not okay.

Sarah Champion: Thank you.

The Chair: We have to finish exactly on time—it is in the programme motion.

Q210 Siobhan Baillie: I can do that. Very briefly, Ruth—because I am really interested in this—you are not suggesting that there should be a ban on disclosure, but that it should be a judge's decision. Is that right?

The Chair: Very short answer.

Ruth Davison: The default should be non-disclosure, but a judge decision, yes—not an outright ban. Hopefully that was quick enough.

Q211 Janet Daby: Ruth, you mentioned a culturally-specific disadvantage there already. What would you like to see in the Bill regarding cultural sensitivity and culturally-specific—

The Chair: Very quick answer.

Ruth Davison: Very briefly, at the moment women who have no recourse to public funds are completely locked out of any provision. We would like to see that change, and that has been costed by Imkaan. We would also like to see that there is more funding and more support for the “by and for” services, which is where our slight concern around definitions of IDVA and ISVA would come in—

The Chair: Order. Thank you very much for taking the trouble to come in person. I know you have come a long way, but it is a lot better when people come in person. Thank you so much.

Ordered, That further consideration be now adjourned.
—(Fay Jones.)

1 pm

Adjourned till this day at Two o'clock.

