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HOUSE OF COMMONS
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GENERAL COMMITTEES

Public Bill Committee

VICTIMS AND PRISONERS BILL

Fourth Sitting

Thursday 22 June 2023

(Afternoon)

CONTENTS

Examination of witnesses.

Adjourned till Tuesday 27 June at twenty-five past Nine o'clock.

Written evidence reported to the House.

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,

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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)	† McMorrin, 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, <i>Committee Clerk</i>
† Eagle, Maria (<i>Garston and Halewood</i>) (Lab)	† attended the Committee
† Heald, Sir Oliver (<i>North East Hertfordshire</i>) (Con)	

Witnesses

Jenni Hicks, Hillsborough justice campaigner

Kimia Zabihyan, Grenfell Next of Kin

Sophie Cartwright KC, Deans Court Chambers

Public Bill Committee

Thursday 22 June 2023

(Afternoon)

[SIR EDWARD LEIGH *in the Chair*]

Victims and Prisoners Bill

Examination of Witness

Jenni Hicks gave evidence.

2 pm

The Chair: We are now sitting in public again, and the proceedings are being broadcast. We now hear oral evidence from Jenni Hicks, a Hillsborough justice campaigner. Good afternoon, and thank you for coming. Do you want to say anything briefly at the start or do you just want to take questions?

Jenni Hicks: I have got something to say. Would you like to hear a little bit about my story?

Q212 The Chair: Yes—tell us about your story.

Jenni Hicks: About my journey, I should say.

On 15 April 1989, my then husband Trevor and I, along with our daughters Sarah, who was 19 years old, and Vicki, who was 15 years old, drove from our home in north London to the Hillsborough football stadium in Sheffield to watch our team, Liverpool, play Nottingham Forest in the FA cup semi-final. We were all Liverpool season ticket holders and had been allocated four tickets for the semi-final at Hillsborough.

Trevor and I drove home from Sheffield that night with an empty back seat in our car, having had to leave Sarah and Vicki in body bags on a dirty gymnasium floor at the Hillsborough football stadium. After identifying Sarah and Vicki, we were told that they were no longer our property; they were now the property of the coroner of South Yorkshire. We were questioned by two police officers for over an hour about our movements that day since we had left home that morning—mainly about how much alcohol we had had to drink. Trevor was asked to make a statement, which was later used at the Taylor inquiry. No solicitor was present when we were being interviewed. It felt more like an interrogation than an interview.

That night in Sheffield, we were treated like criminals by the police, who did not show an ounce of compassion. What followed is the reason I support the urgent need to appoint an independent public advocate panel. The lies, corruption and dirty tricks campaign began immediately, informing the press, media and anyone who would listen—hideous, nauseating lies about the Liverpool fans' misbehaviour. I will not repeat those now disproven hideous lies here, as that would give them some kind of credence and publicity, which is what South Yorkshire police had intended.

It took 26 years for the Liverpool fans to be exonerated; however, the mud from those lies and that corruption still sticks in certain quarters of society to this very day. It took what seemed like a lifetime of banging our heads against brick walls and climbing seemingly unsurmountable barriers before—following the 20th anniversary of Hillsborough, and thanks to the courage of the then PM Gordon Brown and the foresight of Lord Michael Wills, my unsung hero—the process of setting up the Hillsborough Independent Panel began.

With the release of previously withheld documentation, enabling families to finally find the truth about the causation of their loved ones' deaths, a second inquest found that all 96 at the time—children, women and men—had been unlawfully killed; a 97th victim was added later. This is why we need an independent public advocate, with a public advocate panel based on the format of the Hillsborough Independent Panel. That's me up to now. I have written down some other points, so that I do not forget anything. If you bear with me, I can read them out and then you can ask me questions if you like. Is that okay?

The Chair: I am afraid we only have half an hour. Why don't we just take questions—then perhaps you can add some points. Is that all right?

Jenni Hicks: Well, there's something important that I would like to say. I won't read the whole thing; I will just jump about a little bit.

It took me and the other bereaved Hillsborough families 23 years of campaigning to finally hear from the Hillsborough Independent Panel in 2012 the truth about how our loved ones had died. It then took another four painful years to finally have, in 2016, the correct inquest verdicts that all 96 victims had been unlawfully killed, which I am sure you know is gross negligence manslaughter to a criminal standard. Importantly, the 96 innocent children, women and men—the Liverpool fans who had been cruelly blamed for causing the disaster—were also exonerated at the inquest of any blame whatsoever.

Here we are 26 years later to hear that truth. That can't happen again. It mustn't. Other families must not suffer what the Hillsborough families suffered. I mean, 26 years is over a quarter of a century of your life, just to have the truth and the correct inquest verdict. That cannot be allowed to happen. This is why I wholly support an independent public advocate—I keep stressing “independent” because the clue is in the title—and an independent public advocate team. In my opinion, it must be set up in the same way as the Hillsborough Independent Panel was. All the documents should be available to the independent public advocate and his team or her team right from the very start. People should not have to wait 23 years to have documentation of the truth. That is a summary of what I am saying in these notes.

The other point I made in these documents—as you say, I do not have time to read it all out now—is the fact that as it stands at the moment, the Government's suggestions for an independent public advocate just would not work. It would just not be independent, because it is too dependent on the Minister. It seems that the supposedly independent public advocate will be answerable to the Secretary of State, which does not sound like independence to me.

Q213 Sarah Champion (Rotherham) (Lab): Who should they be accountable to?

Jenni Hicks: Well, if they are an independent public advocate, they should be like the Hillsborough Independent Panel were; they did not have to answer to anybody. They looked in, saw the documentation, and then reported on what they saw. They were not answerable to anybody, I don't think. Is that correct, Maria?

Maria Eagle (Garston and Halewood) (Lab): We cannot have a dialogue here.

The Chair: We are very grateful to you—this is a very moving testimony and you have had the most appalling experience—but we cannot have a general conversation; we have to have set questions. Can I now ask Maria Miller to ask her questions?

Jenni Hicks: Yes, sorry about that.

The Chair: That's all right—we quite understand.

Jenni Hicks: I am an amateur at this, I am afraid.

The Chair: Sorry—Maria Eagle. I do not know why; I was thinking of someone else.

Maria Eagle: It is fine. I have been called some names in my time—usually Angela.

The Chair: It is quite a moving afternoon, so it is difficult to concentrate.

Q214 Maria Eagle: Absolutely. May I begin by thanking Jenni Hicks for coming today? I will just say to the Committee that she is my constituent. She was one of the first people who came to see me when I was elected in 1997, and here we still are, trying to sort things out.

Jenni Hicks: That is why I automatically asked Maria. I do apologise.

Maria Eagle: I am just making it clear that I do know the witness.

Jenni Hicks: Maria is the only person that I know here.

Q215 Maria Eagle: Jenni, you have set out your appalling experience, and I know that you could say a lot more about what has happened over the years. If an independent public advocate had been in place at the time of Hillsborough, what difference might that have made to your experience as a family?

Jenni Hicks: I am hoping that an independent public advocate and their team would be able to have sight of the documentation that is needed to get to the truth. There has got to be transparency. We did not have that transparency until 2012—it took 23 years for us to have transparency about how our loved ones died. That is the difference that I am hoping it would make. That is such an important part.

Obviously, the independent public advocate would be able to guide people towards help in other ways, but for a major public disaster like the Hillsborough disaster, which was surrounded by a lot of lies and corruption, just to have transparency about the truth of what really happened was vital. We would never have known the truth without that. That is what was so good about the Hillsborough Independent Panel: it operated through transparency and sight of the documentation that it needed to come to its conclusions.

Q216 Maria Eagle: Am I right in thinking that, from an early stage with Hillsborough, the legal proceedings became very adversarial and the public authorities started trying to blame anybody else but themselves, which in this instance was your relatives and the survivors of the disaster?

Jenni Hicks: Yes.

Q217 Maria Eagle: What impact did that have on you as a bereaved family member? What impact did that have on the other families?

Jenni Hicks: It was horrendous. It was cruel. We were put through such an inhumane process. Not only had we lost our loved ones—in my case, my two daughters—but we did not have the truth about how they died. It was surrounded by lies.

I was there on the day. We were there as a family, and my ex-husband was there on the pitch with the girls, so we knew that the propaganda was lies. We were up against organisations like the police and the Government—like I said in my statement, those were huge, huge obstacles at the time—but we still carried on fighting, because we knew in our hearts what the truth was. Finally, 23 years later, we did have that truth, but it was a long, hard and gruelling process. It is not something that I would want anybody else ever, ever to have to go through.

It is bad enough to find yourself as part of a disaster and to be bereaved by a disaster. Then, when you cannot even get to the truth about what happened—or you know the truth and you know that lies are being put out there—it is not good. Nobody should ever, ever have to be put through that process again. I would like it to be a legacy for the 97 people who died that nobody else has to suffer like the Hillsborough families did.

Q218 Maria Eagle: You fought over so many years against almost impossible odds and you have made progress. However, with the public authorities over the years and the court cases that have happened, have you ever felt supported as family members? One of the things about a public advocate is that they can provide some support to families. Was that anything that you got in your early experience following the disaster?

Jenni Hicks: No.

Q219 Maria Eagle: So you felt on your own.

Jenni Hicks: Yes. We felt on our own with this huge fight to find out what had really happened, or in our case—because we were at the match and knew what had happened—it was to find the evidence of the truth. We basically knew the truth but we could not get hold of the evidence; nobody could. It was not until the Hillsborough Independent Panel that we had that evidence, finally, and we finally—as I say, four years after HIP—had the correct inquest verdicts. The first inquest put a 3.15 cut-off in, so a lot of the vital evidence after 3.15 pm could not be heard. There was absolutely nothing we could do about it. It is very, very frustrating.

Q220 Maria Eagle: Finally from me, Jenni, because I am sure colleagues will want to ask questions, do you think it is important that families caught up in this way in future disasters have some kind of capacity to have an impact and have agency, and can get an independent public advocate involved—if one is there, if the statute passes—and get somebody involved who is seen as on their side and can help them?

Jenni Hicks: Yes, that is vitally important. That is why I am supporting it. That is why I am here today speaking about it—because I think it is vitally important that we have this facility, but that we have it correctly

[*Maria Eagle*]

and they do keep their independence. When you are caught up in disasters, particularly if there is propaganda surrounding it, you need to be able to trust—you would need trust in a public advocate in a team. By having to report to a Minister, you are thinking, “Well, who is in charge of this? Is it the public advocate or is it the Minister?” I do not think that would go down very well.

Maria Eagle: Thank you.

Q221 Rob Butler (Aylesbury) (Con): Thank you for coming today and sharing your experiences. I know how painful that will have been. I was at the University of Sheffield at the time of the Hillsborough disaster and one of my friends also died in that tragedy. I recognise very much from what you are saying the experience that other friends and families had at that time. I pay huge tribute to you for the massive amount of work that you have done to try to make sure there is justice for the families and friends of those who were bereaved. Thank you for everything you have done.

Jenni Hicks: Thank you, but it was not just me. It was me and the rest of the families, and the whole city of Liverpool, which suffered a huge injustice that day.

Q222 Rob Butler: What sort of person do you think the independent public advocate should be to avoid that injustice being repeated? Is there a type of person you have in mind? For example, should it be a lawyer or a different type of person who has had different types of experience, so that you and people in the future would get the support they really needed?

Jenni Hicks: I actually think this is the point in having an independent advocates panel. I think we need to have experts on that panel, as the Hillsborough Independent Panel did, such as an archivist and a researcher—perhaps even a historian, certainly a trauma expert and perhaps even a forensic pathologist. We were given incorrect evidence about the pathology and everything, so you need people who are experts in their field, in my opinion, as part of the independent panel.

Q223 Rob Butler: So you welcome the idea of having a panel of people with different skills and different experiences, so that everybody is able to contribute together.

Jenni Hicks: Yes, I think that is really important. I have some bullet points here, and that is what I have got down here—even a lawyer who knows, but certainly people with the skills needed.

Q224 Rob Butler: Do you think there is also a role for the families of those who were bereaved at Hillsborough in helping to shape the more precise definition of what the independent public advocate should do and the way they do it, because tragically you have a unique experience?

Jenni Hicks: That is a huge question. I think that as long as the Hillsborough families were happy, it would work. Yes, they are going to support families, but there also has to be an independence when you are looking for the truth, from both sides; that is how it worked with the Hillsborough independent panel. As long as the families felt that the advocate and the teams were

independent and there was not anybody on the panel they particularly had an objection to, I think it would work.

Q225 Rob Butler: Ms Eagle asked you how you think an independent public advocate would have helped you and the other families who were bereaved at Hillsborough. You talked a little bit about getting access to the papers that were involved.

Jenni Hicks: Yes. Transparency is so, so important.

Q226 Rob Butler: Could you say a little about what you felt you really needed at the time, in those early days and those early years, and where an independent public advocate might have helped you and could potentially help others in future?

Jenni Hicks: If we had had the transparency, it would have prevented having to wait 23 years for the truth. They could also have pointed us in the right direction and they could perhaps have helped with people who needed support in other ways—counselling, perhaps, or whatever support they needed. That is why you have experts on the team who could help with the various issues that come up. But for me the most important part is to have the transparency.

As Hillsborough families we did not have a level playing field of funding, either. As Maria rightly said, when we went into the first inquest in 1990, we had a junior barrister who the families had all clubbed up to pay for: I think we all paid £3,500 each, 40-odd of the families, but all we could afford was a junior barrister. He was up against 12 top QCs with all their teams of lawyers. You can imagine.

We had this junior barrister and he did very well, considering. He ended up having to speak about every fan—not just the people who died, but everything that had happened with Liverpool supporters. He had a huge, huge job on his hands. We were told by the QC that we could either have him, the Rolls-Royce, or have the clapped-out Mini, which was the junior. That was Tim King, who we had. He did his best, but there certainly was not a level playing field of funding for families. As Maria quite rightly said, too, it did become very adversarial, considering it was an inquest.

Rob Butler: You have made those points incredibly powerfully. Thank you.

Sarah Champion: Two quick questions from me. First of all, can I just say thank you so much for coming and sharing your experiences? I am so deeply sorry for what you and so many others have gone through.

Jenni Hicks: Thank you for having me.

Q227 Sarah Champion: How soon do you think an independent advocate needs to be in place when there has been one of these major disasters?

Jenni Hicks: How soon can you do it?

Sarah Champion: One of the examples that we heard from earlier witnesses was that they have a series of people who are on stand-by, so they could literally come in immediately.

Jenni Hicks: I didn't realise that.

Q228 Sarah Champion: Is that something that you would think is a good idea?

Jenni Hicks: Yes. I think it has got to be immediately.

Q229 Sarah Champion: Why is that important?

Jenni Hicks: Because, certainly in our case, there was a huge cover-up. The longer you wait, the longer the cover-up stands, so it has to be immediately. Also, it is in the immediate aftermath that the victims' families need the support anyhow, so it has to be as soon as. In fact, I think there should be somebody in place or on stand-by.

Q230 Sarah Champion: I really hope that it is not inappropriate to ask my next question. My hon. Friend the Member for South Shields (Mrs Lewell-Buck) has put down an amendment because some of her constituents died in the Manchester Arena attack. Because they were children, the families have not been able to register the deaths—the coroner has. Is it important for families to be able to register the deaths of their loved ones?

Jenni Hicks: Oh yes, and to have the correct cause of death on the death certificate.

Q231 Sarah Champion: Why is that important?

Jenni Hicks: I have four death certificates for Sarah and Victoria. The first two said, "Sarah Louise Hicks. Cause of death: accidental death", and the same for Victoria, who was 15. Twenty-three years later, we had the death certificates reissued and they said, "Sarah Louise Hicks; unlawfully killed" and "Victoria Jane Hicks; unlawfully killed." That is very important—extremely important. I agree with the family from South Shields.

Q232 Sir Oliver Heald (North East Hertfordshire) (Con): Obviously, the second inquest with Sir John Goldring in charge was after the report by Bishop James Jones and his team. Did you feel that the second inquest was better conducted and gave more of a chance for the victims and their families to express their case? Do you think that that was because of the report that had been done?

Jenni Hicks: Certainly, because we finally had the evidence of what had really happened and the second inquest got to see that evidence where, in the first inquest, because of the 3.15 cut-off, how the victims died and how long they lived afterwards was not put to the jury, because the jury did not ever get to see that evidence. It was deemed at the first inquest that everybody who died had received their injuries before 3.15, which was blatantly untrue. That is why I am saying the transparency of and having that documentation and evidence, if you want to get the right inquest verdict, is imperative.

Q233 Sir Oliver Heald: The lawyer this morning, who has been involved in a lot of these inquests, said he feels there has been a change in the way in which inquests are dealt with for these major incidents and that there is now more emphasis on hearing the voices of the victims' families and so on. Do you agree with that?

Jenni Hicks: Certainly. One of the major things at the second inquest was when we did our pen portraits of our loved ones. That was a pivotal moment for everybody in the inquest. We had an opportunity to talk about the

person who had died. They were not just a number; they were a person. When you are involved in a huge disaster where numerous people died, you do become part of just that number. Like I said there, I would like the independent public advocate to be a legacy for the 97, but, at the second inquest, it was broken down into individuals. I learned a lot myself just listening to the other families' pen portraits about their loved ones. That is very important. I am pleased that the inquests are going that way now.

Q234 Sir Oliver Heald: I just want to pay tribute to your campaign.

Jenni Hicks: Thank you. All the families are saying it—the city as well.

Q235 Anna McMorrin (Cardiff North) (Lab): Thank you very much for coming here, being so honest and speaking really deeply on this awful tragedy. I want to ask you about a duty of candour. We heard this morning from witnesses about honesty, and you have talked about the honesty that is needed. Do you have an opinion, or do you want to say anything, on ensuring that there is a duty of candour on public servants, the Government and the public sector in taking part in this?

Jenni Hicks: That is huge—there has to be a duty of candour. I do not just mean a duty of candour where you—how can I put this without being offensive to anybody?

Anna McMorrin: Don't worry about that.

Jenni Hicks: Where you do not lie, but you do not tell the truth. I am talking about telling the proper truth, because often you do not actually lie, but you do not tell the truth. If it is a duty of candour, it has to be a proper duty of candour, and there should be consequences if you do not tell the truth.

When I spoke to the last Committee, we had Paul Greaney KC here and he said, "Apparently, there is some sort of duty of candour at the moment, but there is only a £2,000 fine." To big organisations, that is just pocket change. It should be something a little stronger than just a £2,000 fine if you do not tell the truth. That and transparency are the two really important things.

The Chair: Thank you very much, Mrs Hicks. We salute your courage. Thank you for coming.

Examination of Witness

Kimia Zabihyan gave evidence.

2.31 pm

The Chair: We will now hear from Kimia Zabihyan of Grenfell Next of Kin. I think we are having some technical problems with Dr Stuart Murray, so we have just one witness for this quarter of an hour session.

Q236 Maria Eagle: Thank you for coming along. I realise that there are lots of other places you could be, so we are very grateful that you have come along to give us your evidence. Could you tell us a little about your story and how you have been affected by what happened at Grenfell?

Kimia Zabihyan: Actually, I started off on the ground as a volunteer. There were many, many people who came to the area affected by the tower. I have my roots in that borough and I grew up there, so it touched me very deeply, but the thing that struck me the most was seeing pictures of the missing people. Many of them looked like people who were familiar to me, because they looked like my family members. It really felt very personal, because 85% of the people who died in the tragedy were black and brown people. I felt that it was really important to make sure that there was advocacy for that, particularly given that most of the people who died were recent migrants.

It is very different from the Hillsborough experience and many other experiences—the Marchioness, for instance. This was the first national tragedy that predominantly affected black and brown people, and it became very obvious that the system responding to the moment was entirely white. That created dissonance, and it felt as though there was room to advocate for those people, because the majority of them did not have roots in this country; they were recent migrants.

Immediately, we were told, “Don’t talk about race. Let’s just deny that whole part of it, because it will turn off public sympathy.” These were the things that I was experiencing and seeing as someone from that background and that heritage who is very blessed with the advantage and privilege of a good education, life experience and work experience. It felt really important to play a role, so that was really what brought me there and kept me there. I am still there after six years.

Q237 Maria Eagle: Over that period of time, you will have engaged with many, if not all, of the bereaved families, I imagine. Could you explain to the Committee your sense of what the first few years in this process have been like for those families? What would the value of an independent public advocate have been, if one had been in place at the time this happened? What would have been the value of having that role available to the families in the immediate aftermath of the disaster?

Kimia Zabihyan: That is a really big question. Actually, it is not just those few years; we are still in exactly the same place. We are still stuck in the same place because we do not have an independent public advocate and there is no recognised role for it, really, even though I am called an advocate by all the systems and I engage with all the systems. Ultimately, it has been one of choice, and in a way you are trapped by it, because you know that if you step away, there is nothing in its place. There is nothing to take that place.

With those families who have lost immediate family members, several things happen. In the first instance, it will be a disaster by its very nature, because it is not expected. There is chaos—absolute chaos. The people who know pretty quickly that their family—their child, mother, father, husband or wife—is missing are in shock. What happens is that immediately there is a separation; they become invisible, because they are sort of protected by the police—quite rightly—and the victim support units etcetera, so they are literally invisible on the scene.

We had survivors on the scene and we had systems engaging with survivors, but we did not have anything in place for the actual bereaved—nothing. None of the policies addressed their needs and their specific characteristics, which in this case were essentially rooted

in their otherness, if you like. Their otherness became even more othered, and they became even more marginalised. The system responded with policies for the tragedy, but it was very much through one particular prism, which was through only the survivor prism. To this day, we still do not have any policies that actually address the specifics of the next of kin of the deceased, because there was never that public advocacy role.

Q238 Maria Eagle: Do you think it is important that if there is a public advocate—if this legislation goes through, suitably amended until everybody thinks it is perfect and what is needed—the families affected have some agency and the public advocate can create transparency, or do you think it is more important to signpost to other services at an early stage?

Kimia Zabihyan: No, not at all. I am passionate about the fact that there needs to be a public advocacy role, to the point where I have basically been doing it pro bono for six years, because I cannot believe that we do not have such a thing in place. Coming back to some of the questions you were asking Jenni Hicks earlier, it is really important to have that whole system set up, because disasters do not make appointments—they happen. You need to have a system and structure in place that can just be instigated as part of a resilience plan or disaster response. It needs to be extremely diverse, and it needs to have people who are awkward and definitely on the side of the victims.

Q239 Maria Eagle: Do you think that the current proposal sets out a public advocate who is independent enough, or would you like to see it more independent of the Minister than in the current draft? At the moment, the Minister can appoint, set terms of reference, arrange remuneration and dismiss.

Kimia Zabihyan: It is very difficult, because what does independence really mean? You can call a person independent, but actually they are really not that independent. The pool of people you need to be looking at are people who have a huge amount of integrity and a footprint in speaking truth to power. If a person has that sort of credibility, it does not matter who they are reporting to.

The disadvantage of their being completely separate from our democratic system is that essentially they are toothless, so this independent person just becomes another report that is given to the Minister. It does not have any weight; it does not have any power. It needs to be someone who has the power to make policy interventions and decisions, at ministerial level—appointed by the PM even, not Ministers.

With Grenfell, we had a conveyor belt of Ministers. We had three name changes and six Ministers. The Department started off as the Department for Communities and Local Government, then it became the Ministry of Housing, Communities and Local Government, and then the Department for Levelling Up, Housing and Communities, and Ministers do not really mean anything, because they come and go. It has to be at Prime Minister level.

More importantly, “independent” can mean different things to different people. It was interesting watching the covid inquiry the other day, when Sir Oliver Letwin talked a little about that. It is about having people in the

room who ask the awkward questions and are able to make a difference. We do not want someone else who just writes another report that goes nowhere. That is why it can take 30-something years.

We need to do that for our democracy and for our efficiency. You would be amazed at how much money has been wasted in the Grenfell response and recovery—ridiculous amounts of money—because the whole system is so inefficient.

Q240 Maria Eagle: Finally from me, what powers do you think the independent public advocate, as you envisage it, should have to be able effectively to do the job that you see it doing?

Kimia Zabihyan: To give you an example, very early on, when it became apparent that the majority of the people who had died were ethnic minorities in this country, because this is London and it happened in London—Grenfell will not be the last time this happens—the system did not know how to respond to that. The next of kin tended to live abroad, so we had to locate them and arrange for visas and what have you to bring them to the UK for the processes of identification, DNA tests and that sort of thing.

At the time, we were very lucky, because Amber Rudd came down and got it very quickly. She absolutely got it very quickly. The one thing that happened really promptly was that she allowed for that; she made sure that we had processes to identify the next of kin, get them on a plane and make sure they had visas—or even, sometimes, just to get them on a plane and issue the visa as soon as they arrived at the airport. People were coming from conflict zones, places where there might not be an embassy or places where they would not even be allowed past the first security gate. We had people from Afghanistan, Iraq, Sudan and all sorts of places that were quite awkward.

The assumption that the system makes is a sort of myopic, white middle-class assumption about who victims are and therefore what the responses should be. The IPA or the panel has to be really quite progressive, sophisticated and understanding, and it has to have the experience that the world does not really function like that any more.

That was an example of something that worked—just doing something very practical—but only Amber Rudd had the power to do that, because she was the Home Secretary. We are now at a stage where we are trying to execute things that respond to the need of the next of kin, but time passes and the system moves at a different pace—it is on a different timeline. Six years for those in the system is, “Oh, we’ve sorted everything; we’re at the six-year mark,” whereas for the people who are affected, the six-year mark does not mean anything, because they are still at ground zero trying to get policies or attention for issues that speak to their particular characteristic.

If we have a panel or an independent advocate who can speak to Ministers and make policies that address the specificity of the victims, that will serve not only the victims, but our democracy. It will also save a ton of money.

Maria Eagle: Thank you.

Q241 Janet Daby (Lewisham East) (Lab): What are your thoughts on the definitions in the Bill for victims, major incidents, harm and serious harm? I do not know if you have read the Bill.

Kimia Zabihyan: I have, but I can only speak of my own experiences. The majority of my experience has been with the immediate family members, and they were the ones who defined what is a disaster, or a national disaster. It is the sort of tombstone imperative: once you get a certain number of fatalities, it is a thing. That was made very clear to me by someone very senior in the Royal Borough of Kensington and Chelsea, who said, “You do realise that if less than 10 people had died in the tower, we wouldn’t even be obliged to rehouse everybody.” They would have just gone on the housing list. They might have got lots of points, but they would have had to wait on the housing list for appropriate accommodation. It is because of the number of fatalities that the thing becomes a thing, yet they are denied that power, or respect.

Janet Daby: On that point—

The Chair: Order. I am sorry, but we have to stick to the programme motion, according to the rules of the House. I am given no flexibility. We have to end your evidence there, but we are very grateful.

Kimia Zabihyan: You are more than welcome. I am always available to anybody who would like to have any kind of conversation, because I think what you are doing is really important. Everyone has a contribution to make, but Grenfell is the last disaster that presented specific challenges, and we are very frustrated that there is no learning from it.

The Chair: Thank you very much.

Examination of Witness

Sophie Cartwright KC gave evidence.

2.47 pm

The Chair: Our next witness is Sophie Cartwright KC, a solicitor at Deans Court Chambers.

Q242 Janet Daby: Good afternoon, Sophie. Do you believe, regarding the Bill, that legal aid should be non-means-tested, especially in cases involving a major incident and there is a public institution or office involved?

Sophie Cartwright: Good afternoon. Just for clarification, I am not a solicitor; I am a barrister.

On legal aid, specifically in respect of the IPA it is slightly different because they are not to provide legal activity, but absolutely there should be non-means-tested legal aid available for victims of major incidents. That to some extent cures part of the issue around ensuring that there is access to the necessary advice and support for victims of major incidents, which, as the genesis of the IPA was, is a landscape that is daunting, confusing and overwhelming. Allowing non-means-tested legal aid so that victims can get access to appropriate advice through solicitors and latterly barristers, if necessary, is essential to address the concerns that led to the proposal for the IPA.

Q243 Janet Daby: Thank you. Do you agree with the proposed functions of the independent public advocate as set out in the Bill?

Sophie Cartwright: I think there is a slight confusion at the moment about what is set out in the Bill, particularly in clause 27 on the functions of an IPA. What is slightly confusing is that the IPA has been given the role of an independent public advocate, but it is not meant to be an advocate in the classical sense of being an advocate that provides legal activity, because that is precluded under clause 27(6). Essentially, therefore, the IPA is not intended to be an advocate in the legal sense of the word.

When one looks at the function envisaged in clause 27, it is to

“provide such support to victims...as the advocate considers appropriate”.

To that extent, I think there is still some confusion about what the purpose of the IPA is intended to be—whether it is just to provide support in the immediate aftermath, or whether it is to be a signposting service. There is a slight disconnect, because what is proposed is that the Secretary of State will appoint IPAs after major incidents occur, which will inevitably create delay. You will almost have a vacuum when a major incident occurs, because you do not have an IPA in place to give that support.

There will then be a whole process of liaison with the Secretary of State to appoint an IPA, so there is likely to be a recruitment, with a number of people putting themselves forward to be that IPA, which will inevitably cause delay. If the IPA is to have that clear role of offering support in the immediate aftermath of a major incident, they really need to be in place already so that they can provide the support as envisaged. If there is then to be a negotiation with the Secretary of State about the appointment, the terms of the appointment, the remuneration and what their functions can be, the IPA will inevitably get bogged down in delays, meaning that it is not providing what it is intended to provide in the immediate aftermath of these major incidents.

Q244 Janet Daby: How do you think those delays could be avoided? Would you see the independent public advocate sitting under the Secretary of State or in a different body completely?

Sophie Cartwright: If there is a commitment that there needs to be an IPA, and if there is to be such a person or individual, then in my view it should be a function that is in place and appointed, with someone already in post, whether or not it is full time. It is envisaged that part of the role of the IPA, if they are individually appointed, is that they have a report-writing function and capture the views of victims. That necessarily allows the work of an IPA to be taken more slowly, in order to capture the victims’ experience and to learn lessons from major incidents that can bring about lasting and meaningful change.

I know that as part of this process you are speaking to a number of victims of major incidents. I think every victim and family experience will capture learning or things that could be done to make the process better for them. There is a lot that victims of major incidents have said about the intrusion of the press, and about not knowing where they need to go. If the IPA’s role is full time, that can allow them, when they are not dealing with the quick-time, immediate aftermath of these devastating major incidents, to be putting in place the

system for capturing the victim experience, to feed into report-writing, and to ensure that there are recommendations and that lasting change occurs in respect of how to make the victim experience better and the structure and systems that are in place.

Q245 Rob Butler: Thank you for talking to us this afternoon. You said that there are almost different ways that the function of the IPA could be conducted and you have highlighted that it is not a legal role.

Sophie Cartwright: Yes.

Rob Butler: I am not sure whether you heard the evidence from previous witnesses, but Jenni Hicks of the Hillsborough campaign in particular was talking about a panel of support, with people who have different skills and different experiences. What do you think are the roles that are most important to the function of a successful IPA?

Sophie Cartwright: Certainly the IPA should have a trauma focus. Plainly, there should be a knowledge and experience that involves an understanding of the impact of trauma, so almost supporting from a resilience point of view with accessing necessary support through psychological services. In our experience of the Manchester Arena, we were absolutely blessed with the work of the resilience hub, which had a team of psychotherapists and psychologists who were providing that trauma focus. Essentially, the work of that body should not make things worse and should have a trauma focus to it.

I would definitely say that if there is to be a panel, it needs to be people with the right skillset, so that in their dealings with victims and obviously with victims’ families, they are not making things worse. They would definitely need a background that involves a psychological, therapy-type role, so they have that understanding. Also, if there is to be that practical support, it has to have the necessary skillset.

Clause 28 also envisages that IPAs will be asked to be properly interested persons at inquests. There needs to be clarity as to the purpose of the IPA, because that certainly suggests that there will be a form of providing advice. In terms of functions, clause 27 also talks about assisting with investigations by public authorities and assistance with the inquest and inquiry. Those are very much almost legal roles. The IPA should not in any way be a substitute for the access of families and victims to their own independent legal advice and representation.

Q246 Rob Butler: Are you not arguing, essentially, that there does need to be a panel of people with a range of skills? To come back a little bit on your criticism—if I can put it that way—of the possibility of delay, is it not the case that each individual situation will need specific qualities and the specific skills of individual people? It is inevitable that it will need a little bit of time to find the right people to deal with the right incident. None the less, if we know of a pool of suitably qualified and experienced people who are ready to serve, that would be ideal.

Sophie Cartwright: Part of the function of the IPA is said to be a signposting role, but if it is not in place in the immediate aftermath and then there is this delay in putting it in place, I cannot quite see what the function is, if it is not to replace the role of legal representation, which it is not intended to do.

If it is not in place to deal with the immediate aftermath, for support and signposting, I do not see what its functions really are in terms of challenging public authorities, unless it is going to be a role that is linked to the changes on the duty of candour, which is being massively championed on the back of the work of Bishop James Jones, and that sort of role for challenging public authorities.

It is about clarity on what the function of the IPA is intended to be. At the moment, I do not see, practically, as the role is envisaged through the Bill, that it is going to be meaningful or what the IPA is intended to achieve by way of support and signposting for victims of major incidents, if it is not in place and ready to go. That is the concern, particularly when under clause 25 there have to be terms of appointments and then agreement, which is inevitably going to have delays. To what extent, then, is it really discharging what was intended to be its signposting and supportive role, if it is not there at the get-go of a major incident?

Q247 Maria Eagle: I do not know whether you managed to hear Lord Michael Wills's evidence from earlier today. He had a private Member's Bill in the House of Lords in 2014 to introduce an IPA. He envisaged it, in part, as something that the families could call upon so that they felt that they had agency and there was something they could do at the early stages that would stop them just feeling like everything was being done to them and they had no role. But he also envisaged a role of ensuring transparency. For example, he envisaged his version being able to establish a Hillsborough Independent Panel-like arrangement, to gather in documents and give an account of the truth of what happened. Do you see that that might be a function that the independent public advocate could usefully pursue, if the Bill were amended to enable it?

Sophie Cartwright: Yes, that certainly seems to me to be a measurable and proportionate role for an IPA. It should be something that exists so that, when incidents happen, families know that the body exists and know where to go, rather than thinking, "Who is the IPA? Who has been appointed, and who will it be?" and the experience being dependent on who that IPA is.

If it is a body that exists, where families know that they can go as part of that search for the truth or to seek advice, I absolutely see that as more what was intended when the IPA was initially proposed. Certainly, the genesis of the IPA was very much the experience of Hillsborough. There has been a lot of discussion around it having a role holding core public authorities to account. I do not necessarily know how practically that would work when there is an inquest and a coroner is discharging their investigatory duty or—if there were to be an inquiry—how a chairman would discharge their role as the chairman. There has to be some thought around that to ensure that it does not trespass within the investigatory roles and the statutory functions of other investigators post major incidents.

The original concern was that public authorities had not shown candour in their approach to investigations, so that may be a function of the IPA. Certainly, when the IPA role was first announced in March by Mr Raab, a lot of the support seemed to be around saying, "This should be a role for the IPA around Hillsborough's duty of candour." I really cannot comment more broadly on

that, but that was what was intended originally when the IPA was first proposed, which would fit with the evidence that you heard this morning. I apologise that I have not had access to that evidence in advance of speaking to you today.

Q248 Maria Eagle: Drawing on your own experience in relation to the Manchester Arena bombing, I am sure you will have had discussions with affected family members. Do you see anything in the Bill in respect of the independent public advocate as envisaged that would have assisted those people you have subsequently come across when dealing with the Manchester Arena bombing? Do you think that there is something in the Bill that would have made things easier for them to deal with the aftermath of that terrible experience?

Sophie Cartwright: If the IPA had existed then as a place where the families could go for help, then certainly. The IPA could have a function to assist with that immediate intrusion that can occur to families. A lot of the families and witnesses that gave evidence to the inquiry talked about the massive intrusion on them by the press after the major incidents. If the IPA had a role to hear families' concerns around press intrusion, and it liaised with editors and the like to stop that form of intrusion before lawyers were in place, I can definitely see that being an avenue to go down.

There was also a lot of concern from a number of family members about the blue light-type agencies, which immediately afterwards were putting out their own media and documentaries about events. I know that for a lot of the families the content of that material caused real concern. Again, the IPA could be somewhere they could go to speak about that and raise concerns, and the IPA could then be enabled to speak to the relevant representatives of those public authorities to ventilate the families' concerns about that material, as well as to help explain the process to them.

After the Manchester Arena bombing, a lot of good work was done by the coroners and family liaison officers involved. I think having another place where victims could go to seek support in the immediate aftermath would be good. Anything that allows victims an avenue to try and understand what is happening is definitely for the good.

Q249 Janet Daby: You have mentioned that there needs to be more clarity and purpose around the IPA. With that in mind, how long do you think an IPA should be involved following a major incident?

Sophie Cartwright: If it remains as intended at the moment, that is not really clear, because obviously the terms of appointment will depend on the agreement with the Secretary of State. If there is to be a report-writing function that captures the victim's views, it is going to be a longer-term thing. It certainly seems to be a role that is envisaged as running alongside an inquest and inquiry process, which is why it is quite difficult if it is a number of appointments of different IPAs rather than a full-time position of the office of the independent public advocate, with a head IPA that can appoint individuals as and when necessary.

Again, if it is envisaged as a role in the immediate aftermath for signposting and support until victims have their own lawyers, who then can very much discharge

the roles and functions of an IPA, it might just be a shorter-term thing. But if it is intended to also capture the victim experience and have a report-writing role, that is a much longer-term thing. We need to consider the functions of the IPA and whether it is intended to be a full-time appointment. As it is currently drafted, it is intended to be multiple IPAs that apply for the role of the IPA and are then appointed with terms of reference. That is a very different thing, and it potentially has a longer shelf life.

Q250 Janet Daby: Do you have a view on the Bill's definition of a major incident?

Sophie Cartwright: It envisages significant numbers by reference to death or serious injury. It seems that the function of the IPA is around those incidents where there is death, but as drafted the Bill also covers a major incident where there is not death—where you would envisage an inquest or inquiry process—but serious injury. If it is intended just to cover major incidents, there is no definition of “significant”, but I know the guidance gives a comparable definition by reference to the Manchester Arena incident, Grenfell and Hillsborough. I think there is vagueness around significant numbers of deaths or serious injuries, but as drafted it would also capture major incidents where there is just injury.

The other thing I want to flag is that at the moment it is intended to cover only major incidents that occur in England and Wales. Again, there might potentially be a disconnect if you are excluding the IPA from having a role. One can well imagine the Tunisia inquest that occurred, which was to assist victims of a daunting, confusing and overwhelming process. As it is currently drafted, it seems almost to exclude major incident types where large numbers of British nationals get caught up in incidents overseas. I cannot see, on the face of it, why it would exclude major incidents where a large number of British nationals are caught up overseas. I wanted to flag that as a potential area where there may be a real role for the IPA: if there are large numbers of victims caught up in major incidents overseas.

Q251 The Minister of State, Ministry of Justice (Edward Argar): Good afternoon, Ms Cartwright. Thank you very much for joining us. I have just one question, but I am more asking for your reflections than asking a specific question.

You alluded earlier to the interaction between an IPA, as envisaged in the Bill, and other judicial or investigatory processes, whether they were inquests or other public bodies performing their work in the aftermath of a major incident. There have been a number of calls for the IPA to be a data controller, so that it can access data. We heard this morning from another lawyer,

Tim Suter, who argued that that would not be the best approach and that individual public bodies should remain the data controllers, but with the IPA being able to view or access the data in that way. Do you have any reflections on that point? Once a statutory public inquiry is set up, how would the interaction between the IPA and the inquiry work best? On the data controller point, I can see arguments from various perspectives, and I am interested in your reflections.

Sophie Cartwright: Clause 30 deals with some data aspects. It goes back to having clarity as to the intended purpose of the IPA. If it is to discharge the role as per the evidence you heard this morning from the original proponent of the IPA role, it is for the IPA to have a data controller-type role in terms of seeking material and records. That could, though, be fraught with complete complexities that will then bog down the IPA role.

If it is envisaged at the moment that it will just be that supportive role, and interacting, it can become quite complicated, particularly if the IPA is not intended to have a role that involves legal activity. To that extent, anything around data controlling and making requests for records and properly retaining and looking after them is definitely more in the water of legal activity.

As the Bill is currently drafted, I think it would become an absolute nightmare if you were requesting the IPA to have the data controller function and require documents and records. Anything that involves requests for documents and controlling, retaining and storing them definitely has to have a legal activity-type oversight, so I can well understand why Mr Suter gave evidence today to the effect that the public authorities should remain the data controller.

It goes back to having a clear clarity of purpose as to what the IPA is. If it is intended that the IPA will have a candour role and make requests for documentation, it is inevitable that data protection and GDPR issues will have to be properly looked at and considered, because that is a very complex landscape. At the moment, that would not in any way come near what is intended in clause 30 on the data-control aspect of the IPA's role.

Edward Argar: That is really useful. Thank you very much.

The Chair: If there are no further questions, I thank you very much for your testimony. We are very grateful.
Ordered, That further consideration be now adjourned.—
(*Fay Jones.*)

3.11 pm

Adjourned till Tuesday 27 June at twenty-five past Nine o'clock.

Written evidence to be reported to the House

VPB14 The Josh Hanson Charitable Trust
 VPB15 Solace Women's Aid
 VPB16 Why me?
 VPB17 Tackling Double Disadvantage Partnership
 VPB18 Criminal Justice Alliance
 VPB19 Respect and The Drive Partnership
 VPB20 Refuge
 VPB21 Spotlight on Corruption
 VPB22 The Bell Foundation
 VPB23 Surviving Economic Abuse
 VPB24 Women's Aid Federation of England
 VPB25 Joint submission on behalf of the following VAWG organisations:
 End Violence Against Women Coalition
 Women's Aid Federation of England (Women's Aid)
 Latin American Women's Rights Service
 Solace Women's Aid

Refuge
 Agenda Alliance
 Birmingham and Solihull Women's Aid
 Respect
 Centre for Women's Justice
 Traveller Movement
 Surviving Economic Abuse
 Hibiscus Initiatives
 Safety4Sisters
 Southall Black Sisters
 VPB26 Latin American Women's Rights Service and the Step Up Migrant Women campaign
 VPB27 The Bar Council and the Law Society (joint submission)
 VPB28 The Bar Council
 VPB29 Office of the Victims' Commissioner for England and Wales
 VPB30 Anti-trafficking & Labour Exploitation Unit (ATLEU), Focus on Labour Exploitation (FLEX), Kalayan, and the Latin American Women's Rights Service (LAWRS) (joint submission)

