

Parliamentary Bureau – Legislative Consent Memorandum and Supplementary Legislative Consent Memorandum

Legislative Consent Memorandum

Public Office (Accountability) Bill (UK Legislation)

Introduction

1. Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

The Public Office (Accountability) Bill

2. The Public Office (Accountability) Bill was introduced by the UK Government in the House of Commons on 16 September 2025. This LCM was lodged by Kate Forbes MSP, Deputy First Minister and Cabinet Secretary for Economy and Gaelic, on 31 October 2025, under Rule 9B.3.1(b) of the Parliament's Standing Orders.
3. The Bill makes provision for a variety of measures relating to public authorities and public officials across the UK. It is widely referred to as the "Hillsborough Law". As it stands (subject to legislative consent), two aspects of the proposals extend to Scotland:
 - A **duty of candour and assistance**, which will require public authorities and public officials at all times to act with candour, transparency and frankness in their dealings with inquiries and investigations. This includes a duty to proactively notify the lead of an inquiry or investigation if they consider they have information which may be relevant, as well as a duty to give all reasonable assistance when directed to do so (with criminal sanctions for the most serious breaches). This duty will apply to "public authorities" and "public officials" which are defined under Part 2 of Schedule 2 of the Bill; and
 - A requirement on public authorities to promote and take steps to maintain high standards of ethical conduct at all times by those who work for them. This includes a requirement on a public authority to adopt a **code of ethical conduct** which sets out standards of behaviour expected of staff. Public authorities will be required to publish the code and promote it to staff, as well as to have regard to guidance which may be issued to them by the UK Government (or the Scottish Ministers in relation to devolved matters). This duty will apply to "public authorities" defined under Part 3 of Schedule 2.
4. The Bill is a relevant Bill under Rule 9B.1.1 of Standing Orders, as it makes provision applying to Scotland for purposes within the legislative competence of the Scottish Parliament, and alters the executive competence of the Scottish Ministers.

5. In particular, legislative consent is required for Part 1 and chapters 1 and 2 of Part 2, which includes Schedules 1-3, and Part 5. In terms of the devolution position, matters relating to propriety and ethics and the procedures which apply in the context of public inquiries (where the subject of the inquiry is not reserved), including Fatal Accident Inquiries, do not relate to reserved matters in terms of Schedule 5 of the Scotland Act 1998. Similarly, there is no reservation in that Act for codes of conduct. The UK Government agrees with the Scottish Government that legislative consent is required for Part 1 and chapters 1 and 2 of Part 2, which includes Schedules 1-3, however it has not given an indication for Part 5 (miscellaneous and final provisions).
6. There are also several provisions in the Bill which alter the executive competence of the Scottish Ministers, namely:
 - clause 10(1) (power to issue guidance to assist public authorities, in particular in relation to drafting and adopting a code of ethical conduct);
 - clause 21 (power to make consequential provision);
 - clause 25 (commencement power);
 - paragraph 7 of Schedule 1 (power to extend duty of candour and assistance to other investigations); and
 - paragraph 4(4) of Schedule 2 (power to specify public functions for the purposes of extending the list of public authorities who must adopt a code of practice).

Designation of lead committee

7. The Bill in question is complex and contains several strands which make it challenging to ascertain which committee is best suited to scrutinise the LCM as lead committee. The LCM was lodged by the Deputy First Minister and Cabinet Secretary for Economy and Gaelic, who often has overarching responsibility for high-level public inquiries (including COVID inquiries, the Historical Abuse Inquiry, and the Sheku Beyoh public inquiry) as part of her Deputy First Minister responsibilities. This does not neatly map onto the remit of any single committee.
8. It is considered that the LCM engages the remits of three committees to varying extents: the Finance and Public Administration (FPA) Committee; the Standards, Procedures and Public Appointments (SPPA) Committee, and the Criminal Justice Committee. These are set out in turn below.
9. The LCM appears to engage the remit of the FPA Committee. The Committee's remit includes, among other things, to consider and report on matters relating to public administration. Elements of the Bill appear to relate to public administration in a broad sense, in particular the creation of a duty of candour and assistance, which will require public authorities and public officials at all times to act with candour, transparency and frankness in their dealings with inquiries and investigations. The FPA Committee is currently undertaking an inquiry into the cost-effectiveness of Scottish public inquiries, which is also of relevance to the subject matter of the Bill.

10. The LCM may also engage the remit of the SPPA Committee. The Committee's remit includes, among other things, to consider and report on matters falling within the responsibility of the Minister for Parliamentary Business. It also has an interest in matters related to standards of conduct, although its focus in this regard relates primarily to MSPs. The Minister for Parliamentary Business and Veterans is responsible (among other things) for open government, which could be considered to be engaged by the Bill's stated policy aim of ensuring transparency and accountability among public authorities.
11. Finally, the LCM may engage the remit of the Criminal Justice Committee. The Committee's remit includes, among other things, to consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Home Affairs. The Cabinet Secretary is responsible (among other things) for the justice system and criminal law procedure. She is supported by the Minister for Victims and Community Safety, who is responsible (among other things) for access to justice and community safety. It is worth noting that, in the UK Parliament, the Bill is being led by the Ministry of Justice. The Bill creates new criminal offences, although (as introduced) most of these do not apply to Scotland, except for a new offence relating to the duty of candour and assistance established by the Bill. Moreover, the context behind the introduction of the Bill – namely high-profile public inquiries such as those into the Hillsborough Disaster and the Horizon scandal – arguably has a link to criminal justice and community safety.
12. On balance, considering the relevant provisions set out in the LCM, it is considered that the LCM most clearly engages the remit of the FPA Committee, given the clear link to public administration. However, in light of the broad and complex subject matter and the background to the Bill, it is possible that the SPPA and Criminal Justice committees may have an interest in some aspects of the LCM (or, indeed, of any supplementary LCMs).
13. The LCM will also be considered by the Delegated Powers and Law Reform Committee in relation to provisions in the Bill conferring powers on the Scottish Ministers to make subordinate legislation.

Recommendation

14. The Bureau is invited to recommend, under Rule 9B.3.5 of Standing Orders, that the Parliament designate the Finance and Public Administration Committee as the lead committee in consideration of this LCM. A draft Bureau motion is set out below.

Draft Parliamentary Bureau motion—

Designation of Lead Committee – That the Parliament agrees that the Finance and Public Administration Committee be designated as the lead committee in consideration of the legislative consent memorandum relating to the Public Office (Accountability) Bill (UK Legislation).

Supplementary Legislative Consent Memorandum

Border Security, Asylum and Immigration Bill (UK Legislation)

Introduction

15. Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

The Border Security, Asylum and Immigration Bill

16. The Border Security, Asylum and Immigration Bill was introduced by the UK Government in the House of Commons on 30 January 2025. The Bill makes provision to improve UK border security and strengthen the asylum and immigration system by creating a framework of new and enhanced powers and offences that reinforce, strengthen and connect capabilities across the relevant government and law enforcement partners which make up the UK's border security, asylum and immigration systems.
17. An LCM was lodged by Shirley-Anne Somerville MSP, Cabinet Secretary for Social Justice on 12 March 2025, under Rule 9B.3.1(b) of the Parliament's Standing Orders. That LCM was considered and reported on by the Equalities, Human Rights and Civil Justice Committee on 18 June 2025. The Parliament subsequently agreed to a motion recommending consent on 26 June 2025: [S6M-18076 | Scottish Parliament Website](#).
18. This supplementary LCM was lodged by Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs on 4 November 2025.
19. The initial LCM noted that the Bill would be introducing interim Serious Crime Prevention Orders (iSCPOs). At that point, it was understood that iSCPOs would only be introduced in Scotland for terrorism-related cases, which is a reserved matter and therefore was not covered in the initial LCM. According to the supplementary LCM:

“... it is now clear that provisions relating to the breach of an iSCPO will apply in Scotland in all cases, not just those involving terrorism. This is because, were a breach not to apply in all cases, someone subject to an iSCPO in England and Wales may move to Scotland and face no consequences for breaching their iSCPO. [...] The purpose of this approach is to avoid inadvertently enabling the movement of criminality to Scotland.”
20. The supplementary LCM therefore relates to clause 53(6) of the Bill, which amends section 25(1) of the Serious Crime Act 2007 (offence of failing to comply with order). Under section 25 of the 2007 Act, if a person, without reasonable excuse, fails to comply with a Serious Crime Prevention Order they commit an offence. This applies UK-wide. The Bill extends this provision to include failure to comply with an iSCPO. The Scottish Government considers that the legislative consent process is engaged as these provisions apply to Scotland for a purpose within the legislative competence of the Scottish Parliament, namely the creation

of criminal offences. The UK Government shares the Scottish Government's view that this clause relates to a matter within the legislative competence of the Scottish Parliament, and therefore requires legislative consent.

21. The supplementary LCM indicates that the Scottish Government intends to lodge a motion seeking the Parliament's consent to this clause.

Parliamentary consideration

22. The relevant provisions in the Bill fall within the remit of the following committees:

- Equalities, Human Rights and Civil Justice Committee – whose remit includes to consider and report on matters relating to equal opportunities and human rights, and matters relating to civil justice within the responsibility of the Cabinet Secretary for Justice and Home Affairs; the Cabinet Secretary is supported by the Minister for Victims and Community Safety, who is responsible (amongst other things) for human trafficking.
- Criminal Justice Committee – whose remit is to consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Home Affairs; the Cabinet Secretary is responsible (amongst other things) for justice system and criminal law procedure and police.
- Social Justice and Social Security Committee – whose remit is to consider and report on matters falling within the responsibility of the Cabinet Secretary for Social Justice; the Cabinet Secretary is supported by the Minister for Equalities, who is responsible (amongst other things) for migration, and refugees and asylum seekers.

23. The Equalities, Human Rights and Civil Justice Committee was designated as the lead committee in consideration of the initial LCM relating to this Bill.

24. However, it appears that this supplementary LCM is most relevant to the remit of the Criminal Justice Committee, as it relates to the creation of a new criminal offence regarding breach of iSCPOs.

25. The Delegated Powers and Law Reform Committee also considered and reported on the initial LCM on 29 April 2025 in relation to provisions in the Bill conferring powers on the Scottish Ministers to make subordinate legislation.

26. This supplementary LCM poses challenges in terms of the time available for consideration by a lead committee. The Bill is at an advanced stage of progression through the UK Parliament, with Report Stage in the Second House (House of Lords) having taken place between 28 October and 5 November 2025. Therefore, the lead committee would be unable to report on the supplementary LCM prior to the final amending stage in the House of Lords.

27. In light of these circumstances, it is suggested that the supplementary LCM should be taken directly to the Chamber to allow the Parliament to express its view on the relevant provision before the Bill passes. The convener of the Criminal Justice Committee has indicated that she is content for the committee not to consider the supplementary LCM in this case, due to the lack of time

available for committee scrutiny. It is understood that the Scottish Government intends to seek a debate in the Chamber on its motion on legislative consent, in order to provide the Parliament with an alternative means of scrutinising the supplementary LCM.

28. As the lead committee on the initial LCM, the clerk to the Equalities, Human Rights and Civil Justice Committee has also been advised that a supplementary LCM has been lodged.
29. A draft motion to suspend Rule 9B.3.5 of Standing Orders, which would allow a motion on legislative consent to go directly to the Chamber without being considered or reported on by the lead committee, is set out below.
30. As the relevant provision covered in the supplementary LCM does not confer any powers on the Scottish Ministers to make subordinate legislation, Rule 9B.3.6 is not engaged, so therefore does not require to be suspended.

Recommendation

31. The Bureau is invited to consider recommending to the Parliament by motion that Rule 9B.3.5 of Standing Orders be suspended for the purposes of consideration of the supplementary LCM on the Border Security, Asylum and Immigration Bill.
32. A draft Bureau motion is provided below:

That the Parliament agrees that, for the purposes of consideration of the supplementary legislative consent memorandum on the Border Security, Asylum and Immigration Bill, Rule 9B.3.5 of Standing Orders is suspended.

Parliamentary Business Team
November 2025