

Finance and Public Administration Committee
Wednesday 7 October 2026
8th Meeting, 2026 (Session 7)

Supplementary Legislative Consent Memorandum (No.2) on the Public Office (Accountability) Bill (UK Parliament legislation)

Introduction

1. At today's meeting, the Committee will take evidence from the Cabinet Secretary for Finance and Local Government on the 2nd Supplementary Legislative Consent Memorandum in relation to the UK Public Office (Accountability) Bill.
2. Following the evidence session, the Committee will be invited to indicate whether to recommend that the Scottish Parliament agrees to give the legislative consent sought in the 2nd Supplementary LCM.
3. The 2nd Supplementary LCM was lodged by the Cabinet Secretary on 28 July 2026. It considers the amendments to the Bill which were tabled by the UK Government on 13 July 2026.

The UK Public Office (Accountability) Bill

4. The Bill was introduced in the House of Commons on 16 September 2025. On 27 April 2026, the House of Commons passed a 'carryover motion' to allow the Bill to be re-introduced in the House of Commons on 14 May 2026. Report Stage took place in the Commons on 14 July 2026.
5. The Bill, containing five Parts, would create a statutory "duty of candour of assistance" (a legal obligation to act transparently) for public authorities and officials when engaging with inquiries, inquests and similar investigations. It would create new criminal offences including failure to uphold this duty of candour and assistance and misleading the public. It also includes provisions relating to ethical standards and parity of representation.
6. The Bill and associated documents can be viewed on the UK Parliament's [website](#).
7. The Scottish Parliament's [Public Office \(Accountability\) Bill](#) webpage from Session 6 includes both the initial memorandum and the 1st supplementary memorandum lodged on the Bill.

The 2nd Supplementary Legislative Consent Memorandum

8. The 2nd Supplementary LCM recommends that the Scottish Parliament consents to all relevant clauses of the Bill within Parts 1-5. The Scottish Government explains that—

"The Scottish Ministers are supportive of the commendable aims of this Bill and believe it will significantly contribute to improving accountability and full

evidence disclosure at relevant inquiries and investigations. The Bill will strengthen accountability across public authorities in Scotland, promoting greater transparency, candour and fairness.”

9. The draft motion on legislative consent included in this LCM is as follows—

“That the Parliament, noting that the Public Office (Accountability) Bill, re-introduced in the House of Commons on 14 May 2026 makes provision that falls with the legislative competence of the Parliament and alters the executive competence of the Scottish Ministers, agrees to give consent to such provision as is made by Parts 1 to 5 of the Bill.”

10. The 2nd Supplementary LCM is replicated in full at **Annexe A**.

11. An overview of the legislative consent procedure is set out in **Annexe B**.

Lead committee scrutiny

12. The Finance and Public Administration Committee has been designated the lead committee for considering the 2nd Supplementary LCM.

13. At its meeting on 30 September 2026, the Committee took evidence from John Sturrock KC and Public Services Delivery Scotland on the ‘duty of candour’ provisions in the Bill, which the Scottish Government proposes should apply to Scotland. These witnesses had previously contributed to the Session 6 Committee’s scrutiny of the [Cost-effectiveness of Scottish public inquiries](#).

14. The Committee heard broad support for the aims of the Bill and the proposed duty of candour of assistance, with witnesses viewing the legislation as an opportunity to promote greater openness, transparency and accountability across public services. Witnesses considered that the Bill could help shift organisational cultures away from fear, protectionism, and defensiveness, encouraging earlier disclosure of information, improved record-keeping and a more proactive approach to addressing issues before they escalate to public inquiries.

15. However, the Committee also heard that legislation alone cannot deliver culture change and that its effectiveness will depend on leadership, implementation and accompanying guidance. Witnesses highlighted the importance of creating psychologically safe environments in which individuals feel able to speak up without fear of consequences, alongside clear expectations for public bodies, officials and contractors. The Committee also heard that the Bill could strengthen the powers of public inquiry chairs, encourage more candid participation, improve the timeliness of evidence disclosure and potentially reduce the length and cost of inquiries.

16. More generally, witnesses argued that a culture of openness and learning would better meet the needs of those affected by public service failings, who often seek acknowledgement, apology, reassurance and evidence of reform. While recognising that major public inquiries will continue to be necessary in some circumstances, witnesses suggested that successful implementation of the legislation could improve public trust, support organisational learning and, over time, reduce the need for inquiries by addressing issues more transparently and effectively at an earlier stage.

17. The Committee is expected to report on the 2nd Supplementary LCM before Report

Stage in the House of Lords, which is anticipated to take place in late October or November 2026.

DPLR Committee scrutiny

18. The Delegated Powers and Law Reform Committee (the DPLR Committee) [reported on the 2nd Supplementary LCM on 30 September 2026](#). In its report, the DPLR Committee states that it is “content with the powers in principle”. However, it draws the lead committee’s attention to the following recommendations—

- **Clause 11: Guidance**

The DPLR Committee notes that discussions between the Scottish and UK Governments are ongoing regarding how the Secretary of State’s guidance-making power will operate in devolved areas and how Scottish Ministers’ consent will be obtained. The DPLR Committee invites the lead committee to seek an update on these discussions and asks that any Scottish Government response be copied to the lead committee.

- **Clause 16: Holders of public office**

The DPLR Committee indicates that it is not content that the Secretary of State can exercise the power within devolved competence to amend the list of office holders subject to the new misconduct-in-public-office offences. It considers that neither the UK Government nor the Scottish Government adequately explained why this power should be exercisable by the Secretary of State rather than Scottish Ministers alone. The DPLR Committee invites the lead committee to pursue these points.

Next steps

19. The Committee is expected to report to Parliament on the LCM before 30 October 2026, setting out its recommendations on the motion.

Clerks to the Committee
October 2026

Supplementary Legislative Consent Memorandum

Public Office (Accountability) Bill

Background

1. This further supplementary Legislative Consent Memorandum ('the third LCM') has been lodged by Jenny Gilruth MSP, Deputy First Minister and Cabinet Secretary for Finance and Local Government, in accordance with Rule 9B.3.1(c) of the Parliament's standing orders covering amendments tabled at Report Stage on 13 July 2026 to the Public Office (Accountability) Bill ('the Bill').
2. The Bill was first introduced by the UK Government in the House of Commons on 16 September 2025. On 27 April 2026, the House of Commons passed a carry-over motion for the Bill and, accordingly, it was re-introduced in the House of Commons on 14 May 2026. Report Stage took place in the House of Commons on 14 July 2026. The Bill is available on the UK Parliament website via this link: [Public Office \(Accountability\) Bill - Parliamentary Bills - UK Parliament](#).
3. The Scottish Government lodged a [Legislative Consent Memorandum](#) (LCM-S6-66, 'the first LCM') on 31 October 2025, which covered the provisions regarding a duty of candour and assistance and standards of ethical conduct (Part 1, chapters 1 and 2 of Part 2). The first LCM recommended withholding consent to these provisions until amendments were secured to ensure the legislation would work in Scotland.
4. A [supplementary Legislative Consent Memorandum](#) (LCM-S6-66a, 'the second LCM') was lodged on 4 February 2026 which considered amendments to the Bill which were tabled on 12 January 2026. Due to the Bill being postponed to resolve ongoing issues concerning the application of the duty of candour and assistance provisions to security services, no recommendation on legislative consent was included in the second LCM.
5. This supplementary LCM considers the additional amendments which were tabled by the UK Government on 13 July 2026.

Content of the Bill

6. The Bill makes provision for a variety of measures relating to public authorities and public officials across the UK, with the aim of rebuilding public trust and ensuring

past injustices experienced by bereaved families in the aftermath of the Hillsborough disaster are not repeated. Part 1 and Chapters 1 and 2 of Part 2 of the Bill introduce a duty of candour and assistance, alongside minimum standards for ethical conduct. These provisions are intended to assist in eliminating divisiveness between public authorities, public officials and the general public through the creation of transparency and accountability.

7. Chapter 3 of Part 2 of the Bill introduces a new offence of 'misleading the public'. Following amendments tabled in January 2026 and agreed at Report stage, this offence will also extend to Scotland and seeks to capture the most serious instances of public authorities and public officials misleading the public.

8. Part 3 of the Bill creates two statutory offences of misconduct in public office. Clause 12 is an offence of seriously improper acts; clause 13 is an offence of breach of duty to prevent death or serious injury. Following amendments tabled in January 2026, and agreed at Report stage, these offences will also extend to Scotland.

9. Part 4 of the Bill includes provisions on parity of arms and legal aid. The parity of arms provisions apply in relation to inquiries for which UK Ministers are responsible and introduce measures such as requiring public authorities to have regard to guidance about conduct and behaviour at inquiries and to only engage legal representation insofar as is necessary and proportionate.

10. In terms of legal aid, Part 4 of Schedule 6 amends three pieces of English and Welsh legislation in order to expand non-means-tested legal aid to bereaved family members in relation to coroner's inquests where a public authority is an interested person. In relation to Scotland, amendments were tabled in January 2026, and agreed at Report stage, to amend the [Legal Aid \(Scotland\) Act 1986](#) to enable the legal aid provision in Scotland for Fatal Accident Inquiries to be aligned with that in England and Wales for coroner's inquests.

11. Part 5 contains miscellaneous and final provisions for the Bill, including a general interpretation section.

Provisions which require the consent of the Scottish Parliament

12. In accordance with Rule 9B.3.1(c) of the Parliament's Standing Orders, many of the provisions tabled for amendment into the Bill at Report Stage apply to Scotland for a purpose within the legislative competence of the Scottish Parliament and in some cases alter the executive competence of the Scottish Parliament and, accordingly, they trigger the legislative consent process. As noted above, some of the amendments tabled at Report Stage have already been considered and analysed in the second LCM, so they are not repeated here. This supplementary LCM considers (i) the [additional amendments](#) set out below, which were tabled by the UK Government (and have subsequently been agreed by Parliament) on 13 July

2026 and (ii) the Scottish Ministers' position on consent for the Bill as a whole.

13. The amendments under discussion in this LCM below all make amendments to the duty of candour and assistance as provided for by Part 2 of the Bill. As reflected in earlier LCMs, 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. The UK Government has acknowledged that legislative consent is required in relation to provisions in Part 2 of the Bill.

14. More detail as to the content of these provisions is set out below in relation to each respective area.

Part 2, Chapter 1: Inquiries and investigations (including Part 5 and Schedule 1)

Proactive notification - amendments 151 and 152

15. There are two stages to the duty of candour and assistance. The first stage requires public officials and public authorities to proactively notify the lead of any inquiry/investigation if they consider their acts may be relevant or that they may have relevant information. The second 'reactive' stage requires them to provide information and assistance as set out by the inquiry or investigation in what is called a compliance direction.

16. Amendments 151 and 152 relate to the first stage and clarify that, in relation to this duty, a public authority or public official must notify the lead of an inquiry/investigation where the authority or official has grounds to believe that they have information that **is** relevant to the inquiry/investigation (not just that it is likely to be relevant).

17. As reflected in paragraph 13, these amendments require legislative consent. The Scottish Government does not have concerns about these proposed amendments to the duty to notify under the duty of candour and assistance.

Compliance directions - amendments 171, 177, 190

18. These amendments relate to the content of compliance directions which are to be issued by the lead of an inquiry/investigation and require that such a direction is to include a description of matters or issues to be covered when complying with the direction. As noted in the [first LCM](#), in Scotland, the duty of candour and assistance will apply in relation statutory inquiries under the [Inquiries Act 2005](#), certain non-statutory inquiries established by Ministers and Fatal Accident Inquiries and these amendments cover all of these settings. Corresponding amendments are

also made in relation to Local Authority inquiries (in England) and Coroners Investigations in England and Wales and NI.

19. As reflected in paragraph 13, these amendments require legislative consent. The Scottish Government does not have concerns about these proposed amendments to the content of compliance directions.

Discretion for inquiry/investigation leads - Amendments 169, 170, 175, 176, 188, 189

20. **Amendment 170**, together with **amendment 169**, amend new section 23A, which is due to be inserted into the [Inquiries Act 2005](#). These amendments clarify that the duty on a chair to give a compliance direction applies only if the chair of the inquiry considers that compliance with the direction will help the inquiry meet its objectives. The amendment introduces discretion in terms of issuing compliance directions to **individuals**; it does not offer the same flexibility for public authorities (where the Bill will still require Chairs to issue compliance directions to public authorities if they believe their acts are relevant or they otherwise may hold relevant information).

21. **Amendments 175 and 176** make similar amendments in relation to non-statutory inquiries.

22. Comparable provision is provided in relation to Fatal Accident Inquiries by **amendments 188 and 189**. Both of these amendments clarify that the duty to give a compliance direction to an individual applies only if the procurator fiscal considers that compliance with the direction will help the inquiry meet its objectives.

23. As reflected in paragraph 13, these amendments require legislative consent. The Scottish Government does not have concerns about these proposed amendments to the duty on the lead of an inquiry to give a compliance direction, although note paragraph 32 below regarding ongoing engagement on the impact to live inquiries.

Security and intelligence information – amendments 154, 155, 156, 157, 158, 159, 160, 161, 162 163, 164, 165, 166 167, 168, 172, 173, 174, 178, 183, 185, 187, 191, 192, 193, 195, 196, 197, 198

24. These amendments revise how the duty of candour and assistance applies to security and intelligence-related information. Notably, they remove the previous exemption from the proactive duty to notify an inquiry where notification could reveal national security information. They replace references to the intelligence services with a broader category of "relevant public authorities", including an intelligence service, Defence Intelligence, the National Crime Agency ("NCA") and police forces exercising counter-terrorism or national security functions. Clause 6, as amended by these amendments, provides that the proactive duty to notify does not apply to

persons who work for a relevant public authority (other than the head of such an authority) or to any public official, or any public authority where compliance with the obligation would result in the provision of protected information. "Protected information" is defined as information (a) relating to security or intelligence within the meaning of section 1(9) of the Official Secrets Act 1989; (b) relating to defence produced or held by Defence Intelligence; (c) relating to the exercise by the NCA of its criminal intelligence function; (d) relating to the exercise by a police force of its counter-terrorism and other national security functions.

25. The amendments insert new subsections (2A) to (2J) to the effect that where another public authority holds protected information originating from a relevant public authority, it must notify the relevant authority rather than the inquiry directly, allowing the relevant authority to manage any national security sensitivities.

26. The amendments also introduce a series of safeguards governing the handling, disclosure and protection of sensitive information, including procedures for disclosure restrictions, the transfer of information through agency heads, and the suspension of inquiries in certain circumstances pending consideration under the [Inquiries Act 2005](#). They further allow compliance directions to be issued to current and former employees of relevant public authorities, with protected information to be routed through the head of the authority and subject to consultation and existing national security protections. Consequential amendments update terminology throughout the Bill, define key terms such as "relevant public authority", "head" and "protected information", and ensure the revised arrangements apply consistently across statutory inquiries, non-statutory inquiries, Fatal Accident Inquiries, coronial investigations and related proceedings.

27. As reflected in the updated Explanatory Notes for the Bill, the Scottish Government understands that the UK Government agrees that clause 6, as amended, requires legislative consent insofar as it relates to the NCA given its functions concerning the investigation of serious and organised crime. The amendments make provision to protect information relating to the NCA's "criminal intelligence function". This is defined in section 1(5) of the [Crime and Courts Act 2013](#) as the gathering, storing, processing, analysing and disseminating information that is relevant to activities to combat organised, serious or other crime and exploitation proceeds investigations. Scottish criminal law, including the investigation and detection of crime and serious crime, are not reserved. The Scottish Government agrees that the amendments trigger the requirement for an LCM insofar as they make provision for matters within the legislative competence of the Scottish Parliament, namely the investigation of serious and organised crime.

28. In addition, **amendment 157** which inserts new subsections (2A) to (2J) confers obligations on "public authorities" which are defined in schedule 2 as including Scottish Ministers. It requires such authorities to take certain actions where it is in possession of protected information and would, but for clause 6, be required to disclose that information. The amendments also confer obligations on Scottish Ministers as a public authority and by providing a role in relation to the suspension of

inquiries. The amendments therefore alter the executive competence of Scottish Ministers.

29. The Scottish Government continues to consider the detail and has been engaging with Police Scotland on these amendments. There are no fundamental concerns in principle with the overall policy objective of the amendments although there are some question marks around whether the provision will work in practice in the Scottish context which are under consideration.

Reasons for recommending legislative consent

30. The Scottish Ministers are supportive of the commendable aims of this Bill and believe it will significantly contribute to improving accountability and full evidence disclosure at relevant inquiries and investigations. The Bill will strengthen accountability across public authorities in Scotland, promoting greater transparency, candour and fairness. In addition to the duty of candour and assistance and provisions about standards of ethical conduct (Parts 1 and 2, chapters 1 and 2), since the Bill has been introduced, further aspects have been extended to Scotland: the statutory offence of misleading the public (Part 2, chapter 3) and two new statutory offences in relation to misconduct in public office (Part 3). The Bill has also been amended to amend the [Legal Aid \(Scotland\) Act 1986](#) (Part 4) to the effect that Scottish Ministers may make regulations to modify the 1986 Act to enable the legal aid provision in Scotland for FAIs in terms of financial eligibility to be aligned with that in England and Wales for coroner's inquests.

31. There has, and continues to be, ongoing collaborative engagement with the UK, Welsh and Northern Irish Governments on a four nations approach to the Bill. The UK Government has been receptive to and has taken forward a number of amendments throughout the Bill's passage in the House of Commons to ensure the various provisions in the Bill can operate effectively within the Scottish context. The Scottish Ministers recognise there is merit in having consistency and coherence across the UK in this area, which also reflects the approach taken in the [Inquiries Act 2005](#), which is UK-wide legislation.

32. This overall support for the aims of the Bill underpins our recommendation that consent be given. However, this recommendation is made in the context of acknowledging that we will continue to engage with the UK Government in relation to some points of detail, including the intended operation of the provisions as these relate to live statutory public inquiries. This is to ensure that these provisions will in practice support both the overall aim of the Bill and the vital work that public inquiries are undertaking.

33. The Scottish Government recognises that there is a strong public and parliamentary interest in the integrity and openness of public servants and Ministers. The [Infected Blood Inquiry Report](#), published in May 2024, criticised governments across the UK for failings over the previous five decades and made several recommendations aimed at ending "a defensive culture in the Civil Service and government", including the introduction of a statutory duty of accountability and candour for senior civil servants.

34. The Scottish Government fully agrees with the principles of this Bill, including the importance of learning from past mistakes, and recommends that the Parliament therefore consents to the relevant provisions in the Bill.

Financial implications

35. There are no financial implications that arise directly from these provisions. There may, however, be financial implications that arise from the exercise of the provisions. The UK Government has provided impact assessments for some of the provisions in the Bill, including that, in the first instance, the Bill's code of ethics provisions apply only to public sector bodies, so impose no cost on businesses. However, there is limited evidence provided on any further financial implications.

Other relevant considerations

36. For the moment, all relevant amendments have been considered. If, however, further amendments are tabled as the Bill progresses, another supplementary LCM will be provided where these trigger the requirement for legislative consent.

Post EU scrutiny

37. No assimilated law has been identified which would be impacted by the Bill.

Conclusion

38. The Scottish Ministers are supportive of the aims of this Bill and believe it will significantly contribute to improving accountability and full evidence disclosure at relevant inquiries and investigations. The Scottish Government therefore recommends that the Scottish Parliament consent to all relevant clauses of the Bill within Parts 1-5.

Draft motion on legislative consent

39. The draft motion, which will be lodged by the Deputy First Minister and Cabinet Secretary for Finance and Local Government, is:

“That the Parliament, noting that the Public Office (Accountability) Bill, re-introduced in the House of Commons on 14 May 2026 makes provision that falls with the legislative competence of the Parliament and alters the executive competence of the Scottish Ministers, agrees to give consent to such provision as is made by Parts 1 to 5 of the Bill.”

Scottish Government July
2026

Legislative consent procedure

1. Under the Sewel Convention, the UK Parliament does not normally legislate on devolved matters, or to alter the legislative competence of the Parliament or the executive competence of the Scottish Government, without the consent of the Scottish Parliament. Consent is given by means of a resolution of the Scottish Parliament.
2. Under Chapter 9B of the Standing Orders, the Scottish Government must lodge a legislative consent memorandum (LCM) in relation to each UK Parliament Bill that contains provision (“relevant provision”) that would require the Parliament’s consent under the Convention. Sometimes the Scottish Government may be required to lodge one or more supplementary LCMs during the passage of a Bill. It is also possible for an LCM to be lodged by an individual MSP.
3. Every LCM lodged is referred to a lead committee for scrutiny and may also be referred to other committees. If the Bill confers power on the Scottish Ministers to make subordinate legislation, the Delegated Powers and Law Reform Committee (DPLRC) must also consider the LCM and may report on it to the lead committee.
4. Once the lead committee has reported, the Scottish Government normally lodges a motion on legislative consent for consideration in the Chamber. Such a motion may give consent to relevant provision in the Bill, refuse consent to such provision, or a mixture of the two. A draft of the motion is normally included in the LCM.