



**King's Speech**  
**Justice and Home Affairs**  
**Briefing**  
**July 2024**

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## Introduction

1. JUSTICE is a cross-party law reform and human rights organisation working to strengthen the justice system. It is the UK section of the International Commission of Jurists. Our vision is of fair, accessible and efficient legal processes in which the individual's rights are protected and which reflect the country's international reputation for upholding and promoting the rule of law.
2. This briefing sets out JUSTICE's views on the following proposals as set out in the King's Speech, as well as our suggestions for further areas for government consideration:
  - a) Border Security, Asylum and Immigration Bill;
  - b) Crime and Policing Bill;
  - c) Victims, Courts and Public Protection Bill;
  - d) Renters' Rights Bill;
  - e) Draft Equality (Race and Disability) Bill;
  - f) Hillsborough Law; and
  - g) Northern Ireland Legacy Legislation.
3. If you would like more detail on JUSTICE's position on any of these Bills, as well as our work more broadly, please do not hesitate to get in touch with a member of our team.

## Secure Borders, Cracking Down on Anti-Social Behaviour and Take Back Our Streets

### Border Security, Asylum and Immigration Bill

#### The Rwanda scheme

4. We welcome the Government's commitment to scrap the Migration and Economic Development Partnership with Rwanda; a scheme which has substantial implications for the UK's asylum system, and its commitment to the rule of law, including compliance with its international legal obligations.
5. However, there is no mention of what the Government plans to do with the two pieces of legislation passed to give effect to the Rwanda Scheme – the Illegal Migration Act 2023, which remains largely un-commenced, and the Safety of Rwanda (Asylum and Immigration) Act 2024. We are concerned that these deeply concerning pieces of legislation that are fundamentally contrary to the domestic and international rule of law remain on the statute books with the possibility of any future Government recommencing the Rwanda or a similar scheme (with a different country/ countries) with the use of secondary legislation. **The government should use this Bill as an opportunity to**

## **repeal the Safety of Rwanda (Asylum and Immigration) Act 2024 and the Illegal Migration Act 2023.**

### Fast track procedures

6. The Government intends to reform the asylum system by “*making it more efficient and effective to ensure the rules are properly enforced*”, including measures aimed at ensuring fast-track returns for individuals coming from safe countries.
7. JUSTICE supports efficiency in the immigration and asylum system, however, speeding up processes is a false economy if poor decision-making and unfair processes proliferate as a result.
8. A previous fast track scheme for dealing with immigration appeals was found to be unlawful because it created a system in which asylum and human rights appeals were disposed of too quickly to be fair.<sup>1</sup> Hundreds, if not thousands, of cases have had to be reconsidered by the Home Office and/or the Tribunal because they were unfairly rushed through that process including survivors of trafficking and torture. The Nationality and Borders Act 2022 recreates this scheme under the Accelerated Detained Appeals procedure.<sup>2</sup> This scheme has not yet been commenced. We hope the Government does not plan on using this unfair and unjust procedure, and call on them to think carefully about the use of other fast track procedures. Instead, **JUSTICE urges initiatives to focus on improving Home Office decision making (asylum, appeal success rates remain around 50 per cent), and supporting the legal aid sector to provide sustainable and quality legal advice.**

## **Crime and Policing Bill**

### Policing

9. The Government has committed to rebuild neighbourhood policing and deliver higher policing standards, including introducing higher mandatory national vetting standards across policing. In its manifesto it also pledged more robust training on racism and violence against women and girls.<sup>3</sup>
10. JUSTICE welcomes these commitments but urges the government to take further steps to improve relations between the police and public, particularly Black and racialised communities. Institutional racism within the police identified by the Macpherson report

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<sup>1</sup> Lord Chancellor v Detention Action [2015] EWCA Civ 840.

<sup>2</sup> Nationality and Borders Act 2022, s.27.

<sup>3</sup> <https://labour.org.uk/change/take-back-our-streets/>

in 1999 persists, as confirmed by subsequent reviews and inquiries, most recently the Casey Review and Black and racialised individuals face disproportionate involvement in the criminal justice system due to discriminatory policing practices. Black people and those experiencing mental health issues are also disproportionately likely to have force used against them by the police.<sup>4</sup> Black people are 6 times more likely to die than white people following police use of force.<sup>5</sup>

11. Stop and search is one of the principal contributors to the fractious relationship between police and Black and racialised communities. Government data shows that in the year ending March 2023, there were 24.5 stop and searches for every 1,000 black people, compared to 5.9 for every 1,000 white people.<sup>6</sup> In addition to the measures set out in the King's Speech we therefore call on the Government to:

- a) Suspend the use of section 60<sup>7</sup> suspicion less stop and search powers and conduct an independent evaluation of their impact and effectiveness. In the year ending March 2023, black people were significantly overrepresented amongst those stopped and searched under this power, making up 19.6% of the total.<sup>8</sup>
- b) Review the use of force, especially tasers on Black and racialised people; particularly children and those with mental health difficulties.

### Antisocial behaviour

12. JUSTICE recognises the need to reduce antisocial behaviour and ensure that all individuals feel safe at home within their communities. However, our 2023 report on the use of civil behavioural control orders,<sup>9</sup> identified serious problems with the way that existing orders under the 2014 Antisocial Behaviour Crime and Policing Act (the "**2014 Act**"), are currently utilised. **Based on these findings, we oppose the government's**

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<sup>4</sup> JUSTICE, Consultation Response: Review of investigatory arrangements which follow police use of force and police driving related incidents. Paras. 14 -17; For the most up to date statistics on use of force against Black people see [Home Office, Police Use of Force Statistics: April 2022 to March 2023](#) (Nov 2023).

<sup>5</sup> JUSTICE and INQUEST, [Achieving Racial Justice at Inquests: A Practitioner's Guide](#) (2024), p. 16 and Data Annex 2.

<sup>6</sup> Stop and Search, Ethnicity facts and figures, 3 July 2024, available [here](#)

<sup>7</sup> Criminal Justice and Public Order Act 1994.

<sup>8</sup> n. 6

<sup>9</sup> The Report, which was produced in consultation with members of the police, local authority enforcement officers, legal professionals and trainers, explored the function and effectiveness of several orders including Community Protection Notices, Dispersal Powers, Public Spaces Protection Orders and Knife Crime Prevention Orders. See, JUSTICE, '[Lowering the Standard: a review of Behavioural Control Orders](#)', (2023).

**plans to expand Public Spaces Protections Orders (“PSPOs”) and introduce “Respect Orders”, on the following grounds:**

- a) **The extension of civil orders and creation of “Respect Orders” is unnecessary and will impose greater burdens on under-resourced local authorities.** The 2014 Act currently provides for a range of extremely broad, overlapping powers. The different statutory tests, processes for enforcement and appeal routes have caused challenges for enforcement bodies and led to postcode lotteries for victims across England and Wales. Far from requiring more powers, enforcement bodies we spoke to wanted less. Enforcement bodies already struggle to deliver adequate training, monitor compliance and provide services to satisfy the positive requirements contained within existing orders.
- b) **The creation of fast-track PSPOs and “Respect Orders” which impose exclusion zones will worsen outcomes for victims of anti-social behaviour including those experiencing homelessness.** Orders under the 2014 Act are disproportionately enforced against those experiencing homelessness despite such individuals being more likely to be victims of antisocial behaviour than perpetrators of it.<sup>10</sup> Pushing individuals to less visible parts of the city via exclusion zones will increase their risk of harm, particularly for women.
- c) **Those experiencing mental ill-health and intellectual disabilities, as well as children, are disproportionately impacted by civil tools under the 2014 Act.** We agree with experts, including the Youth Justice Board, that coercion tactics do not work on children and criminalising them will only increase the likelihood of re-offending and draw them further into the criminal justice system.<sup>11</sup> Furthermore, rather than criminalising individuals experiencing substance use-disorders or mental ill-health, wrap-around support and investment in early access to mental health services and public health services should be the priority.

13. We urge the Government instead to review the existing antisocial behaviour order regime under the 2014 Act, streamline existing orders, introduce robust monitoring and data collection requirements and provide investment for training. It must also mandate multi-agency partnerships between the police, local authorities, youth justice experts, local community groups and civil society organisations to ensure that orders are only imposed in circumstances which merit them and where they have a realistic prospect of creating meaningful change without causing further harm to vulnerable persons.<sup>12</sup>

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<sup>10</sup> Over a twelve-month period, 77% of those experiencing street homelessness had been victims of some form of violence or anti-social behaviour, and three in ten had reported being deliberately hit or kicked. This includes physical and verbal abuse by enforcement officers imposing civil orders.

<sup>11</sup> JUSTICE, ‘[Lowering the Standard: a review of Behavioural Control Orders](#)’, (2023), para 3.107.

<sup>12</sup> *Ibid.*, para 4.36.

## Retail crime

14. The Government plan to create a new specific offence of assaulting a shopworker. This is unnecessary and risks overcomplication of the legal framework and charging process. There are already ample offences in existence which criminalise assaults on shopworkers.
15. Where an assault offence has been committed against those who provide a public service, perform a public duty, or provide a service to the public, this was recently made an aggravating factor in the Police, Crime, Sentencing and Courts Act 2022.<sup>13</sup> Those providing goods or facilities to the public are explicitly covered by this provision.
16. It is not clear whether the new offence would be summary only (which is tried in the Magistrates' Courts) or either way (where the defendant has a right to opt for a jury trial in the Crown Court), but if it is the latter this will only serve to put additional pressure on an already severely overstretched Crown Court.<sup>14</sup> This will mean further delays for complainants in cases concerning serious sexual offending and domestic abuse. More than 180 rape complainants in England and Wales (including child complainants) have now faced more than two years of delay since their case first went to court.<sup>15</sup>

## Knife crime

17. JUSTICE welcomes an approach which aims to prevent young people being drawn into knife crime, protect children from exploitation and support at-risk teenagers. However, we urge the Government to go further in providing opportunities to help children move away from crime by:
  - a) Ensuring that equal access to diversion is available for all children. Diversion offers children involved in less serious offending an alternative to contact with the formal youth justice system. There is strong and widely accepted research to suggest that diversion is highly effective in preventing reoffending.<sup>16</sup> However, there is evidence that children with special education needs and disabilities ("**SEND**") (who make up

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<sup>13</sup> Police, Crime, Sentencing and Courts Act 2022, s.156.

<sup>14</sup> By the end of 2023, the Crown Court backlog was the highest ever on record. National Audit Office, *Reducing the Backlog in the Crown Court*, Session 2023-24, HC 728, 24 May 2024, available [here](#)

<sup>15</sup> Guardian, *'Years of delays to rape trials a 'significant injustice', says judge'*, 6 March 2024, available [here](#)

<sup>16</sup> See e.g. Youth Justice Board for England and Wales, *'How to use out-of-court disposals'*, updated January 2024, available [here](#); HM Inspectorate of Probation, *'The evidence base - youth justice services'*, updated 19 July 2024, available [here](#); Centre for Justice Innovation, *'Valuing youth diversion: A toolkit for practitioners'*, March 2024, available [here](#)

70-90% of children in the justice system<sup>17</sup>) do not receive equal access to diversion.<sup>18</sup> JUSTICE supports the recommendations made by the Centre for Justice Innovation, including training police to identify and meet the needs of children with SEND.<sup>19</sup>

- b) Treat the possession of a knife by a child as a safeguarding concern, rather than indicator of potential violence. Children commonly identify fear of being attacked, rather than intention to carry out an attack, as their reason for carrying knives. The starting point should be to consider whether a child is carrying a knife because they are vulnerable and/or being exploited. A multi-agency safeguarding response, including social care and education, as opposed to a criminal response could help to protect children from becoming more vulnerable to exploitation and offending.<sup>20</sup>
  
- c) Abandoning the previous government's proposals to introduce Knife Crime Prevention Orders ("KCPOs"). Far from being "rehabilitative", KCPOs risk drawing children further into the criminal justice system and break down positive relationships of trust between young people, the police and the community. There are also strong concerns that they are disproportionately affecting Black young boys and men.<sup>21</sup> We echo calls from youth justice experts to ensure that KCPOs are not continued following the pilot phase which took place last year.

#### Violence against women and girls

18. JUSTICE welcomes a strengthening of the police response to violence against women and girls. However, we urge the Government to take a holistic response to this issue which includes measures aimed at prevention, risk management of offenders and rehabilitation.

19. There has been a significant increase in the number of sexual offences cases being prosecuted and it is clear we cannot arrest our way out of the problem. Between January 2021 and January 2024, there was an increase in adult rape flagged charges of 163%.<sup>22</sup> In 2022, 85% of cases initially marked as rape-flagged prosecutions had at least one rape

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<sup>17</sup> Centre for Justice Innovation, 'How is youth diversion working for children with special educational needs and disabilities?', March 2024, page 4, available [here](#)

<sup>18</sup> Ibid.

<sup>19</sup> Ibid., page 6

<sup>20</sup> Ibid., paragraph 2.37.

<sup>21</sup> JUSTICE, [Lowering the Standard: a review of Behavioural Control Orders in England and Wales](#), para 3.34.

<sup>22</sup> Crown Prosecution Service, 'Q2 CPS data shows a continued increase in the number of suspects charged in rape-flagged cases', 18 January 2024, available [here](#)

offence charged and a further 12% were charged as a serious sexual offence.<sup>23</sup> JUSTICE's report<sup>24</sup> highlighted the need to change the behaviour that leads an individual to become a perpetrator of a sexual crime, including through better education on issues such as consent, appropriate sexual behaviour and healthy relationships.<sup>25</sup>

20. In addition, we urge the government to ensure that measures designed to tackle violence against women and girls take into account the specific experiences and intersectional harms suffered by Black and racialised women. To do this, the government needs to take steps to address the lack of data pertaining to this demographic, and their contact with the criminal justice system. Without this information, it is impossible to effectively respond to the complex gender and age specific needs of this group in a way that is trauma-informed and culturally competent.
21. Finally, we urge the government to work closely with victims, legal professionals and the police to ensure that civil orders such as Stalking Protection Orders and Domestic Abuse Protection Orders are effective.<sup>26</sup> In particular, the government must invest in specialised, role-specific training across all police forces so that opportunities to impose orders are not missed; that the conditions imposed within the orders are tailored to the needs of the victim and that compliance with orders is robustly monitored. We call for the establishment of accredited leads for both Stalking and Domestic Abuse within every force and the requirement for comprehensive multi-agency protocols to be put in place setting out support services for victims and quality assured rehabilitative programmes for perpetrators.

## **Victims, Courts and Public Protection Bill**

### Support for victims

22. JUSTICE welcomes measures to provide additional support for victims and strengthen the ability of the Victims' Commissioner to hold the criminal justice system to account. We await the detail of these measures with interest.
23. We urge the government to extend the relevant entitlements afforded to victims of crime by the Victims Code, to bereaved people and survivors in inquests and inquiries. These people will have suffered serious harm, often at the hands of the State or corporate bodies. However, they do not receive the same recognition from Government as victims of crime and so are not entitled to the same minimum level of support and services. Instead, they

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<sup>23</sup> Ibid.

<sup>24</sup> JUSTICE, '[Prosecuting Sexual Offences](#)', (2019).

<sup>25</sup> Ibid., paragraphs 2.22 and 2.24

<sup>26</sup> We understand that Domestic Abuse Protection Orders were due to be piloted this year.



are often expected to navigate complex legal processes with little recognition of the harm they have suffered or the trauma they have faced. It is our view that introducing a code for bereaved people and survivors would go some way to mitigating this. This code should be governed by the same principles underpinning the Victims Code for victims of crime, and should have the same weight and legal status.

#### Requirement for offenders to attend their sentencing hearings

24. A statutory power to require defendants to attend their sentencing hearings is at best unnecessary and at worst, when backed by force, dangerous. Courts already have the power to direct a defendant's attendance and failure to do so may well amount to a contempt of court.<sup>27</sup> Requiring the use of force to secure a defendant's attendance at court places both prisoners and custody officers at risk.
25. Moreover, established data on disproportionality in the use of force indicates that offenders from racialised minorities<sup>28</sup> are at greater risk of being subject to excessive force. It is arguably more important to provide victims and families with greater support outside the criminal justice process than to expect that they will achieve closure via sentencing, particularly if the offender does not wish to be present and chooses to express this at court in a disruptive manner.

#### Associate Prosecutors

26. Whilst the delays in the court system must be reduced as a matter of priority, it is imperative that efficiency is not pursued at the expense of the broader requirements of justice.<sup>29</sup> Associate Prosecutors (or designated non-legal CPS employees) already have the powers and rights of audience of a Crown Prosecutor in relation to proceedings including bail applications and the conduct of proceedings in the magistrates' court and youth court relating to non-imprisonable summary-only offences.<sup>30</sup>
27. JUSTICE has concerns about expanding the range of matters of which Associate Prosecutors can have conduct. In the vast majority of cases, it is crucial that criminal proceedings are prosecuted by qualified lawyers who have undergone training in the

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<sup>27</sup> See e.g. Santiago [2005] EWCA Crim 556; Collins [2016] EWCA Crim 682.

<sup>28</sup> See e.g. HMPPS, [Equality Analysis: Use of Force \(2019\)](#); HM Chief Inspector of Prisons, [Thematic Review: The Experience of Adult Black Male Prisoners and Black Prison Staff \(2022\)](#), Section 4.

<sup>29</sup> Paragraph 1.1 of the Criminal Procedure Rules set out the overriding objective, which is that criminal cases be dealt with justly. Whilst this includes dealing with the case efficiently and expeditiously, that is one of a range of factors which apply, including: acquitting the innocent and convicting the guilty; recognising the rights of a defendant, particularly those under Article 6 of the European Convention on Human Rights; respecting the interests of witnesses, victims and jurors and keeping them informed of the progress of the case; and dealing with cases in ways that take into account the gravity of the offence alleged, the complexity of what is in issue, and the severity of the consequences for the defendant and others affected.

<sup>30</sup> Under section 7A of the Prosecution of Offences Act 1985

relevant law and procedure (including the disclosure regime) as well as the ethical duties of advocates in order to ensure a fair and efficient trial.

28. We urge the Government to instead address the systemic issues underlying the shortage of available barristers to both prosecute and defend cases.

## Break Down the Barriers to Opportunity

### Renters' Rights Bill

29. JUSTICE welcomes the Renters Rights Bill. We wholly support the abolition of s.21 “no fault” evictions which will provide greater security to tenants by requiring that landlords must have an appropriate reason to evict them – and also reduce the threat of retaliatory evictions where a tenant raises complaints about disrepair. For the abolition to have the desired effect – the government must ensure that other grounds for possession cannot lead to s.21 “by the back door”. Notice periods must also be increased to reflect the major disruption that losing one’s home can entail.
30. We are pleased to hear that Awaab’s law will be applied to the private rented sector, along with a Decent Home’s Standard. The new private rented sector database should function both as a repository for clear, accessible information for landlords and tenants about their rights and obligations – but also provide accountability and transparency – by making it clear where landlords have not complied with their obligations and/or been subject to enforcement action.
31. Whilst we agree that the private rented sector lacks an appropriate redress mechanism – we urge the government to be cautious about creating a new Ombudsman service without first addressing the disaggregated housing advice landscape.<sup>31</sup> Therefore, we call on the Government to streamline existing redress providers by creating a one-stop-shop or entry point to existing redress schemes, tribunals and courts via the creation of an online redress portal.
32. Finally, we support the government’s proposals to increase dispute resolution for housing disputes. In our *Solving Housing Disputes* report, we set out proposals for a new model of dispute resolution for housing, the Housing Disputes Service, staffed by a range of professionals from various sectors such as housing, benefits and health.<sup>32</sup> Following a holistic investigation to identify the underlying causes of the dispute, there would be an initial and provisional assessment (providing a preliminary view of what

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<sup>31</sup> Currently, tenants do not know where to go to access support due to the myriad of schemes, Ombuds and courts present within the housing dispute landscape<sup>2</sup> – all of which have distinct processes and entry points for disputes initiated by a tenant against a landlord.

<sup>32</sup> JUSTICE, ‘[Solving Housing Disputes](#)’, (2020), p.9.

should follow from it in terms of resolution), before moving on to a DR stage (employing several DR methods including open discussion, negotiation, and mediation) and if necessary, concluded by final determination.

## **Draft Equality (Race and Disability) Bill**

33. This Bill will introduce a statutory right to equal pay for ethnic minorities and disabled people as well as mandatory ethnicity and disability pay reporting for employers with 250 or more employees. These provisions mirror those that already exist with respect to gender.

34. As discussed in our 2023 report *The State We're In: Addressing Threats and Challenges to the Rule of Law*, principles of equality and protection from discrimination remain under-operationalised and under-enforced despite being enshrined in law by, amongst others, the provisions of Equality Act 2010 and Human Rights Act 1998.<sup>33</sup>

### Data collection and equality impact assessments

35. Collection and publication of high-quality data is crucial to evidence-based policymaking and assessing inequalities in the application of the law. We therefore welcome proposals to introduce mandatory reporting for ethnicity and disability pay gaps. However, it is not only in the context of employment where the lack of good quality equalities data is an issue – public bodies often fall short in collecting and publishing data that would help highlight discriminatory practices or outcomes.

36. On the level of policy and legislation development, Equality Impact Assessments (EIA), carried out with a view of evaluating the effects of proposed policies on individuals with different protected characteristics, are not statutorily mandated. Where EIAs are carried out, they are at times published too late to influence parliamentary debate (as was the case with House of Commons scrutiny of Illegal Migration Act 2023) or do not contain sufficient detail, with EIA evaluating Elections Act 2022 failing to identify which groups are likely to be the most disadvantaged by the introduction of the voter ID requirement. We call on the Government to make EIA's a mandatory part of the legislative process and ensure that they are contain sufficient detail to allow legislators and the public to understand the equality impacts of legislative proposals.

### Enforcement of equality rights

37. We also support the efforts to make individual enforcement of equal pay claims by ethnic minority and disabled people easier. However, alone this will not be enough to redress

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<sup>33</sup> JUSTICE, '[The State We're In: Addressing Threats and Challenges to the Rule of Law](#)' (September 2023), para 6.16.

persisting inequalities affecting ethnic minority and disabled people; the effectiveness of individual litigation (including equal pay claims) is impaired by the cost of bringing an action, coupled with the limited availability of legal support.<sup>34</sup> We are also concerned that the Equality and Human Rights Commission – the enforcer of equality law – is underfunded<sup>35</sup> and its enforcement powers underutilised.<sup>36</sup> This is particularly concerning against the backdrop of the inaccessibility of individual enforcement and must be addressed.

## National Security and Serving the Country

### Hillsborough Law

#### Duty of Candour

38. The Government has committed to introducing a ‘Hillsborough law’ which will place a legal duty of candour on public servants and authorities. JUSTICE welcomes this commitment, we have repeatedly called for the introduction of such a duty. We agree that it will help deliver the stated aims of: improving transparency and accountability for failures in the provisions and delivery of public services; reducing the defensiveness of the public sector; and ensuring the lack of candour uncovered in recent reports is not repeated.
39. The Public Authority (Accountability) Bill, also known as “Hillsborough Law”,<sup>37</sup> which had cross party support but fell after the 2017 General Election was called, provides an existing framework that the Government should use to implement this commitment. It provides that public servants and officials must assist investigations proactively and truthfully, at the earliest possible opportunity.
40. Enforceability mechanisms are a vital ingredient to an effective Hillsborough Law. We understand that the inclusion of criminal sanctions for those who recklessly or intentionally fail to discharge the duty,<sup>38</sup> has been a sticking point in more recent attempts to introduce

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<sup>34</sup> In discrimination cases, the financial eligibility thresholds ‘exclude people from accessing legal aid even though they cannot afford to pay their own legal costs’, EHRC, ‘Access to legal aid for discrimination cases’, (June 2019), p.40.

<sup>35</sup> Global Alliance of National Human Rights Institutions, ‘Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)’, (2022), pp. 19–22.

<sup>36</sup> House of Commons Women and Equalities Committee, ‘Enforcing the Equality Act: the law and the role of the Equality and Human Rights Commission: Tenth Report of Session 2017–19’, HC 1470, (2019), p. 11.

<sup>37</sup> Public Authority (Accountability) Bill (HC Bill 163), see [here](#).

<sup>38</sup> Clause 3, Public Authority (Accountability) Bill (HC Bill 163), see [here](#).

such as duty.<sup>39</sup> However, making the duty enforceable only through application to the relevant court or inquiry chair, or through judicial review is unlikely to be sufficient.<sup>40</sup> We urge peers to interrogate the government on their plans for ensuring that any duty of candour is enforceable against those subject to it.

### Legal aid for victims

41. The Government has also committed to providing legal aid for victims of disasters or state-related death
42. We welcome the Government's commitment to providing legal aid for victims of disasters or state-related deaths. Currently, bereaved families at inquests have to apply for legal representation through Exceptional Case Funding ("ECF"). The limited circumstances under which such funding can be granted means that many families are still left to navigate complex legal processes alone and in the midst of grief, whilst state and corporate interested persons are typically able to deploy ranks of solicitors, junior barristers and KCs.<sup>41</sup>
43. In this context, the claim that families' effective participation can be guaranteed by the coroner and the "inquisitorial" nature of the process is to ignore reality.<sup>42</sup> To level the playing field for bereaved families, we urge the government to make public funding available for cases that would or may sit outside ECF criteria, where the State has agreed to provide separate representation for one or more interested persons.

### **Northern Ireland Legacy Legislation**

44. JUSTICE welcomes the government's commitment to repealing the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (the "**Legacy Act**"). There exist clear concerns with respect to its compatibility with the ECHR due to the conditional immunity provisions. This is because the Legacy Act fails to meet the State's positive obligation to undertake independent and effective investigations with respect to certain deaths (Article 2 ECHR) as well with respect to torture and serious injury (Article 3 ECHR). In

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<sup>39</sup> Victims and Prisoners Bill, [Marshalled List of Motions to be Moved on Consideration of Commons Agreements with Amendments, Disagreements with Amendments in Lieu and Disagreements with Reasons](#), Amendment 54; INQUEST, JUSTICE, and Hillsborough Law Now, [Joint Briefing for Victim and Prisoners Bill 2023 House of Commons Second Reading](#).

<sup>40</sup> See Victims and Prisoners Bill, [Marshalled List of Motions to be Moved on Consideration of Commons Agreements with Amendments, Disagreements with Amendments in Lieu and Disagreements with Reasons](#), Amendment 54.

<sup>41</sup> Examples where families may not be eligible for ECF include self-inflicted deaths of voluntary patients in mental health settings or under the care of a mental health trust in the community, deaths in supported accommodation or in care settings where the person has been placed by a public body or local authority.

<sup>42</sup> JUSTICE, '[When Things Go Wrong: The response of the justice system](#)' (2020), para 5.2, 5.18.

addition, civil actions which started on or after the Legacy Bill's first reading in the House of Commons are brought to an end.

45. A failure to comply with the EHCR also has consequences with respect to the Good Friday Agreement, which commits to “*complete incorporation into Northern Ireland law of the [EHCR], with direct access to the courts and remedies for breach of the convention*”.<sup>43</sup> Given the Legacy Act prohibits inquests, investigations and inquiries which were initiated before 1 May 2024 from proceeding, the ability to access remedies guaranteed by the EHCR is clearly frustrated.
46. This risk is not academic, with the High Court finding the Legacy Act in breach of the ECHR in February due to the conditional immunity provisions, the ending of the possibility for civil proceedings, as well as among other areas.<sup>44</sup> The Legacy Act is also subject to an interstate case between Ireland and the United Kingdom.<sup>45</sup>
47. As such, we were pleased to see the government's renewed commitment to the principles of the Stormont House Agreement, which benefited from broad consensus. We hope that this proceeds without delay, in the interests of victims, survivors and their families who seek justice.

**JUSTICE**  
**23 July 2024**

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<sup>43</sup> Gov.uk, [‘The Belfast Agreement: An Agreement Reached at the Multi-Party Talks on Northern Ireland’](#), (10 April 1998).

<sup>44</sup> O'Neill, Julian, [‘NI Troubles: Legacy Act immunity clause 'breaches' human rights’](#) (BBC), (28 February 2024).

<sup>45</sup> Webber, Jude, [‘Ireland to launch case against UK over law on legacy of Troubles’](#) (Financial Times), (20 December 2023).