



In Focus

Public Advocate Bill [HL] HL Bill 22 of 2015–16

The [Public Advocate Bill \[HL\]](#) is a private member's bill introduced by Lord Wills (Labour). The Bill received its first reading in the House of Lords on 3 June 2015, and is scheduled to receive its second reading on 29 January 2016. An identical bill, the [Public Advocate Bill \[HL\] 2014–15](#), was introduced by Lord Wills in the previous parliamentary session, but it did not receive a second reading.

Background

The Public Advocate Bill [HL] aims to provide representation for the bereaved during investigations following disasters, and to provide for the establishment of an independent panel to review documentation relating to the disaster. Writing in the *Independent* newspaper, Lord Wills and Maria Eagle (Labour MP for Garston and Halewood) highlighted the experiences of families of the deceased during inquests after two major disasters—the sinking of the MV Derbyshire in 1980 and the Hillsborough stadium crush in 1989—arguing that following these incidents those families were “excluded from official processes”.¹ The authors further contend that a “consensus within Whitehall and Westminster” around the time of the 20th anniversary of the Hillsborough disaster promoted the view that documents relating to the incident should continue to be withheld if releasing them would contravene data protection legislation. Arguing that this was an unacceptable barrier to the bereaved learning the truth about the event and its aftermath, in 2010 Lord Wills and Ms Eagle, who were both Ministers of State for Justice at the time, helped to establish the Hillsborough Independent Panel. This Panel was set up so that its members were ‘data controllers’ under the Data Protection Act 1998, which enabled the Panel to gain access to documents it would not otherwise have been able to view. In response to the publication of the Panel’s report, the Hillsborough Families Support Group stated that “the findings of the Hillsborough Independent Panel have finally vindicated the families in their 23-year struggle to establish the truth”,² and the following month the Independent Police Complaints Commission announced an inquiry into the actions of the police in the aftermath of the disaster.³

Lord Wills and Maria Eagle stated that the system provided for in the Public Advocate Bill [HL] “is based on learning the lessons of Hillsborough which showed the benefits of the panel review system”,⁴ and would provide new protection and support for families bereaved in public disasters.

Key Provisions

The Public Advocate Bill [HL] would require the Lord Chancellor to appoint a person to act as a Public Advocate to provide advice to, and act as data controller for, representatives of the deceased after

major incidents. During any police or other authority's investigation into a disaster, the function of the Advocate would be to report to the representatives of the deceased regarding the progress of that investigation (clause 3(2)). In order for the Advocate to undertake this function, certain requirements must be met. Either the Advocate must be invited to do so by the Lord Chancellor (clause 2(1)(a)); or the Advocate must decide that an event has occurred which resulted in a "large-scale loss of life", and involved "serious health and safety issues, a failure in regulation or other events of serious concern" (clause 2(a–c)), and fifty percent plus one or more of the representatives of those deceased due to the event and any injured survivors of the event must have requested it (clause 2(2) and 2(4)).

In addition, the Advocate would communicate "how the representatives can assist with [an investigation], including, if there are no lawyers representing the families, the implications of engaging lawyers at that stage" (clause 3(2)). A further function of the Advocate would be to set up a Panel which would register as a data controller under the Data Protection Act 1998, if fifty percent plus one or more of the representatives requested it (clause 3(4)), which would "review all documentation relating to the event, the deceased and the representatives and report thereon" (clause 3(4)). The Bill provides that the Advocate must consult the representatives of the deceased about the composition of the Panel; all relevant public authorities and other relevant organisations must provide documentation to the Panel on request; and the Panel must publish a report into its review of the documentation (clause 2(5–7)). Clause 4 of the Bill outlines the conditions under which a public authority can withhold information from the Advocate's Panel and what must happen in this scenario, including provisions for an appeal process (clause 4(5–10)).

The Bill includes a requirement for the Advocate to report annually to the Lord Chancellor, who must then lay the report before Parliament (clause 5). The Bill stipulates that "the Lord Chancellor shall, out of money provided by Parliament, pay the expenses of the Advocate and may also pay them such allowances as the Secretary of State determines" (clause 1(3)).

Further Information

- Disaster Action, '[Inquests after a Disaster](#)', accessed 25 January 2016
- Michael Uberoi, '[Up for Debate?](#)', *New Law Journal*, 14 December 2012

¹ Michael Wills and Maria Eagle, 'The Shameful Way the Hillsborough Families were Treated Points to the Growing Disconnection between Voters and Politicians; As the Hillsborough Inquests Enter their 12 Week, the Story of that Tragedy has Uncanny Parallels with that of the Derbyshire', *Independent*, 22 June 2014.

² Press Association, '[Hillsborough Families Demand New Inquests be Held](#)', *Guardian*, 17 September 2012.

³ Independent Police Complaints Commission, '[Hillsborough—the Investigation](#)', accessed 25 January 2016.

⁴ Michael Wills and Maria Eagle, 'The Shameful Way the Hillsborough Families were Treated Points to the Growing Disconnection between Voters and Politicians; As the Hillsborough Inquests Enter their 12 Week, the Story of that Tragedy has Uncanny Parallels with that of the Derbyshire', *Independent*, 22 June 2014.

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