

Y Pwyllgor Safonau Ymddygiad
Standards of Conduct Committee
By email

5 December 2024

Individual Member Accountability Inquiry

Dear Hannah,

Thank you for your letter and your request for information about TI-UK's position in relation to a duty of candour. This note seeks to provide a response to your letter as well as some supplementary information we hope the Committee finds helpful.

1. The Public Authority (Accountability) Bill and a duty of candour

As you will be aware, the Public Authority (Accountability) Bill as proposed by Andy Burnham MP fell when the 2017 election was called. Since then, the new Labour government has committed to introducing a duty of candour as part of a so called 'Hillsborough Law' as included in the King's Speech.

At TI-UK we would be minded to support any legislation which improved the functioning of public inquiries as a vital tool for increased transparency and accountability. However, we do not yet have a finalised position on any proposed legislation from the current government in this area as no drafts have yet been published. As we made clear in our evidence to the Committee, our recommendations for reform are evidence based and pragmatic. We spend time considering how objectives will be reached, and whether proposed levers will accomplish the stated aims.

We can see the potential for parallels between a duty of candour and an offence of deception, especially around the importance of definition but we would not want to make assumptions until there is more clarity on the proposal at hand.

We note that [JUSTICE](#) were a lead organisation involved in developing Mr Burnham's proposed legislation and would suggest they may be better positioned to answer your queries.

2. TI-UK's position in relation to amendments proposing suspension of parliamentary privilege in the Bribery Act / Parliamentary Standards Act

We were asked a specific question by Adam Price MS about the 2010 Bribery Act and the Parliamentary Standards Act 2009. Mr Price wanted to know if Transparency International UK took a position on the removal of parliamentary privilege in relation to acts of bribery.

I have reviewed our files and cannot find any reference to this particular aspect of legislative reform in relation to either the Bribery Act or the Parliamentary Standards Act.

We did express significant concerns with the Parliamentary Standards Act as first introduced. We have consistently presented a number of recommendations for reform, many of which have been adopted and have improved the system at Westminster. As we said in our oral evidence, we propose

a package of reforms alongside strengthening the standards regimes which together would bring enhanced transparency and accountability.

As mentioned in our oral evidence, TI-UK has some long-standing recommendations to improve transparency and accountability, which we believe would enhance public trust in politics. These include:

- Lobbying transparency.
- Caps on political donations and spending.
- Improved reporting of gifts and hospitality.
- Better regulation of the revolving door between political life and activity where your previous political role might bring undue influence.
- Improving ministerial accountability.
- Strengthening accountability mechanisms like standards regimes.

All of these proposals are intended to increase transparency – we are unconvinced that a court led accountability process would provide this increased transparency. The courts may seem transparent to those who encounter them regularly and understand their ways of working but this is not necessarily true of the general public. The aforementioned [JUSTICE](#) also work to increase public understanding of the judicial system.

3. Parliamentary Privilege

In relation to parliamentary privilege, the committee may find [this resolution from the Parliamentary Assembly of the Council of Europe \(PACE\)](#) of interest. It states that parliamentary immunity exists to guarantee the independence of elected representatives in order for them to exercise their democratic functions effectively, and to protect the parliamentary institution (PACE 2016). An MP's freedom of speech and of expression cannot be constrained since it is essential to the performance of their institutional role.

PACE goes on to add a caveat which may be of interest to the committee:

“The absolute protection of the acts and statements of members of parliament, especially as far as hate speech is concerned, does indeed pose a problem in view of the current rise in extremism and nationalism against the backdrop of an upsurge in terrorism and the migration crisis. The Assembly notes and welcomes the fact that, in some States, insulting or defamatory utterances, incitement to hatred or violence or, in particular, racist remarks are not covered by non-liability rules.”

It is worth considering that parliamentary privilege may feel like a two-tier system but in countries where democracy and democratic institutions are more fragile, the principle of parliamentary immunity is a vital protection for opposition politicians.

That said, impunity is not immunity, and offences which are unrelated to the politician's role, or which constitute corruption should be treated appropriately.

4. International examples

We also wanted to take this opportunity to share some international examples with the committee.

Firstly, this Transparency International Anti-Corruption Helpdesk briefing on codes of conduct for parliamentarians includes some universal principles as well as some different approaches. <https://knowledgehub.transparency.org/assets/uploads/kproducts/Code-of-Conduct-for-Parliamentarians-2022.pdf>

Secondly, you may also be interested in [Parliamentary Integrity: A Resource for Reformers](#), a report written for the Organization for Security and Co-operation in Europe. As the introductory webpage describes: *“The aim of this study is to identify the main concerns and possible obstacles that need to be considered while reforming, developing and designing parliamentary standards of conduct, including, but not limited to, codes of conduct.”* The author, Professor Elizabeth David-Barrett sits on the TI-UK board.

Thirdly, in relation to how deception causes democratic harm: When it comes to combatting disinformation and thinking about how to counter the impact of deception and disinformation on democratic discourse, there are many excellent examples of different levels of activity being delivered globally by member countries of the Open Government Partnership. Using open government principles of transparency, accountability, integrity and participation could protect democratic freedoms both online and off.

Some interesting approaches include in The Netherlands where the government committed to introducing greater transparency into how political parties are funded while making online election campaigns and political advertisements more transparent, as a means of combatting disinformation.

Then in Uruguay, six of their political parties signed an Ethical Pact Against Disinformation that pledged “not to generate or promote false news or disinformation campaigns to the detriment of political adversaries.”

And France committed to hosting multi-stakeholder dialogues with civil society and research institutions, to identify research priorities and existing tools, resources, and techniques to monitor and counter misinformation and disinformation. The government also committed to discussing proposed solutions to counter the dissemination of misinformation and disinformation.

More information is available here <https://www.opengovpartnership.org/stories/addressing-harmful-information-online/>

I hope the above is of assistance as the Committee continues its inquiry. Do get in touch with any further questions.

Yours



Juliet Swann