



Ministry  
of Justice

Lord Bellamy KC  
Parliamentary Under-Secretary  
of State for Justice

Baroness Drake  
Chair of the Constitution Committee  
House of Lords  
London  
SW1A 0PW

MoJ ref: ADR112092

30 January 2024

*Dear Baroness Drake,*

### VICTIMS AND PRISONERS BILL

Thank you for your letter of 16 January regarding your concern that clause 38 of the Victims and Prisoners Bill which relates to guidance for advocates appointed in respect of a major incident, is an example of 'disguised legislation'.

I would like to start by reiterating this Government's commitment to the operational independence of the standing advocate and any advocates appointed in respect of a major incident. They will be empowered to take decisions and utilise their experience to provide support to victims of a major incident in a manner that the advocates deem appropriate, and I believe that the legislation is clear in this regard.

To allay your concerns, I should like to make it clear that guidance under clause 38 cannot limit or alter the advocates' functions under clause 33. Specifically, in relation to clause 38, we were very mindful that guidance issued by the Secretary of State should not have any effect on the independence of advocates, which is why, as you note, the clause provides that guidance cannot be directed at a specific advocate nor incident. There are, however, circumstances where it would be helpful to issue general guidance which the advocates must have regard to, but which does not bind them. The guidance issued by the Secretary of State will act as a useful reference point for the advocates whilst exercising their functions, and it is not intended to undermine their ability to exercise their functions. Instead, the intention of the guidance is to set standards and expectations and to provide consistency of support for the victims. Furthermore, under clause 33, the advocates have broad discretion over the support that they provide, as 'the advocate may provide such support to victims of the incident as the advocate considers appropriate' in relation to the aftermath of the incident, or the investigation, inquest or inquiry into the incident.

Given the nature of major incidents, and the unpredictability of the future, we believe that the Secretary of State's ability to issue guidance is crucial in future proofing the scheme. We have set out, at a high level, broad functions of the advocates in clause 33. We expect that the advocates' role will develop over time, and it is important that guidance is issued to help to support them, and to ensure consistency in the support they provide to victims of major incidents. We imagine, for example, that advocates may find guidance helpful for how they may indirectly support victims under the age of eighteen; or working with victims or their families who do not speak English or do not reside in the UK.

Clause 38 also gives the Secretary of State the power to withdraw or revise the guidance as necessary. That provision is intended to allow the guidance to be a 'living document' which will be kept up to date, to evolve and to reflect lessons identified and learned from major incidents. Guidance will help to ensure that future advocates are equipped to support victims in a number of scenarios and will allow learning to be passed on from one set of advocates to another.

I hope that this response provides the necessary reassurance and I thank the Committee for their consideration of Part 2 of this Bill.

Yours sincerely

Christopher Bellamy

**LORD BELLAMY KC**