



## **APIIL briefing: Victims and Prisoners Bill - Part Two: Victims of Major Incidents – House of Commons Second Reading – May 2023**

### **Independent public advocate – a necessary and important role**

It is the experience of our members who support victims and their families after major incidents that initially they do not know where to turn for advice and support. Some victims and families may have the support of a specialist lawyer who can help, but this involvement may not happen for weeks, months, or even years after the incident. Some people may not involve a lawyer at all. An independent public advocate (IPA) will, therefore, provide a necessary and important role for victims and their families. It could, for example, co-ordinate the immediate aftermath of the disaster, and ensure that those affected by the tragedy can understand what will happen next, and are put in touch with the right organisations for support.

We agree that the appointment of an IPA should be made by a secretary of state, but there must be a mechanism by which victims and families can request the IPA after a major incident, which would involve a formal and transparent process for this to be considered and decided upon. We hope that such a mechanism would never have to be used because it should always be clear when an IPA should be involved, but it would provide a safeguard for victims and families in case of a lack of action by a secretary of state.

### **The need for clarity**

We are confused by the provision in clause 27 subsection 5 which does not permit lawyers to represent victims who are seeking support from the advocates. We hope that MPs can ask the Government to clarify the reason for this provision. If victims and their families have the support of a lawyer, they may not need the support of an IPA, but we do not understand this deliberate exclusion in the legislation. We are concerned that this could prevent a lawyer from even communicating with the IPA on behalf of their clients. This could mean that a lawyer is unable to raise an issue of which the IPA needs to be aware, such as a failure of an organisation to provide a particular area of support or that distressed victims who are keen for their lawyer to co-ordinate and communicate to all other parties will be forced to communicate without their lawyer's help.

It could also mean that rather than one communication from a lawyer on behalf of a large number of clients the IPA could have an influx of similar communications which is a less efficient and effective way of working.

### **Resources and support for an IPA**

A major incident could involve hundreds of victims and family members, who could all have different questions, various needs, and require different levels of support. The IPA could become overwhelmed and ineffective if it does not have its own appropriate level of support. Clause 26 does allow for multiple IPAs to be appointed for an incident, but there must still be an office with the appropriate resources to support the work of the IPA. This may only be a small office when an IPA is not needed, but one which can be easily expanded to respond to a major incident, with the appropriate knowledge and expertise.

This office would provide consistent support to the IPA, and help to identify, for example, repeated failings by organisations in their response to major incidents or inadequate support for victims and families. It may not be the same person who acts as an IPA at more than one incident and, therefore, the IPA may not be aware if the same mistakes are being repeated. A support office for the IPA could also ensure there is someone on the ground immediately after the major incident, working with families and laying the groundwork for the involvement of the IPA before one is appointed formally by a secretary of state.

### **Requirement for a report**

The requirement in the Bill for the IPA to produce a report only at the request of a secretary of state does not go far enough. This report will include the IPA's opinions about the treatment and experience of victims and their families, and will be vital to identify any improvements which can be made for victims and their families. A report must, therefore, always be produced by an IPA. If it includes recommendations, the Government must be required to respond to those recommendations.

### **No substitute for legal advice and representation**

The IPA is not a substitute for legal advice, nor should it be used as an excuse preventing families from seeking legal representation at inquests. Regardless of what help has been provided previously by the IPA, bereaved families may still need the help of lawyers at a coroner's inquest to find out why their loved ones were killed. This representation at inquests, however, comes at a cost, and it is one which a bereaved family may not be able to afford. If the Government is really committed to supporting bereaved families through an inquest, it must ensure that families have the legal support they need.

To do this, ministers must reconsider their opposition to providing legal aid for representation for all families at inquests where public authorities are legally represented.

### **About APIL**

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation which has campaigned for the rights of victims of negligence for more than 30 years. Our vision is of a society without needless injury but, when people are injured, a society which offers the justice they need to rebuild their lives.

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