

Consultation on the Independent Public Advocate

Response from the Mayor of London

1. Summary

- The Mayor of London welcomes the opportunity to respond to the formal consultation on the Independent Public Advocate. Having already shared his views on the proposed role of the Independent Public Advocate with the Secretary of State for Justice, he is pleased to be able to outline a further detailed response.
- The learnings from the 2017 terrorist attacks in London highlighted the lack of access to support for those wounded and who witnessed these incidents. The residents affected by the Grenfell Tower fire did not receive adequate local support in the immediate aftermath. This succession of large scale incidents, spanning a generation from the Hillsborough tragedy to Grenfell, have shown that too often local communities can suffer serious injustices. If the lessons are heeded, improvements could be implemented which make a meaningful difference to those affected by these devastating events.
- In principle, the Mayor supports the proposal for the Independent Public Advocate (IPA). If clearly defined, this role could fill some of the gaps in the support that exists. In particular, the Mayor would highlight the following points:
- The operating model is proposed to be a two-tier IPA service comprising a:
 - Nationally-commissioned strategic IPA service working in the interests of bereaved families, victims and witnesses of public disasters;
 - Regionally-allocated IPA casework service, devolved to PCCs, likely operating within an existing support service for victims, offering support to everyone directly affected by a public disaster: bereaved families, victims and witnesses.
- The funding and resource devolved to the PCC for the IPA casework service should be proportionate with the number and types of public disaster which may occur within that area. In 2017, there were 4 terrorist attacks and the Grenfell Tower fire in London, which would warrant a commensurate level of devolved resource. The funding mechanism must be sustainable, proportionate and responsive to enable resources to be scaled up as needed in a timely and fair manner.
- Everyone directly affected by an incident: bereaved families, victims, and witnesses should be within the remit of the IPA:
 - Inclusion of those injured (physical injuries and clinical psychological trauma) and witnesses alongside bereaved families is a principle that could be extended to investigatory processes. The Mayor's Office for Policing and Crime (MOPAC) has testimony from a victim of one of the London terrorist attacks that they were unable to access the same level of support as the bereaved families. They were not allowed to be an active participant at the inquest because it was limited to bereaved families;
 - Those who witness a public disaster, meaning individuals in the immediate vicinity of the scene, can be psychologically harmed. Yet little has been done in terms of recognising them as a group who merit an equitable level of support.

Grenfell

- The tragedy at Grenfell Tower devastated the north Kensington community. It was one of the worst tragedies to ever occur in our city and the Mayor is absolutely committed to doing everything in his power to support those affected. Our thoughts continue to be with the families, neighbours and friends who have lost loved ones in this terrible disaster.
- As a core participant in the Grenfell Tower Inquiry the Mayor is doing all he can to ensure the bereaved, survivors and residents know the truth of what happened that night and the decision making that led to it. An essential element of this search for truth is the meaningful participation and engagement of the local community. To this end, the Mayor has made representations to the Chair Sir Martin Moore-Bick to make clear that changes are needed to ensure the Inquiry is fair, inclusive, and accessible. This includes relocating to a more local venue and ensuring that the Chair is supported by additional panel members in phase two who are more representative of the Grenfell community.
- Making the case for these changes would be one of the roles the Mayor envisages the Independent Public Advocate playing. A high-profile watchdog is needed to ensure official processes after a disaster work for the people most affected.
- Other civil society groups have highlighted some concerns around how the IPA will operate. They are concerned that it will not be seen as independent if it relies on the Secretary of State to approve its involvement. Some have also raised concerns that the IPA would diminish the need for automatic, non-means tested legal representation for families impacted by state-related deaths. Steps should be taken to ensure that these concerns are addressed.
- The IPA consultation posed several questions which are addressed in the below detailed response. We recognise that the development of the IPA role will require further consideration and refinement. The Independent Victims Commissioner for London, Claire Waxman and MOPAC are committed to continuing their work with the Ministry of Justice and other stakeholders to progress the development of this role.

2. MOPAC operational response to IPA consultation questions

Q1. Do you agree with us about the need for the Independent Public Advocate? Please give your reasons.

We support, in principle, the proposal for an Independent Public Advocate. The complexity of agencies and remits that victims of disasters are faced with in the aftermath of an incident can be overwhelming. Introducing an independent role which will represent the interests and views of the victims will significantly improve their experience.

The proposed responsibilities of the IPA cannot all be effectively addressed within the remit of one role, particularly not one role performed by a single individual. For example, there are potential conflicting priorities between having a responsibility to consider whether to establish a public inquiry, which we consider to be a national strategic responsibility, and providing support to bereaved families who are faced with participating in inquests, which is an issue most effectively dealt with at the regional level. We have proposed a two-tier operating model which could address these issues.

We appreciate that the consultation and subsequent development period will generate an iterative process to develop and define the role. Therefore, our comments are based on the information currently available. They are intended to shape the role into a truly independent, accountable, robust position, which addresses identified gaps and is aligned with the responsibilities of existing investigating and responding bodies.

Q2. How should it be decided whether an event is a disaster for which the Independent Public Advocate should be available?

Following a high impact major incident, there should be various, well publicised mechanisms to trigger deployment of the proposed national and regional IPA role:

- i. The national strategic IPA role should have the authority to self-deploy and to inform the MoJ and relevant Local Resilience Forums (LRFs), this will maintain the independence of the role:
 - a. The self-deployment of the national strategic IPA role should in turn trigger the activation of the relevant regional caseworker response roles located within the affected Local Resilience Forum area(s);
 - b. The relevant PCC should be informed by the MoJ when the national IPA and relevant regional IPA caseworkers are activated.
- ii. The LRF should be able to request deployment of the national strategic IPA role, via the Ministry for Housing, Communities and Local Government (MHCLG) who has close links with each LRF.
- iii. The Secretary of State for Justice should have the power to deploy the national strategic IPA role.

Whichever mechanism is used to deploy the IPA, there should be a clearly communicated process between the MoJ, the relevant LRF and the relevant PCC regarding the decision to deploy the IPA, or the decision not to deploy the IPA.

Q3. Do you envisage any difficulties in the Government adding the Independent Public Advocate to a landscape in which the Civil Contingencies Act makes statutory provision for emergency response? If so what are they?

We have referred to Local Resilience Forums (LRFs). Under the Civil Contingencies Act 2004, LRFs have duties to risk assess, plan for, respond to and recover from a range of risks which encompasses the full range of potential public disaster scenarios. The multi-agency major incident response and strategic coordination arrangements are fulfilled by the respective members of the LRF. There a range of response capabilities including mass fatality coordination and humanitarian assistance which are within the LRF remit. This means the LRF is the logical body to have an integral role in being notified when the national and regional IPA roles are deployed.

The MoJ needs to engage effectively with LRFs in terms of defining the role and responsibilities of the IPA. This would enable the IPA role to be introduced without encountering any difficulty.

Q4. Should the Independent Public Advocate only be involved where there are fatalities? Please explain your answer.

The IPA should be involved in disasters where there are casualties and fatalities. There should be a national set of criteria that the IPA's office can use to assess the level of need of the victims of the disaster. This should include an overview of whether there are any fatalities, any casualties (i.e. physical injuries) and whether any psychological trauma may have occurred. Focussing on needs will target IPA support to those directly affected by the disaster.

Q5. Who do you think should be eligible for the support of the Independent Public Advocate?

Clarity will be needed about which groups/individuals will be eligible for support from the IPA. We have strongly stated that it should be those directly affected by a public disaster: bereaved families, victims and witnesses. The inclusion of those injured (including clinical psychological trauma) and witnesses in addition to bereaved families is a principle that could be extended to investigatory processes, such as inquests, which follow a public disaster.

Q6. Should eligibility for support be determined by the Government, perhaps through legislation, or be left to the Independent Public Advocate to decide in light of the circumstances following a particular disaster?

The Government can set out some general guidance/principles for determining eligibility. To exercise the independence IPA should have the authority to make the final decision about eligibility informed by the situation and impacts of a particular disaster.

Q7. Do you think the Independent Public Advocate's particular focus should be on supporting bereaved families, or do you think this is too narrow?

We have emphasised the need to include in the scope of those who should receive IPA support alongside bereaved families:

- Victims (who may have physical and/or psychological trauma);
- Witnesses, as we are aware that those who witness a public disaster, meaning individuals in the immediate vicinity of the scene, can be psychologically harmed. Yet little has been done in terms of recognising them as a group who merit support around engagement in the myriad investigatory processes.

Q8. What types of support should the Independent Public Advocate provide before and during an investigation, bearing in mind the need not to duplicate other support, or hinder those providing it?

The IPA should be able to raise any urgent issues and concerns experienced by any bereaved families, victims and witnesses as they arise. This ability to immediately raise issues means that bereaved families, victims and their families and witnesses should have their concerns addressed promptly. The prolonged lack of accountability and injustice experienced by the Hillsborough families should not be repeated.

The type of support that the IPA could provide should be based on the complexity and severity of the major incident. The scale of the challenge faced by those affected by the disaster should be driver, rather than the type of investigation. The regional caseworker IPA role should liaise with local victims' services to share learning and to ensure that there is no duplication of provision.

The type of support available through the IPA's office may vary depending on the type of investigation or process which follows a public disaster. The following types of support could be offered to the bereaved families, victims and witnesses of an incident:

- To act on their behalf;
- To request documents from a Coroner's investigation and inquest;
- To act as a conduit to receive regular updates from the Coroner's office;
- To provide information on the rights and entitlements of families, victims and witnesses;
- To provide access to wraparound support for victims during inquests;
- To report to the families, victims and witnesses on any investigation by the police or other statutory authority;
- To support and protect victims from the press, particularly at anniversary events;
- To provide support or signposting to access the relevant types of compensation and the Criminal Injuries Compensation Authority (CICA) for everyone directly affected by an incident:
 - CICA is a complex system, so more help is needed to navigate the system;
 - Currently if a family is bereaved by a homicide they will automatically get support to apply to CICA;
 - This does not happen automatically for other types of major incident crimes where victims may not get support and may not even know about CICA.

Q9. How should we ensure that the Independent Public Advocate is supportive of all the bereaved, in circumstances where they may hold differing and perhaps conflicting views?

The post holders of the IPA roles at national and regional levels should be subject to professional standards of conduct. These should include minimum professional standards. Service level agreements should also be in place, particularly at the regional caseworker level. This will enable them to fairly and equitably represent all views of those directly affected by public disasters. At the regional level, the IPA service can assign individual caseworkers to support discrete groups. Each caseworker would be able to represent and communicate the concerns of their respective group at regional and national levels.

Q10. Do you agree that the Independent Public Advocate should potentially be involved across the range of investigation types, or do you think their involvement should be limited to inquests and public inquiries? Please give your reasons.

The IPA should be involved across the full range of investigation types so that victims and witnesses have the support of the IPA across all potential processes they may encounter.

Q11. Should the type of support provided by the Independent Public Advocate be different in different types of investigations? If yes, please specify.

The level and type of support provided by the IPA should be driven by the incident and the needs of those affected, not by the type of investigation.

Q12. Do you think the Independent Public Advocate should be required to report on their work? If yes, when and to whom should the Independent Public Advocate report?

The IPA should issue informal updates to the Secretary of State for Justice during their activities:

- At the end of all formal investigations and processes the national IPA should publish a formal report including progress against any previously highlighted issues. The report should set out the issues for the bereaved, victims and witnesses, it should show what their experiences of the various processes. It should follow a standard format and include what went well, what needs to be improved and recommendations should identify what changes are needed.
- To make significant issues and learning readily available with a view to correcting or improving processes in a timely manner, the national IPA role, informed by an anonymised summary of the respective regional caseworker findings, should issue informal interim updates. These should be sent to the Secretary of State for Justice during their activities acting on behalf of those directly affected by the public disaster.
- There is consideration required around how to protect the anonymity of individual victims, families or witnesses when referring to their issues for the purposes of reporting and promoting learning and improvement. Although London has experienced more terrorist attacks than other regions, the overall numbers of people who have tragically been directly affected specifically bereaved families and victims, is a small enough number to potentially identify individuals if too many details about their specific experiences are published.

Q13. What should be the purpose of any report and should there be a duty for the Government to respond?

The report should set out the issues for the bereaved, victims and witnesses, it should:

- Set out their experiences of the various processes;
- Follow a standard format and include what went well, what needs to be improved and recommendations should identify what changes are needed;
- The Government should have a duty to respond to the IPA, and all the agencies who are identified as responsible bodies in the recommendations should have a duty to consider the IPA recommendations and to determine the appropriate course of action.

Q14. Do you think the Independent Public Advocate should have a role in working with the bereaved where concerns are raised about the outcome of a past inquiry? If so, what should that role be?

The IPA should work with victims of a past enquiry. The relevant regional caseworkers could engage with those directly affected: bereaved families, victims and witnesses to note all their concerns, present them to the national strategic IPA and to assess the most appropriate means to address the concerns, with recommendations for any strategic corrective action.

Q15. Do you think the Independent Public Advocate should have a role in advising ministers where there is ongoing concern about the outcome of an inquiry?

The IPA should engage the victims to establish the nature of the concerns, and then present their concerns to a nominated MoJ Minister for review. The accountability, transparency and independence of the role of the IPA should be clearly set out.

Q16. How should the Government ensure that the role of Independent Public Advocate can always be delivered when and where it is needed?

Our proposed two-tier operating model is set out in our strategic response.

- The national strategic IPA service would represent the interests of those directly affected by a public disaster.
- Each PCC should have devolved responsibility for a proportionate regional caseworker IPA resource, likely based in an existing victims' services organisation.
- PCCs are in the process of improving the support to victims of major crime incidents under the auspices of Association of Police and Crime Commissioner and Victims of Terrorism Unit framework.
 - This guidance has advised PCCs to contact their respective LRF and there is a view to widen this to other types of major incidents.
 - This approach could be applied to the role of the regional IPA caseworker resource so that they have a duty to respond to the full range of potential major incidents.
 - If the regional IPA casework is based within a voluntary or third sector organisation, they would be a member of the relevant Local Resilience Forum (LRF).
 - This would allow the IPA role to participate in the regular multi agency training and exercising led by the LRF which supports the development of skills and capability to respond to incidents.

The principle of providing an accessible range of support offered by the IPA is an important one as it acknowledges the needs of victims as the highest priority. We strongly believe that:

- The types of support needed should be delivered at a suitable location as close as practical to the scene of the public disaster, so that local people can access them;
- The professionals delivering the support should understand the issues faced by marginalised communities and take steps to ensure their concerns are represented.

This would provide a flexible resource capability to deploy regional caseworker IPA's to:

- Support victims within each affected area;
- Meet the demand if there are simultaneous public disasters/public disasters which occur within a similar timeframe.

The IPA roles, both at the national strategic level and regional caseworker service, should be permanent, established roles with routine responsibilities and with the requirement for an incident response capability. The response roles would be activated to make support available families, victims and witnesses affected by a major public disaster in the immediate aftermath of the event.

The post holders of the IPA roles at national and regional levels should be subject to professional standards of conduct. These should include minimum professional standards. Service level agreements should also be in place, particularly at the regional caseworker level. This will enable them to fairly and equitably represent all views of those directly affected by public disasters. At the regional level, the IPA caseworkers can assign individual caseworkers to support discrete groups. Each caseworker would be able to represent and communicate the concerns of their respective group at regional and national levels.

The national and regional IPA post holders should work to a set of performance measures which hold them accountable to the Secretary of State for Justice.

There should be a clearly communicated process between the MoJ and the relevant LRF regarding the decision to deploy the national and regional IPA roles. If an IPA is requested, but a decision is made not to deploy, there should be a clearly communicated rationale documenting this decision. Any non-deployment decision for the national IPA should be kept under review, as the situation around the impact of a public disaster may change over time.

In terms of determining the staffing levels of the national strategic and regional casework IPA roles, consideration should be given to mapping potential demand geographically by accessing the existing evidence around the likelihood and impact of high impact incidents occurring. This could be informed by the civil contingencies national risk register for the national strategic IPA office. For the regional casework IPA roles reference should be made to the relevant civil contingencies community risk register that each LRF has a duty to prepare.

London has experienced several terrorist attacks and major crime incidents in the last few years. On this basis, London would warrant an allocation of IPA caseworker roles. Given that the focus of our operating model is to be flexible and scalable, we fully support the requirement for our proposal for regional caseworker IPA roles to be deployed to a wider neighbouring geographical area, to meet the needs of families, victims and witnesses as close to the location of the incident as practical.

The governance structures for the IPA roles will need to be explored. We have referred to LRF and PCC areas, and the most effective form of governance and oversight is open for consideration.

Q17. What would be the advantages and disadvantages of having a single Independent Public Advocate with deputies?

We have presented our proposal for a national and regional IPA service model which we think could be an effective way to deliver the IPA service. We have also provided further views in Q1 and Q16.

Q18. What would be the advantages and disadvantages of having a cadre of Independent Public Advocates?

Please see answer to Q17.

Q19. In light of all that you have read in this consultation document, what skills, experience or qualifications do you think the Independent Public Advocate should have?

In addition to comments above about professional standards of conduct we suggest the following skills:

- Experience of working with victims and witnesses;
- Understanding of the Victims Code of Practice;
- Awareness of the role of the National Victims Commissioner;
- Understanding of the main investigatory agencies and their respective legal duties and processes e.g. the responsibilities of a Coroner;
- Understanding of the Civil Contingencies Act 2004 and the role of the Local Resilience Forum;
- Understanding of the Equality Act 2010;
- Understanding of the Data Protection Act and General Data Protection Regulations
- Knowledge and skills to establish an independent review panel;
- Understanding of the codes of practice for the media and their representatives and the ability to engage with the relevant professional bodies;
- An understanding of a trauma-informed approach to victims and witnesses' advocacy;
- An understanding of the issues and barriers experienced by marginalised communities so that they can be effectively engaged and supported;
- An awareness of various forms of financial and charitable support (e.g. CICA and London Emergencies Trust) available, the relevant entitlements and eligibility criteria;
- Awareness of the range of high impact major incidents within the last 25 years which have required investigations, inquiries and inquests.

For more information, please contact Leigh Greenhalgh, Mayor's Office on 020 7983 4147