There is a difference between crisis and collapse when it comes to the constitution and we are experiencing the latter

A constitutional crisis tests whether public power can still be corrected.

Constitutional collapse begins when the arrangements intended to provide that correction cease to work in practice

When correction ceases to work

The offices may remain occupied, the correspondence may continue and the language of accountability may be meticulously observed. The decisive question is whether evidence can still compel an answer and whether an established wrong can still secure an effective remedy.

Our assessment is that we are experiencing the latter: a collapse in the effective operation of constitutional safeguards, exposed by an investigation into national Covid policing.

This is a constitutional argument about the functioning of accountability, not a judicial finding that every institution has failed or that every disputed allegation is true. It concerns the distance between the protections the public is told exist and the protections people can actually obtain.

The United Kingdom's constitution depends upon more than the continued existence of Parliament, courts, police forces and regulators. Those institutions must perform their distinct

functions. Government must remain answerable for its exercise of power. Police must assess allegations according to the relevant law and evidence. Courts must be accessible and scrutiny must have access to the material needed to test an official account.

The Supreme Court's decision in UNISON explains why access to justice has constitutional importance beyond an individual dispute: law requires practical means of enforcement. In Miller and Cherry, the Court affirmed the fundamental place of parliamentary accountability in restraining executive power. Neither judgment decides the issues arising from Operation Talla. Both illuminate the principle against which those issues should be examined.

A constitution can tolerate disagreement, error and even grave misconduct if its corrective mechanisms remain effective. The more serious condition arises when those mechanisms repeatedly return the citizen to the institution whose conduct is in question, without an independent examination of the substance. At that point, the problem is the failure of the means by which public power is supposed to be controlled.

The constitutional significance of the closed door

Our Operation Talla investigation began with the handling of members of the public who sought to place allegations before the police.

It developed into an examination of written instructions, national policing communications and the relationship

between the receipt of an allegation and its admission into formal processes. That progression matters.

A disputed encounter at one police station raises a local question; a documented approach extending beyond that encounter raises questions about policy, authority and oversight.

A Police Scotland directive dated 25 January 2022 addressed, among other activities, attempts to report alleged offences relating to vaccines. It instructed that relevant requests *"should be rejected"* and provided an intelligence-reporting route through which Operation Talla was to be informed.

Separately, national records placed the Metropolitan Police report, CRN 6029679/21, within Operation Talla discussions at Chief Constables' Council and subsequent communications to chief constables and force Gold officers.

The most troubling wording appears in contemporaneous correspondence of 14 February 2022: *"the guidance to not record has been a success"*.

The surrounding passage measured that apparent success by the creation of only one additional report, while acknowledging that attempts continued across the country. Its significance cannot fairly be reduced to the personal views of those seeking to report allegations. It raises a question about what policing itself was treating as a successful outcome.

Important limits remain. The disclosed correspondence does not, by itself, establish the complete terms, authorship, authorisation or legal basis of that guidance. Nor does it conclusively establish its precise relationship with the Police

Scotland instruction. Those gaps require further disclosure and investigation. They are not permission to supply missing facts through inference, but neither are they a reason to disregard the words that have emerged.

No sound system requires every allegation to produce a criminal investigation. Police must be able to reject unsupported allegations, address duplication and protect staff from intimidation. Recording, assessment and investigation are distinct processes; the rules also differ between jurisdictions. The constitutional concern is whether a category of allegations was excluded through an approach whose authority and safeguards remain unexplained.

Where the allegation concerns the conduct of public power itself, that concern becomes acute. The state cannot demonstrate that its actions were lawful merely by pointing to an absence of recorded allegations if its own practices helped produce that absence. A low number of records cannot independently validate the process that determined how many records could exist.

How accountability can disappear while institutions remain

Constitutional failure need not arrive through an announcement that rights have been suspended. It can develop through a succession of apparently routine decisions.

An allegation is characterised in a way that narrows its reception. A national position supplies the language of

response. A later enquiry is confined to a procedural category.

Each institution answers within its own boundary, whilst the question arising from their combined conduct remains unanswered.

That pattern does not require a single conspiracy. It can result from shared assumptions, defensive habits, fragmented responsibility or excessive deference to an established account. Coordination between public bodies may be necessary and lawful. The constitutional test is whether each body continues to exercise its own judgment, discloses the basis of material decisions and remains capable of examining evidence that challenges the common position.

An assurance of independence is therefore only the beginning of an answer. Where a government department has an interest in a programme and policing or regulatory decisions concern people challenging that programme, scrutiny should establish what communications occurred, what influence they had and what safeguards were applied.

Contact alone proves neither improper influence nor wrongdoing. Equally, the word “independent” cannot settle a documentary question about how a decision was reached.

The same discipline applies to ethical oversight.

A committee’s existence establishes that a structure was created. It does not establish that a particular policy was referred to it, that its members received the necessary information or that its advice affected the outcome. Until the relevant records are examined, the existence of ethical

oversight cannot safely be treated as evidence that the disputed approach received ethical scrutiny.

Information-access procedures can lawfully restrict disclosure. Cost limits, exemptions and protections against vexatious requests have legitimate purposes. Their use in any particular case must be assessed on its merits.

The broader constitutional problem arises when the ordinary routes, taken together, leave no effective means of identifying who authorised a consequential policy or testing its justification. A lawful procedural refusal does not answer the substantive question it leaves unresolved. Nor does institutional silence establish guilt. Its significance is that a documented concern remains without a substantive explanation. The longer that position persists, the less persuasive a general assurance becomes.

Accountability requires a route through which evidence can change the official position. If every available route preserves the same position without examining the evidence that challenges it, the public possesses a promise of correction whose practical value is disappearing.

That is the sense in which we use the word collapse. The constitutional machinery continues to operate, but its capacity to correct public power is failing at the points where it is most needed. This is a serious assessment; it must remain open to contrary evidence and be tested against the actual records.

Restoration requires an answer that can be tested

The purpose of identifying constitutional collapse is to recover effective constitutional government.

Public confidence cannot be restored by requiring people to disregard troubling documents. It must be earned through an examination that is independent enough to reach an unwelcome conclusion and sufficiently transparent for the public to assess its reasoning.

For the issues exposed by our investigation, the starting point is concrete. Preserve the relevant records. Establish the full terms, origin, approval and distribution of the non-recording guidance. Identify the legal framework relied upon, the relationship with force-level rejection practices and the assessment of their consequences. Establish what ethical scrutiny occurred and what information was available to those exercising oversight.

The next task is to examine effects rather than defend descriptions.

Which reports were affected? How were individual circumstances assessed? What reasons were recorded? Was relevant material retained? Where a decision was defective, what review or remedy is now available?

These questions should be answered through the applicable legal and policing frameworks, with proper attention to the distinct jurisdictions involved.

A credible process must separate the original allegations from the later handling of them.

An allegation may ultimately fail on its merits while the way it was excluded still warrants correction. Conversely, a defective process does not prove the original allegation.

Independence requires the capacity to reach either conclusion without treating one as a threat to the other.

Parliamentary scrutiny, independent oversight and judicial remedies have different functions. Each must receive the evidence necessary for its task; referral to one route should not become a reason for every other institution to avoid its own responsibility. Any review must identify who owns the unresolved questions, what powers they possess and when a reasoned outcome will be delivered.

We do not need every institution to agree with us. We need institutions capable of testing what we have found and correcting what that examination establishes to be wrong.

A constitutional crisis can be resolved by mechanisms that remain effective. Where those mechanisms have ceased to deliver correction, recovery requires their effective operation to be restored. The test is whether evidence can still move public power.

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Sources and evidential basis

R (UNISON) v Lord Chancellor [2017] UKSC 51, paragraphs 66 - 69. Supreme Court judgment, 26 July 2017.

R (Miller) v The Prime Minister; Cherry v Advocate General for Scotland [2019] UKSC 41, paragraphs 46 - 48. Supreme Court judgment, 24 September 2019.