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11 December 2013

Thank you for your letter of 21 November 2013 about the Anti-social Behaviour, Crime and Policing Bill. The Constitution Committee considered your letter at its last meeting. I write on behalf of the committee with a further point about the scope of clause 1.

In your letter you quote the draft guidance to frontline professionals explaining that injunctions to prevent nuisance and annoyance (IPNAS) may be used to deal with a wide range of behaviour but “should not be used to stop reasonable, trivial or benign behaviours”. Although that may be the Government’s intention, the wording of clause 1 does not make clear that IPNAS should not be so used. The committee considers that as far as possible the wording of the clause should reflect the intention behind the clause. It is insufficient for necessary safeguards to be contained in guidance rather than in statute. This is because it is possible for professionals to depart from the guidance and, of course, it may be repealed or replaced subsequently.

The committee noted that you have indicated you are willing to consider introducing a reasonableness element into the test for obtaining an IPNA (HL Deb, 18 November 2013, col 790). Such an amendment may help alleviate some of the concerns about the scope of clause 1. The committee would appreciate an update on progress on this issue.

The Rt Hon. the Baroness Jay of Paddington
Chairman, Constitution Committee