



Rt Hon Lord Goodlad  
Chairman  
Select Committee  
on the Constitution  
House of Lords  
London  
SW1A 0PW

8 December 2009

*Dear Alastair,*

### **BRIBERY BILL**

Thank you for your letter of 2 December (received in the Department on 7 December) seeking clarification on certain aspects of the Bribery Bill as part of the Select Committee's scrutiny of the Bill. I am grateful to the Committee for their recent report concentrating on clause 12 of the Bill. We will study that report carefully and respond in the normal way as quickly as we can.

#### *Clause 7*

You indicated that the Select Committee agreed with the Joint Committee on the draft Bribery Bill that there should be statutory guidance on clause 7 and the adequate procedures defence. As our response to the Joint Committee indicated, we intend to publish guidance on the Bill, including the clause 7 offence and the adequate procedures defence. The guidance will draw on the expertise of stakeholders to ensure that it provides practical assistance to commercial organisations and will be published well before the offences come into force. We intend that the guidance will be indicative by setting out broad principles and illustrative good practice examples of 'adequate procedures'. This is to ensure that each organisation has the necessary flexibility to adopt procedures commensurate, for example, to its size, the particular business sector in which it operates, and the risks to which it may be exposed in the course of business. As indicated in our response to the Joint Committee, we do not consider it appropriate to adopt the statutory guidance approach suggested by the Committee, which we regard as more appropriate to closely regulated fields such as health and safety. Such an approach risks creating prescriptive rules and could undermine our attempts to allow businesses to adopt a flexible and tailor made approach. The Government issued non-statutory guidance in relation to the Corporate Manslaughter and Corporate Homicide Act 2007, which was well received and is regarded as effective. We have no reason to believe that a similar approach in relation to the Bribery Bill would not be as effective or successful.

We have been in regular discussion with the Crown Dependencies and British Overseas Territories on the Bribery Bill. However, there has not been the opportunity to consult the Crown Dependencies and British Overseas Territories further since the Bribery Bill was finally settled and Introduced on 19 November. I will write to the Committee again when I have further information on this issue.

*Honours (Prevention of Abuses) Act 1925*

The Joint Committee recommended that the Government should review the 1925 Act once a Bribery Act had become established to determine whether the 1925 Act remains necessary in the light of the new offences. Our intention is to review the 1925 Act, and any other legislation which may overlap with the provisions of the Bribery Bill, two years after the commencement of the Act.

Yours Gw,  
Willy,

WILLY BACH

