RESPONSE TO JUSTICE SELECT COMMITTEE LETTER FOLLOWING EVIDENCE SESSION OF 23 OCTOBER 2018

I would like to thank you and the Committee for the opportunity to set out the Government's position, and to allow me to be clear about how importantly we take our preparations for EU Exit, and the opportunities and challenges it presents.

During my appearance I agreed to write to the committee to provide additional information on a number of issues, as outlined in your letter.

Memorandum of Understanding signed with India

You asked about the Memorandum of Understanding (MoU) which was signed between the Secretary of State for Justice and the Indian Minister of Law in July 2018.

The MoU formally recognises a shared desire from both parties to strengthen cooperation and the exchange of legal services between the UK and India, with the objective of advancing the rule of law and the interests of legal practitioners. It contains a commitment from both parties to promote closer cooperation between the members of the legal professions in their countries, and creates a framework within which the governments of the UK and India can discuss legal issues of mutual interest. This will be done through a Joint Consultative Committee, which will meet for the first time in December and annually thereafter to explore the sharing of expertise on issues including the rule of law, dispute resolution, training, and legal services regulation.

The inaugural Joint Consultative Committee will take place alongside a wider programme of HMG engagement with India, including the latest meeting of the UK-India Joint Economic Trade Committee that seeks to identify opportunities for increasing bilateral trade. MoJ officials will also attend the FutureTech Festival, a major initiative under the new India-UK Technology Partnership where UK practitioners will highlight our expertise in emerging legal technologies. We believe this coordinated cross-Government approach, working closely with the legal services sector, is the best way of highlighting the full range of the UK's legal services to key international partners.
Criminal justice no-deal preparations

You asked whether the government would be publishing a no-deal technical notice on criminal justice (including data sharing, investigations and extradition), and if so when.

In total, the government has now published 106 specific technical notices. In the realm of justice, as discussed during the session, there has been two technical notices published: one from the MoJ on civil judicial cooperation and one from BEIS on professional and business services, which also covers legal services. The purpose of these technical notices is to help businesses and citizens prepare in the event that we do not reach a deal with the EU. This does not apply to EU security, law enforcement and criminal justice measures as these areas do not require businesses or the public to take any specific actions. Therefore, the Home Office has confirmed that it does not intend to issue a technical notice on these issues.

International child abduction

You asked whether international child abduction is sufficiently addressed in the draft Withdrawal Agreement, with specific reference to Article 11 of Regulation (EC) No.2201/2003. This was in reference to Jacqueline Renton's concerns about a lacuna in relation to child abduction cases.

Under the terms of the Withdrawal Agreement the Government has agreed that the current EU civil judicial cooperation rules will continue to apply during the Implementation Period, which will run until the end of 2020. This will give our business and citizens certainty as we negotiate and legislate for the future agreement we are seeking to reach with the EU. However, the committee has heard evidence regarding concerns raised by Jacqueline Renton that Article 11 of the Brussels IIa regulation, relating to child protection, is not adequately reflected in the text of the Withdrawal Agreement.

Article 11 is addressed under Article 122 of the Withdrawal Agreement. This ensures that, provided that the proceedings under the Brussels II A Regulation relating to an abducted child (and as distinct from the application under the 1980 Hague Convention itself) are commenced prior to the end of the transition period, the provisions of Article 11 (being contained in the jurisdictional rules of the Brussels II A Regulation to which Article 63(1)(c)) will continue to apply.

It is also important to note that should there be no agreement with the EU on a future relationship, the UK and the EU Member States are all party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. We will therefore continue to operate the provisions of 1980 Hague to ensure the prompt return of abducted children. We will also continue to operate the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, which can equally be invoked (in parallel to the 1980 Convention if need be) to assist in the return of an abducted child (although neither contain the particular effect of overriding a non-return order under the 1980 Convention which the provisions of Article 11 of Brussels II A provide as between EU Member States). This will ensure that, even in the unlikely event that we are unable to secure a deal with the EU, robust child protection rules will continue to be in place.

Funding for EU exit preparations

The Committee also asked about the funding the department had received to prepare during 2018/19 for EU exit, and the additional staff that we were engaged in this work across the department.
MoJ was allocated £17.3 million additional funding to cover EU exit preparations during 2018/19. Around two thirds of this is to cover staff costs (salaries and associated costs such as recruitment, office accommodation and IT). Over 110 FTE (not including vacancies) consisting of existing and additionally appointed staff are currently working across deal and no-deal scenarios in the following business areas:

- Legal services, civil, judicial and criminal policy
- Government lawyers
- Corporate services (such as commercial, finance, analytical services and communications)
- HMCTS and HMPPS
- Judicial Appointments Commission
- Judicial Office
- Legal Aid Agency

Over £10 million has been allocated across our business areas so far and the remaining budget will be incurred in the final part of the financial year. As resourcing and assumptions continually shift, the final position will be confirmed in our annual accounts.

I hope you find this information helpful.

LUCY FRAZER QC MP