Thank you for your letter of 1st February 2018 about the better regulation process, in which you set out a number of concerns about the changes that we have implemented.

Better regulation has a key role to play in contributing to the Industrial Strategy, as this Government wants to support businesses with regulation that stimulates growth and facilitates innovation. To do this we need a more proportionate better regulation framework that focuses on those policies with the greatest potential impact on business. I can assure you that this does not mean we are seeking to undermine the independent scrutiny of regulation.

As you mention in your letter, the PAC report on Better Regulation highlighted that the previous better regulation system had created a complex bureaucracy across Whitehall that diverted attention away from more productive efforts to reform regulation. Although the PAC report did not recommend specific changes that we should implement to make the system more proportionate, the earlier NAO report recommended that we make changes to allow effort to focus on policies with the greatest impact on business.

The NAO also noted that increasing the threshold for Regulatory Policy Committee (RPC) would free up resources to scrutinise impacts assessments submitted by regulators, which were due to be received from March 2017. The report continued that a more proportionate system could also enable Departments and regulators to use more resources to monitor and evaluate key regulatory decisions.

As a first step towards a more proportionate system, we introduced the de minimis threshold to give more flexibility, with greater responsibility for individual Departments to determine the appropriate level of analysis to demonstrate the rationale for a regulation, along with its impacts and benefits that meets the needs of Parliament and stakeholders.

Based on the experience in the previous Parliament (2010-2015) this would still mean that those measures which account for 90% of impact on business, voluntary bodies or charities would still be subject independent scrutiny. This will allow a more effective and focused use of Government resources.
However, as you mention in your letter, we believe it is important to introduce a ‘call-in’ process as a safeguard alongside the new *de minimis* approach. The ‘call-in’ process will be managed by the Better Regulation Executive (BRE) who will work with the RPC to identify any concerns regarding a particular measure. If concerns are identified, then the RPC will be invited to review the quality of the supporting evidence.

The factors that trigger ‘call-in’ will include measures with wider impacts and will include measures where there are:

- significant distributional impacts;
- a disproportionate burden on small or micro businesses;
- significant gross impacts that net off;
- wider social, environmental, financial or economic impacts; or
- novel or contentious analytical approaches.

The system will also be looking for elements that appear inconsistent with a Department’s decision that a measure is below the *de minimis* threshold. This will include considering whether Departments have demonstrated the appropriate assessment of measures. As well as inviting contributions from the RPC, we will be open to feedback from external stakeholders.

In your letter, you raised a number of concerns about the wider costs of regulation and their impacts on society as a whole. I intend to make the wider costs and impacts of regulation clearer to all in the annual reporting of the Business Impact Target (BIT). In setting the BIT, we will be looking to create a system that is simpler and more coherent for business, and which delivers regulation that is both efficient and effective.

Our aim continues to be to ensure that the quality of analysis and evidence that accompanies legislation introduced to Parliament remains high and that all significant measures with an impact on business are subject to independent scrutiny before introduction.

I will continue to keep you and the other Chairs of the Parliamentary Scrutiny Committees informed.

Rt Hon Lord Henley

cc. Sir Geoffrey Clifton-Brown MP, Deputy Chair, Committee of Public Accounts