In my letter of 22 November 2017 about the introduction of a more proportionate and streamlined system of better regulation, I said that I would continue to keep you, and the Chairs of other the relevant committees, informed about development of better regulation policy.

The interim guidance for the Better Regulation Framework was recently published on www.gov.uk. It is clear that Departments should continue to provide robust analysis to meet the needs of stakeholders, collective agreement and Parliamentary scrutiny. The analysis should be proportionate to the scale or impact of the measure. As I said before, only those measures with an impact greater than £5 million (equivalent annual net direct cost to business) will be continue to be subject to mandatory independent scrutiny of a full regulatory impact assessment. All other measures will require a proportionate assessment of the costs and benefits of the measure and Departments may seek independent scrutiny for such measures.

There will be a system of ‘call-in’ for those measures not subject to mandatory independent scrutiny. The system will be administrated by the Better Regulation Executive (BRE). The factors that will be considered include measures with:

- 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. BRE will work with Departments to support them in considering how to demonstrate the appropriate assessment of measures. This may include discussions with the Regulatory Policy Committee (RPC) where this is appropriate and consistent with a proportionate approach. The RPC will also be invited to identify concerns regarding specific measures, and this may result in the RPC reviewing the quality of supporting evidence. The BRE will also be open to feedback from external stakeholders, or from Parliament.

My officials would welcome ongoing engagement with Committee Clerks to ensure that we can identify any areas of concern about changes to the better regulation framework and to enable us to provide support to Departments to meet the expectations of the Committee.

As before, I am copying this letter to Lord Blencathra (Chair, Delegated Powers and Regulatory Reform Committee), Lord Trefgarne (Chair, Secondary Legislation Scrutiny Committee), Andrew Bridgen (Chair of the Regulatory Reform Committee) and Derek Twigg MP, (Chair of the Statutory Instruments Committee).

Yours sincerely,

Rt Hon Lord Henley