

Meg Hillier MP
Chair of the Committee of Public Accounts
House of Commons
London
SW1A 0AA

By email

8 October 2019

Dear Ms. Hillier,

Re: Public Accounts Committee report on Network Rail's sale of railway arches

In its report on Network Rail's sale of railway arches published on 13th September 2019, the Public Accounts Committee requested we write in response to the following recommendation under conclusion 2:

HM Treasury should write to us within one month, setting out its policy in relation to departments, and bodies within their control, actively promoting measures to get around Acts of Parliament.

As context, we do not believe that Network Rail have circumvented Acts of Parliament here. Network Rail and the Department for Transport have written to you to clarify their position with regards to the Landlord and Tenant Act 1954 and the renewal of leases.

HM Treasury does not support the adoption of measures by public bodies designed to circumvent Acts of Parliament. If such attempts were to come to our attention, we would challenge the relevant department to consider the propriety of such actions. We do recognise that there will often be an element of judgement involved in considering whether a specific measure can reasonably be said to be an attempt at 'circumvention'.

In many policy areas, decisions will fall entirely within the delegated authority of departments so the propriety of specific actions will ultimately be a judgement for individual Accounting Officers and ministers whose decision-making process will need to consider all relevant factors. This will include taking into account legal advice, as appropriate.

There are multiple sources of HM Treasury guidance which provide support to Accounting Officers making such judgements. Managing Public Money makes it clear that Accounting Officers should ensure that their department's activities are regular and proper, including that they are acting within their legal powers.

Yours,

Tom

Tom Scholar