



Office of the Leader  
of the House of Commons



LEADER OF THE HOUSE OF LORDS

The Rt Hon. the Baroness Taylor of Bolton  
Chairman of the Constitution Committee  
House of Lords

LHoL ref: LHOL/PEER064

LHoC ref: AL/PEER836

Dear Ann

7<sup>th</sup> November 2018

**Legislative process inquiry: evidence session follow-up**

Thank you for inviting us to give evidence to the Committee on 24 October as part of its inquiry into the legislative process. We are writing to follow up on some of your questions during that session.

Baroness Drake asked why there had been a delay with the publication of a draft code of practice in relation to the Counter-Terrorism and Border Security Bill. We undertook to clarify the position with Home Office Ministers and write to the Committee. The Security Minister, Ben Wallace MP, said during Commons Committee stage that the aim was to publish the draft code of practice in the autumn and Baroness Williams of Trafford gave an undertaking during the Second Reading debate in the Lords that it would be published in advance of Part 2 of the Bill reaching Committee stage. This is still the case and the Government intends to publish the draft code shortly. The final code will be subject to the affirmative procedure so both Houses will also have a later opportunity to debate and approve it. As a general point, we appreciate that explanatory materials should be available in a timely way and wherever possible we expect departments to ensure that this happens.

Lord Wallace of Tankerness asked about public bill committees in the Commons for Lords-starting bills. As a matter of practice, Lords-starting bills do not take evidence from the public at the beginning of their Commons Committee stage, even where it is taken away from the floor of the House.

As we suggested during the session, while the introduction of public bill committee deliberations in the Lords is a matter for the House to decide, we are not sure that replicating Commons proceedings would necessarily improve scrutiny when there is already complementarity between both Houses in the way they consider legislation. We also noted that the expertise of the Lords, and its ability to interact with a variety of stakeholder groups, means that external views already inform many of the contributions raised on the floor of the House.

Any change which might curtail the number of Peers who are able to get involved would require careful consideration. At present all Peers are able to take part in all stages of proceedings on public bills (bar of course one or two exceptions, such as for certain stages of Law Commission bills). In contrast, only a small number of MPs sit on a public bill committee in the Commons. It is a longstanding and important principle that the two Houses complement each other, and their procedures reflect their important but different roles in our legislature.


Baroness Corston asked whether human rights authorities continue to be cited in explanatory notes. Ministers are obliged to make a statement under clause 19(1)(a) of the Human Rights Act as to each government bill's compatibility with the European Convention on Human Rights. That assessment continues to be summarised in each bill's explanatory notes and departments are made aware of this requirement through the Cabinet Office's *Guide to Making Legislation*.

Finally, Lord Judge asked about counting the number of pages of statutory instruments (SIs) put into law and why that number is not measured or recorded centrally. As we set out to explain during our appearance, we have made a lot of progress this session in the way the Government manages its programme of secondary legislation. The National Archives - via [legislation.gov.uk](http://legislation.gov.uk) - capture all SIs, including those not subject to Parliamentary procedure, and may be well-placed to start a regular overall count of pages. They currently produce some general information about SI volume.

We hope this is helpful and look forward to reading the Committee's report.



**Rt Hon Baroness Evans of Bowes Park**  
Leader of the House of Lords



**Rt Hon Andrea Leadsom MP**  
Leader of the House of Commons