



Office of the Leader
of the House of Commons

70 Whitehall
London
SW1A 2AS

Tel: 020 7276 1005
commonsleader@cabinetoffice.gov.uk

Our Ref: AL/MP051
26 January 2018

Dear Baroness Taylor

THE LEGISLATIVE PROCESS: PREPARING LEGISLATION FOR PARLIAMENT

I am grateful to the Committee for its recent report on preparing legislation. I am replying on behalf of the Government. I have asked that my officials carefully consider where its recommendations can be factored into our processes.

The policy development process

I was pleased to see that the Committee's report noted the renewed importance that we have attached to ensuring policies have a solid evidence base. The Prime Minister has been keen to ensure that policy changes are founded on a thorough policy development, and where possible preceded by Green and White Papers. Recent examples of such papers include the Industrial Strategy, children's mental health, customs, international sanctions and international trade policy.

I thought it might be helpful to the Committee to highlight the following examples which demonstrate evidence-based policy making and the use of pilots:

HM Revenue and Customs:

The Government's "new approach to tax policy making", which began in 2010 and was reaffirmed at Autumn Budget 2017, provides that, where changes are needed to tax law, they should only be introduced in the Finance Bill after a policy consultation and a consultation on draft legislation. The Government's decision in 2016 to abolish the Autumn Statement and move to a single fiscal event in the Autumn has improved the tax policy making process further by changing the tax system less frequently, allowing for greater time for consultation and greater parliamentary scrutiny before legislation takes effect.

Department of Health and Social Care:

The Standardised Packaging of Tobacco Regulations 2015 (fully in force from May 2017) aimed to improve population health by discouraging children from taking up smoking and helping smokers to quit. The Regulations aim: to reduce the appeal of smoking; to support smokers quitting; to increase the effectiveness of health warnings on packs; and to reduce the ability of packaging to mislead about the harmful effects of smoking.

Smoking is the primary cause of preventable death in the UK. Evidence shows that only sustained regulatory pressure will result in effective tobacco control and ensure that the UK continues to see a downward trend in smoking prevalence and health harms on society. The Regulations are expected to deliver £29 billion (discounted lifetime value) benefits to the UK in terms of reduced smoking. Further health gains are expected to be realised in the longer term as the policy will encourage a generational change in attitudes towards smoking, with children born today never being subjected to tobacco marketing and promotion.

The Government based the policy on a sound evidence base following two systemic and independent reviews. Much of the evidence base was developed from the experience of other countries – for example Australia. The Government also consulted widely on the topic, running two public consultations, in 2012 and 2014, with the Department considering over 800,000 responses.

The Cabinet Office What Works Network:

The What Works Network was set up in 2013 to provide government departments, ministers, and frontline professionals with independent assessments of the available evidence in specific policy areas (e.g. health, social care, local economic growth, and policing). The Network now consists of 10 What Works Centres and a central team in the Cabinet Office to help bring their findings to the attention of policymakers. To date, the What Works Centres have produced 288 evidence reviews including 48 systematic reviews on a wide range of topics.

The Cabinet Office's What Works Team runs a Trial Advice Panel that offers technical support to policy teams across government who want to use robust methods to test what works. The Panel consists of almost 50 academics and civil servants with first-hand experience of running high-quality trials. The Trial Advice Panel is free to use and has already been used by 18 departments and public bodies since it was set up in 2015.

Consultations and legislative scrutiny

I was pleased to see that the Committee noted the Government now collates all open consultations on a single page on Gov.uk. Your report also noted that departments should bring such consultations to the attention of stakeholders. I would like to reassure you that the Consultation Principles (which are published on Gov.uk) stress the importance of targeting consultations to a full range of people, business and voluntary bodies affected by the policy. The guidance notes that departments should consider targeting specific groups and ensure they are aware of the consultation and can access it. It also notes that consideration should be given to tailoring consultations to the needs and preferences of particular groups, such as older people or people with disabilities who may not respond to traditional consultation methods.

The guidance can be found at the following web address:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

I note the importance the Committee attaches to pre-legislative scrutiny (PLS). I would like to reassure you that when considering any bids for new legislation or whether a bill should be introduced, the Parliamentary Business and Legislation (PBL) Cabinet Committee always encourages departments to publish draft legislation for PLS. Bills in this session which have undergone PLS include the Space Industry Bill and the Smart Meters Bill. The PBL Committee also prioritises legislation which has had PLS. So far in this Parliament the following pieces of legislation have been published in draft:

- personal injury discount rate legislation
- Tenant Fees Bill
- Domestic Gas and Electricity (Tariff cap) Bill Energy
- Animal Welfare (Sentencing and Recognition of Sentience) Bill
- Health Service Safety Investigations Bill
- Non-Domestic Rating (Property in Commons Occupation) Bill
- draft tax legislation

Several other draft bills have been announced.

The quality of legislation

I would like to reassure the Committee that whilst there are often disagreements in Parliament about specific policy approaches, the Government attaches the highest importance to high quality, well drafted legislation. The Office of the Parliamentary Counsel have developed processes to ensure that they continue to draft, and promote the importance of "good law". They work closely with colleagues across the Civil Service to ensure those instructing on bills understand what is needed to produce good law. They have recently revised and updated their drafting guidance, published on Gov.uk and are widely recognised as setting a benchmark for good legislative drafting practice. The Office of the Parliamentary Counsel invests heavily in the training of new counsel, operating an apprenticeship model which ensures that new counsel learn from working closely with more experienced colleagues. The Office has also strengthened internal processes to ensure that bill drafting is thoroughly reviewed by a second drafter from an early stage (the "four eyes" principle) and in addition have processes to ensure bills are "peer reviewed" by a team of colleagues closer to introduction.

The Government continues to support the work of the Law Commissions, which consult widely on the projects on which they should focus their work. The work programme of the Law Commission for England and Wales recognises the particular value of reform and consolidation in the field of immigration and sentencing law: its 13th work programme (published 14 December 2017) includes a project on simplifying the Immigration Rules, and it published a draft Sentencing Code for consultation on 27 July 2017 (with a deadline for responses of 26 January 2018).

Parliamentary Counsel are also closely involved, along with Government lawyer colleagues, in improving the quality of secondary legislation: an experienced drafter is seconded to the Government Legal Department's Statutory Instrument Hub and works closely with Government lawyers there to help develop drafting skills more widely across Government and improve the guidance available to departmental drafters. Parliamentary Counsel also vet all secondary legislation produced in departments which amends primary legislation.

Alongside this, Parliamentary Counsel have been working with the PBL Secretariat and the Whips' Offices to offer training to Bill teams and a wide range of other civil servants. Part of this programme focuses on engaging peers and MPs during the passage of a bill.

I note your report highlights the need to ensure bills are as focused as possible. I would like to reassure the Committee that in this Parliament we have, wherever possible, sought to avoid multi-topic 'Christmas tree' bills.

I am grateful to the Committee for the report and I hope that you find this response helpful.

Best wishes
Andrea Leadsom

RT HON ANDREA LEADSOM MP
LEADER OF THE HOUSE OF COMMONS

The Rt Hon the Baroness Taylor of Bolton
Chairman of the Constitution Committee