



# HOUSE OF LORDS

Select Committee on the Constitution &  
Delegated Powers and Regulatory Reform  
Committee

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22 July 2015

The Rt Hon. Chris Grayling MP  
Leader of the House of Commons  
1 Horseguards Road  
London  
SW1A 2HQ

Dear Mr Grayling

## **Government legislation**

We are writing on behalf of our respective Select Committees—the Constitution Committee and the Delegated Powers and Regulatory Reform Committee (DPRRC)—both of which scrutinise primary legislation introduced into the House of Lords.

We are concerned that, just two months into a new Parliament, we have already scrutinised bills that confer on ministers broad and undefined delegated powers to achieve legislative objectives, but contain few restrictions as to how secondary legislation should be framed to achieve those goals. These include in particular the Cities and Local Government Devolution Bill [HL] and the Childcare Bill [HL]. Copies of our reports on those bills are included with this letter.

The Childcare Bill [HL] is particularly culpable in this regard. The DPRRC drew attention to “the remarkable imbalance between the provision that appears in the Bill itself and what is to be left to regulations” and doubted whether there could be a properly informed debate in the House in the absence of any detailed information. The Committee also criticised the inadequate justification for the delegations contained in the delegated powers memorandum, contrary to the guidance given to departments by the DPRRC (to which reference is made in the Cabinet Office’s Guide to Making Legislation). The Constitution Committee meanwhile noted that that Bill conferred “wide discretionary powers on the Secretary of State, including Henry VIII powers, with few indications as to how those powers should be used to achieve the objectives set out in the Bill.”

It was a relief to both Select Committees that the Minister in charge of the Bill agreed to delay the Report Stage until the return of Parliament in October, thereby giving the Government an opportunity for further work to be done.

We would urge you, as Chairman of the Parliamentary Business and Legislation Committee, to remind ministers and civil servants across Government that delegations of legislative power must be appropriate, the degree of flexibility afforded to ministers proportionate to the objectives set out in primary legislation, and that 'skeleton' bills should be introduced only when absolutely necessary and with a full justification for the decision to adopt that structure of powers.

Given our concerns, we wish to make it clear that we shall be keeping a close watch on any new bills coming forward and shall not hesitate to point out when standards slip.

Yours sincerely

A handwritten signature in black ink that reads "Jane Fookes". The signature is written in a cursive style with a prominent initial 'J'. Below the signature is a solid horizontal line.

Lord Lang of Monkton  
Chairman, Constitution Committee

Baroness Fookes  
Chairman, Delegated Powers and Regulatory  
Reform Committee