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Inquiry on

THE QUALITY OF DELEGATED POWERS MEMORANDA

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Witness: Jonathan Jones

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Members present

Baroness Thomas of Winchester (Chairman)
Baroness Andrews
Lord Bourne of Aberystwyth
Baroness Drake
Baroness Farrington of Ribbleton
Baroness Fookes
Countess of Mar
Lord Marks of Henley-on-Thames
Baroness O'Loan
Viscount Ullswater

Examination of Witness

Jonathan Jones, HM Procurator General and Treasury Solicitor

Q12 The Chairman: Good morning, Mr Jones.

Jonathan Jones: Good morning.

The Chairman: Thank you very much for agreeing to give evidence to our Committee today.

Jonathan Jones: Not at all. My pleasure.

The Chairman: You are very welcome. We had the benefit of Richard Heaton's evidence last week. I do not know whether you saw that.

Jonathan Jones: Yes, I have seen that.

The Chairman: We would very much like to ask you some questions in your rather different role as the Treasury Solicitor. Perhaps you would like to begin by just giving us your name and job title for the record.

Jonathan Jones: I am Jonathan Jones, and I am the Treasury Solicitor and head of the Government Legal Service.

The Chairman: Thank you very much. I am sure you know that the purpose of this inquiry is to consider how the variation in the quality of delegated powers memoranda can be

improved so that they are all of a consistently high standard. I wonder how you would account for this variation and whether you think there is a systemic deficiency.

Jonathan Jones: I do not think there is a systemic problem. I have looked with interest at some of the recent Committee reports, including those that have criticised individual memoranda. From my own knowledge, the preparation of these memoranda is taken seriously in departments as an important and integral part of the legislative process, and where the Committee makes comments on a memorandum, those are taken very seriously too. I have noted on occasion that the Committee has been generous enough to compliment particular memoranda, so some are good.

Unfortunately, there have been some significant lapses. Sometimes I suspect they will have arisen just in the heat of business because of the speed of the parliamentary process and the volume of material that has to be produced in the course of Bill work. None of that is any excuse, of course. I accept there are lapses, and there is variation in quality. I do not think it is a systemic problem. I think we need to get better, not least within my own department, at identifying and sharing good practice, reminding people of the importance of this work and of getting it right, and then dealing quickly with problems or shortcomings when they have been identified by this Committee.

Q13 The Chairman: Thank you. You have talked about your department getting more involved. Do you have a role in the quality assurance of delegated powers memoranda? We just wonder how closely you are tied in to the process of producing them.

Jonathan Jones: Can I just say a word about my role generally?

The Chairman: Yes, of course.

Jonathan Jones: I took over as Treasury Solicitor in March this year. In that role I have two capacities. One is as the Permanent Secretary of my own department, the Treasury Solicitor's Department, and that includes most of the legal staff of the Government, including many who

are working on Bills and will be involved in preparing memoranda for this Committee. I also have a wider professional leadership role for the Government Legal Service more generally. I mention all this because the current structure of the service is a bit odd, because some of the legal teams are within my own department and therefore within my direct line management control, and some are not. This is really the result of rather arbitrary historical accident.

We are going through a process of change at the moment, which is bringing more and more legal teams directly into the Treasury Solicitor's Department. Part of the reason for doing that is to give greater control and co-ordination over, among other things, the quality of the legal work. We are part way through that process. At the moment, for example, the legal teams, including those working on Bills in the Department for Education, the Department for Environment, the Ministry of Justice and the Home Office, are all within my department, so the lawyers report ultimately to me. In some other departments—for example, the business department, the Department for Transport and so on—they are not yet, but there is a process that will bring more and more of them under the control of my department.

I mention all that because it has a bearing on the level of oversight and day-to-day influence I can have over the legal work of those teams. In practice, I do not personally see these memoranda routinely at all. Responsibility for their production would rest with the Bill team and the lead lawyer working on the Bill in the department, which might be one of my teams or it might not, as I have described, and, ultimately, for the head legal adviser in a particular department. I think we could probably be more explicit about how we monitor parliamentary feedback as a measure of quality of the legal work we do. That would obviously include reports of this Committee.

That is a rather long answer, but it is quite important that, for me, the purpose of the changes we are making includes an opportunity to get more systematic control over the quality of legal work in the teams for which I am responsible. That includes the quality of Bill work, of

course, and putting in place some measures of that quality, which would include monitoring comments from this Committee. If a particular team is getting its knuckles rapped for producing poor memoranda, I would expect to know about it in a more systematic way, frankly, than I do at the moment.

The Chairman: That is very encouraging. Does anyone in the Government Legal Service analyse the Committee's reports regularly to identify themes that ought to be dealt with in the memoranda?

Jonathan Jones: Frankly, no, this has not happened until now. It happens in individual departments, and I can say that individual departments, and the legal teams within them, will take very seriously the feedback they get on their memoranda, but there is no systematic process of looking across the whole service to see whether there are particular patches of very good practice or particular patches of poor practice, or particular themes that are emerging. This is a very timely inquiry, if I may say so, and I would expect to learn lessons from it and to embed the results in the work that we are doing, which I have described, to improve quality.

The Chairman: That is great. You reckon that somebody in your department might in the future look at every one of our reports to see what we say or do not say.

Jonathan Jones: Let me put it this way: I would expect to have a process, which would be supervised by a senior person in my department—I am not saying that he or she would read every report—that would include feedback on reports of this Committee.

The Chairman: Thank you very much.

Q14 Countess Mar: Good morning, Mr Jones.

Jonathan Jones: Good morning.

Countess Mar: Can you tell me, please, what training lawyers have in the Government Legal Service to enable them to produce delegated powers memoranda of an acceptable standard?

Jonathan Jones: There is a very full programme of training for government lawyers, as you would expect, right from the moment they join the service. That includes specific training on Bill work, and every lawyer who works on a Bill will have received specific Bill training. That includes reference to the work of this Committee, and the importance of the delegated powers memorandum as part of the Bill process.

We also have a Government Legal Service network of lawyers involved in primary legislation, so they are involved in Bill work. That is a ready-made community of Bill lawyers whose purpose is to share best practice and experience—a whole range of issues—on Bill work. Again, that could and probably should include more of a focus on the delegated powers memoranda and the use of delegated powers more generally. There is already a pretty comprehensive programme of training, into which the output of this Committee could be readily fed.

Countess Mar: Do they receive this training at their induction or when they become a member of the Bill team—a sort of continuing professional development?

Jonathan Jones: It can be either or both. There is a strong programme of introductory training. There are specific Bill training courses; if a lawyer working on a Bill has not previously done those, they will be put through them before they then get to work on a Bill.

Countess Mar: Have you considered doing spot checks on memoranda as an opportunity for continuous training?

Jonathan Jones: That would form part of the work that I have already described, as an exercise in monitoring and driving up quality in teams. For Bill teams, that would include monitoring the quality of memoranda and reports of this Committee on them.

Countess Mar: Thank you. That is very pleasing to hear.

Q15 Baroness Andrews: If I may just follow that up, it is the quality of memorandum we are concerned with, and that obviously includes both the legal technicalities and the accuracy

of those. However, it is also about the nature of the response we get, the explanation we get and the degree of explanation for why certain instruments are chosen, affirmative as opposed to negative, or whatever. Does the lawyer get involved in that sort of dialogue with the policy officials that enables a lawyer to say, “Well, we do not think you have gone quite far enough in explaining why this is urgent, or why it is technical and therefore should be negative, or why it is actually so important that we are going to recommend affirmative”. Is he part of that debate?

Jonathan Jones: He will be part of it. Perhaps it is worth explaining. As I think you will have seen from the written evidence to the Committee, there is no set template for the role of lawyers as opposed to policy officials in the production of these memoranda. In practice, lawyers will always be involved to some extent. Precisely who does the drafting, who does the first draft, or who co-ordinates the draft, will vary from Bill to Bill and department to department. I think that is probably as it should be.

The whole process of producing a Bill is, in practice, a partnership between the lawyers and the policy officials. Of course, there is a whole mass of material that has to be produced apart from the Bill itself. There will be Explanatory Notes; there will be memoranda to this Committee and to the Human Rights Committee. There will be all sorts of other briefing material to be produced for members of both Houses and the public and so on. In practice that will be a joint effort between the lawyers, the legal team and the policy team. That said, lawyers will always be involved in the production of the memoranda, and they may very well be the lead drafters of the memorandum, so they take their share of the issue this Committee is looking at, which is to say the quality of the document that is produced.

On the specific question of which powers are chosen, that, in the end of course, is not a legal question; it is a policy question ultimately for Ministers. When to take delegated powers—if so, what form of power and subject to what kind of control—is not a hard-edged legal

question for lawyers to decide. As a matter of judgment, it will be informed by principles, precedent, not least reports of this Committee and so on, which lawyers may well be very well placed to advise on. Again, I would expect there to be a dialogue between lawyer and policy official, and indeed Minister.

A theme you touch on that I have picked up from reading your recent reports is that sometimes, where a particular form of power is chosen, the explanation for that choice is not very fulsome. If there is one theme I have picked up already from your inquiry, it is that. For example, where the negative resolution procedure is chosen, there needs to be some proper explanation of that. That will be a very clear message that comes out of this. That explanation may include a range of factors, and it may be a range of factors on which views will differ, let us be honest, whether it is the level of detail of the provision, the level of importance of what is going to go in the instrument or the timing with which instruments might have to be produced or amended and so on. All those might be relevant factors. Again, I would expect that to be the subject of a discussion between the lawyer, the policy official, all informed by their collective wisdom and experience, and, as I say, by previous reports to this Committee. I hope that is helpful.

Baroness Andrews: Yes, that is very helpful. Thank you very much.

Q16 Baroness Fookes: Mr Jones, when drawing up the memoranda, the particular department will have official Cabinet guidance. It will have guidance from this Committee in written form and that could serve as a precedent. Do you think that the guidance as it is currently embodied in documents is sufficient? Could it be improved?

Jonathan Jones: It is very good guidance; it is very clear. Lawyers certainly have regard to it, as do their policy colleagues in producing these memoranda. It can always be improved. It is apparent that there are examples of good practice and examples of poorer practice that we could embed in the guidance. I am sure that will happen as a result of this inquiry. I also

think that there is an opportunity to disseminate the guidance, or particular examples, probably more widely and more freely than we do. I hope the arrangements I have already described for sharing best practice will help in that. I do not think the guidance is particularly flawed. It can probably be improved. I do not necessarily think the answer to this is to proliferate more and more guidance. It is just to keep the guidance under review and make sure that we are embedding in it the examples of really good practice—and, where relevant, poor practice—so that those who are drafting have readily available to them the material they need to produce a really good memorandum.

Baroness Fookes: Do you have a system at present for a regular update—not, as you say, proliferation but simply updating one and discarding the earlier ones?

Jonathan Jones: We have a system, but I am not going to pretend it has been hugely active. I have referred already to the cross-government group on primary legislation. I think that will probably be the best route for sharing this knowledge and, where relevant, recommending updates to the guidance. I am confident that one output from this inquiry will be that we do that in a more systematic way.

Baroness Fookes: When we had evidence from Mr Heaton last week, he suggested that we should say explicitly as a Committee that a one-line explanation such as “the negative speaks for itself” should be stated by this Committee. I am shocked that we should feel it necessary to have to say that. Could you comment?

Jonathan Jones: In a way you have now said it. I think I have already deduced it from previous reports and indeed from the discussion that you had with Mr Heaton. Whether or not it goes in your report as a result of this inquiry, it is a pretty clear message, which, as I said, we will take away, that the explanations for the choice of procedure, in particular for the choice of negative procedure, need to be fuller and more explicit. We cannot rely simply on assumptions that negative is okay if you do not need to justify anything else.

Q17 Lord Bourne of Aberystwyth: Good morning. Thank you very much for your evidence. You have already referred to significant lapses that we have in some of the memoranda, although, as you also say, some are very good. I think we are all heartened by the fact that as Treasury Solicitor you are going to have overall purview of these ultimately. By historical accident, some are not with you at the moment. Can you give us some idea of the timescale for completing that process where you will, as it were, have overall control of these, because clearly our aim is to iron out these lapses, so far as we can, so that they are taken on board and they do not happen in the future.

Jonathan Jones: The process of reform of the Government Legal Service, which I referred to earlier, is a structural reform that in our world is quite big because it is bringing together a large number of what were previously separate legal teams into a single department. That is still ongoing and will take some months.

Lord Bourne of Aberystwyth: Months?

Jonathan Jones: That will take some months.

Lord Bourne of Aberystwyth: Right.

Jonathan Jones: Possibly many months because we are doing it in phases and a number of departments are not yet part of the wider shared service. I do not think that measures taken as a result of this inquiry need to wait for that, because we already have the Government Legal Service community, even if it is a bit fragmented at the moment. Some of the things that we can do about sharing good practice, joint training and updating guidance and so on can be done without waiting for those structural changes to be made. I think they will be easier when the structural changes are in place, because we will have clearer reporting mechanisms and so on. I would expect us to be able to respond to this inquiry without waiting for that structural process to be complete, if that makes sense.

Lord Bourne of Aberystwyth: If I could just follow that up, it does make sense. Months not years is heartening, but in the interim presumably nobody is taking an overall purview of BIS, as I think you have mentioned. That goes to BIS and it does not go anywhere else, so if they are not looking at it properly nobody is, as it were, taking oversight of that.

Jonathan Jones: I have no reason to suppose that BIS is not taking this seriously,

Lord Bourne of Aberystwyth: I am using that as an example.

Jonathan Jones: If it is an example, it happens to be a team that is not currently within my department, but it is part of the wider Government Legal Service. To the extent, as you say, that there is no single oversight role over this process at the moment, we can do quite a lot of that, even with the current federal structure, without waiting for all these departments to come within the central Treasury Solicitor's Department.

The Chairman: Lady Mar, you want to come in.

Q18 Countess Mar: When Mr Heaton was addressing us last week, he mentioned that some of the Bill teams were not experienced. Will there be a possibility when you have got them all together for the inexperienced teams to refer to more experienced teams for advice and help?

Jonathan Jones: I think that is right. It happens already to an extent. I have already said that lawyers that are new to Bill work will receive training, and that will typically be training by more experienced Bill lawyers. In practice, lawyers are often among the more experienced staff working on Bills, as opposed to policy officials, who may do only one or two Bills in their whole career, because they will have been doing other policy work. Lawyers will often do many Bills in the course of their career. Often, not always, they will be the point of continuity and the source and repository of shared knowledge. But, of course, at any given time some lawyers will be new to Bill work and, as I have said, there is a process for training

them. I think we can get better at the way in which we share information around that community, as I said.

Q19 Baroness Andrews: I think you have partially answered the question. My question was really going to be about how you actually see a change of culture. How do you embed better practice across the whole working of Bill teams in relation, say, to delegated legislation? It sounds as though you have identified a problem, which you are addressing by taking your lawyers under your control. What does that actually do, however, to the departmental work? Will it make it more difficult for the departments to get a grip on some of the legal work that they have to do? I am not explaining this very well. What is the downside of this? What we are concerned about, first, is obviously to help to raise the game of Bill teams in this particular respect of delegated legislation; what you are doing actually seems to be designed to address a number of different problems. Is there going to be a downside to it, or do you see this as really bringing cultural change with it?

Jonathan Jones: My aim is that it should bring cultural change. It is a significant change in the organisation of the government legal function. I am clear about that. One of the main reasons for doing it is to share best practice, to share knowledge and expertise around the system, to identify good practice and, frankly, bring all teams up to the standard of the best and beyond—and where there is slightly poorer practice, to help to eliminate it, to train people, to teach people and bring the standard up.

This inquiry is utterly timely from my point of view because it is one aspect of quality of the government service. It stands to reason that if you have lots of relatively separate individual legal teams, some will be better than others. If you do not have a system for cross-fertilisation and sharing between them, you are less likely to bring the poorer ones up to the standard of the best. That applies generally, not specifically to Bill work or delegated powers memoranda, but you can see that it fits in with that agenda.

You ask whether there is a downside. There are some risks to it. There are some risks with any change. One of the risks is that by bringing the teams together, if I can oversimplify, into a more co-ordinated legal function, you lose the link with the individual department. I am pretty confident that we can avoid or mitigate that risk. For most of the teams I have described, including all those that are working on Bills, the lawyers will still be in client-focused departments, and in almost every case they will still be physically co-located with those departments.

If I take my own previous department, the Home Office, it is one of those teams that has now joined the Treasury Solicitor's shared service, but they remain specialist Home Office lawyers; they remain co-located in the Home Office, and they retain their very close relationship with their Home Office clients, including, of course, those who are working on Bills, which is a big part of the Home Office legal work. I am trying to get the best of both worlds so you get the really strong client link; you have lawyers who really understand the work of their departments and work closely with their clients. On the other hand, they are part of a wider legal organisation, my department, which is better placed to do all the things that we have described, which is to identify good practice, to share it, to have really strong joint training, and to manage the careers of lawyers around the service, which makes sure that you have strong continuity of service and so on. That is, I hope, the answer to your question.

Baroness Andrews: It is. To put it simply, what is the problem that you have been trying to solve?

Jonathan Jones: The problem—two or three manifestations of it—is that you have had a government legal function organised, as I say, in a slightly odd way: some of the teams are within the Treasury Solicitor's Department and some not. Inevitably in that model you get some overlap. There is some reinventing the wheel in individual teams, because they are all basically trying to do the same kind of work. The systems for sharing information and

knowledge around the system are okay but could be better. The arrangements for deployment of staff and for managing people's careers around that system are okay but could be better. This is a system—the current Government Legal Service model—that works pretty well most of the time but could work better with a bit more grip, a bit more co-ordination and a bit more control. You say, “What is the problem that they are trying to solve?”. I think I would put it another way: what are the improvements that we think these changes can make?

Baroness Andrews: Thank you very much.

Q20 Baroness Drake: Good morning.

Jonathan Jones: Good morning.

Baroness Drake: Staying with this issue of raising quality in the legal function, it appears from the evidence that we the Committee have received from the departments that it is the Bill team manager and the Bill lawyer who are responsible for the preparation of the delegated powers memorandum. To your knowledge, or in your view, is the delegated powers memorandum signed off by the lawyer, or might it be signed off by a non-lawyer? Is there a case for the formalising of sign-off being the responsibility of the Bill lawyer?

Jonathan Jones: I have already said that in practice it is a partnership between lawyer and client, typically the Bill manager. Practice varies a bit between departments as to who does precisely what in that process: so who does the first draft. If it is a big Bill, there may be bits of the memorandum that are drafted by different parts of the team who are specialists in a particular topic and so on. There will be a process of bringing all that together, and then at the end they will pull it together into a completed document, which may of itself raise quality challenges because you are producing a draft that may include contributions from different people and you will have to marry up cross references and all the things that sometimes poor memoranda get wrong. Then in the end there will be someone who has to sign it off. I am agnostic, if I am honest, as to whether that has to be a lawyer, provided that lawyers are

involved in the process where they need to be. Ultimately, of course, it is for the Minister to make the decision and to approve the memorandum. As I say, I am pretty agnostic as to whether, formally speaking, there ought to be a rule that it is a lawyer as opposed to the Bill manager who signs it off. In one sense, it is not a legal document: it is an important part of the apparatus supporting the Bill. It has a legal element and it is right that lawyers should be involved in that. That is what I would say.

Baroness Drake: If you do not have sign-off from the Bill lawyer—I am being agnostic for the moment—at least for the draft that goes to the Minister, does that not inhibit your ability to exercise a quality-assurance role over the quality of the memorandum?

Jonathan Jones: What I am really saying is that I am not sure whether you need a formal role. What I would say is that lawyers have to be involved in the process, and they take their share of the responsibility for the finished article.

Baroness Drake: When Richard Heaton gave evidence to us, he rejected the idea that parliamentary counsel should always sign off the memorandum on the grounds that he really wanted the authorship to be right. Do you agree with him?

Jonathan Jones: I do agree with that. This is a departmental document. Parliamentary counsel have a particular role of drafting the Bill, but the departmental lawyers, who in most cases will be lawyers in my department now, as you have heard, will in practice be closer to the clients and more closely involved in the day-to-day preparation of all the surrounding material supporting the Bill, including the delegated powers memorandum. It is probably for the department, including the departmental lawyers, to take responsibility for this, bringing in parliamentary counsel as and when they need to, as I think Richard Heaton said.

Baroness Drake: If the emphasis is on getting the authorship right, obviously a lot of what you have said this morning is about monitoring as a way of getting the quality up, but if you

had to identify the two or three key levers for getting it right, what would they be? Obviously one would be monitoring for quality.

Jonathan Jones: One would be monitoring for quality. One would be the training and the awareness-raising that we have already spoken about—that those working on these memoranda have good guidance on what a good memorandum should look like, so that they are not starting with a blank sheet of paper. They have some idea—not a formal template but some guidance—as to what a good product looks like. There must be a good system for sharing feedback, including reports of this Committee, and identifying any themes that flow from it. Those would be the main levers, and ultimately monitoring. If there were systemic poor performance, then there would be a system as part of the quality measures that I have talked about that can alert ultimately me if there is a particular team, which I hope there is not and will not be, that is falling down in its work. Then we can take measures, whether more specific training or putting in a SWAT team of experts to help them—that kind of thing. I hope we will not get there, but that would be the kind of measure one could take.

Baroness Drake: Thank you.

Q21 Lord Marks of Henley-on-Thames: I should mention to you that I have declared an interest as a barrister, and members of my chambers do a considerable amount of work for your department, but I do not think I have ever done anything particularly significant for your department. I would like to ask this. Lawyers in the Government Legal Service are involved both in primary legislation, which gives the delegated powers, and then of course in the drafting of the secondary legislation that follows from them. Do you think that the delegated powers memoranda that are produced are of use at the second stage of that process? Do you think that those drafting the relevant statutory instruments rely on the memoranda as a resource?

Jonathan Jones: I do not think they do at the moment, systematically. I do not believe they do. Normally the lawyer drafting the statutory instrument will look at the Bill to see what the powers are, and that will of course include what type of power they are exercising and subject to what procedure. The Bill, or by then an Act, is plainly the primary source for the power, and that is what the lawyer will be looking at when drafting the instrument.

I would say that reference to the delegated powers memorandum, or to any report of this Committee on it, would fall into the same category as any other parliamentary material. It is not unheard of, but it is relatively rare, that in construing a statute one needs to look back at the parliamentary material to see what was really meant, and that might include debates in the House or reports of Committees on the Bill. It might include, of course, departmental material on the Bill, including what instructions went to parliamentary counsel and so on. Sometimes one will want to look back at the Bill material in order to construe the Act, in a case of doubt or if there is some real issue about how the Act is to be interpreted.

I would think that the interpretation of powers will be in the same category. Just occasionally, if the Bill as enacted is unclear as to the nature or the scope of the power, or there is some controversy over what the power was, one might want to look back at the parliamentary material, including whatever came before or out of this Committee, but I do not think that happens routinely. In fact, I am not sure that I would expect it to, but it might have to on occasion.

Lord Marks of Henley-on-Thames: I was really suggesting that this might go wider than a mere question of construction: that the underlying policy behind the grant of the power might be clear from the memorandum, and a matter that the drafter of secondary legislation might like to consider when regulations are suggested by Ministers.

Jonathan Jones: I can see the point. The honest answer to your question at the moment is that it does not routinely happen. As part of the process of embedding better awareness of the

work of this Committee, and memoranda to it and your reports, the lawyers drafting statutory instruments might well have better awareness of what is being said about their powers and do look back more routinely. I would not like to think that there should be some kind of rule about that, but it might become more regular practice.

Lord Marks of Henley-on-Thames: In relation to decisions that are made by mostly lawyers as to which level of scrutiny would be appropriate for delegated powers, how far do members of your department—and, at the moment, departmental lawyers—look at precedent? In connection with that, how far is the delegated powers memorandum particularly important, as we would like to think it is, in considering the role of precedent in the level of scrutiny?

Jonathan Jones: Precedent is very important. One should not be a slave to precedent, of course, but it is very important. The memorandum to this Committee, and reports of this Committee, form a really important part of that body of precedent. In some ways, it is really the only official body of precedent because, as I have said, these are not, in the end, questions of law. A court is not going to opine on whether a particular type of power is appropriate. A court might in time have to judge whether the use of power is appropriate, but ultimately the decision on whether a type of power is appropriate is a decision for Parliament informed primarily, I would have thought, by the work of this Committee. This is a really important body of precedent that those making decisions about powers and drafting the memoranda will have regard to.

I have said that ultimately that is not a legal question. I do not think it is right to say that the departmental lawyers will be deciding on what level of power or what type of power is appropriate. I think the departmental lawyers will very often be in a strong position to advise on that, bearing in mind their knowledge more generally of the use of powers, on the issues of principle involved and so on. As I have said, they may very well be the people who have most experience of Bill work and will have been involved in those sorts of decisions before.

In the end, it is not ultimately a legal question, but lawyers will have a role in advising on it. As I keep saying, I can only expect that as a result of this inquiry the knowledge of that body of precedent and the principles that it reveals will become better embedded among those who are working in this area and are drafting these memoranda. I hope so.

Q22 Lord Marks of Henley-on-Thames: My next question is purely practical. Do you think that lawyers in your department and Bill teams would benefit from some streamlining of the electronic resource? At the moment, as I understand it, you can go on this Committee's website and you will get the package of the Bill, the delegated powers memorandum and our report; they are set out one by one. Do you think it would be helpful to collect together in one place, possibly just by links, an arrangement of all the reports and all the delegated powers memoranda, or at least to encourage people to look at that website, possibly as rearranged?

Jonathan Jones: It can only help. I cannot say that I have received a huge amount of cry that your website should be redesigned from the lawyers working in this area. When I knew I was coming to give evidence to this Committee, I went into the website to dig out some of the reports. Some I had to dig a bit more deeply to get, so anything that makes this material more accessible can only help. I do hope, as I say, that it can be supplemented by what we do around the government legal community to disseminate the really key examples and the good examples of best practice. I do not, if I am honest, have some kind of prescription for technological improvement that I think would make a huge difference. Of course, the more accessible the material is, the better.

Lord Marks of Henley-on-Thames: Do you think people visit the website when drafting the memoranda at the moment? That is really the key question.

Jonathan Jones: I honestly do not know. I suspect some do and some do not.

Lord Marks of Henley-on-Thames: Could that be further encouraged?

Jonathan Jones: I expect that more of them will as a result of this process.

The Chairman: Lady Andrews, I think yours is probably the last one.

Q23 Baroness Andrews: Very briefly, because you have given such comprehensive answers, is there anything else that you would recommend the departments could do or that you could do within your own office, or indeed that the Committee could do, to bring a more certain guarantee of transparency and quality, say, to the memorandum?

Jonathan Jones: I think I have probably covered the key point, which is that we use this inquiry not least as an opportunity to identify what we think the problems are to the extent that there are themes, and we have touched on one of them, which is the failure to give full explanations of the choice of procedure. We must be clear about those and embed those messages, those lessons, in the processes that for the most part we already have: the training arrangements, the cross-departmental group that I have talked about, and any other messages that I can help disseminate as a result of this inquiry. The messages will come out more clearly. For the most part the processes are there, and we should have a better system for getting them round the community of people who do this work.

The Chairman: Thank you very much indeed for your evidence. It has been extremely useful.

Jonathan Jones: Thank you very much for having me.

The Chairman: Not at all. Thank you.