



# HOUSE OF LORDS

Select Committee on the Constitution

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Lord Bellamy  
Parliamentary Under Secretary of State  
Ministry of Justice  
102 Petty France  
London  
SW1H 9AJ

By email

16 January 2024

Dear Lord Bellamy,

## **Victims and Prisoners Bill**

I write on behalf of the Constitution Committee about the Victims and Prisoners Bill.

The Committee intends to publish a legislative scrutiny report on the Bill shortly. In addition to the matters raised in that report, the Committee would like to seek clarity on the issue outlined below.

### Clauses 33 and 38

Clause 33 lists the functions of an advocate appointed in respect of a major incident. Clause 38 provides that the Secretary of State may issue guidance “as to the matters to which an advocate appointed in respect of a major incident must have regard in exercising their functions”. This guidance must not be directed at any specific advocate or relate to a specific major incident. However, an advocate “must, to the extent relevant to the terms of their appointment and to the incident in respect of which they are appointed, have regard to the matters stated” in the guidance.

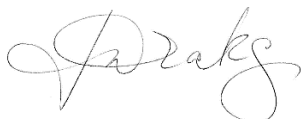
In our view, the guidance provided for by clause 38—which requires those subject to it to have regard to its provisions when performing their functions—is an example of ‘disguised legislation’.<sup>1</sup>

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<sup>1</sup> The Delegated Powers and Regulatory Reform Committee has defined ‘disguised legislation’ as “instruments which are legislative in effect but often not subject to parliamentary oversight”. Delegated Powers and Regulatory Reform Committee, [Democracy Denied? The urgent need to rebalance power between Parliament and the Executive](#) (12th Report, Session 2021–22, HL Paper 106), para 89

We write to seek assurance that the guidance issued by the Secretary of State under clause 38 will not undermine the advocate's ability to perform their functions, as set out in clause 33, as they consider appropriate.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Drake', written in black ink.

Baroness Drake CBE  
Chair of the Constitution Committee