



**The Lord Sedwill GCMG FRGS
House of Lords
London SW1A 0PW**

9 January 2025

The Baroness Drake CBE
Chair
Constitution Committee
House of Lords

Dear Baroness Drake,

In my December evidence session, I referred to a letter I had written on 7 September 2020 to the Treasury Solicitor about the Internal Markets Bill which set out why, despite the Government acknowledging that certain clauses proposed would breach international law, I had concluded that it was consistent with the Civil Service and Ministerial Codes for officials, special advisers and ministers to work on it.

I undertook to find out whether I could share that letter with the Committee since it touched on important constitutional questions about the roles of the Law Officers and Cabinet Secretary, and on how the various Codes reflect the rule of law. I have consulted the Cabinet Office. The letter has not been made public and they have advised that it should not be released as its content is adjacent to Law Officer's Advice, which is strictly protected. However, they have agreed that I can share relevant material from the letter with the Committee.

In the letter, I explained that, even though the issue was novel and contentious, and notwithstanding differences among the Law Officers (which subsequently led to the resignations of the Advocate-General and Treasury Solicitor), it was a cardinal principle of governance that the Attorney General, consulting the other Law Officers, was required to advise the Crown on legal matters and, if there were contention, to resolve them. In doing so, unless and until the courts took a view, the Attorney shouldered the responsibility of providing the definitive ruling on the lawfulness of a course of action and thus removed that responsibility from other Crown servants

who executed it. I noted that I was especially conscious, from my national security experience, of how essential this was when governments considered the use of force, but the same principle applied elsewhere, including in this case.

I hope that this assists the Committee in your deliberations. I am copying this letter to the Cabinet Secretary.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sedwill'. The signature is fluid and cursive, with the first part being more stylized and the last part 'will' being more legible.

Mark Sedwill