



24 February 2021

The Rt Hon Robert Jenrick MP  
Secretary of State for Housing, Communities and Local Government  
By email

Dear Secretary of State

### **Skeleton bills: the draft Building Safety Bill**

Thank you for your letter of 29 January 2021. We are aware that the purpose of the Bill is to avoid the truly appalling tragedy that took place at Grenfell Tower ever happening again and we acknowledge the critical importance of achieving that purpose and to do so with all reasonable speed. However, when we raise issues about skeleton bills and skeleton provision in bills, our concern is generic, not with the policy intention of the bill or provision but with how that intention is fulfilled and, in particular, with the extent to which it involves delegations of power by Parliament to ministers. Over the years, the Delegated Powers and Regulatory Reform Committee (DPRRC) has been critical of the skeletal nature of a range of substantial bills including, most recently, the Immigration and Social Security Co-ordination (EU Withdrawal) Bill, the Medicines and Medical Devices Bill and the (first) Agricultural Bill.

Skeleton legislation raises constitutionally fundamental issues about the relationship between Parliament and the executive, in particular the ability of the former to hold the latter to account and so consequently assist in maintaining the relationship of trust between government and the public at large.

We acknowledge your commitment to using delegated powers “only when appropriate” and commend the practice of your department of challenging itself about what should be on the face of the Bill and what should be in secondary legislation. The word “appropriate” however allows for a very great deal of flexibility, and we would welcome a better understanding of what it means in this case. In challenging delegations, for example, what questions does the department ask itself? Are any outside offices consulted, such as the Parliamentary Business and Legislation Committee or its secretariat, or the Office of Parliamentary Counsel? And does the department have any written guidance to assist it?

We note that, until the Building Safety Regulator is established, the Health and Safety Executive will “shape the operationalisation of the regime” through secondary legislation. Does this mean that the new arrangement will be largely enacted through secondary legislation? The House of Commons Housing, Communities and Local Government Committee said in its report (paragraph 14): “... whilst recognising that [the draft Bill] provides the framework for the new regulatory regime and must necessarily lack certain details, we agree that it relies very heavily on secondary

legislation and that the absence of detail greatly impeded the process of pre-legislative scrutiny". In the light of this – alongside your commitment to ensuring that Parliament "has sufficient opportunity to scrutinise" the proposals – is it planned that the Bill, as introduced, will include more detail on its face than that included in the draft Bill?

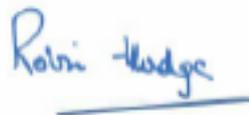
May we thank you for your kind offer of support and briefing by your officials on the Bill. We shall not trouble you at this stage. Once the Bill is introduced into the Lords, then the DPRRC will look forward to examining it with the assistance of your departmental delegated powers memorandum and reporting on it in due course.

We are copying this letter to the Leader of the House of Commons and to Clive Betts MP.

Yours sincerely



**The Rt Hon. the Lord Blencathra**  
*Chair of the Delegated Powers and  
Regulatory Reform Committee*



**Lord Hodgson of Astley Abbotts**  
*Chair of the Secondary Legislation Scrutiny  
Committee*