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Finance and Local Government
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airson Ionmhas agus Riaghaltas Ionadail
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Calum Kerr MSP
Convener, Delegated Powers and Law Reform
Committee

By email to: DPLR.Committee@parliament.scot

25 September 2026

Dear Calum,

PUBLIC OFFICE (ACCOUNTABILITY) BILL: LCM AND SUPPLEMENTARY LCMs

Thank you for your letter of 16 September setting out questions from the Committee following its consideration of the Scottish Government's LCMs in relation to the Public Office (Accountability) Bill.

I have replied as far as I am able to do so at this point. However, as these questions - in particular, that on Clause 16 - relate to matters on which the Committee has also written to the UK Government and on which our administrations are continuing to engage, I will also provide a further update to the Committee in due course.

The Scottish Government's preference is for Scottish Ministers to have powers to act in devolved areas, to ensure the Scottish Parliament approves secondary legislation. That is also in keeping with the new Prime Minister's approach to Devolution and specifically his position that the UK Government will not act in any way to override the powers of the Scottish Parliament. The Scottish Government also recognises that Committees of the Scottish Parliament have indicated concern about UK Ministers having powers to act in devolved areas.

Taking each of the Committee's questions in turn:

Clause 24(2)

In relation to clause 24(2), I can re-affirm the commitment made in the supplementary LCM lodged 4 February 2026 at para 79, that:

"In terms of how the Scottish Government will facilitate scrutiny by the Scottish Parliament of any proposals by the Secretary of State to make regulations under the powers noted above, the Scottish Government commits to keeping the lead committee informed of any decisions

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regarding future regulations, and to engage with the committee should it have any questions on those regulations which contain devolved provision.”

This commitment applies in respect of the following regulation-making powers listed in the Committee’s letter as follows:

- Clause 16(3) (power to amend list of holders of public office)
- Schedule 1 paragraph 8 (power to extend the duty of candour and assistance to other investigations)
- Schedule 2 Part 3 paragraph 4(4) (power to specify “public functions”)

We also acknowledge that these powers would fall under the new SI Protocol with the Parliament regarding notification of UK secondary legislation in devolved areas.

Clause 11

In relation to discussions with the UK Government about the process for obtaining the Scottish Ministers’ consent to any guidance containing devolved provision which the Secretary of State proposes to make under this power, engagement between Scottish Government and UK Government officials is ongoing on a range of matters in relation to the Bill and its subsequent implementation. The UK Government’s plans for guidance and associated consent process are part of those discussions, but no final decisions have been reached.

Clause 16

In relation to clause 16, I am aware the Committee has also written to the Lord Chancellor in relation to this clause, to ask the UK Government why it is considered appropriate that the Secretary of State should be able to exercise this power within devolved competence for Scotland rather than the Scottish Ministers alone. I look forward to hearing the UK Government’s response on this point.

Clause 16 enables both the Secretary of State and Scottish Ministers to take forward Regulations in relation to Scottish devolved matters. Where Scottish Ministers take forward such Regulations, it would then fall to the Scottish Parliament to scrutinise them. To the extent that the Secretary of State takes forward Regulations in relation to Scottish devolved matters, there is specific provision in the Bill to ensure such provision is subject to the agreement of Scottish Ministers. This will also bind future UK Governments and will sit alongside the Scottish Government’s commitment to keep the lead Committee informed of decisions regarding such future Regulations and to engage with the Committee should it have any questions.

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I look forward to an opportunity to further support Parliament's scrutiny of these LCMs when I attend the Finance and Public Administration Committee on 7 October.

Yours sincerely



JENNY GILRUTH MSP

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