Dear Joe,

Drafting of Subordinate Legislation

At its meeting yesterday, the Environment, Climate Change and Land Reform Committee considered the Public Water Supplies (Scotland) Amendment Regulations 2017 (SSI 2017/281). The Delegated Powers and Law Reform Committee had, in its report of 27 September 2017, agreed to draw the attention of the Scottish Parliament to the instrument and to report it under reporting ground (i) as the drafting appears to be defective.

The Environment, Climate Change and Land Reform Committee is writing to the Cabinet Secretary for Environment, Climate Change and Land Reform highlighting concerns with this instrument in regard to the potential impact of the drafting errors in the interim period, before correcting legislation is laid and comes into force. In addition the Committee has broader concerns in relation to the quality of drafting of secondary legislation which, as Minister for Parliamentary Business, the Committee thought might best be raised with you.

This is the second instrument the Committee has considered in recent weeks where defective drafting has required the Scottish Government to lay a corrective set of regulations and this duplicates the work for the Committee in considering such instruments.

The Committee anticipates considering a high volume of subordinate legislation emanating from the EU Withdrawal Bill and seeks assurance that the quality control process within the Scottish Government for drafting subordinate legislation is sufficiently robust. I would be grateful if you could review the quality control processes for drafting subordinate legislation and outline the steps the Scottish Government will take to ensure this process is effective and robust as we approach the completion of passage of the EU Withdrawal Bill.
The Committee would appreciate a response to this letter by 1 November 2017 in order to consider this when it looks at the corrected instrument and I look forward to hearing from you.

Yours sincerely,

Graeme Dey MSP
Convener
Environment, Climate Change and Land Reform Committee