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Dear Baroness Fookes,

## **TRADE UNION BILL**

I am grateful for the Delegated Powers and Regulatory Reform Committee's Fifteenth Report of Session 2015-16, published on 23 November 2015, which considers the Trade Union Bill.

The Report has focused on two delegated powers in the Trade Union Bill namely Clause 11 (union's annual return to include details of political expenditure) and Clause 12 (publication requirements in relation to facility time).

Both these powers are to be exercised in accordance with the negative resolution procedure and the Report has questioned whether this would afford sufficient Parliamentary control.

### **Clause 11**

Clause 11 of the Bill inserts a new section 32ZB into the Trade Union and Labour Relations (Consolidation) Act 1992. This provides that where political expenditure by a trade union exceeds £2,000 in any calendar year, details of that expenditure is to be included in the union's annual return. New subsection 32ZB (2) provides that the sum of £2,000 can be substituted by a sum not less than £2,000.

This provision seeks to future-proof the requirement on trade unions and the intention is that it would be exercised in order to raise the baseline to make the requirement less onerous for unions. We have therefore said that this power should be subject to the negative procedure.

The Committee has however noted that using the word "substitute" means that whilst the amount which is substituted cannot be less than £2,000, the baseline amount could be increased to £3,000 or to £4,000 and then decreased again to £2,000. The Committee has said that it will draw this to the attention of the House so that the House can consider whether the negative procedure provides a sufficient level of Parliamentary scrutiny.

We are grateful for the scrutiny the Delegated Powers and Regulatory Reform Committee brings to this provision and we will give further consideration to the Committee's observations on this delegated power.

### **Clause 12 – facility time – “relevant public sector employer”**

Clause 12 inserts new section 172A(9). This is a power to provide that a person or body, that is not a public authority, but has functions of a public nature and is funded wholly or partly from public funds, is to be treated as a public authority and is therefore subject to the publication requirements on the use of facility time.

The Committee comments that the delegated powers memorandum does not explain the kinds of organisation that the Government proposes to treat as a public authority under subsection (9). Further, the Committee understands that the provision could be used to bring within scope a private company which is funded wholly or partly by a local authority, and potentially charities.

In the light of what it regards as uncertainty, the Committee is therefore of the view that the affirmative resolution should apply to any regulations made under new section 172A(9).

We would like to reassure the Committee that it has never been the Government's intention to capture private or voluntary sector providers of contracted out public services or charitable organisations. We specifically stated that these bodies would not be included during the Committee stage in the House of Commons<sup>1</sup>. There may however be other employers whose functions are of a public nature and are publicly funded - and who ought therefore properly to be included - but which may not be considered as public authorities - or where the boundaries of whether they are or not is unclear. An example of this could be an academy trust or free school. That is the reason for including new section 172A(9).

I intend to make a statement during the Lords Committee debate on Clause 12 and will make clear which employers it applies to in the public sector. I will also be making draft regulations available during the passage of the Bill.

Once again, we are grateful for the comments made. We will also give full consideration to the Committee's observations on Clause 12.

I am placing a copy of this letter in the Libraries of both Houses.

*Warm regards*

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**BARONESS NEVILLE-ROLFE DBE CMG**

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<sup>1</sup> See Col 346 of the Public Bill Committee on the Trade Union Bill 8<sup>th</sup> Sitting 22 October 2015  
<http://www.publications.parliament.uk/pa/cm201516/cmpublic/tradeunion/151022/pm/151022s01.htm>