



## Delegated Powers and Law Reform Committee

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*By email*

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14 November 2022

Dear Pam

### **Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill at Stage 1**

The Delegated Powers and Law Reform Committee considered the above Bill at its meeting on 8 November and seeks an explanation of the following:

#### **Sections 14(1) – Guidance**

<b>Power conferred on:</b>	<b>the Scottish Ministers</b>
<b>Power exercisable by:</b>	<b>Guidance</b>
<b>Parliamentary procedure:</b>	<b>none</b>

As you are aware, Section 14(1) provides that the Scottish Ministers may issue guidance about transitions plans to local authorities, Health Boards, Integration Joint Boards, Further Education Institutions, Higher Education Institutions and to such other bodies as may be prescribed by regulations. Before issuing, varying or revoking guidance under this section, the Scottish Ministers must consult such persons as they consider appropriate. However, guidance issued, varied or revoked under section 14 would not be subject to any parliamentary procedure.

The Delegated Powers Memorandum indicates that requiring the Parliament to scrutinise guidance would not be the best use of parliamentary time, as it does not have the force of law. However, prescribed persons “must have regard to” such guidance and such guidance will inform prescribed persons as to how they will be expected to meet their duties under section 7 of this Bill.

The Committee considers that the guidance issued will be an important measure for the practical implementation of the Bill since those people prescribed in the Bill to have regard to the guidance will be expected to follow it, unless there are exceptional reasons for not doing so.

The Committee therefore considers it may be appropriate that there should be some parliamentary oversight over the content of such guidance and that the negative procedure could be appropriate in these circumstances.

**The Committee asks whether you agree that those prescribed to have regard to such guidance will be expected to follow it in order to meet its duties under the Bill, and therefore the negative procedure could allow an appropriate level of parliamentary scrutiny in these circumstances?**

I would be grateful if you could please email your response to [dplr.committee@parliament.scot](mailto:dplr.committee@parliament.scot) by **Wednesday, 23 November 2022**. The Committee will then consider your response at a future meeting and report on the delegated powers in the Bill to the lead committee.

Thank you.

Yours sincerely

Lucy Scharbert  
**Clerk to the Delegated Powers and Law Reform Committee**