



Department  
for Work &  
Pensions

## Document 1

**Andrew Western MP**

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Shirley-Anne Somerville MSP  
Cabinet Secretary for Social Justice  
St Andrew's House, Regent Road  
Edinburgh  
EH1 3DG

23 January 2025

Dear Shirley-Anne,

### **PUBLIC AUTHORITIES (FRAUD, ERROR AND RECOVERY) BILL**

I am writing regarding the Public Authorities (Fraud, Error and Recovery) Bill (“the Bill”), which was introduced in UK Parliament on 22<sup>nd</sup> January 2025.

I understand our officials have discussed the proposals. I am grateful for the constructive manner in which those discussions took place and for the contribution of your officials. I have attached a copy of the draft Bill and Explanatory Notes, the latter of which provides further detail of our assessment on the legislative consent position with respect to Scotland.

#### 1.1 Background to Bill

The Public Authorities (Fraud, Error and Recovery) Bill is a cross-government initiative between the Cabinet Office’s Public Sector Fraud Authority (PSFA) and the Department for Work and Pensions (DWP). The Bill makes provisions to better identify, prevent and deter public sector fraud and error and enable the better recovery of money (debt) owed to the taxpayer where public money has been stolen or overpaid.

The Bill comprises of three parts. Part 1 confers powers on the Minister for the Cabinet Office, which will be exercised via officials in the PSFA, to investigate and address fraud affecting public authorities, and to recover money (debt) where this has been stolen or overpaid. The public sector response to fraud and error has historically focused on the areas with the highest known losses – generally these have been in tax and social security. This remains a priority. However, this focus has meant that some UK Government departments have limited powers and resources to act on fraud and error. This Bill seeks to address this gap by empowering the Minister, via the PSFA, to gather and share information, impose civil penalties, and conduct criminal investigations on behalf of other public bodies, thereby enhancing the capacity to combat fraud across the public sector.

Part 2 introduces new powers to improve DWP's ability to reduce fraud and error in the social security system and enable the better recovery of money (debt) owed to the taxpayer where public money has been stolen or overpaid in the social security system. Part 2 includes provisions for improving the accuracy and verification of social security payments, enhancing investigatory powers, streamlining the recovery of overpayments and strengthening DWP's Penalties regime.

The Bill includes safeguards, reporting mechanisms and oversight provisions to ensure the appropriate, proportionate and effective use of the powers. The Bill also makes provision for the oversight of investigations conducted by both the Cabinet Office and DWP to ensure these are carried out in line with guidance and any relevant codes of practice.

Part 3 makes general provisions relating to the application and limitations of the Bill, the extent of the Bill, the commencement of the Bill and the short title.

#### 1.2 Next steps

Our officials continue to work constructively together on a number of areas in the Bill which concern complicated policy and devolution issues, including our expectation that the legislative consent process will be engaged for some clauses in Part 2 of the Bill. My officials will work at pace with the Scottish Government to establish agreed policy positions on the relevant parts of the Bill and, once established, we would be grateful for confirmation by 5<sup>th</sup> February that you agree with our assessment on whether a legislative consent motion is required.

The UK Government's aim is to ensure effective delivery of this legislation for Scotland, and it is important we work together to get this right. I am grateful for the ongoing close collaboration of our officials to enable this.

I am copying this letter to the Secretary of State for Scotland.

A handwritten signature in blue ink that reads "Andrew Western". Below the signature is a long, thin horizontal line.

Andrew Western

Minister for Transformation, Department for Work and Pensions

**Document 2**



**Andrew Western**  
**Parliamentary Under-**  
**Secretary of State (Minister for Transformation)**

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13<sup>th</sup> February 2025

Dear Shirley-Anne,

Thank you for your letter of 5 February 2025 in relation to the Legislative Consent position to the Public Authorities (Fraud, Error and Recovery) Bill. I would like to extend my thanks to your officials for their collaborative working with mine on this issue. I understand this has been constructive and I would be grateful if this work can continue.

I have carefully considered your request regarding a legislative or operational “carve out” for the powers relating to the recovery of overpayments.

The Agency Agreements - under which my Department recovers devolved benefit debt on your behalf - are predicated on business-as-usual processes. This is to prevent the need for two separate systems and the costs and resources associated, as well as to avoid the differential treatment of customers. I respect that the benefits delivered under Agency Agreement are devolved, but I must consider the implications of any divergence between the benefits delivered under Agency Agreements and the delivery of comparable UK Government benefits.

I must ensure the safe and consistent delivery of comparable benefits, be confident that customers understand the journey for both sets of benefits and avoid unnecessary additional costs. Therefore, with respect to a legislative carve out I am afraid that I see no prospect of being able to offer this without having more fully considered the implications with you – as such, given the timings of your consent motion, I think this should be ruled out.

However, I am keen that our officials continue to discuss the practical implications of the enactment (subject to Parliamentary approval) of new debt recovery powers for the Agency Agreements and your request for operational flexibility.

As a next step, I would welcome the opportunity to discuss your request for operational flexibility and to discuss the implications of this with you.

I suggest we discuss this matter further once your officials have finalised their analysis of the implications of the new powers for devolved matters in Scotland, and once my officials have had more opportunity to fully consider the operational implications of your request.

As above, I expect any operational flexibility is likely to present issues including but not limited to additional cost, administrative challenges and additional complexity for the customer journey and associated customer communications, which I must consider in my decision. I would be grateful for your indication of agreement with the devolution analysis and support for the legislative consent motion at the earliest possible opportunity.

Again, I would like to extend my thanks to your officials for their collaborative working with mine on this issue and welcome the opportunity to discuss this with you further.

A handwritten signature in blue ink that reads "Andrew Western". The signature is written in a cursive style and is positioned above a horizontal blue line.

**Andrew Western MP**  
**Parliamentary Under- Secretary of State (Minister for Transformation)**

### Document 3



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2<sup>nd</sup> May 2025

Dear Shirley-Anne,

#### **PUBLIC AUTHORITIES (FRAUD, ERROR AND RECOVERY) BILL**

Thank you for meeting with me on 3 April 2025 to discuss Scottish Government's position regarding the new debt recovery powers in the Public Authorities (Fraud, Error and Recovery) Bill. I am grateful for your engagement and the ongoing engagement between our officials.

As referenced during our discussion, there are several complex challenges associated with either a legislative or an operational carve out for the application of the debt recovery clauses in Scotland.

We agreed that officials would work through and provide:

- An analysis of the devolved debt stock.
- The feasibility of the continued recovery of debt in repayment

Having received further advice and given this further consideration, I wanted to share an update with you and set out my clear position should the Scottish Parliament choose to withhold consent to the debt recovery powers in the Public Authorities (Fraud, Error and Recovery) Bill. It remains my hope you will grant consent for this measure so that the recovery of debt under agency agreements can continue. I hope the analysis provided in this letter is useful in your decision making and I hope the detail I have provided on the safeguards of this power also provides assurance.

#### 2. Safeguards

Firstly, I'd like to take this opportunity to again outline the strong safeguards associated with the delivery of the debt recovery measures in the Bill.

I want to stress the new powers will be used as a last resort and would only be considered where all other reasonable attempts to secure a repayment plan have failed.

This will only follow where there have been multiple attempts at contact by different channels, but it has not been possible to get the debtor to engage or if they have refused to.

Furthermore, before any deductions from bank accounts are made, DWP will assess a debtor's ability to repay. This will see DWP access limited information from an individual's bank to determine an affordable repayment rate based on their financial circumstances. The legislation stipulates the maximums that can be deducted, and that the debtor, any joint account holders, or any person financially dependent on them, must not suffer hardship as a result.

The legislation make provision for the debtor to make representations or to ask for a review of the proposed deduction order the powers are used and the option to appeal to the tribunal on the terms of the order. This is on top of existing rights of mandatory reconsideration and appeal debtors already have on recoverable overpayment decisions.

The power to disqualify someone from driving will only ever be used as last resort and in the most serious of cases. It will only be used on debts of at least £1,000, where all other recovery attempts have failed, including direct recovery from a bank, and the debtor has persistently evaded repaying. The Court may only grant a disqualification order where they are satisfied that the debtor had the means to repay. The Bill sets out that the Court may not make a disqualification order if the Court considers the debtor has an essential need for driving.

If the Court agrees to grant a disqualification order, this will be suspended, and the Court will set affordable terms of repayment that the debtor must comply with. It is only where the debtor fails to comply with the Court's repayment terms, without good reason, that the disqualification from driving can be imposed. And if debtor is disqualified, they can get their licence back where they start repaying and the Court considers repayments are likely to continue.

And finally, it is important to note that any enforcement action and recovery under the powers will stop immediately if a debtor engages with us voluntarily.

### 3. Devolved debt stock

As of April 2025, there are approximately 22,000 customers with a live devolved debt totalling approximately £63m.

Of this, around 10,000 customers are not actively repaying a devolved debt, totalling approximately £10m.

### 4. Feasibility of the continued recovery of debt in repayment

As I set out in our meeting it is not feasible for my Department to run two separate systems for the continued recovery of all debt if consent was refused. However, I agreed to explore whether, in the event consent was refused, we could continue to recover debts already in repayment. Further to our discussion my officials have been testing the impacts and feasibility of continued debt recovery for those devolved debts where repayment is in place at the time the new debt recovery powers come into force.

Whilst this would allow ensure some public money continues to be returned to Scottish Government, consideration has to be given to those debts where recovery is not in place, or where those repayment plans break down. [Redacted under s.28(1)].

On a basis consistent with the published impact assessment, initial estimates suggest around 4,000 debts on the stocks could be pursued using the new powers, in addition to new cases, which would be fewer than 1,500 cases annually. This flow of new cases will decline as the Scottish Government continues to roll out its own benefit system and DWP does not administer benefits on your behalf.

On the basis of these figures, our further feasibility analysis has concluded that the continued recovery of debt under a separate system is not cost effective, even if this was limited to the recovery of debts already in repayment.

Therefore, if your final position is not to seek consent, then DWP will not be able to continue to recover devolved debt under any other new long-term agreement or further extensions to the current Agency Agreements [Redacted under s.28(1)].

I would be grateful for your response as swiftly as possible as the Bill was introduced in the House of Lords on 30 April 2025.

Kind regards,

A handwritten signature in blue ink that reads "Andrew Western". Below the signature is a horizontal blue line.

**Andrew Western**  
**Minister for Transformation, Department for Work and Pensions**

Document 4



**Andrew Western MP**  
**Minister for Transformation Department for Work & Pensions**

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**3 June 2025**

Dear Shirley-Anne,

**Public Authorities (Fraud, Error and Recovery) Bill – Government Amendments at House of Lords Committee Stage and outstanding issues**

I am writing to inform you that the Government has tabled amendments to the Public Authorities (Fraud, Error and Recovery) Bill ahead of Committee Stage in the House of Lords commencing on 4<sup>th</sup> June. I have also taken the opportunity to include in this letter a summary of outstanding issues that I would welcome resolution on as quickly as possible.

**Government amendments**

Government amendments have been proposed to provisions in both Part 1 (Public Sector

Fraud Authority (“PSFA”)) and Part 2 (Department for Work and Pensions (“DWP”)). These amendments are intended to provide greater clarity and ensure important safeguards operate as intended.

The DWP and the PSFA have been engaging extensively with the financial services sector during the passage of the Bill and have been carefully listening to their constructive feedback which has informed a number of these amendments.

The amendments to Part 1 (PSFA) of the Bill do not extend to Scotland, however the territorial extent of the amendments to Part 2 (DWP) apply to Scotland as follows:

- Clause 85 and Schedule 4 (Search and Seizure)
- Clauses 89 and 98 (Administrative Penalties)
- Schedule 3 (Eligibility Verification Measure)

- Schedule 5 (Debt Powers)

The proposed amendments intend to deliver the following 5 substantive changes.

For DWP and PSFA:

1. Changes to maintain the usual discretion of Tribunals to exceptionally extend the time to bring an appeal in appropriate circumstances across multiple measures in the Bill.
2. Changes to require banks and financial institutions to identify any deputies or lasting powers of attorney (if known) when returning information in response to information notices used under the Debt recovery powers.
3. Remove wording about 'method of calculation' from direct deduction orders
4. Limit how long banks and financial institutions are prohibited from informing the debtor that an information notice has been received, and to provide an exemption for data subject access requests.

For PSFA only:

5. Changes to clarify that the requirement not to frustrate the direct deduction order applies to any legal delegate acting on behalf of the debtor, and that where a legal delegate frustrates the order it is them, and not the debtor, who may be subject to a financial penalty.

Further detail on all these changes is provided in Annex A.

Prior to these amendments being made, you'll also be aware that there were several amendments made to the Bill in the House of Commons, some of which have consequently altered the numbering of the clauses within Part 2 of the Bill. I have set out in **Annex B** what has changed in the current draft of the Bill, as brought from the House of Commons, compared to the draft of the Bill as introduced.

## **Outstanding Issues**

I also wanted to take this opportunity to address the outstanding questions on the Bill's scope in Scotland:

1. Your decision on whether to recommend consent for the new DWP debt recovery powers so that these powers can be used for debt recovery activity under the relevant agency agreements and so this can continue in any future agreement. This decision is further to my letter on 2 May, and our meeting on 3 April, and

2. Whether you would like us to make provision in the Bill for the Scottish Government to take the Information Gathering powers in the Bill.

Regarding the first question, if you are not able to support consent for this power, I would seek to amend the Bill to reflect this and, as per my letter on 2 May, DWP will not be able to continue to recover devolved debt on behalf of the Scottish Government under any new long-term agreement or further extensions to the current Agency Agreements. [Redacted under s.28(1)].

Regarding the second question, I understand conversations between officials have been constructive and you are considering advice on this. [Redacted under s.28(1)].

The Committee Stage in the House of Lords is due to conclude by 23 June, shortly before Scottish Parliament rises for summer recess. A date for Report Stage is still to be confirmed, but it is likely to take place before the UK Parliament adjourns for summer recess on the 24 July and could be as soon as 3 July if Committee Stage concludes early in the House of Lords. Given that government amendments must be tabled one week in advance of Report Stage, we will need a definitive position mid-June to ensure there is sufficient time to progress the necessary changes. I am very conscious of the limited time available for any further consent motions to pass and the time available for us to make any necessary amendments.

**To ensure that there is the requisite time available to make any changes, I would be grateful if you could please confirm your position on both questions by 9 June.**

I look forward to your reply, and given time pressures, would welcome your views on whether it would be productive to meet again with the intention to resolve these issues.

Yours sincerely,

Andrew Western, MP

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**Annex A – summary of House of Lords Amendments**

<u>Purpose</u>	<u>Amendments</u>
<b><u>PSFA and DWP</u></b>	
<p>The PSFA and the DWP want to maintain the discretion of Tribunals to extend the time to bring an appeal where it is appropriate to do so, usually where there is a ‘good reason’ to do so.</p> <p>The current drafting has unintentionally removed the discretion of the Tribunal to extend the time limits for appealing in relation to the above measures where there is a good reason to do so.</p> <p>These proposed amendments therefore ensure that discretion of the Tribunal is maintained.</p> <p>Very similar amendments to achieve this are proposed across the PSFAs Civil Penalties powers and Debt Recovery powers; and the DWPs Eligibility Verification Measure, changes to Administrative Penalties and Debt Recovery powers.</p>	<p>11 amendments to:</p> <p>PSFA</p> <ul style="list-style-type: none"> <li>• Debt Recovery: Clauses 14, 35, 49</li> <li>• Civil Penalties: Clause 60</li> </ul> <p>DWP</p> <ul style="list-style-type: none"> <li>• Administrative Penalties: Clause 89, 98</li> <li>• Eligibility Verification Measure: Schedule 3</li> <li>• Debt recovery: Schedule 5</li> </ul>
<p>Where the PSFA and the DWP make requests under information notices when using the debt recovery powers, these amendments will require banks and financial institutions to identify any deputies or lasting powers of attorney (if known) when returning information notices. This will ensure the DWP and PSFA provide clarity to the banks and financial institutions on their duties with respect to deputies or those with powers of attorney.</p> <p>This is to help protect the rights and interests of debtors or other account holders who may be vulnerable or be unable to manage their own affairs.</p> <p>These amendments are in response to feedback from stakeholders.</p>	<p>2 amendments</p> <p>PSFA Debt Recovery</p> <ul style="list-style-type: none"> <li>• New clause after Clause 36</li> </ul> <p>DWP Debt Recovery</p> <ul style="list-style-type: none"> <li>• Schedule 5</li> </ul>

Where the PSFA and the DWP make direct deductions under the respective debt recovery powers these amendments will remove wording about 'method of calculation' from direct deduction	8 amendments PSFA Debt Recovery
orders as banks and financial institutions will always be told the precise amount.  These amendments clarify the duties on banks and financial institutions in response to feedback from them.	<ul style="list-style-type: none"> <li>• Clauses 23, 26</li> </ul> DWP Debt Recovery <ul style="list-style-type: none"> <li>• Schedule 5</li> </ul>
The PSFA and the DWP will clarify how long banks and financial institutions are prohibited from informing the debtor that an information notice has been received, and to provide an exemption for data subject access requests.	5 amendments PSFA Debt Recovery <ul style="list-style-type: none"> <li>• Clauses 19, 27</li> </ul> DWP Debt Recovery <ul style="list-style-type: none"> <li>• Schedule 5</li> </ul>
The PSFA and DWP will make a series of minor and technical amendments to clarify drafting through removing redundant provisions and requirements, simplifying drafting and making references easier to understand.	23 amendments PSFA Debt Recovery <ul style="list-style-type: none"> <li>• Clauses 26, 27, 29,</li> </ul> DWP <ul style="list-style-type: none"> <li>• Search and Seizure: Clause 85, Schedule 4</li> <li>• Debt recovery: Schedule 5</li> </ul>
<b><u>PSFA only</u></b>	
Ensure the requirement not to frustrate the direct deduction order applies to any legal delegate acting on behalf of the debtor.	Debt recovery  Captured in the new clause after Clause 36 outlined above

**Annex B – summary of changes to the Bill as brought from the House of Commons**

House of Commons	House of Lords
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**Chapter 1**

- 72 Information notices
- 73 Code of practice
- 74 Eligibility verification
- 75 Eligibility verification: independent review

**Chapter 2**

- 76 Entry, search and seizure in England and Wales
- 77 Entry, search and seizure in Scotland
- 78 Entry, search and seizure: Crown application
- 79 Offence of delay, obstruction etc
- 80 Disposal of property
- 81 Amendments to the Criminal Justice and Police Act 2001
- 82 Incidents etc in England and Wales
- 83 Incidents etc in Scotland

**Chapter 3**

- 84 DWP offence
- 85 Disclosure of information etc: interaction with external constraints
- 86 Giving notices etc
- 87 Independent review

**Chapter 4**

- 88 Enforcement of non-benefit payments
- 89 Recovery and enforcement mechanisms
- 90 Recovery from bank accounts etc
- 91 Disqualification from driving

**Chapter 1**

- 72 Information notices
- 73 **Consequential amendments to the Social Security Fraud Act 2001**
- 74 Eligibility verification
- 75 Eligibility verification: independent review

**Chapter 2**

- 76 Entry, search and seizure in England and Wales
- 77 Entry, search and seizure in Scotland
- 78 Entry, search and seizure: Crown application
- 79 Offence of delay, obstruction etc
- 80 Disposal of property
- 81 Amendments to the Criminal Justice and Police Act 2001
- 82 Incidents etc in England and Wales
- 83 Incidents etc in Scotland

**Chapter 3**

- 84 **Devolved benefits**
- 85 DWP offence
- 86 Disclosure of information etc: interaction with external constraints
- 87 Giving notices etc
- 88 Independent review

**Chapter 4**

- 89 Enforcement of non-benefit payments

92 Code of practice

90 Recovery and enforcement mechanisms

91 Recovery from bank accounts etc

93	Rights of audience	92	Disqualification from driving
94	Recovery of costs	93	Code of practice
95	Recovery: further provision	94	Rights of audience
<b>Chapter 5</b>		95	Recovery of costs
96	Offences: non-benefit payments	96	Recovery: further provision
97	Penalty as alternative to prosecution: extension to non-benefit payments	<b>Chapter 5</b>	
98	Amendments to the Social Security Fraud Act 2001: loss of benefits following penalty	97	Offences: non-benefit payments
<b>Part 3</b>		98	Penalty as alternative to prosecution: extension to non-benefit payments
99	Application and limitation	99	Amendments to the Social Security Fraud Act 2001: loss of benefits following penalty
100	Power to make consequential provision	100	<b>Powers of Scottish Ministers</b>
101	Financial provision	<b>Part 3</b>	
102	Extent	101	Application and limitation
103	Commencement	102	Power to make consequential provision
104	Short title	103	Financial provision
		104	Extent
		105	Commencement
		106	Short title

Document 5



**Andrew Western MP**  
**Minister for Transformation Department for Work & Pensions**

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**9 June 2025**

Dear Shirley-Anne,

**Public Authorities (Fraud, Error and Recovery) Bill**

Thank you for your letter on 4 June, setting out your intention to recommend that the Scottish Parliament should provide consent on the Information Gathering powers and withhold consent on the Debt Recovery Powers. I am grateful for the clarity on both these points.

As per my letter on 2 May, this will mean that DWP will not be able to continue to recover devolved debt on behalf of the Scottish Government under any new long-term agreement or further extensions to the current Agency Agreements due to end by Spring 2026. [Redacted under s.28(1)]. I can also confirm that your assessment of the split in value of these debt records is correct, and that the devolved debt stock that will be transferred is currently around £35 million; with the overall debt value, including non-devolved debt not to be transferred, totalling £63 million. My officials will be in touch to discuss next steps.

**Amendments to the Bill**

Based on your response of 4<sup>th</sup> June, I will now seek to amend the Bill so that devolved benefits are removed from the scope of the debt recovery provisions (amendment to Clause 90, new section 80A, subsection (3)(b)), which will mean that Clauses 90 to 93 and Schedules 5 and 6 will not apply to the recovery of devolved debt.

However, this has raised an issue which I wanted to confirm your position on as a matter of urgency.

As per the Legislative Consent Motion tabled 21 March, a position was yet to be reached on consent in relation to the debt recovery clauses, including Clauses 94 to

95 of the Bill. These clauses have now been renumbered to Clauses 95 and 96 in the current version of the Bill, as introduced to the House of Lords ([Public Authorities \(Fraud, Error and Recovery\) Bill](#)).

Clauses 95 and 96 apply to both the existing and the new debt recovery powers. I consider them to be straightforward, non-controversial provisions and given the nature of these clauses, I would ask that you confirm as a matter of urgency your position on consent for these two particular clauses as follows:

- Clause 95 replaces Section 71ZE(3) of the Social Security Administration 1992 Act with a new section 80F and broadens the cost recovery regime so that “any costs” reasonably incurred in relation to debt recovery (i.e. court costs and administrative costs) can be recovered (whereas, at present, the only express provision for reasonable costs is in Section 71ZE(3), which is limited to court costs for recovery of Universal Credit and new-style benefits only).
- Clause 96 contains general provisions to the effect that Part III of the Social Security Administration Act 1992, including powers of recovery, must be read in a way that is compatible with (and adheres to) relevant data protection legislation. This would apply equally to the powers exercised by Scottish Ministers under that Part.

I understand our officials are working at pace to discuss this, however, given the urgency, I wanted to raise it in parallel to ensure there is absolute clarity on your position with respect to these two clauses.

### **Additional assurance**

Separately, you raised three specific points where you would be grateful for further assurance:

1. Extending the scope of the Eligibility Verification Measure (EVM) to include devolved benefits.
2. Confirmation that the UK Government will not seek to use the non-benefit payment provisions for any devolved payments.
3. Confirmation that the UK Government will not seek to use new information gathering and search and seizure for any devolved payments (with the exception of benefit administered on behalf of Scottish Ministers under agency agreements).

I can confirm that there is no intention to extend the list of benefits that EVM can be applied to, to capture any of the Scottish Government’s devolved benefits and payments. I can also confirm that the UK Government will not seek to use the non-benefit payment administrative penalty provisions for devolved benefits and will not seek to use the new Information Gathering or Search and Seizure powers for any the

Scottish Government's devolved payments (unless DWP is administering those matters under Agency Agreements).

I would be grateful if you could confirm your position by **13 June** with respect to Clauses 95 and 96 [Redacted under s.28(1)].

Yours sincerely,

A handwritten signature in blue ink that reads "Andrew Western". The signature is written in a cursive style and is positioned above a horizontal line that extends to the right.

Andrew Western, MP