

HOUSE OF LORDS

Select Committee on the Constitution

3rd Report of Session 2015–16

Childcare Bill [HL]

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HL Paper 16

Select Committee on the Constitution

The Constitution Committee is appointed by the House of Lords in each session “to examine the constitutional implications of all public bills coming before the House; and to keep under review the operation of the constitution.”

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[Lord Cullen of Whitekirk](#)

[Baroness Dean of Thornton-le-Fylde](#)

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Committee staff

The current staff of the committee are Antony Willott (Clerk), Dr Stuart Hallifax (Policy Analyst) and Hadia Garwell and Victoria Rifaat (Committee Assistants). Professor Stephen Tierney and Dr Mark Elliott are the legal advisers to the Committee.

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Childcare Bill [HL]

1. In our last report,¹ published in June 2015, we drew attention to a concerning trend—a tendency by the Government to introduce vaguely worded legislation that leaves much to the discretion of ministers. The Childcare Bill [HL] is a particularly egregious example of this development. It confers wide discretionary powers on the Secretary of State, including Henry VIII powers, with few indications as to how those powers should be used to achieve the objectives set out in the Bill.
2. The Delegated Powers and Regulatory Reform Committee has previously reported on the broad delegated powers contained in this Bill,² and we will not therefore comment in detail on its provisions. We do, however, wish to express our concern at this further evidence of legislation that gives ministers broad powers to achieve legislative objectives with few restrictions as to how secondary legislation should be framed to achieve that goal.
3. Legislation of this type increases the power of the Executive at the expense of Parliament. The Childcare Bill [HL] is an example of a continuing trend of constitutional concern to which we draw the attention of the House.

¹ Constitution Committee, *Cities and Local Government Devolution Bill [HL]; Psychoactive Substances Bill [HL]; Charities (Protection and Social Investment) Bill [HL]* (2nd Report, Session 2015–16, HL Paper 9)

² Delegated Powers and Regulatory Reform Committee, *2nd Report of Session 2015–16* (2nd Report, Session 2015–16, HL Paper 12)