This chapter investigates the EU's competences and the principles of subsidiarity and proportionality, assessing if the limits set out in the Treaties actually work as concrete limits on EU legislative powers in practice. It begins by considering whether competences are genuinely clear and finite in how they set out limits to areas in which the EU can make laws. There are three aspects of EU law that have been deemed responsible for the EU's competence creep: the flexible provisions of Article 114 TFEU (Treaty on the Functioning of the European Union) and Article 352 TFEU, and the so-called doctrine of 'implied powers'. Underpinning all three of these areas of 'flexibility' is criticism of the manner in which the Court of Justice has interpreted the relevant treaty provisions or doctrines. The chapter then evaluates the effectivity of the principles of subsidiarity and proportionality. It also looks at the impact of Brexit on the limits to EU legislative powers.
5. Limits to EU legislative powers