



Lord Marks of Henley-on-Thames QC  
House of Lords  
London  
SW1A 0PW

11 July 2018

Dear Jonathan,

### **COURTS AND TRIBUNALS (JUDICIARY AND FUNCTIONS OF STAFF) BILL**

During the Second Reading debate on 20 June, you commented on the provisions in the Bill that will allow authorised court and tribunal staff to exercise certain low-level judicial functions, under judicial supervision.

I am writing to let you know that I have today published two documents which I hope will answer some of your queries and inform the debate in Committee on 10 July. The first is a draft of the regulations to be made by the Lord Chancellor under paragraphs 14 and 26 of the Schedule to the Bill setting out the minimum qualifications for those staff who may be authorised to give legal advice to magistrates and judges of the family court. The draft, which has been approved by the Lord Chief Justice (who must consent to the regulations), proposes broadly that the eligibility should be limited to barristers in England and Wales, solicitors of the Senior Courts of England and Wales, fellows of the Chartered Institute of Legal Executives (CILEx) or those to who have passed the necessary examinations to be a barrister, solicitor or CILEx fellow. This reflects the current qualification requirements for legal advisers, laid out in the Assistants to Justices' Clerks Regulations 2006, with the addition of CILEx fellows (and those who have passed the necessary exams to be a fellow). CILEx fellows can currently apply for some judicial posts but cannot apply to be legal advisers. The regulations would address this anomaly.

The second document is a policy statement which relates to the power in the Bill for rules of court to determine which judicial functions may be exercised by authorised staff, and for rules to specify the requirements as to the qualifications and/or or experience of such staff. We are unable to publish draft procedure rules as these are a matter for the independent, judicially-led procedure rules committees. We have, however, shared the policy statement with the senior judiciary for their views. I hope the statement gives a clearer indication of how we anticipate the authorised staff provisions will work in practice and I would be happy to talk you through this in more detail when we meet later today.

I am writing in similar terms to Baroness Chakrabarti and am arranging for copies of both letters and the two documents to be placed in the Library of the House.

Yours sincerely,

**RT HON LORD KEEN OF ELIE QC**