Dear Bob,

GUARDIANSHIP (MISSING PERSONS) ACT 2017

I am writing to provide you with an update on the Government’s implementation of the Guardianship (Missing Persons) Act 2017, which I know you and the Justice Committee have expressed an interest in and support for. I would like to reassure you at the outset that the Government remains firmly committed to meeting the objective of bringing it into force in July 2019.

I last wrote to you in November 2018 when the Government had published a consultation paper on implementing the Act. The response to that consultation is being published today and represents just one aspect of what is a very detailed programme of work to put in place a legal and operational infrastructure to implement the Act.

We received formal responses from those representing missing persons, including Missing People and Peter Lawrence OBE (prominent campaigner and father of missing person Claudia Lawrence), legal and financial organisations and other government departments and agencies. We also held consultation meetings with these and a range of stakeholder groups including UK Finance, Building Societies Association, Home Office, Prisoners Abroad, public utilities (such as BT and British Gas) and industry regulators (including the Financial Conduct Authority). Stakeholder engagement has been – and continues to be - conducted alongside the Office of the Public Guardian’s officials, to ensure collaboration at all stages on policy and operational aspects of implementing the reforms.

The legislation is widely supported. Several themes emerged from the responses. Respondents largely focused on the draft Code of Practice (a statutory requirement) that provides guidance for guardians. Issues highlighted included joint ownership (both of finances and property), gifting, access to confidential information and the personal liability of guardians. In the Government’s response we have acknowledged concerns and improved these aspects in the Code of Practice, giving clearer direction and guidance to guardians. We are responding to calls for the Code to be in accessible language as far as possible, given that it is providing advice on a variety of legal issues and scenarios.

We have also worked with senior members of the judiciary and court staff on drawing up draft rules of court. These were presented to the April cycle of meetings of the Civil and Family Procedure Rule...
Committees and the intention is these are finalised and signed off in the May cycle of the Committee’s meetings.

Alongside the statutory instrument for the rule update, there are a total of four other SIs to be laid before Parliament – to bring the Act into force (and provide for the laying of the Code 40 days in advance of the Act taking effect); designating the High Court for guardianship proceedings; and two SIs for introducing fees and regulations for the Public Guardian in relation to the supervision of guardians. I am seeking approval from the Reducing Regulation sub-Committee to approve these SIs being laid outside of the common commencement date so that we can achieve implementation in July. Your support for the SIs will assist us in meeting this objective which I know we all share.

In the course of consultation work we have identified a need to take steps for the fees that will be charged by guardians to be assessed by the Senior Court Costs Office and my officials are working on proposals to propose further rule changes that would achieve this.

Staff in HM Courts and Tribunals Service and the Office of the Public Guardian are working on the necessary operational systems required to handle and process guardianship cases in July.

I hope this update will reassure you and the Committee of the Government’s firm resolve to implement the Act in July and I am grateful for the interest and support you have shown in recognising the value and need for these reforms to come into effect.

Yours sincerely,

RT HON LORD KEEN OF ELIE QC