Dear Bob,

EXTENDING FIXED RECOVERABLE COSTS IN CIVIL CASES

I am writing to let you know that the Government has today launched a consultation on extending fixed recoverable costs (FRC) in civil law cases in England and Wales as recommended by Sir Rupert Jackson in July 2017. This consultation, *Extending fixed recoverable costs in civil cases: Implementing Sir Rupert Jackson’s proposals* will run until 6 June 2019 and can be found at: https://consult.justice.gov.uk/digital-communications/fixed-recoverable-costs-consultation.

In civil litigation in England and Wales, the winning party is generally entitled to recover their costs from the losing party. The legal costs of civil cases have, however, been too high and too uncertain for a long time, making litigation riskier and less accessible than it should be and thereby undermining access to justice. FRC are a way of controlling the legal costs of civil litigation by giving certainty in advance. They prescribe the costs that can be recovered by the winning party at set stages of litigation. They reduce overall costs, keep them proportionate and enhance access to justice. They are already an important part of our justice system in lower value personal injury cases.

Given their success in making costs proportionate in cases where they already apply, we are now looking to extend FRC. Sir Rupert, who was then a member of the Court of Appeal, was commissioned to report on extending FRC by the senior judiciary, following his earlier report which led to the civil costs and funding reforms in Part 2 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO).

He reported in July 2017 and found that the existing FRC have reduced the costs of a large swathe of civil litigation costs. As he says, reduced costs promote access to justice. He noted that the intention was always to wait until previous reforms had had the chance to bed in before widening their scope, but now regards the extension of fixed recoverable costs as ‘inevitable’. Now that we have published the Post Implementation Review of Part 2 of LASPO, it is appropriate to take this next step. We are therefore now consulting on his 2017 recommendations, which include extending fixed recoverable costs to all cases in the fast track (i.e. generally those up to a value of £25,000) and a new regime for ‘intermediate’ cases (simpler cases between £25,000 and £100,000). The details are set out in the consultation paper.
Yours sincerely,

[Signature]

RT HON LORD KEEN OF ELIE QC