PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

COURTS AND TRIBUNALS (JUDICIARY AND FUNCTIONS OF STAFF) BILL [*LORDS*]

First Sitting

Tuesday 4 December 2018

CONTENTS

Clauses 1 to 3 agreed to.
Schedule agreed to.
Clause 4 agreed to, with an amendment.
New clause considered.
Bill, as amended, to be reported.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 8 December 2018

The Committee consisted of the following Members:

Chairs: Mr Adrian Bailey, †Sir Henry Bellingham

† Antoniazzi, Tonia *(Gower)* (Lab)
† Bowie, Andrew *(West Aberdeenshire and Kincardine)* (Con)
† Chalk, Alex *(Cheltenham)* (Con)
† Fletcher, Colleen *(Coventry North East)* (Lab)
† Frazer, Lucy *(Parliamentary Under-Secretary of State for Justice)*
† Green, Chris *(Bolton West)* (Con)
† Heaton-Jones, Peter *(North Devon)* (Con)
† Hussain, Imran *(Bradford East)* (Lab)
† Knight, Julian *(Solihull)* (Con)
† Milling, Amanda *(Cannock Chase)* (Con)
† Moore, Damien *(Southport)* (Con)
† Phillips, Jess *(Birmingham, Yardley)* (Lab)
† Qureshi, Yasmin *(Bolton South East)* (Lab)
† Reeves, Ellie *(Lewisham West and Penge)* (Lab)
† Russell-Moyle, Lloyd *(Brighton, Kemptown)* (Lab/Co-op)
† Slaughter, Andy *(Hammersmith)* (Lab)
† Wood, Mike *(Dudley South)* (Con)

Mike Everett, Anwen Rees, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 4 December 2018

[Sir Henry Bellingham *in the Chair*]

Courts and Tribunals (Judiciary and Functions of Staff) Bill [*Lords*]

9.25 am

The Chair: Before we begin, I will make a few preliminary points. Please switch all electronic devices to silent. Tea and coffee are not allowed during sittings. Today we will consider the programme motion, which was agreed by the programming sub-committee yesterday. We will then consider the motion to enable the reporting of written evidence for publication. In view of the limited time available, I hope that we can take those matters without too much debate.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 4 December) meet—

(a) at 2.00 pm on Tuesday 4 December;

(b) at 11.30 am and 2.00 pm on Thursday 6 December;

(2) the proceedings shall be taken in the following order: Clauses 1 to 3; the Schedule; Clause 4; new Clauses; new Schedules; remaining proceedings on the Bill;

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 6 December.—*(Lucy Frazer.)*

Ordered,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—*(Lucy Frazer.)*

The Chair: We will begin line-by-line consideration of the Bill. The selection list, which shows how the selected amendments have been grouped for debate, is available in the room. Amendments grouped together are generally on the same issue, or similar issues. Decisions on amendments will not take place in the order in which they are debated, but in the order in which they appear on the amendment paper. The selection list shows the order of debate; decisions on each amendment are taken when we come to the clause that the amendment affects. I will use my discretion to decide whether to allow a separate stand part debate on individual clauses and schedules following the debates on the relevant amendments.

Clause 1

Deployment of judges

Question proposed, That the clause stand part of the Bill.

The Parliamentary Under-Secretary of State for Justice (Lucy Frazer): It is a pleasure to serve under your chairmanship, Sir Henry.

A key element of our reforms in relation to courts is ensuring that we have a justice system that works better for everyone, which includes making the best use of our judges' experience, expertise and time. I should make it clear that the deployment of judges is a matter for the judiciary, and the Lord Chief Justice and the Senior President of Tribunals already have far-reaching powers to ensure that the right judges are deployed on the right cases, taking account of changes in case loads of different jurisdictions. However, there are five areas in which clause 1 would amend current legislation to increase that flexibility to deploy judges where they are needed.

The first change is about the temporary appointment of deputy judges to the High Court. The Lord Chief Justice already has a statutory power to appoint a person meeting the eligibility criteria as a judge of the High Court if their appointment is urgent, temporary and there are no other reasonable steps that could be taken to fill the gap. Those temporarily appointed judges are ordinarily existing, serving judges who have been appointed to a judicial office via the independent Judicial Appointments Commission process. Current legislation allows those appointments to facilitate business in the High Court or Crown court only. Clause 1(1) would widen that so that the person appointed could sit in any court or tribunal on which an ordinarily appointed deputy judge of the High Court could be deployed, such as the county court, the family court, the first-tier tribunal and the upper tribunal.

The second change in clause 1 relates to the upper tribunal. The Tribunals, Courts and Enforcement Act 2007 sets out which judges are judges of the upper tribunal and may therefore hear cases there. The definition comprises a number of different types of judge, such as circuit or district judges, but does not currently include recorders. As fee-paid judges, recorders have equivalent powers to circuit judges, and may sit in the Crown court or the High Court with appropriate authorisation. Allowing recorders to sit in the upper tribunal would allow the judiciary to make more use of recorders' experience, expertise and skill, and would provide greater flexibility to meet business need.

The third change in clause 1 relates to chamber presidents in the first-tier tribunal and the upper tribunal. Currently, there is a restriction that prevents someone from presiding over more than one chamber of the first-tier tribunal or of the upper tribunal. Subsection (4) would allow a chamber president to be appointed to more than one chamber in the same tribunal. That would enable the Senior President of Tribunals to use the existing and future complement of chamber presidents to provide continuous leadership across all chambers without having to recruit and appoint a new chamber president immediately if there were a vacancy.

The fourth change in the clause relates to senior judges of employment tribunals. Currently, there are restrictions on where senior judges of employment tribunals may be deployed. The Bill will enable the presidents of employment tribunals for England, Wales and Scotland to sit in the Employment Appeal Tribunal, which will provide additional capacity for experienced judges to hear appeals. The Bill will also enable leadership judges—the presidents and vice-presidents of the employment tribunal Scotland, and regional employment judges of the employment tribunals—to hear cases in the first-tier tribunal and the upper tribunal, making more use of their experience and skill where needed.

The final part of the clause relates to flexible deployment with respect to arbitration. The Arbitration Act 1996 currently provides for certain judges of the High Court to sit as judge-arbitrators. That allows cases falling within the relevant jurisdiction of the High Court to be resolved via arbitration with the Lord Chief Justice's permission. The clause extends the range of High Court

judges who can sit as judge-arbitrators, and would also allow the Lord Chief Justice to delegate his functions in agreeing that judges can be appointed as judge-arbitrators. That will allow, for example, judges in the chancery division of the High Court, which has seen a growth in demand for arbitration in recent years, to resolve cases in that way. Those provisions, taken together, will contribute towards a modern and responsive justice system.

Yasmin Qureshi (Bolton South East) (Lab): It is a pleasure to serve under your chairmanship, Sir Henry. While we accept the necessity for the clause, we have some concerns, which we hope the Government will take on board.

We accept that there are practical arguments for expanding the flexible deployment of judges, including temporary judges appointed outside the usual Judicial Appointment Commission selection process, to a wider pool of courts and tribunals. The appointment of temporary judges as a principle, however, should be approached with caution. It is important to view flexible deployment generally through the prism of the Government's wider reforms and cuts, and plans for savings on judicial salaries.

We are concerned about that being used regularly as opposed to on an occasional basis. *[Interruption.]* Sorry, the Minister was looking very confused. We are concerned about the potential for a trend of too much reliance on temporary judges. The provisions should be used only to deal with urgent matters in the case of a shortage of judges, and the deployment of judges across different sectors should not become the de facto position.

Clearly, one of the things that the Government have not mentioned is what training provisions will be provided for judges moving out of their normal area of activity. If a Crown court judge is transferred to a tribunal, for example, what kind of training would they receive to deal with issues unique to the tribunal system—for example, on issues of disability, reasonable adaption for the purpose of disability legislation, and what could be considered discriminatory under equality legislation. Those are key issues unique to employment tribunals. We want to know and ensure that there are training provisions for that.

As a consequence of the clause, civil judges might come into the criminal courts and Crown courts. What training will be provided for them to deal with specific issues that are unique to the criminal court, such as admissions of previous convictions, which can sometimes be brought in against defendants, and go against the normal rules? What about issues of disclosure? If a failure to disclose material information is ruled inadmissible, it can cause the whole case to collapse. Those are some of the things that are unique to particular courts. I have used the example of the Crown court and the employment tribunals to demonstrate that there are things that are unique to those courts. While we will not oppose the clause, we ask the Government to provide some assurance that the Lord Chief Justice and the Lord Chancellor will make proper financial provision for those judges to update their skills and to receive professional training when they go into a different area of judicial function.

Lucy Frazer: I am grateful to the hon. Lady for making some important points. She can rest assured that the temporary appointments are temporary, and they can be made only if they are urgent and temporary and if no other reasonable steps can be taken to fill the gaps. I can also assure her about training: where judges are asked to sit in a new jurisdiction, further induction will be provided in line with the directions of the senior judiciary. The Judicial College is in charge of training, and it will continue to train our judges. Judges will also attend continuation training for all jurisdictions in which they sit.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

Alteration of judicial titles

Question proposed, That the clause stand part of the Bill.

Lucy Frazer: No amendments have been tabled to the clause and no issues at all were raised in the other place, or on Second Reading in this place.

In summary, the clause is part of our reform to modernise our courts to ensure that court users know who is hearing the case, and what sort of case the matter is about. The clause therefore provides for amendment of judicial titles to reflect a change in the name of the court in which those judges sit. It also ensures that the title of that office and similar offices can be changed through secondary legislation in the future.

Subsections (1) and (2) change the title of chief bankruptcy registrar to chief insolvency and companies court judge. That reflects the change in the name of the other judges of this court and of the court itself. In 2017, the name of the court dealing with bankruptcy matters was changed to the insolvency and companies court to better reflect its work. Earlier this year, the titles of the more senior judges in that court were changed to reflect the change in the name of the court. The Bill therefore changes the title of the office of the senior judge to bring it in line with other judges of the court.

Subsection (3) enables the judicial titles of other senior masters and district judges of the senior courts to be changed in future by secondary, not primary, legislation, should it be necessary to do so. Changes of title may be required, for example, because of organisational changes in the courts and tribunals. The clause will correct an anomaly that prevents some judicial titles from being amended by ministerial order. Such judicial measures, while relatively modest, will contribute towards a more modern justice system.

Yasmin Qureshi: The clause seems to be a sensible one, so the Opposition have tabled no amendments to it.

The Chair: I am pleased to hear that.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clause 3

AUTHORISED COURT AND TRIBUNAL STAFF: LEGAL ADVICE AND JUDICIAL FUNCTIONS

Yasmin Qureshi: I beg to move amendment 2, in clause 3, page 3, line 24, leave out subsection 3 and insert—

"(3) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House."

This amendment would require that where statutory instruments delegating judicial functions to authorised persons are brought they would be subject to the affirmative procedure.

Yasmin Qureshi: We tabled the amendment because the existing drafting of the clause appears to allow the delegation of judicial functions to authorised persons without going through an affirmative process—that is, without using secondary legislation. As the Bill stands, that would be done automatically. Bearing in mind that we have expressed concern about the whole system of the authorised person being delegated judicial functions, we believe that that should be done, if it comes to that, by means of a statutory instrument so that Parliament has a chance to discuss it. We would be able to make observations and it would not go through on the nod.

The issue of delegating judicial functions to authorised persons is important to us. At the moment, the Bill does not talk about who such people will be, what their qualifications are, what they will do, or what subjects and issues they can deal with. As the Bill is drafted and from what Ministers have said, the procedure committee is expected to make all those decisions. We do not accept that that should be the case. There are real issues that need to be determined through parliamentary discussion. These measures should be introduced through statutory instruments and not just be decided by the procedure committee as envisaged in the Bill. The procedure committee should listen to our concerns. We want more parliamentary scrutiny of this part of the legislation, through a statutory instrument.

Lucy Frazer: I am grateful to the hon. Member for Bolton South East for raising the issue and giving me the opportunity to respond, so I can satisfy her that her concerns are unfounded, I hope.

The power in clause 3(2) seems to have caused considerable confusion here and in the other place, so it might be helpful for me to explain how it works. That power does not permit the delegation of judicial functions to authorised persons—that is a matter for the procedure rules made by the independent rule committees. The power in clause 3(2) could not make such changes because it is a narrow power that is very clearly restricted to consequential, transitional, transitory or saving provisions—a concept that is well understood with many precedents. Those terms are construed strictly by the courts.

The power in clause 3(2) is needed because the procedure rules cannot be used to make all the necessary amendments to other secondary legislation—we will use regulations made under the clause to do that. The power is needed principally to amend references in secondary legislation from "justices' clerk", a post abolished by the Bill, to "authorised officer". So far, we have identified more than 200 references in more than 60 pieces of secondary legislation that would need amendment, and there may be more.

The Government do not intend to use this power to amend primary legislation. Lord Keen gave an undertaking to that effect on Report in the other place. Therefore, there is no express provision for such amendments in clause 3. To accept this amendment would set an unhelpful precedent and would mean that valuable parliamentary time would have to be set aside to debate minor and consequential changes to secondary legislation. In a busy parliamentary Session, that would delay implementation of the provisions in the Bill. I hope that the hon. Lady is reassured and feels able to withdraw the amendment.

Yasmin Qureshi: Although I hear what the Minister says, we are not reassured and we will push the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 9.

Division No. 1]

AYES

Antoniazzi, Tonia	Qureshi, Yasmin
Fletcher, Colleen	Reeves, Ellie
Hussain, Imran	Russell-Moyle, Lloyd
Phillips, Jess	Slaughter, Andy

NOES

Bowie, Andrew	Knight, Julian
Chalk, Alex	Milling, Amanda
Frazer, Lucy	Moore, Damien
Green, Chris	Wood, Mike
Heaton-Jones, Peter	

Question accordingly negatived.

Clause 3 ordered to stand part of the Bill.

9.45 am

Schedule

AUTHORISED COURT AND TRIBUNAL STAFF: LEGAL ADVICE AND JUDICIAL FUNCTIONS

Yasmin Qureshi: I beg to move amendment 3, in the schedule, page 6, line 36, at end insert—

"(aa) is a qualified solicitor, barrister or chartered legal executive with more than three years' experience post-qualification, and".

This amendment would stipulate that the minimum legal qualifications for authorised persons should be three years' experience post-qualification.

The Chair: With this it will be convenient to discuss the following:

Amendment 4, in the schedule, page 8, line 31, at end insert—

"() is a qualified solicitor, barrister or chartered legal executive with more than three years' experience post-qualification, and".

See explanatory statement to Amendment 3.

Amendment 5, in the schedule, page 11, line 12, at end insert

"and if they are a qualified solicitor, barrister or chartered legal executive with more than three years' experience post-qualification".

See explanatory statement to Amendment 3.

Yasmin Qureshi: As I have indicated to the Clerk, we will be dividing the Committee on these amendments.

Clause 3 delegates judicial functions to authorised staff, and we are concerned about that. Although we accept that there are some occasions where people other than judges can make decisions on cases, such as on simple procedural issues, including time extensions or requests for adjournments, if authorised people are to be given more than those powers, they must be of a certain calibre. The Bill gives no information on who these people will be, and that worries us, because it would appear that allowing jobs carried out by judges to be done by others, who are not qualified, is another attempt to cut costs and save money. If the Bill said that the authorised people were to be qualified lawyers, barristers or solicitors, or legal executives with three years' experience or more, as in the amendments, we would be much more reassured about this part of the Bill.

Ellie Reeves (Lewisham West and Penge) (Lab): Does my hon. Friend agree that even what might, on the face of it, be a straightforward case management conference could involve complex tactical or substantive issues? Giving such decisions to someone who is not legally qualified could have a massive impact on access to justice.

Yasmin Qureshi: My hon. Friend makes an excellent point. We know that more and more people are now representing themselves in court because of cuts to legal aid. If those making decisions—those may appear to be administrative but may be quite crucial to these people—are not legally qualified and trained, errors are more likely to occur, because we now have so many people representing themselves who are not familiar with court processes or the courts. That is on top of the fact that so many courts are now being closed, and a lot of the work is being done off-site by means of technological improvements. Many cases used to be disposed of in a physical court building, and there would be judges, lawyers and people who could assist and give advice and information. Now, with so much being done outside of court buildings and from call centres, there is even less help available.

I will give an example. When I was prosecuting, defending or in court, someone would sometimes turn up who had no legal representation. They would be really worried about what was going on. I and many of my colleagues would give informal advice; it was not legal advice, but we could point them in the right direction—we could suggest things they could try. There was somebody to give them advice or assistance; the court clerks or staff in the court were also able to direct people informally. However, with fewer and fewer people going to court, more and more things being done online, and more and more stuff being carried out in call centres, where someone does not know who they are speaking to or what qualifications or level of experience they have, it is even more important to ensure we have this safeguard.

It is okay to have laws, but if we have no mechanism to enforce them, or to ensure that they are done properly, justice is not served. Therefore, the complete lack of information in the Bill about who the authorised people will be, and even about what work they will do, is completely wrong. That is why we feel strongly about it, as we mentioned on Second Reading in the House of Commons, and in the other place. To date, the Government have taken no notice of that.

We also have to recognise that some of the authorised people will be employed directly by Her Majesty's courts and tribunals, which raises questions about accountability and independence. They may be more subject to pressures because of administration. Again, therefore, we need something to show that the people who will do these things are qualified.

Qualified barristers, solicitors and lawyers, even when they work in the courts system, have an appropriate professional body with codes of conduct they have to abide by. If they do not abide by those codes of conduct, they could be struck off from their practice. However, if the people who carry out the work are not legally qualified, such as administrative staff or clerical officers, they will not have to think about their independent professional bodies. In fact, they will probably be more subject to pressures of administration to speed things up. If somebody asks for an adjournment, staff might say no; if somebody wants certain documents to be disclosed, they will say that that cannot be done, because they will be under pressure to speed things up and deal with cases quickly. They will not be as concerned as a barrister, a solicitor or a chartered executive about what their professional bodies will say.

We also do not know what kind of functions these people will be given. As my hon. Friend mentioned, something that seems straightforward could actually be quite complicated. I refer to disclosure issues in civil cases, as well as in the criminal courts. Disclosure is an important part of a case proceeding properly. Someone may well ask for certain information, and the person at the other end will say, "No, you don't need it," but we do not know. Because they do not have the legal expertise and knowledge, there is a greater chance of errors occurring and things happening that perhaps would not happen if a legally qualified person were exercising those powers.

The Government's approach is that all these issues can be dealt with by the procedure rule committees, which are made up of judges and other practitioners. They are also under pressure and financial constraints, however, so they would also have to look at pressures and so on, and they might not be able to do things as independently as we might ask.

Alex Chalk (Cheltenham) (Con): The hon. Lady is, of course, making important points, but we can have a degree of confidence that the judges who head up the committees, who have shown themselves to be scrupulously and fiercely independent, would continue to behave in exactly that way. Does she not agree?

Yasmin Qureshi: I have, of course, the utmost regard and respect for our judiciary, but I believe that, in the procedure committees, financial constraints and pressures sometime come into play in trying to speed things up

[Yasmin Qureshi]

through the courts system. The ethos is that a case should be dealt with very quickly—there is nothing wrong with that—and that there should be minimal interactions between lawyers in the court process. When the procedure committees make certain rules, such as defining who the authorised person is, what is wrong with Parliament saying that the starting point should be that those authorised persons must have been legally qualified for at least three years?

It is also important that we have an idea about what kind of things the authorised persons can do. Procedure committees can make rules, but they may be constrained by trying to get things through quickly. There may be things that they think that authorised persons can do, but, in fact, they should not, because they are not judicial. I do not see what is wrong with us, as Parliament, saying, "Look, this is the bare minimum that the procedure committees should be thinking about." Then they can add to it.

Alex Chalk: I am grateful to the hon. Lady for giving way a second time. May I respectfully press her a little on this? On the one hand, she says that she has enormous respect for the procedure rule committees, the judges and the highly qualified people who occupy these positions, and that they would always act in a way that is consistent with justice. On the other hand, she says that, actually, they will not, because they will ensure that a desire to avoid delays trumps justice. She cannot have it both ways. If she trusts the judges, she needs to come out and say that she trusts them to act in the way that they have, in time-honoured tradition, which is by putting justice first.

Yasmin Qureshi: My observations relate to when judges are dealing with an individual case. Of course, we know that they are independent, but when someone becomes part of an administrative body, a procedure committee or an arm of the state—I mean that in a loose way, not in terms of a formal relationship—sometimes the criteria that they look at are different from when they are dealing with an individual case presented before them.

I will give an example, albeit not one that relates to judges. The Crown Prosecution Service, an organisation for which I worked for a number of years—I still have friends who work in it, even though I left years ago—has had different people serve as Director of Public Prosecutions. However, prosecutors who have been there for a long time say that, bar perhaps two DPPs who were really concerned about ensuring that the department was fully financially resourced, and who actually fought hard for it to get resources, the other DPPs did not make that sort of effort. People do act for administrative purposes.

The reality is that senior people at the top of organisations, when they are doing administration and are running institutions, look at things such as money and financial administration, try to save as much money as possible, and try to push things along as quickly as possible, because that looks good in their statistics. Because of that, we would say that what we are asking for is not too weighty. We have tabled very reasonable amendments. The people who will make some of these enormous decisions should be legally qualified and—we will come on to this later—we should consider what kind of things they can actually do. I do not think there is anything wrong with giving a steer to procedure committees. They can deal with some of the other rules, but we should have some basic minimum standards.

Lucy Frazer: I, too, propose to deal with amendments 3, 4 and 5 together, as they all relate to minimum qualifications for authorised staff. Amendments 3 and 4 require that any staff member who gives legal advice to lay justices or judges of the family court be legally qualified and have more than three years' experience post qualification. Amendment 5 makes the same requirement of any staff carrying out judicial functions.

The staff who currently give legal advice in the magistrates court and the family courts are justices' clerks and assistant clerks. Assistant clerks, who are also known as legal advisers, currently provide the overwhelming majority of legal advice on a day-to-day basis. To be an assistant clerk at the moment one must be a barrister in England and Wales or a solicitor of the senior courts of England and Wales, have passed the necessary exams for either of those professions, or have qualified as a legal adviser under historical rules that were in place prior to 1999.

10 am

Those requirements are set out in regulations made by the Lord Chancellor, and have been since 1979. We propose no lessening of this bar, and no substantive change to the approach for determining qualifications. Under the Bill, the qualifications required for staff to be authorised to provide legal advice to magistrates and family court judges will therefore continue to be specified by the Lord Chancellor in regulations, which must now be made with the agreement of the Lord Chief Justice.

The Government believe that maintaining this approach—putting qualifications in regulations as opposed to primary legislation—is right. It is proportionate and allows flexibility for the future. For example, one key change we have made in the draft regulations we published alongside the Bill is to include among those who can give legal advice fellows of the Chartered Institute of Legal Executives or those who have passed the necessary examinations to be a CILEX fellow. That is a progressive move, which is supported by the professions and the judiciary, and the kind of change that it would take far longer to make in the future should an alternative route to legal qualification emerge if we have to amend primary legislation instead of secondary legislation.

On amendment 5, staff can already exercise judicial functions in almost every jurisdiction except the Crown court. The range of functions that they can carry out varies enormously, from legally qualified legal advisers in the county court, setting aside default judgments, to non-legally qualified caseworkers in the lower tribunals, dealing with postponement requests and issuing strike-out warnings.

The Bill allows the relevant procedure committees to set the requirements relating to the necessary qualifications or experience of these staff in the future, depending on the functions they permit staff to carry out. Both the judicial functions and the accompanying qualifications requirements will be set out in procedure rules, which are made by way of secondary legislation and therefore subject to parliamentary scrutiny.

These committees are judicially led and independent of Government, and include representatives of the legal profession, as well as court and tribunal users, among their membership. They are best placed to assess the appropriate level of qualification or experience for authorised staff in the light of the functions they choose to allow such staff to exercise.

Jess Phillips (Birmingham, Yardley) (Lab): The Minister is explaining who will get to decide whether we are flexible on this in the future, bit what I do not hear—what I do not hear in any of this Bill—is how we make sure that these changes mean improvements for the people who use these courts. While the judiciary and the people carrying out these functions certainly seem to have a voice in the changes being proposed, in terms of the changes I would like to see in the family courts, the voices of those people using the courts are nowhere in this Bill.

Lucy Frazer: That is a very important point. We serve the people through justice and the court system. The people who come to the courts to get justice are the people my Department is serving. In all our reform programme, we have a user-centred focus and consistently engage with users to improve our services. All the forms we have recently produced were produced with insight from users, which is why we have an extremely high satisfaction rate for the reforms we are making.

The hon. Member for Birmingham, Yardley makes an important and valid point, and I can tell her how users will benefit from this. She will have been in the House when questions were put to me about delays in the court system and about the time it is taking for certain hearings to come before the courts. We want to ensure that there are as few delays as possible and that justice is not only fair but speedily dispensed. These changes will allow functions to be operated by the appropriate people, and will enable us to get more swift, easy and quick justice for those who use our courts.

Andy Slaughter (Hammersmith) (Lab): I am sure the Minister is sincere in her intention. My experience is that there is increasing delay. Part of that is caused by inexperience, perhaps because of the use of lay magistrates as opposed to district judges, who do not take command of the issue and do not timetable matters correctly. I am concerned about any decline in the level of experience. This is perhaps a question not of legal qualification but of experience in being able to manage and seize control of cases. I would rather see the greater control and scrutiny that the amendments would introduce.

Lucy Frazer: I am sorry if the hon. Gentleman has not experienced the appropriate level of judicial engagement or appropriate judgments in courts. I recently went to the family court in London, and I have been to courts across the country, and I have spoken to magistrates who operate in the family courts. The expertise and dedication I see is commendable. We can stand still, do nothing and just let our courts operate in the way they are operating, or we can sit back and reflect on how we can improve our court system. We are trying to do the latter through the Bill. We are trying to improve people's experience of the courts, recognising that funds and resources are not unlimited and that we need to use them as well as we can. On listing, my Department is looking at a listing programme to ensure that lists operate as effectively as possible.

It is simply not necessary for all authorised staff exercising judicial functions to possess legal qualifications. The qualifications and experience staff need will depend on the nature of the work they carry out. Legal qualifications of the level that would be required by amendment 5 not only are far too high for the routine and straightforward case preparation tasks that we anticipate many authorised staff may carry out, but may not be the most relevant qualifications for staff in different jurisdictions. For example, it is more helpful for a registrar in the tax tribunal to be a tax professional by background than to be a legal professional. Where powers currently exist, rule committees already determine the qualifications staff need to exercise particular functions, and that works well. Such committees can focus qualification and experience requirements on what is most relevant to the work that those staff carry out.

Amendments 3, 4 and 5 would all set the bar for qualification prohibitively high and rule out a large proportion of Her Majesty's Courts and Tribunals Service staff from giving legal advice or exercising judicial functions, even though they may have been doing either or both for a number of years.

Alex Chalk: Will the Minister be kind enough to address the issue of the approach we can expect judges to take in rule committees? It is my experience that they show themselves in court to be scrupulously fair and focused on justice. Does she agree that there is no reason to think they would abandon those principles when they sit out of court on a rule committee to make these important judgments?

Lucy Frazer: My hon. Friend makes an extremely valuable point. Rule committees are made up of members of the judiciary and legal professionals, who take their roles incredibly seriously. Lord Thomas said on Second Reading in the other place that

"it is important to stress the degree of control inherent in the Bill by the use of the rule committee. I was a member of and chaired…the Criminal Procedure Rule Committee, which I can assure you is a highly representative body with many representatives of the legal profession."—[*Official Report, House of Lords,* 20 June 2018; Vol. 791, c. 2039.]

It is important to note his experience of sitting on and chairing a rule committee. I actually sat on an insolvency rule committee when I was at the Bar, and I do not think anyone mentioned costs. We were concerned with ensuring that the procedures we used in court day in, day out worked well, and that they worked well for our clients, too.

A loss of expertise would render the provisions in clause 3 and the schedule unworkable. I should add that a member of staff will not be able to give legal advice or exercise judicial functions until they have been authorised to do so by the Lord Chief Justice or their nominee, or by the Senior President of Tribunals or their delegate. Authorisations are therefore ultimately the responsibility of the judiciary, who will not authorise staff unless satisfied of their competence.

The Government's position is consistent with the approach taken over many decades and is supported by both current and former members of the senior judiciary.

[Lucy Frazer]

Lord Neuberger, former President of the Supreme Court, said that the amendments place

"a potential straitjacket on the ability to appoint the appropriate people to make appropriate decisions."

He went further, reflecting that there

"will be many decisions"

for which the level of experience set out in the amendments

"would be appropriate, but there will be others where less experience would be adequate for the decision-making."—[*Official Report, House of Lords,* 10 July 2018; Vol. 792, c. 882.]

I want to reassure hon. Members that we have listened to the concerns expressed here and in the other place about linking the qualifications of staff to the judicial functions that authorised staff may carry out. That is why we added further safeguards to the Bill in the other place by restricting the functions that staff will be able to exercise. In the light of that, Lord Marks of Henley-on-Thames said:

"we are not persuaded that it is necessary for the authorised person exercising the remaining powers—some of which are trivial, some minor and some of more substance—to be a qualified lawyer or one of particular experience."—[*Official Report, House of Lords,* 16 October 2018; Vol. 793, c. 414.]

Before I close, I would like to respond to a number of the points made by the hon. Member for Bolton South East in putting forward her amendments. She has mentioned for the second time in her submissions cost-cutting. What we are doing in the Bill is trying to achieve a position whereby judges are deployed in the most effective way to bring justice to the people whom they serve. We are trying to ensure that jobs are appropriate for those who carry them out, and that they have the appropriate qualifications. The hon. Lady suggested that only barristers, solicitors and judges—that is, people who are legally qualified—understand justice. That is self-evidently wrong. A large part of our criminal justice system is the justice dispensed by magistrates, who are volunteers and are extremely able. As I have said, many people are already carrying out the functions, and carrying them out well, in courts and tribunals across the country.

The hon. Lady mentioned court closures. Of course, this is not a debate about court closures; it is a debate about who carries out functions in the courts that operate. She also suggested that call centres are having a detrimental impact on justice. Our call centres are actually improving justice, because, as can be seen from the take-up rate, people are speaking to someone who can answer their concerns much more speedily. The satisfaction of people ringing up is improved as the pick-up time is improved, because it is now dedicated people picking up the phone, rather than people in courts, who have a large number of things to do.

I hope that the hon. Lady feels able to withdraw the amendment, based on the explanations that I have put forward.

Yasmin Qureshi: I thank the Minister for her response, but our position remains the same, and we ask for a vote on the amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 9.

Division No. 2]

AYES

Antoniazzi, Tonia	Qureshi, Yasmin
Fletcher, Colleen	Reeves, Ellie
Hussain, Imran	Russell-Moyle, Lloyd
Phillips, Jess	Slaughter, Andy

NOES

Bowie, Andrew	Knight, Julian
Chalk, Alex	Milling, Amanda
Frazer, Lucy	Moore, Damien
Green, Chris	Wood, Mike
Heaton-Jones, Peter	

Question accordingly negatived.

Yasmin Qureshi: I beg to move amendment 6, in the schedule, page 11, line 32, leave out subsection 67C and insert—

"**67C Right to judicial reconsideration of decision made by an authorised person**

A party to any decision made by an authorised person in the execution of the person's duty as an authorised person exercising a relevant judicial function, by virtue of section 67B(1), may apply in writing, within 14 days of the service of the order, to have the decision reconsidered by a judge of the relevant court within 14 days from the date of application."

This amendment would grant people subject to a decision made under delegated powers to a statutory right to judicial reconsideration.

The Chair: With this it will be convenient to discuss the following:

Amendment 7, in the schedule, page 19, line 21, at end insert—

"(7A) A party to any decision made by an authorised person in the execution of the person's duty as an authorised person exercising functions of a tribunal, by virtue of this subsection, may apply in writing, within 14 days of the service of the order, to have the decision reconsidered by a judge of the relevant tribunal within 14 days from the date of the application."

This amendment would require the Tribunal Procedure Rules to set out a procedure for applying for judicial reconsideration. It is consequential on Amendment 6.

Amendment 8, in the schedule, page 11, line 40, at end insert—

"(2A) In reaching its decision under sub-paragraph 2 above, the authority must consider whether the function is capable of having a material impact on the substantive rights of the parties."

This amendment would require any Procedure Rules Committee making rules about the functions to which a reconsideration right would apply to consider whether the substantive rights of the parties will be materially affected.

Amendment 9, in the schedule, page 19, line 39, at end insert—

"(2A) In reaching its decision the Committee must consider whether the function is capable of having a material impact on the substantive rights of the parties."

This amendment would require any Procedure Rules Committee making rules about the functions to which a reconsideration right would apply to consider whether the substantive rights of the parties will be materially affected.

10.15 am

Yasmin Qureshi: Amendments 6 and 7 have been tabled to ensure that there is a safeguard for claimants who do not accept a decision made by authorised persons.

There should be a right to a statutory reconsideration, and the claimant should be able to apply in writing, within 14 days of the service of order, to have a particular decision reconsidered by a judge of the relevant court. They are strengthening provisions. As we do not know who authorised persons will be or what delegated functions will be given to them, we believe that if claimants disagree with important decisions, they should have a statutory right to reconsideration. The Bill makes no reference to that.

Amendments 8 and 9 relate to the issue of material impact. When a decision is being made on whether there a should be a reconsideration within 14 days, we ask that there be consideration of whether the function could have a material impact on the substantive rights of the parties. That means that we accept and acknowledge that one should not be able to ask for reconsideration simply because one disagrees with the decision of the authorised person; one must have a cogent reason. There must be proper grounds for requesting a reconsideration. We would define and decide what is an appropriate reason for asking for a reconsideration by assessing the limb of material impact on the substantive rights on the parties, which I think speaks for itself. That relates to decisions made by authorised persons that are material and important to the claimant, who should be able to ask for a reconsideration of that decision.

We suggest that the application in writing should be sent within 14 days of the decision, but it could be 21 days if the Government wished to change that. We think that 14 days is the minimum period that should be allowed for the reconsideration application to be made. The Government's intention is to leave the procedure committee to decide fully what "material impact" means, whether there should even be reconsideration options for claimants, and by what processes that must be done.

We are effectively asking for safeguards for litigants. I will try not to repeat the same points, but it is important to remind the Committee of a point I made earlier, which was that a number of claimants are not legally represented because of cuts to legal aid, both civil and criminal. Many people now go to court without any legal advice, and are basically litigants in person or may have a McKenzie friend. To ensure that decisions are made properly, if there is a material impact on the substantive rights of parties, claimants should be able to ask for a reconsideration of the decision by a legally qualified judge of the court. People will have more confidence that the decision has been made properly, if it is made by a judge.

It should not be left to the procedure committee to decide, in theory, whether to allow reconsideration or to decide, off its own bat, what kind of decisions should be up for reconsideration. We ask that it determine and put into place rules on how reconsideration applications could be done.

Again, those three things are there to enhance the right of the ordinary person going into the court system and to ensure that our judicial system maintains the highest standards, as accepted throughout the whole world. For Parliament not to have democratic oversight of the matter, and not to indicate what the procedure committee should do, is a derogation of our duty to the people of this country. We are effectively looking after their interests. A judgment or decision by an authorised person should be subject to review by a judge. We accept that should not be done gratuitously, or in cases that do not warrant it, but if the decision has an impact on the rights of the person, that should be allowed. We ask the procedure committee to set out a procedure for applying for judicial reconsideration.

Alex Chalk: The hon. Lady makes a fair point; I will be interested to hear what the Minister says. How does she propose that an assessment be made about whether the decision truly had a material impact? A decision on whether to grant an adjournment or on whether to allow evidence to be admitted could in certain circumstances have a material impact, but in other circumstances might not. How would she ensure that the procedure to determine that was effective and efficient, and did not clog up the courts?

Yasmin Qureshi: We could include the criterion of the impact on someone's rights. When we look at a case, we can work out whether an adjournment or a particular issue regarding disclosure would have an impact. The legislation should have that as a criterion in determining whether there should be judicial reconsideration. Obviously, we assume that the procedure committee would set out a procedure whereby, when a person writes to the court to ask that something be reconsidered, it goes to a judge, who works out whether this was something that impacted on the person and should therefore be subject to reconsideration. The legislation does not do any of those things.

Although we accept that some administrative functions carried out by judges can be delegated to the "authorised people" defined in the Bill, when a judicial legal function is given to other people, there should be a right to ask for reconsideration of the decision if a litigant is unhappy with it. To avoid anything flimsy, we have helpfully put in the impact aspect, so that reconsiderations are not a matter of course but are limited to appropriate cases. We would leave it to the procedure committee to make rules as to what the procedure would be.

The amendments are perfectly reasonable. The Minister mentioned that some Lords in the other place said that the provisions were okay, but if we look at the *Hansard,* Lord Marks of Henley-on-Thames, Lord Pannick and others said that they had concerns, not just about the issue of 14 days' reconsideration, but also in relation to the authorised persons. The Government have put all these things about judicial functions, delegated persons and authorised people into one clause, but concern was expressed in the other place about the need to make the legislation better. Those are my words.

We have gone further than some of the noble Lords in the other place, but we tabled the amendments not for the fun of it, but because we genuinely and sincerely believe that they would ensure that processes were carried out properly, justice was done properly, and properly qualified people would deal with issues. If there are decisions that people are unhappy with, they should have the right to ask for reconsideration within 14 days, if that is appropriate—or 21 days; I would be happy with whatever additional days the Government wished to add.

Lucy Frazer: As the hon. Member for Bolton South East has said, amendments 6, 7, 8 and 9 deal with the right of reconsideration of decisions taken by authorised staff in courts and tribunals, and amendments 6 and 7

[Lucy Frazer]

would enable a party in a case to request that any decision made by an authorised person exercising the functions of a court or tribunal be reconsidered by a judge. It might be appropriate for there to be reconsideration of decisions, but the Government believe that the independent procedure rule committees, composed of jurisdictional experts and experienced practitioners, are best placed to decide if such a right of reconsideration is needed and if so, the form it should take.

The approach taken in the proposed amendments would impose across all jurisdictions the same blanket right of reconsideration with an arbitrary deadline of 14 days. That would not work in practice, especially for those functions that are entirely straightforward case management and preparation duties. Each jurisdiction has its own ways of working, and it is imperative that any mechanism for reviewing decisions is designed with those jurisdictional intricacies in mind.

The rule committees in the civil and tribunals jurisdictions, for example, already have included in their respective rules a specific right to judicial reconsideration for decisions made by authorised persons. The magistrates courts and the family court, however, have their own existing mechanisms for reviewing various decisions, which the amendments would cut across.

Furthermore, the amendments are unworkable. In the magistrates courts, legal advisers issue some 2.5 million local authority summonses every year. If a right of reconsideration, as laid out in the amendments, were imposed on the court, a defendant could apply to the court against the issue of the summons. That would inevitably delay the first hearing and would mean that the matter would need to be referred to a magistrate who would reconsider the decision to issue the summons alongside a legal adviser, and the outcome of that decision would need to be notified to the parties before the case could start. That would build significant delay and cost into the process.

There are already three ways for a defendant to challenge a case in which a summons has been issued in the magistrates courts. They can make an initial argument to the court hearing the case that the summons should not have been issued, contest the substantive application made by the local authority, or apply for a judicial review of the decision to issue the summons. Creating a mandatory right to judicial reconsideration is therefore unnecessary.

I have some sympathy with the intention behind the hon. Lady's amendments, which is to ensure that the Bill contains adequate safeguards. For that reason, the Government moved amendments on the right of reconsideration that were accepted on Report in the other place. Those require the committees, when making any rules, to allow authorised staff to exercise judicial functions and consider whether the rules should include a right to judicial reconsideration of decisions made by authorised staff exercising those functions. That means the rule committees will have to consider whether each judicial function should be subject to a right to reconsideration. Additionally, the amended Bill requires that if a rule committee decides against the creation of a right of reconsideration, it must inform the Lord Chancellor of its decision and the reasons for the decision.

The measures in the Bill should also be read alongside the existing statutory provisions, which require the committees to consult such persons as they consider appropriate before they make rules. If a rule committee then chose not to include a right of reconsideration in its rules, it would have to notify the Lord Chancellor. The Lord Chancellor could then ask the committee to reconsider its decision, or, if he agreed with it, he could lay the rules in Parliament. We expect that he would set out the committee's rationale for not including a right of reconsideration in the explanatory memorandum to accompany the statutory instrument. The Bill as amended in the other place therefore ensures much greater transparency in the decision-making process.

10.30 am

Alex Chalk: Those are reassuring words. Will the rule committee have the right to request when, in certain circumstances, an exercise of discretion that might otherwise be innocuous—say, for the sake of argument, granting an adjournment—could lead to a material impact on the rights of an individual, that there could be a right of review in those circumstances? Does the Minister follow? It is important that that flexibility is in place.

Lucy Frazer: I think that is right. It will be the rule committee that will set out the procedure and requirement for any reconsideration. If it considers what my hon. Friend has mentioned as an appropriate way forward, it could make those determinations.

The noble and learned Lord Thomas, the former Lord Chief Justice said:

> "I support what the Government seek to do and urge a substantial degree of caution in respect of the proposal put forward by the noble Baroness"—

that is, Baroness Chakrabarti. He added that the Government's approach provides the right balance:

> "It gives discretion to a body that knows and has a lot of experience, but it contains that degree of explanatory accountability that will make sure that it does not do anything—even if we were to worry that it might—that goes outside a proper and just delegation".—[*Official Report, House of Lords,* 16 October 2018; Vol. 793, c. 425-426.]

Amendments 8 and 9 relate to the right of judicial reconsideration and the substantive rights of parties to cases in the courts and tribunals. As I mentioned earlier, the amendments we made to the Bill in the other place now mean that the rule committees will, when making any rules to allow authorised staff to exercise judicial functions, have to consider whether each of those functions should be subject to a right to reconsideration. They would require that, in doing so, the rule committees should also consider whether the function in question would be capable of having a material impact on the substantive rights of the parties.

The amendments appear to have been prompted by concerns about the compatibility of the provisions in clause 3 and the schedule with the rule of law, the independence of the judiciary and article 6 of the European Convention on Human Rights. In the circumstances, the Government believe the amendments are unnecessary. The independent procedure rule committees have for many years been making rules about practice and procedure which impact on court users. In carrying out this public function, they must ensure that the procedure rules are compatible with

fundamental rights, including rights under the convention. I note that the overriding objective of the criminal procedure rules, for example, explicitly refers to these rights.

Other safeguards in the Bill will help to ensure compatibility with the right to a fair trial. Most importantly, the Bill provides that all court and tribunal staff who are authorised to exercise judicial functions will now be independent of the Lord Chancellor when doing so, and subject only to the direction of the Lord Chief Justice or their nominee or the Senior President of Tribunals or their delegate.

The Bill also provides, for the first time, protections from legal proceedings and costs in legal proceedings and indemnities for all authorised staff when carrying out judicial functions, which will further safeguard their independence. We have, of course, strengthened these safeguards by limiting the types of functions that authorised staff will be able to exercise, through the Government amendments we made to the Bill on Report in the other place.

I hope I have reassured the Committee and the hon. Member for Bolton South East that there is no issue of compatibility between the measures in the Bill and article 6 rights, the rule of law or the independence of the judiciary. The Bill strikes the right balance between ensuring appropriate safeguards and transparency of decision-making, and leaving the jurisdictional rule committees the discretion to determine the most appropriate mechanism for reviewing decisions by authorised persons. I urge the hon. Member for Bolton South East to withdraw her amendment.

Yasmin Qureshi: I thank the Minister for her response, but our position remains the same and I therefore wish to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 9.

Division No. 3]

AYES

Antoniazzi, Tonia	Qureshi, Yasmin
Fletcher, Colleen	Reeves, Ellie
Hussain, Imran	Russell-Moyle, Lloyd
Phillips, Jess	Slaughter, Andy

NOES

Bowie, Andrew	Knight, Julian
Chalk, Alex	Milling, Amanda
Frazer, Lucy	Moore, Damien
Green, Chris	Wood, Mike
Heaton-Jones, Peter	

Question accordingly negatived.

The Chair: Amendments 8, 7 and 9, which have just been debated, can be moved formally by the hon. Member for Bolton South East, or she can withdraw them in the light of the last vote.

Yasmin Qureshi: I would like to move amendments 8 and 7, but not 9.

Amendment proposed: 8, in the schedule, page 11, line 40, at end insert—

"(2A) In reaching its decision under sub-paragraph 2 above, the authority must consider whether the function is capable of having a material impact on the substantive rights of the parties."—*(Yasmin Qureshi.)*

This amendment would require any Procedure Rules Committee making rules about the functions to which a reconsideration right would apply to consider whether the substantive rights of the parties will be materially affected.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 9.

Division No. 4]

AYES

Antoniazzi, Tonia	Qureshi, Yasmin
Fletcher, Colleen	Reeves, Ellie
Hussain, Imran	Russell-Moyle, Lloyd
Phillips, Jess	Slaughter, Andy

NOES

Bowie, Andrew	Knight, Julian
Chalk, Alex	Milling, Amanda
Frazer, Lucy	Moore, Damien
Green, Chris	Wood, Mike
Heaton-Jones, Peter	

Question accordingly negatived.

Amendment proposed: 7, in the schedule, page 19, line 21, at end insert—

"(7A) A party to any decision made by an authorised person in the execution of the person's duty as an authorised person exercising functions of a tribunal, by virtue of this subsection, may apply in writing, within 14 days of the service of the order, to have the decision reconsidered by a judge of the relevant tribunal within 14 days from the date of the application."—*(Yasmin Qureshi.)*

This amendment would require the Tribunal Procedure Rules to set out a procedure for applying for judicial reconsideration. It is consequential on Amendment 6.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 9.

Division No. 5]

AYES

Antoniazzi, Tonia	Qureshi, Yasmin
Fletcher, Colleen	Reeves, Ellie
Hussain, Imran	Russell-Moyle, Lloyd
Phillips, Jess	Slaughter, Andy

NOES

Bowie, Andrew	Knight, Julian
Chalk, Alex	Milling, Amanda
Frazer, Lucy	Moore, Damien
Green, Chris	Wood, Mike
Heaton-Jones, Peter	

Question accordingly negatived.

Schedule agreed to.

Clause 4

SHORT TITLE, COMMENCEMENT AND EXTENT

Lucy Frazer: I beg to move amendment 1, in clause 4, page 4, line 6, leave out subsection (8).

This amendment would remove the privilege amendment inserted by the Lords.

[Lucy Frazer]

This is a technical and procedural amendment to remove the privilege amendment made on Third Reading in the other place. The privilege amendment recognises that provisions in the Bill may infringe the privilege of the House of Commons with regard to the control of public money, and amendment 1 will leave out subsection (8), ensuring that the imposition of any charge resulting from the Bill is properly approved. In practice, the new powers the Bill will confer and the cost arising from them will be met by the Ministry of Justice.

Amendment 1 agreed to.

Question proposed, That the clause, as amended, stand part of the Bill.

Lucy Frazer: Clause 4 is technical in nature but it is important to give proper effect to the measures the Committee has considered. Subsection (1) confirms the short title of the Bill. Subsections (2) and (5) set out the commencement provisions, which will enable speedy and orderly implementation of the measures in it: clause 4 will come into force on the day on which the Bill is passed; clauses 1 and 2 will come into force two months after Royal Assent; and clause 3 and the schedule will come into force on a day to be appointed by the Secretary of State in regulations.

Subsection (4) allows the commencement regulations to make transitional, transitory or savings provision and to appoint different days for different purposes or areas, which will ensure that the rule committees are able to implement the proposals as they best see fit. Subsections (6) and (7) set out the territorial extent. Subject to certain exceptions, the provisions of the Bill extend and apply to England and Wales only. Where the provisions extend beyond England and Wales, this is in relation to tribunals, for which responsibility is currently reserved to Westminster. This is not the moment for debate about devolution matters, but I stress that we have undertaken extensive consultation with the devolved Administrations in preparing the Bill, and they agree with our analysis.

Subsection (8) is the privilege amendment inserted by the House of Lords, with which I have already dealt.

Clause 4, as amended, ordered to stand part of the Bill.

New Clause 1

REVIEW OF THE DELEGATION OF LEGAL ADVICE AND JUDICIAL FUNCTIONS TO AUTHORISED STAFF

"(1) Within the period of three years from the coming into force of this Act, the Lord Chancellor must arrange for a review to be undertaken on the impact of the implementation of the provisions contained within section 3 and the Schedule to this Act.

(2) A report setting out the findings of the review must be laid before both Houses of Parliament."—*(Yasmin Qureshi.)*

This amendment would require the impact of the delegation of judicial functions to be reviewed within three years of it coming into force.

Brought up, and read the First time.

Yasmin Qureshi: I beg to move, That the clause be read a Second time.

The new clause asks for a review of the impact of the legislation to be carried out within three years of the start of the Act, and that this be laid before both House of Parliament. The reason for that is, as mentioned earlier and in all debates in respect of the Bill, the Opposition have serious concerns about how the Bill will work out and about its impact on our justice system—in particular on litigants who go into court not legally represented, as often happens.

With the Act, there will be a more rapid use and deployment of judges from one sector to another, and we would like the Government to consider how that is working and its impact on our traditional court system. We believe that the functions the authorised people will be given and the issue of reconsideration will have a clear impact on what happens in both our criminal and civil courts.

10.45 am

I do not want to repeat myself, but I made many points earlier about how more and more cases are being disposed of to the internet or the online system, and about the massive call centres, to which people sometimes cannot even get through. That is unlike the situation in the traditional court system; people are normally able to attend the court and can be given informal voluntary assistance, information, advice, guidance and support. All that is being taken away, because of the use of online technology and not enough courts being there.

The cuts in legal aid, civil and criminal, mean that many people now go completely unrepresented, with no legal advice. They know nothing about the court procedures or the law. I am sure that many Members of Parliament have constituents visit our surgeries who are facing something that we would think was very simple, but is to them a big thing in their life that gets them worried and stressed. It is important that when they go to court, they are dealt with by people with the right expertise and knowledge, so that they can get justice and not be faced with people who perhaps do not have the requisite legal knowledge to assist them, or to make the decision appropriately.

If a decision is taken and somebody wants it to be reconsidered, we want to know what happens in relation to that judgment. How does it affect people? Are there many people asking for reconsideration? The authorised person will do certain tasks that impact on people's lives tremendously. Although the Bill is short, it makes wide-ranging changes, and it will impact on ordinary people across the country. It is therefore important that the impact of the Bill on our court system and litigants be evaluated. We have said that that should happen after three years, because that is a sensible period of time after which to evaluate how these things work in practice. Once that finding is made by the Ministry of Justice, it should be brought before both Houses of Parliament for debate. This is a sensible new clause to ensure that people's lives, liberties and rights are safeguarded.

Lucy Frazer: As the hon. Lady mentioned, the new clause is about reviewing the impact of the authorised staff provisions within three years of the Bill coming into force.

Reviewing laws is always important. We in the Ministry of Justice do not shy away from that. The question is what the appropriate form of that review is. As the impact assessment for these measures says, we have committed to working with the rules committees and the senior judiciary to monitor the impact of any future

assignment of judicial functions and responsibilities to authorised staff. This is particularly important where the Bill enables provisions to be extended to a new jurisdiction; for example, the power of authorised staff to carry out judicial functions will be new to the Crown court. We therefore expect the criminal procedure rule committee to conduct a review of the provisions as it feels appropriate, and to draw on its impartiality and expertise in doing so.

In other jurisdictions, the exercise of judicial functions by staff is already kept under review by the relevant rule committees, by the senior judiciary and by Her Majesty's Courts and Tribunals Service, where appropriate. For example, the civil procedure rule committee has undertaken a review of a pilot scheme in which a range of functions were delegated to legal advisers in the County Court Money Claims Centre. As a result of that, the committee decided to modify and extend powers. It has also agreed to a further pilot to allow legal advisers in the county court to make unopposed final charging orders. This will run to April 2020 and, again, will be reviewed before a decision is taken to extend it.

Those reviews and this approach to implementation are illustrative of how we expect these measures to be rolled out in the future: incrementally, with the necessary monitoring, and subject to review and evaluation before any further steps are taken. The rule committees are independent of the Government and their membership includes judges, legal professionals and representatives of voluntary organisations. They are best placed not only to make the rules for authorised staff exercising judicial functions, but to conduct the reviews of these measures in the future. I hope that I have provided the hon. Member for Bolton South East with the assurances that she seeks, and that she will withdraw the new clause.

Yasmin Qureshi: I thank the Minister for her response, but the Opposition will not withdraw our new clause. I ask that the Question be put.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 8, Noes 9.

Division No. 6]

AYES

Antoniazzi, Tonia	Qureshi, Yasmin
Fletcher, Colleen	Reeves, Ellie
Hussain, Imran	Russell-Moyle, Lloyd
Phillips, Jess	Slaughter, Andy

NOES

Bowie, Andrew	Knight, Julian
Chalk, Alex	Milling, Amanda
Frazer, Lucy	Moore, Damien
Green, Chris	Wood, Mike
Heaton-Jones, Peter	

Question accordingly negatived.

Bill, as amended, to be reported.

10.52 am

Committee rose.