Chairman’s Address to the Annual General Meeting of the Bar Council

15 September 2012

I would like to take this opportunity to welcome all of you who are attending this Annual General Meeting for 2012 of the Bar of England and Wales.

In particular, I would like to extend a very warm welcome to the Leader of the Bar, the Attorney-General, the Rt. Hon. Dominic Grieve QC MP. I would like to thank him for his consistent support for the Bar, shown in his attendance at Bar Council and in Government, and for the Bar’s values. Thank you for your support, and thank you for attending this AGM.

I would also like to welcome Oliver Heald MP, the recently appointed Solicitor-General. The Bar always enjoyed a good relationship with him when he was a member of the Opposition Justice team and more recently as the Chairman of the Society of Conservative Lawyers. I wish Oliver well in his new Office. We hope he will be able to support the Bar, and to attend our Bar Council Meetings in the way his predecessor did. Thank you for attending this AGM.

I would also like to thank Edward Garnier QC MP, the former Solicitor-General, for his support for the Bar and its values. I am sure you will all join with me in wishing him well as he returns to the back-benches, and hopefully back to practice. I would also like to congratulate him on his Knighthood.

I welcome the new Secretary of State for Justice, Chris Grayling MP, the first non-lawyer to hold the Office of Lord Chancellor. Secretary of State, if I may say, with respect, there is indeed a very heavy burden on your shoulders, in fulfilling your responsibility in maintaining and promoting the Rule of Law, in securing the integrity of the Justice system, in ensuring effective access to justice and in promoting the public interest.

Sometimes, perhaps the legal profession may be forgiven for thinking that this Government under-estimates the importance of the Justice system to society, to our way of life, to the economy, and to our national well-being, and sees the Ministry of Justice simply as a spending Department.
I believe the last Secretary of State and Lord Chancellor, Kenneth Clarke QC MP, understood the importance of the Justice system, although he had a rather misguided view about how to maximise the benefits afforded by some parts of it. I suspect that the Prime Minister may live to regret the day that he was so unceremoniously removed from that office, on grounds of political expediency, the Justice Secretary having delivered so fully on this Government’s agenda. Whatever disagreements we may have had with Ken Clarke, we should acknowledge the vast contribution he has made to public life over a number of years, and we wish him well in his new role.

We also welcome Helen Grant and Jeremy Wright to their new roles at the Ministry of Justice, replacing Jonathan Djanogly and Crispin Blunt. As the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act begins in the spring next year, we hope they will have uppermost in their mind, the importance of doing nothing further to undermine the already stark incursions upon access to justice.

I also wish to extend my thanks to the other leaders of the Bar, for all the invaluable work they have done for the Bar and for the Bar Council, and for acting in their respective representative roles. In that capacity they are the means through which the voices of their constituents can be heard and through which their constituents can be made aware of all that the Bar Council is doing on their behalf.

Thanks therefore:

- to each of the Circuit Leaders;
- to all the Chairs of the SBAs;
- to the Chair of the YBC;
- to the Co-Chairs of the EBC;
- and to the Chairs of all of the various Bar Council Committees;

all of whom, together, are too numerous to mention individually, for all the help, time and expertise that they have given pro bono to the Bar and the Bar Council over the last year, in addition to their work for their respective associations and constituencies.

I would like to pause for a moment to note how unfortunate it is that apparently the only subscribers in attendance at this AGM are Bar Council members. Please think about what can be done to encourage attendance and engagement by the profession and how Bar Council members can greater foster interest within their constituencies.
Whilst I am having a *Halle Berry* moment, I would like to take this opportunity of thanking the three Directors of the Bar Council, Vanessa Davies, Oliver Delany and Mark Hatcher, for all the support and help they have given me over the last year. I would also like to thank both the Chair and Vice-Chair of the BSB for their support for the Bar and for their wise counsel.

I also wish to extend a special thank you to Toby Craig, our Head of Communications for all the work he has done in establishing not only a highly effective Communications Team, but also a detailed Communications Strategy for the future. It has been clear to me throughout my time as Chair, and before that as Vice Chair, of the Bar Council that communications are at the very heart of all we do. We have to get our messages out, we have to get them across to the public, we have to ensure that they are listened to, and understood. The Communications Team is delivering on that requirement.

**Obituaries**

I should like to take a moment to note the passing of certain members of the profession since the last AGM. I am unable to account for all of those whom we have sadly lost in the last year or so, but will make specific mention of:

- Lord Archer of Sandwell QC, former Solicitor General
- Lord Hooson QC, former Leader of the Wales and Chester Circuit and Liberal MP for Montgomeryshire
- Beryl Cooper QC, former member of the Criminal Injuries Compensation Board
- Claire Miskin, Bencher of Middle Temple and Recorder on the Western Circuit, and
- Harold Sebag Montefiore, Deputy Circuit Judge and former Bar Council disciplinary committee member.

Many of those will have been known to many of us. We note the passing of such advocates as a great loss to the Bar.

**Representational Annual Report**

This year, for the first time, the Bar Council has published its first ever Annual Report, focusing solely on its representational activities. *Representing the Bar* reports performance against the Bar Council’s three-year Strategic and Business Plan, which the Bar Council approved last year.

You will have received a copy of that Report. I urge you all to read it and to distribute it amongst your constituencies. It will also be available on the Bar Council’s new website. In light of that Report, I intend, therefore, just to highlight certain matters.
Bills and legislation

LASPO

For the Bar, the most significant Bill which went through Parliament during this last year has been LASPO. In response to LASPO, the Bar Council established a Bill Group, ably lead by Stephen Cobb QC, and Harriet Deane of the executive. That Group devoted considerable time, effort and resource to opposing what it saw as the most egregious elements of the Bill. The Government suffered 13 defeats with principled amendments to the Bill in the House of Lords, each one of which, except one, was reversed when the Bill returned to the Commons.

The Civil Justice Council in the Executive Summary to their report, presented to the Lord Chancellor and the Lord Chief Justice in November 2011, stated the effects of the cuts in no uncertain terms. They said:

“Even if all the recommendations we make are acted upon, they will not prevent the reality that in many situations, as a result of the reductions and changes in legal aid, there will be a denial of justice.”

They continued:

“There must be no misunderstanding about this. Put colloquially, the recommendations are about making “the best of a bad job.””

Crime and Courts Bill

On 9 May 2012, The Queen’s Speech included an announcement that the Government would bring forward the Crime and Courts Bill during the current parliamentary Session. Premised on ‘demystifying’ the justice system, the purpose of the Bill, apparently, is to effect major reforms to the criminal and civil justice systems; the creation of a National Crime Agency, the introduction of cameras in court; reforms to the structure of the single county court and family court system; and the introduction of “tipping” in the selection of judges, so that, where there are two applicants of equal merit, it will be permissible to favour, and hence to appoint, the applicant from the less well represented section of society.

The Bill has already been introduced into the House of Lords and is expected to receive royal assent in spring 2013.
Justice and Security Bill

The purpose of this Bill was said to be to “strengthen oversight of the security and intelligence agencies, allowing the courts, through the limited use of closed proceedings, to hear a greater range of evidence in national security cases.”

As the House of Lords prepared for the Report Stage of the Bill, the Bar Council issued a press release condemning the Government’s planned extensions to the use of Closed Material Proceedings, thereby endorsing the arguments of Liberty, Reprieve and the Special Advocates who participate in these proceedings.

Crown Prosecution Service

CPS Panels

The introduction of the new CPS Panels for Prosecutors initially caused some concerns. The difficulties which had arisen were effectively and efficiently addressed with the assistance of the CPS itself, the Circuit Leaders and the CBA.

CPS Graduated Fee Scheme C

The removal of page count as a determining factor in the assessment of fee entitlement was designed to reduce CPS costs, and was not expected to have significant effects on the majority of fees paid. However, the new fee scheme had a substantial adverse effect on those the fees of those practitioners who are involved in paper heavy complex fraud cases. The Bar Council and the CBA have been liaising and working with the CPS to ameliorate the problems that have been thrown up.

Legal Services Commission

The Bar Council, and chambers, have been pleased with the very positive working relationship which has developed with the LSC, particularly through the good offices of Matthew Coats, the LSC’s new Chief Executive. He is a man who wants to understand the issues and find the solutions to improve efficiency in making payments. The LSC is expected to become an Executive Agency of the Ministry in Justice in the spring of next year and I am confident that with Matthew at the helm we will be able to work together on new arrangements for delivering publicly funded legal services.
Price Competitive Tendering (PCT)

At every meeting I have in Whitehall, in Westminster, with the Law Officers with other Ministers, I am reminded that Price Competitive Tendering (PCT) in publicly funded work has merely been postponed, not permanently shelved. The Government said as much on 1 December 2011 in a Written Ministerial Statement. The Government says they want to see how we can adapt to meet the challenges posed by PCT. I have therefore reconvened the Strategy and Trouble Shooting Groups, the members of which include the Vice Chair and Vice Chair elect of the Bar Council, the Circuits, the CBA, FLBA, commercial practitioners and members of the Bar Council executive. We are there to assist the Bar in addressing the new and difficult challenges ahead and to facilitate change where we are asked for assistance.

QASA

The deadline for responses to the fourth consultation on QASA is 9 October 2012. As I have told the profession, the Scheme, as presently formulated, continues to contain objectionable elements: Plea only Advocates; grading of cases by Solicitors; the inclusion of Silks within the Scheme. The objections have been made, but those elements remain. The BSB has made it clear that it intends to introduce QA Schemes across all areas of legal practice. It is for those reasons that I have written to the Chairs of Specialist Bar Associations (SBAs) and to all Heads of Chambers (HoCs), encouraging them to put in responses to this Consultation. I encourage all of you to ensure that you submit your own responses in good time.

Referral fees

We may be forgiven, perhaps, for thinking that some mountains are simply too difficult to climb. That, sometimes, is how I feel when I talk with the LSB about how insidious, and contrary to the public interest, and to the consumer interest, are referral fees. That they are contrary to the public and the consumer interest is not in doubt. What is in doubt is whether the LSB will ever understand that. However, we will continue to make the arguments and communicate with all those who share our concern as well as those who at present do not. Referral fees must be stamped out.

Bar Barometer and Barristers’ Working Lives

The Bar Barometer, published in January of this year, is produced by the Bar Council’s Research Department. This publication will help the Bar Council and BSB to develop and implement informed policies which are relevant to the requirements and needs of barristers. The Bar Barometer is also intended to be a useful source of statistical information for those
with an interest in the Bar, from practitioners to the wider legal services market, as well as current and aspiring Bar Professional Training Course (BPTC) students.

This year also saw the publication of ‘Barristers’ Working Lives’, the first in a series of biennial surveys of the Bar. The 2011 survey gave practising barristers the opportunity to describe their current work situation and future career plans, as well as their views about their working life and the profession.

CEO

The Bar Council has decided, after a significant period of debate and reflection, to seek a new Chief Executive. A draft job description has been prepared and is being reviewed. Steps are being taken to arrange for the appointment of head-hunters to assist in that endeavour.

Barco

The Bar Council is about to launch the pilot of its escrow services account for the handling of clients’ payments; this marks a significant investment in the future of the Bar. The initial launch event will be held in London on Thursday 27 September, followed shortly thereafter by launches in the Circuits.

International

I have been on a number of trade and values-driven missions overseas, on which I have reported in my written Bar Council Statements. These have been posted at regular intervals on the Bar Council website for all to read.

Final thanks

This statement has gone on quite long enough.

But it would be not just remiss, but actually wrong of me not to acknowledge the very great assistance which the Chairman’s Office and I, in particular, have been afforded.

Thanks must go to Maura, the Vice Chair, who keeps me sane, tells me all about criminal law, and explains the role of the true advocate. She has been a pleasure to work with for the first eight months of my year as Chair; I hope that will continue for the rest of my year. I know she will make a great Chair next year. I also want to thank Stephen Collier, our Treasurer, for all his help as he continues his busy schedule as Chief Executive of a leading healthcare group.
But special thanks must go to Charlotte Hudson, the Chairman’s Office Manager, Victoria Carpenter, the Chairman and Directors’ PA, and Sarah Riley, the Chairman and Directors’ Projects Officer. Without them, the Chairman’s Office would have difficulty functioning. I believe the Bar is now benefitting substantially from a Chairman’s Office which is well-organised and managed by Charlotte.

Thank you.

Michael Todd QC
Chairman of the Bar
14 September 2012