



Maura McGowan QC, Chairman of the Bar
Speech to the Annual Bar Conference, 2 November 2013
The Bar in society: A vital force for good

The Values of the Bar are Integrity, Excellence and Independence. They are immutable and must be jealously guarded and preserved. They are what make us what we are. But what of what we do? What is the Value of the Bar?

We work to achieve justice and to provide access to justice to every citizen. Our tradition is rooted in Public Service, because we have an intrinsic and instinctive commitment to the Rule of Law, not just because it pays, or in some cases doesn't.

We all seek to provide access to justice for all and to continue to strive to provide access to the profession for all. Our commitment to the Rule of Law requires that we will apply it to ourselves in seeking further to ensure open and fair recruitment, based on nothing other than talent and ability.

That ability must be outstanding but if it is, nothing else; background, ethnicity, gender, nothing else can or should prevent the best joining and rising to the top at the Bar.

"A Bar of all for all" must be our ambition and we must not be deflected or allow ourselves to be deflected from that aim. To that end I would like to see an extension of our policies on Equality and Diversity to add Inclusion. It should no longer be a numbers game, matching statistics, we have to look to the individual, are they good enough? Nothing else matters. Working towards equality of opportunity is only a part, but a vital part, of the contribution we make to society.

And we continue to fight for that equality of opportunity at a time when tuition fees and the reduction of places at the bar and work to do there are being dramatically reduced.

It is particularly important as we provide the judiciary of the future.

Why is that? Because the tradition of public service is at the core of what the Bar does. It is why commercial practitioners give up very substantial incomes to take appointments. It is why barristers give up working time to sit as Recorders or Deputy Judges. We play an essential part in supporting the mechanism of the criminal and civil courts. A burden not taken up by others and massively undervalued by most.

We are the driving force, the proponents of the development of the law and legislation. We argue cases at all levels, we test the boundaries in all areas. We regularly, in all disciplines, take on cases for free. We represent those convicted and sentenced for crime, often for no fee at all but because we believe there is a wrong to be corrected.

That is our tradition and our ethos. It is increasingly undervalued by politicians, unknown to the public and ignored by some sections of the press, unless it's about cameras in courts.

We contribute directly as individuals or collectively through groups like the Law Reform Committee of the Bar Council to the unstinting and superb work of the Law Commission, we provide substantial input into Government debate in both Houses of Parliament, we contribute to the public debate on all aspects of the Rule of Law through articles and contributions to those debates in the media. We are currently working to try to alleviate the ordeal of giving evidence for vulnerable witnesses by our plans to design, with the Advocacy Training Council and Barnado's, training for those who do those cases and through the excellent work of the CBA with the NSPCC in this area. We are constantly striving to raise standards in this as in all areas. We realise there is always room for improvement, we have always provided, for free, some of the best 'on the job' training to any group of would-be practitioners.

Despite the quality of training we provide both at the start and throughout barristers' careers, which we continue to improve, we are watched over like naughty children. We enthusiastically welcome the call for evidence and the Government's proposals to look at the way in which we are regulated. It is too cumbersome, too expensive and it does not serve the public in guaranteeing excellence. As we see

from the proposed Quality Assurance Scheme for Advocates it only sets out to ensure competence. The advent of the LSB has not driven up standards, it has put more obstacles in the way of those trying to practise well and honestly. We will continue to contribute to the debate on the future of regulation in a sensible and responsible way. We should not be held to account by an oversight regulator whose stated position is, "to look forward to a future when the provision of legal services means more service and less legal".

We, largely through the commercial practice of sections of the Bar, play a huge part in the vast financial contribution the legal profession makes to the economy of this country. We provide larger and larger amounts of revenue at the same time as we see greater and greater reductions in Government spending. But it's not just financial.

More than any other aspect of the country's international trading arm, the legal profession has helped repair the reputational damage done to the City, to London and the UK as a place to do business by the banks and major financial institutions. We have done that by virtue of our continuing reputation for probity and integrity. And we have done all that at a time when banks fail and bankers are prosecuted, when MPs are imprisoned for fiddling their expenses and when some sections of the Press are literally in the Dock for hacking into the phone of a dead teenager.

The underpinning of the Rule of Law by the work and standards of the Bar is what enables politicians to go abroad to sell and promote UK plc. The Bar has and will outlive any political administration. We will continue to provide a much greater and worthwhile contribution to the financial well-being of society.

We are not just professional lawyers working within society, we are much more than that. We are a vital part of the constitutional framework of society.

And we cannot allow the politicians and the press to pretend that cuts to public funding will not detrimentally affect the social good.

In commercially-funded areas of practice, talent is met by financial reward and the acclaim of the Lord Chancellor. In publicly-funded areas it is met with a contemptuous disregard. Nobody going into publicly-funded work expects to earn as much as their commercial colleagues, they know they will earn a fraction but they

did not expect and should not have to tolerate having their already limited income halved in order to make savings which are almost inconsequential in Government budgetary terms.

The denial of funding to litigants and the diminution in the talent of those who work for legal aid can only detrimentally affect the public interest.

We are One Bar, the whole is greater than the sum of its parts. Every section of the Bar works to support the others. But the whole is diminished by an attack on any part of the profession, particularly those parts which ensure access to justice for the most vulnerable. It cannot be justifiable to deny parents represented access to the courts to fight for the custody of their children on the grounds of financial expediency. It cannot be right to drive barristers of quality out of the provision of defence advocacy to those charged by the state with criminal offences. To deny those who would seek to challenge the administrative actions of the state adequate or any funding to seek review is unfair and unprincipled.

We currently have a functioning civic society, all based on the Rule of Law and the vital part we play in its maintenance.

We play our part in the social contract that exists between Government and the people, we take on more than our fair share of that burden. We are entitled to expect the Government to play its part.

We have done more than enough to earn the respect of the Government and the public, we deserve to receive that respect and not the contempt shown and often engendered in certain sections of the press by a total inability to refer to any barrister without using the lazy and inaccurate epithet "fat cat". We do not hack the phones of others to sell our services.

We deserve better than the, "well they would say that, wouldn't they", attitude of Government ministers like Lord McNally when a lawyer points out the disadvantage to a litigant of having to conduct their own hearings in court.

We, as a predominantly self-employed profession, make an unequalled voluntary contribution to the fabric of society. Over 40% of the Bar regularly carries out pro bono work whether in addition to their practices or in the places where they live. A

third of all silks are signed up to work for the Bar Pro Bono Unit. The profession is the only source of funding for the Bar Pro Bono Unit, is a major funder of groups like the Free Representation Unit, of the Bar Human Rights Group and the Citizenship Foundation. Practitioners give up their time and skills for no reward and no recognition. Like those who go abroad to teach advocacy and ethics or to monitor trials in countries where the Rule of Law is ignored, and pay for their own flights and accommodation, against the background of giving up time in which they could be doing remunerated work.

There are few professions and no profession of self-employed individuals who can say that nearly half of their practitioners work pro bono, out of a sense of social responsibility. That's why I'm proud to launch today a publication called, "The Bar in Society. Barristers Making a Difference". We should never be ashamed to proclaim clearly the Bar, and the Bar Council's, ongoing commitment to the communities in which we work.

We make a vast contribution to public legal education and citizenship. Through the Bar National Mock Trials competition and the Speak up for Schools project we send barristers into schools in the less glamorous areas, to encourage youngsters with talent to raise their horizons as to what their future might hold.

And what do we get in return?

We are grateful for the primary position that Price Competitive Tendering would not be applied to the Bar but the Ministry of Justice cannot go on pretending that there will be no damage to the public good by the cuts it has, and continues, to make. Nor that the profession will survive these cuts undamaged.

Cost is not the only criterion.

Thomas Edison said, "Vision without execution is hallucination". The Secretary of State must be hallucinating if he thinks saying he wants the independent referral Bar to continue, saying he wants to protect and improve the position of the junior Bar is enough to make it happen.

He cannot maintain a proper system without being prepared to spend reasonable and sensible amounts of money to make it function. Unless he's thinking of a different form of execution for us.

We must all be alive to the value of the Bar in society, Chris Grayling should protect it and be proud of it as an institution vital to the proper functioning of a democratic society. But it's not the role he seems keen to take up at the moment.

Conservatives are supposed to believe in preserving institutions. If so, they have an odd way of showing it.

For too long, as individuals, we have fought shy of talking about the pro bono work we do. At a time when the entire institution is under threat we should no longer be so shy. We do much more than our fair share to work for society, we deserve better recognition for what we do.

It's easy sometimes to become despondent. To think that it is all too much and that it cannot possibly be overcome. But if you want to see the Bar of tomorrow, look at the young Bar of today. I see a generation of outstanding practitioners, so ably led by Hannah Kinch this year, which will secure this profession's future and values for years to come. We are all privileged to be part of this profession and to have an opportunity to play the role in society which we all strive to fulfill.

As I asked in my inaugural speech, the Bar has become engaged and involved. Our involvement in pro bono work has not wavered, despite all that has happened, by way of LASPO and fee cuts.

Our commitment to serve the public has not faltered. We have to continue to fight for the recognition and respect we deserve. There is still so much to fight for and it's worth the fight.

Maura McGowan QC
Chairman of the Bar 2013