



Chairman's Statement Bar Council 15 September 2012

The last Bar Council before the summer vacation was held on 7 July 2012. I hope that you have all had some time for a vacation over the summer.

There were a couple of matters upon which I did not report in my statement for last Bar Council, which I would wish to draw to your attention.

Meeting with the Law Officers: 2 July 2012

Following a very successful World Bar Conference on the weekend of 29 June to 1 July, on which conference I did report in my last statement, I met with the Attorney-General and the (then) Solicitor-General. At that meeting, we discussed:

- (a) **QASA:** I reiterated the CBA's continuing concerns about QASA which had been expressed most recently at the World Bar Conference on 1 July by Max Hill QC.
- (b) **World Bar Conference:** The Attorney said that he had enjoyed taking part in the conference on 30 July, that he thought the atmosphere had been very positive, and he congratulated the Bar Council and Inner Temple for their organisation of the event.
- (c) **CPS Fees:** I mentioned the continuing dialogue between the Bar Council's representatives and the CPS (Mike Kennedy), focusing on paper-heavy complex fraud trials. The Attorney said that the CPS were very heavily resource-constrained and the DPP was not going to be able to wave a magic wand to change things.
- (d) **CPS Advocacy:** I reported that I believed that regular meetings with the DPP were proving productive. We discussed, briefly the conclusions of the recent HMCPI report about the quality of CPS advocacy. The Attorney emphasised that the CPS had been obliged to take a 25% cut in their budget and they were not in a position to employ more in-house advocates, which inevitably provided an opportunity for members of the self-employed Bar of appropriate quality. The Attorney said he wanted to see a continuation of a mix of self-employed and in-house advocates. He added that he was keen to ensure there were opportunities for the self-employed Bar to gain experience in prosecution advocacy from the bottom up.

- (e) **CPS use of Silks:** The Attorney said he shared our concerns about the use of junior prosecution counsel in very complex cases (including murder), which the Law Officers had raised with the LCJ who was of a similar opinion. I said that discussions with the DPP were continuing.
- (f) **Crime and Courts Bill:** I referred to concerns which had been raised on 27 June in the Lords Committee stage of the Crime and Courts Bill in relation to the involvement of the Lord Chancellor in the appointments panel for the positions of the Lord Chief Justice and President of the Supreme court (Clause 18 and Schedule 12), which Lord Pannick QC had sought (with a significant body of support in Committee) to amend. I said that I was concerned that the Government's plans (which ran counter not only to the Lords Constitution Committee's recommendation in this respect and to the views of the Judicial Appointments Commission) could undermine the independence, or at least the perception of independence, of the judiciary, especially to overseas observers. The Attorney noted our concerns, which he said that he would take up with the Lord Chancellor at their next bi-lateral.
- (g) **Legal Services Board:** Following on from the above concerns about independence, I said that I had been struck, at the recent meeting of the IBA Annual Bar Leaders Conference in The Hague, by a number expressions of concern put to me by several Bar Leaders about the risks to the legal profession's independence in England and Wales by the Legal Services Board (LSB). The Attorney noted that the Law Officers had had no contact with the LSB since they took office and perhaps it was time to hear from the LSB. I mentioned the Bar Council's robust response to the MoJ's Triennial Review. The Attorney said he would take up the Bar's concerns with the Secretary of State for Justice. He invited the Bar Council to submit a briefing paper to him so that he could pursue the Bar's concerns in particular about the duplication and cost of the LSB's activity.
- (h) **International exchange programmes:** I referred to the interest in developing exchange programmes which had resulted from my recent international visits to South Korea and Singapore. The Law Officers were interested to hear of these outcomes and encouraged us to pursue these discussions with the relevant Ministers of Justice and with the DPP. The Attorney mentioned that the Foreign Secretary planned to make a major speech in The Hague shortly on Diplomacy and the Rule of Law. "Rule of Law diplomacy" was becoming an important strand in the UK's soft power armoury, providing opportunities for the CPS as well as the Bar. The Solicitor referred to a number of Caribbean countries in which the administration of justice appeared to be suffering from an absence of judicial case management and the allocation of sufficient resources. It was noted that the Chief Justice of Trinidad was scheduled to visit London in August and it was hoped that he would have an opportunity to witness busy criminal courts in action. I referred to the arrangements which had been put in place by the Bar Council to continue an exchange programme with Chinese lawyers following the withdrawal of funding of the earlier scheme by the Ministry of Justice. The Solicitor-General encouraged the Bar Council, if it was not already in touch, to develop contacts with the Great Britain China Centre, a London-based organisation facilitating dialogue with Chinese government, society

and business to provide direct delivery of policy objectives. Their aim is to enable UK organisations to engage effectively and competitively with Chinese counterparts across a wide range of legal, social and good governance issues. Katie Lee was identified as a potentially useful contact.

(i) **Strategic issues facing the Bar:** I mentioned my concern that the Bar was finding it difficult to formulate a strategy for the next three to five years and that I would welcome any help the Law Officers could give to help me work with the profession to address the challenges of the future. The Attorney said that, as far as he was able to, he was always ready to keep the Bar Council abreast of major developments in Government policy which were likely to impact on the Bar. He thought there were two main issues which the Bar would have to address:

- **Strategic Spending Review: Next stage?** The economy was flat-lining and much of the country's future economic success appeared to hinge on the future of the eurozone. It seemed highly likely, at least at present and in the absence of any discernible improvement in the UK's economic situation, that a second stage Spending Review would be undertaken. The Chief Secretary to the Treasury had already indicated as much. This could impact on the publicly funded Bar although he hoped that, in view of the fact that the MoJ and the CPS had already suffered spending cuts of the order of 20-25% between them, the Treasury would recognise that there was little more that could be offered up in further public expenditure savings from those departments.
- **Structures:** The Attorney thought the Bar needed to think about changes in the structures through which legal services of the future could be delivered as well as how the size, structure and overall profile of the profession might change in the future. There would always be a need for top quality legal advice and advocacy services but he thought it was not clear that the Bar could maintain its present size and structure. He recognised that managing the Bar in these difficult times presented significant strategic challenges for the Bar's representative body.

Meeting with the Secretary of State for Justice: 3 July 2012

On 3 July, Maura McGowan QC, Mark Hatcher and I met at the House of Commons with the Secretary of State for Justice (SoS), Ken Clarke QC MP, and the Parliamentary Under Secretary of State for Justice (PUSS), Jonathan Djanogly MP. Dr Elizabeth Gibby (Deputy Director responsible for Legal Aid Policy) and Belinda Lewis (Deputy Director responsible for International) and two other MoJ officials were also presents.

The meeting was held at our request to focus on international matters (following my participation with the SoS in the International Legal Forum (ILF) in St Petersburg), and contracting for publicly-funded work.

International matters: The following main points arose:

- (a) **Generally:** The SoS said the Government was making considerable efforts to promote British legal services internationally. As he had said to the Commons, in answer to a Parliamentary Question from Bob Blackman (Con, Harrow East) earlier in the day, the MoJ were working very closely with the Bar Council and the Law Society. Our legal services were held in the highest regard in the world. They contributed 1.3% to UK GDP. The sector was second only to financial services in the City and was an area of economic activity which the Government was keen to promote and support. The SoS agreed with my assessment which overseas clients and commentators placed on the integrity of our system of justice (which had been evident from the contributions at the recent World Bar Conference which the Bar Council had organised in London), adding that modernisation was also an important consideration in deciding where to resolve disputes.
- (b) **Russia:** The SoS said that the ILF in St Petersburg had been a success. Russia was a promising market. He had been struck by the attention given to the proceedings by President Medvedev. I thanked the MoJ for the support which the Bar Council delegation had been given. The personal presence of the SoS had been an important factor in the success of the event.
- (c) **Brazil:** The SoS said he was looking forward to accompanying the Lord Mayor in October on his forthcoming trip to Brazil. He thought it was a potentially attractive market for legal services providers but the local lawyers were protectionist. Greater market access was a key goal for the mission. He hoped that the Bar would be represented.
- (d) **India:** The SoS shared UKT&I's assessment of the difficulties of creating more market openings. He felt the legal services sector was paralysed by inactivity. Efforts to permit foreign firms to establish themselves had ground to a halt. Obtaining greater market access would undoubtedly be helped if the EU was able to conclude a Free Trade Agreement with India but hopes of achieving this in the foreseeable future were fading. The problem affected professional services liberalisation generally.
- (e) **Other markets:** The SoS thought commercial opportunities were more likely to be found in large, emerging markets rather than smaller economically impoverished jurisdictions. He noted the Bar Council's recent mission to South Korea (and the discussions which had taken place with the Deputy Minister of Justice for developing prosecution skills in collaboration with the DPP), the Bar's mission to Singapore, the Chairman's proposed participation in the Inter-Pacific Bar Association Conference in 2013 and the Bar's growing interest in selected African states. He hoped to be able to attend the Commonwealth Law Association conference in Cape Town in April 2013. The SoS suggested that Azerbaijan might provide opportunities for the Bar. It was oil rich and witnessing significant construction activity. There appeared to be a high level of corruption and a clear need for the Rule of Law to apply. The Bar's policy of pursuing a trade and values approach to its international work would appear to be well suited to this region.

- (f) **Forthcoming event with the Secretary of State:** I raised the possibility of holding an event with the MoJ to provide the SoS with a platform to report on progress made by the Government since the publication last year of the *Plan for Growth: Promoting UK Legal Services* and to offer the Bar Council and the Law Society an opportunity to demonstrate their part in contributing to the Government's strategy. I said that I had explored this possibility recently with the MoJ's new International Director, Peter Gooderham, who had been receptive. The SoS supported the idea and encouraged the Bar Council to follow through with his officials.

Public funding and related issues: The following main points arose:

- (a) **Use of restrained funds:** The PUSS reported that discussions were taking place between officials in MoJ and the Home Office. Some data gathering had been undertaken and there was an inter-departmental struggle going on to resolve the issue which the Bar Council had brought to the MoJ's attention. The Home Office regarded this as a matter for them to lead. The PUSS commented that the MoJ was on the Bar's side on this issue.
- (b) **Referral fees:** I said the Bar Council had not given up on referral fees and would return to this issue.
- (c) **Legal Services Board:** The PUSS mentioned that he had just written to the Chairman to thank the Bar Council for its representations in response to the MoJ's Triennial Review of the LSB and that the review was moving into a second stage to examine governance arrangements. The MoJ noted that the Bar Council (like the Law Society) had not recommended outright abolition of the LSB because the alternative of regulation by Government would doubtless be regarded as even less attractive. Would the Bar be content for the MoJ to licence ABSs, for example? The SoS and PUSS noted the Bar's concerns about the growing cost and complexity of regulation and the duplication of activity between the LSB and the Approved Regulators.
- (d) **Contracting:** The SoS said he anticipated there would be a horrendous reaction from the Bar to the forthcoming consultation on a new regime for criminal defence services. He said that the Bar could not carry on trading for criminal work personally through clerks. The system was no longer fit for the future. Whether one liked it or not (and he understood large sections of the Bar would not like it) block contracting was coming. A new system for solicitors and barristers was needed. Change was inevitable and the Bar needed to prepare itself. The SoS said he anticipated that the Circuits would resist change but what were the alternatives? The SoS said that he was not aware of alternative ideas surfacing. Would the Bar even consider forming alliances with solicitors and assembling joint bids for work? He said that it had been seared into his mind that the Bar was not willing to contemplate one iota of change but change was coming. The SoS confirmed the timetable for consultation which had been announced to Parliament on 1 December 2011 with a view to a new regime

going live in the summer of 2015. The PUSS added that the postponement of the introduction of a new regime provided the Bar and solicitors with an opportunity to prepare for change. The postponement had not signalled that the issue of contracting was being kicked into the long grass.

- (e) **Crime and Courts Bill:** I said that the Bar Council was concerned about Clause 18 and Schedule 12 of the Crime and Courts Bill which envisaged a role for the Lord Chancellor on the selection panel for the appointment of the LCJ and the President of the Supreme Court. This appeared to create a risk of politicising the judicial appointments process, a view with which the Lords Constitution Committee and the Judicial Appointments Commission had agreed. The Bar Council would return to this issue when Peers considered the Report Stage of the Bill after the Summer Recess. The SoS noted the Bar's concerns.

Bar Council Garden Party

On 4 July, the Bar Council held its Annual Garden Party in Middle Temple. Judging from the letters I received subsequently, it was viewed as a great success by our guests. It did not rain. After the garden party I attended the dinner given by the Law Society for John Wotton, the former President of the Law Society.

All China Lawyers' Association visit to the Bar Council: 3 July 2012

The All China Lawyers Association (ACLA) is the Bar Council and Law Society's counterpart in China, albeit with more government influence. Their regulatory work is supplemented by regional bar associations, which often take on a more active role in representing and training the profession.

The purpose of the visit by a delegation of the ACLA (the Delegation) was to honour the memorandum of understanding, renewed in 2010, and to continue to build the relationship between the Bar Council and ACLA, as they are a key political partner in new Bar Council Training Scheme for Chinese lawyers and help facilitate our China-based business development activities. The Bar Council and Law Society organised a three-day joint programme for the delegation of five ACLA representatives.

On 3 July, the Delegation:

- met with Lord McNally (Minister of State at the Ministry of Justice)
- had a tour of the Supreme Court
- had lunch at the Law Society's Carey Street residence, hosted by the President of the Law Society, Lucy Scott-Moncrieff

On 4 July, the Delegation:

- met with the College of Law

- had a lunch meeting with Eversheds (Solicitors)
- met with Jack Yu, Managing Director, the London Office of Yingke (a PRC law firm)
- attended the Bar Council Garden Party

On 5 July:

- I met with the Delegation
- The Delegation attended Chambers at 4 Pump Court
- The Delegation and I had lunch at Inner Temple with lawyers who were here on the Bar Council Training Scheme for Chinese Lawyers and the barristers with whom they were sitting.

The Delegation comprised:

- **Mr. Jin Shan**, Vice President of ACLA from 2002. President of Xinjiang Bar for six years. Listed arbitrator of CITAC. Visiting professor at Law School of Xinjiang University. Managing Partner of Tianyang Law firm
- **Mr. Han Gang**, Executive Council of ACLA, President of Tianjin Bar. Managing partner of Jiade & Hengshi Law Firm. Listed arbitrator of CITAC
- **Mr. Ba Bu**, Executive Council of ACLA, President of Inner Mongolian Bar. Managing partner of Eide Law Firm. Visiting Professor of Inner Mongolia University
- **Ms. Jia Xiaoqing**, Deputy Secretary General of Anhui Bar
- **Ms. Cheng Youyan**, Assistant Director of International Section of ACLA.

UKT&I: 11 July 2012

On 11 July, Mark Hatcher and I met with Naomi Neal and Susan Winchester of UKT&I to discuss the assistance that UKT&I had provided us on recent international missions, and in particular their support at the International Legal Forum in St Petersburg. We mentioned the proposal we had made to the SoS about the possibility of holding an event with the MoJ to provide the SoS with a platform to report on progress made by the Government since the publication last year of the *Plan for Growth: Promoting UK Legal Services*.

Sanctions for Inadequate Disclosure in Criminal Trials: 11 July 2012

On 11 July, Maura McGowan QC, Max Hill QC and I met with Gross LJ to discuss his proposals for sanctions in relation to inadequate disclosure in criminal trials. Inadequate disclosure is becoming an ever more recurrent theme in criminal cases, a matter which, I know, Michael Turner QC has raised with the DPP on a number of occasions.

COIC Subvention Review Group: 12 July 2012

On 12 July, Maura McGowan QC and I attended the Subvention working group with Oliver Delany and Mark Hatcher. The Group is co-chaired by Michael Blair QC and me. The Bar Council put forward a paper as to why the Inns' subvention should not be reduced, alternatively, should be reduced by substantially less than the proposed 25% for the forthcoming year. Michael Blair proposed a reduction substantially in excess of 25%, alternatively of 27%. We were unable to agree. The matter came before COIC on 18 July. Despite our opposition, the Inns agreed that the reduction for the forthcoming year should be 27%. The Bar Council has no vote on COIC and it has no contractual entitlement to any sum by way of subvention from the Inns. COIC's decision will impact adversely on this next year's PCF levy.

LSB: 12 July 2012

On 12 July, Maura McGowan QC and I met with David Edmonds, the Chair of the LSB. We discussed a number of issues: CEO of the Bar Council, regulatory independence of the BSB, duplication of resource, education and training, all the old favourites. We explained again why referral fees are offensive. He did say that he would look (again) at the issue of payment of referral fees in publicly funded matters. Well that's a start!

IBC Dinner: 12 July 2012

That same evening, Maura and I, and many others, attended the Annual Dinner of the Institute of Barristers' Clerks, at which Maura and David Barnes made speeches. David's was notable for the fact that he again referred, with regret, to the fact that the Bar Council had not taken steps to affiliate members of the IBC and LPMA to the Bar Council.

Social Mobility: 13 July 2012

On 13 July I attended a reception for those who had participated in the Social Mobility Foundation Bar Placement Scheme. The Scheme is important. It enables students from less advantaged backgrounds to see what we do, how we do things and the reasons why we do things in a particular way. It enables the Bar to meet with them, to gain a better understanding of how we can attract people from more diverse backgrounds than those who presently populate the profession. It also enables us to gain a better understanding of the concept of merit, a most elusive but important concept, when seeking to attract, and when considering, applicants to the profession.

Putting this in context:

- 93% of the UK student population as a whole attended state schools
- 61% of applicants for pupillage were educated in state schools
- 58% who obtained pupillage in 2011 were educated in state schools

This year is the sixth consecutive year the scheme has taken place. 65 students participated, the largest number to date. For the first time, 18 students who took part in the placement in 2011 have returned to take part again, as part of the Bar Council's commitment to building sustained contact with students from under-represented groups.

I thank all of the students, barristers and chambers, judges, staff at the SMF, the Inns and the Bar Council for their very valuable contributions they made in ensuring that the placement week would be the great success that it proved to be.

South Eastern Circuit Dinner: 13 July 2012

That same evening, I attended the South Eastern Circuit Dinner at which Nick Hilliard QC and Lord (Alex) Carlile QC spoke.

Inner Temple: 14 July 2012

I was delighted to be asked by the Treasurer and Sub-Treasurer of Inner Temple, to speak to them about the Bar Council's successful mission to Singapore as that Inn was planning a trip to Singapore, where they have a number of members. I was pleased to be able to share with them the many contacts we had made, and to discuss with them what we had learnt from our own mission.

Upper Tribunal: 17 July 2012

On 17 July 2012, at the invitation of the Tribunal Judges, I attended the Upper Tribunal with Mark Hatcher to discuss the role and work of the Tribunals, and to understand how they operate.

BSB Vice-Chair: 18 July 2012

On 18 July, I attended and participated in interviews to select the incoming Vice-Chair of the BSB. I am sure that you will join me in congratulating Patricia Robertson QC on her appointment as Vice-Chair of the BSB, which appointment, announced on 13 September, takes effect on 1 January 2013.

For those of you who do not know Patricia, the BSB website provides the following biography of her:

Patricia Robertson QC was called to the Bar in 1988 and practises at Fountain Court Chambers. She has a broad commercial and civil practice, focusing in particular on banking and financial services litigation, professional negligence, regulation of financial and legal services and mediation. She is a co-author of the Guide to the Legal Services Act (Butterworths, 2009) and her other publications include chapters on Fund Managers and on Expert Witnesses in Professional Negligence and Liability (ed Simpson, Informa, Looseleaf), and chapters on Plastic Money and on Internet Payments in The Law of Bank Payments (eds. Brindle & Cox, 3rd Ed., Sweet and Maxwell). She was a member of the Alternative Business Structures (ABS) working group of the BSB and is currently a member of the Entity Regulation Working Group. Patricia is also involved in equality and diversity issues, acting as one of her chambers' two equality officers.

COIC: 18 July 2012

That same evening, I attended a meeting of COIC, at which they discussed the Governance of COIC, the Disciplinary Tribunals and the ATC Business Plan. You will recall that at the Bar Council in July, David Blunt QC addressed us on the proposals of the Burton working group on pupillage, seeking the Council's support for those proposals. I said, at that meeting, that we would get back to him in due course with a response. The Bar Council has received 18 e-mail responses from members of Council about the proposals, including a substantial paper from the Chancery Bar Association. At the request of YBC Chair, David Nicholls, we have placed this item back on the Bar Council agenda for further consideration, this Saturday.

Bar Council Training Scheme for Chinese Lawyers: 19 July 2012

On 19 July, the Bar Council held a farewell reception in Inner Temple for those Chinese lawyers who had participated in the new Training Scheme (BCTS).

The BCTS replaced the Lord Chancellor's Training Scheme (LCTS) as the principal means by which the Bar Council of England and Wales trains Chinese lawyers. The LCTS came to an end in April 2011 when the ten year programme, funded by the UK Ministry of Justice, ended.

The BCTS took place from between 11 June and 20 July 2012. It incorporates the best elements of the Lord Chancellor's Training Scheme with a focus on the training of young Chinese lawyers in international commercial law through chambers placements and a

bespoke academic programme provided by BPP University. That was supplemented with a programme of legal seminars, visits to key legal institutions in London, and social events.

This year 9 Chinese lawyers with between 2 and 10 years' post qualification experience and exceptional English, as well as experience and a strong interest in international commercial law and dispute resolution were selected to participate in the programme. They come from some of China's leading firms including King and Wood, Allbright, Dacheng, H&Y and Yingke.

DPP: 20 July 2012

On 20 July, Maura McGowan QC, Michael Turner QC and I met with the DPP. At that meeting:

- (a) In relation to Graduated Fee Scheme C:
 - a. the DPP said that 25 members of the Bar had made representations in relation to the 'Long Stop Date' for 21 cases. A flexible approach was taken in considering these representations and all have now been informed of the decision.
 - b. The DPP said that he had been monitoring carefully whether any cases had been returned or refused by the Bar, and currently there were none.
 - c. It was agreed that Keith Milburn had been helpful and that he had done a good job in handling queries.
 - d. The DPP said that the electronic billing system was now in place across the country apart from London. In answer to my question, the DPP said that it would likely be in place in London in November this year.
 - e. Maura McGowan QC said they were in discussions with the Legal Services Commission about electronic billing. The DPP said he would be happy for the CPS to provide a demonstration of the P2P system used.

- (b) In relation to CPS Panels, the DPP said the window for new level 1 applications had opened in May (since the meeting took place, the Bar Council has been informed that in future there will be no window for level 1 applications, they will be able to apply throughout the year). The next window for levels 2, 3 and 4 will open in November.

- (c) In relation to Paperless Prosecutions:
 - a. I said that I had heard that paperless prosecutions were working well for smaller cases but that it was difficult for the bigger cases.

- b. The DPP said that the CPS were now receiving files digitally from the vast majority of police forces and that broadly speaking cases were prepared digitally. He said the system was working well for magistrates' court cases but that there was slower progress in Crown Court cases.
 - c. The DPP said that the CPS understood that not everything could be digital straight away. He confirmed that the jury still received paper bundles. Michael Turner QC said that it would be helpful if this was made clearer.
- (d) In relation to shared training opportunities:
- a. The DPP said that Max Hill QC had been liaising with the CPS on shared training opportunities and that the business case for external access to the CPS Prosecution College had been sent to the Finance Directorate and that it was anticipated that the CPS would be ready to launch by September.
 - b. We all agreed that joint training was a good idea and that we would continue to discuss it.
- (e) In relation to International, the DPP raised the work of the CPS International Division and said that it would be good for the CPS and the Bar to find out more about each other's work abroad. The DPP said that the Head of International Division had a good network of contacts that might be helpful for the Bar. He said that the Bar Council was welcome to contact him directly.

Judicial Diversity Taskforce: 23 July 2012

On 23 July, I attended a meeting of the Taskforce. This Taskforce meets only once a year to monitor progress in Judicial Diversity and initiatives which the profession and others are taking in order to improve diversity. Meeting only once a year, I question the value that it is able to bring or add to the issue.

Bar Nursery: 26 July 2012

The Bar Nursery Group, under the chairmanship of Fiona Jackson, has been working wonders. Having interviewed several nursery providers, the favoured nursery was one located in Smithfield (just by Barts – across the road from the Old Bailey). A number of us followed Fiona and Chris Owen to Smithfield for a visit. It is truly impressive. And what is all the more heartening is that the lady who runs the nursery seems to be prepared to

consider entering into a joint venture with the Bar Council. There is space at the nursery for nearly 100 children, and apparently she has already about 50 children there. Chris Owen and Sophia Kakabadse of Member Services are in tentative negotiations with the lady who runs the nursery. If these can be progressed, a further survey is likely to be undertaken to see what use would be made of it, before the Bar Council is in any way committed. But this is a very real opportunity for the Bar, located just on the edge of where we would prefer to be, but in an existing and dedicated nursery with fantastic facilities.

Western Circuit Visit: 27 July 2012

On 27 July, David Nicholls, Chair of the YBC, and I travelled to the West Country for a Circuit Visit. We travelled to Bristol and visited Guildhall Chambers and then St John's Chambers. From there we went by train to Southampton where we visited College Chambers. From there we were driven to Winchester where we visited 3 Pump Court Chambers, before returning to London that same evening.

I would like to thank all of those Chambers who hosted us. I would like to extend a particular thank you to Rachel Spearing, who gave up her time to guide us around the Circuit and to the various sets of Chambers. Circuit visits are enormously helpful for the Chairman of the Bar to meet with practitioners and learn, at first hand, the issues facing the Bar.

ABA Annual Conference, Chicago: 2-6 August 2012

On 1 August, Maura McGowan QC and I travelled to Chicago leaving at 07.45 and arriving that same day at 10.10. At 14.00, we had a meeting with HM Consul General, Robert Chatterton-Dickson, concerning the Chicago legal market. He expressed great interest in the way in which, and models through which, the Bar can offer its legal services, particularly directly to in-house Counsel. He offered to facilitate meetings with in-house Counsel. We are continuing discussions with members of his staff.

At 16.30 we had a round-table meeting with members of the Chicago Bar Association. That had been arranged by and through Gerard McDermott QC. Once again, I would like to thank Gerard for his selflessness and generosity in sharing his many US contacts with us. At that meeting, the discussion covered such topics as working directly with the Bar, our Chambers system, conflicts of interest, Corporate Social Responsibility, equality and diversity, access to the profession, the cost of legal training and regulation, access to justice and the cost of litigation.

On Thursday 2 August, we registered for the Conference, and attended part of a session on the Nuremberg trials. At 12.30 we had lunch with William Hubbard, likely ABA President in 2015, and members of the ABA Section of International Law. They are very keen on promoting an event centred around the 800th anniversary of the signing of Magna Carta in

2015. They have some fairly ambitious and expensive plans. We are seeking to establish a small group with a view to making a less ambitious proposal. That evening we attended a formal dinner.

On Saturday 4 August, we had a breakfast meeting with Jim Silkenat, the ABA President Elect Designate. We had previously met him in New York. We discussed proposals for further co-operation between us, with proposed seminars in New York and London. At 15.00 we had a meeting with New York State Bar Association President Seymour W James, Stephen Younger (Immediate Past President), and David M. Schraver (President Elect). We had had a very useful roundtable meeting with Stephen Younger and his colleagues in New York. The meeting was useful in cementing relationships for the future. In the evening we went to the ABA Opening Assembly, followed by the ABA President's (Bill Robinson III) Reception at the Art Institute of Chicago.

On Sunday 5 August, I had an 08.30 breakfast meeting with Joseph Li (Chair of the International Legal Affairs Committee of the Hong Kong Law Society), and some of his committee members. At 10.30 we went to a session on diversity initiatives. I do not think they can have heard of the words social mobility and disability. You may be forgiven for thinking that gender and ethnicity were the only diversity issues with which the legal profession were faced.

At 16.30, we had a meeting with Carey Dunne (President) and Barbara Opatowsky (CEO) of the NY City Bar Association. That evening we held a joint reception with the American Counsel Association, at the Consul General's Residence. It was well attended and well received.

On Monday 6 August we took the flight back to London, leaving Chicago at 09.10 and arriving back in London at shortly after 22.45.

In my view, the ABA Annual Conference was not of the same value as the ABA Section of International Law Conference we attended in New York earlier in the year. Largely, I think that that was due to the size of the event, with some 6,000 delegates.

Canadian Bar Association Conference

The practice appears to have developed over the years of bar leaders moving on from the ABA Annual conference to the Canadian Bar Conference which follows shortly thereafter. Clearly that is cost effective if both Conferences are to be attended. The same delegates tend to attend both the ABA Conference and the Canadian Bar Association Conference. However, this year I decided that I would not attend the Canadian Bar Conference as the cost of doing so was not justified. Maura McGowan QC did not attend either.

Master of the Rolls: 9 August 2012

On 9 August, I met with Lord Neuberger to discuss a number of matters including civil litigation costs, Litigants in Person, the role of the Supreme Court and the ABA's proposals in relation to the planned Magna Carta celebrations.

JAC: 9 August 2012

That same day, Maura McGowan QC, Pam Bhalla and I meet with Nigel Reeder (Chief Executive of the Judicial Appointments Commission) and Carol Morgan. They wished to discuss with us issues arising out of the "tipping proposal" in relation to appointments, and proposed issues to be addressed in guidelines on how such a provision is to be applied. That is the provision in the Crime and Courts Bill which applies "the tipping point" positive action provisions of the Equality Act 2010, to judicial appointments so that preference may be given to a candidate from an under-represented group where two candidates are essentially indistinguishable on merit.

Schedule 12, Part 2 of the Bill provides:

Diversity considerations where candidates for judicial office are of equal merit

9 (1) Section 63 of the Constitutional Reform Act 2005 (judicial appointments to be solely on merit) is amended as follows.

(3) After subsection (3) insert –

“(4) Neither “solely” in subsection (2), nor Part 5 of the Equality Act 2010 (public appointments etc), prevents the selecting body, where two persons are of equal merit, from preferring one of them over the other for the purpose of increasing diversity within –

(a) the group of persons who hold offices for which there is selection under this Part, or

(b) a sub-group of that group.”

Contractual Terms: 10 August 2012

On 10 August, Mark Hatcher and I met with a delegation of clerks who wished to express and explain their concerns in administering the proposed changes necessary to give effect to the new contractual terms and the withdrawal of credit scheme. I subsequently on 24 August received a letter from the Chair of the IBC, David Barnes, setting out the large number of issues which must be addressed and asking for a postponement of the proposed

changes. At GMC this last Monday, Vanessa Davies, on behalf of the BSB, stated that the important thing was “to get it right” and suggested that we write to the BSB setting out the issues that have to be addressed.

Sierra Leone 23 August 2012

On 23 August, Maura McGowan QC, Dobbs J (Linda Dobbs) and I met with H.E Mr Edward Turay, the Sierra Leone High Commissioner and J.B. Jenkins-Johnston, the President of the Bar Association of Sierra Leone. They had concerns about ethical and regulatory standards, compliance and enforcement in Sierra Leone. As a result of that meeting, we have written to the CPS, the ATC, the CBA, the SFO and each of the Inns for support for the Sierra Leone Bar, for assistance with judicial and practitioner training, and also to each of the Circuits seeking copies of the 1999 White Book, upon which the Sierra Leone Rules of Court in civil matters are based.

Belfast: 23 August 2012

Later that same day I flew, with Toby Craig, to meet with the Chairman of the Bar of Northern Ireland, Mark Mulholland QC, and their new interim CEO, to discuss the Legal Services Act, regulation, representation and policy, pro bono, CEO and the administration of the Bar Library system, business development opportunities and the role of the Bar Council in that. We had a 2-3 hour meeting, which continued for another 2-3 hours over dinner. We returned first thing the next day.

I hope you all enjoyed a good summer.

Michael Todd QC
Chairman of the Bar
September 2012