



Chairman's Statement

Bar Council 20 October 2012

Although it was only last month that we had a Bar Council meeting, it has been a busy period. Indeed 15 September, the day we held both the AGM of the Bar Council for 2012 and a Bar Council meeting, was a busy day. I should like to mention here, as I did at the meeting, that it was a matter of concern that the only members of the Bar who attended the AGM were also members of Bar Council. We also held a meeting of Bar Council. You will have received the minutes, which are also on our website.

1. Circuit Leaders, CBA and Bar Council meeting with the DPP

Before those meetings, Maura McGowan QC, Nick Lavender QC and I met with the Circuit Leaders, Michael Turner QC, the DPP and Helen Kershaw, the DPP's Principal Private Secretary. At that meeting:

- It was agreed that it would be useful to meet two or three times a year;
- The practice of instructing one Prosecution Counsel in substantial murder cases was discussed. The DPP said the policy had not changed for ten years but that people thought it had. He said previously, in the different CPS Areas, lawyers had to get approval from the CCP if they wanted to instruct a silk for a murder case and that this meant if they took the decision not to instruct a silk, the CCP would not have been aware. This policy had now changed so that the CCP was now involved in the decision on whether to instruct a silk or not for murder cases.
- Sarah Forshaw QC (SF), Leader of the South-Eastern Circuit, said the concern was not instructing a silk or only one. The DPP said since the issue had been raised with him a number of times, he had decided to review the two counsel policy and that this had been circulated for consultation on 22 August. Circuit Leaders had only received the consultation document from the Criminal Bar Association the previous Friday and it was agreed the deadline for responses could be extended. I said that the Bar Council now has a section on its website with all relevant consultation documents. SF asked if the consultation document had gone to Resident Judges and the DPP replied that it had, via the Senior Presiding Judge's office (note: the consultation document has also been sent to the Council of Circuit Judges). The DPP confirmed he was happy for Circuit Leaders to discuss the consultation with their Resident Judges.

- SF raised prosecution duties regarding disclosure. The DPP said that Michael Turner QC (MTu) had raised the matter with him and the Attorney General. The DPP explained the current process, whereupon the police review the material and the reviewing lawyer then marks the disclosure schedule provided by the police. Maura McGowan QC (MM) noted that Gross LJ was also considering the matter. Mark Wall QC (MW), Leader of the Midland Circuit, said he had noticed the disclosure schedules were not as good as they used to be and that he believed this was due to financial constraints. The DPP said the CPS was exploring with ACPO the option of the police having specifically accredited disclosure officers. The DPP said he would discuss the matter with the Attorney General and revert to Circuit Leaders thereafter.
- SF raised her concerns about CPS case ownership, particularly in relation to the smaller cases. The DPP said the CPS had in the past ran an allocated lawyer system but that this had not worked and there had been a move to team based allocation. The DPP said the CPS was now looking again at the allocation model and it was likely that going forward it would be a combination of individual and team based allocation. He said it was likely that Early Guilty Plea cases would still be handled by a team but beyond that cases would be allocated to a reviewing lawyer; SF said members of her Chambers had raised with her the difficulty of moving up panel levels from level 2 to level 3. The DPP said that level 1s could apply to be on the panel anytime and that the next window for applications to levels 2 to 4 would be in November. The DPP said this information was publicly available but that he would email Circuit Leaders to confirm and send a link to the relevant section of the web site.
- SF asked how level 2s would progress if they were only allocated level 2 work. Nigel Lickley QC (NL), Leader of the Western Circuit, said Areas did give panel members the opportunity to 'act up.' MW agreed and said that this had happened on his Circuit. Rick Pratt QC (RP), Leader of the Northern Circuit, mentioned the application of two Northern Circuit members for the level 1 position and how they had not been successful. The DPP said he would find out more information from Keith Milburn.
- NL raised the QASA scheme and said that it did not cover all prosecutions e.g. health and safety and environment. The DPP said the CPS would adopt QASA and he was keen to ensure there was the same system for barristers and solicitors. SF asked about the impact on the current CPS assessment scheme. The DPP confirmed the CPS would move to one scheme but that a CPS scheme had been implemented as there had been delays with QASA. NL said QASA could have an impact on the grading of cases and that there may be a divergence between how the prosecution and defence grade cases. MTu said judicial intervention may be required.
- RP asked if there was likely to be a move to plea only advocates. The DPP said he did not think that this was a good idea but that he needed to ensure advocates were deployed sensibly.

- Alistair MacDonald QC (AM), Leader of the North-Eastern Circuit, raised his concerns regarding papers being sent to chambers late, meaning inadequate time to prepare. The DPP agreed this should not happen. The DPP said the CPS had taken a 27% budget cut and lost 1,500 staff and that this had inevitably had an impact on the organisation. He said the organisation was now looking again at everything it did and the current processes. He said he hoped the EGP scheme would allow a better use of resources and for lawyers to concentrate on the right cases, thereby ensuring early briefs out. The DPP said the EGP scheme was working very well in Merseyside with 50% of cases being dealt with in this way. NL confirmed it had been effective for the smaller cases in Winchester.
- SF asked if there was a plan to significantly increase the number of in-house advocates. The DPP said that he wanted good advocacy units in the Areas, that he had no plan to significantly increase the number of in-house advocates but that he wanted to balance this with ensuring CPS staff were given development opportunities.
- AM said that he was receiving briefs in font size 6, which were very difficult to read. The DPP said he would raise this with the local CCP.
- SF said she had just watched her first paperless trial in Aylesbury. She said the prosecutor had said it was difficult to flag the pages electronically. The DPP said this was not true and that the tablets had the facility to highlight text and flag sections. MM confirmed she had seen this.
- RP raised information being served on disc and that this was not included in fees. MTu said there was guidance on this and that it should be included. The DPP agreed that it was not a way to undercut fees and said it was a matter for the Legal Services Commission (LSC). He said he was keen that information was served digitally and he would be happy to discuss this with the LSC should there be any further difficulties.
- AM said on his Circuit, more silks were being used than previously and this was very welcome. He was concerned however about the lack of use of junior counsel. He said in relation to the cost of some of the bigger cases, using junior counsel would be a good use.
- AM said that on his Circuit some CPS lawyers had said they felt too constrained by checks and balances. The DPP said this may be the case and that this was being looked at but by reducing the number of checks and balances there was a possible increased risk of wrong decisions not being picked up.
- AM said he was keen to see the statistics showing the ratio of in-house advocates to advocates from the independent Bar. The DPP said the Areas would not be able to produce this data locally but there was some information nationally on fees.

2. Meeting with the BSB about regulatory issues

Following the AGM and the Bar Council meeting, the BSB met with members of the Bar Council's General Management Committee to have a discussion session. The central (and practically the only) issue discussed was QASA.

3. International Bar Association News

On Monday 17 September I met with James Lewis, the editor of International Bar News and IBA Global Insight (IBA magazines). He was interested in how the Bar could contribute to articles that they were writing. Since then, I have spoken to Rebecca Lowe, one of their reporters, about offshore jurisdictions and secrecy, and, on Tuesday 16 October, I met with her and discussed with her issues with which the Bar was faced (other than fees). We discussed regulation, referral fees, diversity at the Bar and on the Bench.

4. LASPO

On Tuesday 18 September, we held a "post-LASPO" meeting at the Bar Council, to consider the legal landscape now that LASPO had been enacted. The Bar Council as Approved Regulator has a duty to improve access to justice, protect and promote the public interest and increase understanding of the citizen's legal rights and duties.

The purpose of the meeting was to see what we could do to mitigate against the effects of the cuts, to assist the public in adapting to the changes and ensure access to justice. It is vital that the Bar Council's response is independent from, and not funded by, the Government. The aim is not only to assist prospective litigants, in the public interest, but also to demonstrate both to the Government and the public that the Bar is working to improve access to justice, counter to the actions of the Government in making deep cuts to legal aid. Those present at the meeting were enthusiastic about the proposals with various SBAs pledging to support the proposals.

5. Wall Street Journal

On Friday 21 October, I had a telephone call with Paul Sonne of the Wall Street Journal who was writing an article about International Dispute Resolution.

6. Liberal Democrat Party Conference

On Sunday 23 October, I travelled to Brighton to attend the Liberal Democrat Party Conference. In terms of policy, the strap-line for conference was "Fairer tax in tough times".

At 20.00 that day, I attended and spoke at a fringe event organised by the Bar Council and the Liberal Democrat Lawyers Association, entitled "Fair Access to the Legal Profession – is Access Denied?", a discussion about broadening access and social mobility in the legal profession. Also speaking at that event was David Johnston, Chief Executive of the Social

Mobility Foundation. Simon Hughes MP was also supposed to be speaking, but he failed to turn up.

Following that meeting, that same evening, I attended a Weber Shandwick dinner, attended by, amongst others, Lord McNally (Minister of State at MoJ) and Tessa Munt MP (PPS to Vince Cable). Lord McNally was keen to meet with me (his request) about legal aid and family justice, both of which portfolios he has inherited in the reshuffle. We shall be meeting him on 6 November to discuss these matters. I also mentioned to Tom McNally the Bar's international work, of which he said he is very supportive, as was Tessa Munt, with whom we have, at this stage, tentatively agreed to meet. We have been seeking for some time to become more engaged with BIS, and this seems as though it may be a useful step along that path.

On Monday 24 October, I spoke at a fringe event organised again by the Bar Council with the Lib Dem Lawyers Association, entitled "Law as an Export Industry": A discussion about the legal sector's importance in fuelling economic growth. Also speaking were Alan Jenkins, UKTI, and (Lord) Jonathan Marks QC.

7. Lord Chancellor and Secretary of State for Justice

On Monday 24 October, I had a brief introductory telephone call with Chris Grayling MP whilst I was at the Liberal Democrat Party Conference.

- I congratulated the Secretary of State (SoS) on his appointment and said that I looked forward to working with him, his ministerial colleagues and officials at the Ministry of Justice (MoJ). I mentioned that I had dinner the previous evening with the Minister of State, Lord McNally and had also met with Tessa Munt MP, PPS to the Business Secretary, Vince Cable MP.
- The SoS said that he hoped not too many ripples had been caused in the legal profession by the appointment of non-lawyer. He said that the Bar was "an extremely important creature" and he was determined to work constructively with the profession. There would be occasions when he would have to challenge the profession. He said he was very sorry not to be able to join the forthcoming trade mission to Brazil with the Lord Mayor. This clashed with his first meeting of the European Council of Justice and Home Affairs Ministers to which he had to give priority. The SoS said he would try to do all he could to support the Bar's international agenda.
- I said that SoS's predecessor, Kenneth Clarke MP, had recognised the importance of the UK's legal services sector as a valuable sector of the economy at home and abroad. The SoS said that the Bar Council could assume that there would be no change of policy in this regard and that we could depend on the same level of support from him.

- I mentioned that in the course of my conversation with Lord McNally I had been encouraged by the Minister's wish to have an early meeting with the Bar Council to discuss legal aid and family justice matters and the Chairman's office have taken this forward.
- The SoS said that he was aware of the issues of legal aid which had concerned the Bar and which had surfaced during the parliamentary proceedings on the LASPO Bill. The SoS said he could not change the financial realities which the country faced but he did not have a closed mind. He said he recognised that every change had unintended consequences.
- I said that Price Competitive Tendering (PCT) was exercising the minds of the Bar. The Bar simply did not have experience of bidding for and undertaking large contracts. It was facing potentially very big changes. I said that the Bar Council had benefitted over the past few months from several encouraging conversations with the MoJ and the Legal Services Commission (including with the CEO, Matthew Coats) which had suggested the Government would listen to the Bar's concerns.
- The SoS mentioned that one of the things that he had learnt from his previous job as a Minister of State at the Department of Work and Pensions was that organisations which worked with government had to become more competitive but they often lacked the commercial expertise to work efficiently. Government had to bear in mind.
- I said that in the past the Bar had not been a particularly commercial profession; it was a referral profession.
- I went on to mention the Bar's concerns about over regulation of the profession. The Bar recognised the need for effective regulation but there was an increasing concern about the growing burden (and cost) of regulation. The SoS said that he did not like over-regulation. He said he was very sympathetic to what I had said. He believed that invariably regulatory responses were designed to deal with the worst problems of behaviour, to the detriment of the vast majority whose behaviour was appropriate. There was a risk of the pendulum swinging too far in dealing with the former without regard to the latter.
- The call ended with the SoS saying that he looked forward to an early meeting with me, to get to know the Bar better and to develop relationships. It might be possible for him to participate for part of the time at the meeting being planned with Lord McNally.

8. South-Eastern Circuit

On 26 September, I was invited to, and attended, the South-Eastern Circuit Meeting.

9. CPS International Division

On 27 September, Charlotte, Sarah Richardson from our International team and I met with Patrick Stevens, Head of the CPS's International Division. The meeting arose following a conversation I had with the DPP earlier in the year in respect of a proposed exchange programme with practitioners from South Korea; we are hopeful that the CPS will allow our visitors to shadow their prosecutors for a day or so. The DPP suggested that I meet with Patrick to discuss opportunities for joint working. It was a very interesting meeting and helpful to understand the CPS's remit overseas, where they provide long-term criminal justice advisors in priority countries. Of course, the CPS budget is restricted and their objectives clearly set, so any assistance that they can offer us with such an exchange programme is limited as it is outside of their business plan, but Patrick was very helpful and we hope to take the programme forward soon.

10. Social Media

That same day, 27 September, I participated in a 'tweet the Chairman' session on twitter, which was well received and which we plan to repeat outside court hours.

11. BARCO

On 27 September, we had the Official Launch of BARCO, in the Rolls Building. BARCO is the new escrow account service, operated through an account with Barclays Bank plc, providing members of the Bar, and their clients, with a payments facility, for the payment of fees, settlements, disbursements, and monies required in arbitration and mediation proceedings, without those members of the Bar handling "client money" themselves.

BARCO provides a transparent third party facility for barristers and their clients whereby client monies are disbursed in accordance with contractually agreed terms. As such, it is a useful adjunct to the practices of barristers undertaking work as Public Access barristers, or of those undertaking work through entities, or through the traditional chambers referral model.

Since 2009, any escrow service provider must be regulated by the Financial Services Authority ('FSA') under the Payment Services Regulations 2009. There are two regulatory regimes in place for escrow service providers. On the basis of legal advice received, initially, BARCO will be registered as a Small Payment Services Institution.

During the final months of 2012, BARCO will begin a period of user testing and refinement. This will involve only a small number of chambers which have been working closely with Member Services to refine the model. After that, BARCO will be launched to the Bar more widely in 2013.

I wrote a piece in The Times to coincide with the launch, which was also covered across the legal press.

12. Ordem dos Avogados do Brasil

That same evening I also briefly attended a reception at the Law Society for the Brazilian Bar Association.

13. YBC and JLD International Weekend

On 28 September, I addressed young lawyers from many different countries who were participating in a weekend programme of activities organised by the Junior Lawyers Division of the Law Society, the Bar Council's Young Barristers' Committee, the European Young Bar Association and the London Young Lawyers Group. I talked with them about the challenges facing the Bar, and the Young Bar in particular, and of the opportunities which can arise from developing international relationships:

- attending and participating in international conferences;
- undertaking exchanges with foreign lawyers through the various exchange schemes run by the Bar Council, the Inns of Court, and other interested organisations;
- undertaking internships in foreign law firms;
- taking short term employment within foreign firms, sometimes for the purpose of performing litigation services, or even advocacy services;
- participating in international arbitrations, in London and abroad;
- establishing chambers, and other entities through which they may deliver their services, abroad.

14. Law Society Lunch for the Brazilian Ambassador

That same day, I attended a lunch at the Law Society President's residence in Carey Street, where she hosted a lunch for the Brazilian Ambassador and a delegation from Brazil. I was able, through interpreters, to describe our referral model, and to explain to them how Brazilian law firms and clients could access the services of the Bar. They were very interested in the opportunities this posed (notwithstanding that Brazil is a civil law jurisdiction), particularly as, unlike law firms, we would not be competing with their law firms. They were also very interested to learn how we are able to provide our services both cost effectively and efficiently.

15. Midland Circuit Grand Night

That day, 28 September, Maura McGowan QC and I attended the Midland Circuit Grand Night as guests of the Circuit. It was a fantastic evening, held at Stapleford Park in Leicestershire. Maura and I would like to express particular thanks to Mark Wall QC, Leader of the Circuit, and other members of the Circuit for their generosity and the warmth of their welcome.

16. Opening of the Legal Year

On 30 September, the Law Society hosted pre-dinner drinks at 113 Chancery Lane for

International Bar Leaders who were in London to attend our dinner for the OLY which we held in Inner Temple. At that dinner, for the first time we had an external guest speaker, Mrs Gabriella Knaul, UN Special Rapporteur on the Independence of Judges and Lawyers. Marcella Prunbauer, the President of the CCBE gave a brief speech of thanks and in response to that of Mrs Knaul.

On Monday, 1 October, the Law Society organised a breakfast at 113 Chancery Lane for overseas Bar Leaders, which Maura McGowan QC attended.

Meanwhile, I attended the swearing in of the Lord Chancellor, the Master of the Rolls, and the Solicitor-General. I gave a welcome speech on behalf of the Bar to all three Office holders, but largely directed to welcoming Lord Dyson as the new MR.

Maura and I then attended the OLY ceremony at the Abbey, followed by the Lord Chancellor's breakfast. Every person I spoke to at after the ceremony was enthusiastic about it and grateful for the dinner the previous evening.

17. Labour Party Conference

Toby Craig and Herbie Deane represented the Bar Council at the Labour Party Conference, in Manchester. Toby's notes of the conference record that:

- We had a 45-minute chat with Andy Slaughter, in which we cantered through the issues, focusing mainly on LASPO implementation, the Justice and Security Bill (on which briefing materials from us would be welcome) and the Crime and Courts Bill, which he is unlikely to be covering. It was useful to touch base and we vowed to keep in contact in London. He seemed to welcome our input. He was warm about Helen Grant and Jeremy Wright.
- We attended the Labour Lawyers event, and spoke with Justine Miliband, who was friendly and caught up with Stephen Hockman QC and colleagues from the Law Society. Sadiq Khan spoke but did not stay long.
- We had lunch with Emily Thornberry, who was friendly and good company. She gave us the distinct impression that there is no fondness for the legal profession on her benches. She showed some interest in BARCO and direct access. She also seemed quite positive about how Labour is doing and we talked about the political landscape. Useful to be in touch.
- Secret courts were a theme - something to keep a close eye on.

18. International Bar Association conference, Dublin

On 1 October, following the Lord Chancellor's breakfast event, Maura and I then flew out to Dublin to participate in the International Bar Association Conference.

On Tuesday, 2 October, I spoke at a session concerning controlling disclosure/discovery in civil litigation.

That evening we attended a reception hosted by the Ambassador, at the British Embassy, followed by a Law Society Reception at the Guinness Brewery, and finally a drinks reception hosted by 39 Essex Street. That latter was most memorable for how good it was at that it was the first reception which has been hosted by a set of Chambers at an International Conference. It made a real impact, and was well received by all who attended it.

Maura and I were at the Conference until Friday afternoon. We managed to meet, in particular, with Jim Silkenat, of the American Bar Association, to discuss the holding of seminars by the New York Bar and the Bar of England and Wales, in New York and in London, during 2013.

We also met Doil Son and Byung-Ju Lee of the South Korean Bar Association, to discuss an exchange programme between South Korean lawyers and the Bar also initially in 2013. We spoke to Izak Smuts of the South African Bar, to discuss the Legal Practitioners Bill in South Africa which threatens their independence.

We also met with the Leaders of the Bars of Eire, Scotland and Northern Ireland, to discuss the many matters of mutual interest. There is a real resolve amongst the leaders of those Bars, Maura and I that we can, and should, work more closely together, as there are so many matters of common interest.

19. Young Bar Conference

On Saturday 6 October, I attended the Young Bar Conference. It was, as always, an action-packed day. The Keynote Speech was given by Sir Sydney Kentridge QC, followed by advocacy workshops on vulnerable witnesses, experts, case analysis and appellate advocacy. The second keynote speaker was Geoffrey Robertson QC, who was followed by workshops on civil ethics, crime ethics, family ethics, and a CBA oratory competition. I then gave an address, which was followed by a Panel Session on issues affecting the Young bar. Present on the Panel were Susan Jacklin QC, Tim Fancourt QC, Sam Stein QC and Mike Turner QC. Finally, David Nicholls closed a very successful conference.

20. Conservative party Conference

On Sunday evening, 7 October, Maura and I travelled to Birmingham to attend the Conservative party conference, and had a curry late that evening with Richard Atkins QC.

On Monday 8 October we met with Jeremy Wright MP (Parliamentary Under-Secretary of State, MoJ):

- He understands the Bar's concerns about fees and quality of advocacy (he says he is described by Ministerial colleagues in the department as the Bar's "trade unionist");
- He left practice at the criminal Bar in 2005; formerly he was in the Whips' Office;

- Legal aid is not his direct responsibility but understands the Bar's concerns about cuts in legal aid rates and the effects of contraction of scope of legal aid on the criminal Bar;
- He said that further cuts are possible; each department has been instructed by Chief Secretary to the Treasury (Danny Alexander MP) to identify a further 5% cuts (and 5% increases) in expenditure which could be implemented before the end of the lifetime of the current Parliament (April 2015); but it is not clear when an announcement by the Treasury might be made to indicate the Government's intentions;
- He believed the MoJ statisticians and economists do not have a developed understanding of the end to end costs of legal aid cuts (for example, the effect of cutting upstream legal representation on downstream costs and total costs); there is no holistic view;
- He told us that he understood the effect of funding cuts on the quality of the talent base from which judicial appointments of the future will be made;
- He said he believed there was a future for the independent, referral Bar; he understands the importance of the quality of advocacy;
- He said he was interested to explore why on taking silk publicly-funded rates should automatically increase; and asked us why rates of remuneration do not relate to complexity/ seriousness of case rather than qualification/ label of advocate;
- On Price Competitive Tendering, He said the Secretary of State would be looking for efficiency and for modernisation of contracting arrangements to achieve savings; he would not be wedded to the ways in which the Bar had worked before.

Later that day we met with Meeting with Richard Honey (Francis Taylor Building) and Stephen Crabb MP (Parliamentary Under-Secretary of State, Wales Office):

- Richard Honey updated us in relation to Sierra Leone, outlining plans for a mission in June 2013. I indicated a willingness to offer Bar Council support to encourage interested barristers to participate;
- Stephen Crabb outlined Project Ubuntu which has attracted support from the Prime Minister and Andrew Mitchell MP (when Secretary of State for International Development);
- Expertise from the Bar is valued and would be valuable in future projects, on governance, contract drafting, legislative drafting and assistance with capacity building;
- A barrister, Tim Harry (Maitland Chambers) was mentioned as having worked with Sierra Leone judges;
- Richard Honey mentioned the Africa Justice Foundation in which Cherie Blair QC is involved, whose activities are relevant and related;
- Maura indicated that Mrs Justice Dobbs might be a useful source of advice and support;
- I mentioned potential Advocacy Training Council interest;
- Stephen Crabb offered to host a mini-summit at the Westminster Parliament (which could dovetail with a Society of Conservative Lawyers event);

We also had a meeting with Rt Hon Dominic Grieve QC MP (Attorney General), Oliver Heald QC MP (Solicitor General) and Jessica Lee MP (the AG's PPS):

- The Attorney said he had spoken with Lord Chancellor and SoS about the burden of regulation which the Bar is facing;
- I mentioned my forthcoming meeting with Minister of State (Lord McNally) in which the SoS hoped to participate;
- I referred to recent problems with QASA;
- The Attorney said that he was worried that QASA would fall apart. He was aware of a head of steam developing at the last meeting of Bar Council which he had attended;
- I spoke about the use of restrained assets, and the Attorney asked to be kept in touch with developments;
- We discussed briefly PCT;
- On referral fees, I said that the Bar Council would not give up the struggle to persuade Ministers to outlaw the practice in primary legislation;
- I reported that international work at the Bar was booming; this is a success story;
- On Legal Professional Privilege, Maura reported on the Bar Council's concerns about the effect of the Draft Data Communications Bill on LPP, currently undergoing pre-legislative scrutiny. These concerns were addressed by her later in the day at the Big Brother Watch fringe meeting where she shared a platform with Dominic Raab MP;
- The Attorney commented that the draft Bill was never intended adversely to impact LPP;
- On the HMRC investigation of the legal profession in London, the Attorney is aware of the Bar's concerns, having received a copy of my letter to the Exchequer Secretary, David Gauke MP, following the surprise announcement of the review. I said that I was extremely concerned about the way in which the announcement had been handled, the Bar Council only having been informed at the 11th hour after the national media had been briefed by HMRC;
- On Social Mobility, I mentioned that, following my recent presentation to the board of the Judicial Appointments Commission, it had been agreed that the JAC will include social mobility on their agenda albeit that it is not a protected characteristic under the Equality Act 2010;
- The Solicitor General expressed some concern about the low proportion of women judges in the Court of Appeal and Supreme Court. It was agreed that improving the position is a long haul project, which has not been helped by public funding cuts;
- On Judicial Pensions, the Attorney said he understands the concerns which had been raised but this was not an issue for which there would be any support amongst the general public;
- On Citizenship, I mentioned my correspondence with the Secretary of State for Education (Michael Gove MP) to include citizenship within the core curriculum, as the Neuberger Report on Entry to the Bar had recommended in 2007;
- The Attorney said that he was personally very supportive but mentioned possible concerns about displacement effects which the proposal might have and the Secretary of State's concern to promote History;

- The Solicitor General mentioned that there might be merit in linking citizenship with financial literacy/ responsibility which is claiming increasing attention following the banking crisis and the current austerity.

We also met with Justice Committee member Robert Buckland MP, and former Minister for Local Government and Planning as well as London, Bob Neill MP (2 Bedford Row) who has become Vice-Chairman (Local Government) of the Conservative Party. Over drinks we reviewed the conferences and the Conservative Party's interests over a range of justice issues.

At the Society of Conservative Lawyers' Reception (jointly supported by the Bar Council and the Law Society):

- Maura and I met with Helen Grant MP (Parliamentary Under Secretary of State, MoJ, whose responsibilities include legal aid) amongst about 50 other invited guests which included the Chief Minister of Guernsey;
- The Law Society were well represented at local level and joined by their Vice President, Nick Fluck, and the President of the Birmingham Law Society;
- Representation from the Bar was thinner. No Birmingham sets appeared to be represented. From London were Lord Faulks QC (1 Chancery Lane), Richard Honey (Francis Taylor Building), Sam McGee (2 Bedford Row), Christina Michalos (5RB), David Nicholls (11 Stone Buildings) and Oliver Sells QC (5 Paper Buildings);
- Chris Owen (formerly CEO of St Philip's) was also present;
- The AG spoke well and thanked the Bar Council and Law Society fulsomely for their support.

I also attended a Weber Shandwick lunch on the future of legal services, attended by David Amess MP, Steve Baker MP, Bob Blackman MP, Mark Reckless MP and James Wharton MP.

21. Legal Reporting Awards

On 9 October Maura and I judged the Legal Reporting Awards with Claire Ruckin, our media judge and a former winner of the Award.

22. Women in the City Awards (legal category)

On 10 October, Kim Hollis QC and I interviewed shortlisted candidates for the Women in the City Awards (legal section).

23. American Inn's Temple Bar Scholars

That same day, 10 October, Maura and I met with the American Inn's Temple Bar Scholars about the Bar of England & Wales and the issues faced by the profession.

24. Northern Circuit visit

On 11 October, I visited Manchester for a Circuit Visit. I would like to thank Rick Pratt QC and Suzanne Goddard QC for arranging it and Suzanne for accompanying me to the four sets of Chambers I visited.

That same evening I attended and spoke at a BARCO launch where we explained the new escrow account to clerks and others.

25. Legal Wales Annual Conference, Llandudno

From Manchester, I travelled, the next day, to Llandudno to attend the Legal Wales Annual Conference. Amongst others the well-attended conference was addressed by: Sir David Lloyd Jones, the Chairman of the Law Commission of England & Wales, Baroness Hale of Richmond, Chris Stephens, the Chair of the JAC, Mr Justice Roderick Evans, the Lord Chief Justice, and Winston Roddick QC. I was the guest of honour, and spoke at a dinner that evening.

I would like to express my thanks to Winston Roddick QC for inviting me to the conference and to the dinner, both of which were most interesting and enjoyable.

26. Goodenough College

On Tuesday 16 October, I attended the AGM of Goodenough College in Mecklenburg Square. The Chairman of the Bar is by virtue of the office a Governor of the College. The College provides accommodation for post graduate students. It is a great institution which deserves our support.

27. Master of the Rolls

On 17 October, Mark Hatcher and I had a meeting with Lord Dyson, recently appointed Master of the Rolls (MR). The purpose of the meeting, which was held at the request of the Bar Council, was to acquaint Lord Dyson with the Bar Council's key concerns following his appointment on 1 October. Mark Hatcher's note of the meeting records that:

- The MR began by saying that he was surprised to see the Chairman of the Bar wearing a tie. He thought ties were becoming out of date. The Chairman said that he was grateful for the sartorial steer and commented that he would not feel constrained to wear a tie at meetings with the MR or possibly other senior members of the Judiciary in future.
- **QASA:** The Chairman said that the biggest issue facing the Bar was QASA. Although the JAG's initiative was directed at advocates in criminal cases in the first instance it was intended to spread more widely in due course. The criminal Bar was currently particularly exercised by the inclusion within the scheme of "Plea only Advocates"

and silks. The BSB's 4th consultation had recently closed and the Bar's responses were being considered carefully. The MR said that he had regular meetings with the President of the Queen's Bench Division and would row along with him on this issue.

- **Speed and Cost of Dispute Resolution:** The Chairman said he was concerned about the speed of resolution of civil cases. He recalled the remarks of panel members at an event organised last autumn by UKT&I and TheCityUK at Clifford Chance to which the former Lord Chancellor, Kenneth Clarke QC MP had contributed. Panel members had voiced their concerns about the speed and cost-effectiveness of High Court dispute resolution. The Chairman mentioned that shareholder disputes, for example, were taking a year or more to come to trial, which was too long. The MR said he was not entirely persuaded that docketing was the solution (particularly if a single judge was expected to be the trial judge). The Chairman referred to the growing problems resulting from disclosure and voluminous witness statements which invariably obscured the key points in issue. Better case management was needed. The MR said he looked forward to receiving the results of the Bar Council's Working Group which had been set up to consider these issues.
- **Over-regulation of the Profession:** The Chairman said another burning issue concerning the Bar was over-regulation, a view that was being shared by some Ministers to whom he had voiced his concerns. There was a growing body of concern amongst the Bar that the LSB was becoming an organisation in search of a role, and seeking to discharge its regulatory responsibilities in a way that had never been intended by Parliament when the new regulatory architecture had been agreed in 2007.
- **Reform of Civil Justice:** The Chairman inquired about Sir Rupert Jackson and progress with the implementation of the civil justice reforms which he had been driving. The MR said that, notwithstanding Sir Rupert's recent illness, good progress was being maintained. Sir Vivian Ramsey had made an outstanding contribution to keeping progress on plan. Amendments to rules were at a fairly advanced stage. The plan was for the new arrangements to be up and running in April 2013.
- **Introducing greater Competition in the provision of Legal Services:** The Chairman said that although it was not primarily a matter for the MR he should be aware of the Government's emerging plans for introducing greater competition in criminal defence work, an initiative which would spread more widely in due course including in family work. The Chairman said he had been repeatedly advised, at political and official levels within the Ministry of Justice (MoJ), that the Lord Chancellor's Statement to the House of Commons on 1 December 2011, announcing a postponement of a consultation on Price Competitive Tendering, was only a postponement and that the profession would be consulted formally in the Autumn of 2013 with a view to the introduction of a new regime for block contracting in 2014.
- The Chairman added that the concerns were not confined to the Bar; many High Street firms of solicitors were at risk.

- **International work of the Bar:** The Chairman briefly touched on the international work of the Bar. He had visited many overseas jurisdictions in the past year and it was clear that other legal systems (including civil systems) looked up to England and Wales, which led the common law world. The desire of a number of professional bodies and associations overseas (for example, in South Korea, China and New York) to enter into exchange arrangements reflected the high level of respect in which English lawyers, and barristers in particular, were held. A number of overseas commentators shared the Chairman's concerns about the risk of over-regulation of the English legal profession which in time could damage London's reputation as the leading global centre for dispute resolution and the international competitiveness of English lawyers in general.
- The MR said he was heartened, but not surprised, to hear the Chairman's assessment. He saw these matters from his perspective as a judge and from that vantage point he thought the success of our arrangements depended on an effective partnership operating between lawyers and the judiciary. It was a partnership founded on trust. Although the MR said he was not complacent he felt that the speed of English dispute resolution was relatively swift compared, for example, with the position in Italy and Spain.
- **Contingent Legal Aid Funds:** The MR inquired about the Bar's progress on developing Contingent Legal Aid Funds (CLAFs). The Chairman explained that the results of the economic study which the Bar Council had commissioned in 2011 into the feasibility of a "welfare CLAF" had persuaded the Working Group led by Guy Mansfield QC to consider the concept worthy of further investigation once the Jackson reforms had bedded down and their impact had begun to be assessed. The Bar Council had not pushed the cause for CLAFs aggressively over the past year when the Legal Aid, Sentencing and Punishment of Offenders Bill had been before Parliament. However, in the meantime the Chairman had set up a Working Group to examine the feasibility of a "commercial CLAF" whose recommendations would be helpful in informing the Bar Council's next steps on the development of CLAFs.
- **Conclusion:** The MR said he was very grateful to the Chairman for updating him (and his assistant, Peter Farr who was present during the meeting) on the Bar's current interests and concerns. The MR said he would be pleased to make himself available for future meetings with the Chairman. The Chairman gave the MR a copy of the Bar Council's *Representing the Bar 2011-12 Report* and agreed to send him the text on which his remarks to the Judges' Council in July had been based, for information.

28. Pro Bono

I recently wrote in my Counsel column:

"In my inaugural speech, I expressed my desire to seek to ensure that the Bar Pro Bono Unit (BPBU) became independently financially sustainable. The

BPBU is bound to face increasing resource and financial pressure. It presently costs about £300,000 a year to run. I invite each of the 15,000 registered barristers to contribute £30 per year towards the costs of the BPBU.

I will ask those who distribute the PCF/MSF invoices if they will include as a clearly identifiable extra item, an additional, but entirely optional, sum of £30 on each invoice.

I know that many of the Bar are hurting from the cuts in legal aid and ever increasing costs of practice, and I ask those able to contribute more if they will do so. I also know that there are many who would wish to contribute to the pro bono services provided by the Bar, but are unable to do so, for a variety of reasons.

This will provide those people with an opportunity to make a real and effective contribution to those services."

The Unit receives over 1,300 applications each year, with more predicted after April 2013 when cuts to legal aid begin to manifest and an estimated 650,000 people will be deprived of access to free legal advice services. As a result we now need to focus our minds on how we respond, not only to the increase in the number of people helped but also to the disappearance of valuable front line agencies upon whom we rely to refer cases to us.

The Unit is an independent charity which does not court public funds. It is funded almost entirely from the Bar and as a result the Unit will continue to think up fundraising initiatives and approach organisations for donations.

The Unit is proud to be funded almost entirely by the Bar as it speaks volumes for the profession as a whole.

I renew my plea to the profession.

Michael Todd QC

19 October 2012