



Chairman's Statement to Bar Council July 2012

Since my interim Bar Council Statement, the world has not stood still. The last event to which I referred was my very enjoyable visit to the Wales & Chester Circuit on Friday 25 May.

1. The Inns' Subvention

On 29 May, I attended the first meeting of the reborn, reformed and hopefully revitalised Subvention Working Group. The meeting was chaired by Michael Blair QC, attended by Vanessa Davies of the BSB, Oliver Delany and me on behalf of the Bar Council, and the Under/Sub-Treasurers of the four Inns.

Allow me to set out some parts of the notes of that meeting. They are instructive:

1. "The Draft Terms of Reference were considered. The draft preamble indicated a COIC decision that the subvention would be phased out in its entirety. However, while this reflected the position of Middle Temple and Inner Temple, the position of Lincoln's Inn and Gray's Inn had been less definite. Lincoln's Inn, for example, had expected to see no more than a reduction to correspond to the costs which the Inns would incur in respect of the ATC and the Disciplinary Tribunal Service, and while Lincoln's Inn would expect to take on the costs of the mock trial and the FRU, it still regarded some element of subvention as of benefit to the whole profession. Gray's Inn had agreed to propositions 7 and 8 last autumn on the basis of conditions which accepted that the present subventions were unsatisfactory in lacking transparency but did not go as far as approving their total abolition. It was therefore agreed to amend the preamble to state in the second paragraph: "... decisions already made in COIC, *subject to certain conditions*, that the subventions paid by the Inns to the Bar Council should be phased out *in whole or in part* over a period of years ..." (changes in italics)
2. Michael Blair QC clarified that at previous meetings the Group had not dealt with the timing of the phasing down of the subvention, the activities that the Bar Council would like the Inns to take on or what the Inns would do with the balance. These Terms of Reference were designed to pick up these remaining points.
3. Middle Temple pointed out that this Group would focus on the future partnership between the Bar Council and the Inns. The Terms of Reference had been drafted to reflect this. It was agreed that allocation of expenditure must be transparent. The Bar Council was concerned that the impact on the Practising Certificate Fee (PCF) of any policy decision should be fully understood. If the subvention were removed totally now, this would add an additional £100 (average) to that

fee. The Inns, however, pointed out that many of the functions for which they would take responsibility would have rising costs which would have impacted on the PCF had they remained with the Bar Council. It was agreed that a final heading and paragraph should be added to the Terms of Reference to read:

Impact

9. *To assess the impact of any changes proposed.*
4. Agreement on the subvention reduction for 2013 needed to be arrived at by November in time for the start of the Bar Council financial year in April 2013 and to fit in with the Inns' budgeting timetables. A proposal would be put to COIC at its meeting on 18 July. There would need to be at least one meeting of the Group (on Tuesday 10 July at 3.00pm) before then."

So you can see there is a lot of work still to be done, and, I would suggest, lots left undone by the last Subvention Review. Various of those attending the meeting were tasked with producing projections of the costs of various areas of expenditure which the Inns might take on. Oliver and Vanessa have already met and made some proposals to the rest of the Group concerning those activities which the Inns may take over from the Bar Council.

You can see in the first numbered paragraph the stances being adopted by the different Inns.

2. Evening Standard

On that same day, Toby and I had lunch with Martin Bentham of the Evening Standard. As a result of that lunch, Martin's article on the over-population of the BVC providers courses by students, many of whom have little prospect of obtaining pupillage, let alone a tenancy, appeared. Martin is very interested in the Bar, and is prepared to allow the Bar, frankly, to express its views.

3. IBA Bar Leaders' Conference in The Hague

A delayed, but still early morning, flight on Wednesday 30 May from City Airport, followed by a pleasant train journey from Schipol airport to The Hague, enabled us to arrive in time for the opening session of the Conference "Crossing the Red Line: What to tell, and to whom, and why not", followed by a session on "The Power" (or not) "of the President". The sessions, I think I can fairly say, were remarkable by the absence of any real content. A reception and a pleasant dinner with some of the delegates enabled us to achieve more in a few hours than we had achieved in the whole afternoon.

However, the following morning we had a breakfast meeting with Lim Chee Wee, the Chairman of the Malaysian Bar Association, whom I had met in Qatar earlier this year. We learnt of the concerns of the Malaysian Bar, and in particular of the political and media interference in the Bar Association and its work. He told us that, for example, when he speaks out publicly against the government on a Rule of Law issue, he is ridiculed and intimidated in the press. Others who have spoken out have suffered

similar treatment. In particular, a Brahman woman, a vegetarian, was treated to a mobile meat stall, serving hamburgers, being placed outside her house. At a subsequent session at the Conference, entitled "Political Interference in Bar Associations" he produced and showed video recordings of the intimidation faced by him and by others. He talked of the respect and high regard in which our legal system is held in Malaysia. He has asked if would go to speak in Malaysia on the Rule of Law whilst I am still Chairman of the Bar.

We also had a useful discussion with Dr Shin Young-Moo and Doil Son, respectively the President and a Vice-President of the South Korean Bar Association, both of whom we had met in South Korea, and one of whom I had met in New York. Dr Shinn is the next President of the Inter-Pacific Bar Association, an association focused on North East Asia and particularly on South Korea, China and Japan. We are presently setting up an exchange programme for young South Korean lawyers, and are in the course of planning a placement scheme for Korean Prosecutors, at the request of their Ministry of Justice. The CBA are taking the lead on this, and the CPS has agreed to participate in the Scheme.

The rest of that day was taken up by sessions on "How Bar Associations can support the fight against racial, gender and other discrimination", "Political Interference in Bar Associations" (at which Lim Chee Wee spoke, as did a representative of the Zimbabwe Bar Association), and on "the Role of Lawyers in establishing International Criminal Courts", lots of networking, and then a Conference Dinner.

It was in the session on Political Interference in Bar Associations that real concern was expressed volubly about the scheme for regulation introduced by our Legal Services Act 2007. A requirement for rigorous and effective regulation is understood and accepted. What is not accepted is the requirement for, need for, or desirability of the over-arching regulator, the Legal Services Board (LSB).

You will recall the observation of Tom Bingham, to the effect that:

"Scarcely less important than an independent judiciary is an independent legal profession, fearless in its representation of those who cannot represent themselves, however unpopular or distasteful their case may be."

Of course, our Government in the UK is of a different nature and complexion from that in Zimbabwe or in Malaysia. However, eyebrows have been raised, for example:

- (1) at the Home Secretary's recent suggestion of guidelines being issued in relation to deportation cases, no doubt to assist our Judiciary in balancing the relevant factors when considering Article 8 of the Convention; and
- (2) at the need and scope for "secret trials"; and
- (3) at the apparent need for Lord Neuberger to express concern in the Press about undue criticism of Judges and of the Judicial process.

So the concerns may be of a different magnitude but they do exist. And they are fuelled by the pro-activity, indeed over-activity, of the LSB without any apparent need or reason for it.

The following day, Friday 1 May, we had a meeting with Boma Ozobia, the Nigerian-born Chair of the Commonwealth Lawyers Association. We discussed the work of the CLA and the contribution our Bar can make to its work. She was very keen that our Bar becomes even more involved in the Association.

We told her that:

- we would be pleased to assist her in developing the next Conference programme and to identify speakers from the Bar of England & Wales
- the Bar Council will work towards having a good presence at the Conference, and would do everything we can to help her make this event a success.
- we would also appoint again a colleague responsible for institutional liaison
- We also looked forward to working with her on a project to develop a substantive law/law reform committee structure within the CLA.

Next year's CLA Conference is to be held in Cape Town SA, 14-18 April 2013. It's a great place to visit and a good event at which to network.

After the breakfast meeting, we had a Bar Leader's Meeting, followed by a lunch with members of the Forum of Barristers and Advocates. We met with representatives of the Irish, Scots, Northern Irish and Hong Kong Bars to discuss the effectiveness of the IBA to represent the interests of the Independent Referral Bars, and our role within the IBA. The FBA is a very useful forum in which we can, and do, operate very effectively.

I then attended part of an Open Forum Session on Policy matters before returning to Schipol for my flight back to London City Airport that evening at 19.55, in time for the Diamond Jubilee celebrations that Bank Holiday weekend.

Unlike David Hobart, and David Wootton, the Lord Mayor of the City of London, I was not invited to participate in celebrations in Central London, so had to content myself with the picnics in the freezing weather on our village green which is about the size of a pocket handkerchief. I had however been shown the sword which the Lord Mayor carried in front of HM the Queen in St Paul's Cathedral, when I attended a private dinner given by the Lord Mayor at the Mansion House on 29 May.

4. Sir Bill Callaghan, Legal Services Commission

On 6 June, Mark Hatcher and I met with Sir Bill Callaghan, Chairman of the LSC, and Paul Carpenter (one of two LSC Contract Managers working with Chambers). The meeting had been requested by Sir Bill, and he came to the Bar Council. These are Mark Hatcher's notes of the meeting.

"Demise of the LSC

2 Sir Bill said that, following the enactment of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Bill, the LSC would cease to exist in 2013. He hoped that by next January

the Government would indicate when the new Executive Agency would become operational. 1st April was the expected date. The new agency would have three Non-Executive Directors and it would be chaired by Matthew Coats, the current Chief Executive of the LSC. As the Bar Council had been aware during the parliamentary progress of the LASPO Bill, the move to executive agency status would bring the LSC much closer to Ministers, and this had raised concerns (which the Bar Council had shared and voiced to Peers) about the independence of the Director of Legal Aid Casework, especially in actions against the Government and in judicial review cases.

3 Sir Bill said he would be stepping down as Chairman of the LSC. His remaining concerns would be to ensure that the new agency was sufficiently well resourced and independent. LSC staff would become civil servants. In many ways he thought the new arrangements would provide better career opportunities for them.

Contracting

4 Sir Bill expressed the hope that Ministers would leave the details of the forthcoming review of contracting to officials. Ministers would decide the overall direction of policy, the extent to which competition would feature as the policy driver.

5 The LSC Chairman said discussions with the Bar Council when Nick Green QC had been Chairman had not progressed as far as had been hoped. There appeared to the LSC to be some concerns about the robustness of ProcureCo structures to meet the LSC's likely new contracting requirements. The Chairman replied that the profession had been operating to a very large extent in a public policy vacuum, in which it had been very difficult to maintain the profession's interest in the development of possible alternative business models when the pace and direction of the reform of legal aid administration appeared to be changing from one day to the next and in the shadow of multiple JR challenges to the LSC. The Chairman said he thought a robust model could be developed if there was sufficient demand from practitioners to make it work.

6 The Chairman said that he was arranging a meeting with the CBA and the Circuits to discuss what they would like the Bar Council to do in relation to contracting. It had been put to him recently, by the MoJ at Management Board level as well as by Matthew Coats on behalf of the LSC, that the Bar should engage. He had heard from several sources that Price Competitive Tendering was coming down the line and that the Bar should be making preparations for being constructively involved.

7 Sir Bill said that the whole of the publicly-funded Bar, criminal and family practitioners in particular, were coming under even greater pressure. He urged the Bar to be prepared to respond and time was moving on. Initial ideas would be forming in officials' minds later this year. Ministers would be invited to reach policy decisions in time for the introduction of a new regime in 2014-15. He had discussed the issue with the Secretary of State, Ken Clarke and with the Parliamentary Under-Secretary of State (PUSS), Jonathan Djanogly. He could not see them moving away from some form of competition, to which (he thought) the PUSS was somewhat more attracted than the SoS. Sir Bill thought it would be sensible for the Bar Council (and the

Law Society) to engage with MoJ officials ahead of the publication of any consultation paper on contracting.

8 The Chairman said the Bar was not afraid of competition; it thrived on competition. It was concerned that quality of advocacy would be sacrificed on the altar of competition based entirely (or largely) on price. Sir Bill said it was not clear whether any of the earlier proposals for introducing more competition into criminal defence services would achieve significant savings or that cost had ever been articulated formally as a driver of change. Sir Bill said he thought the Bar had made a strategic mistake earlier on in that by opposing competition it had then had to face fee cuts. It had “lost a big trick”.

9 Sir Bill thought that, in the absence of a price-based model, the Bar and other providers would continue to face pressure from possible further cuts in legal aid rates. Further cuts rather than further contraction in the scope of legal aid was the main threat since LASPO had narrowed legal aid coverage to such an extent that there was not much more room for the MoJ to make further restrictions in the scope of legal aid without exposing the Government to challenges under the Human Rights legislation.

Late payment of fees

10 The Chairman said he had recently visited barristers practising on the Wales and Chester Circuit. He was concerned to hear from his visits to Chambers in Cardiff and Swansea that late payment of fees by the LSC remained a problem, in both crime and family. Sir Bill said he would look into this. He thought that, on the whole, the delays had been reduced. The Commission were trying to instil a culture of “right first time”. He accepted that there had been shoddiness but he added that some of the Bar’s complaints had not stood up to scrutiny by the LSC; in some cases forms had not been completely correctly in the first place by Chambers, some were incomplete and others, on investigation, turned out to contain incorrect information (for example in relation to the timing and duration of hearings when cross-checked with the records of the courts administration).

Frozen assets

11 The Chairman mentioned that, despite all the efforts it had made during the LASPO debates, the Bar Council was very disappointed about the outcome of its efforts to persuade the MoJ to look again at unfreezing assets. The Bar had not given up the cause and would return to the charge.

Developing a more effective interface with the Bar: Role of Clerks and Practice Managers

12 Sir Bill concluded the meeting by saying that in the remaining months of his chairmanship of the LSC he would endeavour to ensure that the efficiency of the organisation’s administration was improved and sustained. Progress had been made but there was more to be done. He and Matthew Coats were looking for a more effective interface with the Bar; he thought that, in addition to the LSC’s usual contacts with the Bar Council’s practitioner members and executive team, the LSC should be reaching out more to barristers’ clerks,

Chambers Practice Managers and Chief Executives who had an important role to play in maintaining a dialogue with the LSC which would become even more important over the coming two or three years. The Chairman referred to the calls from clerks themselves to the need for more training, regulation and quality initiatives which the Bar Council was trying to address. Expressing a personal view, Sir Bill said he thought there would be some value for the Bar Council to develop closer arrangements with clerks and practice managers in representing the needs and views of the Bar to the world beyond the profession and in benefitting from their knowledge and experience. “

5. Goodenough College

On Monday 11 June, I went to Goodenough College in Mecklenburgh Square, to meet with its Director and with some students. This is a residence for students undertaking post graduate study in London. The idea is to engender a collegiate atmosphere for study and students are encouraged to participate in the social and professional life of the College. The Bar Chairman is an ex officio Governor of the College.

6. BACFI Reception

That evening I attended a most enjoyable reception hosted by BACFI in Middle Temple.

7. Chairman's media reception

This year the Chairman's media reception was held, on 12 June, in the large Conference Room in Erskine Chambers (my Chambers), because none of the Benchers' rooms in any of the Inns were available. The reception was well attended by the Press and by members of the Bar and many useful contacts were made, developed and continued. Many comments were made about how nice it was to hold the reception in a building with more modern facilities than the Benchers' rooms in the Inns.

8. Matthew Coats, Legal Services Commission

On 13 June, Matthew Coats, the new Chief Executive of the LSC, attended a one-off evidence session before the Justice Committee in the context of their review of the budget and structure of the MoJ.

Relevant questions from the committee covered:

- LASPO: concerns about the independence of the Director of Legal Aid Case work
- LSC staff morale and motivation
- LSC's efforts to work with the professional bodies

- Relationship with MoJ: policy formulation; financial management
- Late payment of legal aid payments
- Development of LSC's commissioning skills
- LSC (and profession's) capacity to innovate and achieve efficiency savings

Matthew Coats gave a fairly deadpan performance saying it was still relatively early days for him. He did not say anything we had not already learnt ourselves from our last meeting with him.

He did say that he had reached out to Chambers to obtain first-hand experience of the "customer experience" of dealing with the LSC. He referred to efforts he had made to meet with the two main representative bodies and the "strong sense of the challenges" we faced.

When asked by Sir Alan Beith whether he thought the LSC's dialogue with the profession was "adversarial", Matthew Coats said he was looking for a "mature and open dialogue" and added there were signs that was emerging from his discussions to date. He said a clear focus at the LSC was on bills being paid on time.

When pressed by Robert Buckland MP (a barrister; Conservative) about the "real discontent" at the criminal Bar about late payment, Matthew Coats said he thought matters had improved. Most bills being settled within the 8 week target time. He was aware that there were some ongoing problems with high cost cases which he said were being addressed.

Overall, we thought Matthew Coats was given a fairly gentle ride by the Justice Committee. Future appearances are likely to have more edge to them.

The following points, taken from the uncorrected transcript of the evidence given by Matthew Coats to the Justice Committee, have been noted.

- Matthew Coats has three main priorities for the LSC:
 - Improve casework (operate within service standards, reduce error rate, put service online)
 - Develop the organisation: do more for less
 - Work better with others (including legal profession)
- Contracting: LSC needs to incentivise innovation, improvement, and quality
- LSC needs to have an open and mature conversation with Bar Council and Law Society ("I can see signs of that already happening ... there will be times when people have radically different opinions")
- LSC needs to get a better understanding of cost drivers (the MoJ has recently introduced new driver-based forecasting models)
- Payment delays are reducing but there is a time lag in perceptions

9. Sir Alan Beith MP

That same day, 13 June, Mark Hatcher and I met with Sir Alan Beith MP, the Chairman of the Justice Committee, at Westminster. Also present was Helen Kinghorn, Legal Specialist Clerk to the Justice Committee (a barrister who has recently left general common law practice to provide maternity cover for Hannah Stewart). We had a wide-ranging discussion.

I said that:

- The Bar was very disappointed by the final outcome of the LASPO proceedings in Parliament.
- Changes in legal aid administration, further cuts in fees for publicly funded work and reductions in the scope of coverage of legal aid were hitting the profession hard.
- I had met the new Chief Executive of the Legal Services Commission (LSC), Matthew Coats (who had appeared before the Justice Committee earlier in the day to give evidence to the committee's inquiry into the structure and budget of the Ministry of Justice (MoJ)).
- The problem of late payment of counsel's fees appeared to be improving, apart from in South Wales. There was no doubt that some members of the Bar had been hit hard by demands from HMRC for tax on payments they had not received from the LSC and the Bar Council had made representations to the Treasury.

I went on to refer to the challenges facing the Bar from the forthcoming MoJ consultation on Price Competitive Tendering for criminal defence services. I said that:

- The Bar was being encouraged, by Ministers and officials, to engage in the forthcoming consultation but many at the Bar were very concerned about what might be in contemplation by the Government.
- There was particular concern about One Case, One Fee (OCOF).
- The Criminal Bar Association had surveyed its members, whose views had been clearly expressed.
- A recent article in the *Financial Times* had highlighted the financial problems faced by a growing number of publicly funded practitioners. By no stretch of the imagination could they be described as "fat cats".

I also referred Sir Alan to:

- The views of international Bar leaders and others whom I had met on overseas missions about the high regard in which the justice system in England & Wales is held; it is the benchmark for other common law jurisdictions as well as many civil law systems.
- The problems that had recently been experienced by the Malaysian Bar Association and the Law Society of Zimbabwe which had been subject to Government intimidation and interference of a most unacceptable nature.
- The increasing number of Litigants in Person in proceedings in the High Court and the impact this was having on effective access to justice.

- Efforts the Bar Council was making to find alternative sources of funding the civil justice system with reference to a Contingent Legal Aid Fund for “welfare” cases as well commercial ones.
- CPS moves towards “paperless trials”.
- The challenges of integrating different IT systems in the court system which had a direct effect on efforts to achieve greater efficiencies in the administration of justice.
- Possible reforms of civil procedure to address business concerns about the costs and delays involved in civil litigation (having regard amongst other things to disclosure) and the need for better case management.

Sir Alan commented that he could understand the Bar’s concerns about LASPO but the Coalition Government had very little room for manoeuvre against the backdrop of the dire state of the public finances. He said he was supportive of the Government’s family law reforms and the moves towards greater use of mediation although he expressed some concern about the inequality of arms in ancillary relief proceedings.

I raised my concerns about the Legal Services Board (LSB) with Sir Alan. I said that:

- The Bar was concerned about the increasingly intrusive nature of professional regulation, a concern that was directed not at the Bar’s independent regulator (the BSB) but at the LSB.
- Having two layers of regulation naturally added to the cost, complexity and burdensome nature of regulation with which the profession had to deal, the overall costs of which were either passed on to the “consumer” or in effect absorbed by the profession in the form of lower rates of pay.
- The LSB appeared to be developing a growing appetite to find initiatives with which to justify its existence. It appeared to be an organisation in search of a role, having completed the basic reforms which had been mandated by the Legal Services Act 2007.
- The Bar was literally paying the high price for a scheme of regulation which had been designed to address the regulatory failure of solicitors’ complaints handling arrangements.

I left Sir Alan with a copy of the Bar Council’s response to the MoJ’s Triennial Review of the LSB. He agreed that it was time to take a closer look at the oversight regulator’s performance and he would read the Bar Council’s views with interest. Sir Alan added that in his 39 years in Parliament he had been involved personally in 6 cases in which a solicitor had to be struck off the Roll, but in his experience few cases involved complaints against barristers.

I asked about the Justice Committee’s agenda for the remainder of the current parliamentary session. Was there a connecting theme or could the Bar Council expect a series of ad hoc inquiries on a variety of matters as in the past few years? Sir Alan said that the committee’s agenda would continue to be largely reactive. It was concerned about the need to reduce public expenditure and its effects on criminal justice. The Justice Committee needed to obtain a better understanding about cost drivers and their effects on access to justice.

Sir Alan said the Justice Committee valued the Bar's input to its inquiries even if it did not always agree with the views which the Bar expressed. He looked forward to hearing from the Bar in the future.

10. COIC

On Wednesday evening, 13 June, I attended a meeting of COIC. On the agenda were some of the old favourites, a review of Disciplinary Tribunals, a report from the ATC, an update on the position of SAHCA, a report on the Review into COIC Governance, a report from the Burton Pupillage Working Group, and, last but not least, a report from the Inns' Subvention to Bar Council Working Group.

11. Bar Nursery

On Thursday 14 June, I attended with Chris Owen, Fiona Jackson, Amanda Jane Field, Clodagh Maguire, from St John's Buildings in Manchester, and Sophia Kakabadse from the Bar Council's Member Services team), one of three meetings with nursery providers. It is moving forward. We will report further as soon as we are able to do so.

12. Peter Gooderham CMG

Later that morning, 14 June, Mark Hatcher and I attended a meeting, at my request, with Peter Gooderham CMG, International Director, Justice Policy Group, Ministry of Justice (MoJ). He said that he had been seconded from FCO to succeed Catriona Laing as Director of the MoJ's International work. He had been in post barely five weeks and was feeling his way. Until recently he had been the UK's Ambassador to the United Nations and other international organisations based in Geneva. He said that both the Secretary of State for Justice, Kenneth Clarke QC MP and the Minister of State, Lord McNally, had impressed on him the importance they attached to the international work of the Bar. The MoJ looked forward to hearing further from, and working with, the Bar Council.

I referred:

- to the increasing collaboration between the Bar Council and the MoJ which had been demonstrated in the Unlocking Disputes initiative, and recently in St Petersburg at the International Legal Forum (ILF).
- I told him, as was the fact, that the Lord Chancellor's presence at the ILF proceedings and his speech to the plenary session (which incorporated a number of the Bar's key messages) had made a significant contribution to the success of the event.
- The Bar Council had been substantially assisted by Belinda Lewis and other colleagues from MoJ and UKTI.

I went on to refer to the impressions which I had received about the high regard in which the British system of justice was held from my overseas missions to New York, South Korea, Singapore, Qatar,

Cayman and elsewhere, which had been reinforced by the Bar Leaders whom I had met recently from over 40 jurisdictions at the IBA International Bar Leaders' Conference at The Hague. The conference had heard how the Malaysian Bar Association and its counterpart in Zimbabwe had suffered from political interference and deplorable intimidation.

In that regard I stressed the vital importance for the maintenance of the Rule of Law for the legal profession to be, and be seen to be, independent of Government. I said that while the Bar Council as Approved Regulator did not quarrel about the need for appropriate professional regulation (to which it had delegated responsibility to the BSB), there were times when the Bar Council considered the activities of its oversight regulator, the LSB, to have the potential to become unnecessarily intrusive and burdensome.

I expressed the Bar's growing concerns about the costs and burdens of LSB regulation, which could impact on the international competitiveness of the Bar. These concerns had been reflected in the Bar Council's trenchant response to the MoJ's Triennial Review of the LSB.

I went on to underline the significance of the Bar's contribution (and that of the Judiciary) to the success of the City of London as a leading global financial centre by providing the necessary assurance and confidence to investors and others who do business in the City. It was important not to undermine the success of the City by over-regulating legal services or by weakening the administration of justice, for example by allowing an increase in litigants in person to clog up the court system as result of the high cost of litigation, cuts in public funding and reductions in the scope of legal aid.

I referred to the Bar Council's relationship with TheCityUK (TCUK). Since much of their work was directed at meeting the needs of their large member institutions (a number of whom, notably banks, still had substantial budgets for trade promotion and related activity), the Bar was rather less well served by TCUK. However it was recognised that TCUK's Liberalisation of Trade in Services (LOTIS) Committee brought together a heavyweight collection of financial and professional services players, as well as key Government observers. It was well placed to provide HM Government with ammunition to press overseas' governments, through the European Commission, about the case for improving market access and the reduction of barriers to trade in professional services (including legal services).

Looking ahead, the following specific projects were noted:

- (a) **Common European Sales Law:** This had been discussed by the Justice and Home Affairs Council in Luxembourg on 8 June, which the Secretary of State had attended. He understood and shared many of the Bar's concerns. The issue was not going to go away. It was clear that Commission Vice-President Reding was very attached to the proposals.
- (b) **Commonwealth Law Association Conference (Cape Town, 2013):** It was agreed that this event (which the Bar Council would be attending) could provide a useful platform for the Secretary of State.
- (c) **Inter-Pacific Bar Association 2013 Conference:** If the Bar Council thought it could help the profession for an MoJ Minister to be present at this event, MoJ would consider the case.

(d) 50th Anniversary of Jamaican Independence: It was noted that the Secretary of State planned to attend the events which were being organised in August. If the Bar Council thought it would be worthwhile for the Bar to be involved Peter Gooderham said he would make appropriate representations to the local High Commission on our behalf.

I suggested, and it was generally agreed, that it might be timely in the Autumn to organise an event to take stock of the work which MoJ and UKTI had undertaken with the Bar Council and the Law Society in order to promote the legal services sector (as articulated in the Government's *Plan for Growth: Promoting the UK's Legal Services Sector*) and thereby demonstrate how the legal profession was making its contribution to the fulfilment of the Chancellor of the Exchequer's growth strategy. The sector represented a valuable asset to the UK which should be recognised and promoted.

We agreed that further discussions should take place with MoJ to develop this idea further. A key note speech by the Secretary of State, accompanied by contributions from me and from the President of the Law Society, could summarise progress made against plan and identify opportunities for further collaboration between the sector and Government.

13. Bar Council China Training Scheme

That evening I attended a reception in Gray's Inn for the Chinese Lawyers who are participating in our new Training scheme. This is the successor Scheme (established entirely by the Bar Council) to the Lord Chancellor's Training Scheme, from which Scheme the Government, as part of its austerity measures, removed its funding. The new Scheme, in which the Law Society felt unable to participate, is in its first year. It is much smaller than the previous scheme, there are nine participants. Nevertheless, one of the Chinese lawyers, in telling me how much she valued the opportunities presented by the Scheme, said that they valued this 6-week course more highly than attendance on a longer LLM course.

14. Judges' Council and IBC Annual Conference

At the invitation of the Lord Chief Justice, on Friday 15 June I addressed the Judges' Council on the priorities, opportunities and challenges facing the Bar. It provided an excellent opportunity to raise our issues and concerns with Judges at every level.

At 07.00 on Saturday 16 June, I took the Big Sleepies' train from Paddington to Bristol Temple Meads Station to attend the Institute of Barristers' Clerks Annual Conference at which:

- the Keynote speech was given by Edward Garnier QC MP, the Solicitor General.
- I sat on a panel with the Solicitor General, Vanessa Davies, HHJ Havelock-Allen QC and a solicitor.
- I gave a speech about current issues facing the Bar.
- I listened to a speech by Vanessa Davies on entity regulation, which was very well received.

- I attended a workshop on Direct Access, on the panel of which were Susan Jacklin QC and David Goddard, Senior Clerk at 4 Stone Buildings, Lincoln's Inn.

I then caught the 16.30 train back to London.

15. CentreForum

At 08.00 on Monday 18 June, Mark Hatcher and I attended a forum at the Livery Hall, Guildhall, in the City of London. The speaker was the Rt Hon Dr Vince Cable MP who was speaking on "Building Britain out of the slump: 80 years on", which looked at lessons learned from the depression of the 1920s and 1930s in Britain. I was somewhat bemused by how little we appeared to have learnt, but it was an interesting comparative study in economics. A main plank of the solution appears to be to undertake substantial building of social housing projects.

16. Bar Pro Bono

On that same day Toby Craig and I met with Robin Knowles QC and Rebecca Wilkie, Chief Executive of the Bar Pro Bono Unit. We discussed:

1. The early bird session at the Bar Conference, suggesting that they might wish to revamp the current format, which had been used for years and some had suggested had become a bit tired.
2. In relation to pro bono costs awards, that Rebecca would pursue methods of raising awareness with panel members (this is a follow on from the meeting which Ruth Daniel, Chief Executive of the Access to Justice Foundation, and I had with Lord Neuberger, on which meeting I previously reported in my last (interim) statement)
3. In relation to Northern Ireland, that Rebecca would wait to hear from me about a potential date for Mark Mulholland QC, Chair of the Northern Irish Bar Council, to visit the Pro Bono Centre (after which she would prepare an initial agenda and put together papers which may assist him). This arose from a the lunch meeting I had in The Hague with FBA members, including Mark Mulholland QC, who asked if we could assist him with establishing a more robust structure for the administration and delivery of pro bono legal services. Arrangements are under way to facilitate that meeting taking place.
4. My desire, expressed in my Inaugural Bar Council Statement in early December last year, is to make the Bar Pro Bono Unit's work independently financially sustainable so that those so ably administering our pro bono services are free to get on with that job.

17. CBA, Circuit Leaders and BC Officers Dinner

On Tuesday 19 June, Maura McGowan QC, Nick Lavender QC and I had a dinner with Max Hill QC, Mike Turner QC and all of the Circuit Leaders to discuss, amongst other things, the results of the CBA survey. We had a very wide ranging and frank discussion, and an enjoyable meal. I want to thank the Max and Mike and each of the Circuit Leaders for, in most cases, travelling substantial distances and attending the dinner thereby giving us the opportunity to have that discussion.

18. Consultation on separate legal jurisdiction for Wales

The Bar Council response to this Consultation was authored by Winston Roddick QC and Hefin Rees. I would like to thank them for their work on producing this focussed response, largely over a holiday period. The response was lodged 19 June and is on the BC website, at <http://www.barcouncil.org.uk/media-centre/news-and-press-releases/2012/june/bar-council-responds-to-consultation-on-separate-legal-jurisdiction-for-wales/>

19. Staff Dinner at Little Hanoi

On Wednesday 20 June, I hosted a “thank you dinner” for those members of staff who had given so much of their free time, working long hours and weekends to solve, and cure, the problems caused by, or arising from, the implementation of the new Core Database. This was a massive effort by Bar Council staff to fix substantial problems not in any way of their, or BC’s, own making. I am, and we all should be, very grateful to them for their efforts.

The dinner was held, at the staff’s request, at Little Hanoi 147 Curtain Road, EC2A 3QU; a really good restaurant, good food, and a very enjoyable evening.

20. Klaus Heiner Lehne MEP

On 22 June, at his request, we met with Klaus Heiner Lehne MEP. Herr Lehne is responsible for driving forward the work on the Common European Sales Law (CESL). He said:

- There is 80% support in the European Parliament for an Optional Instrument (OI) creating the CESL.
- However, members are aware that there are problems with the proposal.
- There was no proper stakeholder consultation – the Commission skipped the White Paper stage, which had originally been foreseen, because it wanted to issue the proposal during the (supportive) Polish Presidency.
- He knows that there is a lot of criticism of the proposal – remedies, unfair contract terms and so on. They want to tackle these now.
- He is in the UK to do the stakeholder consultation that the Commission did not do properly. He

has already been in Austria and Cyprus amongst others, on similar missions. In addition, the Legal Affairs Committee of the European Parliament (JURI) will continue with the series of workshops on this file.

As to timing, he said:

- At the end of November, the European Parliament will hold a meeting with national parliamentarians.
- Then will be a first draft of the JURI report on the CESL, beginning of next year.
- He hopes that they will have identified the problems by then, and be in a position to propose solutions or different ways forward.
- He will contact the Irish Presidency next spring to about a first reading.
- If that is not possible, they will continue with first reading into second period, which will take us past the end of this Parliament (mid-2014).
- If Eire says yes, then they'll get a mandate from the European Parliament in plenary to negotiate with the Council for a first reading agreement before 2014.

He welcomed input and engagement from the Bar. A full report of the meeting may be obtained from the EU Law Committee.

21. Singapore Ministry of Justice

When earlier this year I travelled to Singapore, as I reported in my Chairman's statement for Bar Council in April, we met with the Senior Parliamentary Secretary at the Ministry of Law, Ms Sim Ann. During that meeting, I invited an intended delegation from the Singapore Ministry of Justice to visit us at the Bar Council to discuss issues of common concern. During last week a delegation did visit the UK, and met with the Bar Council, the Bar Standards Board, the Ministry of Justice and the Law Society.

We had arranged the following programme for Ms Gloria Lim, Director, Legal Industry Division, and Ms Ang Swee Yan, Assistant Director, Legal Industry Division, for Thursday 28 June:

- 08.45 Meeting with Vanessa Davies, Director of the Bar Standards Board (BSB)
- Introduction to the work of the Bar Standards Board, its education work and the Legal Education and Training Review**
- 09.30 Meeting with Michael Todd QC, Chairman of the Bar Council of England and Wales
- Overview of the work of the Bar Council, follow up on issues discussed in March visit**
- 10.30 Patricia Robertson QC, BSB Board Member, Ewen Macleod, Head of Professional Practice and Vanessa Davies
- ABS regulation**

11.15 Amelia Aspden, Social Mobility Officer, Kerry Bretherton, Social Mobility Committee member, Kim Hollis QC, Chairman Equality and Diversity Committee, Pamela Bhalla, Equality and Diversity Adviser

Social mobility and Equality and Diversity work at the Bar Council

12.30 **Lunch at Lincoln's Inn Undercroft.**

22. LASPO

On the evening of 28 June, we had a small drinks party for those who had helped the Bar Council on the LASPO Bill. Again special thanks were extended to Herbie (Harriet) Deane, whose work in relation to the Bill was outstanding.

23. World Bar Conference

The World Bar Conference, the Conference held by the International Council of Advocates and Barristers was held in Inner Temple from 29 June to 1 July. It was co-chaired by our very own Stephen Hockman QC. The Conference was a great success. It was brilliantly organised by the Bar Council's Member Services Department. Special thanks are to be extended to Lois Rolfe who was primarily responsible for organising it. Thank you also to all those many members of staff who participated in making it such a successful Conference.

Michael Todd QC
Chairman of the Bar
5 July 2012