



LORD CHIEF JUSTICE
OF ENGLAND AND WALES

The Rt Hon. The Lord Thomas of Cwmgiedd
City of London Solicitors' Company
Mansion House
Monday, 13 March 2017

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1. As this Company will know, a great deal of time and effort has been devoted since 23 June 2016 to considering the implications of Brexit for legal services, the legal professions, and the legal community in London. I am delighted that in recent weeks the judiciary, TheCityUK and other bodies have been able to join with the legal professions in forming the Brexit Legal Committee to develop a strategy for maintaining and enhancing the utilisation of English Common Law after Brexit, to report to the Government as to how Brexit might affect the UK legal system and to provide a forum and resource for issues relating to Brexit. I am sure that the Committee will play a vital role over the next two or so years.
 2. In addition, you may have seen that this morning we announced a new arrangement for the UK's international dispute resolution jurisdictions, to be known as the Business and Property Courts and to act as a single umbrella for specialist business courts in London and across England and Wales. We consider the new structure will play a vital part in ensuring that the UK continues to provide the best court-based, business dispute resolution services in the world.
 3. This, and other activity in relation to the consequences of Brexit, will certainly require great commitment and effort in addition to all else that we have to do. At some stage, it really will be necessary to ensure that everything we are doing is focussed on the position of UK lawyers and UK legal services in the world. Some things, however desirable in themselves, may have to wait. One

of those matters, however, that cannot wait is maintaining the strength and vitality of the judiciary.

4. We are fortunate that we have a strong and independent legal profession and a strong and independent judiciary. Our respective strengths are shown by their interdependence – the skill with which the legal professions have made English Common Law the law of choice for business transactions and the judiciary’s ability to develop that law and enjoy the support of the professions.
5. However, there is no room for complacency, and I therefore cannot, even though your guest, pass up the opportunity to say a little about the work the judiciary is doing to maintain and increase its strength and to ask for your continued support. Without the strength and vitality of the judiciary and without your willingness to encourage the ablest among you to become judges, there is a real risk for the future success of English Common Law as the law of choice in international transactions.
6. Let me therefore say a little about what the judiciary has been doing with the Judicial Appointments Commission to ensure our recruitment, appointment and career development match the best in the world.
7. First, recruitment. We have been proactive in visiting as many organisations representing lawyers and as many businesses who employ lawyers as is possible to explain how interesting and important the work of a judge is, how to embark on a judicial career and the opportunities available, including part-time working. I was very grateful to the President of the Law Society who agreed to write with me to a number of firms who have committed themselves to fostering a culture of seeking judicial appointment. We asked them to encourage their most senior partners to consider applying in the recent competition for Deputy High Court Judges. Unfortunately, there are not as many firms who have so far committed as we would have wished. We will be seeking more commitments in this respect.
8. Second, the appointment process. The Judicial Appointments Commission has been working to improve the appointment process. We also now provide a proper support programme to assist people in their applications to become Deputy High Court Judges and we would like to extend this, if only resources could be provided, to other positions. I can assure you that in the

competitions for Deputy High Court Judges and High Court Judges, we are moving to a much more sophisticated manner of selection.

9. Third, career development. We are putting in place the machinery to encourage a broader and more flexible approach to the work those who join the judiciary do and to provide many more opportunities for career development. No person who applies has to go down the route of sitting in the Crown Court, although as a commercial practitioner turned criminal lawyer I can assure you that criminal law is one of the most interesting areas of law. No High Court Judge has, in practice, to go on Circuit, such is the demand to go on Circuit from High Court Judges. There are greater opportunities for flexibility of work, made more possible through the appointment of one of the most senior judges to assist High Court Judges and Deputy High Court Judges in the development of the work they do and through the new Business and Property Courts, which provide for greater flexibility of deployment between the Queen's Bench and Chancery Divisions.
10. Fourth, succession planning. We are also putting in place arrangements for proper succession planning to ensure the long-term stability of the senior courts and their leadership.
11. However we can get nowhere without your support and, in particular, the help of each and every firm. I do appreciate how difficult it is for partners within a firm to release the most able of their number (at the height of their earning power) to sit as Recorders or Deputy High Court Judges or to assist those who are taking retirement in their fifties to plan for a second career on the Bench. However, it is not only in the interest of our nation for you to do this but it is in your own interests.
12. As a young teenager I grew up with President Kennedy's inspiring inaugural address and his question, "ask not what your country can do for you; ask what you can do for your country". About decade later, at the University of Chicago, I took the law and economics programme based on the new economic thinking that has since become so influential. The view of its leader, Professor Milton Friedman, was that President Kennedy's approach was paternalistic and implied the government was the master and the citizen the servant. He did not advocate that a person should ask what his country could do for him,

but each person should ask rather “what can I and my fellows do through government’...to achieve our several goals and purposes, and above all, to protect our freedom”.

13. It does not matter whether you agree with what President Kennedy said or what Professor Milton Friedman said, as, in the case of your support to strengthening the judiciary, the answer is the same. It is in our nation’s interest and, therefore, in your own that we continue to have the strongest judiciary in the world and, through that judiciary, ensure the continued development and pre-eminence of our law as the law of choice in international transactions. I hope that we can persuade firms to consider their partners sitting as judges as part of their commitment to public service and a way in which they can contribute to the continued success of our nation more generally. On a less altruistic note – the law firm benefits from the continued pre-eminent status of English Common Law and from having a workforce with additional skills and experience. Similarly, the individual lawyer benefits from honing existing skills and developing new ones.

14. The judiciary has done a great deal and will continue to do so and I am sure that I can count on your strong commitment to support.

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