



LORD CHIEF JUSTICE
OF ENGLAND AND WALES

THE RT HON. THE LORD BURNETT OF MALDON

OPENING REMARKS

Wednesday, 25 April 2018

Thank you very much. I am grateful that you have given me an opportunity to say a little at the outset. It is a great pleasure to be here. I hope I can help you with the issues that are of concern to your Committee. I am particularly grateful for this opportunity to say a few words.

I want to state how important I consider the relationship between the judiciary and Parliament to be, particularly with this Committee and the Justice Select Committee. Like my predecessors, I believe that an effective relationship and understanding of our respective responsibilities is critical to the functioning of our constitution, and I look forward to working with you during my time as Lord Chief Justice.

It might help briefly to identify my priorities. I have three broad themes of which I have spoken on a number of occasions:

- i. first, to improve judicial morale;
- ii. secondly, to continue to fashion and then implement the long overdue modernisation of our courts and tribunals, known as the Reform Programme; and,
- iii. thirdly, to increase public understanding of what judges do and why the rule of law matters.

There are two issues that I want to give special mention at this stage, if I may. The first is recruitment and retention, which of course is tied up with morale. The second is Modernisation.

Recruitment and retention

The current difficulties with judicial recruitment, in my view, pose a threat to our ability to discharge the business of the courts effectively. This affects the ordinary work of the civil, family and criminal courts dealing with cases between individuals, businesses or the State that affect the daily lives of many. Additionally and importantly, the difficulty in recruiting to the High Court threatens to undermine the worldwide reputation of the judiciary of England and Wales, and reduce the attraction of London as the pre-eminent centre for international dispute resolution. The voluntary use of our courts by those from outside this jurisdiction is worth billions a year.

The causes of the difficulties are many and varied. Remuneration, particularly the taxation treatment of pensions, is at the top of the list, as this Committee noted itself last year. That is compounded by an increasingly heavy workload at all levels and deteriorating working conditions. Those causes, and others, must be tackled if the expertise and excellence of the judiciary at all levels is to be maintained in the future.

Modernisation

I prefer to talk about modernisation rather than reform, because in many ways the current programme is about dragging our courts and tribunals into the 21st Century, and moving from paper-based to digital processes. While that is long overdue, Modernisation is also about so much more than IT. I said recently to the Association of Her Majesty's District Judges that it has three features:

- i. The first is improving the administration of justice. That is simply making it more efficient and sensitive to the needs of those who are caught up in it, many of them not voluntarily.
- ii. The second is widening access to justice, essentially making it easier for people to bring proceedings.
- iii. The third is improving the conditions for those who use and work in our courts and in the tribunal system. If I may say so, the Government have to deal with the long-standing maintenance backlog. I know we may talk of that a little later.

I fear there are pockets of misunderstanding about the Modernisation Programme among the judiciary and the professions, and more widely. We have tried to transform judicial engagement in the development of the components of reform to ensure that the interests of justice and judicial independence are fully recognised, and to bring our collective expertise and experience to bear. We are seeking the views of the wider judiciary on all aspects of reform that will affect their particular jurisdictions.

At the heart of what is in contemplation is a change in procedures and practices, some of which will require enabling legislation, followed by rules and practice directions. Of course, the latter will be under judicial control. The question whether all but the most basic procedural hearings will be by telephone or videolink will, in the end, be for the judge to decide, having received representations if necessary.

We hope the legislation that fell at the last election will be back before Parliament fairly soon. Without it, some of the courts and tribunals, or at least some of what we do, will remain trapped in the mid-20th Century. At a more prosaic level, Modernisation will simply align the courts and tribunals with ways of operating which the outside world, and even Government, have long ago adopted.