

# Speech: Speech by the Lord Chancellor: Dinner for HM Judges 2017

My Lord Mayor, Lord Chief Justice, Ladies and Gentlemen.

Can I start by joining the Lord Chief Justice in thanking you Lord Mayor for your hospitality and generosity as hosts this evening.

And it's with great pleasure that I speak to you tonight as Lord Chancellor. With great pleasure, but I confess also with a measure of trepidation. I looked through the catalogue of my illustrious predecessors and at first I was assured in realising that no fewer than three previous Lord Chancellors had subsequently been canonised as saints, though my enthusiasm was somewhat tempered by finding out that two of them had had to suffer martyrdom before they achieved that status.

While another Lord Chancellor, Archbishop Sudbury, had suffered the fate of being lynched and beheaded by a mob on Tower Hill which puts even Twitter in a certain context today.

If we think back, Lord Mayor, to the time of this dinner a year ago, we were as a nation in the immediate raw and somewhat shocked aftermath of the EU referendum result.

The mood of the country was febrile.

Feelings were running high.

Nobody knew quite what was going to happen next.

And indeed the political aftershocks came both hard and fast.

And against it, this background – unpredictable, charged and challenging – the Lord Chief Justice stood here in this room and stated calmly,

The business of the judiciary is not politics. It is the business of upholding the rule of law.

And that business, that steadfast conviction to uphold the principle of the rule of law and the independence of the judiciary, which goes integrally with it, forms part of the bedrock for trying to build certainty and clarity in an unpredictable and rapidly changing world.

For it is the rule of law which underpins our justice and legal system. Which gives us both certainty and clarity. In my six years as a minister at the Foreign and Commonwealth Office, I saw too many countries, both in our own continent and more widely around the world, where the battle to establish flourishing democratic institutions and to embed the values of a free

society, were held back by corruption or partiality in the judicial system. And I saw too how the lack of confidence in the integrity of the judicial and legal system held back investment, trade and hopes of prosperity in countries that desperately needed that investment and trade.

So it's important to say tonight that for me the rule of law and the independence of the courts sit at the very heart of our society and our democracy and I would like to thank every member of the judiciary for what they do – day in and day out – to uphold the rule of law.

I know, even as a non-lawyer, that it is not always a straightforward or easy task.

Often cases are complex and challenging and judges are called upon to make decisions on some of our most difficult moral challenges, as we've seen illustrated in the tragic case of Charlie Gard most recently. They're decisions that very few of us would feel comfortable making.

But it is the judges with their wisdom derived from long experience, intellect and knowledge of the law to shoulder that grave responsibility and take those difficult decisions in order to further the principle that justice should be done.

And I'm happy to repeat tonight what I said at my swearing-in ceremony as Lord Chancellor last month, that I intend to be 'resolute and unflinching' in protecting the rule of law and in defending the independence of you, the judiciary.

So, here we are now a year on from the referendum and from last year's dinner.

And while different people had different and strongly held views on our membership of the EU, myself included, I think that now that the country has taken its decision our duty is to honour the choice that the electorate has made.

That is why the government has triggered Article 50 after a vote in Parliament and following the judgements of the High Court and the Supreme Court.

Now I will confess Lord Mayor, that perhaps for those of us in government, that particular moment was not always the most comfortable and I think perhaps that it was one of those occasions when government ministers had to take refuge in the wisdom of Sir Michael Jagger that 'you can't always get what you want'.

But when I look back at that case, regardless of my own views on the question being judged, it seems to me that what it actually does illustrate is a very profound constitutional principle in which all of us should be able to take pride. Namely, that an aggrieved citizen can go to an independent court and challenge anyone, including their elected government, and be confident that in our United Kingdom the government will abide by the court's ruling. Because we live in a country that is governed by the rule of law, not one

governed by the rule of men and women even if those men and women enjoy an electoral mandate.

Now, since then, we have prepared the way for a smooth and orderly exit from the EU in the Queen's Speech and we are now underway with negotiations in Brussels.

The Bill to repeal the European Communities Act and establish the *acquis* on a United Kingdom legal basis will be introduced to Parliament shortly.

Now the negotiations that lie ahead clearly cover a very wide range of issues and stretch right across ministerial departments.

And amongst them are important issues, as the Lord Chief Justice has said, relating to civil justice.

As we leave the European Union and forge a new deep and special partnership with our friends and allies in Europe, we need to create an effective system of civil judicial cooperation that will provide certainty and protection for citizens and businesses in a United Kingdom that will operate outside the jurisdiction of the Court of Justice of the European Union.

That also gives us an opportunity to affirm the status of the United Kingdom Supreme Court, in which this country does – and should – take enormous pride because of the high standards which it sets.

But more broadly, we have an opportunity to look at the way the law governing legal obligations works.

To that end, the government is now exploring the existing framework for choice of court and for the recognition and enforcement of judgments across borders....

....we are examining the current European Union Regulations and the wider international agreements, most notably from the Hague Conference on Private International Law.

And as we do that, and as we move forward with the negotiations, we will have in mind particularly the value of reciprocity in civil and commercial matters.

On questions about what law applies, in both the law of contract and non-contractual obligations, we are considering the position of the Rome I and Rome II Regulations which of course can be used without any reciprocal agreement.

And those are important matters which are currently under active consideration by ministers and will help to ensure certainty and continuity in civil justice.

And ensure too, as you rightly reminded us Lord Mayor, that English law and the UK courts should continue to be available for the resolution of a wide range of commercial and business disputes.

I'm in no doubt about the continuing importance of legal services for the City of London, yes, but also for many other cities in other parts of the United Kingdom.

Now, I believe we do have the means and opportunity to maintain the pre-eminence of our civil justice system after we leave the European Union. And indeed, as Lord Neuberger made clear this week, there is an opportunity for Brexit to have a positive impact on London's standing as the world's legal centre and as a destination for dispute resolution, with judges able to respond more quickly and freely to world-wide developments.

It is true that some EU countries do appear to see the United Kingdom's departure as an opportunity to compete with us for a greater share of the international commercial contractual dispute resolution market...in particular by planning to operate English-speaking Common Law courts in their jurisdictions.

Well, my first response to that is to say that: "imitation continues to be the sincerest form of flattery".

And putting aside the fact that these English speaking courts do present a platform for English lawyers and judges to enhance their reputation and make English courts and English law more attractive, why should a discerning litigant or practitioner accept an imitation when the original masterwork is still available to them?

For English Common Law is already the global law of choice. It has clarity, predictability, certainty and crucially commercial adaptability. The Common Law after all underpins law in over a quarter of the world's jurisdictions.

And this country has a worldwide reputation for its justice system and legal services.

Central to that reputation is the quality and integrity of our judiciary and our exceptional courts.

The independence, impartiality and incorruptibility of our judiciary is a beacon to litigants and to legal service providers in every continent in this world.

Our courts are recognised throughout the world for their quality and also for their openness to innovation.

And that too is why I am looking forward to working with the judiciary to use the latest technology to resolve disputes not only judiciously but also with greater efficiency.

So we look forward to continuing with the important and necessary court reforms, including through the Courts Bill, announced in the Queen's Speech.

Only yesterday, we saw the opening of the new Business and Property Court here in London.

A great example of those world-class court facilities on which the judiciary has led the way and which the government is proud to support.

With the modernisation programme, courts right across the country benefit from new technology and swifter justice.

Now I want us to seize this opportunity to project English law, our courts, our judges and our legal services to the world and to new markets.

And to see the government, our justice system and our legal services unite in a common effort to harness and project to the world a strong and clear message about just how exceptional this country is when it comes to our justice system and our legal services.

Through this campaign, which I intend to launch later this year, we will tell the world why people should choose English law if they want clear and flexible contracts....

...why they should choose United Kingdom courts if they want fair and efficient dispute resolution....

....why they should choose our legal firms if they want unrivalled legal expertise....

...and why they should choose London if they want a truly global system for dispute resolution.

The message will be: 'choose the UK and you get a global guarantee of judicial excellence and integrity'.

I want to thank the judges and others here who work in our legal services sector for the work you do in countries and institutions both here and around the world in sealing that global guarantee of justice and promoting our justice system here in the UK.

I want to give you a very clear commitment that in the time that I hold this office I intend to support that effort with all the energy and commitment that I can bring to that task.

Now, there's one person in this room tonight who has done more than his fair share of leading and promoting our justice system.

I spoke earlier about the certainty provided by the rule of law.

And I want to conclude by pointing to an equal, if sadder, certainty.

This will be my first but also my last Judges' Dinner with Lord Thomas as Lord Chief Justice.

I felt when I took my seat at the table and I saw the dragons on the table in front of us that there was a message there. The presence of Welsh gold on the table to mark Lord Thomas' final speech tonight to this event as Lord Chief Justice.

I feel honoured that my path has crossed, albeit briefly, with such a great leader of our judiciary and stalwart defender of the wider justice system.

Lord Thomas, you have served with great distinction in the office of Lord Chief Justice.

You have been throughout your term a strong advocate for the rule of law and for the judiciary's continued independence.

You have also overseen and led the courts and tribunals system through the introduction of the most radical and ambitious programme of courts and tribunal reform anywhere in the world – a programme of reform which is still ongoing.

And all of us can see the change that digital technology has made in the criminal courts and in the now Business and Property Court in London.

But I'd like to thank Lord Thomas too for the work you have done to promote a more diverse judiciary, which has seen our judiciary better reflect the full society which it serves.

Your leadership has included some difficult times, but has seen the judiciary grow stronger in its independence...

...more modern in its administration...

...more diverse in its make-up...

...and your leadership has brought greater clarity about the proper constitutional relationship between the judiciary and the other two branches of the state.

A good example of this is Lord Thomas' thoughtful and plain-speaking speech last month about the judiciary's place within the state and the relationship between the three branches of the state.

As I said at my swearing-in, all three branches are separate, but they must have mutual respect for the others. They are independent, but also inter-dependent.

In the interests of continuing to safeguard the rule of law and the position of the judiciary, I look forward to discussing these issues further with the Lord Chief Justice during his final months in office, as well as engaging on our continuing court reforms.

And in paying tribute to Lord Thomas this evening, I should also recognise Lord Neuberger, whom I know will also be retiring soon and whose leadership as only the second President of the United Kingdom's Supreme Court has rightly drawn plaudits.

He's led the Supreme Court with care and dedication, presiding over many important and complex cases, not least the Article 50 case.

So my Lord Mayor, I'd like to thank you and the City of London for your hospitality this evening and for the opportunity for me to reflect on the journey we have been on since last year's dinner.

It's been a momentous and challenging year, but I believe that while we face some real challenges in the negotiations that lie ahead we can also look forward with confidence to an exciting future for our legal services and for the judiciary here in the United Kingdom.

A future where our excellent legal services in London and right across the UK seize the opportunities presented by globalisation, in established markets and in the emerging economies of Asia, Africa and Latin America, confident that our judiciary will continue to be an exemplar of independence and expertise both here at home and right across the world.

So Ladies and Gentlemen, can I invite you to rise for a toast to the health of our kind and generous hosts this evening....to the Lord Mayor and Lady Mayoress.

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## **Press release: Asda has complied with its commitment to clear pricing**

After completing a review of Asda's improved approach to clearer pricing on offers, the Competition and Markets Authority (CMA) welcomes the steps taken by the supermarket to make promotions clearer.

Last summer the CMA, working in partnership with Trading Standards Services, identified that some promotional pricing used by supermarkets could mislead shoppers. The CMA followed up these issues with a number of supermarkets and their trading standards partners. The CMA raised specific issues with Asda, and Asda subsequently agreed to make changes to the way offers were advertised.

A year on, having reviewed and independently verified the data around these changes, the CMA is content that Asda has stuck to its commitments to clearly label offers and discounts.

Asda's changes mean that the supermarket does not display the 'now' price for longer than it displayed the original ('was') price.

There have also been changes to multibuy offers, to ensure that these always offer a saving when compared with a single product before the offer.

The CMA welcomes the positive changes made by Asda and is satisfied that Asda's pricing is clearer for shoppers. This means that the CMA has formally closed its case.

Further details about the CMA's investigation can be found on the [case page](#).

## Notes for editors

1. The CMA is the UK's primary competition and consumer authority. It is an independent non-ministerial government department with responsibility for carrying out investigations into mergers, markets and the regulated industries and enforcing competition and consumer law. For CMA updates, follow us on Twitter [@CMAgovuk](#), [Facebook](#), [Flickr](#) and [LinkedIn](#).
2. The CMA's work with supermarkets follows [its response](#) to a [super-complaint](#) made by [Which?](#) on 21 April 2015 regarding pricing practices in the groceries market.
3. The CMA has not made a finding on whether supermarkets' pricing and promotional practices have breached consumer law. The CMA or other enforcers may take enforcement action if there is evidence that pricing and promotional practices breach consumer law. Only a court can conclude whether a particular practice infringes the law.
4. The Consumer Protection from Unfair Trading Regulations 2008 (CPRs) came into force on 26 May 2008 and implemented the Unfair Commercial Practices Directive 2005/29/EC into UK law. The CPRs contain a general prohibition against unfair commercial practices, and specific prohibitions against misleading actions, misleading omissions and aggressive commercial practices. The CPRs are enforceable through the civil and criminal courts.
5. Trading Standards Services partners carry out responsibilities in relation to a particular business. Businesses can choose to form a partnership with a local Trading Standards Services (known as a primary authority). The primary authority scheme is a statutory scheme, administered by the Better Regulation Delivery Office within the Department for Business, Energy and Industrial Strategy (BEIS). One forum in which primary authority officers meet is the [Primary Authority Supermarkets Group](#).
6. BEIS [welcomed](#) the CMA's response to the super-complaint and set out some proposals relating to improving unit pricing for groceries, in line with the CMA's recommendations.
7. The CMA also made a [submission](#) to the Chartered Trading Standards Institute's consultation on the Pricing Practices Guide (PPG). CTSI published revised [Guidance for Traders on Pricing Practices](#) in December 2016.



8. Enquiries should be directed to Rebecca Cassar ([Rebecca.Cassar@cma.gsi.gov.uk](mailto:Rebecca.Cassar@cma.gsi.gov.uk), 020 3738 6633).
9. Media enquiries to the CMA should be directed to [press@cma.gsi.gov.uk](mailto:press@cma.gsi.gov.uk) or 020 3738 6798.

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## **Research and analysis: Future of the sea: industry perspectives on emerging technology**

This document summarises findings from interviews with 11 leading companies who are each exploring an emerging theme or trend that will shape the future relationship between the nation and the sea.

It then presents an analysis of the specific opportunities and challenges for the UK, based on the views expressed in the interviews.

This research was completed by the Government Office for Science, as part of the [Foresight Future of the sea project](#).

[Read an introduction to this thought piece on the Foresight Projects blog.](#)

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## **News story: Sir Mark Walport shares vision for UK Research and Innovation**

Professor Sir Mark Walport, Chief Executive Designate of UK Research and Innovation, has given a speech outlining the vision, objectives and next steps in development for the organisation.

### **Be the best research and innovation agency**

UK Research and Innovation will be formed in April 2018, bringing together the Research Councils, Innovate UK and a new body, Research England. The organisation's ambition is to be the best research and innovation agency in the world.

## **New approaches needed to deal with disruptive change**

Speaking in Westminster to a broad audience of research and innovation stakeholders, Sir Mark highlighted the strengths of the UK's current research and innovation system and bodies. He also detailed the challenges and opportunities arising from disruptive change in society, technology, research and business that mean the UK needs to develop new approaches and structures.

Sir Mark commented:

We are building on component parts of the funding landscape which, individually, are very strong, but there is considerable untapped potential for the whole to be much more than the sum of the parts.

We need to stimulate and reward audacity, ambition and agility, where imagination and innovation are actively encouraged and important proposals do not fall foul of artificial divides.

## **Measured by the impact it delivers**

Sir Mark explained that the success of UK Research and Innovation will ultimately be measured through the impact it delivers: through pushing the frontiers of human knowledge, delivering economic impact and creating better jobs and by supporting society to become stronger, healthier and more resilient.

## **View the full UK Research and Innovation announcement**

[UK Research and Innovation Live Stream](#)

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## **[Speech: Exceeding expectations](#)**

Dr Alan Hassey provides an update on the work of the National Data Guardian's Panel on understanding people's expectations on data sharing

Last December [I wrote an article](#) about some work that we've been doing on the [National Data Guardian's \(NDG\) Panel](#).

We've been looking at how health and care information needs to be shared for people's individual care and how to ensure there are no surprises for

patients and service users about this.

The article discussed implied consent, which is routinely used by health and care professionals as the legal basis to share information about patients and service users to make sure that individuals get the care they need. The article was called 'reasonable expectations'. This was a reference to the importance of ensuring that when information is shared on the basis of 'implied consent', it's important that this is done in a way that the patient or service user would reasonably expect.

The piece was published to provoke debate about an important issue, to open up discussion and help us decide whether any further work was needed to look at this subject. The response to the piece exceeded my own expectations.

It certainly did stimulate discussion and we are very grateful to all those who took time to reflect and respond. The viewpoints expressed were wide ranging. There were some who felt that the boundaries described to the use of implied consent were not restrictive enough. At the other end of the spectrum, some argued that the limitations described in the article would curb the flow of information in a way that would be against individuals' best interests.

The range of opinions reflects the continuing variation in understanding of how implied consent can and should be used in health and care. This is understandable. After all, a key question here is whether information is being used and shared in a way that meets people's reasonable expectations. And those expectations can and will vary and be influenced by a variety of factors. Perhaps most importantly, what efforts have been made to inform people about how information might be used and shared.

The need for more work to reach a consensus on this issue was highlighted in the [2013 Information Governance Review](#) led by Dame Fiona Caldicott prior to her appointment as National Data Guardian. It issued a recommendation for a piece of work to bring together the health and social care professional regulators to achieve this, which was echoed in the [report published a year later tracking progress](#).

In April this year, the [General Medical Council's \(GMC\) revised confidentiality guidance](#) came into force. This was updated after extensive consultation, during which the GMC heard that doctors wanted more clarity on the circumstances in which they can rely on implied consent to share patient information for direct care.

There are resonances between what the GMC revised guidance says about implied consent and the thinking that the NDG panel has been doing. The guidance will be very helpful to doctors on the ground, but we believe there is still a need for a greater consensus across the whole of the health and social care system about how to ensure that information is shared in a way that aligns with people's reasonable expectations.

To progress this, the NDG will be testing with members of the public what their expectations are around data sharing, what the boundaries should be and

think through how these expectations should be informed and assessed. To do this we will be undertaking a piece of public engagement work with partners – we will provide more details on our web pages later this summer. To help shape the questions and issues that should be put to members of the public, we will be holding a seminar with Sheffield University later this month to bring together clinicians, information experts, commissioners, lawyers and ethicists.

We're approaching this with an open mind, although I believe that running through this work will still be that vital test – would people reasonably expect how information about them is used and shared?