PRESIDENT OF THE FAMILY DIVISION

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1. May I begin, not only by thanking you for inviting me to give this keynote address, but also by emphasising the importance of an organisation such as Resolution both to family Law in general and to the judiciary in particular. I fully appreciate, of course and as your name suggests, that you are committed to the non-adversarial resolution of family disputes and it is an unfortunate fact, I think, that the Family Justice System has been grafted on to the adversarial common law structure, Thus, however inquisitorial we try to be, there are some issues of fact, particularly in public law, which have to be decided adversarially. The threshold criteria under section 31 of the Children Act 1989 is an obvious example, as is the fact of non-accidental injury to a child, which the parents deny. We have not found a different way of dealing with such issues, and the law relating to disclosure of documents to the police militates against frank admissions of responsibility for actions which may, in some cases, be both untypical and momentary

2. Nonetheless. I am acutely aware of the damage which ongoing adversarial litigation can do – particularly to children – and it is therefore very useful for me, as a judge, who has spent much of his working life in the adversarial system, to come to a conference such as this, which advocates a different approach. I am only sorry that I could not be with you yesterday in order to attend your workshops.

3. I acknowledge at the outset that you have an extremely valuable specialism and expertise. But I salute you not just because you embody the highest standards of your profession – which, of course, you do - not just for the innovations you have brought to the practice of family law - though they are numerous - it is also for the fact that you are on the front line - indeed you are the front line where the public is concerned - and it is also for the fact that you provide sound, sensible and above all realistic advice to and (where necessary) advocacy for your clients, as well as steering them skilfully though the emotional maelstrom on which they have embarked, or into which they have been thrown. This is a point to which I shall return.

4. It is almost impossible to persuade non-family lawyers that family practitioners do not undertake the work for financial gain, whereas we all know that the reverse is the truth. Many solicitors who undertake child protection and care work, as I know, are effectively subsidised by their partners in other fields: some only survive by doing work in bulk: some have had to cease practice because they cannot meet their overheads. This is an enormous shame, as such solicitors act for some of the most disadvantaged members of society. This, again, is a point to which I will return.

Divorce

5. Let me say a word first of all about divorce. I was a member of the Lord Chancellor's Advisory Board which was set up under Sir Thomas Boyd-Carpenter to advise on the implementation of the Family Law Act 1996, which introduced no fault divorce. You will, I am sure recall the history of this legislation. A good Law Commission Bill, which had been examined by a House of Lords Committee, emerged in the dying days of the Major administration as an Act with a number of hastily agreed amendments. Despite this we recommended implementation, but notwithstanding the advice of the Advisory Board, the then government decided not to implement the Act. By way of aside, I note that Family Law is littered with Statutes which have never been brought into force – the latest example being Part 2 of the Children, Schools and Families Act 2010. But that is for another occasion.

6. My position is very simple. I am a strong believer in marriage. But I see no good arguments against no fault divorce. At the moment, as it seems to me we have a system – so far as divorce itself is concerned – which is in fact administrative, but which masquerades as judicial. No doubt this has its roots in history. In the nineteenth century and for much of the twentieth, divorce was a matter of social status - it mattered whether you were divorced or not, and if you were, it was important to demonstrate that you were the "innocent" party. All that, I think, has gone. Defended divorces are now effectively unheard of. The allegations in a petition under section 1(2)(b) are rarely relevant to any other aspect of the process, and if used in proceedings for ancillary relief have to be separately pleaded, and even then are only relevant if stringent criteria are attached to them.

7. As a student, of course, I grew up with the three Cs – connivance, collusion and condonation. All those have gone. It seems to me, therefore, that the time for no fault divorce has also come.

Legal Aid

8. Let me turn to legal aid. As you know better than I, the government has decided to take most areas of private family law out of the scope of legal aid as a means of reducing the legal aid bill and thus the nation's deficit. Like the recent report of the Civil Justice Council entitled *Access to Justice for Litigants in Person (or Self-Represented Litigants)* I work on the premise that the changes in Legal Aid, not least the removal of most Private Law Family Proceedings from scope, are going to happen. In this paper, I propose to identify a few of the concerns which I have. Doubtless you will have others, as identified in your survey of this subject. I apologise if I do not cover them. I will, however, deal with my concerns under separate headings.

Litigants in person

9. We are undoubtedly going to see a substantial increase in litigants in person, or "self-represented litigants" (SRLs) as we must now learn to call them following the report of the CJC of November 2011. LIPs or SRLs – as we know

- come in all shapes and sizes. Some are very good. But as a rule of thumb, there is no doubt that they slow us down few, for example, can cross-examine or understand the process of cross-examination. The common law adversarial legal system, as the Civil Justice Council points out, reflects the assumption that lawyers will be involved. And SRLs are likely to be adversarial in their approach.

10. Although the CJC report was written primarily with the remit of the civil jurisdiction in mind (as opposed to criminal and family) much of what it says, and the conclusions it draws, apply equally if not more so to the practice of family law. Certainly in the Crown Court most defendants are legally represented. In the private law family courts, those who wish to litigate and who cannot afford legal representation will be SRLs – and SRLs often with the most difficult and intransigent cases.

11. It is difficult to disagree with paragraph 12 of the Report, which states: -

> The forthcoming reductions and changes in legal aid will have the most serious consequences. This is not simply because of their scale, it is also by reason of their design and incidence. Among other things they will have a disproportionately adverse effect on the most vulnerable in our society, Moreover, the reductions and changes in legal aid are taking place at a time of reductions in local authority contribution to the funding of advice agencies, and reductions in staff, venue and infrastructure at HMCTS.
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> The report goes on: -
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> 15. Every informed prediction is that, by reason of the forthcoming reductions and changes in legal aid, the number of SRLs will increase, and on a considerable scale.....

12. In family law, as I have already indicated, it is likely that the SRL who litigates will be the most intransigent. This, I think, is because the government's emphasis in private family law disputes is towards alternative dispute resolution (ADR). Please don't misunderstand me. I am strongly in favour of

ADR, as, of course, are you, and I have no doubt that there are many mediators in this audience. Furthermore, I have long been of the view, and have often said, that the adversarial atmosphere of the court room is not the best place to solve complex family disputes; indeed, the Private Law Programme (the PLP) is designed so as to encourage litigants to resolve their disputes by ADR. I know this is a subject of particular interest to you, and I am very glad that you are keeping Mr. Justice Ryder up to date with your thoughts on mediation issues and the interaction of the family courts with other forms of dispute resolution.

13. However, if the SRL is not suitable for mediation, and resists ADR he, and it normally is he, will litigate. Cases will take longer and become more difficult. I recall a grandparents' application for contact last term which only finished within the working day because one of the parties stormed out of court. If the parties had been represented, it would have been over in an hour – if, indeed, it had been litigated at all. When I sat as a JP in Wrexham last term doing an exclusively private law list, most of the parties were represented by local solicitors, and the time saved by them (not least in the drafting of orders) was incalculable. I can deal with certain Court of Protection appeals in writing, without an oral hearing. With a litigant in person as the appellant, however, I felt constrained to order an oral hearing – to last a working day.

14. These are just a few examples taken at random. I have no doubt you could multiply them. My thesis, of course, is that although good lawyers cost money, they also save it.

Advice

15. I think it worthwhile to point out one of the key recommendations of the CJC report : -

> The most important thing for SRLs is access to objective advice that can be trusted. Above all, advice about merits, and risks (including costs), but also about process. As a result, every effort should be made to increase the availability and accessibility of early advice of this type,

> including on a paying basis for those litigants who can afford a piece of advice but not to engage lawyers for the whole case.....
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> In regulation the task is to facilitate affordable access to lawyers for discrete pieces of advice rather than a whole case, while retaining safeguards against exploitation.....

16. These are points which are well made, but they nonetheless trouble me. I agree that what the would-be family litigant needs above all else is good advice of the type he or she will invariably receive from Resolution. Some legally aided litigants will get it as part of the mediation process Although my understanding is that mediators –even lawyer mediators - do not give advice – they rely on the parties' lawyers for that – but my fear is that the majority will not get the advice they need.

17. It is, I think, ironic that the Private Law Programme, with its First Hearing Dispute Resolution Appointment (FHDRA), its Parenting Education Programmes (PEPS) and its general emphasis on ADR should be seen as inimical to the Pre-Action Protocol and the Meeting with a Mediator for Information about mediation (known as MIAMS). What I fear, in short, is that mediation and even ADR will be for the few, and that most SRLs will litigate.

18. May I, incidentally, apologise for the fact that MIAMs are not working as they should in certain parts of the country. The position is that the Government insisted on the "pre-action protocol" with every would-be litigant going to a MIAM as a pre-condition of instituting proceedings. At the same time, the government refused to make attendance at a MIAM compulsory, on the ground that compulsory mediation was a contradiction in terms. The result, in some places, has been that the pre-action protocol is not being followed.

19. I commented a moment ago on the irony that the private law programme within proceedings should be seen as inimical to the pre-action protocol outside proceedings. What – and this is pure anecdotal – was happening in

practice was that at the FHDRA the judge or district judge, if he or she thought the case should be the subject of mediation, would suggest to the litigants that they should talk to the mediator who was at court. My understanding is that some mediations began in this way.

20. It may not be appropriate for the matter to continue in this way, particularly with parties who are not eligible for legal aid. I recently received a note from a district judge stating what where – perfectly reasonably - the mediator at court had wanted to charge a fee, the litigant had refused to pay, having already, of course, paid a court fee of £200. The result, it was said, was that cases at the FHDRA were taking significantly longer, with the likelihood that the number listed on any one day would have to be reduced. This, it was argued, would have a serious knock on effect on waiting times. Furthermore CAFCASS, which currently provided one officer for each appointment would be unlikely to have the resources to provide two officers to manage the lists effectively. With the significant reduction in the parties mediating there was a likelihood of more section 7 reports being ordered, and more contested cases. altogether, a worrying picture.

21. Part 3 of the FPR 2010 is headed "Alternative Dispute Resolution: The Court's powers". I will not read it to you, as I am sure you are very familiar with it. As its title suggests, it contains the court's powers to encourage the parties to use ADR and to facilitate its use. As important, in my view, is rule 1.4(2)(e), which makes it part of case management in appropriate cases for the court to encourage the parties to use ADR. All this is complementary to the Overriding Objective in rule 1.1. Your aim must be to encourage the court to make proper use of these powers.

Domestic Abuse

22. My third anxiety is about domestic abuse, which remains one of the hidden scourges of our society. We all know that it can take a myriad of forms from the physical assault which results in murder or serious bodily injury to the psychological damage which can wreck lives. It remains an area cloaked by shame and secrecy. I was not, therefore, surprised to see a workshop about it

in your programme, and the neutrally described "update of the domestic violence to legal aid for family proceedings". It is very much to be hoped that the well wrung concessions about the definition of domestic abuse and the acceptance of undertakings as opposed to orders will survive the Bill's return to the House of Commons. I am sorry that I was not able to go to the domestic abuse workshop, but pleased that I will be able to go instead to the workshop on the future of Family Legal Aid.

23. Domestic abuse is an area which is extremely difficult for the lawyer. I see that the workshop specifically referred to "screening" and to the identification and securing of evidence. Nobody should be under any illusions about either the difficulty or importance of this task, and I pay tribute to the pioneering work done by Resolution in this field.

24. The only positive I can advance is that certainly in London there has been a sea-change in the attitude of the police and others to domestic abuse. No longer are complaints dismissed as merely "domestics". There is still, however, a mountain to climb, and any form of complacency is not appropriate.

25. I hope that the sea-change has also reached the judiciary. I am still haunted by a case we heard in the Court of Appeal in which the mother of the child concerned, who spoke no English, barely knew where in England she was, and who had no money, was forced to flee from the home of her in-laws after she had overheard a plot to murder her.

26. When I addressed the national Resolution Domestic Abuse conference in October 2010, I was pleased to see both a judge and a police officer amongst the speakers. The Children Act Sub-Committee of the Lord Chancellor's Advisory Board investigated domestic abuse in the context of parental contact post separation, and later I investigated five cases in which children had been killed on court ordered contact visits. The amendment to the definition of harm in the Children Act 1989 has helped, but I readily acknowledge that the

position remains extremely difficult for the front line lawyer both in terms of obtaining the evidence and, of course, in relation to mediation.

27. The leading case in the Court of Appeal in *Re L, V, M and* H in 2000 put domestic abuse firmly on the judicial map, but did not make it any easier for such cases to be resolved. We now have the *Practice Direction*, more honoured, I suspect, in the breach than the observance. I very much hope that the changes in Legal Aid will not undo the painstaking and gradual recognition of domestic abuse, and I wish those of you who will have to deal with the issue in the new world well.

Cross Examination by SRLs

28. One of the features of the removal of legal aid which troubles me in this area is the fact that a self-representing litigant who is the alleged perpetrator of sexual abuse or violence will be at liberty to cross-examine the alleged victim of that abuse. In the criminal law this is simply not possible: - see (inter alia) the Youth Justice and Criminal Evidence Act 1999. In the case of *H v L and* R[1] Wood J pointed out –

> The problem arises most acutely, but not exclusively, in private law proceedings. There is an increasing body of litigants in person, either from choice, or for lack of means (and in the absence of public funding). Thus, it seems to me, that the case I was trying is not likely to be unique, although it will be a comparative rarity.

29. This was, of course in 2006, before the proposed change in legal aid, Nonetheless, it is, I think, impossible to disagree with Wood J's concluding paragraph: -

> 25. I would invite urgent attention to creating a new statutory provision which provides for representation in such circumstances analogous to the existing statutory framework governing criminal proceedings as set out in the 1999 Act. Such a statutory provision should also provide that

[1] [2006] EWHC 3099 (Fam); [2007] 2 FLR 162

the costs of making available to the court an advocate should fall on public funds. I can see no distinction in policy terms between the criminal and the civil process. Logic strongly suggests that such a service should be made available to the family jurisdiction. If it is inappropriate for a litigant in person to cross-examine such a witness in the criminal jurisdiction, why not in the family jurisdiction?

30. The problem has also arisen more recently in relation to the evidence of a vulnerable witness, and the need for an intermediary to be funded to enable the witness to be called[2]. I am glad that in its response to the Family Justice Review, the government accepts (subject to further work) recommendation 127 that "the government and the judiciary should actively consider how children and vulnerable witnesses may be protected when giving evidence in family proceedings".

31. These are some of the anxieties I have about the withdrawal of legal aid from Private Law Family proceedings. I am sure you will have others, not least the lack of funding for legal advice. True, of course, many of you are mediators, but as I have already said, my understanding is that mediators do not give advice: they rely on the parties' lawyers for that.

Care Proceedings

32. My particular interest lies in care proceedings. These, of course, will remain publicly funded – indeed, the system would collapse were public funding withdrawn. Research demonstrates that the defendants to care proceedings (nearly always but not invariably the parents of the child or children concerned) are amongst the most disadvantaged.

33. The manner in which care proceedings will be conducted is going to have to change following the final report of the Family Justice Review and the government's acceptance of its recommendations. This will involve a huge culture change for the judiciary. At my conference for the Designated Family

[2] LA v X and others [2011] EWHC 3401 (Fam) Theis J

Judges in May 2012, Ernest Ryder J, whom the Lord Chief Justice and I have appointed the judge in charge of the Modernisation of Family Justice, Kevin Sadler, the HMCTS Director of Civil, Family and Tribunals and I, amongst others, are going to have to persuade the DFJs and invite them to persuade their circuit and district bench colleagues with public law family tickets, that they must case manage, practise judicial continuity and conclude their cases within a shorter time-frame.

34. I know and am very grateful for the fact that you have been engaging with Ryder J in his work on the Family Justice Modernisation Programme to assist the judiciary in developing the changes and improvements which the judiciary can bring about in the family courts. I am aware that you have briefed him on your position on the various Family Justice Review Panel recommendations, as well as on your member survey on the impact of the legal aid reforms which will inevitably impact on the judiciary, family court users and the wider family justice landscape. You are also keeping him up to date on mediation issues and working with him particularly on the interaction of the family courts with other aspects of dispute resolution, including the development of specimen ADR directions for use by the judiciary. I am confident that you will continue to engage Ryder J and others as recommendations are developed and implemented, including the need to ensure that your member training reflects the changes going forward and that you take opportunities for interdisciplinary training with the judiciary. I know that Ryder J both welcomes and values your assistance.

35. Gone are the days when the judge could be the arbiter of a dispute brought to him by the parties. We are all now case managers. And continuity of representation is equally important. The same advocate knows the client and the case better then most. Each player in the multi-disciplinary framework will have to play his or her part effectively.

36. I was very interested to read the research undertaken by Julia Pearce and Judith Masson entitled *Just Following Instructions? The representation of parents in care proceedings.* The report was highly critical of the judiciary,

and its failure to implement the Public Law Outline, but it was largely complimentary about solicitors, although it contains some worrying assertions.

37. I only have time, of course, to mention some of its "Summary of Findings". In the cases which the researchers observed, the lawyers worked co-operatively together to operate a consensual process of project management, although there was, the researchers said, little independent oversight or control. There was a shared ethos: the removal of children from their parents' care was perceived by the lawyers as draconian and weighed heavily on them with the consequence that what is described as "a culture of settlement" was tempered by the ethos that parents should have "every chance" to contest the proceedings. This latter finding does not sit easily, I think, with the finding that lawyers advised their clients to concede where the local authority's case was strong *and* the clients were considered too emotionally fragile to cope with contesting it. It is certainly my understanding that many care proceedings are not, in the end, contested.

38. Under the specific heading *Solicitors* there are many positives. There was a high degree of specialisation: more than half the solicitors interviewed were partners in their firms, reflecting the perceived importance of the work. Sadly, I think, the population of solicitors handling care proceedings appeared to be an aging one – with few younger solicitors opting for this area of work. Those who were on the Children's Panel saw their membership as crucial to the quality of their work, but two thirds of these were equally happy to represent both parents and children, taking the view that a mixed case load was essential to their understanding of the perspective of both parties.

39. The researchers found that not being on the children's panel did not necessarily indicate a lack of experience: some very experienced solicitors preferred to act only for parents and not to join the panel. Everyone agreed that representing parents was the more difficult task not least because of their clients' frequently chaotic lifestyles and failure to attend appointments. Very heavy workloads were sustained through deep interest and commitment.

There were high levels of motivation "arising from a combination of the intrinsic challenge and interest of the work itself together with a sense of public service and social justice". Most solicitors worked long and unsocial hours and generally felt unable to control the amount of work required in the individual case, taking the view that it was led by their clients, the other parties and the court.

40. Perhaps the last five findings should be cited in full:

- Most solicitors currently engaged in the work expected to continue despite changes in legal aid, working longer hours to maintain income. It was generally accepted that a career in legal aid funded work meant that solicitors would earn only a fraction of what they could expect from privately funded work.
- Solicitors generally disliked fixed fees, preferring to be paid for work actually done. The notion of swings and roundabouts was not considered to be a realistic model in public law given the lower volume of cases handled by individual firms (in comparison to criminal law).
- There were signs that excessive demands from rising case numbers were overwhelming some solicitors, tipping them into a state of frustration and demoralisation, with some turning away new clients towards the end of the study.
- Some solicitors responded to the new funding regime by ensuring that they did their own advocacy as much as possible to top up fixed fee payments.
- A small number of firms appeared to be re-organising office systems to handle cases on a production line basis towards the end of the study period.

41. Finally, for my purposes, the report concludes by noting that continuity of representation was highly valued by solicitors, although hard to achieve in practice. Lack of continuity in representation raised legal costs and appeared likely to make court a more stressful experience for parents.

42. I do not know how accurate the public lawyers among you think this is. Much of it, I have to say, resonates with me. It is, however, sufficient to my mind to nail three particular *canards* about solicitors who undertake publicly funded Children Act work. Those *canards* are; - (1) that you are only in it for the money: (2) that the work is easy; and (3) that you operate in a corrupt system the main function of which is to assist in the removal of children without good reason from their God fearing and long suffering parents. Although critical of the system, the Family Justice Review (FJR) also praised the dedication and industry of those who work within it. The views I have set out under (1) to (3) above are held by some members of the public, and are plainly wrong. As I have already said, but it bears repetition, I know that Ryder J is very grateful for the positive way in which you have engaged with his modernisation project

Ancillary relief

43. May I finally turn to ancillary relief. On this topic, the withdrawal of public funding causes me to worry that district judges in particular are going to have to grapple with cases of ancillary relief without the assistance of lawyers. Everything which I have said about children's cases applies here with equal, if slightly different force, although I acknowledge that ancillary relief has never been my *forte*.

44. I recognise, of course, that the successful practice of ancillary relief is enormously difficult, and that is the reason perhaps why it has never been my *forte*. When I was at the bar I was in a number of the leading cases like *Duxbury* and *Edgar* and, I am ashamed to say the now grossly discriminatory case of *Gojkovic*. I also have to admit that I advised Mr. Edgar not to appeal against Eastham J's award of a lump sum –advice which, had he followed it - would not only have deprived the world of a leading case, but would have spared him a great deal of the consequential litigation which followed his success in the Court of Appeal.

45. I see that at least two of your workshops deal specifically with ancillary relief. I had better pass quickly over *Jones v Kernott*, since although I was in the

majority in the Court of Appeal, we lost 5-0 in the Supreme Court. In my own defence I would like to have upheld the judge, and had the case been under section 24 MCA 1973. would have done so. In any event, we gave leave, and the Supreme Court found a way to give Ms Jones her proper deserts. Perhaps I ought to attend the workshop to find out what the case is really about.

46. In the majority of "big money" cases, the parties are represented by specialist solicitors such as yourselves, and sometimes leading counsel. Costs in some cases are not an issue – at any rate between the parties. What worry me are the smaller cases where there is no representation, where, for example, the husband gives no, or inadequate disclosure or where there is a serious imbalance between an impoverished wife and a better off husband. The difficulty is compounded, of course, if neither side receives sensible advice,

47. In the recent case of *Jones v Jones,* I felt unable to leave it without commenting:

> ..... it seems to me unfortunate that our law of ancillary relief should be largely dictated by cases which bear no resemblance to the ordinary lives of most divorcing couples and to the average case heard, day in and day out, by district judges up and down the country. The sums of money – including the costs - involved in this case are well beyond the experience and even the contemplation of most people. Whether the wife has £5 or £8 million, she will still be a very rich woman and the application of the so called "sharing" and "needs" principles may look very different in cases where the latter predominates and the parties' assets are a tiny percentage of those encountered here.

48. I am not going to detract from the erudition displayed by Wilson LJ (as he then was) in that case, nor am I going to minimise the very real difficulties which ancillary relief cases throw up, some of which you are discussing in your workshops. I have to say, however, that I recall Ormrod LJ giving judgment in the case of *Martin v Martin* [1978] Fam 12 at 20 a case in which, somewhat to my surprise, the Court of Appeal upheld an order of Puchas J, who had reversed Mr. Registrar Tickle after the latter had

ordered the former matrimonial home to be sold and the proceeds equally divided. Thus the Court of Appeal, rejecting the argument that the wife should look for local authority accommodation, allowed Mrs Martin, my client, to go on living in the property until her death or re-marriage, whereupon and only then was it to be sold and the proceeds equally divided.

49. My outraged opponent asked the question ancillary relief lawyers have always asked, both before end since. "How can I advise my client when you go and do a thing like that?" This is the answer he got: -

> ..... I appreciate the point he had made, namely, that it is difficult for practitioners to advise clients in these cases because the rules are not very firm. That is inevitable when the courts are working out the exercise of the wide powers given by a statute like the Matrimonial Causes Act 1973. It is the essence of such a discretionary situation that the court should preserve, so far as it can, the utmost elasticity to deal with each case on its own facts. Therefore, it is a matter of trial and error and imagination on the part of those advising clients. It equally means that decisions of this court can never be better than guidelines. They are not precedents in the strict sense of the word. There is bound to be an element of uncertainty in the use of the wide discretionary powers given to the court under the Act of 1973, and no doubt there always will be, because as social circumstances change so the court will have to adapt the ways in which it exercises discretion. If property suddenly became available all over the country many of the *rationes decidendi* of the past would be quite inappropriate.....

50. For "trial and error and imagination on the part of those advising clients" read, I suspect, "fairness" and "non-discrimination" with a cross-check against equality. Certainty is the ancillary relief lawyer's Holy Grail, and I fear it will never be achieved, for all the reasons Ormrod LJ gave, unless, that is we have a civil law regime, which I do not see happening, at least in the short term. I see that the issue is to be the subject of the Law Commission's involvement, and I await their views with interest.

51. In my own defence, let me say that I did try to clarify the law when I was at the bar. In *Gojkovic* I told the Court of Appeal that it was no good them complaining about the high incidence of costs in ancillary relief cases if they declined to lay down rules for how much a party should receive. This is the answer I received from Russell LJ: -

> In his opening submissions to this court (Mr Wall) for the husband, invited us to lay down guidelines which would, he said, be of assistance to those charged with the responsibility of deciding what, after divorce, is the appropriate level of lump sum payments in cases where very substantial capital assets are available. I do not think that such an exercise is possible. The guidelines already exist....

52. The open offer which we made in *Gojkovic*, as I recall, was the purchase of suitable accommodation plus a *Duxbury* lump sum for income. Plainly I need to go to the workshop on pension and tax issues, where I see you ask the questions "*Duxbury* time for another look at these tables? Should we still be relying on them?"

Conclusion

53. I have been looking at your workshops. In conclusion, I could spend a whole paper on addiction and substance abuse and the way it is being tackled in FDAC (the Family Drugs and Alcohol court) by Nicholas Crichton. I also need to understand the new EU Maintenance Regulation which, hitherto, I have handed over to Officials to deal with, let alone "grudgeology" and non-verbal body language. In short you are spoilt for choice. It was ever thus at conferences.

54. The next few years are going to be very difficult for all of us, but for you in particular. Let no-one pretend otherwise. If the next generation of family lawyers is lost in the process it will be a tragedy which it will take many years to repair. But my instinct is that you will survive, and that when my successor comes to address this conference (a) there will indeed be a conference for him

or her to address; and (b) that you will still be fighting for the disadvantaged, whatever is thrown at you.

Thank you very much.