

Jonathan Fisher QC



Job title

Silk, Devereux Chambers

Devereux Chambers, a civil and commercial set, specialises in insurance and reinsurance, professional negligence, tax, employment law, telecommunications, finance, energy, sport, education, personal injury, clinical negligence and health and safety law.

You have been chosen to advise the Treasury Committee in an investigation surrounding the Libor scandal. What exactly is your role?

I have been advising the Treasury Committee on the existing regulatory framework, and in particular, the civil and criminal enforcement aspects. Also, I have been offering some assistance on the handling of evidence presented to the Committee. I had better not say anymore – it would breach legal privilege!

What are your views on the fast changing regulatory landscape?

It is clear that the “light touch” approach has not worked and a more enforcement led approach needs to be taken. But regulators must be careful not to throw out the baby with the bath water. If market participants become unduly constrained at a national level, it will encourage financial business to relocate, and in the UK’s present financial predicament this would be seriously damaging. In my view, we need to concentrate on two areas. First, we must encourage a more responsible corporate culture which discourages market participants from acting dishonestly or recklessly. Secondly, we must ensure that when instances of dishonesty or reckless

trading emerge, we hit the individuals as well as the financial institutions extremely hard both civilly and on occasion criminally. Legislative reform will be necessary, and the Coalition Government is right to be considering provisions for inclusion in the Financial Services Bill which would expand the application of the criminal law to secure greater protection for bank depositors as well as punishing market participants who break the rules.

How have you found your transition from the Criminal Bar to the Commercial Bar?

Unquestionably there has been a period of transition but the extent of movement in my practice is not as great as you might think. I have specialised in concurrent jurisdiction work for many years and I have always had strong advisory practice running alongside my Court work. I appreciate the contemporary need to specialise in one or two areas of practice, but in my view it is an unwelcome development. The forensic abilities of a good barrister should transcend the area of practice. There are some extremely engaging liars giving evidence in our civil courts and tribunals, and there are also some exceptionally complicated issues of criminal law and procedure which have to be argued in the appellate courts.

Do you have any difficulty combining professional practice with your academic life at LSE?

Not so much difficulty - it is a professional lifestyle choice. A serious academic commitment, with responsibility for two modules on a postgraduate programme at one of the world’s leading law schools, is not to be taken lightly. Although I lecture in the evenings, the commitment means I cannot accept a case north of Birmingham which would run for more than a few weeks. But with the type of practice I have, this is not a problem. I wish practitioners and academic lawyers would draw closer together because there is so much they can contribute to each other.

Who has been your most memorable client?

The nicest memory has to be the late 5th Baron Grey of Codnor whom I represented before the Committee for Privileges in the House of Lords. At the time Lord Grey was in his mid-80’s and his family’s peerage had fallen into abeyance in 1496. Lord Grey was a most engaging client, wanting to

terminate the abeyance in order to establish his links with his ancestors and England’s history. It was a marvellous case because we had to establish the family descent from the time of Edward I. Much of the case turned on a consideration of heraldic evidence and we were assisted greatly by Somerset Herald, now Garter Principal King of Arms. The Barony has now passed to the 6th Baron and there is an heir apparent. But no longer with a right to vote in the House of Lords!

What has been the best moment in your professional life?

Taking Silk, without doubt.

What have been your worst moments at the Bar?

I have had so many. There was the occasion when the late Geoffrey Lane lost his temper with me whilst mitigating on behalf of a kidnapper when, as Lord Chief Justice, he was presiding as a first instance Judge at the opening of Chelmsford Crown Court. And then there was an awful moment when, very early in my career, my leader could not appear in the House of Lords and I had to present the case in his place. At one point in the argument the late Lord Bridge asked me for the implementation date of the relevant statutory regulations and I did not have a clue. When I said so, he subjected me to an excoriating lecture on how to prepare for a case in the House of Lords and not waste their Lordships’ time! The experience is seared in my memory and I bear the scar.

Have you enjoyed your work as one of the Commissioners on the Bill of Rights Commission?

Without doubt, involvement with the Commission on the Bill of Rights has afforded me an opportunity to work with wonderful professional colleagues and the best civil service lawyers you could wish to come across. The issue is an extremely important one and I hope very much that the Commission’s work will confound the soothsayers and make a valuable contribution in this area.

If you had not become a lawyer, what would you have liked to do?

I am sure I would have been either an historian or an antiques dealer. ●

Jonathan Fisher QC was interviewed by Guy Hewetson of Hewetson Shah