

chaired by Dominic Grieve, QC. "We are here only to deal with complaints that are brought before us — whether by individuals or NGOs," he says.

He has had unprecedented insight into how the intelligence agencies operate, and on balance his verdict is favourable. "It is a question of holding the ring between privacy and protection — highlighted in the recent BBC series *Bodyguard* by the fascinating clash between demonstrators who see the laws as a snooper's charter and the home secretary who wanted to increase those powers. We are here to balance the two." However, he adds: "The author of *Bodyguard* did not know about our tribunal; he would have seen that a lot of these complaints being made by demonstrators we have addressed." Nor, he adds, are people in

we give an open judgment and the conclusion is then applied to the actual facts, heard in private. It is unique in the world." That was in 2013: in the past three years the tribunal has held more than 40 days of open hearings and delivered 19 detailed judgments.

The second reform was to appoint counsel to the tribunal on every important security case and to make orders for disclosure. "If the complaint was over the gathering and collection of bulk data, we would assume that's what they were doing, and order disclosure under the supervision of counsel of those rules," Burton says. "They redacted what was necessary, but for the first time the rules that the security services operate within were out in the open, so one could see if they complied with article 8 [of the Human Rights Act, which

in carrying out "hacking" and most recently the collection by the intelligence

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agencies of bulk data, a practice revealed in 2015. All disclosed the procedures under which the agencies operated for the first time.

Burton pays tribute to the NGOs for those cases, leading to key rulings in which the rules — over bulk data collection, for instance — were found to be unlawful. The rules have since changed and the Regulation of Investigatory Powers Act 2000 (Ripa) has been replaced by a regime with

procedures they have followed.

Of Snowden he says: "Obviously I think he's terrible, he's a traitor, but he has revealed matters that needed to be looked at. We now know much more about what they do and that is obviously good. It is an incredibly stressful job. Every time you think that the consequences of our judgments could be lives lost. One has to be very careful not to identify [agency] methods."

This week the tribunal will look at a complaint about undercover policing. It has referred its first case, on bulk communications, to the European Court of Justice — the tribunal found the agencies since 2015 were human-rights compliant, but Privacy International argues they are not not compliant with EU law. A challenge is also heading to the Supreme Court over

Sir Rabinder Singh, the appeal court judge, to consider. Burton, 71, is back at his old chambers, Littleton, as an arbitrator and mediator. He also chairs the disciplinary tribunal of the Royal Institution of Chartered Surveyors.

A keen actor, his room is full of photos of his roles and of art by his wife, Corinne, who died of cancer in 1992, leaving him to raise their four daughters. Another picture is of his father, also a silk, who was killed in the Harrow and Wealdstone train crash in 1952 when Burton was five. "The same age as my youngest daughter when my wife died. So I've been a single-parent family these two generations running." He will miss chairing the tribunal, which he joined at its inception in 2000 as vice-president. "It was my baby." Whatever comes next, he clearly won't be idle.

Leading defence barrister warns there will be more strikes

The criminal justice system is in "crisis" with morale among judges and lawyers at an all-time low and "squalid" courts, one of the country's leading defence barristers has warned, *Catherine Baksi writes*.

William Clegg, QC, who has acted in some of the most high-profile murder trials in nearly 50 years in practice, representing Colin Stagg and Michael Stone, said that successive cuts of 40 per cent to the Ministry of Justice's budget means the "courts are in crisis and the profession is in crisis".

Clegg, who sits as a part-time judge, outlines his views in his book *Under the Wig*. He said: "If you go to any crown court today in London, you'll find lavatories that are blocked and don't work, lifts that are broken, carpets that are

threadbare, roofs that leak, walls that need painting — they are squalid." He compared this with "third world" countries where the "courts are kept immaculately clean". The condition of this country's courts, he added, is "indicative of the lack of respect for the rule of law".

Staffing cuts at HM Courts & Tribunals Service have been a false economy, he said, causing inefficiency and delay. "I've sat recently as a judge and I couldn't start because there was no clerk to begin the proceedings and no usher available, and I've known cases where you can't send the jury out because there's no usher to take the oath."

The 40 per cent cuts to the legal aid budget have "damaged our

system of criminal justice" and created the risk of a two-tier system, where those who cannot afford to pay privately will get a substandard service that will inevitably result in miscarriages of justice.

The falling rates, Clegg said, meant that when he represented Barry George in his retrial after being wrongly convicted of murdering the TV presenter Jill Dando, he was paid roughly half what Michael Mansfield, QC, had been paid for defending the first time round, and that he would be paid about half again today.

"If Barry's solicitors had come to me now, I would not be prepared to act in his case; the experts that I instructed would likewise refuse to act. If Barry George were retried now, would he get justice?"

The cuts mean that only the wealthy can afford to do legal aid work, setting the progress made to increase diversity in the profession back by 30 years. There is also "a great deal of anger in the profession" over the recent funding deal struck with the Ministry of Justice over crown court fees. Proposed cuts to the advocates' graduated fee scheme led to strike action earlier this year, halted by a promise of more money, which the profession claims the MoJ misrepresented.

Barristers, he said, "don't feel that the government is playing fair with them, and that it will say anything to get you back to work and then renege on it". He predicted that without more money, barristers will take further protest action — "downing tools for a day, then

refusing new cases and returns, which he said "will very soon bring the whole thing crashing down".

On a lighter note, Clegg suggested that barristers and judges in criminal cases ditch their traditional horsehair wigs: they "look ridiculous" and are a hangover from a time when poor health meant wigs were the norm. "The thought that you have to put part of a horse on your head to appear in a criminal trial is absurd."

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