Dear Colleagues,

STATEMENT ON THE DEFAMATION ACT 2013

I am sorry not to be able to attend in person today, however I am grateful for the opportunity to share some of my reflections on the Defamation Act 2013 with you.

We introduced this legislation because we took the view that the law was not in the right place, and that a rebalancing was needed to secure more effective protection for freedom of speech. My priority throughout the process was to produce a piece of legislation that worked and that helped in achieving that rebalancing, whilst at the same time recognising the importance of ensuring that people who have been defamed are not left without effective remedies where their reputation has been seriously harmed.

I know that the Act does not contain absolutely everything that the Libel Reform Campaign wanted. However, I do believe that it contains a series of measures which will provide valuable support for freedom of expression. It introduces a tougher ‘serious harm’ test to discourage trivial claims (which in the case of bodies trading for profit will only be met by showing actual or likely serious financial loss); brings in a single publication rule so a publisher can't be repeatedly sued about the same material; takes action to address libel tourism by restricting claims from being brought in the English courts where the defendant is not domiciled in this country; and gives greater protection to website operators and other secondary publishers such as booksellers and newsagents.

The Act also provides simpler and clearer defences to those accused of defamation, and makes these more readily available outside mainstream media cases - including a new statutory defence for publications on matters of public interest in which I know many of you attending today took a very keen interest.

One of my key aims at the beginning of the process was to assist scientists and academics. Therefore it is a source of particular personal satisfaction for me that we have taken specific action to help encourage robust scientific and academic debate - both by creating a new defence for peer-reviewed material in scientific and academic journals, and by extending qualified privilege to reports of scientific and academic conferences.
Whilst enactment is a very significant step down the road it is of course not the end of the process. My determination to ensure that the new legislation is effective extends to a desire to see that the section 5 regulations are passed through Parliament successfully; and that the new costs protection regime for defamation and privacy cases and other necessary changes to the Civil Procedure Rules are introduced to ensure that people with limited resources are not put at a disadvantage and that cases can be resolved as quickly and cheaply as possible. Work is being taken forward on these aspects to ensure that we can commence the Defamation Act 2013 before the end of this year.

I congratulate you on the effectiveness of your campaign and what you have achieved, and I know that we will be able to count on your continued engagement as we bring the Act into effect.

Yours Sincerely,

[Signature]

LORD MCNALLY