



The Law
Society

Our vision for law and justice 2018



Foreword

The jurisdiction of England and Wales is one of the most respected in the world for its transparency, certainty and flexibility. English and Welsh law is the most commonly used law by international business and for dispute resolution.

The solicitors' profession forms an essential part of the administration of justice by upholding the rule of law and makes a significant contribution to the economy, communities and society.

By working with politicians across all parties, the Law Society of England and Wales seeks to promote and maintain these strengths. In this crucial year for the UK-EU negotiations and access to justice, we want to work with all parties to:

- Maintain the attractiveness of the legal jurisdiction after Brexit.
- Make the legal system accessible to all.
- Ensure the UK leads the way on new technology.



Christina Blacklaws
President

Maintaining the attractiveness of our legal jurisdiction after Brexit

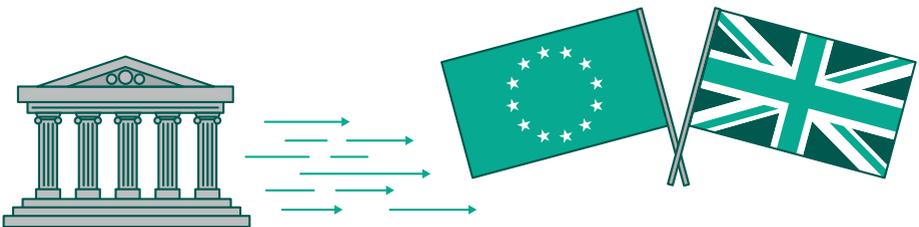
After the UK exits the European Union, English and Welsh law will remain predictable, transparent and stable and retain many of its attractive advantages. However, preserving the legal sector's strong economic contribution to UK PLC will require continued close co-operation with the EU and depend on the continued ability of UK lawyers to practice and establish on the continent.

Despite some misconceptions, the EU has facilitated an effective single market for legal services, allowing lawyers and law firms to have a temporary or permanent presence in other EU member states. Unless alternative arrangements are agreed, after Brexit UK lawyers and law firms could fall back on over 30 different national regulatory systems on the continent, facing restrictions and limits to their practise rights which will impact on their ability to effectively represent their clients.

The EU has also created a gold standard in civil judicial co-operation. This judicial infrastructure has helped consumers, families and businesses to easily resolve cross-border disputes and allowed member states to co-operate – for example in helping to locate a missing person or swiftly return a child who has been abducted. People and businesses will continue to operate cross-border; therefore an infrastructure which allows people to gain speedy and effective access to justice needs to be maintained.

We call on the Government to:

- Negotiate mutual access for lawyers to practise law and base themselves in the UK and the EU both temporarily and permanently. This should include rights of audience in EU courts, and legal professional privilege at the EU Commission.
- Ensure close and comprehensive post-Brexit arrangements with the EU on civil judicial co-operation, by becoming a party to the Hague Conventions (2005 and 2007*), replicating Rome I and Rome II regulations on choice of law in contractual and non-contractual obligations by March 2019, and applying now to the Swiss Federal Council to join the Lugano Convention.
- Ensure the implementation period set out in the draft Withdrawal Agreement becomes law to give individuals and businesses sufficient time to adapt to any changes in their rights and obligations
- Avoid at all costs a ‘no deal’ outcome with the EU, as this will cause significant damage to the jurisdiction, the legal services sector and the wider economy.



* Hague Convention on Choice of Court Agreements (2005) and Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (2007)

Access to justice: Making the legal system accessible to all

Access to justice is a fundamental principle of the rule of law. Effective access to justice encourages participation in our legal system, without which people are unable to exercise or defend their rights.

The justice system faces significant barriers in England and Wales. Changes to the scope of eligibility criteria for, and availability of, legal aid have left many unable to pursue their legal cases through the courts. The high fees to issue proceedings in courts and tribunals deter people from pursuing legitimate claims – this has a greater impact on some groups, particularly those on smaller incomes.

The Government is currently reviewing these changes. This is an opportunity to make our legal system accessible to all.

As part of the Government's review of the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO), the Law Society is calling for:

- The reinstatement of legal aid for early advice from a lawyer in housing and family law. This will help prevent cases from escalating unnecessarily and allow them to be resolved sooner. Our research shows that the average cost of a day in court is £2,692 – part of this sum could be saved if people had access to early advice.
- An uprating to the legal aid means test to restore the real value of the thresholds and allowances, and the removal of the capital test for those on income-related benefits.
- The Government to ensure that those who are most in need of free and subsidised legal advice are truly able to access it.



Beyond legal aid, access to justice faces further challenges.

Recent data from the Law Society shows that in 5 to 10 years' time there could be insufficient criminal duty solicitors in many regions, leaving individuals in need of legal advice unable to access justice.

This data was published in the context of growing concerns about the sustainability of the criminal justice system in England and Wales, from solicitors and barristers fees to failures in the disclosure of evidence.

To further enhance access to justice, the Law Society is calling on the Government to:

- Conduct an independent economic review of the long-term viability of the criminal legal aid system, guarantee that there will be no further cuts to remuneration and make a commitment to real terms increases.
- End the questioning of survivors of domestic violence by their alleged abusers in the family courts.

- Reconsider plans to reform personal injury legislation in the Civil Liability Bill and scrap moves to increase the small claims limit.
- Scrap the high fees to issue proceedings in courts and tribunals which are pricing people with low incomes out of justice.

Leading the way on new technology

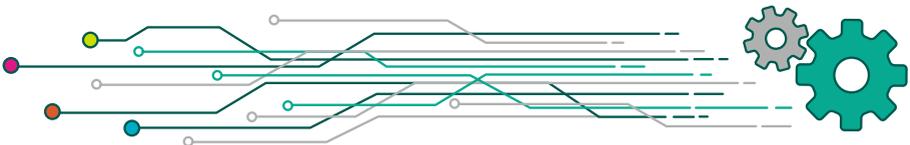
Emerging technologies challenge existing legal frameworks and require us to rethink how we deliver legal services.

As a world leader in legal services, the UK can also become the global leader in legal technology. To make this vision a reality, the Law Society is currently working on the following areas:

- Legal challenges presented by emerging technologies and artificial intelligence.
- How technology improves the process and practice of law.
- The role of technology in the justice system.

We call on the Government to:

- Adopt the recommendations of the House of Lords' AI Select Committee report on the economic, ethical and social implications of advances in artificial intelligence, particularly to work with the Law Commission and the Law Society to undertake a review on the adequacy of existing legislation should AI systems malfunction, underperform or make erroneous decisions which cause harm, and to require the Government Office for AI to develop a national policy framework for AI.
- Adopt the recommendations of the House of Commons' Science and Technology Select Committee report on algorithms in decision making, particularly to ensure the newly created Centre for Data Ethics and Innovation develops safeguards against bias, such as a right to formally challenge the results of an algorithmic decision or seek redress for its impacts.
- Continue to recognise LawTech as an important part of the economy and its potential for driving productivity. LawTech should be considered in future digital and technology policy initiatives to recognise and encourage its development. As part of the UK's wider strategy to encourage FinTech companies to establish businesses in the UK, legal tech should also be promoted due to the close relationship between the UK's financial services sector and legal sector.
- Ensure that the courts modernisation programme only increases the use of technology in the court system in a way which widens and enhances access to justice for all, without compromising the availability of legal advice and representation.
- Halt the court closures programme, which is opening gaps in the practical availability of local justice, until new technologies are fully tested and evaluated.





The Law Society

UK legal services contributed over **£26 billion to the UK economy in 2017**, equivalent to 1.5% of UK GDP



The sector also contributed **£4 billion to net exports value**

380,000 people are employed in legal services in the UK



The profession is becoming more diverse, with women making up **51% of practising solicitors**



Overall, solicitors undertook **2.5 million hours of pro bono in 2015**, the total value of which was estimated at **£592 million**

England and Wales is the jurisdiction of choice for dispute resolution, and we are home to some of the greatest law firms in the world – **over 200 international firms are based in the UK**



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