Law Commission
Reforming the law

Annual Report 2020-21

HC 443

Law Com No 400

The Law Commission

Annual Report 2020-21

(Law Com No 400)

The Fifty Fifth Annual Report of the Law Commission

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Law Commission Annual Report 2020-21

The Law Commission was set up by section 1 of the Law Commissions Act 1965 for the purpose of promoting the reform of the law.

This annual report covers the period 1 April 2020 to 31 March 2021, although we have also included references beyond the reporting period, up to and including July 2021 when the terms of this report were agreed.

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Chair's introduction

To The Right Honourable Robert Buckland MP, Lord Chancellor and Secretary of State for Justice.

I am delighted to be able to introduce the Law Commission's 55th Annual Report.

The past 12 months have seen almost perpetual social, economic and political uncertainty as our departure from the EU combined with the advent of the COVID-19 pandemic. During this period, however, the Law Commission has been exceptionally busy.

At any one time we are engaged in about 20 law reform projects. Our work stretches from focusing upon removing outdated legal restrictions on the operation of the digital economy through on-line harm, hate crime, non-consensual intimate images, options for reform of the law relating to corporate crime, a system of regulation for automated (robot) cars, weddings and surrogacy. We are also engaged on a number of important law reform projects for the Welsh Government including the creation of a system of courts and tribunals dealing with Welsh law and a significant project with wider environmental implications relating to the regulation of coal tips in Wales.

Two important developments occurred during the year.

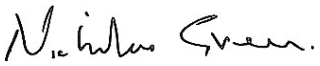
First, in late 2020 we agreed new governance and funding arrangements with the Lord Chancellor. This has resolved the longstanding structural and funding issues that we had been working under and has put the Law Commission on a secure footing moving forward. This is now enabling us to focus upon carrying out law reform rather than chasing funding and also to retain our specialist legal staff who, after all, represent our key law reform asset. I am grateful to the Lord Chancellor and to his officials within the MOJ for their constructive engagement with us. We are now beginning to see the fruits of that hard work emerge.

Secondly, in late March 2021, we published a consultation on a new 14th Programme of law reform. We have been emboldened to embark upon this exercise at least in part because of the much greater stability that we have in the light of the new funding agreement. Under our governing statute we are required, periodically, to agree with the Lord Chancellor on behalf of Government, a programme of law reform. Typically, this will include about 14 or 15 projects which we will seek to undertake over a period of years. We have already undertaken detailed internal work to identify possible law reform ideas and we have also conducted an intensive series of meeting with external stakeholders across Whitehall, Parliament, the judiciary, the City, academia and with a wide range of groups within society generally. We expect that the law in the foreseeable future will need to grapple with some broad issues including: the impact of AI and digitisation upon governmental and private law decision making; the need to enable legislation to meet green energy objectives; the need for society and business to be able to adapt to changes brought about by the exit of the UK from the EU and from the consequences of the COVID-19 pandemic. At the time of writing the consultation with the public is ongoing. In the

second part of the year we will begin the process of refining ideas, working with Government and stakeholders to identify potential projects of law reform to include within the new Programme. All things being equal, we will hope to agree a new Programme with the Lord Chancellor in the first half of 2022.

I said in the 2020 report that: "All in all the Law Commission is in robust health". That remains the case. I am very confident about our future and our ability to generate independent law reform of the very highest of quality that adds value in a real and enduring way to society, the economy and to government.

Finally, the Law Commission comprises about 65 lawyers and researchers and a small but exceptionally dedicated and hard-working support staff. As ever I should express my personal gratitude for the tremendous contribution that everyone makes which is essential to our ongoing success.



Sir Nicholas Green
Chair

Chief Executive's comment

It is obviously an understatement to say that a huge amount has happened since our last Annual Report. In my comments then, I noted that we were entering a period of acute uncertainty and worry. Clearly, we are not out of the woods yet in relation to COVID-19 but, at the same time, we can perhaps start to allow ourselves to think about the big question: what next? In so doing, experiences of the last year – many of which will be covered in this Annual Report – can help in terms of assessing what has worked well and will therefore prove enduring.

The most obvious change brought about by circumstances last year is how we work. The Law Commission has always offered a considerable degree of flexible working, however, we switched to becoming a completely virtual organisation overnight. In the main, this has worked well. We moved quickly to ensure our staff had access to the right equipment and put in place processes to ensure our business-as-usual work could continue. For example, we designed a comprehensive guide for our teams to help them get the best out of virtual engagement with our stakeholders. This meant that we continued to have strong engagement with those who shape our work and help us to refine our ideas. Indeed, technology has helped us with some harder to reach communities as time and expense needed to attend events is saved. Our project on Weddings is a good example of how we approached public consultation during this time. Details can be found on page 37. It is important that we capture the benefits of this approach, while also ensuring we continue to meet face-to-face with those who value such engagement.

Undoubtedly, we have missed aspects of working together in one location. Often these are immeasurable, for example, new staff being able to soak up the culture and approach of the organisation by coming into contact with lots of different views and experiences. Also, the coffee-point ad hoc discussion with a stakeholder which leads to a new way of thinking. Likewise, being in the heart of Legal London, meeting with judges, lawyers, Parliamentarians and Whitehall colleagues, is of vital importance to the Commission and will certainly continue to be a key part of our requirements moving forward. It is important we do not lose sight of these 'softer' benefits as we design our future ways of working, which will inevitably make greater use of technology. Nonetheless, there is also a significant opportunity for us to offer our staff a more flexible package which seeks to achieve the right balance between face-to-face contact and virtual working. I am looking forward to working with everyone at the Commission to build a model which supports these aims.

Another development in the last year is our new funding model, agreed with the Lord Chancellor towards the end of 2020. Sir Nicholas has already covered this in detail in his opening remarks, but I also want to highlight the significance of this agreement in relation to how the Law Commission will function in the future. Not only does the agreement assist in relation to how the Law Commission identifies new work, but it also helps to reduce the volatility of our operating model, particularly around staffing. I have said in previous Annual Reports that the lack of certainty over funding meant the Law Commission was unable to retain expertise because most of our budget is spent on our staff. It followed that if I

was unsure whether we could realise income then, as Chief Executive, I could not properly maintain permanent staff overheads. This led to a lack of certainty for our staff, meaning many would leave towards the end of a project, simply because they did not know whether the Commission could afford to retain them thereafter. Not only was this poor for staff morale, but it sometimes meant we did not have the expertise on hand to start new work identified by Government and the Commission as a priority. I very much hope that the new Funding Model – which will be tested in practice as we put together the 14th Programme – will alleviate many of these practical issues. I am very grateful to everyone at the Ministry of Justice for working with the Commission and believe the agreement is testament to the strong relationships we have built at all levels.

One area where we have not been able to make as much progress as we had hoped is in relation to our Diversity and Inclusion work. This is an area which we have prioritised in recent years but many of our plans have had to be put on hold because, for obvious reasons, the attention of those who might have been interested in spending time with us has been elsewhere. We have not, however, stood still. We have spent a lot of time during 2020/21 working up plans to relaunch our Commissioner Diversity Scheme, this time extending it to cover those who may be interested in a lawyer role at the Commission. We have also worked with a number of organisations to design a paid internship scheme for those traditionally under-represented in the law. Our work in relation to outreach with law schools to identify potential Research Assistants has also continued, albeit adapting to a virtual environment. Finally, we have identified resources to fund a new Diversity and Inclusion Coordinator who will have responsibility for ensuring that our objectives, identified in a new Diversity and Inclusion Strategy, are delivered. I believe that, as a public body, the Law Commission should use our position and reputation to offer opportunities to people who may otherwise struggle to progress their legal career. I am therefore looking forward to being in a position to being able to realise the plans we have put in place during this Annual Report period.

For my final observation, I turn to our staff. The Law Commission has not simply 'hung on' over the last year. We have continued to deliver law reform reports to the same high standard and tight deadlines. Indeed, last year turned out to be one of our busiest years in terms of reports and consultation papers. Our teams have worked incredibly hard to deliver these results and I am grateful to everyone for all they have done. I am also very grateful to our small Corporate Services Team, who have done so much to keep the organisation functioning well, often behind the scenes. More than that though, our staff have supported one another, making sure that colleagues did not fall off the radar, holding weekly coffee chats just to check in with people and making sure we signposted those who needed it to mental health support. We have found new ways to stay in touch and, while it can never replace face-to-face contact, I believe we showed ourselves to be a caring and compassionate organisation. I am grateful to everyone at the Commission for the part they have played during the last year and hope we have learned a great deal which will stand us in good stead in the future.

Phillip Golding
Chief Executive

Part One:
Who we are and what we do

The Law Commission

The Law Commission is headed by five Commissioners, all of whom are appointed by the Lord Chancellor. At 31 March 2021, the Law Commissioners were:

- The Rt Hon Lord Justice Green[1], Chair.
- Professor Sarah Green[2], Commercial and Common Law.
- Professor Nick Hopkins[3], Property, Family and Trust Law.
- Professor Penney Lewis[4], Criminal Law.
- Nicholas Paines QC[5], Public Law and the Law in Wales.

The Commissioners are supported by the staff of the Law Commission. The staff are civil servants and are led by a Chief Executive, Phillip Golding.

The Law Commission was created by the Law Commissions Act 1965 for the purpose of reforming the law. It is a statutory arm's length public body, which is sponsored by the Ministry of Justice (MoJ).

The Law Commission's principal objective is to promote the reform of the law. We do this by reviewing areas of the law and making recommendations for change. We seek to ensure that the law is as simple, accessible, fair, modern and cost-effective as possible.

A number of specific types of reform are covered by the Law Commissions Act 1965:

- Simplification and modernisation of the law.
- Codification.
- Removal of anomalies.
- Repeal of obsolete and unnecessary enactments.
- Consolidation of legislation.

The progress we have made on our law reform projects during 2020–21 is recorded in Part Two of this report.

Responding to COVID-19

Clearly, any Annual Report for 2020/21 will be heavily guided by the response of the Law Commission to COVID-19. It is fair to say that, in comparison with other government bodies, as well as more broadly, the Commission has not operated under significant pressure as a result of the pandemic. It has been humbling to see the efforts of so many across the public sector, and beyond, in helping the country to cope with such seismic events.

For our part, the Commission was able to move relatively seamlessly towards virtual working. We moved quickly to ensure staff had access to the equipment they needed and were working in appropriate environments wherever possible. We also tried to make sure we put in place provision to look after the mental health of our staff, with various support networks, including our in-house Mental Health Allies. Less tangibly, we tried to keep the more social side of work, organising various online events, including quizzes, lunchtime lectures and training. The idea being to try to keep an element of corporate togetherness, despite virtual working.

The Commission also moved swiftly to put in place practices and procedures to support virtual engagement with stakeholders. We are a highly consultative organisation, with all our law reform projects being heavily shaped by the views of a wide range of individuals and organisations. We are very grateful to all of those who helped us to move to virtual working. Our experiences have

1 Sir Nicholas Green joined the Commission on 1 August 2018.
2 Professor Sarah Green joined the Commission on 1 January 2020.
3 Professor Nick Hopkins joined the Commission on 1 October 2015.
4 Professor Penney Lewis joined the Commission on 1 January 2020.
5 Nicholas Paines QC joined the Commission on 18 November 2013.

been almost universally positive, indeed it seems highly likely that many of the changes forced on us by COVID-19 will prove enduring. In many ways, we have been able to reach new and more diverse groups as a result of virtual working and we must in future ensure that such engagement continues, even if supplemented by in-person meetings, when required.

Some activities have stalled. For example, we have not been able to progress our diversity and inclusion agenda as much as would have been desirable. Many individuals and organisations have had to focus on core priorities, for example, academics who may have been interested in our Commissioner Programme have been exceptionally busy ensuring universities were able to respond to the pressures brought about by COVID-19. Moving forward, we will reinvigorate our efforts around this work, as well as any other where we have needed to reprioritise.

Overall, the Commission has adapted well. We have not stood still. We have continued to deliver our law reform priorities, as well as various corporate objectives. Our People Survey results were positive and appear to show that staff have felt supported through this difficult period. We have launched our 14th Programme and it is exciting to see the wide array of ideas for future law reform which are now surfacing. There is much from the last year on which to build, including greater use of technology and a renewed sense of urgency around our diversity and inclusion agenda.

Non-Executive board members

The Law Commission's Non-Executive Board Members provide support, independent challenge and expertise to the Commission when it is meeting as a Board. The selection of projects and the content of Law Commission reports and consultation papers are, however, the responsibility of Commissioners.

We are fortunate to have in place three very experienced and knowledgeable Non-Executives, who have provided very valuable insight to the Board over the last year. They are: Baroness (Ruth) Deech DBE QC (Hon), Bronwen Maddox and Joshua Rozenberg QC (Hon).

Our objectives

We have worked together to identify the characteristics to which the Law Commission should aspire:

- To be the authoritative voice on law reform.
- To make a difference through our law reform work.
- To be proactive in promoting the need for law reform in key areas and achieve "good law".
- To have a strong reputation in the UK and abroad for being effective in the delivery of law reform.
- To attract the best talent and be an excellent place to work.

We are due to publish our Business Plan for 2020-21 later this summer. We expect our four priority areas to be:

- **Law reform** - ensuring that the law is fair, modern and clear.
- **How we engage with stakeholders** - ensuring we continue to work closely with stakeholders and adapt to changing work environments.
- **Developing a future ways of working model** - to apply best practice from the last year to develop a new model.
- **Enhancing our approach to Diversity and Inclusion** - to identify ways to support those traditionally under-represented in the law.

Details will be available on our website.

Our relationship with the Ministry of Justice

In July 2015, we agreed a Framework Document with the MoJ,[6] which sets out the broad framework for the Department's sponsorship of the Commission and how the relationship between us and the MoJ should operate.

The document outlines the responsibilities of the MoJ sponsorship team in relation to the Commission. The sponsorship team and ALB Centre of Expertise are our primary contacts within the MoJ. Its members act as advocates for us within the Ministry and other Departments, and ensure that we are aware of MoJ's views and any relevant departmental policies.

The Framework Document makes it clear that, while the sponsorship team and ALB Centre of Expertise have a role in monitoring the Commission's activities, the MoJ has "no involvement in the exercise of the Commissioners' judgment in relation to the exercise of their functions."

The frequency with which Ministers of the MoJ and other Departments will meet members of the Commission, and the scope of the Commission's relationship with Parliament are also set out in the Framework Document, albeit that, in recent times, these arrangements have tended to operate more flexibly. It details the Lord Chancellor's statutory duties in relation to the Commission and the direct relationship we have with Parliament through, for example, maintaining contacts with Parliamentarians and committee chairs, and giving evidence in relation to our functions or projects.

There are plans to review the Framework Document and we will work with MoJ with that aim in mind.

Tailored Review

In line with Cabinet Office requirements, the Law Commission was subject to a Tailored Review[7] that was published in February 2019. A tailored review evaluates the work of an Arm's Length Body, providing robust challenge to and assurance on the continuing need for the organisation.

The review covered a wide range of areas including the Commission's purpose and objectives, finances and funding model, effectiveness, governance, diversity and transparency, openness and accountability. Overall, the report painted a very positive picture of the work the Commission is doing and the way it operates. A full list of the recommendations can be found at Appendix C.

Over the last year, we have continued to make positive progress towards either completing or commencing the implementation of recommendations included within the *Tailored Review of the Law Commission*. Outstanding actions are either ongoing or there are plans in place to take matters forward, for example, reviewing the Framework Document is being considered by the MoJ Arms Length Body Centre of Excellence.

The most positive progress has been made in relation to the Financial Model of the Law Commission, which will be covered in more detail in the next section.

6 Framework Document: Ministry of Justice and the Law Commission for England and Wales (2015) - https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/07/Law_Commission_MoJ_Framework_2015_web.pdf.

7 https://www.gov.uk/government/publications/tailored-review-of-the-law-commission.

The Law Commission's financial model

One of the most significant developments during the course of 2020/21 has been a new agreement reached with the Lord Chancellor to address concerns about the Law Commission's funding model. The Commission is extremely grateful to the Lord Chancellor and his Ministerial team, together with colleagues in the Ministry of Justice, who have worked with us to address both the principles and practicalities about how the Commission has been funded in recent years.

Without focusing in detail on the past, the Commission's funding model had over time developed into a hybrid model, whereby MoJ Core funding had been reduced by approximately 50%, with greater emphasis being placed on securing income-generating projects from other Government Departments so as to make up the shortfall. Not only was this model highly volatile, but it also risked skewing the type of work the Commission was asked to do. Numerous stakeholders were concerned that it affected our independence. We are grateful to those stakeholders for their support in setting out the arguments, most notably the Justice Committee, chaired by Sir Bob Neill MP.

The new model can be viewed on our website. In short, it returns to full funding from the MoJ. It does bring with it an expectation that other government departments will continue to contribute towards the cost of law reform projects, however, the Agreement makes clear that the focus is on where law reform is most needed (against agreed criteria), rather than whether the finances are available. This should lead to a more balanced portfolio of work, together with more transparency about the work we are undertaking.

It is still very early days for the new model and its first test will probably come with the design and implementation of the 14th Programme. The Commission is of the view, however, that it represents a major step forward and firmly embeds the Commission's independence.

14th Programme of Law Reform

In the final days covered by this Annual Report, the Commission launched the consultation for the 14th Programme of law reform. Between March and July 2021, we will be consulting widely to identify potential future projects.

In the run up to the launch of the consultation, the Commission has held a large number of meetings to help identify potential themes to support the Programme, together with a number of ideas for specific projects where we want to test our thinking. The themes are:

Emerging technology: The Commission has traditionally been associated with reform of existing laws. But over recent times we have developed real expertise in designing legal frameworks that both anticipate and confront the implications of future technologies, for example automated vehicles and support the digital economy. There will be a growing need in the future for law which reflects developments such as AI and the use of algorithms in decision-making. In all of these areas it is necessary to consider not only the commercial and economic implications but also the need for proper consumer protection.

Leaving the EU: Now that we have left the European Union, clarity, modernity and accessibility of the law will help to ensure that legal services are at the forefront of enhancing the UK's competitiveness.

The environment: There is widespread domestic and international interest in promoting reforms to safeguard our environment and this will affect existing legal structures in a myriad of ways. We are keen to hear whether there may be legal barriers which might be restricting the adoption of greener initiatives.

Legal resilience: The COVID-19 pandemic has highlighted areas of the law which are outdated or which contain weaknesses which could not bear the stresses of emergency conditions. When

strong law was required to meet the challenge, it proved wanting because it lacked the flexibility to meet the change of circumstance. Ensuring that the law is resilient enough to cater for exceptional circumstances should be an important aspect of the Commission's future work.

Simplification: A founding principle of the Commission is the simplification of law, including through codification or consolidation. Such work has not always been in vogue but its value is increasingly again being understood. For example, the new Sentencing Code, based on the Commission's recommendations, will save up to £250m over ten years and help avoid sentencing errors.

We do not wish to be constrained by either the themes or specific projects we have suggested.

In terms of timescales, the consultation closes at the end of July 2021. Thereafter, we will begind refining ideas and discussing them with colleagues in Whitehall as we are unable to take forward work unless Ministers have a serious intention to take forward reform in a given area. By way of context, the 13th Programme resulted in over 1300 individual responses and over 200 ideas for law reform. All ideas are given serious consideration and the process of refining our thinking takes several months and involves everyone at the Commission.

We hope to have a draft Programme ready to submit to the Lord Chancellor for his approval in the first half of 2022.

We are very grateful to all those who took the time to talk to us and look forward to ongoing engagement with our stakeholders and the wider public to help us to design the Programme.

Measuring Success

The implementation of our recommendations for reform is clearly an important indicator of the success of the Law Commission. This is covered in detail in Part Three of this report.

However, implementation does not fully demonstrate the breadth of our impact. In an effort to assess our impact and influence, we take note of instances when the Law Commission is cited in judgments or during business in the Houses of Parliament. During the reporting period the Commission was mentioned 102 times in judgments in England and Wales (up from 101 in 2019-20) and our name appears 227 times in Hansard (up from 137 in 2019–20), the official report of Parliamentary proceedings.

Our work is also widely quoted in academic journals and the media, with over 5,650 references to the Law Commission across national, local, trade and academic media during the reporting period (up from 4,300 in the previous year). Some were supportive, others not. At the very least these figures show that the we continue to engage the attention of people with an interest in the law and what can be achieved through its reform.

Historically, almost two thirds of our reports have been implemented by Government in whole or in part with recommendations from a further 11% of reports either accepted and awaiting implementation or accepted but will not be implemented. However, there are many reasons why our recommendations for reform may not be implemented despite being accepted by Government. This may include a lack of Parliamentary time to debate our proposals or a change in ministerial priorities.

The Law Commission in Wales

Working with the Welsh Government

The Wales Act 2014 brought into force amendments to the Law Commissions Act 1965 to take account of Welsh devolution, making significant changes to our relationship with the Welsh Government and how we work with Welsh Ministers in relation to devolved matters.

The Act empowers us to give information and advice to Welsh Ministers. In turn, this enables Welsh Ministers to refer work directly to the Commission whereas, previously, referrals could be made only through the Wales Office. This was a very welcome development.

The 2014 Act also:

- Provides for a protocol[8] setting out the working relationship between the Law Commission and the Welsh Government.
- Requires Welsh Ministers to report annually to the Senedd about the implementation of our reports relating to Welsh devolved matters.

Reforming the law in Wales

Our 12th Programme of Law Reform, published in July 2014, included, for the first time, two law reform projects that related to Wales only:

- The Form and Accessibility of the Law Applicable in Wales – a report was published in June 2016 with the majority of the recommendations accepted. See page 49 for more details.
- Planning Law in Wales – a report setting out recommendations for the simplification of planning law in Wales was published in December 2018. See page 50 for more details.

We underlined in our 13th Programme of Law Reform, published in December 2017, our resolve to undertake at least one law reform project on a devolved area of law. This has since been identified as devolved tribunals in Wales. Our proposals and questions concerning the structure and scope of a coherent tribunal system for Wales went to consultation at the end of 2020, and we are due to publish our report in the Autumn this year.

We continue to keep the law in Wales under review. One of our Commissioners, Nicholas Paines QC, also has special responsibility for the law in Wales. He leads our latest project on devolved law in Wales, on coal tip safety, which went to consultation in June 2021.

We are grateful for the support and contributions we have received from our colleagues and stakeholders in Wales.

Wales Advisory Committee

The support we have received throughout the year from our Wales Advisory Committee (WAC) has been much appreciated. We established the Committee in 2013 to advise us on the exercise of our statutory functions in relation to Wales, and to give the people of Wales a stronger voice in law reform.

During the year, we took the opportunity to review the membership of the WAC, having consulted present members and asked for their views as to who should be represented. We have updated its membership in light of turnover of personnel at institutions, such as the Law Schools. We have also invited individual members to stay on in their personal capacity in order to continue to benefit from their advice and experience. We will continue to keep the membership under review in order to ensure it represents key groups and interests relating to the law in Wales.

8 Protocol rhwng Gweinidogion Cymru a Comisiwn y Gyfraith/Protocol between the Welsh Ministers and the Law Commission (2015).

Commission on Justice in Wales

The Commission on Justice in Wales, chaired by Lord Thomas of Cwmgiedd, was set up to review the operation of the justice system in Wales and set a long term vision for its future. The Commission's final report, Justice in Wales for the People of Wales, was published in October 2019. It warmly supports our project on devolved tribunals in Wales (see page 38) and endorses the setting up of a Law Council of Wales, including a representative from the Law Commission.

Welsh language policy

We published our Welsh language policy[9] on 4 September 2017. This sets out our commitment to treating with lingusitic parity projects relating to Wales and projects which are likely to have significant public interest in Wales. We routinely publish appropriate project documents, such as report summaries, bilingually.

The policy states that it will be reviewed on an annual basis with progress reported to the Board. This was undertaken by the Law Commission's Chief Executive in October 2019 and approved by the Board. At the time of writing, a further review of the policy is being undertaken.

9 https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/06/LC-Welsh-Language-Policy.doc.

Part Two:

Review of our work in 2020–21

Commercial and Common Law

Commissioner: Professor Sarah Green

Project	Update	Date published	Page
Insurable Interest	Draft Bill published for comment	June 2018	page 14
Intermediated Securities	Scoping paper published	November 2020	page 15
Smart Contracts	Call for evidence published	December 2020	page 16
Consumer Sales Contracts: Transfer of Ownership	Report published	April 2021	page 16
Electronic Trade Documents	Consultation paper with draft bill published	April 2021	page 17
Digital Assets	Call for evidence published	April 2021	page 18

Insurable Interest

At its simplest, the requirement for insurable interest means that, for a contract of insurance to be valid, the person taking out the insurance must have an interest in the subject matter of the insurance. This generally means that they must stand to gain a benefit from the preservation of the subject matter of the insurance, or to suffer a disadvantage should it be lost or damaged. The Life Assurance Act 1774 and the Marine Insurance Act 1906 provide that the absence of insurable interest renders an insurance contract void and unenforceable.

The current law is unclear in some respects and antiquated and restrictive in others. It is inhibiting the insurance market's ability to write particular types of product for which there is demand. As a result we, together with the Scottish Law Commission, are working to develop recommendations to simplify and update the law in this area, and draft a Bill to implement those proposals.

Responses to our consultations have shown strong support for retaining the principle of insurable interest. It is said to guard against moral hazard, protect insurers from invalid claims and distinguish insurance from gambling. Stakeholders have particularly emphasised the need for reform of insurable interest in the context of life and related insurances, such as health insurance. In our most recent consultation we proposed that archaic restrictions should be removed in order to allow people to insure the lives of their children and cohabitants, and a greater ability to insure the lives of employees.

Our proposals are intended to be relatively permissive, to ensure that, broadly speaking, any legitimate insurance products that insurers want to sell and people wish to buy, can be made available. Whether insurance is appropriate in any given circumstances should be left to the market to determine, with regulatory intervention if necessary.

Work on the project is currently paused due to resource constraints. However, we will produce a report with final recommendations and a draft Bill when resource allows.

Intermediated Securities

In the modern era, when you decide to invest in shares or bonds, you are unlikely to receive a paper certificate. Instead, most investors "own" securities through computerised credit entries in a register called CREST, through a chain of financial institutions, such as banks, investment platforms and brokers ("intermediaries").

This system of intermediated securities has made trading significantly quicker, cheaper and more convenient. It is now possible for individuals to buy shares in a matter of minutes, and to see all their holdings on a single electronic "platform".

However, the system has been the subject of criticism from academics and practitioners over issues of corporate governance and transparency. There is also uncertainty as to the legal redress available to the investor, including upon the insolvency of an issuer of securities or an intermediary. We were asked by the Department for Business, Energy & Industrial Strategy to produce a scoping study, providing an accessible account of the law and identifying issues in the current system of intermediation.

Our paper analyses the law underlying intermediated securities, together with the concerns of market participants, and possible solutions to those concerns. Overall, it identifies two broad categories of issues. First, there are problems surrounding the exercise of investor rights, such as the right to vote or be counted in a scheme of arrangement. Second, there are several areas where there is legal uncertainty, for example if an intermediary suffers financial difficulties and becomes insolvent. Potential solutions considered include:

- Targeted legal intervention to address specific issues, such as creating a new obligation on intermediaries to arrange, upon request, for an investor to receive information, attend meetings and vote.
- Systemic change, such as removing intermediation altogether, or retaining intermediation and providing a genuine avenue for investors to hold their investments directly.
- Technological solutions such as distributed ledger technology.

We were not asked to produce a full report with recommendations for reform. The purpose of the scoping paper is to inform public debate, develop a broad understanding of potential options for reform and develop a consensus about issues to be addressed in the future.

We published a scoping study in November 2020.

Smart Contracts

Emerging technologies such as distributed ledgers are being promoted as a way to create "smart contracts": computer programs which run automatically, in whole or in part, without the need for human intervention. Smart contracts can perform transactions on decentralised cryptocurrency exchanges, facilitate games and the exchange of collectibles between participants on a distributed ledger, and run online gambling programs. They can also be used to record and perform the obligations of a legally binding contract.

When we talk about smart contracts in this project, we are talking about legally binding contracts in which some or all of the terms are recorded in or performed by a computer program deployed on a distributed ledger. Smart legal contracts may take the form of a natural language contract where performance is automated by computer code, a hybrid contract consisting of natural language and coded terms or a contract which is written wholly in code. Smart contracts are expected to increase efficiency and certainty in business.

We have not been asked for recommendations for law reform at this stage. The nascent state of the technology means that there are few, if any, tested solutions to the legal issues to which smart contracts give rise, and it may be that the common law can develop to accommodate smart legal contracts without the need for reform. Our final paper will aim to set out how the current law applies to smart legal contracts. If appropriate, we may also identify areas where there is less clarity and where further work, or even reform, may be desirable in the future.

The benefits will be to ensure that the jurisdiction of England and Wales remains a competitive choice for businesses, there is a compelling case for reviewing the current legal framework to ensure that it facilitates the use of smart legal contracts. In our work, we have sought to answer questions about the circumstances in which a smart contract will be legally binding, how smart contracts are to be interpreted, how vitiating factors such as mistake can apply to smart contracts, and the remedies available where the smart contract does not perform as intended.

Our call for evidence on smart contracts was published on 17 December 2020, and closed on 31 March 2021. We are analysing the responses received from consultees and will use these to inform our scoping study, which we intend to publish in late 2021.

Consumer Sales Contracts: Transfer of Ownership

This project follows on from our July 2016 Report, Consumer Prepayments on Retailer Insolvency. In that report, we made a range of recommendations for the protection of prepaying consumers, including in relation to the transfer of ownership rules. The Department for Business, Energy and Industrial Strategy (BEIS) asked us to do further work on this issue, to produce legislation and to consider its potential impact.

The draft legislation is intended to simplify and modernise the transfer of ownership rules as they apply to consumers, so that the rules are easier to understand. The draft legislation sets out in simple terms when ownership of the goods will transfer to the consumer. For most goods that are purchased online, ownership would transfer to the consumer when the retailer identifies the goods to fulfil the contract. This would occur when the goods are labelled, set aside, or altered to the consumer's specification, among other circumstances.

The recommendations are particularly designed to protect consumers who do not have any other protections in the event of consumer insolvency, such as a claim through a debit or credit card provider. However, any decision as to whether to implement the final draft Bill would need to balance a number of relevant considerations to ensure that the benefits justify the potential costs.

In particular, during the course of our work, we identified a common practice among retailers of delaying the point at which the sales contract is formed, until the goods are dispatched the consumer. This would reduce the impact of our reforms which, like most consumer protections, depend on a sales contract being in place. The evidence we have received about the practice does not suggest that it causes consumer detriment in more general terms, but we think this, and the case for our reforms, should be kept under review.

We consulted on a draft Bill in July 2020. We published our final report and draft bill in April 2021.

Electronic Trade Documents

Despite the size and sophistication of the international trade industry, many of its processes, and the laws underlying them, are based on practices developed by merchants hundreds of years ago. In particular, international trade still relies on a special category of documents (called "documentary intangibles"), which includes bills of lading and bills of exchange. Unlike other documents, the act of transferring possession of a document like a bill of exchange can transfer the obligations which that document embodies, for example the obligation to pay money or deliver goods.

These rules are based on the idea that paper documents can be physically held or "possessed". However, under English law, possession is only associated with tangible assets. The law does not therefore recognise the possibility of possessing electronic documents.

Over the past decade, the development of technologies such as distributed ledger technology has made the use of electronic documents in international trade increasingly feasible from a practical perspective. Without reform, the law will continue to lag behind technology, hindering the adoption of electronic trade documents and their significant associated benefits.

For electronic documents to be widely adopted for trade, they must be capable of being possessed in the eyes of the law. We propose that an electronic trade document should be possessable provided that it meets certain criteria. These criteria are designed to ensure that an electronic trade document replicates, as far as possible, the qualities of a piece of paper which can be held in your hand.

We also make other consequential proposals for reform to ensure that electronic trade documents can be used in the same ways, and with the same legal effect, as their paper equivalents.

Potential benefits from reforming the law to allow electronic trade documents include:

- Increased efficiency and lower operating costs: processing electronic documents can be quicker and cheaper than processing paper documents.
- Increased security and compliance: electronic documents offer transparency and traceability whilst the technology used may provide greater security. Cases of non-compliant documents commonly caused by human error are also reduced.
- Environmental benefits: largely from the reduced use of paper required during the trade process.
- Maintaining English law's leading role in governing global transactions and helping to promote Britain's role in international trade.

We published our consultation paper with draft Bill in April 2021. We expect to publish a final report and draft Bill in early 2022. For more information on this project, please see page 19.

Digital Assets

Digital assets are increasingly important in modern society. They are used for an expanding variety of purposes, including as a means of payment or to represent other things or rights, and in growing volumes. Cryptoassets, smart contracts, distributed ledger technology and associated technology have broadened the ways in which digital assets can be created, accessed, used and transferred. Such technological development is set only to continue.

Digital assets are generally treated as property by market participants. The law recognises that a digital asset can be property and that a digital asset can be "owned". However, it does not recognise the possibility that a digital asset can be "possessed" because the concept of "possession" is currently limited to physical things. This has consequences for how digital assets are transferred, secured and protected under the law. Our project is considering reform to the law to allow digital assets to be possessable. It is also considering other related reform.

We have published a short call for evidence asking for information on how digital assets are used, treated and dealt with by market participants and about how the law might accommodate digital assets now and in the future. We also ask where the law might be inhibiting particular use cases, innovation or development. We will use the responses in developing a consultation paper, in which we expect to make proposals for law reform to make (some) digital assets possessable, buidling also on the proposals in, and the responses to, our consultation paper on electronic trade documents.

Property and property rights are vital to modern social, economic and legal systems and should be recognised and protected by the law. Reforming the law to provide legal certainty would lay a strong foundation for the development and adoption of digital assets. It would also incentivise the use of English and Welsh law and the jurisdiction of England and Wales in transactions concerning digital assets. This could have significant benefits for the UK and the digital asset market in the UK.

We published a short call for evidence in April 2021. We expect to publish a consultation paper with proposals for reform in late 2021 or early 2022.

Electronic Trade Documents

Introduction to the project

The process of moving goods across borders, from a seller to a buyer, typically involves many parties including including transportation, insurance, trade and/or supply chain finance and logistics service providers. This process also involves the use of special trade documentation such as bills of lading and bills of exchange. However, the international trade industry is currently heavily reliant on paper trade documents, because the law does not allow for electronic versions.

The International Chamber of Commerce has calculated that digitalisation of these documents would produce more than £220 billion in efficiency savings. Other potential benefits include the increased security of electronic documents and likely environmental benefits as a result of reduced paper use and reduced delays (which affect perishable goods).

The digitalisation of trade documents has, for a long time, been a goal of various international and domestic initiatives. The pressure, however, has increased given the onset of the COVID-19 pandemic and the resulting restrictions which have made the production and exchange of paper documents more difficult. The significant potential economic savings and the recent advances in technology, such as the development of distributed ledger technology, have motivated various industry bodies to implore governments to reform their laws to allow for electronic versions of trade documents to have the same legal effects as their paper counterparts.

In September 2020, the Department for Digital, Culture, Media and Sport asked the Law Commission to make recommendations to reform the law of England and Wales. We were also asked to draft legislation intended to implement those recommendations. As a first step, on 30 April 2021, we published a consultation paper with proposals for reform, and a draft Bill which would implement them

What is the legal problem?

Many of the trade documents currently in use were developed by merchants hundreds of years ago to facilitate trade with foreign countries. The practices, and the laws which underpin them, are premised on the use of paper documents which can be physically transferred between parties. The fact of being in possession of a document such as a bill of lading or a bill of exchange can give the person in possession the rights or obligations set out in it, and the transfer of the document itself to another person can effect a transfer of those rights or obligations.

Under the law of England and Wales, and of many other jurisdictions, only tangible things can be possessed. An electronic trade document is intangible (that is, you cannot hold it in your hand), and is therefore incapable of possession at law. The relevant legal frameworks cannot therefore accommodate electronic trade documents.

Our approach to this project

Our central provisional proposal is that the law should recognise certain electronic trade documents as capable of possession, provided that they satisfy certain criteria as a matter of fact.

We have spoken to around 70 stakeholders in the course of our work so far, including members of the judiciary, lawyers and law firms, financial institutions, technology providers, trade industry bodies, and academics.

In developing our provisional proposals, we have followed three guiding principles.

Adopting the least interventionist approach: The law of England and Wales is an effective and trusted source of law in relation to trade documents, and often used in international transactions. Our provisional proposals and draft clauses aim to remove the legal blocker, while

retaining existing legal rules on trade documents, such as those found in the Bills of Exchange Act 1882 and the Carriage of Goods by Sea Act 1992.

Technological neutrality: Given the rapid pace of technological developments, we consider that law reform in this area should be technology-neutral. We believe that this approach will foster innovation and, so far as it is possible, make our recommendations future-proof. Our provisional proposals, accordingly, do not rely on particular forms of technology.

International alignment: While specific issues arising from conflicts of laws are outside of our project's terms of reference, we are conscious of the importance of international alignment given the cross-border nature of trade and its associated documentation. As a result, we have been particularly aware of reform initiatives at an international level (such as the UNCITRAL Model Law on Transferable Records, or "MLETR").

UNCITRAL describes a model law as a "suggested pattern" for lawmakers, and our provisional proposals have been developed with a keen awareness of the MLETR. We have considered how to best achieve similar substantive reform, integrating the spirit and objectives of the MLETR while ensuring compatibility with the form and substance of existing domestic law. Our view is that our provisional proposals strike the correct balance and will help maintain the leading role played by the law of England and Wales in governing global transactions.

Next steps

Our consultation closes on 30 July 2021. We plan to publish our report and recommendations in early 2022.

Criminal Law

Commissioner: Professor Penney Lewis

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Corporate Criminal Liability	Project started	January 2020	page 21
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Search Warrants	Report published	October 2020	page 22
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Hate Crime	Consultation completed	December 2020	page 24
Review of the Communications Offences	Consultation completed	December 2020	page 24
Misconduct in Public Office	Report published	December 2020	page 24
Taking, Making and Sharing of Intimate Images Without Consent	Consultation completed	May 2021	page 25

Corporate Criminal Liability

The general rule for attributing liability to companies in English and Welsh criminal law is the 'identification principle'. In recent years, concern has been expressed that the identification principle does not adequately deal with misconduct carried out by and on behalf of companies (and other 'non-natural persons'). The Government has asked the Law Commission to examine the issue and publish a paper providing an assessment of different options for reform.

We published a discussion paper in June 2021, and are currently engaged in consultation. We expect to publish an options paper at the end of 2021.

Protection of Official Data

In 2015, we were asked by the Cabinet Office to undertake an independent review of the law governing the protection of official data, including the Official Secrets Acts, to ensure that the relevant statutes keep pace with the challenges of the 21st Century.

We launched an open public consultation in February 2017 and received a large number of responses. The focus of our work was primarily upon the Official Secrets Acts 1911-1989. We also analysed the numerous other offences (over 120) that exist to criminalise the unauthorised disclosure of information. In addition, we examined matters that might arise in the

investigation and prosecution of Official Secrets Act cases. Finally, we studied the argument that could be made for the introduction of a statutory public interest defence to the unauthorised disclosure offences contained in the Official Secrets Act 1989.

We launched an open public consultation in February 2017 and received a large number of responses. In our final report, published in September 2020, we make 33 recommendations designed to ensure that: the law governing both espionage and unauthorised disclosures addresses the nature and scale of the modern threat; the criminal law can respond effectively to illegal activity (by removing unjustifiable barriers to prosecution); and the criminal law provisions are proportionate and commensurate with human rights obligations.

Our main recommendations can be summarised as follows:

- Updating the archaic language of the Official Secrets Acts to ensure the legislation is fit for purpose.
- For cases of espionage carried out against the UK from abroad, we recommend that an offence would be committed irrespective of whether the individual is a British citizen, provided there is a significant link between the individual's behaviour and the interests of the United Kingdom.
- A statutory public interest defence should be available for anyone – including civilians and journalists – charged with an unauthorised disclosure offence under the Official Secrets Act 1989. If it is found that the disclosure was in the public interest, the defendant would not be guilty of the offence.
- Public servants and civilians should be able to report concerns of wrongdoing to an independent statutory commissioner who would be tasked with investigating those concerns effectively and efficiently.
- Parliament should consider increased maximum sentences for the most serious offences in relation to leaks. However, we do not make a recommendation on what new maximum sentences should be.

Clear, modern offences should assist with the proper protection of official data, enhancing justice and transparency and providing the right protection to citizens.

Sentencing Code

The law on sentencing affects all criminal cases in which the defendant is convicted and is applied in hundreds of thousands of trials each year. The law of sentencing procedure lacked coherence and clarity. It was spread across many statutes, frequently updated and had a variety of transitional arrangements. This made it difficult for the courts to understand. The Law Commission was asked to introduce a single sentencing statute for sentencing courts.

The new Sentencing Code has three key benefits: it makes the law simpler and easier to use; it increases public confidence in the criminal justice system; and it increases the efficiency of the sentencing process.

The Sentencing Code came into force at the end of 2020.

Search Warrants

A search warrant is a court order authorising a police officer or other official to enter a building or other place and search for articles specified in the warrant. The complexity of the present law means that decisions to issue a search warrant as well as the way the warrants are executed is prone to error and legal challenge.

The Home Office asked us to identify and address problems with the law governing search warrants and to produce reform which will clarify and rationalise the law.

In our consultation paper, which was launched in June 2018, we made provisional proposals designed to simplify the law, introduce extra protections for the public and modernise the powers needed by law enforcement to investigate serious crime.

In our final report, laid before Parliament on 7 October 2020, we make 64 recommendations. The key recommendations include:

- Strengthened law enforcement powers: We make a number of recommendations to give law enforcement agencies the powers they need to investigate crime successfully.
- Improved process: a series of recommendations that would improve procedural efficiency, reduce the scope for serious errors and ensure that the issuing authority, a magistrate or judge, is presented with an accurate and complete picture of the investigation.
- Electronic evidence and materials: Digital devices increasingly provide evidence in criminal trials, yet the legal framework that currently governs the search and seizure of electronic material is no longer adequate and reform is needed.
- Safeguards: Reforming the safeguards that must be followed when applying for and executing a search warrant.
- Personal records and journalistic material: In relation to personal records and confidential journalistic material, we conclude that they should remain obtainable under the Police and Criminal Evidence Act 1984 in very limited circumstances.

Reform would bring clarity to the agencies applying for warrants and to those whose premises are subject to them. It should also allow better and more efficient processes for application, issue, execution and challenge of warrants. Most importantly, reform will clarify the position of electronic material stored overseas.

Confiscation of the Proceeds of Crime

The “confiscation order” is an order made personally against a defendant to pay a sum of money equivalent to some or all of their benefit from crime, depending on the assets available to the defendant. The defendant is not obliged to realise any particular asset to satisfy the order, as long as the sum of money is paid.

The perceived complexity of the legislation has motivated a desire for change. A guide produced for judges on confiscation describes the proliferation of appellate judgments over an eleven-year period.

In our consultation paper, launched on 17 September 2020, we have suggested reforms to encourage the effective use of powers to prevent assets from being dissipated before a confiscation order is made, to ensure that when confiscation orders are made they realistically reflect what a defendant gained from crime, and to improve the enforcement of confiscation orders.

Our consultation paper considers how the existing statutory framework could be improved with the following objectives in mind: (1) to improve the process by which confiscation orders are made; (2) to ensure the fairness of the confiscatoin regime; and (3) to optimise the enforcement of confiscation orders.

The consultation period closed in December 2020. We are currently analysing responses and preparing our final recommendations for reform. We are aiming to publish the final report in the first quarter of 2022.

Hate Crime

Building on the recommendations in our 2014 Report, this project reviews the adequacy and parity of protection offered by the law relating to hate crime and makes recommendations for its reform.

In our consultation paper, launched on 23 September 2020, we made a number of proposals for reform of hate crime laws. These include:

- Equalising protection across all of the existing protected characteristics;
- Adding sex or gender to the protected characteristics;
- Establishing criteria for deciding whether any additional characteristics should be recognised;
- Reformulating the offences of stirring up hatred;
- Expanding the offence of racist chanting at football matches.

This review aims to ensure that the hate crime regime works as effectively as possible to offer protection to victims of hate crime.

The consultation period closed in December 2020. We are currently analysing responses and preparing our final recommendations for reform. We are aiming to publish the final report in the final quarter of 2021.

Review of the Communications Offences

The revolution in online communications has offered extraordinary new opportunities to communicate with one another and on an unprecedented scale. However, those opportunities also present increased scope for harm. As we noted in our Scoping Report on Abusive and Offensive Online Communications in 2018, the current criminal offences are ill-suited to addressing these harms.

In our consultation paper we made a number of proposals for reform to ensure that the law is clearer and effectively targets serious harm and criminality arising from online abuse, while also ensuring that the right to freedom of expression is better protected.

Modernised and reformed communications offences would be better targetted at the reality of modern communication. This would provide better protection for the victims of such crimes, and avoid overcriminalisation.

The consultation period closed in December 2020. We are currently analysing responses and preparing our final recommendations for reform. We are aiming to publish the final report in the third quarter of 2021.

Misconduct in Public Office

Misconduct in public office is a common law offence: it is not set out in any statute. The offence is widely considered to be ill-defined and has been subject to criticism by the Government, the Court of Appeal, the press and legal academics.

We published an issues paper in January 2016, and a further consultation paper in September 2016. We published our final report with recommendations in December 2020. The problems we identified throughout the consultation process led us to the view that the common law offence should not be retained in its current form. However, we also found that there was an ongoing need for offences that specifically target serious misconduct by public office holders.

In our final report we recommend that the current offence should be repealed and replaced with two statutory offences: an offence of corruption in public office; and an offence of breach of duty in public office.

To provide greater clarity around the scope of the offence, we also recommend that there be a list of positions capable of amounting to “public office” set out in statute. Finally, we recommend that consent of the Director of Public Prosecutions should be required to prosecute the offence, to

ensure that the right cases are prosecuted, and to prevent vexatious private prosecutions.

The boundaries of the current law are unclear. New statutory offences would improve clarity, transparency and fairness, and should lead to better charging decisions and fewer difficult cases needing extensive judicial consideration.

Taking, Making and Sharing of Intimate Images Without Consent

The origins of this project are rooted in our Abusive and Offensive Online Communications Scoping Report which was published in November 2018. The increased use of smartphones and online platforms has made it easier to take photographs or film, alter or create images and send images to family and friends or the public at large. However, this also means that it is now easier to take or make images of others or to distribute images of others without their consent (whether the images were taken consensually or non-consensually in the first place).

This is particularly concerning when those images are "intimate" in nature, such as where the person is naked, engaging in a sexual act or when the image is taken up a person's skirt or down a female's blouse. This project reviews the current range of offences which apply to the taking, making and sharing of intimate images without consent, identifying gaps in the scope of the protection currently offered, and making recommendations to ensure that the criminal law provides consistent and effective protection.

In our consultation paper, published in February 2021, we set out a new framework of offences to cover the harmful behaviours we have identified.

The proposed framework would provide a more unified and structured approach, providing victims with better protection and ensuring that appropriate orders are available to the courts when dealing with these offences.

The consultation period closed in May 2021. We are currently analysing responses and preparing our final recommendations for reform. We are aiming to publish the final report in the spring of 2022.

Corporate Criminal Liability

The criminal law of England and Wales has long struggled to fix corporate bodies with criminal liability. Most criminal offences are not created with bodies like companies and charities at the forefront of Parliament's consideration, and important components of criminal law like intent, belief, and dishonesty cannot be applied easily to corporate decisions. The idea of a "guilty mind" is a core element in many offences; but companies do not have minds – at least, not in the way a human being does. Or as an eighteenth-century Lord Chancellor, Lord Thurlow, put it: "corporations have neither bodies to be punished, nor souls to be condemned".

The common law has tried to address this by looking for a person or persons who represent the company's "directing mind and will", usually from the company's Board of Directors. However, this approach, known as the "identification doctrine" arguably does not reflect the way that decision-making works in modern businesses, especially in large, complex organisations. This in turn has given rise to complaints that the law is unduly favourable to larger businesses with complicated legal structures or delegated decision-making, who are more difficult to convict of offences requiring proof of fault.

Reform of the law has proved challenging, however, a call for evidence by the Ministry of Justice found that the evidence was inconclusive: there was no clear consensus on what could replace the identification doctrine and some respondents were strongly opposed to reform, concerned about potential impacts on growth and competition. In November 2020, therefore, the Government asked the Commission to undertake a review of the law relating to the criminal liability of "non-natural persons", including whether the identification doctrine is fit for purpose, and to publish options for reform.

Law Commission review

This review involves considering the relationship between criminal and civil law on corporate liability and approaches to corporate criminal liability in relevant overseas jurisdictions, several of which have confronted similar challenges in recent years.

We are also looking at the recent innovation of offences applicable solely to commercial organisations of "failure to prevent" bribery and tax evasion being carried out by those who work for them, in order to win or retain business for the company. There has been an interest among some prosecutors and legislators in Parliament in extending these offences to cover a broader range of economic crimes.

A new approach for the Law Commission

The project is unusual for the Commission in that it is being overseen by both Professor Sarah Green, the Commissioner for commercial and common law, and Professor Penney Lewis, the Commissioner for criminal law. It is also unusual in that the project is being sponsored by five different government departments: the Ministry of Justice, the Home Office, HM Treasury, the Attorney General's Office and the Department for Business, Energy and Industrial Strategy, with the Crown Prosecution Service and Serious Fraud Office as key stakeholders.

A further difference between this and a typical Law Commission project is that rather than consulting on a developed package of provisional proposals, we have been asked to develop options for reform, so we are undertaking our open public consultation earlier in the process than would normally be the case. We have already begun to meet with academics and legal professionals interested in the subject, and with a range of business organisations, from lawyers representing the UK's FTSE-100 companies to the Federation of Small Businesses. A key component of this review is to understand how any legal changes would impact on business and

to ensure that any reforms do not place an undue burden on businesses.

We have published our own call for evidence on the subject, and over the remainder of 2021, we will be undertaking widespread consultation and assessing options for reform. We aim to publish our options paper by the end of 2021.

Property, Family and Trust Law

Commissioner: Professor Nick Hopkins

Project	Update	Date published	Page
Leasehold Enfranchisement	Report published	July 2020	page 29
Right to Manage	Report published	July 2020	page 30
Commonhold	Report published	July 2020	page 30
Termination of Tenancies for Tenant Default	Updating	N/a	page 31
Making Land Work	Updating	N/a	page 31
Surrogacy	Consultation completed	October 2019	page 32
Weddings	Consultation completed	January 2021	page 33
Making a Will	Project paused	N/a	page 34
Technical Issues in Charity Law	Implementation support	N/a	page 34

Residential Leasehold and Commonhold

In England and Wales, properties can be owned either as freehold or as leasehold. Leasehold is a form of ownership where a person owns a property for a set number of years (for example, 99 or 125 years) on a lease from a landlord, who owns the freehold. Flats are almost always owned on a leasehold basis, but in recent years leasehold has also increasingly been used for newly built houses. The Government has estimated that there are more than 4 million leasehold properties in England alone – and others have suggested that the figure is higher. However, the law which applies to leasehold is far from satisfactory.

The Ministry of Housing, Communities and Local Government (MHCLG) and the Welsh Government tasked us with providing a better deal for leaseholders, and promoting fairness and transparency in the sector. Our project examined three issues: (1) leasehold enfranchisement and (2) the right to manage, both of which are statutory rights for leaseholders, and (3) commonhold, which provides an alternative form of ownership to leasehold.

In January 2020, we published a final report on one aspect of our enfranchisement project, namely the price that must be paid by leaseholders to

make an enfranchisement claim.[10] In July 2020, we published three further final reports covering all other aspects of the enfranchisement process, as well as on the right to manage and commonhold.[11]

In January 2021, the Secretary of State for Housing, Communities and Local Government indicated that it was the Government's intention to proceed with reforms that were based on some of the options set out in our January 2020 report, and recommendations set out in our July 2020 report on enfranchisement. Further details of the announcement are set out below. Government is continuing its work considering the remainder of our recommendations and we look forward to its response in respect of them. In March 2021, the Minister for Housing and Local Government in the Welsh Government indicated her "support [for] the approach set out by the Law Commission recommendations" and that it was her intention to "[seek] the UK Government's agreement that … officials work together to explore a joint approach to legislation enacting the Law Commission's recommendations".[12]

In the meantime, and to assist Government, the Law Commission is undertaking preliminary work, such as preparing instructions to Parliamentary Counsel, that will be necessary to implement the options and recommendations that the Government has said it will proceed with. The Law Commission is also undertaking preliminary work that will be necessary if Government accepts the remainder of our recommendations in due course.

More information on the three strands of the project can be found below.

Leasehold Enfranchisement

Enfranchisement is the statutory right of leaseholders to obtain a leasehold extension or buy their freehold. For leaseholders of flats, buying the freehold involves leaseholders joining together with their neighbours to buy the freehold of their block (also known as "collective enfranchisement").

The recommendations set out in our final report on leasehold enfranchisement would place the vast majority of a home's value in the hands of the leaseholder. Our recommendations would make the enfranchisement process easier, quicker and more cost effective, by:

- Improving the existing rights of leaseholders and giving owners of flats and houses a uniform right to enfranchisement wherever possible.
- Giving owners of flats and houses a right to extend their leases for 990 years at a peppercorn rent, in place of extensions of 90 or 50 years under the current law.
- Expanding the scope of enfranchisement so that more leaseholders can buy the freehold or extend their lease. We recommend that leaseholders should be able to enfranchise immediately after acquiring their lease and that flat owners should together be able to buy the freehold of premises where up to 50% of the building is commercial space rather than the current limit of 25%.
- Making it easier for leaseholders of flats to enfranchise by, for example, enabling groups of flat owners to acquire multiple buildings in one claim.

10 (2020) LC 387.

11 (2020) LC 392.
(2020) LC 393.
(2020) LC 394.

12 As the Minister's statement was made in the light of a forthcoming election, the Minister highlighted that the statement could not "fetter the decision making of any future Senedd".

- Simplifying and reducing the legal and other costs of the procedure for acquiring a freehold or an extended lease.

We published our final report on the options that were available to Government to reduce the price payable by leaseholders to exercise enfranchisement rights in January 2020. The Secretary of State's January 2021 announcement set out the Government's plans in that area in light of the options set out by the Law Commission.

Right to Manage

The right to manage gives leaseholders the ability to take over the management of their building without buying the freehold. When the right to manage is acquired, the leaseholders take control of lease obligations relating to, for example, services, maintenance and insurance. Leaseholders who exercise the right to manage may manage the building themselves, or choose to appoint their own managing agents.

The recommendations set out in our final report on the right to manage would improve access to, and the operation of, the right for the benefit of all parties, making the procedure simpler, quicker and more flexible. We have recommended:

- Relaxing the qualifying criteria, so that leasehold houses, and buildings with more than 25% non-residential space, and self-contained parts of buildings that can be managed separately, but otherwise do not meet the qualifying criteria, could qualify for the right to manage.
- Removing the requirement that leaseholders pay the landlord's costs of an RTM claim, giving leaseholders significantly more control and certainty over the costs they will incur.
- Reducing the number of notices that leaseholders must serve in order to claim the right to manage, and giving the tribunal the power to waive procedural mistakes.
- That leaseholders be permitted to acquire the right to manage over multiple buildings (such as an estate).
- Giving a right to request information about premises early on in the process so that an informed decision can be taken on claiming the right to manage.

The right to manage project was led by the Law Commission's commercial and common law team.

Commonhold

Commonhold provides a structure which enables the freehold ownership of flats and other types of interdependent properties, offering a way of owning property which avoids the shortcomings of leasehold ownership. It was introduced in 2002, but fewer than 20 commonhold developments have been created.

The project identified and made recommendations to reform aspects of the law of commonhold which impede its success, in order to help reinvigorate commonhold as a workable alternative to leasehold for both existing and new homes.

In our final report, we have made recommendations that would:

- Improve the potential for existing leaseholders to benefit from commonhold by removing the requirement that conversion to commonhold needs the unanimous agreement of leaseholders and others with particular interests in the building.
- Make commonhold more flexible by using "sections" (and other tools), which will enable commonhold to be used for larger, mixed-use developments.
- Enable shared ownership leases to be included within commonhold.
- Improve the day-to-day operation of commonholds – including to help ensure that commonholds are kept in good repair and are properly insured – which will enhance the experience of homeowners living within them.

- Provide homeowners with a greater say in setting the commonhold's costs and enhanced powers to take action against those who fail to pay their share.
- Provide greater certainty to mortgage lenders that their interests will be protected, including in the unlikely event of a commonhold association's insolvency, or on the termination of a commonhold at the end of a building's useful life.

In January 2021, the Secretary of State announced the creation of a Commonhold Council to "prepare homeowners and the market for the widespread take-up of commonhold". Professor Nick Hopkins has been appointed to the Commonhold Council's Technical Support Group.

Termination of Tenancies for Tenant Default

This project examined the means whereby a landlord can terminate a tenancy because the tenant has not complied with his or her obligations. This is an issue of great practical importance for many landlords and tenants of residential and commercial properties. The current law is difficult to use and littered with pitfalls for both the layperson and the unwary practitioner. It does not support negotiated settlement and provides insufficient protection for mortgagees and sub-tenants.

Our report recommended the abolition of forfeiture and its replacement by a modern statutory scheme for the termination of tenancies on the ground of tenant default that would balance the interests of all parties affected and promote more proportionate outcomes.

In March 2019, the Housing, Communities and Local Government Select Committee recommended that the Government implement our recommendations. In response the Government has asked us to update our report. Work on that has been undertaken during the reporting year, and is ongoing.

Making Land Work

There is a complex web of rights and obligations that link different parcels of land, and their owners, together. Three of those are easements, profits à prendre and covenants.

Easements are rights enjoyed by a landowner over another person's land, for example a right of way that allows one landowner make use of a neighbour's land to access his or her own property.

Profits à prendre are rights to take natural products from someone else's land, such as grass for grazing, or fish.

Covenants are a type of contractual promise concerning land, some of which can be enforced against future owners of the land, rather than just against the person who made the promise.

The law governing easements, profits à prendre and covenants is ancient, complex and causes problems for legal practitioners and property owners. Our final report, which was published in June 2011, aimed to modernise and simplify the law. In particular, our recommendations would:

- Make it possible for the benefit and burden of positive obligations to be enforced by and against subsequent owners.
- Simplify and make clearer the rules relating to the acquisition of easements by prescription (or long use of land) and implication, as well as the termination of easements by abandonment.
- Give greater flexibility to developers to establish the webs of rights and obligations that allow modern estates to function.
- Expand the jurisdiction of the Lands Chamber of the Upper Tribunal to allow for the discharge and modification of easements and profits.

At the Government's request, we are reviewing and updating our draft legislation on "Making Land Work" given the passage of time and to take into account the implications of the Government's planned reforms of residential leasehold.

Surrogacy

Surrogacy is where a woman – the surrogate mother (or surrogate) – bears a child on behalf of someone else or a couple (the intended parents), with the intention that the intended parents become the child's parents. Intended parents may enter into a surrogacy arrangement because of a medical reason that prevents them from carrying their own child to term. Or, in the case of same-sex male couples, surrogacy may be the only way for the couple to have a child with a genetic link with them.

In the UK surrogacy is principally governed by the Surrogacy Arrangements Act 1985 (SAA 1985) and certain provisions of the Human Fertilisation and Embryology Acts 1990 and 2008. The increased use of surrogacy has brought to light significant concerns with the law. The project, undertaken jointly with the Scottish Law Commission, focuses on a number of key areas, including: the regulation of surrogacy including what payments the intended parents can make to their surrogate; the legal parental status of the intended parents and the surrogate with respect to the child born of the arrangement; and ensuring access to information for those born of surrogacy. The project is not concerned with consideration of whether surrogacy should be lawful. The project takes as a starting point, in line with Government's policy position, that surrogacy is a legitimate way in which to build a family.

We published a consultation paper in June 2019 with provisional proposals to make surrogacy law fit for purpose and invited consultees' views on a range of issues. Our key provisional proposals and questions include:

- The creation of a new pathway to parenthood that will allow intended parents to be the legal parents of a child born of a surrogacy arrangement when the child is born, reflecting the shared intentions of the surrogate and intended parents, rather than legal parental status being transferred after the birth by a parental order.
- The regulation of surrogacy organisations, which will continue to be non-profit, by the Human Fertilisation and Embryology Authority, which, along with licensed clinics, will provide oversight of the new pathway to parenthood. And an overhaul of the other laws around surrogacy currently contained in the SAA 1985.
- Asking a series of questions about what sort of payments it should be possible for intended parents to make to surrogates, to better understand stakeholder views, with a view to building consensus on permissible payments.
- The creation of a national register of surrogacy, to safeguard access to information for children born of a surrogacy arrangement about their intended parents, surrogate and (if applicable) gamete donors.
- For international surrogacy arrangements: unified government guidance and suggestions regarding applications for passports and visas to practically assist intended parents travelling overseas for surrogacy to bring their baby into the UK.

Currently, we are nearing the conclusion of the analysis of responses to the consultation and formulation of our final policy recommendations. We expect to produce a final report with our recommendations for reform of the law, accompanied by a draft Bill, in autumn 2022.

Weddings

The main law which governs how and where people can get married dates from 1836 and has failed to keep pace with modern life.

How and where weddings can take place are tightly regulated and differ depending on the type of wedding. At present, couples have to make a choice between a religious or a civil ceremony, with no option for a ceremony reflecting other beliefs (such as humanism). With few exceptions, all couples must have their wedding either in a place of worship or licensed secular venue and cannot marry outdoors or even in the garden of a licensed venue.

If a couple fails to comply with the legal requirements for a wedding, either intentionally or without realising, the law might not recognise them as being legally married. This means the parties do not have the legal protection that would otherwise come with marriage. The risk of having a wedding that is not legally recognised arises most often with some religious wedding ceremonies. It is often discovered only when a couple's relationship breaks down, or when one of the couple dies, and can have devastating consequences for the financially weaker party - most often women - but also for children born during the relationship.

Our project is considering how and where people can get married in England and Wales, with a focus on giving couples greater choice within a simple, fair and consistent legal structure. We are looking at what should happen before, during and after the ceremony. The guiding principles for reform are certainty and simplicity; fairness and equality; protecting the state's interest; respecting individuals' wishes and beliefs; and removing any unnecessary regulation, so as to increase the choice and lower the cost of wedding venues for couples.

In our consultation paper, launched on 3 September 2020, we suggest a comprehensive new legislative scheme to update the law governing each aspect of the process of getting married. It would replace the outdated, overly restrictive current law of weddings, much of which dates from 1836.

To modernise and improve weddings law, our proposals include changes that would:

- Allow weddings to take place outdoors, for example on beaches, in parks, in private gardens and on the grounds of current wedding venues.
- Allow weddings to take place in a wider variety of buildings (for example, in private homes) and on cruise ships.
- Offer couples greater flexibility over the form their wedding ceremonies will take.
- Simplify the process and remove unnecessary red tape to make it fair to couples, more efficient, and easier to follow. For example, couples will be able to complete the initial stage of giving notice of their intended wedding online or by post, rather than having to do so in person.
- Provide a framework that could allow non-religious belief organisations (such as Humanists) and/or independent celebrants to conduct legally binding weddings – though we are not considering whether they should be permitted to do so.
- Ensure that fewer weddings conducted according to religious rites result in a marriage that the law does not recognise at all.

We are currently analysing the responses to our consultation, which will inform the development of our final recommendations for reform. We are aiming to publish the final report, with recommendations to the Government, at the end of 2021.

Making a Will

The law of wills is largely a product of the 19th century, with the main statute being the Wills Act 1837. The law that specifies when a person has the capacity to make a will ("testamentary capacity") is set out in the 1870 case of *Banks v Goodfellow*.

Our project aims to modernise the law to take into account the changes in society, technology and the medical understanding of capacity that have taken place since the Victorian era. It considers a wide range of topics relating to how wills are made and interpreted.

We published a consultation paper in July 2017. Our provisional proposals included the introduction of a dispensing power enabling a court, on a case by case basis, to admit a will when formality requirements have not been complied with but the court is satisfied that a document represents the testator's final wishes. It also provisionally proposed a new mental capacity test which takes into account the modern understanding of conditions like dementia, and changes to protect vulnerable people from being placed under undue pressure as to their testamentary intentions. Alongside that, there was a suggestion that the age for making a will should be lowered from 18 to 16. We also want to pave the way for the introduction of electronic wills, to better reflect the modern world, once the technology is in place which would enable fraud to be prevented.

The remaining stages of our work will be to complete our analysis and policy formulation, to prepare a final report and to instruct Parliamentary Counsel to draft a Bill that would give effect to our recommendations. The Commission has paused completion of the wills project to undertake a review of the law concerning weddings. We agreed to the Government's request that we prioritise work on weddings in light of the pressing need for reform in relation to how and where people can marry. The Commission remains committed to completing its work on wills, the timetable for which remains under review.

Following our pausing of the wills project, the law of wills came under scrutiny during the COVID-19 pandemic, when social distancing measures inhibited in-person witnessing. In developing its response to this issue, the Government consulted with the Law Commission on reforming the law of wills.

Technical Issues in Charity Law

There are about 168,000 charities registered with the Charity Commission and thousands more that are not required to register. Charities are a force for good and millions donate regularly to help them to help others. But there are problems with the law within which charities operate, which means that time and money is spent on administration when it could be used to further charitable causes.

We were asked by the Government to focus initially on social investment by charities. We reported on that topic in 2014. The majority of our recommendations for reform were implemented in the Charities (Protection and Social Investment) Act 2016, which received Royal Assent on 16 March 2016.

We then returned to consider a wide range of other technical issues in charity law. We consulted on a range of reforms designed to support and equip the charities sector by ensuring the legal framework in which it operates is fair, modern, simple and cost effective. We published our final recommendations on 14 September 2017.[13]

13 (2017) LC 375.

These recommendations were designed to remove unnecessary administrative and financial burdens faced by charities as a result of inappropriate regulation and inefficient law, while safeguarding the public interest in ensuring that charities are run effectively. The reforms would save charities a large amount of time, as well as money. Those cost savings include an estimated £2.8m per year from increased flexibility concerning sales of land.

The Government responded to our recommendations in March 2021, accepting 36 of our 43 recommendations (one in part).[14] The Government asked us to assist with updating the draft Bill that we published alongside the report, including engaging with the Charity Law Association and other stakeholders to seek any comments on whether any technical changes should be made to the draft Bill. The Bill was announced in the 2021 Queen's Speech and introduced in the House of Lords under the Parliamentary procedure for Law Commission Bills on 26 May 2021. It is currently undergoing Parliamentary scrutiny.[15]

14 Available at: https://www.gov.uk/government/publications/government-response-to-law-commission-report-on-technical-issues-in-charity-law

15 https://bills.parliament.uk/bills/2877

Weddings

The impact of the COVID-19 pandemic on the Weddings Consultation Paper[16]

We had planned to publish our consultation paper in spring 2020. However, by March of that year, COVID-19 had arrived in the UK.

It is impossible to explain the scale of COVID-19's impact in these pages. However, one consequence has been on weddings: they have not been able to go ahead, either at all or in the way that the couple had planned.

In particular, for much of the spring and early summer of 2020, although wedding ceremonies were not specifically banned in England and Wales, the emergency restrictions first introduced on 23 March 2020 meant that it was not possible to hold a wedding in compliance with the Marriage Act 1949: notice could not be given and wedding venues and places of worship were closed or prohibited from holding weddings.[17]

Consultation is central to all of the Law Commission's projects and pivotal to our ability to make recommendations for reform to the Government. We did not think that the circumstances last spring allowed us to consult meaningfully. Moreover, we were acutely aware of the sensitivity of consulting on weddings law during a time when weddings were not able to go ahead. We therefore chose to delay publication of the consultation paper.

However, we could not delay the project indefinitely. The project is important: almost everyone is interested in or affected by weddings law. And, as we had discovered in our 2015 scoping paper and pre-consultation work, the law is in dire need of reform.

We therefore decided to publish the consultation paper on 3 September 2020. As it has transpired, the pandemic was far from over. Nevertheless, by September, civil and religious weddings under the Marriage Act 1949 could generally take place in England and Wales, albeit the law continued to limit the numbers in attendance.

The COVID-19 pandemic did not change the fundamental aim of the project – to recommend a reformed law of weddings that would allow couples greater choice within a simple, fair and consistent legal structure. But the consultation provided an opportunity to consider the impact of the pandemic on weddings law. We decided to try to learn from what has happened to ensure that a reformed weddings law is resilient and able to respond effectively in the event of a future emergency.

Making weddings law resilient

In the Weddings Consultation Paper, we asked questions to understand the impact that the pandemic has had, including on couples planning their weddings, local authorities, religious groups and others involved in weddings.

We also considered how our provisionally proposed scheme would operate during a national emergency. It offered improvements over the current law. The most obvious benefit was that, in focussing regulation on the officiant, the scheme provides flexibility over the location of the wedding. All types of wedding could take place outdoors, including in private gardens. Moreover, the location of the wedding could change, after the couple gave notice, to suit the circumstances.

But our proposed scheme did not go far enough to ensure that weddings could have taken place in the circumstances of the COVID-19 pandemic. We therefore considered specific reform that would allow the rules governing weddings to be adapted to the situation of a national emergency

16 Getting Married: A Consultation Paper on Weddings Law, Consultation Paper 247.

17 Some weddings involving a person who was terminally ill were able to take place, whether by Registrar General's licence or the Archbishop's special licence.

that, like a pandemic, would prevent people from meeting together in person. We proposed that weddings legislation should contain a power for an emergency scheme that could be brought into force during a future national emergency. If necessary, the power could allow the validity of the schedule that is issued to the couple when they give notice to be extended, preliminaries to take place entirely remotely, and wedding ceremonies themselves to take place with each of the couple, the officiant and the two witnesses attending remotely.

Consulting during the pandemic

The Commission's consultations generally involve a variety of types of event: project teams will have meetings with stakeholders, host events for members of the public, chair roundtables, and speak at specialist conferences. Although some meetings might take place over the phone or online, in the past most of these events would take place in person.

Physical meetings were not feasible during the weddings law consultation period. Indeed, with the second wave of the pandemic, restrictions and lockdowns were again imposed during the consultation period.

We therefore devised a consultation programme that would take place entirely online. We met with stakeholders, hosted roundtables, and spoke at stakeholder events, all remotely. We recorded videos in which we explained our provisional proposals and the reasons for them, each geared towards a different audience: the general public, Anglicans, other religious groups, non-religious belief organisations, the registration service, independent celebrants, and wedding venues. We posted these videos online, and then hosted live online question and answer sessions for each.

We also extended the consultation period. Originally, it was set to close on 3 December 2020. By early November, recent announcements of new national restrictions in England and firebreak restrictions in Wales meant that those involved in weddings, who would be dealing with the consequences of those new restrictions, might need more time to prepare their consultation responses. We therefore decided to extend the consultation period to 4 January 2021.

In the end, the response to our consultation has been incredible, with approximately 1,600 consultees responding.

The experience of consulting entirely remotely offers insights that can inform future consultations. Posting presentations online and conducting online events helped us reach a larger audience than we could have expected from solely in-person presentations and events. Some stakeholders would be unable or perhaps less willing to travel to and attend an event in person, but would be able to join a virtual event. However, relying entirely on online engagement has drawbacks: online events are not accessible to all and, for those who can join, their form may militate against informal discussions. With the benefit of these lessons, we can look in the future to find an ideal combination of online and physical events, to benefit from the advantages of both.

Public Law and the Law in Wales

Commissioner: Nicholas Paines QC

Project	Update	Date published	Page
Planning Law in Wales	Report published; working on Bill	December 2018	page 38
Devolved Tribunals in Wales	Consultation completed	December 2020	page 38
Automated Vehicles	Consultation completed	March 2021	page 39
Administrative Review	Project pending	2021/22	page 39
Coal Tips Safety in Wales	Consultation	2021/22	page 39

Planning Law in Wales

Following the publication of our final report in December 2018, we have been working closely with the Welsh Government on the preparation of the Planning (Wales) Bill, incorporating many of our recommendations, and associated secondary legislation. The resulting Code will modernise and simplify the law on planning in Wales, and will be the first fruit of the ambitious programme of consolidating and codifying Welsh statute law, announced by the Counsel General in October 2019.

Devolved Tribunals in Wales

The Law Commission has been asked to make recommendations to help shape the Tribunals Bill for Wales, designed to regulate a single system for tribunals in Wales. The rules and procedures governing tribunals in Wales have developed piecemeal from a wide range of different legislation. Much of the legislation was developed outside the devolution process, resulting in gaps in the legislation, notably following the creation of the office of the President of the Welsh Tribunals. Our consultation paper makes a number of proposals for reform, including:

- Replacing the existing separate tribunals with a single unified first-tier tribunal, broken down into chambers catering for similar claims.
- Bringing the Valuation Tribunal for Wales and school exclusion appeal panels within the new unified first-tier tribunal.
- Reforming the Welsh Tribunals Unit (the part of the Welsh Government which currently administers most devolved tribunals) into a non-ministerial department.
- Standardising the processes for appointing and dismissing members of the tribunals, and introducing a greater role for the President of Welsh Tribunals.
- Standardising procedural rules across the tribunals, and introducing a new Tribunal Procedure Committee to ensure that the rules are kept up-to-date.

We published a consultation paper in December 2020. We expect to publish a final report in 2021/22.

Automated Vehicles

The Government's Centre for Connected and Autonomous Vehicles (CCAV) has asked the Law Commission and Scottish Law Commission to undertake a far-reaching review of the UK's regulatory framework for road-based automated vehicles. This will build on the work of CCAV and the insurance law reforms in the Automated and Electric Vehicles Act 2018. This project aims to promote confidence in the laws around the safe use of automated vehicles, and in the UK as a vibrant, world-leading venue for the connected and automated vehicle industry.

Our first consultation paper identified pressing problems in the law that may be barriers to the use of automated vehicles, from road traffic legislation which focuses on "the driver", to product liability, criminal offences and civil liability. Our second consultation focussed on the additional challenges of regulating vehicles where all the occupants are passengers and explored a framework for regulating automated passenger transport services.

We published a third and final consultation paper in 2020/21, revisiting in greater detail some of the issues raised in the earlier consultations. We expect to publish a final report in 2021/22. For further detail see page 40.

Administrative Review

Administrative Review (AR) is the system, internal to a public decision maker, by which a decision concerning an individual is reconsidered – and is sometimes a prerequisite to appeals, or judicial review. AR decisions are determinative of many more social security, immigration, and tax claims than are determined by courts and tribunals. This project will identify principles for effective AR in order to reduce the number of appeals and promote confidence in administrative decision-making.

We expect to begin the project in 2021/22.

Coal Tips Safety in Wales

The current legislation relating to coal tip safety, the Mines and Quarries (Tips) Act 1969, does not effectively address the management of disused coal tips. The legislation was enacted after the Aberfan disaster at a time when there was an active coal industry and disused tips were not thought to be a significant problem. Almost all tips in Wales, just over 2000 in total, are now disused, and increased rainfall intensity as a result of climate change brings an increased risk of tip instability, as illustrated by tip slides which occurred in Wales in February 2020 following Storms Ciara and Dennis.

In late 2020, the Welsh Government invited the Law Commission to evaluate current legislation and to consider options for new Welsh legislation to ensure an integrated and future-proofed regulatory system which adopts a uniform approach to inspection, maintenance and record-keeping throughout the life cycle of all coal tips from creation to abandonment to remedial works.

We published a consultation paper in June 2021 and expect to publish a final report in 2021-22.

Automated Vehicles Review

In 2018, the Centre for Connected and Autonomous Vehicles asked the Law Commission and Scottish Law Commission to review the law and regulation of automated vehicles (AVs). The Law Commissions have since been working to identify what changes to the legal framework are necessary to promote the safe and effective deployment of automated vehicles on our roads.

Driving automation technologies are in development which will see vehicles driving themselves, for at least part of the journey. For example, from 2021 vehicles equipped with Automated Lane Keeping Systems may be introduced onto UK motorways. These control speed and steer the vehicle in lane at up to 37 miles an hour. Their purpose is to allow drivers caught in motorway traffic jams to relax and take their eyes off the road. They offer the first practical context for debates over what it means for a vehicle to be self-driving.

Our latest consultation paper, published in December 2020, proposes a regulatory framework for automated vehicles which seeks to assure safety before deployment of the technology and on an ongoing basis while it used. It also considers the implications of self-driving for civil and criminal responsibility, the need for licensed fleet operators, and issues around access to data. We highlight our work on safety assurance and the key adaptations required when regulating self-driving vehicles, as opposed to drivers.

Safety assurance before and after deployment

At present, road vehicles are subject to regulatory approval before they are placed on the market. The proposed new safety assurance scheme integrates the automated driving system within that assessment for both domestic and international approvals. We also suggest that every automated driving system should be backed by an entity which takes responsibility for the safety of the system.

The UK has specialised branches to investigate the causes of aviation, rail and maritime incidents, but does not have a specialist road incident investigation branch. We propose that a specialist incident investigation unit should be established, to analyse data on collisions involving automated vehicles; to investigate the most serious, complex or high-profile collisions; and to recommend safety improvements. This should promote a culture of safety that works towards improvements without allocating blame.

Given how often the road environment changes, we cannot expect a vehicle to be approved once and then remain safe throughout its life. Self-driving vehicles will need to be monitored while they are in-use, on an ongoing basis. The current law on product safety allows the UK Government to establish a basic scheme, with powers to issue recall notices; suspend or prohibit the supply of automated driving systems; and require warnings about how they are used. However, this would not deal with all the challenges of assuring that automated vehicles are safe and law-abiding. We provisionally propose an enhanced legislative scheme, giving regulators additional statutory responsibilities and powers. These should include, for example, new powers to compel software and map updates; to regulate the way that safety-critical information is communicated to users; and to collect safety data.

Self-driving, the user in charge, and criminal offences

A definition of self-driving is already set out in the Automated and Electric Vehicles Act 2018: a vehicle is “driving itself” if it is “operating in a mode in which it is not being controlled, and does not need to be monitored, by an individual”. The Secretary of State is required to maintain a list of vehicles considered to be capable of safely driving themselves for at least part of a journey.

The 2018 Act only affects civil claims. Under our proposals, the definition would have more

far-reaching implications. While the vehicle is driving itself, the person in the driving seat would no longer be considered a driver, but a "user-in-charge". The user-in-charge could undertake activities which drivers are not allowed to do, such as using the on-board infotainment screen to check messages or watch a film.

Human drivers are the lynchpin of accountability for compliance with road traffic laws. Automated vehicles necessarily raise issues as to who would be responsible for conduct that is currently criminal, such an automated vehicle speeding, or failing to stop after an accident. In our view, freedom from the need to monitor should go hand-in-hand with changes to criminal liability. One cannot tell people that that they need not pay attention to the driving task and then find them guilty of criminal offences for failing to pay attention.

Therefore, under our proposals, a user-in-charge could not be prosecuted for a range of driving offences, from exceeding the speed limit to causing death by dangerous driving. Instead, the issue would be a regulatory matter, to be resolved between the safety assurance regulator and the entity responsible for the automated driving system (which we call an "ADSE").

Our work emphasises resolving issues through regulatory action and learning for the future. However, criminal offences are appropriate for serious wrongdoing. As the regulatory system depends crucially on the ADSE's safety case, the system would be particularly vulnerable to dishonesty in how safety-relevant information is presented. We therefore propose new offences where an ADSE omits relevant information or includes misleading information in its safety case, or in responding to the regulator's requests for information. Where the conduct leads to death or serious injury, the offence would carry higher penalties. Senior managers would also be guilty if the offence was committed with their consent or connivance or was attributable to their neglect.

Next steps

Our third and final consultation closed in March 2021. We are considering responses with a view to setting out our recommendations for law reform, which we plan to publish in the final quarter of 2021.

Part Three:

Implementation of Law Commission law reform reports 2020–21

There are a number of mechanisms in place which are designed to increase the rate at which Law Commission reports are implemented:

- The Law Commission Act 2009, which places a requirement on the Lord Chancellor to report to Parliament annually on the Government's progress in implementing our reports.
- Protocols between the Law Commission and the UK and Welsh Governments, which set out how we should work together.
- The Law Commission parliamentary procedure.

Law Commission parliamentary procedure

A dedicated parliamentary procedure, approved by the House of Lords on 7 October 2010, has also been established as a means of improving the rate of implementation of Law Commission reports. Bills are suitable for this procedure if they are regarded as "uncontroversial"; this is generally taken to mean that all Front Benches in the House are supportive in principle.

Eight Law Commission Bills have now followed this procedure:

- Sentencing (Pre-consolidation Amendments) Act 2020, received Royal Assent on 8 June 2020. The Sentencing Code received Royal Assent on 22 October 2020 and came into force on 1 December 2020.
- Intellectual Property (Unjustified Threats) Act 2017, received Royal Assent on 27 April 2017.
- Insurance Act 2015, received Royal Assent on 12 February 2015.
- Inheritance and Trustees' Powers Act 2014, received Royal Assent on 14 May 2014.
- Trusts (Capital and Income) Act 2013, received Royal Assent on 31 January 2013.
- Consumer Insurance (Disclosure and Representations) Act 2012, received Royal Assent on 8 March 2012.
- Third Parties (Rights against Insurers) Act 2010, received Royal Assent on 25 March 2010.
- Perpetuities and Accumulations Act 2009, received Royal Assent on 12 November 2009.[18]

In our report on The Form and Accessibility of the Law Applicable in Wales, we recommended that the Senedd should adopt a similar procedure, echoing an earlier call for this from the Senedd's Constitutional and Legislative Affairs Committee.

Implementation of our reports 2020–21

Between 1 April 2020 and 31 March 2021 we published six final reports with recommendations for law reform:

- Leasehold home ownership: buying your freehold or extending our lease, 21 July 2020
- Leasehold home ownership: exercising the right to manage, 21 July 2020.
- Reinvigorating commonhold: the alternative to leasehold ownership, 21 July 2020
- Protection of Official Data, 1 September 2020
- Search Warrants, 7 October 2020
- Misconduct in Public Office, 4 December 2020

We also published Intermediated Securities: a scoping study on 11 November 2020 and an economic report into the value of our law reform work on 26 October 2020.

18 The Bill passed through Parliament as part of a trial for the Law Commission parliamentary procedure.

The statistics from the creation of the Commission in 1965 to 31 May 2021 are:

- Law reform reports published – 243.
- Implemented in whole or in part – 155 (64%).
- Accepted in whole or in part, awaiting implementation – 18 (7%).
- Accepted in whole or in part, will not be implemented – 7 (3%).
- Awaiting response from Government - 22 (9%).
- Rejected – 31 (13%).
- Superseded – 11 (5%).

Reports implemented during the year

Sentencing Code

- Final report and draft Bill published on 22 November 2018.[19]
- Interim response received from the Government on 22 May 2019.
- Final Government response received on 30 April 2020.

The law on sentencing affects all criminal cases, and is applied in hundreds of thousands of trials and thousands of appeals each year. It is important to offenders, victims and the public that sentencing is efficient and transparent. Errors and delay in sentencing not only cost money but also impact upon public confidence in the criminal justice system.

Between 2015 and 2018 the Law Commission worked to produce a Sentencing Code to bring the law of sentencing procedure into one place, simplifying the law and providing a coherent structure while repealing old and unnecessary provisions. The final report and draft Bill was published in November 2018.

The Secretary of State for Justice accepted the principal recommendation of the report in May 2019. The Sentencing (Pre-consolidation Amendments) Act ("the PCA Act") received Royal Assent on 8 June 2020. The PCA Act was originally introduced on 22 May 2019, but was delayed by the prorogation of Parliament and was then lost when Parliament was dissolved for the general election. It was re-introduced in the current session.

The PCA Act is a short, technical Act that facilitates the consolidation process and the "clean sweep." It corrects minor errors and changes language to avoid inconsistency. The law, as amended by the PCA Act, was then consolidated into the Sentencing Code.

The Sentencing Act 2020 (which contains the Sentencing Code) was given Royal Assent on 22 October 2020, and came into force on 1 December 2020.

Reports in the process of being implemented

Consumer Prepayments on Retailer Insolvency

- Final report published on 13 June 2016.[20]
- Government response received on 28 December 2018.

In the UK, online retail sales and the gift card and voucher market are booming, and consumers frequently pay in advance for products – from flights and theatre tickets to gym memberships and bathroom suites. Online sales in particular will have increased significantly during the lockdowns necessitated by COVID-19, with many physical shops closed.

19 (2018) LC 382.
20 (2016) LC 368.

If the business that has taken the prepayment becomes insolvent, consumers may be left with neither the item they paid for, nor any real prospect of a refund through the insolvency process (although they may have other avenues such as through their card provider).

In September 2014, the then Department for Business, Innovation and Skills (BIS, now BEIS) asked the Law Commission to examine the protections given to consumer prepayments and to consider whether such protections should be strengthened. We published our recommendations in July 2016, setting out five recommendations which would improve consumers' position on insolvency, particularly in cases where they are most vulnerable.

The Government's response said that the Law Commission's work would be further reflected upon. In particular, the Government said:

- It will engage with stakeholders in relation to creating a power for the Secretary of State to regulate in sectors where it is needed.
- It intends to take action to regulate Christmas savings schemes once the necessary legislative capability has been established by the new power.
- It has already taken action, working with UK Finance and insolvency practitioners (IPs) to encourage IPs to let consumers know about their rights to remedies through their debit or credit card provider.

The Government said it would not implement any change to the insolvency hierarchy to give a preference to the most vulnerable category of prepaying consumers. In this Government's view this recommendation could increase the cost of capital, harm enterprise and lead to calls for preferential status for other groups of creditors.

The Government said that the Law Commission's recommendations on transfer of ownership would require more work and consultation to determine whether, and how, to take them forward. In 2019, BEIS asked the Law Commission to undertake such work and to produce draft legislation on this topic. We have now published the results of this work, in the form of a final report, discussed at page 16.

Pension Funds and Social Investment

- Final report published 21 June 2017.[21]
- Interim Government response published on 18 December 2017.
- Final Government response published in June 2018

This project was referred to us in November 2016 by the then Minister for Civil Society. We were asked to look at how far pension funds may or should consider issues of social impact when making investment decisions.

Our report found that barriers to social investment by pension funds are, in most cases, structural and behavioural rather than legal or regulatory. We identified steps which could be taken by the Government, regulators and others to minimise these barriers, and made recommendations for reform. We also suggested further options for reform, for the Government to consider in due course.

The Government's final response was received in June 2018, agreeing to implement the recommended reforms.

In particular, the Government has implemented our recommended reforms in relation to trust-based pension schemes. The relevant provisions in the Occupational Pension Schemes (Investment) Regulations 2005 came into force

21 (2016) LC 374.

on 1 October 2019.[22] The Financial Conduct Authority has made similar changes, in force from 6 April 2020, to rules applying to contract-based pension schemes.[23]

The Government's final response also identified further action in relation to some of the options for reform, including further work to review regulation of social enterprises and the level of the default fund charge cap.

Public Nuisance and Outraging Public Decency

- Final report published on 24 June 2015.[24]

Public nuisance is a common law offence involving environmental danger or loss of amenity or offensive public behaviour. The related common law offence of outraging public decency involves indecent actions or displays that may cause offence to members of the public.

These two common law offences are unclear and ill-defined.

Public nuisance traditionally dealt with environmental nuisance such as noise, smells and obstruction. But its focus has shifted to more general forms of public misbehaviour. This brings a wider range of potential offenders into its scope.

Outraging public decency is a related offence which criminalises behaviour or displays which are lewd, obscene or disgusting and take place in public.

We recommend retaining the offences and restating them in statute largely in their existing form. However, as the offences are serious ones, punishable by up to life imprisonment, the recommendations provide that the defendant should be liable only if there is proof of intention or recklessness. At present public nuisance only requires proof of negligence, and outraging public decency has no requirement of fault.

The Government is in the process of implementing our recommendations on public nuisance in the Police, Crime. Sentencing and Courts Bill, which was introduced into Parliament on 9 March 2021.

The Government is still considering our recommendations on outraging public decency.

Conservation Covenants

- Final report and draft Bill published on 24 June 2014.[25]
- Response received from Government on 28 January 2016.
- The Bill was introduced as Part 7 of the Environment Bill on 30 January 2020.

Currently, landowners can agree to use or not to use their land in a particular way. But any agreement will be enforceable against future owners only if certain conditions are met. It must impose only restrictions (for example, not to build on the land), not positive obligations (for example, to maintain a dry stone wall). And those restrictions must "touch and concern" other land nearby by providing an identifiable benefit to that land. This limitation can make it difficult to pursue long-term conservation goals.

This project considered the case for permitting landowners to enter into long-lasting and enforceable agreements where a conservation objective would be met by an obligation to use, or not use, land in a particular way. These types of agreements, which already exist in other jurisdictions such as the USA, Canada, Australia,

22 Amendments made by the Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations 2018 (SI 2018/988).

23 Conduct of Business Sourcebook (Independent Governance Committees) Instrument 2019.

24 (2015) LC 358.

25 (2014) LC 349.

New Zealand and Scotland, are not specifically linked to nearby land. They allow a landowner to agree, for example, to maintain a woodland habitat and allow public access to it, or to refrain from using certain chemicals on land.

The consultation for this project ran from March to June 2013, and we published our final report and draft Bill on 24 June 2014. The report recommended the introduction of a new statutory scheme of conservation covenants in England and Wales. In this scheme, a conservation covenant would:

- Be formed by the agreement of two parties – a landowner (a person with a freehold estate or leasehold estate of more than seven years), and a responsible body designated by the Secretary of State.
- Be able to contain both restrictive and positive obligations.
- Be capable of binding the landowner's successors in title (that is, all subsequent owners) after he or she has disposed of the land.
- Be made for the public good.

The then Secretary of State for the Environment, Food and Rural Affairs (Rt Hon Elizabeth Truss MP) wrote to the Commission on 28 January 2016 praising the quality of our work and giving a commitment to explore the role conservation covenants could play in the 25-year Environment Plan being prepared by the department. In the 25 Year Plan published in 2018,[26] the Government confirmed that, working with landowners, conservation groups and other stakeholders, it would review and take forward our proposals for a statutory scheme of conservation covenants.

The Department for Environment, Food and Rural Affairs (Defra) consulted on our proposals (suggesting some largely minor changes) in early 2019. It published its response to consultation on 23 July 2019 announcing an intention to introduce legislation for conservation covenants in England (but not Wales) in the Environment Bill. Our draft Bill was introduced as Part 7 of the Environment Bill on 15 October 2019. The Environment Bill fell on the subsequent dissolution of Parliament for a general election.

The Bill was reintroduced in the 2019-21 Parliamentary session and carried over into the 2021-22 session. Having completed the stages in the House of Commons, the Bill is progressing through the House of Lords and is currently at Committee stage.

The Law Commission provided support to Defra in the period prior to its consultation on our proposals and that support is ongoing during the passage of the Environment Bill through Parliament.

Electronic Execution of Documents

- Final report published 4 September 2019.[27]
- Government response published 3 March 2020.

In the modern world, individuals and businesses demand modern, convenient methods of making binding transactions. Many parties are already concluding agreements entirely electronically. The benefits of this have been highlighted by the period of social distancing and home working necessitated by COVID-19.

The law has been grappling with electronic signatures for 20 years and more, with relevant case law and EU and UK legislation. Despite this, some stakeholders indicated that there was still uncertainty around the legal validity of electronic signatures, at least in some circumstances, as well as concerns around practical issues such as security, future-proofing of technology, and adequate protections for parties.

26 HM Government, A Green Future: Our 25 Year Plan to Improve the Environment (2018) p 62.

27 (2019) LC 386.

Our analysis of the existing law concluded that an electronic signature is already capable in law of being used to execute a document (including a deed). This is provided that: (i) the person signing the document intends to authenticate the document and (ii) any formalities relating to execution of that document are satisfied.

In March 2020, the Government welcomed our report and its conclusions on the existing law. In line with our recommendations, it undertook to convene an industry working group to consider practical issues including the possibility of video witnessing, and said the Government will ask the Law Commission to undertake a wider review of deeds in the future when resources allow.

Enforcement of Family Financial Orders

- Final report published on 15 December 2016.[28]
- Response from Government received on 23 July 2018.

Each year thousands of separating couples apply to the family courts for financial orders. Sometimes these orders are not complied with. We published our report on the enforcement of these family financial orders in December 2016, following concerns raised by practitioners that the legal routes and procedures for enforcing payment of financial orders, contained in a range of legislation and court rules, were unnecessarily complex. This means that it can be difficult for parties, particularly litigants in person, to recover the money they are owed. The aim of the project was to make recommendations suggesting how this difficult area of law could be made more effective, efficient and accessible, and to strike a fairer balance between the interests of the creditor and the debtor.

Our report recommended the consolidation of all procedural rules dealing with the enforcement of family financial orders. It would create a "route map" for enforcement proceedings, in the form of an Enforcement Practice Direction, and provide comprehensive guidance for litigants in person. We recommended changes to the enforcement procedure to ensure early disclosure of the financial circumstances of the debtor so that an appropriate method of enforcement can be selected, with provision for the court to obtain information from third parties (Government departments and private bodies such as banks). The report also recommended reforms to bring more of the debtor's assets, including those held in pensions and in joint bank accounts, within the scope of enforcement. Where debtors can pay, but will not, the report recommended new powers to disqualify debtors from driving, or to prevent them travelling abroad, in order to apply pressure to pay.

Our recommendations could result in creditors recovering additional funds of £7.5m to £10m each year, while debtors who cannot pay would be protected from undue hardship. The burden on the state would be reduced by making savings on welfare benefits. More widely, the benefits would include savings in court time; an increase in parties' access to and understanding of effective enforcement; and an increase in public confidence in the justice system.

We received the Government's full response in a letter from the then Parliamentary Under-Secretary of State (Lucy Frazer MP) in July 2018. The Government has agreed to take forward those of our recommendations which do not require primary legislation to put into effect. These non-statutory reforms can be implemented through changes in court rules and practice directions; court administration; and the provision of guidance. This will implement much of what we

28 (2016) LC 370.

recommended, and we believe that these changes will go a long way towards making enforcement in this area more efficient, effective and accessible.

A consultation on proposed changes to the Family Procedure Rules that deal with the enforcement of family financial orders, in line with the recommendations made by the Law Commission in its report, was undertaken by the Government in July and August 2020.

The Government has decided to await the implementation of the non-statutory reforms before taking a view on whether to implement the reforms which do require primary legislation.

Technical Issues in Charity Law

- Final report published on 14 September 2017.[29]
- Final Government response received on 22 March 2021.

There are about 168,000 charities registered with the Charity Commission and thousands more that are not required to register. Charities are a force for good and millions donate regularly to help them to help others. But there are problems with the law within which charities operate, which means that time and money is spent on administration when it could be used to further charitable causes.

We were asked by Government to focus initially on social investment by charities. We reported on that topic in 2014. The majority of our recommendations for reform were implemented in the Charities (Protection and Social Investment) Act 2016, which received Royal Assent on 16 March 2016.

We then returned to consider a wide range of other technical issues in charity law. We consulted on a range of reforms designed to support and equip the charities sector by ensuring the legal framework in which it operates is fair, modern, simple and cost effective.

These recommendations would remove unnecessary administrative and financial burdens faced by charities as a result of inappropriate regulation and inefficient law, while safeguarding the public interest in ensuring that charities are run effectively. The reforms would save charities a large amount of time, as well as money. Those cost savings include an estimated £2.8m per year from increased flexibility concerning sales of land.

The Government responded to our recommendations in March 2021, accepting 36 of our 43 recommendations (one in part). The Government asked us to assist with updating the draft Bill that we published alongside the report. The Bill was announced in the 2021 Queen's Speech and introduced in the House of Lords under the Parliamentary procedure for Law Commission Bills on 26 May 2021. It is currently undergoing Parliamentary scrutiny.[30]

The Form and Accessibility of the Law Applicable in Wales

- Final report published on 29 June 2016.[31]
- Response received from Welsh Government on 19 July 2017.

We published our report on the form, presentation and accessibility of the law relating to Wales on 29 June 2016. The report made a number of recommendations to the Welsh Government that seek to secure improvements in those aspects of both the existing law and future legislation in Wales.

The Welsh Government issued its final response on 19 July 2017. The report provides a helpful blueprint as to how the Welsh Government and others can take action to ensure that the law in

29 (2017) LC 375.

30 https://bills.parliament.uk/bills/2877

31 (2016) LC 366.

Wales is more accessible. The Welsh Government was able to accept, or accept in principle, all except one of the recommendations.

The Welsh Government has already begun to implement these recommendations by introducing a Bill into the Senedd on 3 December 2018. Part 1 of the Legislation (Wales) Act 2019 imposes a duty on the Counsel General and the Welsh Ministers to take steps to improve the accessibility of the law in Wales. The Welsh Government has subsequently produced (in October 2019) a consultation paper on *The Future of Welsh Law*, recognising the contribution made by the Commission and setting out a programme of consolidation, codification and better publication.[32]

Planning Law in Wales

- Final report published on 3 December 2018.[33]
- Interim Government response received on 17 May 2019.

In December 2018, we published a wide-ranging report proposing over 190 technical reforms to planning law as it applies in Wales. This will hopefully lead to the appearance of a new Planning (Wales) Act (Deddf Cynllunio (Cymru)), as the centrepiece of a new Planning Code for Wales.

The interim response from the Welsh Government to our report was received on 17 May 2019, noting that the Welsh Government has started work on a major consolidation Bill, which will incorporate many of the reforms put forward in our final report. Commission staff are closely involved in supporting the drafting of the Bill, and associated secondary legislation.

Reports awaiting implementation

Contempt of Court: Court Reporting

- Final report published on 26 March 2014.[34]

This report aims to modernise the way court reporting restrictions are communicated to the media. Reporting restrictions can be imposed by the judge in a case where publication of certain information may prejudice a fair trial. Typically, the order will provide that publication should be postponed until after the trial (or any linked trial) has finished. If the media breach such an order they will be in contempt of court and liable to criminal penalties. Under current law these important orders are communicated to the media by printing a copy of the order and posting it on the door of the court. This makes it difficult for the media to find out whether a reporting restriction is in place, leading to increased risks of prejudicing a fair trial, as well as the media being sometimes overly cautious in reporting, to avoid the risk of being found to be in contempt. In the report we recommended:

- Introducing a publicly accessible database available on the internet (similar to the one that already operates in Scotland) listing the court hearings in which restrictions are currently in place.
- Creating a more extensive restricted database where, for a charge, registered users could find out the detail of the reporting restriction and could sign up for automated email alerts of new orders.

These recommendations would greatly reduce their risk of contempt for publishers – from large media organisations to individual bloggers – and enable them to comply with the court's restrictions or report proceedings to the public with confidence.

32 https://gov.wales/sites/default/files/consultations/2020-01/the-future-of-welsh-law-consultation-document.pdf

33 (2018) LC 383.

34 (2014) LC 344.

We also undertook a pilot study that demonstrated the likely efficiency of such a scheme.

The Government welcomed these recommendations, suggesting that they would consider how an online reporting restriction database could be taken forward as part of a wider digital court reform programme.

Employment Law Hearing Structures

- Report published on 29 April 2020.[35]

This project made recommendations to refine and rationalise areas of exclusive jurisdiction of the employment tribunals, and areas of overlap between the tribunal and the civil courts, recommending necessary and sensible adjustments in order to bring the law up to date, or enable the fair and effective determination of all or most employment disputes in one forum.

The Department for Business, Energy and Industrial Strategy, which oversees Government policy in respect of a significant number of the recommendations we have made, set out the Government's response to the report. The Government's focus is on addressing the challenges of COVID-19 on the labour market, while it highlighted measures taken to boost hearing capacity in Employment Tribunals. The Government accepted part of our recommendations aimed at improving the enforcement of tribunal judgements. On the whole, however, the lion's share of our report's recommendations have been deferred for later consideration, as the Government considers its policy.

A number of our recommendations, meanwhile, are being separately considered by the Ministry of Justice and the Government Equalities Office.

Event Fees in Retirement Homes

- Final report published on 29 April 2020.[36]
- Interim Government response received on 26 November 2017.
- Final Government response received on 27 March 2019.

This project was referred to us by the Department for Communities and Local Government (now the Ministry of Housing, Communities and Local Government). It asked the Law Commission to investigate terms in long leases for retirement properties which require the consumer holding the lease to pay a fee on certain events – such as sale, sub-letting or change of occupancy. We called these "event fees".

In March 2017, we published a report recommending reforms to address concerns that event fees are charged in unfair circumstances. They will also ensure that consumers are provided with clear information about event fees at an early stage in the purchase process. This will enable consumers to make informed decisions about purchasing a retirement property, and to appreciate what that means for their future financial obligations.

The Government said in March 2019 that it will implement the report's recommendations, with exception of two issues which the Government wishes to explore in further detail. In respect of these, the Government will:

- Seek to determine the best means of providing information to prospective buyers through an online database.

35 (2017) LC 373.

36 (2017) LC 373.

- Give further consideration to the recommendation for spouses' and live-in carers' succession rights to stay at a property without payment of an event fee, to explore the implications both for consumers and new supply.

Making Land Work: Easements, Covenants and Profits à Prendre

- Final report and draft Bill published on 8 June 2011.[37]

This project examined the general law governing:

- Easements – rights enjoyed by one landowner over the land of another, such as rights of way.
- Covenants – promises to do or not do something on one's own land, such as to mend a boundary fence or to refrain from using the land as anything other than a private residence.
- Profits à prendre – rights to take products of natural growth from land, such as rights to fish.

These rights are of great practical importance to landowners and can be fundamental to the use and enjoyment of property. We looked closely at the characteristics of these rights, how they are created, how they come to an end, and how they can be modified.

Our report recommended reforms to modernise and simplify the law underpinning these rights, making it fit for the 21st century and introducing a modern registration system. The recommendations would remove anomalies, inconsistencies and complications in the current law, saving time and money by making it more accessible and easier to use. This would benefit those who rely on and engage with these interests most: homeowners, businesses, mortgage lenders and those involved in the conveyancing process. They would give new legal tools to landowners to enable them to manage better their relationships with neighbours and facilitate land transactions. Furthermore, the reforms would give greater flexibility to developers when building estates where there would be multiple owners and users.

The Government announced in the Housing White Paper published on 7 February 2017 that: "The Government also intends to simplify the current restrictive covenant regime by implementing the Law Commission's recommendations for reform and will publish a draft Bill for consultation as announced in the Queen's Speech". This supplemented the earlier announcement on 18 May 2016 that the Government intended to bring forward proposals in a draft Law of Property Bill to respond to the Commission's recommendations.

Our recommendations would support other planned leasehold reforms.[38] We are providing support to the Government in updating the draft Bill given the passage of time and to take into account the implications of the Government's planned reforms of residential leasehold.

37 (2011) LC 327.

38 Department for Communities and Local Government, *Tackling unfair practices in the leasehold market, Summary of consultation responses and Government response* (December 2017), para 36, available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/670204/Tackling_Unfair_Practices_-_gov_response.pdf and Ministry of Housing, Communities and Local Government, *Implementing reforms to the leasehold system in England: a consultation* (October 2018) para 2.21, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/748438/Leasehold_consultation.pdf.

Public Services Ombudsmen

- Final report published on 14 July 2011.[39]

Our 2011 report focuses on five ombudsmen: the Parliamentary Commissioner, the Health Service Ombudsman, the Local Government Ombudsman, the Public Services Ombudsman for Wales and the Housing Ombudsman.

The report makes a series of recommendations aimed at improving access to the public services ombudsmen, ensuring that they have the freedom to continue their valuable work and improving their independence and accountability. The report's key recommendation for a wider review has now taken place, which in turn has led to legislative reform to enable the creation of a single Public Service Ombudsman.

The Government published the draft Public Service Ombudsman Bill on 5 December 2016. If enacted, the draft Bill would abolish the present Parliamentary and Health Service Ombudsman and the Local Government Ombudsman and create a new organisation with strengthened governance and accountability. It would improve access to the ombudsman's services by allowing for all complaints to be made with or without the help of a representative and in a variety of formats to meet the digital age.

The draft Bill was scrutinised by the Communities and Local Government Select Committee on 6 March 2017, with next steps still to be confirmed.

We are not aware of any further announcements to bring the draft Bill, and there was also no reference to progressing the Bill or other legislation for reform of the Ombudsman landscape in either the Conservative Manifesto for the most recent General Election or the in the recent Queen's Speech.

Regulation of Health and Social Care Professionals

- Final report and draft Bill published on 2 April 2014.[40]

This project dealt with the professional regulatory structure relating to 32 health care professions throughout the UK, and social workers in England – more than 1.5 million professionals in total. It was the first ever tripartite project conducted jointly with the Scottish Law Commission and the Northern Ireland Law Commission.

Our final report and draft Bill set out a new single legal framework for the regulation of health and social care professionals and reforms the oversight role of the Government in relation to the regulators.

Since then, the Government has announced that it will take forward legislative changes to the regulators' fitness to practise processes and operating framework, stating that it believes these will realise the greatest benefits for regulatory bodies, registrants and the public.

The Government published its response on 29 January 2015, noting the need for further work on refining our recommendations to achieve the priorities of better regulation, autonomy and cost-effectiveness while maintaining a clear focus on public protection. On 31 October 2017, the Government published a consultation paper on reforming regulation which builds upon our report.

In the meantime, the Health and Social Care (Safety and Quality) Act 2015 implemented our recommendations that all regulatory bodies and the Professional Standards Authority have the consistent overarching objective of promoting public protection and that regulatory bodies have regard to this objective in fitness to practise proceedings.

39 (2011) LC 329.

40 (2014) LC 345.

Simplification of the Immigration Rules

- Final report published on 14 January 2020.[41]
- Final Government response received on 25 March 2020.

The Immigration Rules are long and complex. Since 2008, when a new points-based system was introduced, they have been increasingly criticised for being complex and unworkable. Our report sets out principles redrafted to make them simpler and more accessible.

On 25 March 2020, the Home Office announced that it accepted, in whole or in part, our recommendations for reform. It has established a Simplification of the Rules Review Committee to look at the drafting and structure of the Rules and ensure the simplification principles put in place now continue to apply in future, whilst providing ongoing support to continuously improve and adapt the Rules in a changing world.

Taxi and Private Hire Services

- Final report and draft Bill published on 23 May 2014.[42]

This project was proposed as part of the 11th Programme of Law Reform by the Department for Transport. Its aim was to take a broadly deregulatory approach to the process of modernising and simplifying the regulatory structures for this important economic activity.

In May 2012, we published our consultation paper, proposing a single statute to govern both the taxi and private hire trades, and the setting of national standards in order to free up the private hire market. The interest was such that we had to extend the consultation period twice. We received just over 3,000 responses, a then record number for any of our consultations.

Some of our proposals provoked a great deal of controversy. In April 2013 we published a short interim statement explaining that we had changed our views on abolishing the ability of local licensing authorities to limit taxi numbers and had refined our views in other areas. We also published all of the responses received.

Our report and draft Bill were published in May 2014. Although the Government has not yet responded formally to our recommendations, two taxi and private hire measures – based on our recommendations – were included in the Deregulation Act 2015, which received Royal Assent in March 2015. In 2017, the Government commissioned a report by the Task and Finish Group on taxis and private hire vehicle licensing. Following that Group's report, the Government in February 2019 declined, in the short term, a full replacement of the law. But it did suggest this would be considered as part of its work on the Future of Mobility (of which the Law Commission's project on automated vehicles is an aspect).

The Welsh Government has recently concluded a consultation on taxi and private hire vehicle licensing which is based heavily on our recommendations.

Updating the Land Registration Act 2002

- Final report published on 24 July 2018.[43]
- Final Government response received on 25 March 2021.

An effective land registration law is essential for everyone who owns land, whether the land is a home, a business or an investment. The core purpose of a register of title is to make conveyancing faster, easier and cheaper. However, time has shown that some aspects of the Land Registration Act 2002 are unclear, inefficient, or have unintended outcomes. With

41 (2020) LC 388.
42 (2014) LC 347.
43 (2018) LC 380.

over 25 million registered titles in England and Wales – ranging from residential flats to farms and shopping centres – any inefficiencies, uncertainties or problems in the land registration system have the capacity to have a significant impact on the property market, and the economy as a whole. Uncertainty also makes advising clients difficult, incentivises litigation, and increases costs for landowners.

Our project was designed to update the Land Registration Act 2002. The project was not designed to fundamentally reformulate the Act, but to improve specific aspects of its operation within the existing legal framework. The 2002 Act was the product of a joint project between HM Land Registry and the Law Commission. While this was not a joint project, HM Land Registry funded the work, and we liaised closely with them as a key stakeholder so that we could fully understand the operational implications of our recommendations.

Our final report recommended some technical reforms to iron out the kinks in the law, help prevent fraud and make conveyancing faster, easier and cheaper for everyone.

In its full response on 25 March 2021, the Government welcomed our examination of the Land Registration Act 2002. It has accepted 40 of the 53 recommendations, and is further considering another 10 recommendations on which it has not yet reached final conclusions. The Government has indicated that it will consider implementation alongside wider land registration policy development and HM Land Registry business strategy priorities.

Wildlife

- Report on the control of invasive non-native species published on February 2014.[44]
- Recommended reforms given effect in the Infrastructure Act 2015.
- Final report on remaining elements, with draft Bill, published on 10 November 2015.[45]

Wildlife law is spread over numerous statutes and statutory instruments, some dating back to the 19th century. The legislation is difficult for people and businesses to access, for policy makers to adapt and for everyone to understand.

This project was proposed by Defra and included in our 11th Programme of Law Reform. It considered the transposition of key EU directives on wild birds and those animals and plants characterised as European Protected Species, and their integration with other, domestic, legal structures. It also sought to bring various purely domestic protection regimes for specific species into the same legislative structure. In March 2012, the Government asked us to add consideration of the possibility of appeals against licensing decisions by regulatory bodies to the project.

We held a consultation in 2012, proposing a single statute bringing together most of the law relating to wildlife. In addition to making specific proposals on the most appropriate way of transposing the EU directives, we also looked at the current regime for the enforcement of wildlife legislation, including both criminal offences and civil sanctions, and at appeals.

Following a request by Defra to bring forward one element of the project, we published a report on the control of invasive non-native species in February 2014. Our recommendations in relation to species control orders were given effect in the Infrastructure Act 2015. Our final report and draft

44 (2014) LC 342.

45 (2015) LC 362 (two volumes).

Bill on the remaining elements of the project were published in November 2015.

The Government issued its response on 22 November 2016, explaining that exit from the EU provides an opportunity to re-examine our regulatory framework so that it meets our needs in future including our international obligations. The Government said it would therefore consider the implications of the UK's withdrawal from the EU on wildlife policy before deciding whether and how to implement our recommendations.

Reports accepted but which will not be implemented

Bills of Sale

- Original report published on 12 September 2016.[46]
- Updated report with draft Bill published on 23 November 2017.[47]

In 2014, HM Treasury asked the Law Commission to review the Victorian-era Bills of Sale Acts. Bills of sale are a way in which individuals can use goods they already own as security for loans while retaining possession of those goods. They are now mainly used for "logbook loans", where a borrower grants security over their vehicle. The borrower may continue to use the vehicle while they keep up the repayments, but if they default the vehicle can be repossessed, without the protections that apply to hire-purchase and conditional sale transactions.

In September 2016, the Law Commission recommended that the Bills of Sale Acts should be repealed and replaced with modern legislation that provides more protection for borrowers and imposes fewer burdens on lenders. The Government agreed with the majority of our recommendations and supported the Law Commission in drafting legislation to implement them. The Bill was announced in the Queen's Speech in June 2017.

Our final recommendations are set out in a draft Goods Mortgages Bill, published in November 2017. After conducting a short consultation, the Government announced in May 2018 that it would not introduce legislation at this point in time. It cited the "small and reducing market and the wider work on high-cost credit".

A Goods Mortgages Bill, based closely on our draft Bill, was introduced into Parliament as a private members' bill in February 2020 by Lord Stevenson of Balmacara.[48] At the time of writing, there was no date set for its second reading. The Law Commission has not been involved in this process.

Reports awaiting a government decision

20th Statute Law (Repeals) Report

- Report published on 3 June 2015.[49]

The 20th Statute Law Repeals Report recommended the repeal of more than 200 Acts. The Bill accompanying the report covered a wide range of topics from agriculture and churches to trade and industry and taxation. The earliest repeal was from the Statute of Marlborough 1267. Passed during the reign of Henry III, the Statute is one of the oldest surviving pieces of legislation. The most recent repeal is part of the Consumers, Estate Agents and Redress Act 2007.

46 (2016) LC 369.
47 (2017) LC 376.
48 https://services.parliament.uk/Bills/2019-21/goodsmortgagesbill.html.
49 (2015) LC 357.

The draft Bill awaits implementation by the Government. For more information on statute law repeals, see page 70.

Anti-Money Laundering

- Final report published on 18 June 2019.[50]

Money laundering is the process where criminals hide the origins of their illegally gained money. It is estimated to cost every household in the UK £255 a year and allows criminals to profit from their crimes. It is widespread, with between 0.7 and 1.28% of annual European Union GDP detected as being involved in suspect financial activity.

The current law has a system for reporting suspicious financial activity. This provides law enforcement with the means to investigate and gather intelligence and protects honest businesses from inadvertently committing a crime.

However, the reporting scheme isn't working as well as it should. Enforcement agencies are struggling with a significant number of low-quality reports and criminals could be slipping through the net. Consequently, in December 2017 the Home Office asked the Law Commission to review limited aspects of the anti-money laundering regime in Part 7 of the Proceeds of Crime Act 2002 and the counter-terrorism financing regime in Part 3 of the Terrorism Act 2000.

We published our final report in June 2019, making 19 recommendations. Collectively, our recommendations will ensure a more proportionate and user-friendly regime; clarify the scope of reporting; reduce the burden of compliance and processing; and produce better quality intelligence for law enforcement. The Government is considering its response.

Cohabitation: The Financial Consequences of Relationship Breakdown

- Final report published on 31 July 2007.[51]
- Holding response received from Government on 6 September 2011.[52]

In this project, at the Government's request, we examined the financial hardship suffered by cohabitants or their children on the termination of cohabitants' relationships by breakdown or death. The existing law is a patchwork of legal rules, sometimes providing cohabitants with interests in their partners' property, sometimes not. The law is unsatisfactory: it is complex, uncertain and expensive to rely on. It gives rise to hardship for many cohabitants and, as a consequence, for their children.

Our report recommended the introduction of a new scheme of financial remedies that would lead to fairer outcomes on separation for cohabitants and their families. The scheme is deliberately different from that which applies between spouses on divorce and, therefore, does not treat cohabitants as if they were married. It would apply only to cohabitants who had had a child together or who had lived together for a specified number of years (which the report suggests should be between two and five years).

In order to obtain financial support – which might be in the form of a cash lump sum or transfer of a property, but not ongoing maintenance – applicants would have to prove that they had made contributions to the relationship that had given rise to certain lasting financial consequences at the point of separation. For example, one partner might have enjoyed an enhanced earning capacity because the other partner took on responsibility for childcare.

50 (2019) LC 384.

51 (2007) LC 307.

52 Written Ministerial Statement, Hansard (HC), 6 September 2011, col 16WS.

In broad terms, the scheme would seek to ensure that the financial pluses and minuses of the relationship were fairly shared between the couple. For example, if one partner was disadvantaged in the job market as a result of time spent bringing up the couple's children, they might receive some financial compensation from their former partner to support them while retraining or otherwise preparing to return to the office.

The report recommended that there should be a way for couples, subject to necessary protections, to opt out of any such agreement, leaving them free to make their own financial arrangements.

In 2011, the Government announced that it did not intend to take forward our recommendations for reform during that Parliament. The Government is still considering the recommendations.

Consumer Sales Contracts: Transfer of Ownership

- Final report published on 22 April 2021.[53]

This report was in fact published into the new financial year, but we have included it here for completeness.

Consumers often pay for goods in advance of receiving them. This happens whenever consumers buy goods online. It can also happen when consumers pay for goods in a physical store, but the goods have to be made to the consumer's order, are not available to be taken away there and then or are left with the retailer to be altered. If the retailer goes insolvent before the goods are delivered to the consumer, who owns the goods? Currently, the answer depends on complex and technical transfer of ownership rules, which have remained largely unchanged since the late 19th century.

This project follows on from our July 2016 Report, Consumer Prepayments on Retailer Insolvency, discussed above page 44. In that report, we made recommendations for reform of the transfer of ownership rules as they apply to consumers. The Department for Business, Energy and Industrial Strategy (BEIS) asked us to do further work on this issue, to produce legislation and to consider its potential impact. We consulted on a draft, and asked about impact, in July 2020. We have now published our final report and draft legislation.

The draft legislation is intended to simplify and modernise the transfer of ownership rules as they apply to consumers, so that the rules are easier to understand. The draft legislation sets out in simple terms when ownership of the goods will transfer to the consumer. For most goods that are purchased online, ownership would transfer to the consumer when the retailer identifies the goods to fulfil the contract. This would occur when the goods are labelled, set aside, or altered to the consumer's specification, among other circumstances.

However, any decision as to whether to implement the final draft Bill would need to balance a number of relevant considerations to ensure that the benefits justify the potential costs. In particular, during the course of our work, we identified a common practice among retailers of delaying the point at which the sales contract is formed until the goods are dispatched the consumer. This would reduce the impact of our reforms which, like most consumer protections, depend on a sales contract being in place. The evidence we have received about the practice does not suggest that it causes consumer detriment in more general terms, but we think this, and the case for our reforms, should be kept under review.

53 (2021) LC 398.

Criminal Records Disclosures: Non-Filterable Offences

- Final report published on 1 February 2017.[54]

In July 2016, the Commission was asked by the Home Office to review one specific aspect of the criminal records disclosure system, known as "filtering".

On 1 February 2017, the Commission published its report. Within the narrow confines of this project, the report includes a recommendation that a statutory instrument should set out a single, itemised list of non-filterable offences in the future. We recommended a wider review of the disclosure system, which could include: the choice of offences for the list; the rules about multiple convictions and custodial sentences; and the effect on young offenders. The Government is considering our recommendations.

Data Sharing Between Public Bodies

- Scoping report published on 11 July 2014.[55]
- Interim Government response received on 24 December 2014.

Public bodies frequently report difficulties in sharing data with other public bodies, to an extent that impairs their ability to perform their functions for citizens. Some of these problems stem from defects in the law itself, and some from problems with understanding the law.

We conducted this project as a scoping review designed to identify where the problems truly lie and what should be done to address them. We ran a consultation during Autumn 2013 and published our scoping report in July 2014. In the report we concluded that a full law reform project should be carried out in order to create a principled and clear legal structure for data sharing.

The Government welcomed the publication of our scoping report and sent an interim response on 24 December 2014, which noted the usefulness of the scoping report and its resonance with the Government's work in the open policy making space. The open policy making process and subsequent public consultation identified a number of priority areas taken forward in the Digital Economy Act, which received Royal Assent on 27 April 2017.

Electoral Law

- Report published on 16 March 2020.[56]

This report set out our recommendation of a simplified and coherent legal governance structure for the conduct of elections and referendums in the UK. Primary legislation should contain the important and fundamental aspects of electoral law for all polls.

The current law should furthermore be modernised and simplified, in order to ensure it is understood, complied with, and enforced by the public, candidates and various institutional actors.

We hope to receive the Government's response to the report in due course.

Intermediated Securities: a scoping paper

- Scoping paper published on 11 November 2020.

In the modern system of shareholding, investors "own" securities in the form of electronic entries channelled through financial institutions rather than in the form of share certificates issued directly by the company. This has made trading significantly quicker, cheaper and more convenient, but has been the subject of criticism over issues of corporate governance, transparency and legal certainty.

54 (2017) LC 371.
55 (2014) LC 351.
56 (2020) LC 389.

We were asked by the Department for Business, Energy & Industrial Strategy to produce a scoping study, providing an accessible account of the law and identifying issues in the current system of intermediation. The purpose of the scoping paper was to inform public debate, develop a broad understanding of potential options for reform and develop a consensus about issues to be addressed in the future. We were not asked to produce a full report with detailed recommendations for reform. However, we did set out options for further work which the Government is considering currently.

Intestacy and Family Provisions Claims on Death (Cohabitants)

- Final report and draft Inheritance (Cohabitants) Bill published on 14 December 2011.[57]
- Holding response received from Government on 21 March 2013.

In this project, we examined two important aspects of the law of inheritance: the intestacy rules that determine the distribution of property where someone dies without a will; and the legislation that allows certain bereaved family members and dependants to apply to the court for family provision.

Our final report, Intestacy and Family Provision Claims on Death, was accompanied by two draft Bills to implement our recommendations. The first Bill was implemented and became the Inheritance and Trustees' Powers Act 2014. The second Bill, the draft Inheritance (Cohabitants) Bill, would:

- Reform the law regarding an application for family provision by the survivor of a couple (if they were not married or in a civil partnership) who had children together.
- In defined circumstances, entitle the deceased's surviving cohabitant to inherit under the intestacy rules where there was no surviving spouse or civil partner. Generally speaking, this entitlement would arise if the couple lived together for five years before the death or for two years if they had a child together.

The Government announced in March 2013 that it did not intend to implement the draft Inheritance (Cohabitants) Bill during the then current Parliament. The Government is still considering the recommendations.

Kidnapping

- Final report published on 20 November 2014.[58]

The aim of the recommendations we made in our November 2014 report was to modernise the law on kidnapping and false imprisonment and address the gaps in the law relating to child abduction. Specifically, we recommended that:

- The kidnapping offence be redefined in statute but should remain triable in the Crown Court only.
- The existing offence of false imprisonment be replaced by a new statutory offence of unlawful detention.
- The maximum sentence for offences under sections 1 and 2 of the Child Abduction Act 1984 be increased from seven to 14 years' imprisonment.
- Section 1 of the 1984 Act be extended to cover cases involving the wrongful retention of a child abroad – this would close the gap in the law highlighted in the case of R (Nicolaou) v Redbridge Magistrates' Court.[59]

57 (2011) LC 331

58 Kidnapping and related Offences (2014) LC 355.

59 [2012] EWHC 1647 (Admin); [2012] 2 Cr App R 23.

This work forms part of a wider project, Simplification of the Criminal Law, which originated in our 10th Programme of Law Reform. The Government continues to consider the feasibility of the Law Commission's recommendations.

Matrimonial Property, Needs and Agreements

- Final report and draft Bill published on 27 February 2014.[60]
- Interim response received from Government on 18 September 2014.

This project was set up, initially under the title "Marital Property Agreements", to examine the status and enforceability of agreements (commonly known as "pre-nups") made between spouses and civil partners (or those contemplating marriage or civil partnership) concerning their property and finances.

In February 2012, the scope of the project was extended to include a targeted review of two aspects of financial provision on divorce and dissolution, namely provision for the parties' financial needs and the treatment of non-matrimonial property.

We published our final report in February 2014, making the following recommendations:

- The meaning of "financial needs" should be clarified by the provision of guidance so that it can be applied consistently by the courts.
- Legislation to be enacted introducing "qualifying nuptial agreements".
- Work should be done to assess whether a formula for calculating payments would be feasible, but only when sufficient data is available about divorce outcomes under the current law.

The Government's interim response was published on 18 September 2014. The Government has accepted and taken action on the recommendation for guidance. The Family Justice Council developed financial guidance for separating couples and unrepresented litigants, which it published in April 2016, followed by publication of guidance for the judiciary on financial needs in June 2016. The Family Justice Council has also worked in partnership with AdviceNow, a charity which produces legal guides. AdviceNow's guide, "Sorting out your finances when you get divorced", was most recently updated in February 2021.

The Government is considering the Law Commission's recommendations on a financial tool for separating couples and on qualifying nuptial agreements as part of a wider consideration of family law and will respond in due course. The Commission is also assisting the judiciary with a project to collect data about financial remedies cases. This is a necessary step towards developing a formula to generate a range of outcomes for the payment of maintenance in divorce cases.

Misconduct in Public Office

- Final report published on 4 December 2020.[61]

Misconduct in public office is a common law offence: it is not defined in any statute. It carries a maximum sentence of life imprisonment. The offence requires that: a public officer acting as such; wilfully neglects to perform his or her duty and/or wilfully misconducts him or herself; to such a degree as to amount to an abuse of the public's trust in the office holder; without reasonable excuse or justification.

60 (2014) LC 343.
61 (2020) LC 397.

On 4 December 2020, the Commission published its report. We recommend that the current offence should be repealed and replaced with two statutory offences:

- An offence of corruption in public office: which would apply where a public office holder knowingly uses or fails to use their public position or power for the purpose of achieving a benefit or detriment, where that behaviour would be considered seriously improper by a "reasonable person". A defendant to this offence will have a defence if they can demonstrate that their conduct was, in all the circumstances, in the public interest.
- An offence of breach of duty in public office: which would apply where a public office holder is subject to and aware of a duty to prevent death or serious injury that arises only by virtue of the functions of the public office, they breach that duty, and in doing so are reckless as to the risk of death or serious injury.

To provide greater clarity around the scope of the offence, we also recommend that there be a list of positions capable of amounting to "public office" set out in statute.

Finally, we recommend that consent of the Director of Public Prosecutions should be required to prosecute the offence, to ensure that the right cases are prosecuted, and to prevent vexatious private prosecutions.

The Government is considering its response.

Offences Against the Person

- Scoping report and draft Bill published on 3 November 2015.[62]

This was a project for the modernisation and restatement of the main offences of violence, which are:

- Those contained in the Offences Against the Person Act 1861.
- The offences of assault and battery, which are common law offences.
- Assault on a constable, which is an offence under the Police Act 1996, section 89.

Our aim was to replace all these offences with a single modern and easily understandable statutory code largely based on a draft Bill published by the Home Office in 1998 but with some significant changes and updating. Our best estimate of the gross savings from the recommended reform is around £12.47m per annum.

We published our report in November 2015 and are awaiting a response from the Government.

Protection of Official Data

- Final report published on 1 September 2020.[63]

In 2015, the Cabinet Office asked the Law Commission to review the effectiveness of the laws that protect Government information from unauthorised disclosure. We published a consultation paper on 2 February 2017 which suggested ways to improve the law that protects official information.

We published a final report with recommendations for change on 1 September 2020. In it we make 33 recommendations designed to ensure that:

62 (2015) LC 361.
63 (2020) LC 395.

- the law governing both espionage and unauthorised disclosures addresses the nature and scale of the modern threat;
- the criminal law can respond effectively to illegal activity (by removing unjustifiable barriers to prosecution); and
- the criminal law provisions are proportionate and commensurate with human rights obligations.

Residential Leasehold (Enfranchisement, Right to Manage and Commonhold)

- Final reports published on 9 January 2020[64] and on 21 July 2020.[65]

On 9 January 2020, we published a final report on one aspect of our enfranchisement project, namely the price that must be paid by leaseholders to make an enfranchisement claim. In July 2020, we published three further final reports covering all other aspects of the enfranchisement process, as well as on the right to manage and commonhold.

For further details pages 28, 29 and 30.

Rights to Light

- Final report and draft Bill published on 4 December 2014.[66]

Rights to light are easements that entitle landowners to receive natural light through defined apertures (most commonly windows) in buildings on their land. The owners of neighbouring properties cannot substantially interfere with the right, for example by erecting a building that blocks the light, without the consent of the landowner.

In our final report, we recommended:

- Establishing a statutory notice procedure allowing landowners to require their neighbours to tell them within a set time limit if they plan to seek an injunction to protect their right to light.
- Introducing a statutory test to clarify when the courts may order damages to be paid, rather than halting development or ordering a building to be demolished by granting an injunction (this takes into account the Supreme Court decision in the case of *Coventry v Lawrence)*.[67]
- Updating the procedure whereby landowners can prevent their neighbours from acquiring rights to light by prescription.
- Amending the law governing when an unused right to light is to be treated as having been abandoned.
- Giving power to the Lands Chamber of the Upper Tribunal to discharge or modify obsolete or unused rights to light.

In his July 2018 report on the implementation of Law Commission recommendations, the Lord Chancellor stated that the Government had been carefully considering the report and that there were no immediate plans to implement the recommendations as a result of other legislative priorities, but that the position would be kept under review.[68]

64 (2020) LC 387.

65 (2020) LC 392, (2020) LC 393, and (2020) LC 394.

66 (2014) LC 356.

67 [2014] UKSC 13

68 Implementation report (July 2018), para 42, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/730404/implementation-of-law-commission-recommendations-report-2017-2018.pdf.

Search Warrants

- Final report published on 7 October 2020.[69]

The Home Office invited the Law Commission to conduct a review to identify and address pressing problems with the law governing search warrants, and to produce proposals for reform which would clarify and rationalise the law.

We published a consultation paper on 5 June 2018. In addition, we undertook several activities to assist in understanding the practical side of search warrants. We spent time with Staffordshire Police, who gave us operational insight into applying for and executing search warrants. This included accompanying constables during the execution of a search warrant. We attended the offices of Privacy International, who demonstrated to us first-hand the capability of mobile phone extraction tools and the quantity of data that they can extract. We also attended a number of court hearings that concerned the treatment of material seized following the execution of a search warrant.

In our final report, we made 64 recommendations. These aim to make the law simpler, fairer, more modern and efficient and to strike a balance between effectively investigating crime whilst strengthening safeguards for those being investigated.

The Government is considering its response.

Termination of Tenancies for Tenant Default

- Final report published on 31 October 2006.[70]

This project examined the means whereby a landlord can terminate a tenancy because the tenant has not complied with his or her obligations. This is an issue of great practical importance for many landlords and tenants of residential and commercial properties. The current law is difficult to use and littered with pitfalls for both the layperson and the unwary practitioner. It does not support negotiated settlement and provides insufficient protection for mortgagees and sub-tenants.

Our report recommended the abolition of forfeiture and its replacement by a modern statutory scheme for the termination of tenancies on the ground of tenant default that would balance the interests of all parties affected and promote more proportionate outcomes.

In March 2019, the Housing, Communities and Local Government Select Committee recommended that the Government implement our recommendations.[71] In response, the Government has asked us to update our report.[72] Work on that has been undertaken during the reporting year, and is ongoing.

69 (2020) LC 396.

70 (2006) LC 303.

71 Housing, Communities and Local Government Committee, *Leasehold Reform, Twelfth Report of Session 2017–19* (March 2019) HC1468, para 185, available at https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/1468/1468.pdf

72 Government response to the Housing, Communities and Local Government Select Committee report on Leasehold Reform (July 2019) CP 99, para 85, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814334/CCS0519270992-001_Gov_Response_on_Leasehold_Reform_Web_Accessible.pdf.

The High Court's Jurisdiction in Relation to Criminal Proceedings

- Report and draft Bill published on 27 July 2010.[73]
- Holding response received from Government on 13 March 2015.[74]

This project made recommendations for rationalising and simplifying the ways that judicial review and appeals by way of case stated can be used to challenge Crown Court decisions.

The Government is continuing to consider these recommendations.

Unfitness to Plead

- Final report and draft Bill published on 13 January 2016.[75]
- Interim Government response received on 30 June 2016.

The law relating to unfitness to plead addresses what should happen when a defendant who faces criminal prosecution is unable to engage with the process because of his or her mental or physical condition. The law aims to balance the rights of the vulnerable defendant with the interests of those affected by an alleged offence and the need to protect the public. However, the current law in this area is outdated, inconsistently applied and can lead to unfairness.

After a wide-ranging consultation conducted in winter 2010–11, we published an analysis of responses and an issues paper in 2013 and our final report and draft Bill in January 2016.

The Government provided an interim response on 30 June 2016, acknowledging our work and noting that a substantive response would be provided in due course. We continue to work with officials and look forward to receiving a response.

73 (2010) LC 324.

74 Report on the Implementation of Law Commission Proposals, Ministry of Justice (2015), paragraph 99.

75 (2016) LC 364 (two volumes).

Part Four:
How we work

The work of the Commission is grounded in thorough research and analysis of case law, legislation, academic and other writing, and other relevant sources of information both in the UK and overseas. It takes full account of the European Convention on Human Rights and relevant retained EU law. Throughout this process, where appropriate, we act in consultation or work jointly with the Scottish Law Commission. In the case of Northern Ireland, the Law Commission there exists in name only. We liaise with officials in the Northern Ireland Department of Justice whenever UK-wide issues arise, as with our project on Surrogacy.

Our programmes of law reform

We are required to submit to the Lord Chancellor programmes for the examination of different branches of the law with a view to reform. Earlier sections of this report provide details about the launch of the consultation to generate ideas for our 14th Programme of Law Reform.

During 2020-21, we have continued work on projects selected for our 13th Programme of Law Reform, which we launched in December 2017, and earlier programmes. Details of this work are set out in Part Two of this report. The full list of the fourteen projects selected for our 13th Programme can be found in our annual report for 2017–18.

Decisions about whether to include a particular subject in a programme of reform are based on:

Impact: The extent to which law reform will impact upon the lives of individuals, on business, on the third sector and on the Government. Benefits derived from law reform can include:

- modernisation, for example supporting and facilitating technological and digital development;
- economic, for example reducing costs or generating funds;
- fairness, for example supporting individual and social justice;
- improving the efficiency and/or simplicity of the law, for example ensuring the law is clearly drafted and coherent to those who need to use it;
- supporting the rule of law, for example ensuring that the law is transparent; and,
- improving access to justice, for example, ensuring procedures do not unnecessarily add to complexity or cost.

Sustainability: Whether an independent, non-political, Law Commission is the most suitable body to conduct a proposed project.

Opinion: The extent to which proposed law reform is supported by Ministers/Whitehall, the public, key stakeholders, Parliament and senior judiciary.

Urgency: Whether there are pressing reasons (for example, practical or political) why reform is required. To ensure a manageable programme of work, the Commission seeks a mix of: (a) urgent projects with tight or fixed timeframes and (b) longer-term projects where there is more flexibility over delivery. There has to be a realistic assessment of the time and resource required to undertake the work to the quality expected from the Law Commission.

Balance: So far as possible the Commission seeks a portfolio of work which takes account of: (a) the statutory requirement to keep all areas of the law under review; (b) the balance of work across Government departments (i.e. different departmental law reform priorities); and (c) the balance of legal skills and expertise available to the Commission.

It is important that the Law Commission's role in relation to the people of Wales is recognised in any Programme. We have therefore agreed with the Lord Chancellor that, wherever possible, each Law Commission Programme should contain a minimum of one Wales-specific project.

Although we have a duty to "take and keep under review all the law",[76] it is important that our efforts are directed towards areas of the law that most need reform and reforms that are most likely to be implemented. We focus on change that will deliver real benefits to the people, businesses, organisations and institutions to which that law applies.

Consultation

We aim to consult fully with all those potentially affected by our proposals. We engage with stakeholders from the outset of a project, even before a piece of work is officially adopted, and conduct thorough, targeted consultations throughout. This allows us to acquire a good understanding of the issues that are arising in an area of law and the effect they are having, and gives us a clear picture of the context within which the law operates. We use this to assess the impact of our proposed policies and refine our thinking.

Our consultations can include meetings with individuals and organisations, public events, conferences, symposia and other types of event, as well as interviews and site visits. We often work through representative organisations, asking them to help us reach their members and stakeholders.

During our formal consultations we ask for written responses and provide a number of ways for consultees to submit these. All the responses we receive are analysed and considered carefully. Aggregated analyses, and in some cases individual responses, are published on our website, usually alongside our final report.

We follow the Government Consultation Principles issued by the Cabinet Office.[77]

Making recommendations for reform

We set out our final recommendations in a report. If implementation of those recommendations involves primary legislation, the report will often contain a Bill drafted by our in-house Parliamentary Counsel. The report is laid before Parliament. It is then for the Government to decide whether it accepts the recommendations and to introduce any necessary Bill in Parliament, unless an MP or Peer opts to do so.

After publication of a report the Commissioner, members of the relevant legal team and the Parliamentary Counsel who worked on the draft Bill will often give assistance to Government Ministers and Departments to help them take the work forward.

Not all law reform projects result in formal recommendations to the Government. The Commission also has the statutory remit to provide advice to the Government and we sometimes will also undertake scoping studies to help identify potential areas on which to prioritise future law reform work, subject to Government support.

76 Law Commissions Act 1965, s 3(1).

77 https://www.gov.uk/government/publications/consultation-principles-guidance.

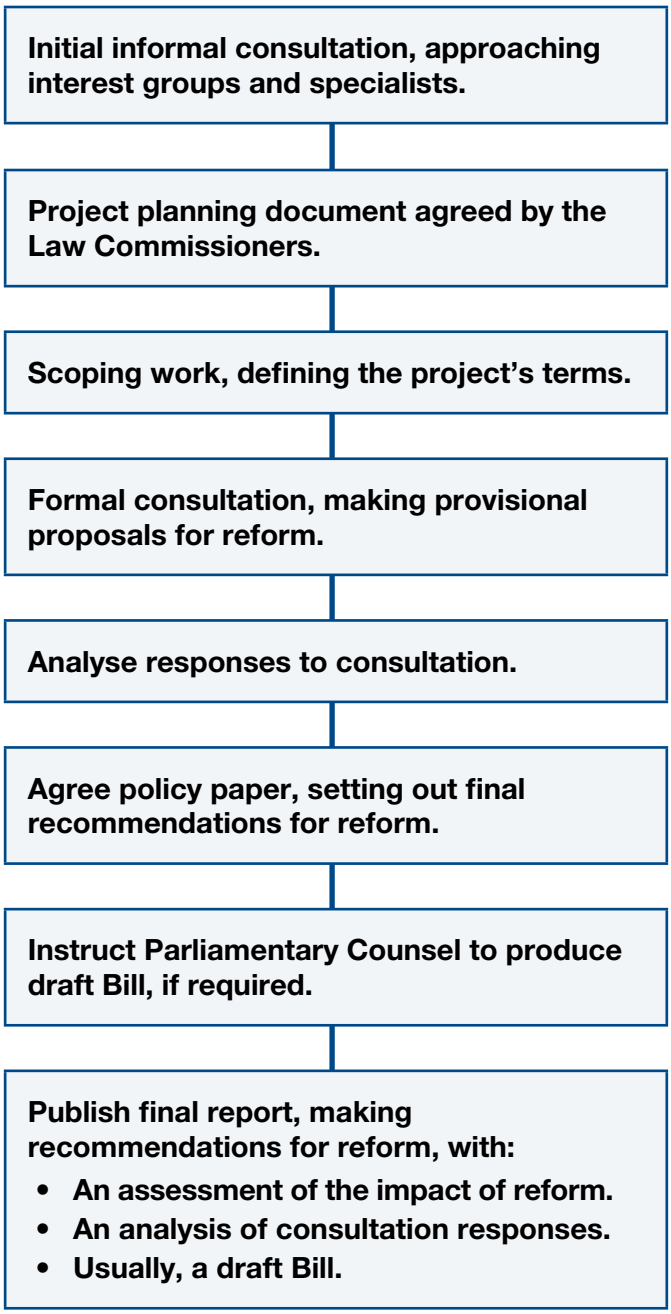
Other law reform projects

In addition to the law reform projects that make up our programme, we also undertake law reform projects that have been referred to us directly by Government departments.

During 2020–21, four projects were referred to us by the Government:

- Consumer Sales Contracts: Transfer of Ownership – to update the provisions on transfer of ownership, currently in the Sale of Goods Act 1979, to better suit the consumer context. This project was referred to us by BEIS (see page 18).
- Digital Assets – to make recommendations for reform to ensure that the law is capable of accommodating both cryptoassets and other digital assets in a way which allows the possibilities of this technology to flourish. Our work will consider whether digital assets should be "possessable". This could have significant consequences for the functioning and development of the market in digital assets. This project was referred to us by the MoJ (see page 16).
- Electronic Trade Documents – to make recommendations for reform to allow for electronic versions of documents such as bills of lading, bills of exchange, promissory notes and warehouse receipts. This project was referred to us by DCMS (see page 17).
- Smart Contracts – a scoping study to review the current legal framework in England and Wales to ensure that it facilitates the use of smart legal contracts. This project was referred to us by the MoJ (see page 16).

Figure 4.1 Common stages of a law reform project



Statute law

The Law Commission's statutory functions set out in section 3(1) of the Law Commissions Act 1965 include a duty "to prepare from time to time at the request of the Minister comprehensive programmes of consolidation and statute law revision, and to undertake the preparation of draft Bills pursuant to any such programme approved by the Minister".

Over time a vast body of legislation has built up – this is commonly referred to as the "statute book". Since its creation, the Law Commission has performed two important functions which are designed to modernise the statute book and make it more accessible:

- Removing legislation that is obsolete or which has lost any modern purpose. The legislation appears to be still in force but this is misleading because it no longer has a job to do. This may be because the political, social or economic issue an Act was intended to address no longer exists or because an Act was intended to do a specific thing which, once done, means it has served its purpose.
- Replacing existing statutory provisions, which are spread across multiple Acts, may have been drafted decades ago and have been amended multiple times, with a single Act or series of related Acts, drafted according to modern practice. This process of "consolidation" does not alter the effect of the law, but simply updates and modernises its form.

Outdated, obscure or obsolete legislation can cost time and money for those who work with the law. It makes the law more difficult to understand and interpret, and places a further obstacle in the way of accessibility.

The work of the Law Commission improves the accuracy and modernity of the statute book so it can be used with greater confidence, and navigated more easily. As social and technological change continues to be reflected in new legislation, and as internet access to statutory law increases its availability, the need for systematic and expert review of existing legislation will continue.

Statute Law Repeals

In the past, the Law Commission has identified candidates for repeal by research and consultation. The legal background to an Act is examined in detail, as is the historical and social circumstances which might have led to it. We consult on proposed repeals and then prepare a draft Bill. The repeals are carried out by means of Statute Law (Repeals) Acts. Nineteen of these have been enacted so far, between them repealing over 3,000 Acts in their entirety and partially repealing thousands of others.

In recent times, enthusiasm in Government for repeals work has reduced, which in turn makes it difficult for the Commission to allocate resource to this aspect of our work. Nevertheless, we remain committed to repeals work and will continue to consider ways in which we can focus our attention on those areas of law which have the potential to cause genuine confusion. It may be that there are opportunities to reinvigorate this work in light of the UK's exit from the EU. Now the UK has control of all the relevant legislation, there are opportunities to bring greater coherence to the areas of domestic legislation most affected by leaving the EU. We recognise that individual government departments will already have identified specific high priority areas in need of reform.

The Law Commision could consider an overarching project to investigate areas where legislative repair has the potential to bring the greatest benefits, working closely with the Office of Parliamentary Counsel and the Government Legal Department. It may be that such work would identify, thematically, priority areas of the law in

need of rationalisation, which in turn would help lay a firm platform for future development of the law. Alternatively there could be specific areas of retained EU law which can already be identified as being in need of reform. Our expertise in Statute Law Repeals and consolidation may well be useful in this regard and the way in which work of this sort can bring coherence and clarity to a difficult and complicated area of law has been shown by our work on the Sentencing Code, which is discussed in more detail below.

Consolidation

Between our establishment in 1965 and 2006, we were responsible for 220 consolidation Acts. Since then only three have been produced: the Charities Act 2011, the Co-operative and Community Benefit Societies Act 2014 and the Sentencing Act 2020. This change reflects the fact that, in a time of reduced funding in most areas of public services and, specifically, reduced core funding for the Law Commission, consolidation is perhaps seen by the Government to be a lower priority. The need for simplification of the law remains as great as it ever has been, however, and we are encouraged by the reception that some of our recent technical reform work has received.

In November 2018, we published our final report on The Sentencing Code. In it we recommended a major consolidation of the legislation which governs sentencing procedure, and included two draft Bills, one of which contained the Sentencing Code and the other of which contained proposed pre-consolidation amendments.

The law on sentencing affects all criminal cases and is applied in hundreds of thousands of trials and thousands of appeals each year. It is spread across a vast number of statutes and is frequently amended. Worse, amendments are brought into force at different times for different cases. The result of this is that there are multiple versions of the law in force and it is difficult to identify which should apply to any given case. This makes it difficult, if not impossible at times, for practitioners and the courts to understand what the present law of sentencing procedure actually is. This leads to delays, costly appeals and unlawful sentences.

The Secretary of State for Justice accepted the principal recommendation of the report in May 2019. The Sentencing (Pre-consolidation Amendments) Act received Royal Assent on 8 June 2020. This is a short, technical Act that facilitates the consolidation process and the "clean sweep." The Sentencing Act 2020, containing the Sentencing Code, received Royal Assent on 22 October 2020 and the Code came into force on 1 December 2020. The Code has been widely welcomed by practitioners and we estimate that it will save millions over the next decade by avoiding unnecessary appeals and reducing delays in sentencing clogging up the court system.

The Windrush Lessons Learned Independent Review recommended that, building on its review of the Immigration Rules, the Law Commission should consolidate immigration legislation. We have now received a formal request to carry out this work and are working with the Home Office to establish how the project will be carried out.

We have also been very pleased by the enactment of the Legislation (Wales) Act 2019 by the Senedd. Part 1 of this Act implements some of the recommendations in our report on the *Form and Accessibility of the Law Applicable in Wales*. In particular it places a duty on the Counsel General to keep under review the accessibility of the law in Wales. It also introduces a commitment by the Welsh Ministers to prepare a programme to improve the accessibility of Welsh law at the start of each new Senedd term. The programme must include (among other things) activities that are intended to contribute to an ongoing process of consolidating and codifying the law in Wales. Work is already underway, led by the Counsel General, to determine the order and priority of codification projects in Wales. The

Law Commission is involved in that process, and stands ready to assist further, if asked.

We are optimistic that a Bill based in part on our report *Planning Law in Wales* will be the first major piece of consolidating legislation enacted by the Senedd following the elections in 2021. In their interim response to our report, the Welsh Government announced that work had begun on a Planning Consolidation Bill. We are assisting that work. A Planning (Wales) Act (Deddf Cyllunio (Cymru)) would represent a landmark in the development of law in Wales if and when it is enacted.

We welcome the Welsh Government's commitment to providing modern, accessible legislation to members of the public in Wales in both English and Welsh. We hope to see more consolidation, and even codification, of the law in Wales in coming years.

Implementation

Crucial to the implementation of our consolidation and statute law repeals Bills in Westminster is a dedicated Parliamentary procedure (see page 44 for more information). The Bill is introduced into the House of Lords and, after Lords Second Reading, is scrutinised by the Joint Committee on Consolidation Bills. The Committee is appointed by both Houses specifically to consider consolidation and statute law repeal Bills and will hear evidence from the Law Commission. After this, the Bill returns to the House of Lords and continues through its remaining stages.

The Law Commission and government

Government response to Law Commission reports

In March 2010, we agreed a statutory Protocol[78] with the Lord Chancellor that governs how the Commission and Government Departments should work together on law reform projects. The latter part of the Protocol sets out departmental responsibilities once we have published a report. The Minister for the relevant Department will provide an interim response to us as soon as possible but not later than six months after publication of the report. We expect to receive a final response within a year of the report being published.

Improving the prospects of implementation

The Protocol also says that we will only take on work where there is a "serious intention" to reform the law by the Government. As a result, this confirmation is sought from the relevant departments before any law reform projects get underway. While this is not a guarantee that the Government will accept or implement our recommendations for reform, it enables us to commit resources to a project in the knowledge that we have a reasonable expectation of implementation.

Accounting to Parliament for implementation

The Law Commission Act 2009 requires the Lord Chancellor to report to Parliament on the extent to which our proposals have been implemented by the Government. The report must set out the Government's reasons for decisions taken during the year to accept or reject our proposals and give an indication of when decisions can be expected on recommendations that are still being considered. The Lord Chancellor issued

78 Protocol between the Lord Chancellor (on behalf of the Government) and the Law Commission (2010) LC 321.

the seventh of these reports on 30 July 2018[79] covering the period 12 January 2017 to 30 July 2018. The next report is being drafted at the time of writing.

The Law Commission and the Welsh Government

The Wales Act 2014 provides for a protocol[80] to be established between the Law Commission and the Welsh Government. This protocol was agreed and presented to the Senedd on 10 July 2015. It sets out the approach that we and Welsh Ministers jointly take to our law reform work. It covers how the relationship works throughout all the stages of a project, from our decision to take on a piece of work, through to the Ministers' response to our final report and recommendations.

In a direct reflection of the obligations placed on the Lord Chancellor by the Law Commission Act 2009, the 2014 Act also requires Welsh Ministers to report annually to the Senedd about the implementation of our reports relating to Welsh devolved matters. The fifth Welsh Government Report on the Implementation of Law Commission Proposals (Adroddiad ar weithredu cynigion Comisiwn y Gyfraith) was laid before the Senedd on 14 February 2020.[81]

Informing debate and scrutiny

In the Westminster Parliament and the Welsh Senedd, we are often invited to give evidence to special committees and sessions to assist with their inquiries and their consideration of Bills, some of which may include provisions that have derived from Law Commission recommendations.

On 22 February 2021, Nicholas Paines QC was invited to appear before the Public Senedd in Wales to Administration and Constitutional Affairs Select Committee to answer questions on justice in Wales and the devolved tribunals

On 23 March 2021, Professor Penney Lewis and Dr Nicholas Hoggard provided oral evidence to the House of Lords Communications and Digital Committee on freedom of expression online; an issue closely aligned to a number of Law Commission projects.

The Law Commissioners

The five Law Commissioners work full time at the Law Commission, except that the Chair sits as a judge for one working week in four.

In accordance with Government policy for all non-departmental public bodies, there is a Code of Best Practice for Law Commissioners. It incorporates the Seven Principles of Public Life and covers matters such as the role and responsibilities of Commissioners.[82]

External Relations

We work hard to establish strong links with a wide range of organisations and individuals who have an interest in law reform, and we greatly value these relationships. We are indebted to all those who send us feedback on our consultation papers, contribute project ideas for our programmes of law reform, and provide input and expertise at all stages of the process of making recommendations to the Government.

It would not be possible in this annual report to thank individually everyone who provides us with guidance or offers us their views. We would, however, like to express our gratitude to our Wales Advisory Committee and all those organisations

79 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/730404/implementation-of-law-commission-recommendations-report-2017-2018.pdf.

80 Protocol rhwng Gweinidogion Cymru a Comisiwn y Gyfraith/Protocol between the Welsh Ministers and the Law Commission (2015

81 https://senedd.wales/laid%20documents/gen-ld13039/gen-ld13039-e.pdf.

82 http://www.lawcom.gov.uk/about/who-we-are.

and individuals who have worked with us as members of advisory groups on our many projects and who have contributed in so many ways to our work during the course of the year.

We also acknowledge the support and interest shown in the Commission and our work by a number of ministers in Westminster and in Cardiff, Members of Parliament and of the Senedd and Peers from across the political spectrum, and by public officials. We continue to make progress in extending the number of ways in which we engage with our friends and supporters.

Communications

Since 1965, we have changed the lives of many people by reforming the law for the better. Underpinning this is the need to communicate effectively to enable greater public engagement in our consultations, create awareness of what we do amongst Government departments and build momentum behind our recommendations for reform.

The Commission's communications offering is structured on the industry best practice – the Government Communications Service Modern Communications Operating Model (MCOM).

Results have continued to improve across our campaigning and marketing channels. During the reporting period 320,000 users visited our website, an increase of almost 7.5%. Our Twitter account has also grown and now reaches more than 19,500 followers (an increase of 13% on the previous year).

For our proactive announcements, we have repeatedly secured coverage in the national press and broadcast media. This is all supported by local and trade media. For example, for the launch of our consultation on weddings, we secured almost 200 pieces of coverage including on the BBC, Good Morning Britain, in several national newspapers and 130 local news sites.

We continue to implement our internal communications strategy, leveraging on a modern, new intranet to ensure that staff are kept updated on the key messages both within the Law Commission and MoJ. We aim for this strategy to bring the organisation in line with internal communications best practice.

Education and engagement

We have a statutory duty to promote the reform of the law and continue to work hard in this area. Alongside the production of various infographics to explain in plain English each new law reform project, we regularly speak to students and engage with practitioners from across Britain and the world.

Due to the COVID-19 pandemic we have been unable to meet law reform bodies during this year; however, we hope to re-engage with these organisations over the next calendar year. On the other hand, as part of our Research Assistant recruitment outreach, we presented to students from twelve different universities, including the Universities of Sussex, Nottingham, Cardiff and Birmingham.

Speaking on law reform

As an outward facing organisation the Commission's Chair, Commissioners and staff have been active speaking at many different events that have taken place virtually due to the COVID-19 pandemic. We look forward to hopefully returning to more physical events over the following 12 months.

Over 2020–21, this has included:

- Speaking at an event co-hosted with Public Law Wales about the consultation on devolved tribunals in Wales.
- Taking part in a series of webinars to discuss our proposals to reform the confiscation regime.

- For our weddings consultation, we hosted three roundtables, nine Q&A sessions, and took part in a number of external events.
- Attending a roundtable to discuss the impact of online abuse with victims' support organisations and the Minister for Digital and Culture, Caroline Dinenage MP.
- Professor Nick Hopkins speaking about our recommendations for reforming leasehold law at the Blundell Lectures.
- The Chair and Professor Penney Lewis giving evidence to the French Assemblée Nationale on hate crime.

Social responsibility

Every year a team, made up of our legal and other staff, join members of the judiciary and teams from many of London's law firms and sets of chambers in the annual London Legal Walk. In 2020, with coronavirus suspending the walk, Law Commission staff took part in the London Legal Walk 2020 10x Challenge, where participants completed a 10k walk (or any challenge based around the number 10). In total, the team raised over £1,000 for the London Legal Support Trust, which organises the event. The funds go to support free legal advice agencies in and around London, including Law Centres and pro bono advice surgeries.

Diversity and inclusion

We have published the Law Commission's Diversity and Inclusion Strategy for 2021/22. In which we have set out the Law Commission's goals, ongoing work and future actions. The Law Commission champions inclusivity and respect and continue make significant steps in this area.

We have undertaken work to raise diversity awareness and make recommendations for key law reforms, and we continue to build on our outreach work in universities aimed at our annual intake of Research Assistants. We specifically target universities with a higher proportion of students from those communities under-represented in the law with a view to raising awareness of the opportunities at the Commission. We launched work to explore the possibility of funding several placements to provide law students from under represented communities the opportunity to gain work experience at the Law Commission.

We have several ongoing actions for 2021/22, all of which are aimed at improving diversity and inclusion at the Commission. Further details can be found in our published strategy.[83]

Our partner Law Commissions and the devolved authorities

We continue to work closely with our colleagues in the Scottish Law Commission, seeking views as appropriate and engaging on a regular basis. The ongoing Automated Vehicles and Surrogacy projects have been jointly undertaken with the Scottish Law Commission. The Law Commissions work closely together, including reciprocal attendance at each other's Peer Review meetings, at which draft publications are reviewed.

83 https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2021/06/Diversity-and-Inclusion-strategy-final-2.pdf

Part Five:

Our people and corporate matters

The Law Commission is grateful to everyone within the organisation for their hard work, expertise and support as well as their contribution to the work of the Commission.

Budget

The Law Commission's core funding, provided to us by Parliament and received through the MoJ, for 2020–21 was £2.19m. This represents a decrease of 2% from 2019–20.

The cost to operate the Commission is approximately £4.9m (see Appendix B). This ensures that we are suitably resourced to undertake effective law reform. Our reducing budget following the Spending Review 2015 means that there is an increased necessity for a greater number of our law reform projects to be funded by monetary contributions, on a marginal cost basis, from the sponsoring Government department.

During the course of 2020–21, we held multiple strategic discussions with the MoJ to review our funding model, as recommended by the 2019 Tailored Review. As referenced by both the chair and the Chief Executive, a new funding model has been agreed with the Lord Chancellor which will place the Law Commission on a firmer footing in the future.

COVID-19

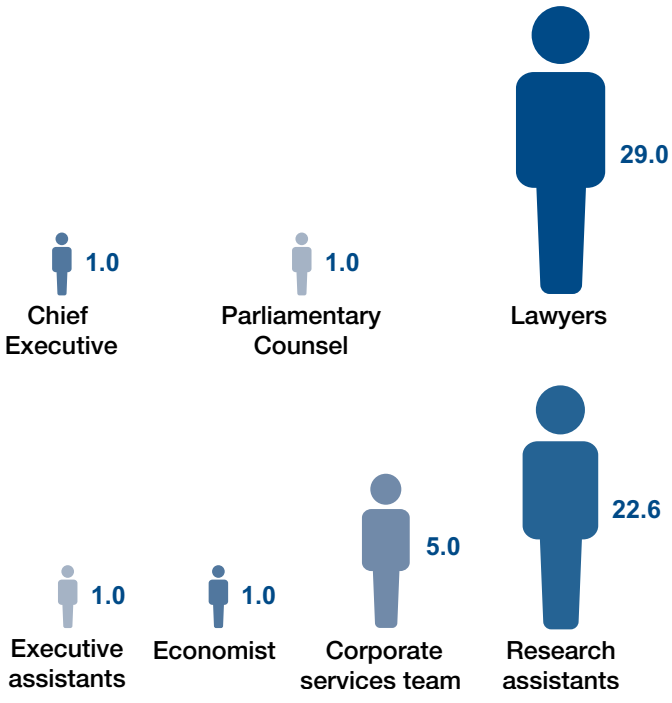
As of 17 March 2020, the Law Commission switched to exclusive home working in response to the COVID-19 outbreak. The Law Commission acted swiftly and effectively to put in place its business continuity plan arrangements but we are still facing significant risks. There may be a delay to some projects from lengthy home working as we adjust to new, digital forms of consultation and meeting with stakeholders. Alongside this, many staff face additional pressures due to added caring responsibilities resulting from the country moving into lockdown. Project delay in and of itself will not cause any adverse operational issues given the long-term nature of Law Commission work. However, it will bring about budgetary pressures in relation to staffing, our ability to generate new funded work as Government departments prioritise their response to COVID-19 and the possibility that funding for existing work runs out.

Staff at the commission

The Commissioners are supported by the staff of the Law Commission. The staff are civil servants and are led by a Chief Executive.

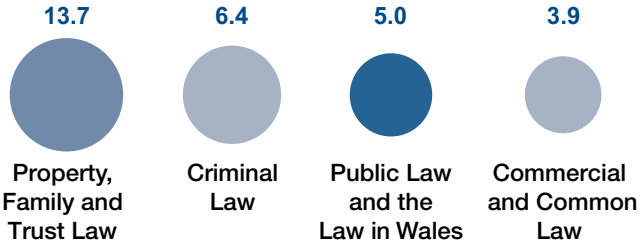
In 2020–21, there were 66 people working at the Law Commission (full-time equivalent: 60.6 as at 31 March 2021).[84]

Figure 5.1 People working at the Commission (full-time equivalent, at 31 March 2021)



84 Excluding the Chair, Chair's Clerk and Commissioners.

Figure 5.2 Lawyers (full-time equivalent, at 31 March 2021)



Chief Executive

Our Chief Executive is responsible for setting the strategic direction of the Commission, in discussion with the Chair and other Commissioners, and for staffing, funding, organisation and management. The Chief Executive is the Commission's Budget Holder. He is also responsible for the day-to-day management of the Law Commission's relationship with the MoJ, including liaising with and influencing senior Departmental officials and promoting contacts and influence within Government departments.

The Chief Executive provides advice and assistance to the Chair and other Commissioners, including support of the Chair in his relationships with ministers, the senior judiciary, relevant Parliamentary committees and the media.

Legal staff

Our lawyers are barristers, solicitors or legal academics from a wide range of professional backgrounds, including private practice and public service.

We organise the legal staff into four teams to support the Commissioners: commercial and common law; criminal law; property, family and trust law and public law and the law in Wales.

The four teams undertake law reform work, with one Commissioner responsible for the work of the team. The teams are led by a team head, a senior lawyer who provides direct support to the relevant Commissioner and leads the team of lawyers and research assistants working with the Commissioner to deliver their projects. One of the team managers also acts as Head of Legal Services, working closely with the Chief Executive on strategic law reform and staffing issues, and representing the Commission in dealings with key legal stakeholders. Team heads generally do not lead on specific law reform projects themselves; their role focuses on project managing the team's work, providing legal and policy input into those projects, recruiting, mentoring and managing staff and working with the Chief Executive on corporate matters. The team heads also lead on relationships with key stakeholders inside and outside Government for the projects in their area. Team heads report to the Chief Executive.

Individual lawyers within teams ordinarily lead on law reform projects. They will, with the support of a research assistant, research the law, lead on the development and drafting of policy proposals and papers, and liaise with key stakeholders alongside the team head. The lawyers will undertake much of the day-to-day work on a law reform project.

We are fortunate to have in-house Parliamentary Counsel who prepare the draft Bills attached to the law reform reports, and who are seconded to the Law Commission from the Office of the Parliamentary Counsel. We are delighted to have their expertise available to us.

Research assistants

Each year we recruit a number of research assistants to assist with research, drafting and creative thinking. They generally spend a year or two at the Commission before moving on to further their legal training and careers.

For many research assistants working at the Commission has been a significant rung on the ladder to a highly successful career.

The selection process is extremely thorough and we aim to attract a diverse range of candidates of the highest calibre through contact with faculty careers advisers, as well as through our website and social media channels. A comprehensive outreach programme was undertaken as part of the 2020 recruitment process, targeting law faculties at a wider range of universities and on campus presentations.

In 2020, we recruited 19 new research assistants and the 2021 RA campaign is now complete, with the new recruits due to start in September 2021.

We recognise the contribution our research assistants make, particularly through their enthusiastic commitment to the work of law reform and their lively participation in debate.

Economic and analytical services

The Commission benefits from the expertise of an economist who provides specialist advice in relation to the assessment of the impact of our proposals for law reform. As a member of the Government Economic Service, our economist also provides an essential link with the MoJ and other Government department analytical teams.

During the year, we published a report on the economic value of law reform.[85] This was a significant undertaking that had not been previously attempted. Amongst other indicators the report identified the monetised contribution of the Commission's law reform projects as over £3 billion over 10 years.

Corporate Services

The corporate services team is responsible for the operational and corporate side of the organisation, making sure that the Commission runs effectively and efficiently. Although small, the team has a wide portfolio of responsibilities and has had another successful year, delivering a high quality service to the Commission.

The corporate services team leads on providing the following services for the Commission:

- Governance.
- Transformation.
- Strategy and planning.
- Human Resources.
- Information Technology.
- Financial Management.
- Internal, external and strategic communications.
- Knowledge and records management.
- Information assurance.
- Health and safety.
- Business continuity.

Senior Management Team

Our Senior Management Team is formed of the Chief Executive, legal team heads, head of corporate services, Parliamentary Counsel and the economist. They meet twice a month and take decisions on the day-to-day running of the Commission as well as reviewing all programme and project planning relating to our law reform projects.

We have increased transparency by communicating Senior Management Team decisions not only to all staff but also via formal papers to the Board.

85 https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2020/10/Value-of-Law-Reform-Report-final.pdf

Working at the commission

Staff engagement

The results of the annual People Survey show the Law Commission with an engagement index of 79% for 2020. This represented 1% decrease from the previous year; however, this is still a very strong set of results that compare favourably across the civil service. However, the survey also flagged several areas that require more attention going forward, with scores dipping slightly or remaining static.

Groups and committees

To help create networks across peer groups, the Commission created cohorts for each role in 2017. This has provided colleagues with the opportunity to regularly meet, input on corporate initiatives and progressively improve their skills through sharing advice on training and development as well as providing a coaching role to support each other.

In June 2019, we held the inaugural meeting of our Learning and Development (L&D) committee formed of staff from each of the teams in the Commission. The committee has been tasked with identifying and promoting the sharing of best practice in relation to L&D opportunities in the Commission, ensuring equal access to opportunities across the Commission's teams and keeping the L&D policy up to date.

We are also committed to supporting the mental wellbeing of our staff. In order to aid this, in October 2018 we set up a network of mental health allies in the Commission. Formed of volunteers from across the Commission, the network provides a first point of contact for anyone who is experiencing mental health difficulty and would like to talk to someone about what they can do about it. The network also helps to organise events for the Commission focussing on topics such as mindfulness.

In September 2018, the Law Commission formed a social committee following feedback from the people survey. The social committee helps to organise events that bring together the staff of the Commission. The events, such as Law Commission potluck lunches, have been a huge success and regularly receive positive feedback from across the organisation.

The work of the Mental Health Allies and Social Committee has been incredibly valuable in supporting staff as the Law Commission moved to remote working in response to the COVID-19 outbreak.

Investing in our people

The Law Commission is keen to invest in the continuing professional development of all our staff. In addition to providing access to formal training, we look for other informal development opportunities where ever possible. Clearly, such opportunities have been limited in the last year, nevertheless we ran a successful virtual away day, featuring a number of educational talks on a diverse range of topics; including the environment, legal resilience, and emerging technology. The event was closed by the Lord Chancellor.

Whistleblowing

All civil servants are bound by the Civil Service Code, which sets out the core values – integrity, honesty, objectivity and impartiality – expected of all MoJ employees.

Staff are encouraged to raise immediately any concerns they have about wrongdoing or breaches of the Civil Service Code by following the whistleblowing procedure. We follow the MoJ whistleblowing procedure, which is made available to all staff via the Law Commission intranet.

Freedom of information

The Freedom of Information Act encourages public authorities to make as much information as possible available to the public. Under the Act, we are required to adopt a publication scheme that contains information we routinely make available, and ensure that information is published in accordance with the scheme.

We make a significant amount of information available under our publication scheme. One of its benefits is that it makes information easily accessible and free-of-charge to the public, which removes the need for a formal Freedom of Information request to be made.

The Information Commissioner's Office has developed and approved a model publication scheme that all public authorities must adopt. We have adopted this scheme and we use the definition document for non-departmental public bodies to identify the type of information that we should publish. Among this is a quarterly disclosure log of requests made under the Freedom of Information Act that we have received and dealt with. More details can be found on our website.

General Data Protection Regulation (GDPR)

As a consultative organisation, the Commission takes its responsibilities for the effective handling of personal data seriously. As a result, we ensured that a policy[86] setting out how we process and store personal data was in place prior to GDPR coming into force in May 2018. We have updated our guidance recently to reflect the latest position following the UK's exit from the EU. We hold regular holding to account meetings with the MoJ to ensure that we are meeting our GDPR obligations.

Information Assurance

In 2020–21 we have zero notifiable incidents. Moving forward should any incidents occur they will be dealt with swiftly, in line with MoJ policies.

Health and Safety

During the year, there were no notifiable incidents in relation to staff of the Commission and the Health and Safety at Work etc Act 1974.

Sustainability

Our actions in relation to energy saving contribute to the overall reduction in consumption across the MoJ estate.

Paper is widely recycled in the office. All our publications are printed on paper containing a minimum of 75% recycled fibre content, and we are actively exploring ways to reduce the quantity of our printed materials.

The Law Commission continues to support the MoJ's policy of reducing the supply of single use plastics in its buildings.

During 2020-21, most of our staff have been working remotely due to COVID-19. In turn, the Law Commission's electricity and gas usage in Petty France over this period has drastically reduced. Similarly, our paper usage has been minimal. All of this is beneficial for the environment.

Whilst we expect consumption of gas, electricity and paper usage to increase at Petty France as staff gradually return to the office, we are not expecting to use the same levels as pre-COVID-19 due to higher levels of flexible working within our workforce.

86 https://www.lawcom.gov.uk/document/handling-personal-data/.

Sir Nicholas Green, Chair

Professor Sarah Green

Professor Nick Hopkins

Professor Penney Lewis

Nicholas Paines QC

Phillip Golding, Chief Executive

Appendices

Appendix A
Implementation status of Law Commission law reform reports

LC No	Title	Status	Related Measures
	2021		
399	Modernising Communications Offences	Pending	
398	Consumer sales contracts: transfer of ownership	Pending	
	2020		
397	Misconduct in Public Office	Pending	
396	Search Warrants	Pending	
395	Protection of Official Data	Accepted in part	
394	Commonhold	Pending	
393	Right to Manage	Pending	
392	Leasehold Enfranchisement	Accepted in part; pending in part	
390	Employment Law Hearing Structures	Pending	
389	Electoral Law	Pending	
388	Simplification of the Immigration Rules	Accepted	
387	Leasehold Enfranchisement - options to reduce the price payable	Accepted	
	2019		
386	Electronic Execution of Documents	Accepted	
384	Anti-money Laundering: the SARS Regime	Pending	
	2018		
383	Planning Law in Wales	Accepted in part; pending in part	
382	Sentencing Code	Implemented	Sentencing (Pre-Consolidation Amendments) Act 2020
381	Abusive and Offensive Online Communications: A Scoping Report	Accepted	
380	Updating the Land Registration Act 2002	Accepted in part; Pending in part	
	2017		
376	From Bills of Sale to Goods Mortgages	Accepted but will not be implemented	
375	Technical Issues in Charity Law	Accepted	

LC No	Title	Status	Related Measures
374	Pension Funds and Social Investment	Accepted; implemented in part	Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations 2018
373	Event Fees in Retirement Properties	Accepted in part; pending in part	
372	Mental Capacity and Deprivation of Liberty	Implemented in part	Mental Capacity (Amendment) Act 2019
371	Criminal Records Disclosures: Non-Filterable Offences	Pending	
	2016		
370	Enforcement of Family Financial Orders	Accepted in part; pending in part	
369	Bills of Sale	Superseded	Superseded by LC 376
368	Consumer Prepayments on Retailer Insolvency	Accepted	
366	Form and Accessibility of the Law Applicable in Wales	Accepted	Legislation (Wales) Act 2019
365	A New Sentencing Code for England and Wales Transition	Superseded	Conclusions carried forward into LC382
364	Unfitness to Plead	Pending	
	2015		
363	Firearms Law – Reforms to Address Pressing Problems	Implemented	Policing and Crime Act 2017 (Part 6); Antique Firearms Regulations 2021
362	Wildlife Law	Implemented in part; pending in part	Infrastructure Act 2015
361	Reform of Offences against the Person (HC 555)	Pending	
360	Patents, Trade Marks and Designs: Unjustified Threats	Implemented	Intellectual Property (Unjustified Threats) Act 2017
358	Simplification of Criminal Law: Public Nuisance and Outraging Public Decency	Pending	

LC No	Title	Status	Related Measures
	2014		
356	Rights to Light (HC 796)	Pending	
355	Simplification of Criminal Law: Kidnapping and Related Offences	Pending	
N/a	Social Investment by Charities	Implemented	Charities (Protection and Social Investment) Act 2016
353	Insurance Contract Law (Cm 8898;SG/2014/131)	Implemented	Insurance Act 2015; Enterprise Act 2016
351	Data Sharing between Public Bodies: A Scoping Report	Pending	
350	Fiduciary Duties of Investment Intermediaries (HC 368)	Accepted	
349	Conservation Covenants (HC 322)	Accepted	
348	Hate Crime: Should the Current Offences be Extended? (Cm 8865)	Accepted in part	
347	Taxi and Private Hire Services (Cm 8864)	Implemented in part, pending in part	Deregulation Act 2015
346	Patents, Trade Marks and Design Rights: Groundless Threats (Cm 8851)	Superseded	Superseded by LC360
345	Regulation of Health Care Professionals: Regulation of Social Care Professionals in England (Cm 8839 / SG/2014/26 / NILC 18 (2014))	Accepted	
344	Contempt of Court (2): Court Reporting (HC 1162)	Pending	
343	Matrimonial Property, Needs and Agreements (HC 1039)	Implemented in part; pending in part	
342	Wildlife Law: Control of Invasive Non-native Species (HC 1039)	Implemented	Infrastructure Act 2015
	2013		
340	Contempt of Court (1): Juror Misconduct and Internet Publications (HC 860)	Implemented	Criminal Justice and Courts Act 2015
339	Level Crossings (Cm 8711)	Accepted but will not be implemented	
337	Renting Homes in Wales/Rhentu Cartrefi yng Nghymru (Cm 8578)	Implemented	Renting Homes (Wales) Act 2016
336	The Electronic Communications Code (HC 1004)	Implemented	Digital Economy Act 2017

LC No	Title	Status	Related Measures
	2012		
335	Contempt of Court: Scandalising the Court (HC 839)	Implemented	Crime and Courts Act 2013 (s33)
332	Consumer Redress for Misleading and Aggressive Practices (Cm 8323)	Implemented	Consumer Protection (Amendment) Regulations 2014; Consumer Rights Act 2015
	2011		
331	Intestacy and Family Provision Claims on Death (HC 1674)	Implemented in part	Inheritance and Trustees' Powers Act 2014
329	Public Service Ombudsmen (HC 1136)	Pending	
327	Making Land Work: Easements, Covenants and Profits à Prendre (HC 1067)	Accepted	
326	Adult Social Care (HC 941)	Implemented	Care Act 2014 and Social Services and Well-Being (Wales) Act 2014
325	Expert Evidence in Criminal Proceedings in England and Wales (HC 829)	Implemented	Criminal Procedure Rules
	2010		
324	The High Court's Jurisdiction in Relation to Criminal Proceedings (HC 329)	Pending	
322	Administrative Redress: Public Bodies and the Citizen (HC 6)	Rejected	
320	The Illegality Defence (HC 412)	Rejected	
	2009		
319	Consumer Insurance Law: Pre-Contract Disclosure and Misrepresentation (Cm 7758)	Implemented	Consumer Insurance (Disclosure and Representation) Act 2012 (c6)
318	Conspiracy and Attempts (HC 41)	Accepted but will not be implemented	
317	Consumer Remedies for Faulty Goods (Cm 7725)	Implemented	Consumer Rights Act 2015
315	Capital and Income in Trusts: Classification and Apportionment (HC 426)	Implemented	Trusts (Capital and Income) Act 2013
314	Intoxication and Criminal Liability (Cm 7526)	Rejected	

LC No	Title	Status	Related Measures
	2008		
313	Reforming Bribery (HC 928)	Implemented	Bribery Act 2010 (c23)
312	Housing: Encouraging Responsible Letting (Cm 7456)	Rejected	
309	Housing: Proportionate Dispute Resolution (Cm 7377)	Accepted in part	
	2007		
307	Cohabitation: The Financial Consequences of Relationship Breakdown (Cm 7182)	Pending	
305	Participating in Crime (Cm 7084)	Pending	
	2006		
304	Murder, Manslaughter and Infanticide (HC 30)	Implemented in part	Coroners and Justice Act 2009 (c25)
303	Termination of Tenancies (Cm 6946)	Pending	
302	Post-Legislative Scrutiny (Cm 6945)	Implemented	See Post-Legislative Scrutiny: The Government's Approach (2008) Cm 7320
301	Trustee Exemption Clauses (Cm 6874)	Implemented	See Written Answer, Hansard (HC), 14 September 2010, vol 515, col 38WS
300	Inchoate Liability for Assisting and Encouraging Crime (Cm 6878)	Implemented	Serious Crime Act 2007 (c27)
297	Renting Homes: The Final Report (Cm 6781)	Rejected for England, Accepted in principle for Wales	
	2005		
296	Company Security Interests (Cm 6654)	Implemented in part	
295	The Forfeiture Rule and the Law of Succession (Cm 6625)	Implemented	Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Act 2011
292	Unfair Terms in Contracts (SLC 199) (Cm 6464; SE/2005/13)	Implemented	Consumer Rights Act 2015

LC No	Title	Status	Related Measures
	2004		
291	Towards a Compulsory Purchase Code: (2) Procedure (Cm 6406)	Accepted but will not be implemented	
290	Partial Defences to Murder (Cm 6301)	Implemented	Coroners and Justice Act 2009 (c25)
288	In the Public Interest: Publication of Local Authority Inquiry Reports (Cm 6274)	Accepted but will not be implemented	
287	Pre-judgment Interest on Debts and Damages (HC 295)	Rejected	
	2003		
286	Towards a Compulsory Purchase Code: (1) Compensation (Cm 6071)	Accepted but will not be implemented	
284	Renting Homes (Cm 6018)	Superseded	See LC 297
283	Partnership Law (SLC192) (Cm 6015; SE/2003/299)	Implemented in part; Accepted in part; Rejected in part	The Legislative Reform (Limited Partnerships) Order 2009
282	Children: Their Non-accidental Death or Serious Injury (Criminal Trials) (HC 1054)	Implemented	Domestic Violence, Crime and Victims Act 2004 (c28)
281	Land, Valuation and Housing Tribunals: The Future (Cm 5948)	Rejected	
	2002		
277	The Effective Prosecution of Multiple Offending (Cm 5609)	Implemented	Domestic Violence, Crime and Victims Act 2004 (c28)
276	Fraud (Cm 5560)	Implemented in part	Fraud Act 2006 (c35)
	2001		
273	Evidence of Bad Character in Criminal Proceedings (Cm 5257)	Implemented	Criminal Justice Act 2003 (c44)
272	Third Parties – Rights against Insurers (SLC 184) (Cm 5217)	Implemented	Third Parties (Rights Against Insurers) Act 2010 (c10); Third Parties (Rights against Insurers) Regulations 2016
271	Land Registration for the Twenty-First Century (jointly with HM Land Registry) (HC 114)	Implemented	Land Registration Act 2002 (c9)
270	Limitation of Actions (HC 23)	Rejected	

LC No	Title	Status	Related Measures
269	Bail and the Human Rights Act 1998 (HC 7)	Implemented	Criminal Justice Act 2003 (c44)
267	Double Jeopardy and Prosecution Appeals (Cm 5048)	Implemented	Criminal Justice Act 2003 (c44)
	1999		
263	Claims for Wrongful Death (HC 807)	Rejected	
262	Damages for Personal Injury: Medical and Nursing Expenses (HC 806)	Rejected	
261	Company Directors: Regulating Conflicts of Interests (SLC 173) (Cm 4436; SE/1999/25)	Implemented	Companies Act 2006 (c46)
260	Trustees' Powers and Duties (SLC 172) (HC 538; SE2)	Implemented	Trustee Act 2000 (c29)
257	Damages for Personal Injury: Non-Pecuniary Loss (HC 344)	Implemented in part	See Heil v Rankin [2000] 3 WLR 117
	1998		
255	Consents to Prosecution (HC 1085)	Accepted (Advisory only, no draft Bill)	
253	Execution of Deeds and Documents (Cm 4026)	Implemented	Regulatory Reform (Execution of Deeds and Documents) Order 2005
251	The Rules against Perpetuities and Excessive Accumulations (HC 579)	Implemented	Perpetuities and Accumulations Act 2009 (c18)
249	Liability for Psychiatric Illness (HC 525)	Rejected	
248	Corruption (HC 524)	Superseded	See LC 313
	1997		
247	Aggravated, Exemplary and Restitutionary Damages (HC 346)	Rejected	
246	Shareholder Remedies (Cm 3759)	Implemented	Companies Act 2006 (c46)
245	Evidence in Criminal Proceedings: Hearsay (Cm 3670)	Implemented	Criminal Justice Act 2003 (c44)
	1996		
243	Money Transfers (HC 690)	Implemented	Theft (Amendment) Act 1996 (c62)
242	Contracts for the Benefit of Third Parties (Cm 3329)	Implemented	Contracts (Rights of Third Parties) Act 1999 (c31)

LC No	Title	Status	Related Measures
238	Responsibility for State and Condition of Property (HC 236)	Accepted in part but will not be implemented; Rejected in part	
237	Involuntary Manslaughter (HC 171)	Implemented in part	Corporate Manslaughter and Corporate Homicide Act 2007 (c19); see LC 304
	1995		
236	Fiduciary Duties and Regulatory Rules (Cm 3049)	Rejected	
235	Land Registration: First Joint Report with HM Land Registry (Cm 2950)	Implemented	Land Registration Act 1997 (c2)
231	Mental Incapacity (HC 189)	Implemented	Mental Capacity Act 2005 (c9)
230	The Year and a Day Rule in Homicide (HC 183)	Implemented	Law Reform (Year and a Day Rule) Act 1996 (c19)
229	Intoxication and Criminal Liability (HC 153)	Superseded	See LC 314
	1994		
228	Conspiracy to Defraud (HC 11)	Implemented	Theft (Amendment) Act 1996 (c62)
227	Restitution: Mistakes of Law (Cm 2731)	Implemented in part	See Kleinwort Benson v Lincoln City Council [1999] 2 AC 349
226	Judicial Review (HC 669)	Implemented in part	Housing Act 1996 (c52); Access to Justice Act 1999 (c22); Tribunals, Courts and Enforcement Act 2007 (c15)
224	Structured Settlements (Cm 2646)	Implemented	Finance Act 1995 (c4); Civil Evidence Act 1995 (c38); Damages Act 1996 (c48)
222	Binding Over (Cm 2439)	Implemented in part	In March 2007, the President of the Queen's Bench Division issued a Practice Direction
221	Termination of Tenancies (HC 135)	Superseded	See LC 303
220	Delegation by Individual Trustees (HC 110)	Implemented	Trustee Delegation Act 1999 (c15)

LC No	Title	Status	Related Measures
	1993		
219	Contributory Negligence as a Defence in Contract (HC 9)	Rejected	
218	Legislating the Criminal Code: Offences against the Person and General Principles (Cm 2370)	Implemented in part	Domestic Violence Crime and Victims Act 2004 (c28)
217	Effect of Divorce on Wills (Cm 2322)	Implemented	Law Reform (Succession) Act 1995 (c41)
216	The Hearsay Rule in Civil Proceedings (Cm 2321)	Implemented	Civil Evidence Act 1995 (c38)
215	Sale of Goods Forming Part of a Bulk (SLC 145) (HC 807)	Implemented	Sale of Goods (Amendment) Act 1995 (c28)
	1992		
208	Business Tenancies (HC 224)	Implemented	Regulatory Reform (Business Tenancies) (England and Wales) Order 2003
207	Domestic Violence and Occupation of the Family Home (HC 1)	Implemented	Family Law Act 1996 (c27), Part IV
205	Rape within Marriage (HC 167)	Implemented	Criminal Justice and Public Order Act 1994 (c33)
	1991		
204	Land Mortgages (HC 5)	Rejected	
202	Corroboration of Evidence in Criminal Trials (Cm 1620)	Implemented	Criminal Justice and Public Order Act 1994 (c33)
201	Obsolete Restrictive Covenants (HC 546)	Rejected	
199	Transfer of Land: Implied Covenants for Title (HC 437)	Implemented	Law of Property (Miscellaneous Provisions) Act 1994 (c36)
196	Rights of Suit: Carriage of Goods by Sea (SLC 130) (HC 250)	Implemented	Carriage of Goods by Sea Act 1992 (c50)
194	Distress for Rent (HC 138)	Implemented in part	Tribunals, Courts and Enforcement Act 2007 (c15), Part III (enacted, but not yet brought into force)

LC No	Title	Status	Related Measures
	1990		
193	Private International Law: Choice of Law in Tort and Delict (SLC 129) (HC 65)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)
192	Family Law: The Ground for Divorce (HC 636)	Implemented	Family Law Act 1996 (c27), Part II (enacted, but never brought into force)
	1989		
188	Overreaching: Beneficiaries in Occupation (HC 61)	Implemented in part	Trusts of Land and Appointment of Trustees Act 1996 (c47)
187	Distribution on Intestacy (HC 60)	Implemented in part	Law Reform (Succession) Act 1995 (c41)
186	Computer Misuse (Cm 819)	Implemented	Computer Misuse Act 1990 (c18)
184	Title on Death (Cm 777)	Implemented	Law of Property (Miscellaneous Provisions) Act 1994 (c36)
181	Trusts of Land (HC 391)	Implemented	Trusts of Land and Appointment of Trustees Act 1996 (c47)
180	Jurisdiction over Offences of Fraud and Dishonesty with a Foreign Element (HC 318)	Implemented	Criminal Justice Act 1993 (c36), Part I
178	Compensation for Tenants' Improvements (HC 291)	Rejected	
177	Criminal Law: A Criminal Code (2 vols) (HC 299)	Superseded	Superseded by the criminal law simplification project: see Tenth Programme.
	1988		
175	Matrimonial Property (HC 9)	Rejected	
174	Landlord and Tenant: Privity of Contract and Estate (HC 8)	Implemented	Landlord and Tenant (Covenants) Act 1995 (c30)
173	Property Law: Fourth Report on Land Registration (HC 680)	Superseded	See LC 235
172	Review of Child Law: Guardianship (HC 594)	Implemented	Children Act 1989 (c41)

LC No	Title	Status	Related Measures
	1987		
168	Private International Law: Law of Domicile (SLC 107) (Cm 200)	Rejected	
166	Transfer of Land: The Rule in Bain v Fothergill (Cm 192)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
165	Private International Law: Choice of Law Rules in Marriage (SLC 105) (HC 3)	Implemented	Foreign Marriage (Amendment) Act 1988 (c44)
164	Formalities for Contracts for Sale of Land (HC 2)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
163	Deeds and Escrows (HC 1)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
161	Leasehold Conveyancing (HC 360)	Implemented	Landlord and Tenant Act 1988 (c26)
160	Sale and Supply of Goods (SLC 104) (Cm 137)	Implemented	Sale and Supply of Goods Act 1994 (c35)
	1986		
157	Family Law: Illegitimacy (Second Report) (Cmnd 9913)	Implemented	Family Law Reform Act 1987 (c42)
	1985		
152	Liability for Chancel Repairs (HC 39)	Rejected	
151	Rights of Access to Neighbouring Land (Cmnd 9692)	Implemented	Access to Neighbouring Land Act 1992 (c23)
149	Criminal Law: Report on Criminal Libel (Cmnd 9618)	Rejected	
148	Property Law: Second Report on Land Registration (HC 551)	Implemented	Land Registration Act 1988 (c3)
147	Criminal Law: Poison Pen Letters (HC 519)	Implemented	Malicious Communications Act 1988 (c27)
146	Private International Law: Polygamous Marriages (SLC 96) (Cmnd 9595)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)
145	Criminal Law: Offences against Religion and Public Worship (HC 442)	Implemented	Criminal Justice and Immigration Act 2008 (c4)

LC No	Title	Status	Related Measures
143	Criminal Law: Codification of the Criminal Law: A Report to the Law Commission (HC 270)	Superseded	See LC 177
142	Forfeiture of Tenancies (HC 279)	Rejected	
141	Covenants Restricting Dispositions, Alterations and Change of User (HC 278)	Implemented in part	Landlord and Tenant Act 1988 (c26)
138	Family Law: Conflicts of Jurisdiction (SLC 91) (Cmnd 9419)	Implemented	Family Law Act 1986 (c55), Part I
	1984		
137	Private International Law: Recognition of Foreign Nullity Decrees (SLC 88) (Cmnd 9347)	Implemented	Family Law Act 1986 (c55), Part II
134	Law of Contract: Minors' Contracts (HC 494)	Implemented	Minors' Contracts Act 1987 (c13)
132	Family Law: Declarations in Family Matters (HC 263)	Implemented	Family Law Act 1986 (c55), Part III
127	Transfer of Land: The Law of Positive and Restrictive Covenants (HC 201)	Rejected	
	1983		
125	Property Law: Land Registration (HC 86)	Implemented	Land Registration Act 1986 (c26)
124	Private International Law: Foreign Money Liabilities (Cmnd 9064)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)
123	Criminal Law: Offences relating to Public Order (HC 85)	Implemented	Public Order Act 1986 (c64)
122	The Incapacitated Principal (Cmnd 8977)	Implemented	Enduring Powers of Attorney Act 1985 (c29)
121	Law of Contract: Pecuniary Restitution on Breach of Contract (HC 34)	Rejected	
	1982		
118	Family Law: Illegitimacy (HC 98)	Implemented	Family Law Reform Act 1987 (c42)
117	Family Law: Financial Relief after Foreign Divorce (HC 514)	Implemented	Matrimonial and Family Proceedings Act 1984 (c42)

LC No	Title	Status	Related Measures
116	Family Law: Time Restrictions on Presentation of Divorce and Nullity Petitions (HC 513)	Implemented	Matrimonial and Family Proceedings Act 1984 (c42)
114	Classification of Limitation in Private International Law (Cmnd 8570)	Implemented	Foreign Limitation Periods Act 1984 (c16)
114	Property Law: The Implications of Williams and Glyns Bank Ltd v Boland (Cmnd 8636)	Superseded	See City of London Building Society v Flegg [1988] AC 54
	1981		
112	Family Law: The Financial Consequences of Divorce (HC 68)	Implemented	Matrimonial and Family Proceedings Act 1984 (c42)
111	Property Law: Rights of Reverter (Cmnd 8410)	Implemented	Reverter of Sites Act 1987 (c15)
110	Breach of Confidence (Cmnd 8388)	Rejected	
	1980		
104	Insurance Law: Non-Disclosure and Breach of Warranty (Cmnd 8064)	Rejected	
102	Criminal Law: Attempt and Impossibility in Relation to Attempt, Conspiracy and Incitement (HC 646)	Implemented	Criminal Attempts Act 1981 (c47)
99	Family Law: Orders for Sale of Property under the Matrimonial Causes Act 1973 (HC 369)	Implemented	Matrimonial Homes and Property Act 1981 (c24)
	1978		
96	Criminal Law: Offences Relating to Interference with the Course of Justice (HC 213)	Rejected	
95	Law of Contract: Implied Terms in Contracts for the Sale and Supply of Goods (HC 142)	Implemented	Supply of Goods and Services Act 1982 (c29)
91	Criminal Law: Report on the Territorial and Extra- Territorial Extent of the Criminal Law (HC 75)	Implemented in part	Territorial Sea Act 1987 (c49)
89	Criminal Law: Report on the Mental Element in Crime (HC 499)	Rejected	
88	Law of Contract: Report on Interest (Cmnd 7229)	Implemented in part	Administration of Justice Act 1982 (c53); Rules of the Supreme Court (Amendment No 2) 1980

LC No	Title	Status	Related Measures
86	Family Law: Third Report on Family Property: The Matrimonial Home (Co-ownership and Occupation Rights) and Household Goods (HC 450)	Implemented	Housing Act 1980 (c51); Matrimonial Homes and Property Act 1981 (c24)
	1977		
83	Criminal Law: Report on Defences of General Application (HC 566)	Rejected	
82	Liability for Defective Products: Report by the two Commissions (SLC 45) (Cmnd 6831)	Implemented	Consumer Protection Act 1987 (c43)
79	Law of Contract: Report on Contribution (HC 181)	Implemented	Civil Liability (Contribution) Act 1978 (c47)
	1976		
77	Family Law: Report on Matrimonial Proceedings in Magistrates' Courts (HC 637)	Implemented	Domestic Proceedings and Magistrates' Courts Act 1978 (c22)
76	Criminal Law: Report on Conspiracy and Criminal Law Reform (HC 176)	Implemented in part	Criminal Law Act 1977 (c45)
75	Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability (Cmnd 6428)	Implemented	Occupiers' Liability Act 1984 (c3)
74	Charging Orders (Cmnd 6412)	Implemented	Charging Orders Act 1979 (c53)
73	Report on Remedies in Administrative Law (Cmnd 6407)	Implemented	Rules of Supreme Court (Amendment No 3) 1977; Supreme Court Act 1981 (c54)
	1975		
69	Exemption Clauses: Second Report by the two Law Commissions (SLC 39) (HC 605)	Implemented	Unfair Contract Terms Act 1977 (c50)
68	Transfer of Land: Report on Rentcharges (HC 602)	Implemented	Rentcharges Act 1977 (c30)
67	Codification of the Law of Landlord and Tenant: Report on Obligations of Landlords and Tenants (HC 377)	Rejected	

LC No	Title	Status	Related Measures
	1974		
62	Transfer of Land: Report on Local Land Charges (HC 71)	Implemented	Local Land Charges Act 1975 (c76)
61	Family Law: Second Report on Family Property: Family Provision on Death (HC 324)	Implemented	Inheritance (Provision for Family and Dependants) Act 1975 (c63)
60	Report on Injuries to Unborn Children (Cmnd 5709)	Implemented	Congenital Disabilities (Civil Liability) Act 1976 (c28)
	1973		
56	Report on Personal Injury Litigation: Assessment of Administration of Damages (HC 373)	Implemented	Administration of Justice Act 1982 (c53)
55	Criminal Law: Report on Forgery and Counterfeit Currency (HC 320)	Implemented	Forgery and Counterfeiting Act 1981 (c45)
53	Family Law: Report on Solemnisation of Marriage in England and Wales (HC 250)	Rejected	
	1972		
48	Family Law: Report on Jurisdiction in Matrimonial Proceedings (HC 464)	Implemented	Domicile and Proceedings Act 1973 (c45)
	1971		
43	Taxation of Income and Gains Derived from Land: Report by the two Commissions (SLC 21) (Cmnd 4654)	Implemented in part	Finance Act 1972 (c41), s 82
42	Family Law: Report on Polygamous Marriages (HC 227)	Implemented	Matrimonial Proceedings (Polygamous Marriages) Act 1972 (c38); now Matrimonial Causes Act 1973 (c18)
	1970		
40	Civil Liability of Vendors and Lessors for Defective Premises (HC 184)	Implemented	Defective Premises Act 1972 (c35)
35	Limitation Act 1963 (Cmnd 4532)	Implemented	Law Reform (Miscellaneous Provisions) Act 1971 (c43)

LC No	Title	Status	Related Measures
34	Hague Convention on Recognition of Divorces and Legal Separations: Report by the two Commissions (SLC 16) (Cmnd 4542)	Implemented	Recognition of Divorces and Legal Separations Act 1971 (c53); now Family Law Act 1986 (c55), Part II
33	Family Law: Report on Nullity of Marriage (HC 164)	Implemented	Nullity of Marriage Act 1971 (c44), now Matrimonial Causes Act 1973 (c18)
31	Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Cmnd 4497)	Implemented	Administration of Estates Act 1971 (c25)
30	Powers of Attorney (Cmnd 4473)	Implemented	Powers of Attorney Act 1971 (c27)
29	Criminal Law: Report on Offences of Damage to Property (HC 91)	Implemented	Criminal Damage Act 1971 (c48)
	1969		
26	Breach of Promise of Marriage (HC 453)	Implemented	Law Reform (Miscellaneous Provisions) Act 1970 (c33)
25	Family Law: Report on Financial Provision in Matrimonial Proceedings (HC 448)	Implemented	Matrimonial Proceedings and Property Act 1970 (c45); now largely Matrimonial Causes Act 1973 (c18)
24	Exemption Clauses in Contracts: First Report: Amendments to the Sale of Goods Act 1893: Report by the Two Commissions (SLC 12) (HC 403)	Implemented	Supply of Goods (Implied Terms) Act 1973 (c13)
23	Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights (HC 369)	Implemented	Matrimonial Proceedings and Property Act 1970 (c45)
21	Interpretation of Statutes (HC 256)	Rejected	
20	Administrative Law (Cmnd 4059)	Implemented	See LC 73
19	Proceedings against Estates (Cmnd 4010)	Implemented	Proceedings against Estates Act 1970 (c17)

LC No	Title	Status	Related Measures
18	Transfer of Land: Report on Land Charges affecting Unregistered Land (HC 125)	Implemented	Law of Property Act 1969 (c59)
17	Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (HC 38)	Implemented	Law of Property Act 1969 (c59)
	1968		
16	Blood Tests and the Proof of Paternity in Civil Proceedings (HC 2)	Implemented	Family Law Reform Act 1969 (c46)
	1967		
13	Civil Liability for Animals	Implemented	Animals Act 1971 (c22)
11	Transfer of Land: Report on Restrictive Covenants	Implemented in part	Law of Property Act 1969 (c59)
10	Imputed Criminal Intent (Director of Public Prosecutions v Smith)	Implemented	Criminal Justice Act 1967 (c80), s 8
9	Transfer of Land: Interim Report on Root of Title to Freehold Land	Implemented	Law of Property Act 1969 (c59)
	1966		
8	Report on the Powers of Appeal Courts to Sit in Private and the Restrictions upon Publicity in Domestic Proceedings (Cmnd 3149)	Implemented	Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (c63)
7	Proposals for Reform of the Law Relating to Maintenance and Champerty	Implemented	Criminal Law Act 1967 (c80)
6	Reform of the Grounds of Divorce: The Field of Choice (Cmnd 3123)	Implemented	Divorce Reform Act 1969 (c55); now Matrimonial Causes Act 1973 (c18)
3	Proposals to Abolish Certain Ancient Criminal Offences	Implemented	Criminal Law Act 1967 (c58)

Appendix B
The cost of the Law Commission

The cost of the Commission is met substantially from core funding provided by Parliament (section 5 of the Law Commissions Act 1965) and received via the Ministry of Justice. The Commission also receives funding contributions from departments towards the cost of some law reform projects, in accordance with the Protocol between the Government and the Law Commission.

	2019–2020 (April–March)		**2020–2021 (April–March)**	
	£000	**£000**	**£000**	**£000**
Commissioner salaries (including ERNIC)[1]	559.7		559.7	
Staff costs[2]	3757.4		4173.9	
		4317.1		**4733.6**
Research and consultancy	80.8		8.1	
Communications (printing and publishing, translation, media subscriptions, publicity and advertising) Design, print and reprographics Events and conferences (non-training) Information technology Equipment maintenance Library services (books, articles and on-line subscriptions) Postage and distribution Telecommunications	157.7		197.2	
Accommodation recharge (e.g. rent, rates, security, cleaning) (met by MoJ)[3]	662.8		671.8	
Travel and subsistence (includes non-staff)	36.5		6.5	
Stationery and office supplies Recruitment Training and professional bodies membership Recognition and reward scheme awards Childcare vouchers Health and Safety equipment/services	37.1		13.3	
Hospitality	0.1		0.2	
		975.0		**897.1**
TOTAL		**5292.1**		**5630.7**[4]

1 Excludes the Chairman who is paid by HM Courts and Tribunals Service (HMCTS).

2 Includes ERNIC, ASLC, bonuses (not covered under recognition and reward scheme), secondees and agency staff.

3 In November 2013 the Law Commission moved to fully managed offices within the MoJ estate. This cost is met by MoJ directly.

4 Figures will form part of the wider MoJ set of accounts which will be audited.

Appendix C
Tailored review recommendations

	Recommendation
1	The Law Commission of England and Wales should continue to carry out the functions required by the Law Commissions Acts of 1965 and 2009.
2	The Law Commission of England and Wales should remain in its current delivery form as an Advisory Non-Departmental Public Body.
3	With a view to maintaining the independence and capability of the Law Commission, the MoJ ALB Centre of Expertise, Finance Business Partners, Policy Sponsors and the Law Commission should conduct a review of the current funding model and other funding arrangements to ensure that the Law Commission's funding model is sufficiently robust.
4	With a view to improving awareness and engagement, the Law Commission should consider, as part of planned website changes, how project pages on the website could clearly display 'next steps' post-publication of the report and recommendations, for quick reference by stakeholders and consultation respondents.
5	With a view to increasing implementation rates, the Law Commission should be clear in job descriptions for the Chair and Commissioners that they have a role in networking and meeting with parliamentarians and Senior Officials to increase awareness of the Law Commission and its work. Training and/or supporting guidance should be developed by the Law Commission on how and when Commissioners should seek to build relationships with Parliamentarians.
6	With a view to maintaining good corporate governance, the Commission's Code of Best Practice should be updated in line with guidance provided by the 2017 Functional Review of Public Bodies Providing Expert Advice to Government.
7	With a view to improving the working relationship with the MoJ, the Law Commission should work with the MoJ ALB Centre of Expertise to review and update the Framework Document. Specific consideration should be given to:
7a	Whether the current meetings between Ministers and the Law Commission remain an effective means of engagement.
7b	Requirements that representatives of the Law Commission meet with senior policy officials from the MoJ for strategy discussions to ensure MoJ Projects are conducted successfully.
7c	Clear division of responsibilities between assurance partnership provided by ALB Centre of Expertise and sponsorship provided by Policy Sponsor team.
8	With a view to improving the diversity of Commissioners, the Law Commission should work in collaboration with the MoJ Public Appointments Team, to attract a more diverse range of individuals by undertaking more outreach and promotion activity regarding the role of the Commissioner by utilising the Commission's stakeholder network and targeting more diverse groups within the sector.
9	With a view to improving all elements of diversity at all levels, the Law Commission should prioritise the publication of a Diversity and Equality Strategy, in line with that of Government, during the year 2019–20. The strategy should include a plan for implementation and monitoring of progress.

Appendix D:
Targets for 2020–21 and 2021–22

2020–21

Target	Outcome
To publish reports on:	
Protection of Official Data	Published 1 September 2020
Confiscation of the Proceeds of Crime	Carried over to 2021-22
Consumer Prepayments	Published 23 April 2021
Intermediated Securities	Scoping study published 11 November 2020
Misconduct in Public Office	Published 4 December 2020
Non-Consensual Intimate Images	Carried over to 2021-22
Residential Leasehold - Commonhold	Published 21 July 2020
Residential Leasehold - Enfranchisement	Published 21 July 2020
Residential Leasehold - Right to Manage	Published 21 July 2020
Review of the Communications Offences	Carried over to 2021-22
Search Warrants	Published 7 October 2020
To publish consultations on:	
Automated Vehicles	Carried over to 2021-22
Confiscation of the Proceeds of Crime	Published 17 September 2020
Consumer Prepayments	See above; report published 23 April 2021
Devolved Tribunals in Wales	Carried over to 2021-22
Hate Crime	Published 23 September 2020
Non-Consensual Intimate Images	Published 26 February 2021
Review of the Communications Offences	Published 11 December 2020
Weddings	Published 3 September 2020
Smart contracts (call for evidence)	Published 17 December 2020

2021–22

Target	
To publish reports on:	**To publish consultations on:**
Weddings	Corporate Criminal Liability
Hate Crime	Coal Tip Safety in Wales
Confiscation of the Proceeds of Crime	Automated Vehicles
Intimate Image Abuse	Devolved Tribunals in Wales
Corporate Criminal Liability	
Review of the Communications Offences	
Coal Tip Safety in Wales	
Automated Vehicles	
Devolved Tribunals in Wales	

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