Law Commission
Reforming the law

Annual Report 2011-12



Law Com No 334

The Law Commission
Annual Report 2011–12

(LAW COM No 334)

The Forty-Sixth Annual Report of the Law Commission

Presented to Parliament pursuant to section 3(3) of the Law Commissions Act 1965

Ordered by the House of Commons to be printed on 20 June 2012

HC 277 **London: The Stationery Office** **£21.25**

Any enquiries regarding this publication should be sent to us at communications@lawcommission.gsi.gov.uk.

This publication is available for download at www.official-documents.gov.uk and from our website at www.lawcom.gov.uk.

ISBN: 9780102979282

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID P002497372 06/12

Printed on paper containing 75% recycled fibre content minimum.

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The Forty-Sixth Annual Report of the Law Commission

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.

Commissioners: The Rt Hon Lord Justice Munby, Chairman
Professor Elizabeth Cooke
David Hertzell
Professor David Ormerod
Frances Patterson QC

Chief Executive: Elaine Lorimer[1]

The Commission is located at Steel House, 11 Tothill Street, London, SW1H 9LJ.

(left to right) David Ormerod, Frances Patterson QC, Sir James Munby, Elaine Lorimer, David Hertzell, Elizabeth Cooke

This Annual Report covers the period 1 April 2011 to 31 March 2012, although we have also included recent and relevant references beyond the reporting period.

The terms of this report were agreed on 01 June 2012.

The text of this report is available at http://www.lawcom.gov.uk.

[1] Elaine Lorimer succeeded Mark Ormerod CB as Chief Executive on 16 January 2012.

Contents

Law Commission Annual Report 2011–12

To the Right Honourable Kenneth Clarke QC, MP, Lord Chancellor and Secretary of State for Justice

This has been a year of challenge and achievement for the Law Commission. It began with the introduction of the Consumer Insurance (Disclosure and Representations) Bill into Parliament in May 2011 and closed with the publication of our 19th – and largest ever – Statute Law Repeals report on 4 April 2012.

It was also a significant year for the Commission as we started work on a number of the projects selected for the 11th Programme of Law Reform, the first programme of Law Commission work to have been established in the light of the Protocol agreed with Government in 2010.

The Programme, which we launched on 19 July 2011, represents for us a broadening in the nature of projects the Commission undertakes, and has seen us establish new and different relationships with sponsoring Government departments. The 14 projects of the Programme were selected from over 200 proposals that were made to us in a wide and thorough consultation. They will examine areas of law as diverse as elections, electronic communications, offences against the person and the regulation of taxis. Together, they have the potential to deliver reforms that could have a profound and far-reaching impact on the lives of many citizens. We continue with projects jointly undertaken with the Scottish Law Commission. An important milestone this year was the first project, on regulation of health care professionals, jointly undertaken with both the Scottish Law Commission and the Northern Ireland Law Commission. I hope there will be many more.

Procedure for Law Commission Bills

This year saw the first of our Bills to complete its passage to Royal Assent since Parliament accepted, on 7 October 2010, the House of Lords procedure for non-controversial Law Commission Bills. The Consumer Insurance (Disclosure and Representations) Bill was introduced in the House of Lords on 16 May 2011 and received Royal Assent on 8 March 2012. It is a major success for the Law Commission. Both the content of the Act and its suitability for the procedure for non-controversial Bills is a reflection of the level of consensus our work has been instrumental in achieving between the insurance industry and its influential consumers.

We are rightly proud of the new procedure; it represents a significant achievement for all at the Commission. We had great hopes when it was first piloted that the procedure would prove to be effective in ensuring consideration and implementation of Law Commission recommendations and allowing valuable legislation to proceed to the statute book that would previously have had difficulty securing a place in the main legislative programme. It appears that this has indeed been the case as three Bills have now been passed under the new procedure, and we are delighted to have seen a fourth, the Trusts (Capital and Income) Bill, introduced in the House of Lords on 29 February 2012 as a carry-over Bill.

Implementation

In addition to the Consumer Insurance (Disclosure and Representations) Act 2012, one other piece of legislation was passed this year that derives from our work. The Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Act 2011 was based on our report The Forfeiture Rule and the Law of Succession, which we presented to the Lord Chancellor in 2005. We are very grateful to Greg Knight MP for taking forward our recommendations as a Private Member's Bill, which he did with Government support, and are delighted that his Bill, having received Royal Assent on 11 July 2011, was brought into force on 1 February 2012.

My fellow Commissioners and I were pleased to see your second annual report to Parliament in March this year, setting out the extent to which Government has implemented our recommendations. We very much welcome this requirement of the Law Commission Act 2009 and believe it to be a significant contribution to the transparency of the Government's approach to our work and a useful discipline in ensuring regular attention to outstanding Law Commission recommendations.

As with your first report to Parliament on implementation, there was some good news but significant disappointments.

We are delighted, as I have said, that Government has introduced in Parliament the Trusts (Capital and Income) Bill based on recommendations we made in our 2009 report and look forward to its smooth and successful passage.

We also look forward to completion of the comprehensive consumer rights Bill under development by the Department of Business, Innovation and Skills, and are keen to see incorporated the vast majority of, if not all, the consumer rights recommendations we made in our 2009 report, Consumer Remedies for Faulty Goods, and our 2012 report, Consumer Redress for Misleading and Aggressive Practices. We are heartened by your assurance of Government's commitment to legislating for adult social care law reform at the earliest opportunity and eagerly await the Care and Support White Paper, which we understand will include a formal response to the recommendations made in our Adult Social Care report.

The Third Parties (Rights against Insurers) Bill, one of the two Law Commission Bills used to pilot the new procedure, received Royal Assent on 25 March 2010. We acknowledge the reassurance in your report that Government has been working to ensure a smooth commencement when the decision is finally taken to bring it into force but are disappointed to learn that commencement is to be delayed until even as late as 2013.

Of further and very great disappointment is your confirmation that Government will not, during the lifetime of this Parliament, take forward our recommendations for reforming the law of secondary liability for assisting and encouraging crime or the law governing statutory conspiracy (under the Criminal Law Act 1977) and attempts (under the Criminal Attempts Act 1981). We are dismayed that, despite accepting our proposals for reform and acknowledging both the significant benefits they could bring to the administration of justice and savings they could make for the criminal justice system, Government has taken the view that these important reforms are not a priority in the current climate.

We are also saddened to learn that our recommendations for reform of the law relating to cohabitation and the financial consequences of relationship breakdown will not be taken forward for the time being. We stand by our position that the existing law is far from satisfactory and gives rise to significant hardship for many cohabitants and, often, their children. It is unfortunate that the opportunity for reform in this area of family law has not been grasped and we are very disappointed that Government has given no indication of when that might change.

Income

In common with many others, we have been tested financially this year. Having already weathered a sizeable reduction to our budget in 2010–11, we are now working within a regime of further, much deeper and more painful reductions that we must sustain over the next four years, at the very least.

Cuts that would otherwise have been insupportable and profoundly damaging to the Commission have been made tolerable only because we have been able to negotiate with a number of other Government departments an arrangement under which they contribute to the cost of the law reform projects they are sponsoring. This is a new arrangement for the Law Commission; we are monitoring its impact carefully.

A year of change

The year from April 2011 to March 2012 has seen many changes for the Law Commission, not least among the valued people who deliver the Commission's excellent work.

On 1 August, we welcomed Adrian Hogarth, our new Senior Parliamentary Counsel. We are privileged at the Law Commission to work closely with our Parliamentary Counsel colleagues. Being able to work together throughout the course of a project is enormously beneficial both for us and for Government. It allows us to encapsulate our reform intentions accurately and present Government with Bills that are ready for introduction.

Mr Hogarth replaces our former Senior Parliamentary Counsel, Robin Dormer, to whom we bade farewell in July. Robin made a very significant contribution to our work during the five years he led the Parliamentary Counsel team at the Commission and was a highly respected and much valued colleague.

We also owe respect and thanks to Mark Ormerod CB, our former Chief Executive, who took up a new post as Chief Executive of the Probation Association at the end of September 2011. We wish him every success and extend a warm welcome to his successor, Elaine Lorimer, who joined us in January from the National School of Government. I should also like to take this opportunity to thank John Saunders, head of our Statute Law Repeals team, for the contribution he made as interim Chief Executive during the autumn of 2011.

I offer my congratulations, too, to David Hertzell on the extension of his appointment as a Commissioner to 31 December 2013, which will allow him to take our important work on insurance contract law through to its conclusion. And I am particularly pleased that we have been able to secure a significant extension to the appointment of Elizabeth Cooke, Commissioner for Property, Family and Trust law, to July 2016. I am grateful to each of them for agreeing to these extensions.

The Leslie Scarman Lecture

We were honoured this year to have Justice Edwin Cameron of the Constitutional Court of South Africa deliver the Leslie Scarman Lecture, which is held by the Law Commission every two years in honour of Lord Scarman who was our first Chairman. The lecture, on the subject of "What you can do with rights", was an inspiring talk of the highest quality, delivered to a full house at Middle Temple Hall. It was without doubt one of the highlights of the year and of my term as Chairman.

A closing note

This has been my final, complete year as Chairman of the Law Commission. The three years I have spent at the Commission have been an invaluable experience. I am inordinately proud of what we, as a team, have achieved during my short tenure. We have produced the largest ever Statute Law (Repeals) Bill; completed a dozen projects, making recommendations for reform in areas of public, criminal, commercial, property, family and trust law; and launched our new programme of reform projects. We have seen six new Acts appear on the statute book that are derived from our recommendations; ushered in the Law Commission Act 2009 and enacted the Protocol. None of this work would be possible without the expertise of the legal teams at the Commission, Parliamentary Counsel, the economics team and the staff who support them. I am endlessly impressed by their knowledge, skill and dedication. I extend my gratitude also to all those organisations and individuals who have supported us during the year by serving on our advisory boards, responding to our consultations and sharing with us their knowledge and expertise.

The Law Commission was established by statute to keep the law of England and Wales under review, and recommend reform to Government where it is needed. As Chairman of the Commission, judge and private citizen, I remain convinced that the Law Commission plays a crucial role in supporting the rule of law in England and Wales. Every day we see in our courts the impact of rapid social,

scientific and technological change. Changing social behaviours and expectations demand that we examine areas of law such as those governing marital property agreements, family provision and cohabitation. Advances in psychiatry and other areas of medicine influence our understanding of criminal behaviour and responsibility. And we are witnessing the struggle in our courts to find solutions for the very modern challenges posed by social media and citizen journalism. I am greatly encouraged to see, in the introduction to your report, that the Government continues to hold the Commission's work in high regard and remains committed to law reform. I am sure you will agree with my conviction that it is essential the Commission is supported wholeheartedly in its continuing work to make the law clear, accessible and fit for our modern world.

I said in my first annual report to you that I was honoured to have been appointed Chairman of this rightly very highly regarded organisation. It has indeed been an honour and a privilege and one for which I am deeply grateful.

As I pass over the chairmanship to my successor, Mr Justice Lloyd Jones, I must place on record my respectful and admiring thanks for the immense support I have received during my time as Chairman from everyone at the Commission. It has been a great pleasure working with such able, hard working and endlessly enthusiastic people. I have learned much from them for which I will always be very grateful. I shall leave with many happy memories of a very special organisation.

Sir James Munby
Chairman

Highlights of 2011–12

2011

April

12

Consumer Redress for Misleading and Aggressive Practices consultation opens

14

Welcome visitors from the Dutch Academy for Legislation

May

5

Charities Consolidation Bill receives second reading in House of Lords

11

Adult Social Care report published

16

Consumer Insurance (Disclosure and Representations) Act Bill introduced

June

8

Making Land Work: Easements, Covenants and Profits à Prendre report published

16

London statute law repeals consultation opens

22

Annual Report 2010-11 published

Commonwealth Drafters seminar and The Big Voice educational event

July

7

Taxation statute law repeals consultation opens

7-8

Meeting of the five Law Commissions in Jersey

12

Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Act 2011 receives Royal Assent

14

Public Services Ombudsmen report published

19

Eleventh Programme of Law Reform launched

September

8

Welcomed visitors from Ugandan Law Reform Commission

26

Welcomed visitors from the Thai Senate Secretariat

28

Welcomed Sir Grant Hammond, Chairman of the New Zealand Law Commission

Simplification of Criminal Law: Kidnapping c onsultation opens

30

Chief Executive, Mark Ormerod, departs

October

11

David Hertzell gives evidence to House of Lords Special Public Bill Committee on **Consumer Insurance (Disclosure and Representations) Bill**

2012

November

22

Frances Patterson QC gives evidence to Health Select Committee on **Adult Social Care**

29

Chairman delivers Denning Lecture: **Shaping the Law - The Law Commission at the Crossroads**

December

14

Intestacy and Family Provision Claims on Death report published

20

Insurance Contract Law: Post-Contract Duties and other Issues consultation opens

January

16

New Chief Executive, Elaine Lorimer, arrives

25

Leslie Scarman Lecture delivered by Justice Edwin Cameron of the Constitutional Court of South Africa

February

29

Trusts (Capital and Income) Bill introduced in the House of Lords

March

1

Regulation of Health and Social Care Professionals consultation opens

8

Consumer Insurance (Disclosure and Representations) Act 2012 receives Royal Assent

22

Lord Chancellor's Report to Parliament on implementation of Law Commission recommendations published

28

Consumer Redress for Misleading and Aggressive Practices report published

April

4

19th Statute Law (Repeals) Report published

PART ONE
Who we are and what we do

> The Government continues to hold the excellent work of the Law Commission in very high regard.

The Rt Hon Kenneth Clarke QC MP, Lord Chancellor and Secretary of State for Justice. Report on the Implementation of Law Commission Proposals, March 2012.

1.1
The Law Commission was created by the Law Commissions Act 1965 for the purpose of reforming the law. The Commission is an advisory, non-departmental public body, which is part of the family of Ministry of Justice arms'-length bodies.

1.2
The Law Commission's main task 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, and
- consolidation.

1.3
The Law Commission is headed by a Chairman and four Commissioners, all of whom are appointed by the Lord Chancellor.

1.4
The Chairman and Commissioners of the Law Commission, 2011–12:

- The Rt Hon Lord Justice Munby, Chairman
- Professor Elizabeth Cooke, Property, Family and Trust Law
- David Hertzell, Commercial and Common Law
- Professor David Ormerod, Criminal Law
- Frances Patterson QC, Public Law

1.5
The Commissioners are supported by the staff of the Law Commission, who are civil servants and led by a Chief Executive. In January 2012, we welcomed our new Chief Executive, Elaine Lorimer.

1.6
In 2011–12 we:

- consulted on six law reform projects
- received 257 responses, including from representative bodies on behalf of their members, and
- published five law reform reports and our 19th Statute Law Repeals report.

PART TWO
Review of our current work

> Like all noble Lords who have spoken today, I thank the Law Commission and congratulate it on its work.

Baroness Smith of Basildon. 2nd reading, Charities Consolidation Bill, House of Lords. Hansard (HL), 5 May 2011, vol 727, col 647.

Commercial law and common law

Commissioner
David Hertzell

Insurance Contract Law

2.1
Insurance contract law was codified in 1906 and is now seriously out of date. Working with the Scottish Law Commission, we are conducting a wide-ranging review that aims to simplify the law and bring it into line with modern market practice.

2.2
We are conducting the review in phases. Our first consultation paper[1], published in 2007, looked at the law of misrepresentation, non-disclosure and breach of warranty. Responses showed overwhelming support for reforming the law about what a consumer must tell an insurer before taking out insurance. Therefore, in December 2009, we published a report and draft Bill covering disclosures and representations in consumer insurance.[2] The Bill was introduced in the House of Lords on 16 May 2011 and received Royal Assent on 8 March 2012.

2.3
Under the provisions of the Consumer Insurance (Disclosure and Representations) Act 2012, which are derived from our recommendations:

- insurers must ask questions about any matter that they want to know in order to assess the risk being insured,
- consumers who take reasonable care to answer the insurers' questions fully and accurately can expect to have any subsequent claims paid in full. It is only if they answer questions dishonestly or recklessly that insurers are permitted to refuse all claims and retain any premium, and
- if a consumer makes a careless mistake when answering a question, they might still be entitled to have some of the claim paid; a consumer's entitlement is dependent on what the insurer would have done had it known the true facts at the time the policy was taken out.

2.4
In December 2011, we published a second consultation paper on post contract duties and other issues, following a series of issues papers.[3] We made proposals to reform the law on damages for late payment; the insurer's remedies for fraudulent claims; insurable interest; and policies and premiums in marine insurance. By April 2012 we had received 51 responses.

2.5
We will publish our final consultation paper in June 2012. It will look again at the law of non-disclosure and warranties in business insurance. Following these consultations, our aim is to draft a further Bill by December 2013.

Consumer Redress for Misleading and Aggressive Commercial Practices

2.6
In May 2008 the Consumer Protection from Unfair Trading Regulations implemented a European directive. The Regulations replaced 22 previous UK consumer protection measures, including most of the Trade Descriptions Act 1968. They are enforced mainly by the Office of Fair Trading and by trading standards services. However, under the current law, consumers do not have a right to compensation if a trader breaches the Regulations. Instead consumers must rely on a variety of private causes of action, including the law of misrepresentation and duress. These are complex, confusing and patchy.

2.7
In February 2010 the Department for Business, Innovation and Skills (BIS) asked us to consider whether private rights should be available to consumers who have been the victims of unfair commercial practices. Again, we conducted this project jointly with the Scottish Law Commission.

2.8
We opened a consultation in April 2011, to which we received 71 responses.[4] The responses showed considerable support for simplifying the law on

[1] Insurance Contract Law: Misrepresentation, Non-Disclosure and Breach of Warranty by the Insured (2007) Law Commission Consultation Paper No 182; Scottish Law Commission Discussion Paper No 134.
[2] Consumer Insurance Law: Pre-Contract Disclosure and Misrepresentation (2009) Law Com No 319; Scot Law Com No 219.
[3] Insurance Contract Law: Post-contract Law and Other Issues (2011) Law Commission Consultation Paper No 201; Scottish Law Commission Discussion Paper No 152.
[4] Consumer Redress for Misleading and Aggressive Practices (2011) Law Commission Consultation Paper No 199; Scottish Law Commission Discussion Paper No 149.

misleading practices and improving redress for consumers who have suffered from aggressive practices.

2.9

In March 2012 we published our final report.[5] BIS are currently considering our recommendations, to see whether they should form part of a comprehensive Bill on consumer rights.

2.10

We recommend that consumers who have entered into a contract or made a payment as a result of a misleading or aggressive trade practice:

- should have a new statutory right of redress,
- should be entitled to a refund or a discount on the price, and
- may be entitled to damages if the unfair practice caused additional loss.

Advice on the Proposal for a Common European Sales Law

2.11

In October 2011 the European Commission published a proposal for a Common European Sales Law,[6] which traders could choose to use to govern their cross-border contracts. The proposal included a draft regulation covering the sale of goods, the supply of digital content and some related services.

2.12

With the Scottish Law Commission, we were asked to advise the UK Government on the potential advantages and disadvantages of the draft Regulation. The aim of our project was to explain the contents of the draft and highlight the policy choices made.

2.13

We published our Advice in November 2011.[7] We concluded that there is a case for a new optional code to cover distance consumer sales across the European Union. However:

- the text needs to be simplified, and accompanied by explanatory notes,
- from the trader's point of view, the extended right to terminate is too long. In theory the consumer may reject goods for up to two years from when they could be expected to be aware of the fault, and
- from the consumer's point of view, the right to reject is too uncertain. In particular, the provisions on allowance for use may lead to difficult arguments. Also, the lack of damages for distress and inconvenience reduces the level of consumer protection in some circumstances.

2.14

The Advice is available on our website, and we hope that it will promote further discussion and debate.

Unfair Contract Terms

2.15

In 2005 we published a report with the Scottish Law Commission on Unfair Terms in Contracts.[8] We recommended new legislation to replace the Unfair Contract Terms Act 1977 and the Unfair Terms in Consumer Contracts Regulations 1999 (UTCCR) in one simplified regime. In January 2012 BIS asked us to review our previous recommendations to see whether the consumer provisions should form part of a new comprehensive Bill on consumer rights.

2.16

The most controversial issue is which terms should be exempt from review. The UTCCR are based on the Unfair Terms Directive 1993, which states that terms should not be assessed for fairness if they relate to "the definition of the main subject matter" or "the adequacy of the price", provided that the term is "in plain intelligible language". Since 2005, there has been considerable debate about the meaning of these words. The issue was explored but not wholly resolved by the Supreme Court in the bank charges litigation, *Office of Fair Trading v Abbey National*.[9]

[5] Consumer Redress for Misleading and Aggressive Practices (2012) Law Com No 332; Scot Law Com No 226.
[6] European Commission, Proposal for a Regulation on a Common European Sales Law, 11.10.2011, Com (2011) 635 final.
[7] An Optional Common European Sales Law: Advantages and Problems (2011) Law Commission; Scottish Law Commission.
[8] Unfair Terms in Contracts (2005) Law Com No 292; Scot Law Com No 199.
[9] [2009] UKSC 6, [2010] 1 AC 696.

2.17
Given the difficulties caused by this issue, we intend to consult again on which terms should be exempt from review. We plan to publish a further consultation paper in summer 2012.

Criminal law

Commissioner
Professor David Ormerod

Staff movement

2.18
For most of the past year the criminal law team has been operating with just 1.6 lawyers (full-time equivalent), plus the team leader. Two new lawyers took up their posts with the team in spring 2012, taking us back up to our normal complement of 3.6.

Insanity and Automatism

2.19
In this project we consider the circumstances in which a person, as a result of their medical condition at the time they committed an alleged offence, should not be held criminally liable.

2.20
The rules that currently govern what is known as the "insanity" defence date from 1843. They have been widely criticised:

- The relationship between the "insanity" and automatism defences is illogical and confusing.
- It is not clear whether insanity is even available as a defence to all crimes in all courts.
- The law lags behind psychiatric understanding, and this partly explains why in practice medical professionals do not always apply the correct legal test.
- The label of "insane" is stigmatising and outdated as a description of those with mental illness and simply wrong as regards those who have learning disabilities or learning difficulties.
- There are potential problems of compliance with the European Convention on Human Rights.

2.21
We plan to publish a scoping consultation paper in summer 2012 in order to discover whether the current law causes problems in application in practice, and if so, the extent of those problems. We are adopting this approach because, although convinced, on the basis of our research, of the many cogent criticisms that may be made of the current law, there is less evidence that the defence causes significant difficulties in practice.

Contempt of Court

2.22
Recent well-publicised cases have highlighted shortcomings in the current law on contempt committed by way of publication of information about imminent or active proceedings. Questions have been raised about the law's ability to keep pace with cultural and technological advances, which raises specific issues, including:

- the ease with which the internet and, in particular, social media enables information about trials to be published to reach wide audiences, and
- the subsequent difficulties faced by the original publisher in controlling information once it has been published on the internet, regardless of what precautions they may have taken to minimise any impact on a trial.

2.23
The powers of the criminal courts to deal with contempt committed in the face of the court or by way of breach of court order are also unsatisfactory. While the powers of the magistrates' courts are found in statute, those of the Crown Court and Court of Appeal come from the common law. There is uncertainty as to the scope of the common law powers, gaps in the statutory provisions and unjustifiable inconsistency between them.

2.24
We have been asked to prioritise this project by the Government with a view to implementation, if possible, during this Parliament. As a result a number of the team's other projects have been put on hold.

2.25
We plan to publish a consultation paper late in 2012.

Fitness to Plead

2.26
Many of the problems surrounding the current rules for determining fitness to plead relate to the fact that they were devised when psychiatry was in its infancy.

2.27
In this project we address the circumstances in which defendants may be found to lack the mental or physical capacity to be tried in the normal way in the criminal courts. We draw on relevant empirical evidence and comparative material in an attempt to identify more appropriate contemporary legal tests and rules for determining fitness to plead.

2.28
We opened a consultation on 27 October 2010. In our consultation paper[10] we provisionally proposed that:
- the focus of the new test should be on whether an accused can play a meaningful and effective part in the trial and make relevant decisions, and
- greater use be made of special measures to ensure that, where people could participate in the trial meaningfully with extra help, that help is provided.

2.29
This project will be taken forward following consultation on insanity and automatism, so that reform of these closely related topics can be considered together.

Regulation, Public Interest and the Liability of Businesses

2.30
This project appeared in our 10th Programme as an item of on-going work examining corporate criminal liability. Following a request from what is now the Department for Business, Innovation and Skills in late 2008 and as a result of discussion with that Department and the Ministry of Justice in early 2009, our work took as its focus the use of criminal law as a way of promoting regulatory objectives or public interest goals, and particularly how businesses are treated by the criminal law.

2.31
In this project we examine:
- the use of the criminal law as a way of promoting regulatory objectives and public interest goals, with the aim of producing a set of guidelines for lawmakers across Whitehall,
- whether the doctrines of delegation and consent and connivance, that render companies and their officers criminally liable, are unfair to small businesses, and
- the application of the identification doctrine in the regulatory or public interest context and the possibility of giving courts the power to apply a due diligence defence.

2.32
We opened a consultation in August 2010.

2.33
The Ministry of Justice incorporated many of the proposals we put forward in our consultation paper on the use of criminal law in regulatory contexts[11] into its guidance for regulatory law makers published in the summer of 2011. The remainder of the project, which deals with a small number of doctrines relating to business liability, is on hold. We propose to take this work forward as part of a full-scale project on the liability of businesses.

Simplification of Criminal Law

2.34
In the 10th Programme of Law Reform[12], we stated our intention to embark on a project for the simplification of the criminal law. Simplification is not the same as codification, but includes work that could be preparatory to later codification.

2.35
The simplification project involves reviewing some of the older or less used common law or statutory offences, with a view to considering either abolishing

[10] Unfitness to Plead (2010) Law Commission Consultation Paper No 197.
[11] Criminal Liability in Regulatory Contexts (2010) Law Commission Consultation Paper No 195.
[12] (2008) Law Com No 311, para 2.24 and following.

these offences or making relatively modest legal changes aimed at removing injustices or anomalies. In some cases we may recommend restating existing common law offences in statutory form.

Public Nuisance and Outraging Public Decency

2.36
Public nuisance and outraging public decency are both common law offences.

2.37
The offence of public nuisance consists of any wrongful act or omission that exposes members of the public to risks to life, health or safety or loss of comfort or amenity. Broadly, it can be divided between environmental nuisances that affect a neighbourhood on the one hand, and offensive behaviour in public on the other. A person is liable if the act or omission was performed negligently, that is to say, if they ought reasonably to have known of the possible bad effects.

2.38
Outraging public decency means doing an indecent act, or creating an indecent display, in such a place or in such a way that members of the public may witness it and be shocked or disgusted by it. To be liable, the person must intend to do the act in question; but there is no need to know or intend that it would be offensive, or even that it would be observed at all.

2.39
We opened our consultation on public nuisance and outraging public decency on 31 March 2010.

2.40
Our provisional proposals, which we set out in our consultation paper[13], are that:

- both offences should be restated in statutory form,
- both offences should require intention or recklessness: that is, that the person should either intend the bad effects or outrage, or be aware that they might ensue and decide to perform the act anyway, and
- the separate common law offence of conspiracy to outrage public decency should be abolished and replaced by the normal statutory conspiracy offence.

2.41
This project has been put on hold, and will be picked up once other projects permit.

Kidnapping

2.42
Kidnapping is a common law offence, triable only in the Crown Court, and carries an unlimited sentence of imprisonment. It is defined as the taking or carrying away of one person by another, by force or fraud, without the consent of the person taken or carried away and without lawful excuse. Like false imprisonment, of which it is sometimes regarded as an aggravated form, it is classed as an attack on liberty.

2.43
One problem with this definition is whether the requirement of force or fraud should be separate from that of lack of consent: a child or mental patient, for example, may be taken away without consent but without the use of force or fraud. Another is that the definition concentrates entirely on the moving of the victim from one place to another, though a given kidnapping operation may also include a period of stationary confinement and this ought equally to form part of the offence.

2.44
We opened our consultation on this project in September 2011. We provisionally proposed in our consultation paper[14] that kidnapping, and probably false imprisonment, should be replaced by statutory offences, and offered three possible models for consultation:

- A single offence of intentional or reckless

[13] Simplification of Criminal Law: Public Nuisance and Outraging Public Decency (2010) Law Commission Consultation Paper No 193.
[14] Simplification of Criminal Law: Kidnapping (2011) Law Commission Consultation Paper No 200.

deprivation of liberty without consent and without lawful excuse.
- Separate offences of unlawful detention and unlawful abduction.
- A basic offence of intentional or reckless abduction or detention and an aggravated one of detention or abduction with intent to perpetrate one of a number of specified additional harms (for example inflicting harm, or making ransom demands).

2.45

We hope to return to this project with a report as soon as the prioritised work on Contempt of Court permits.

Property, family and trust law

Commissioner
Professor Elizabeth Cooke

Electronic Communications Code

2.46
Schedule 2 to the Telecommunications Act 1984, also known as the Electronic Communications Code, sets out a statutory regime that governs the rights of electronic communications network providers, and the providers of network conduits, to install and maintain infrastructure on public and private land.

2.47
Often, the necessary rights to access private land are agreed with the landowner. Where agreement cannot be reached, the Code gives the provider power to apply to the court for an order to confer the proposed right, dispensing with the need for agreement. The court can determine the scope of the rights in favour of the provider and make a financial award in favour of the landowner.

2.48
In this project we:
- review the Code,
- examine whether it remains fit for purpose, and
- investigate whether it is possible to provide a more transparent and efficient process that balances the interests of landowners, the operators of electronic communications networks and the general public.

2.49
We started this project in September 2011 and expect to open a consultation in June 2012. We will report our recommendations to the Department for Culture, Media and Sport in spring 2013.

2.50
Our work forms part of Government's wider review of the Communications Act 2003.

Rights to Light

2.51
This project builds on our recent work on the general law of easements,[15] which recommended a specific review of rights to light.

2.52
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.

2.53
Rights to light will often have been acquired by prescription, in other words, over time and without a formal grant. The enjoyment of the light through a window, without interruption or consent, for a period of 20 years will, in most cases, give rise to the right. Because they can arise by prescription, it may be that those burdened by rights to light (and indeed those benefiting from them) are unaware of their existence. Nevertheless, the existence of rights to light – and the means by which they may be enforced – can significantly hamper the development of land.

2.54
In this project we:
- investigate whether the current law by which rights to light are acquired and enforced provides an appropriate balance between those benefiting from the rights and those wishing to develop land in the vicinity,
- examine the interrelationship between the planning system and rights to light, and
- consider whether the remedies currently available to the courts are reasonable, sufficient and proportionate.

2.55
We started work on this project in March 2012 and expect to consult in early 2013. We will review, in

[15] Making Land Work: Easements, Covenants and Profits à Prendre (2011) Law Com No 327.

discussion with the Department for Communities and Local Government, how the project should be taken forward at the time of publishing our preliminary proposals and after analysing the responses to our consultation. If both the Commission and Government agree that further work is appropriate, we will aim to produce a final report, with a draft Bill, in late 2014 or early 2015.

Conservation Covenants

2.56
This project considers the case for giving special legal status to agreements over land designed to achieve important conservation objectives

2.57
Under current law, a landowner can agree to use or not to use that land in a certain way. But such an 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), and 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.

2.58
In this project we consider 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 conservation covenants would not be specifically linked to nearby land.

2.59
We take account of existing legal options available to achieve similar objectives and the experience of conservation covenants in other jurisdictions. The major issues to be examined include:

- defining what conservation objectives are of sufficient importance to bind land,
- whether to permit only prescribed public bodies and conservation organisations to enter into conservation covenants with landowners, and
- the means by which covenants can be modified or discharged.

2.60
We started work on this project in January 2012. Following a consultation in December 2012 we will review, in discussion with Government, how to take the project forward. If the project proceeds to a final report with draft Bill, we anticipate that publication will be in late 2014.

Matrimonial Property, Needs and Agreements

2.61
This project was initially established 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.

2.62
The project was included in the Law Commission's 10th Programme of Law Reform under the title Marital Property Agreements, and work commenced in October 2009. We opened a consultation in January 2011 exploring the arguments for and against a range of options for reform and inviting views about the correct balance between a couple's autonomy to decide for themselves the financial effects of divorce or dissolution and the need for the law to provide protection for economically weaker parties.[16]

2.63
In November 2011 the Family Justice Review, led by David Norgrove, published its final report making a range of recommendations for the reform of the family justice system. The report commented on the need for a separate review of the law governing financial orders on divorce and the dissolution of civil partnership.[17] The Ministry of Justice's February 2012 response to the report announced that the scope of our Marital Property Agreement project would be

[16] Marital Property Agreements (2011) Law Commission Consultation Paper No 198.
[17] See http://www.justice.gov.uk/publications/policy/moj/family-justice-review-response (last visited 23 April 2012).

extended to include a targeted review of two aspects of financial provision on divorce and dissolution.

2.64
To reflect these extended terms of reference, we have renamed our project "Matrimonial Property, Needs and Agreements". Our aim is not to examine the entirety of the law governing financial orders but to bring as much clarity and predictability as possible to two areas of that law that cause particular difficulties. To achieve this we will:

- review the law relating to needs, examining the extent to which one spouse or civil partner should be required to meet the other's needs following divorce or dissolution,
- consider how non-matrimonial property (property acquired by either party prior to the marriage or civil partnership, or received by gift or inheritance at any time) should be treated on divorce or dissolution, and
- finalise our recommendations on pre- and post-nuptial agreements.

2.65
We aim to consult on the extended areas of this project in autumn 2012 and report on our final recommendations in autumn 2013.

Intestacy and Family Provision Claims on Death

2.66
The intestacy rules govern the inheritance of assets where a person dies without leaving a will that disposes of all of their property ("intestate"). The rules identify the family members who stand to inherit and how much each of them receives.

2.67
Whether or not the deceased leaves a will, certain family members and dependants may apply to the court to challenge the way in which a deceased person's assets are to be inherited, on the ground that reasonable provision was not made for them. Such claims are made under the Inheritance (Provision for Family and Dependants) Act 1975 and are known as claims for family provision.

2.68
We opened a consultation in October 2009 seeking views on a wide range of issues arising in relation to these areas.[18] In May 2011 we opened a supplementary consultation on trustees' statutory powers to distribute income or capital from the trust fund to or for the benefit of beneficiaries who are not yet entitled to take such funds outright.[19] Overall, we received more than 150 responses.

2.69
On 14 December 2011 we published our final report with two draft Bills to implement our recommendations.

2.70
The draft Inheritance and Trustees' Powers Bill includes our recommendations to:

- reform the entitlement of a surviving spouse or civil partner under the intestacy rules so that, where no children or other descendants of the deceased also survive, the spouse or civil partner would always take the whole estate,
- simplify how assets are shared between a spouse or civil partner and any surviving children or other descendants,
- amend the adoption legislation to prevent a child adopted after the death of their birth parents from losing any inheritance that has already passed to them on a contingent basis,
- amend the legal rules that currently disadvantage unmarried fathers when a child dies intestate,
- remove arbitrary obstacles to family provision claims by the deceased's dependants or anyone treated by them as a child of their family outside the context of a marriage or civil partnership, and reform the rules that currently restrict claims for family provision where the deceased died domiciled outside of England and Wales, and

[18] Intestacy and Family Provision Claims on Death (2009) Law Commission Consultation Paper No 191.
[19] Intestacy and Family Provision Claims on Death: Sections 31 and 32 of the Trustee Act 1925 (2011) Law Commission Consultation Paper No 191 (Supplementary).

- reform trustees' statutory powers to use income and capital for the benefit of trust beneficiaries who are not yet entitled to those funds outright (subject to any express provisions in the trust instrument).

2.71
The reforms we recommend in the draft Inheritance (Cohabitants) Bill would:

- reform the law regarding an application for family provision by the survivor of a couple who had children together, and
- 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, if the couple lived together for five years before the death or for two years if they had a child together.

Charity Law: Selected Issues

2.72
In this project we examine selected issues relating to the legal framework within which charities operate, with a particular focus on technical problems that cause uncertainty or otherwise impose disproportionate regulatory or administrative burdens on those involved in this area.

2.73
We expect to start work on the project, which was announced in the 11th Programme, in December 2012. The work falls into two parts.

2.74
In the first, we will look at two particular types of charitable body. We will:

- examine some concerns that have been raised as to the structure and powers of charitable corporations established by Royal Charter, and
- consider charities with statutory governing documents, and in particular the means by which they can have any of the provisions made by the statute amended.

2.75
The second part will consist of points suitable for investigation by us that may arise from the current review of the Charities Act 2006. The review is being led by Lord Hodgson and is expected to report in summer 2012. The Law Commission and the Office for Civil Society in the Cabinet Office will agree on the issues to be included in this project.

2.76
We intend to consult on this project in late 2013, and, after analysing the responses we receive and drawing policy conclusions, we will review the future development of the project with the Office for Civil Society in summer 2014.

Public law

Commissioner
Frances Patterson QC

Electoral Law

2.77

Administrators, participants and voters in the electoral process face increasing challenges in knowing and applying the law relating to elections and referendums. The law has twice been consolidated, in 1949 and 1983, and there have been extensive developments since 1997, particularly in the number of elections and referendums that can take place. An increasing tendency to combine polls has brought in complex combination rules. In large part, each new election is governed by its own legislation, and the approach to the place of election rules within the hierarchy of statute and secondary legislation has not been uniform. This has led to complexity, duplication and fragmentation of the legal rules. It has also led to inconsistency and uncertainty in some areas of law.

2.78

This project was announced in our 11th Programme of Law Reform. It is a tripartite joint project with the Law Commissions of Scotland and Northern Ireland. Originally proposed by the Electoral Commission, supported by the Association of Electoral Administrators, it aims to modernise, rationalise and simplify the law.

2.79

We have organised the work into three phases, with a review point after each phase:

- The first phase includes a comprehensive scoping exercise, which we started in July 2011; a scoping consultation paper, to be published in summer 2012; and a scoping report due by the end of the year.
- Subject to the review point, we will move on to phase two, the substantive project. In this phase, we will consult in the second half of 2014, and finalise our reform proposals in mid-2015.
- If, after a further review point, it is decided we should continue, we will instruct Counsel at the end of 2015 and publish a final report and draft Bill in early 2017. This timetable would allow, if the Government so chooses, for pre-legislative scrutiny during the 2016 to 2017 parliamentary session, with passage of the legislation itself in the session starting in May 2017 and implementation well in time for a general election in May 2020.

The Law Relating to Level Crossings

2.80

There are between 7,500 and 8,000 level crossings in Great Britain. Level crossings represent the largest single risk of catastrophic train accident on Britain's railways. The current law on level crossings is complex, outdated and difficult to access, creating problems for regulators, owners and operators and increasing the safety risk for users.

2.81

This joint project with the Scottish Law Commission, which was part of the 10th Programme, is now drawing to a close. Following the consultation period (July to November 2010), we analysed the 113 written responses, and results from the numerous meetings and events we attended, and instructed Parliamentary Counsel.

2.82

We aim to publish our final report and draft Bill in autumn 2012.

Taxi and Private Hire Vehicle Regulation

2.83

The taxi and private hire vehicle markets are both highly regulated. Taxis ("hackney carriages") are still regulated by Victorian legislation, and the first regulatory interventions go back to the Stuarts. Private hire vehicles were brought into regulation

in 1976, 1998 in London. There are distinct legal systems not only for the two categories of trade, but also for London, Plymouth and the rest of England and Wales. Different rules determine the form that regulation takes in various different contexts – licences and conditions for drivers, vehicles and, for private hire, operators, fare controls, quantity restrictions and so on.

2.84

In this project we take a broadly de-regulatory approach. Our objective is to question the necessity for the various strands of the current regulatory regime, and seek to reform those that are necessary in the light of modern understanding of the most efficient and effective regulatory forms. We will:

- examine the sheer bulk of regulatory law, its complexity and its manifold inconsistencies. This may include looking at central concepts that have proved difficult, such as "plying for hire", as well as apparent inconsistencies, for example in the number and type of licences necessary and the use of meters in private hire vehicles,
- consider how we can ensure that the regulatory system is capable of adapting to difficult-to-predict change, including technological change, which has already had an impact,
- review the fundamental features of the system such as the distinction between taxis and private hire vehicles, and
- ask whether all forms of regulation remain necessary.

2.85

This project was originally proposed for the 11th Programme by the Department for Transport. We are also working with the Welsh Government, which has both local government and transport responsibilities.

2.86

We will be consulting between May and August 2012, with a final report and draft Bill due in late 2013.

Regulation of Health and Social Care Professionals

2.87

In a letter dated 30 August 2010 from the Secretary of State for Health, the Department of Health referred to us a project on the regulation of the health care and social care professions. Our specific remit is to review the UK law relating to the regulation of health care professionals, and, in England only, the regulation of social workers. There are currently 32 regulated professions, consisting of over 1.5 million practitioners.

2.88

The project includes the legal frameworks for 10 regulatory bodies: the General Chiropractic Council, the General Dental Council, the General Medical Council, the General Optical Council, the General Osteopathic Council, the General Pharmaceutical Council, the General Social Care Council, the Health Professions Council, the Nursing and Midwifery Council, and the Pharmaceutical Society of Northern Ireland. It also considers the role of the oversight body, the Council for Healthcare Regulatory Excellence (soon to become the Professional Standards Authority).

2.89

The project is the first tripartite joint project between the Law Commission, Scottish Law Commission and Northern Ireland Law Commission. At the outset, it was agreed that the England and Wales Law Commissioner, Frances Patterson QC, would be the lead Commissioner for the project as a whole and the staff team at the England and Wales Commission would work to all three Commissions.

2.90

We opened a consultation on this project on 1 March 2012. The areas covered by our consultation paper[20] include the principal functions of the professional regulators – establishing and maintaining a register, approving and setting standards for education, conduct and ongoing practice and the investigation and adjudication of fitness to practise cases – as well as the systems through which the regulators can be held to account, including the roles of the Privy

[20] Regulation of Health and Social Care Professionals (2012) Law Commission Consultation Paper No 202; Scottish Law Commission Discussion Paper No 153; Northern Ireland Law Commission Consultation Paper No 12(2012).

Council, Government and Parliament, and duties to consult the public.

2.91
The broad aim of our provisional proposals is to:
- enhance the autonomy of the regulatory councils by reducing their dependence on the Privy Council (and through it, the Department of Health), while at the same time improving the mechanisms for holding them accountable, and
- provide the government with appropriate powers, including reserve powers in the event of significant default by a council.

2.92
The consultation period will last for three months, and we expect to publish our final report and draft Bill in 2014.

Wildlife Management

2.93
The law regulating human dealings with wildlife is spread over numerous statutes and statutory instruments. It has developed in response to very different social, economic, policy and environmental stimuli over many years, from ordering the exploitation of game, to pest control, animal welfare, control of invasive non-native species, conservation and bio-diversity. The end result is a structure made up of succeeding geological strata of legislation, with no coherent design.

2.94
In this project we consider the appropriate transposition of two important EU directives on the protection of wild birds; and of European protected species (certain mammals, invertebrates and plants), as well as a further directive, on the control of invasive non-native species, that is expected during the lifetime of the project. A central aim is to provide the right balance between statute law, statutory instruments and guidance. While we are clearly not in a position to come to normative decisions on the "right" level of protection for particular species – that must be a task for Government, properly equipped with scientific advice – the anticipated outcome of this project is a workable and flexible system for making, and amending, those decisions. The project will also consider appeals against decisions on applications for licenses under the relevant legislation. The Hunting Act 2004 has been expressly excluded from the remit of the project.

2.95
The areas of law with which the project is concerned are devolved in Wales. The project fits into a distinct process of policy development based on the Welsh Government's Natural Environment Framework. As the Welsh Government's Green Paper, "Sustaining a Living Wales", published in January 2012, makes clear, our project should complement and contribute to the Welsh Government's development of broader proposals for legislative change in Wales.

2.96
Our aim is to consult over the summer and autumn of 2012, with a view to producing outline reform proposals in March 2013. There will then be a review point, allowing for reconsideration of the future of the project. If it is decided to proceed, we will produce a report and draft Bill in April 2014.

Data Sharing

2.97
There are persistent reports that public bodies have difficulty in sharing data, which prevents them from fulfilling their duties to citizens.

2.98
Our project, which is also from the 11th Programme, will take the form of a scoping review designed to establish whether there is a need for further law reform work on the ability of public bodies to share data appropriately.

2.99
This year-long project is scheduled to start in the autumn of 2012.

Statute Law

Commissioner
Chairman

Consolidation

2.100
The consolidation of statute law has been an important function of the Law Commission since its creation. The aim of consolidation is to make statute law more accessible and comprehensible, both to those who have to operate it and to those who are affected by it.

2.101
Consolidation draws together different enactments on the same subject matter to form a rational structure and make the cumulative effect of different layers of amendment more intelligible. There is usually scope for modernising language and removing the minor inconsistencies or ambiguities that can result both from successive Acts on the same subject and more general changes in the law.

2.102
At one time consolidation was sometimes used as a response to the difficulty of accessing a usable text of legislation that had been repeatedly amended. Modern electronic and printed sources of updated legislation, with modern drafting practices involving the use of textual amendment wherever possible, make it much easier to access a reliable updated version of legislation.

2.103
The recent improvement in the accessibility of updated versions of amended Acts has not removed the rationale for consolidation. It is seldom done simply to produce an updated text of an Act; a good consolidation does much more than that. And the need for consolidation may be particularly acute after repeated legislative activity in a particular area of law over a period of several years, without the original legislation having been replaced.

Consolidations at the Law Commission

2.104
In recent years we have prepared fewer consolidation Bills than we have done before, and not all of those have been successfully completed and enacted. There are several reasons for this.

2.105
Our Parliamentary Counsel team is relatively small compared with previous years and we have decided that priority should be given to our law reform work. That means that in many cases a significant consolidation can only proceed if we are able to arrange for the drafting work to be done outside the Commission under the advice and guidance of our Parliamentary Counsel team.

2.106
The nature and scale of the work necessary to complete a particular consolidation can be a factor when deciding whether it is feasible. Consolidation requires the application of significant human and financial resources, both at the Law Commission and in the Department responsible for the area of law in question.

2.107
Consolidation is not only concerned with the words of the legislation that is to be replaced. Changes elsewhere in our statute law, in European law, or resulting from court decisions may also need to be reflected. The effects of devolution can be particularly complex, and the impact of the Human Rights Act 1998 may need to be considered. The underlying structure of the existing legislation may need changing to better reflect the current law. Provisions that have become obsolete need to be identified and removed or amended.

2.108
In some cases it is found that the substantive law needs to be altered before a satisfactory consolidation can be produced. For example, a provision of an Act may be regarded as incompatible

with the Convention rights under the Human Rights Act 1998. It may not be possible to proceed with the consolidation unless the problem is resolved.

2.109

The increasing volume of legislation also poses a problem,[21] as the work needed to consolidate some areas of law may simply be too great to make a project feasible within a reasonable period. It is also the case that some areas of law are amended so frequently as to make the production of a consolidation Bill more or less impossible. A consolidation cannot sensibly proceed if the legislation being consolidated does not remain relatively stable during the period it takes to complete the work. There have been cases where a consolidation has been postponed or abandoned for this reason.

Consolidation in 2011–12

2.110

During the past year, we have continued our work on two consolidation Bills and have considered various suggestions for new consolidation projects with the responsible departments.

2.111

A substantial Bill consolidating the legislation on charities was finally introduced into Parliament in March 2011, the culmination of over three year's work. The responsible Department (the Cabinet Office) made funds available to enable us to engage a freelance drafter (a former Parliamentary Counsel) to undertake the work. The process for securing and then renewing financial support for the project proved difficult owing to the financial constraints on the Department, but we were delighted that the support was renewed to enable the project to be completed. The Bill passed through Parliament during the year and was enacted in December 2011.

2.112

We have also re-started work on a consolidation of the legislation on bail after a suspension of the project owing to the need for the responsible Department (the Ministry of Justice) to concentrate on its Legal Aid, Sentencing and Punishment of Offenders Bill. We now hope that it will be possible to publish a consultation draft of the Bail Bill later in 2012, with a view to introducing the Bill into Parliament as soon as possible after that.

2.113

In January 2012 the Prime Minister announced that the Government wished to consolidate the law relating to co-operative and public benefit societies (also known as industrial and provident societies) and we have been invited to take the necessary work forward with the responsible Department (the Treasury). We are currently carrying out discussions with the Treasury as to the scope of this project and how best to take it forward.

The future for consolidation

2.114

Possible candidates for consolidation are proposed from time to time to our Senior Parliamentary Counsel. In our last Annual Report,[22] we explained that the Commission has adopted a new approach to assessing potential consolidation projects.

2.115

This decision was taken mainly because it has proved difficult in recent years to obtain the necessary support from Departments not only to start new consolidation projects but also to ensure the support continues until they are successfully completed. For understandable reasons, consolidation is often not high in departmental priorities for their limited financial resources; and those priorities can change significantly over the life of a consolidation project.

[21] The Public General Acts enacted by Parliament ran to 3,204 A4-sized pages in 2008, 2,895 pages in 2009 and 2,722 pages in 2010 (in which it seems that less legislation than usual was passed owing to the 2010 general election). By contrast, in 1965, the year in which the Law Commission was created, the figure was 1,817 pages, and those are pages of the smaller format then in use.
[22] (2011) Law Com No 328, para 2.84 and 2.85.

2.116
As before, we can proceed with a proposal only if the area of law concerned appears to us to be suitable for consolidation and likely to be sufficiently stable over the life of the project to enable a Bill to be completed and enacted within a reasonable period of time.

2.117
However, we now also need to be fully satisfied that:
- the responsible Department will provide sufficient support, in the form certainly of time and effort and probably also of money, to see a consolidation project through to the completion and enactment of the necessary Bill, and
- if done in house, the project can be completed in a reasonable time without interfering with our law reform work, taking into account the present size of our Parliamentary Counsel team.

2.118
Given that we are unlikely to be able to meet the costs of completing significant consolidations in house from our own resources, we may look to the Department for a financial contribution to our costs.

2.119
If we are unable to carry out a suitable project in house, we will, at the request of the Department, attempt to find a suitable drafter outside our team and, where necessary, provide advice and support. Any costs of the drafting work would be met by the Department.

2.120
We are mindful that consolidation is one of our statutory functions, and we remain of the view that consolidation is a valuable contribution to improving the state of the statute book. We welcome any encouragement that can be given to Departments to see consolidation as a higher priority than now seems to be the case, and we always do our best to encourage it ourselves.

Statute law repeals

2.121
The principal purpose of our statute law repeals work is the repeal of statutes that are obsolete or which otherwise no longer serve any useful purpose. By modernising the statute book and leaving it clearer and shorter, the work helps to save the time of lawyers and others who need to use it. The work is carried out by means of Statute Law (Repeals) Bills, which we publish periodically in draft in our Statute Law Repeals reports. Eighteen such Bills have been passed since 1965. All have been enacted, thereby repealing some 2,500 Acts in their entirety and achieving the partial repeal of thousands of other Acts.

2.122
Our statute law repeals work during 2011 and early 2012 has focused on projects relating to taxation and London and on drafting our 19th Statute Law Repeals report.

London

2.123
We opened a consultation on our London project in June 2011. Our consultation paper[23] identified some 94 obsolete Acts dating from 1536 to 1907. These Acts reflect London's social and economic history from Tudor times through the Regency and Victorian periods to Edwardian London at the turn of the 20th century. Most of the Acts were passed to raise money to pay for particular projects such as building churches or improving street lighting. Other Acts have become obsolete because they have gradually been superseded by changes in central or local government finance. The repeal candidates include a 1696 Act to raise money to rebuild St Paul's Cathedral after the Great Fire of 1666, and four 19th century Acts to promote the illumination of homes and streets by the use of gaslight.

[23] (2011) Law Commission Consultation Paper No SLR01/11.

Taxation

2.124

This project was referred to us by HM Revenue and Customs. It resulted from the Tax Law Rewrite project (a consolidation and updating project spanning nearly 15 years), which left many obsolete legislative provisions unrepealed. In our consultation paper, published in July 2011[24], we proposed the repeal or revocation of a wide range of Acts and Regulations spanning the period from 1952 to 2010. Most of these provisions had become obsolete or spent through the passage of time or because of subsequent statutory intervention.

19th Statute Law Repeals Report

2.125

Our 19th Statute Law Repeals report was published on 4 April 2012.[25] Annexed to it was the draft Statute Law (Repeals) Bill that we expect to be introduced into Parliament and enacted later this year. If enacted, this will result in the repeal of 817 Acts in their entirety and the removal of redundant provisions from 50 other Acts. The repeals in the Bill include enactments not only from the taxation and London projects referred to above but also from our earlier projects relating to benevolent institutions, civil and criminal justice, Indian railways, the City of Dublin, local courts and administration of justice, lotteries, poor relief, railways and turnpikes.

2.126

Many of the repeal candidates contained in our Statute Law Repeals reports extend to Scotland and, accordingly, the 19th Statute Law Repeals project was conducted jointly with the Scottish Law Commission.

2.127

During this year, we have also worked with officials at the Ministry of Justice in preparation for the Government's own repeals legislation planned for later in the current Parliament.

[24] (2011) Law Commission Consultation Paper No SLR02/11.
[25] Joint Report with the Scottish Law Commission; Law Com No 333, Cm 8330x; Scot Law Com No 227, SG/2012/39.

Economic analysis

11th Programme

2.128
Economics is a relatively new discipline for the Law Commission, having been introduced as recently as 2007.

2.129
Our economics expertise made a valuable contribution to the analysis that informed the selection of projects for the 11th Programme. In addition to our three existing legal criteria for project selection – importance, suitability and availability of expertise – we now also apply a preliminary cost/benefit analysis of potential reform options.

2.130
This has been a significant development for both the Commission and the economics team. Through our targeted application of appraisal techniques we are now better placed to provide evidence of our appreciation of value for money considerations.

Impact assessment

2.131
Impact assessments continue to play a critical role in the output produced by the Commission. The economics team works with legal teams in drafting the assessments, which we now routinely produce alongside the consultation paper on each project. This goes beyond the requirement established by the Protocol[26] between Government and the Law Commission for an impact assessment to accompany our final reports.

2.132
Quality assurance of the underpinning analysis is greatly assisted through a peer review process using the external expertise from the lead Department. The collaborative relationship provides a further means of accessing relevant sector insights but still ensures independence in our approach.

2011–12

2.133
In 2011–12 we completed a number of impact assessments for inclusion in final reports. One of the most complex was that which dealt with easements and covenants for our report, "Making Land Work: Easements, Covenants and Profits à Prendre".[27]

2.134
We have begun work on the impact assessments required for projects in the 11th Programme, and the economics team has been particularly active in providing analytical input to the review of the regulation of taxis and private hire vehicles. We have attended meetings with interested parties alongside the legal team as a means of building the evidence base by directly seeking information from stakeholder groups. This has proved to be very helpful in enabling a more informed view of the economic issues.

2.135
One notable event this year related to the development of economic analysis at the Law Commission has been the receipt of Royal Assent, on 8 March 2012, of the Consumer Insurance (Disclosure and Representations) Act 2012. This Act derives from our Consumer Insurance project, for which we conducted the Law Commission's first ever impact assessment.

[26] Protocol between the Lord Chancellor (on behalf of the Government) and the Law Commission (2011) Law Com No 321.
[27] (2011) Law Com No 327.

PART THREE
Implementation of Law Commission Reports

> The expertise of the Law Commission and the House of Lords is a productive marriage in helping us to simplify, clarify and modify our law.

Lord McNally, Minister of State, Ministry of Justice. 2nd reading, Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Bill, House of Lords. Hansard (HL), 13 May 2011, vol 727, col 1115.

3.1
In this Part we set out the progress that has been made towards implementation of our reports over the past year. A table showing the implementation of our reports is available at Appendix A. In summary:

- the Law Commission published four final reports with recommendations for law reform between 1 April 2011 and 31 March 2012,
- two reports were implemented during that period,
- one report is in the process of being implemented,
- five reports now await implementation,
- ten reports await a decision from Government, and
- two reports were rejected.

3.2
Our progress during the year can be seen in the context of the Law Commission's overall achievements:

- Law reform reports published 191
- Accepted, implemented and decision awaited (maximum potential for implementation) 146 (76%)
- Accepted and implemented in whole or in part 131 (69%)
- Accepted by Government in whole, in part or in principle but awaiting implementation 2 (1%)
- Response from Government awaited 10 (5%)
- Rejected 31 (16%)
- Superseded 8 (4%)

3.3
Progress towards improving the rate of implementation has been assisted by three recent developments. In November 2009 Parliament passed the Law Commission Act 2009 (amending the Law Commissions Act 1965). A key feature of this Act is that it places a requirement on the Lord Chancellor to report to Parliament annually on the Government's progress in implementing our reports. The second report to Parliament was delivered on 22 March 2012.[1]

3.4
Following the commencement of the Law Commission Act 2009, in March 2010 the Government and the Law Commission agreed the terms of a Protocol in relation to our work. The latter part of the Protocol[2] 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), and will give a final response as soon as possible but within a year of the report being published.

3.5
On 7 October 2010 the House of Lords approved[3] a new parliamentary procedure that had been recommended by the House of Lords Procedure Committee as a means of improving the rate of implementation of Law Commission reports.[4] Bills are suitable for this procedure if they are regarded as "uncontroversial".

3.6
The House of Lords Procedure Committee also recommended that the procedure should specifically be extended to reports of the Scottish Law Commission.[5] This was approved by the whole House on 7 October 2010.[6]

3.7
Four Bills have been introduced using this procedure, three of which have received Royal Assent:

- Perpetuities and Accumulations Act 2009, introduced in April 2009, received Royal Assent on 12 November 2009
- Third Parties (Rights against Insurers) Act 2010, introduced in November 2009, received Royal Assent on 25 March 2010
- Consumer Insurance (Disclosure and Representations) Act 2012, introduced in May 2011, received Royal Assent on 8 March 2012
- Trusts (Capital and Income) Bill, introduced 29 February 2012

3.8
We welcome these developments, which will greatly assist in ensuring that progress is made in considering and implementing our reports in a timely and efficient manner.

[1] http://www.justice.gov.uk/publications/corporate-reports/moj (last visited on 23 April 2012).
[2] Protocol between the Lord Chancellor (on behalf of the Government) and the Law Commission (2010) Law Com No 321.
[3] http://www.publications.parliament.uk/pa/ld200708/ldhansrd/text/80403-0002.htm#08040373000008 (last visited on 23 April 2012).
[4] http://www.publications.parliament.uk/pa/ld200708/ldselect/ldprohse/63/6303.htm (last visited on 23 April 2012).
[5] http://www.publications.parliament.uk/pa/ld201011/ldselect/ldprohse/30/3003.htm#a1 (last visited on 23 April 2012).
[6] http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/101007-0001.htm#10100714000813 (last visited on 23 April 2012).

Implemented reports

Consumer Insurance Law: Pre-contract Disclosure and Misrepresentation[7]

3.9
This joint project, conducted with the Scottish Law Commission, addressed the issue of what a consumer must tell an insurer before taking out insurance. Under the current law, consumers are required to volunteer information about anything that might be material to a "prudent insurer". A failure to do so allows the insurer to treat the insurance contract as if it never existed and refuse all claims under the policy, which was overly harsh.

3.10
We published our report in December 2009. Our recommendations were accepted by the Government on 16 May 2011. The Consumer Insurance (Disclosure and Representations) Bill was introduced in the House of Lords, also on 16 May 2011. The Consumer Insurance (Disclosure and Representations) Act 2012 received Royal Assent on 8 March 2012 and we hope that it will come into force in a year's time.

3.11
More information on this project, including the provisions of the Act, can be found on page 11.

The Forfeiture Rule and the Law of Succession[8]

3.12
In July 2005 we published a final report and draft Bill to solve a particular problem in succession law. We recommended that where a person forfeits an inheritance because they kill the person from whom they would inherit, the property should be distributed as if the killer had died before the victim. The effect is that property may pass to the killer's children (the victim's grandchildren) who may be excluded under current law. Our recommendations would also apply where the heir voluntarily disclaims the property or in certain cases where a beneficiary dies under the age of 18 leaving a child.

3.13
In 2006 the Government accepted our recommendations, subject to minor modifications.[9] Mr Greg Knight MP introduced the Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Bill as a Private Member's Bill on 30 June 2010. The Bill received Royal Assent on 11 July 2011 and was brought into force on 1 February 2012.

[7] (2009) Law Com No 319; Scot Law Com No 219.
[8] (2005) Law Com No 295.
[9] Written Ministerial Statement, Baroness Ashton, Hansard (HL), 18 December 2006, vol 687, col WS223.

Reports in the process of being implemented

Capital and Income in Trusts: Classification and Apportionment[10]

3.14

This project examined the complex rules that determine the classification of trust receipts from companies and require trustees to apportion funds between capital and income. Our report, published in May 2009, recommended a clear rule reclassifying shares distributed on exempt demergers as capital, and the abolition of the rules of apportionment for all new trusts.

3.15

The project also considered the current rules on investment applicable to charitable trusts that have permanent capital endowment. Such charities can use only the income generated by the endowment to further the charity's objects, and not the capital itself. This may inhibit the achievement of the charity's objects and encourage investment practices that concentrate on the form of receipts rather than on maximising overall return. The report recommended a new power for such charitable trusts to invest on a total return basis in compliance with a scheme regulated by the Charity Commission.

3.16

These recommendations were accepted by Government on 22 March 2010[11] and, on 17 January 2011, Government announced its decision to take forward legislative reform.[12] The Trusts (Capital and Income) Bill was introduced in Parliament on 29 February 2012.

[10] (2009) Law Com No 315.
[11] Written Ministerial Statement, Lord Bach, Hansard (HL), 22 March 2010, vol 718, col WS114.
[12] Written Ministerial Statement, Lord McNally, Hansard (HL), 17 January 2011, vol 724, col WS2.

Reports awaiting implementation

Cohabitation: The Financial Consequences of Relationship Breakdown[13]

3.17
We published our report on cohabitation on 31 July 2007 following two years of work conducted at the request of, and funded by, the Ministry of Justice. On 6 March 2008, the Ministry of Justice provided an interim response in a Statement to Parliament by the then Parliamentary Under-Secretary of State, Bridget Prentice. The response indicated that the Government was postponing its decision on our "very thorough and high quality" report because it was concerned to establish estimates of the financial costs and financial benefits of bringing into effect our recommended scheme. The Government hoped to do so by examining the operation of the Family Law (Scotland) Act 2006.

3.18
Having considered the research on the impact of the Family Law (Scotland) Act 2006, the Government announced in September 2011 that it concluded the Scottish legislation did not provide a sufficient basis for a change in the law and our recommendations for reform would not be taken forward in this Parliament.[14]

Conspiracy and Attempts[15]

3.19
This report addressed the law governing statutory conspiracy (under the Criminal Law Act 1977) and attempt (under the Criminal Attempts Act 1981). It recommended reform to resolve the problems with the current law which, among other things, set the fault element too high in respect of conspiracies to commit certain offences.

3.20
Government has accepted the recommendations contained in this report but, despite considering this a worthwhile project for future consideration, does not consider that this is a priority area for immediate reform. Therefore, our recommendations will not be implemented during the lifetime of this Parliament.[16]

Partnership Law[17]

3.21
Our joint report with the Scottish Law Commission was published in November 2003. It was in two parts. Most of the recommendations concerned general partnerships. In 2006, the Government rejected this part of the report.[18] We also made recommendations about limited partnerships. Limited partnerships (as distinct from limited liability partnerships) allow general partners and limited partners to join together. A general partner manages the business and has unlimited liability for its obligations, while limited partners take no part in the management and assume only limited liability. Our recommendations were designed to clarify the relationship between limited partnerships and general partnership law.

3.22
In July 2006 the Government announced its intention to implement this part of our report.[19] In August 2008, the Department for Business, Enterprise and Regulatory Reform published a consultation paper and draft Legislative Reform Order. Subsequently, however, the Government announced that it would proceed with the limited partnership reforms in stages.

[13] (2007) Law Com No 307.
[14] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 22-3 (last visited on 4 April 2012).
[15] (2009) Law Com No 318.
[16] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 28-9 (last visited on 4 April 2012).
[17] (2003) Law Com No 283; Scot Law Com No 192.
[18] Written Ministerial Statement, Ian McCartney, Hansard (HC), 20 July 2006, vol 449, col 53WS.
[19] See reference 18 above.

3.23
So far, one order has come into effect. The Legislative Reform (Limited Partnerships) Order 2009 makes two main changes: making a certificate of registration conclusive evidence that a limited partnership has been formed at the date shown on the certificate; and requiring all new limited partnerships to include "Limited Partnership" or "LP" or equivalent at the end of their names. The Order came into force on 1 October 2009.

3.24
The Government intends to discuss alternative options for taking forward our other recommendations. These include proposals relating to capital contributions and clarifying what activities are permitted for limited partners without jeopardising their limited status. The Government plans to address the remaining recommendations as and when resources and priorities allow.[20]

Participating in Crime[21]

3.25
In this report we examined the law of secondary liability for assisting and encouraging crime. The principles determining when someone can be found liable for a crime on the basis of help or encouragement have become less clear and can result in some defendants being treated too leniently and others too harshly.

3.26
The Government has accepted the recommendations contained in our report and acknowledges that our recommendations seem to offer:

- potential and possibly significant benefits to the administration of justice, both in terms of facilitating prosecutions and in better targeting what behaviour should or should not be viewed as criminal, and
- potential savings for the criminal justice system in the longer term in respect of a reduction of appeals and a more streamlined approach to prosecutions.

3.27
Despite this, Government has decided that reform in this area cannot be considered a priority in the current climate and will not be implementing our recommendations during the lifetime of this Parliament.[22]

3.28
The Justice Committee recommended that the Ministry of Justice should re-consult on the proposals in our Participating in Crime report, describing them as "an excellent starting point" for legislative reform. The Ministry has recently announced that it will not be reconsidering our proposals.

Renting Homes: The Final Report[23]

3.29
On 13 May 2009, the Government published its response to a report it had commissioned into the private rented sector led by Dr Julie Rugg. That response also stood as the Government's response to our report on Renting Homes in relation to England.

3.30
In its response, the Government acknowledged the contribution made by our report to the development of housing policy but took the firm view that the time was not right to implement the fundamental reforms proposed in Renting Homes. We are encouraged to note that the Government's reasoning is based on an assessment of the housing market in the current financial climate, rather than a fundamental disagreement on the merits of our proposals. We therefore hope that the Government will return to the proposals at an appropriate time in the future.

3.31
However, the Welsh Government has accepted Renting Homes for Wales, and announced on 21 May 2012 that a Bill based on our proposals would be introduced during the life of the current Assembly.

[20] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 10-12 (last visited on 4 April 2012).
[21] (2007) Law Com No 305.
[22] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 19-21 (last visited on 4 April 2012).
[23] (2006) Law Com No 297.

Reports awaiting a Government decision

Administrative Redress: Public Bodies and the Citizen[24]

3.32
This report was published in May 2010. The 2008 consultation paper[25] had considered two main areas for reform:

- court-based mechanisms for compensation from public bodies in both public law and tort, and
- reforms for public sector ombudsmen.

3.33
The responses in relation to court-based mechanisms for redress were largely negative. The report therefore discontinued the project in this respect. However, in light of the difficulties experienced by the team in trying to create a dataset on the compensation liability of public bodies, the report made recommendations for future collation and publication of this information.

3.34
In relation to the public sector ombudsmen, the consultation process and subsequent developments led us to conclude that further investigation of issues relating to ombudsmen was necessary and desirable. We published a further consultation paper[26] on 2 September 2010 focusing solely on the public sector ombudsmen, and a report in July 2011.[27]

3.35
The Government is considering the feasibility of our proposals on reporting compensation and associated litigation costs as part of future initiatives on improving the publication of public bodies' data in open and standardised formats. Preliminary work has been started on a pilot study. This will include an assessment of what is reported, and how and where departments might present the data.[28]

Adult Social Care[29]

3.36
On 11 May 2011 we published our report recommending a unified legal framework for the provision of adult social care services to disabled people, older people and carers. The reforms would introduce single statutes for adult social care in England and in Wales. Dozens of landmark pieces of legislation would be repealed including the National Assistance Act 1948, Chronically Sick and Disabled Persons Act 1970 and NHS and Community Care Act 1990. The new statute would set out a single duty to assess, an eligibility framework for service provision and requirements to safeguard adults from abuse and neglect.

3.37
The Government warmly welcomed our report, stating that it was in agreement with our analysis of the existing adult social care statute as opaque, outdated and confusing. It agreed also that the need for law reform is clear, and that our recommendations "provide a solid foundation and a way forward".[30]

3.38
Government is considering our recommendations alongside other proposed reforms in adult social care, and has announced its commitment to publish a Care and Support White Paper, which will set out its reform agenda for adult social care and be accompanied by a formal response to our recommendations and a draft Bill. This was referred to in the Queen's Speech on 9 May 2012. Pre-legislative scrutiny is expected in autumn 2012.

3.39
The Welsh Government is responsible for adult social care in Wales. It is consulting on its proposals for a Social Services Bill for Wales, which incorporates many of our recommendations. The Welsh Government's intention is that the Bill be introduced in to the National Assembly later in 2012.[31]

[24] (2010) Law Com 322.
[25] (2008) Law Commission Consultation Paper No 187.
[26] (2010) Law Commission Consultation Paper No 196.
[27] (2011) Law Com No 329.
[28] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 32-3 (last visited on 4 April 2012).
[29] (2011) Law Com No 326.
[30] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 38-42 (last visited 4 April 2012).
[31] (2005) Law Com No 296.

Company Security Interests

3.40
In August 2005 we published a final report and draft legislation on Company Security Interests recommending major reforms. These would replace the present paper-based system with a new online process to register charges cheaply and instantaneously. They would also provide simpler and clearer rules to determine "priority" disputes between competing interests over the same property.

3.41
We were disappointed that the then Department for Trade and Industry was not able to include our main recommendations within the Companies Act 2006, although a power was included to make some amendments to the registration scheme. In 2010, the Department for Business, Innovation and Skills consulted on changes to the scheme[32], and subsequently announced an intention to introduce regulations.[33] The revised scheme for registration of charges is likely to come into force in late 2012 or early 2013.[34] We still await a decision on our broader recommendations.

Consumer Remedies for Faulty Goods[35]

3.42
This was a joint project with the Scottish Law Commission, referred to us by the Department for Business, Enterprise and Regulatory Reform in December 2007.

3.43
In November 2009 we published our final report recommending ways to simplify the law on the remedies available to consumers who buy goods that "do not conform to contract". This followed a consultation paper[36] in November 2008.

3.44
This area of law affects almost everyone and is particularly complex. Currently, UK consumers have the "right to reject" faulty goods. This means they have a right to a full refund, provided they act within "a reasonable time". The area is also governed by the European Consumer Sales Directive, under which consumers' first recourse is to repair or replacement. In October 2008, the European Commission published a proposal that, if adopted, would have required the UK to abolish the right to reject. Faced with considerable evidence in favour of the right to reject, including our report, this proposal was later abandoned.[37]

3.45
We recommended that the right to reject should be retained as a short-term remedy of first instance. It is simple and easy to use and it inspires consumer confidence. In our opinion poll, 94% of consumers considered that the right to a refund was important to them, and 89% of consumers thought it should be retained, even though consumers can get replacements and repairs.

3.46
However, there needs to be greater clarity about how long the right to reject lasts. We think that in normal circumstances, a consumer should have 30 days to return faulty goods and receive a refund, with limited flexibility for special circumstances such as perishable goods, or goods which both parties know will not be used for some time.

3.47
The Government announced in its annual Report to Parliament in March 2012 that work was underway to develop a new Consumer Bill of Rights and consideration was being given to which of our proposals would be included in the Bill.[38] The Department for Business, Innovation and Skills are expected to consult on detailed proposals in 2012.

[32] http://www.bis.gov.uk/Consultations/registration-of-charges (last visited on 23 April 2012).
[33] http://www.bis.gov.uk/assets/biscore/business-law/docs/g/10-1319-government-response-consultation-registration-of-charges.pdf (last visited on 23 April 2012).
[34] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 15-16 (last visited 23 April 2012).
[35] (2009) Law Com No 317; Scot Law Com No 216.
[36] Consumer Remedies for Faulty Goods (2008) Law Commission Consultation Paper No 188; Scottish Law Commission Discussion Paper No 139.
[37] In March 2010, Viviane Reding, the EU Commissioner responsible for this area, acknowledged the importance of the UK's right to reject and undertook to amend the proposed new directive: speech, Madrid 15 March 2010 (available on http://europa.eu).
[38] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 27 (last visited 23 April 2012).

The High Court's Jurisdiction in Relation to Criminal Proceedings[39]

3.48
The usual way for the prosecution or defence to challenge a decision of the Crown Court in a trial on indictment is by appeal to the Criminal Division of the Court of Appeal. There are, however, two less common ways of challenging a decision of the Crown Court: by way of judicial review and by appeal by way of case stated.

3.49
The Law Commission was asked to consider the power of judicial review of the High Court over the Crown Court in criminal proceedings, as provided in section 29(3) of the Senior Courts Act 1981, because interpretation of that section had resulted in confusion and anomalies. We were also asked to examine the provision providing for appeal by way of case stated from the Crown Court to the High Court.

3.50
Our report, which was published on 27 July 2010, contains recommendations, and a draft Bill. In brief, we recommend:

- abolishing appeal by case stated from the Crown Court to the High Court in criminal proceedings,
- reforming the law on judicial review of the Crown Court in criminal proceedings so that judicial review of decisions in a trial on indictment is barred from the time the case goes to the Crown Court for trial to the end of the trial, with an exception where the judge refuses bail, and
- two new statutory appeals.

3.51
The Government is considering this report and is aiming to provide a full response as soon as possible.[40]

Expert Evidence in Criminal Proceedings in England and Wales[41]

3.52
This project addressed the admissibility of expert evidence in criminal proceedings in England and Wales. In a criminal trial, a jury or magistrates' court is required to determine disputed factual issues. Experts in a relevant field are often called as witnesses to help the fact-finding body understand and interpret evidence with which that body is unfamiliar.

3.53
Under the current judicial approach too much expert opinion evidence is admitted without adequate scrutiny because no clear test is being applied to determine whether the evidence is sufficiently reliable to be admitted.

3.54
In the report we formally recommend that there should be a new reliability-based admissibility test for expert evidence in criminal proceedings. The test would not need to be applied routinely or unnecessarily, but it would be applied in appropriate cases and it would result in the exclusion of unreliable expert opinion evidence. Under the test, expert opinion evidence would not be admitted unless it was adjudged to be sufficiently reliable to go before a jury. Accordingly, juries would be less likely to reach their conclusions on unreliable evidence and there would be fewer miscarriages of justice, which would result in greater public confidence in the criminal justice system

3.55
Government is in the process of preparing a formal response.[42]

Intestacy and Family Provision Claims on Death[43]

3.56
In this project we examined two important aspects of the law of inheritance: the "intestacy rules" that

[39] (2010) Law Com 324.
[40] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 35 (last visited on 4 April 2012).
[41] (2011) Law Com 325.
[42] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 36-7 (last visited 4 April 2012).
[43] (2011) Law Com 331.

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".

3.57
Many tens of thousands of people die intestate each year and it appears that this figure is rising. Research suggests that more than 27 million adults in England and Wales do not have a will and that those who may need one most are the least likely to have one.

3.58
We reported on this project, making recommendations for reform to Government, on 14 December 2011. Our report made a number of recommendations to update the entitlements of spouses and other family members. Complex and costly "life interests" would no longer be imposed; a simpler form of sharing would be substituted where there are children. Further recommendations would remove unnecessary obstacles to valid claims for family provision and modify the powers of trustees. The report also addressed the situation where one member of an unmarried couple dies without a will. It concluded that in some circumstances a surviving partner should inherit.

3.59
The Government is considering our recommendations and we expect to receive a response within the timescales set out in the Protocol.

Making Land Work: Easements, Covenants and Profits à Prendre[44]

3.60
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) and profits à prendre (rights to take products of natural growth from land, such as rights to fish). 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.

3.61
We published our report on 8 June 2011. The report makes recommendations that would remove anomalies, inconsistencies and complications in the current law relating to easements, covenants and profits à prendre, saving time and money by making it more accessible and easier to use for those who rely on these interests most: homeowners, businesses, mortgage lenders and those involved in the conveyancing process. The recommendations also give new legal tools to landowners to enable them to manage better their relationships with neighbours, and to realise better the potential of their properties.

3.62
We understand that the Government's consideration of our report has been delayed by work on other priorities. Nonetheless, we expect a substantive response by 8 June 2012.[45]

Public Services Ombudsmen

3.63
This project arose from our earlier work on administrative redress, and makes a number of recommendations in relation to the operation of the public services ombudsmen: the Parliamentary Commissioner for Administration, the Health Service Ombudsman, the Local Government Ombudsman, the Public Services Ombudsman for Wales and the Independent Housing Ombudsman.

3.64
We published our report and final recommendations on 14 July 2011.[46]

3.65
The Government is considering our recommendations and we expect a response by summer 2012.[47]

[44] (2011) Law Com No 327.
[45] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 43-4 (last visited 4 April 2012).
[46] (2011) Law Com No 329.
[47] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 45-6 (last visited 4 April 2012).

3.66
Recommendations relating to the Public Services Ombudsman for Wales, who investigates complaints against devolved services, are under consideration by the Welsh Government.

Termination of Tenancies[48]

3.67
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 lay person and the unwary practitioner. It does not support negotiated settlement and provides little protection for mortgagors and chargees.

3.68
Our report, published in October 2006, recommended the abolition of forfeiture and its replacement by a modern statutory scheme for the termination of tenancies on the ground of tenant default which would balance the interests of all parties affected and promote more proportionate outcomes. We await a final decision from Government.[49]

[48] (2006) Law Com No 303.
[49] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 17-8 (last visited 4 April 2012).

Reports rejected by Government

The Illegality Defence[50]

3.69
We published this report in March 2010. It looks at how the law should respond when a claimant in a civil action has been involved in illegal conduct that is connected to the claim in some way. We concluded that in claims in contract, unjust enrichment or tort, improvements were best left to the courts, to develop through case law.

3.70
However, in one area – the law of trusts – we recommended legislative reform. We therefore published a short draft Bill. It would apply where a trust has been created or continued to conceal the beneficiary's interest for a criminal purpose. In most cases, the beneficiary would be entitled to their normal legal rights. However, in exceptional circumstances, the court would have a discretion to prevent the beneficiary from enforcing the trust.

3.71
The Government announced in its annual Report on the Implementation of Law Commission Proposals its decision not to implement our proposals for reform of the illegality defence because it was not satisfied that there was a sufficiently clear and pressing case for reform.[51]

Intoxication and Criminal Liability[52]

3.72
The Commission published this report on 15 January 2009. It recommended that the distinction between offences of basic and specific intent be removed and the law made more comprehensible, logical and consistent by providing, instead, a definitive list of states of mind to which self-induced intoxication would be relevant.

3.73
The Government has announced that it is "not minded" to implement our recommendations on intoxication and criminal liability as they are not persuaded the reforms would deliver improvement to the administration of justice.[53]

[50] (2010) Law Com No 320.
[51] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 51-2 (last visited 4 April 2012).
[52] (2009) Law Com No 314.
[53] http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals, para 49-50 (last visited 4 April 2012).

PART FOUR
Measuring success

> The Law Commission has done a sterling job of making recommendations for replacing the patchwork that has built up in the past 60 years with a legal framework fit for the 21st century.

Paul Burstow MP. Commons debate on adult social care. Hansard (HoC), 8 March 2012, vol 541, col 1080.

Outcomes

4.1

Table 4.1 summarises our performance during the year 2011–12 and how we met our targets.

Table 4.1: Targets 2011–12

TARGET	OUTCOME
To complete reports on:	
European Optional Instrument on Contract Law	Advice to Government published 10 November 2011
Intestacy and Family Provision Claims on Death	Published 14 December 2011 (LC331)
Consumer Redress for Misleading and Aggressive Practices	Published 28 March 2012 (LC332)
Statute Law Repeals	Published 4 April 2012 (LC333)
To complete consultation papers on:	
Simplification of the Criminal Law: Kidnapping	Published 28 September 2011 (LCCP200)
Insurance Contract Law	Published 20 December 2011 (LCCP201)
Regulation of Healthcare Professionals	Published 1 March 2012 (LCCP202)
Insanity and Automatism	Scoping paper to be issued late 2012

Targets 2012–13

4.2 Table 4.2 summarises our major targets for 2012–13.

Table 4.2: Targets 2012–13

TARGET
To complete reports on:
Insurance Contract Law
Level Crossings
To complete consultation papers on:
Conservation Covenants
Contempt of Court
Data Sharing between Public Bodies
Electronic Communications Code
Insurance Contract Law
Matrimonial Property, Needs and Agreements (supplementary consultation)
Rights to Light
Taxis and Private Hire Car Regulation
Trademark and Design Litigation: Unjustified Threats
Wildlife Management
To complete scoping papers on:
Electoral Law
Insanity and Automatism

Measuring success

4.3 There are a number of ways in which the Commission gauges success. Implementation of our reports is clearly key and is covered in detail in Part 3 of this report.

4.4

However, implementation does not fully demonstrate the breadth of our impact. To address this, we record instances during the calendar year when the Law Commission is cited in judgments, by other law reform bodies or during business in the Houses of Parliament.

Citations

4.5

Table 4.3 shows the number of citations for the calendar year 2011.

Table 4.3: Citations 2011–12

2011 CALENDAR YEAR	
In UK judgments	310
In judgments from other common law jurisdictions	38
In Hansard	65

4.6

In addition, the Commission's work is widely quoted in academic journals and the media. A basic search on the internet reveals 512 references made in UK academic journals during the calendar year 2011, and our monitoring service picked up 658 references to the Law Commission from the media during 2011–12. Some of these will be made in support of the Commission; some may not be. At the very least these figures show that the Law Commission is gaining attention and stimulating debate on the issues with which we are tasked to deal.

PART FIVE
How we work

> The Government are committed to ensuring that the law is modern, simple and accessible, and we hold the Commission's work in high regard.

Jonathan Djanogly MP, Parliamentary Under-Secretary of State for Justice. 2nd reading, Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Bill, House of Commons. Hansard (HoC), 21 January 2011, vol 521, col 1149.

Our programme of law reform

5.1
Decisions about whether to include a particular subject in a programme of reform are based on the importance of the issues it will cover, the availability of resources in terms of both expertise and funding, and whether the project is suitable to be dealt with by the Commission.

5.2
Although we have a duty to "take and keep under review all the law"[1], 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. There should be a focus on change that will deliver real benefits to the people, businesses, organisations and institutions to which that law applies.

5.3
The 11th Programme of Law Reform[2] was launched in July 2011. Part 2 of this report provides an update on the progress of the Programme.

Our other work

5.4
Parts 2 and 3 of this report include updates on projects that were announced in earlier Programmes of Law Reform and are still ongoing, projects that have been referred to us by Government departments and our Statute Law work.

[1] Law Commissions Act 1965, s 3(1).
[2] (2011) Law Com No 330.

CASE STUDY

Reforming adult social care – how we consulted with providers and service users

Millions of people every day rely on adult social care – residential care, community care, adult protection and carers' services – but the rules that govern it are complex, difficult to understand and out of date. This can be a source of distress to some of the most vulnerable members of society. It can lead to inefficiency – it takes time and money to understand and negotiate complex law – and arbitrary differences in legal rights and status between service users.

The system clearly needs improving. Our aim was to make sure that the people who provide, deliver and use adult social care services have a say in how it should be changed for the better.

Our public consultation on adult social care ran from 24 February until 1 July 2010. During this period, members of the Public Law team attended 72 consultation events across England and Wales. Given that adult social care is a devolved matter in Wales, we were particularly keen to ensure that our project reflected the views and experiences of those who live and work there. Approximately 15 per cent of the events we attended were in Wales.

Our programme included:

- a half-day workshop with deafblind people and carers, organised by Sense,
- a joint conference organised by the Older People's Commissioner for Wales and Age Cymru for over 100 people in Cardiff, including service users, carers, professionals and academics,
- a consultation stand at a Young Carers' Festival in Southampton,
- a two-hour workshop with service users, carers, service providers and local authority staff, organised by Reach in Newport,
- a full-day conference with local authority lawyers, social workers and advocates in Newcastle, and
- a half-day workshop with over 40 family carers in Camden, London.

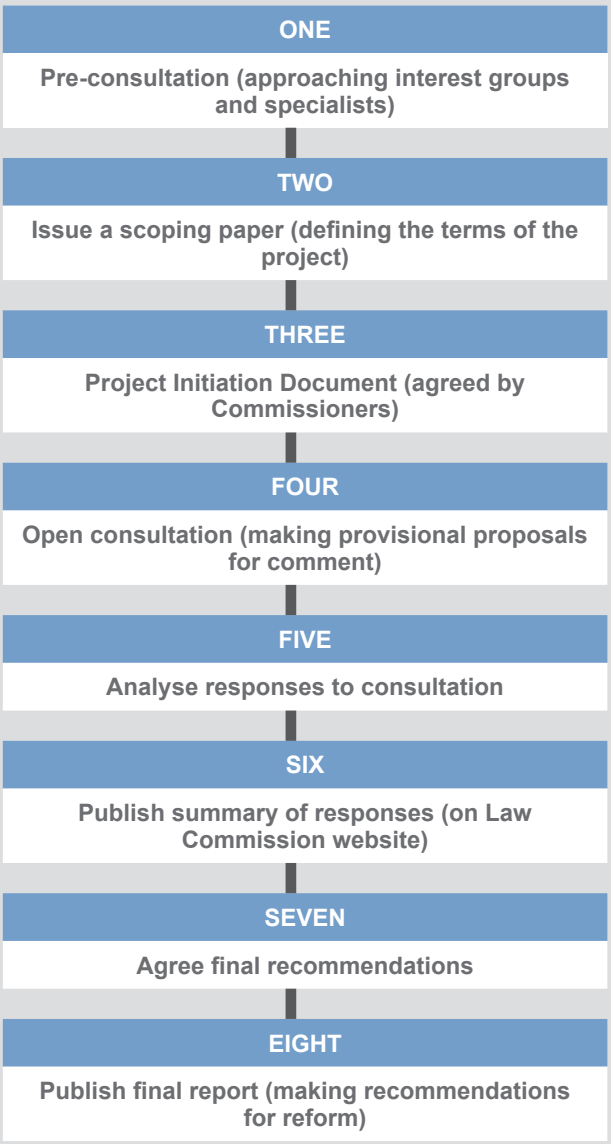
Through these events we were able to reach, and hear from, a wide audience with diverse views and experiences of the sector. Participants included service users, carers, social workers and other local authority staff, health staff, academics, members of safeguarding boards, community care lawyers, service providers and representatives from charities and campaigning organisations.

At each event, people shared with us the difficulties they were experiencing as a result of the complexities of the law: for example, some were confused or unaware of their basic legal entitlements, while others had been involved in long-standing disputes with their local authorities. Time and again we were struck by the strength of support for our project and the need to reform this area of law as a matter of priority.

Our consultation approach was well received by many who participated in the events. For example, we were commended by the Hampshire Personalisation Expert Panel, a service user-led organisation, for our "willingness to engage with users and carers", and Andrew Tyson, Head of Policy at social enterprise In Control, said:

> "This consultation enabled us to bring together people whose efforts to achieve change have been frustrated, with a Law Commission team who are trying to make a difference. The Commission's direct, face-to-face approach allowed ordinary people to articulate their day-to-day experiences and say how they think the law should change. Too often with such exercises, as we make our way through the layers of bureaucracy, our messages get diluted."

Common stages of a law reform project



The Commission's role and methods

5.5
We often start our projects with a scoping or discussion paper. The aim of this is to explore how extensive the project should be, find out the key issues as seen by others and identify interested parties. We will then produce a consultation paper to describe the present law and its shortcomings, and set out provisional proposals for reform. During the consultation period, we seek out interested parties and engage with them. We do this by holding meetings and debates. All the responses we receive are analysed and considered carefully.

5.6
We set out our final recommendations in a report. When the implementation of any recommendations would involve primary legislation, the report will usually contain a Bill drafted by 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 a Private Member or Peer agrees to do so. After publication of a report the Commissioner and Parliamentary Counsel who worked on the draft Bill will often give further assistance to Government ministers and departments.

5.7
We publish the responses we receive to our consultations, either separately or in the final report.

5.8
We are signatories of the Government Code of Practice on Consultation.

Protocol between the Government and the Law Commission

5.9
In March 2010 the Law Commission agreed a statutory protocol[3] with the Lord Chancellor that governs how the Commission and Government departments should work together on law reform projects. The protocol is provided for under the Law Commission Act 2009, which came into force on 12 January 2010 and amends the Law Commissions Act 1965, and applies to all projects commencing after 29 March 2010.

5.10
Under the Act, the Lord Chancellor is also required to report annually to Parliament on the extent to which the Law Commission's proposals have been implemented by the Government. The Lord Chancellor issued his second such report on 22 March 2012[4], setting out the Government's reasons for decisions taken during the year to accept or reject our proposals and giving an indication of when decisions can be expected on recommendations that are still being considered.

Code of best practice for Law Commissioners

5.11
In accordance with Government policy for all non-departmental public bodies, there is a written code for Law Commissioners, agreed with the Ministry of Justice. It incorporates the Seven Principles of Public Life and covers matters such as the role and responsibilities of Commissioners. The code is available on our website.[5]

5.12
The work of the Commission is based on thorough research and analysis of case law, legislation, academic and other writing, law reports and other relevant sources of information both in the United Kingdom and overseas. It takes full account of the European Convention on Human Rights and of relevant European law. We act, where appropriate, in consultation with our colleagues in the Northern Ireland and Scottish Law Commissions.

Equality and diversity

5.13
The Commission is committed to consulting fully with those likely to be affected by its proposals, assessing the impact of its proposed policies and removing or mitigating any unfairly adverse effect on particular groups within society wherever possible.

5.14
The Commission's full Equality and Diversity Action Statement can be seen on our website.[6]

External relations

5.15
The Law Commission works hard to establish strong links with a wide range of organisations and individuals who have an interest in law reform, and greatly values these relationships. We are indebted to all those who respond to our consultations, contribute project ideas for our programmes of law reform, and provide input and expertise at all stages of the process of making recommendations to Government.

5.16
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 all those organisations and individuals who have worked with us as members of advisory groups on our many projects. We are grateful, also, to the academics,

3 Protocol between the Lord Chancellor (on behalf of the Government) and the Law Commission (2010) Law Com No 321.
4 http://www.justice.gov.uk/publications/corporate-reports/moj/2012/report-on-the-implementation-of-law-commission-proposals (last visited 23 April 2012).
5 http://www.lawcom.gov.uk
6 http://www.lawcom.gov.uk

members of the judiciary and legal and other professionals who have contributed in many ways to our work during the course of the year.

5.17

We acknowledge the support and interest shown in the Commission and its work by a number of ministers, Members of Parliament and Peers from across the political spectrum and public officials. And we thank the many practitioners and legal associations working in specialist and general fields who have given us their time and support to further our awareness and understanding of various areas of interest.

Education and engagement

5.18

In January 2012 we were very proud to host the biennial Leslie Scarman lecture at Middle Temple Hall in London. More than 350 people attended the lecture, "What you can do with rights", which was delivered by Justice Edwin Cameron of the Constitutional Court of South Africa. The audience included senior members of the judiciary, legal practitioners and academics, parliamentarians, members of the Government Legal Service and others from a wide range of public, private and voluntary sector organisations.

Picture 5.1:
Justice Edwin Cameron delivering the 2012 Leslie Scarman Lecture, joined on the podium by Sir James Munby, Chairman.

5.19

The economics team has been actively engaged in education outreach initiatives this year, in particular collaborating with Big Voice London, a youth project supported by the UK Supreme Court. We invited a group of 20 sixth formers from three London institutions to visit the Commission and take part in a workshop outlining the role the Commission plays in enabling a more accessible legal system.

Picture 5.2:
Law Commission staff meeting young visitors from The Big Voice.

5.20

The economics team has also maintained its presence at the annual Government Economic Service conference and represented the Law Commission in July 2011. This provided an opportunity to raise the Commission's profile beyond the legal community.

5.21

In June 2011 the statute law repeals team hosted a seminar for Commonwealth drafters. These annual seminars are organised by arrangement with the Institute of Advanced Legal Studies and are designed to facilitate the understanding of overseas' delegates of the law reform, Bill drafting, consolidation and statute law rationalisation functions delivered by the Law Commission.

5.22
The statute law repeals team also ran a number of other seminars during the year, including one in April for lawyers from the Dutch Academy for Legislation and one in September for the Uganda Law Reform Commission.

5.23
The Chairman, Commissioners and other members of the Law Commission accept invitations throughout the year to attend and speak at a large number and wide range of conferences, seminars, lectures and other events. We continue to seek out opportunities for reaching and engaging those people who are interested in law reform and the processes by which the law is improved.

5.24
With a view to the continuing professional development of our legal staff, we run a series of in-house lunchtime seminars throughout the year, inviting contributors from the legal, parliamentary and academic worlds. We have been fortunate this year in welcoming, among others, Lord Lester of Herne Hill QC; Professor the Lord Norton of Louth; the Rt Hon Sir Alan Beith MP, Chairman of the Justice Committee; Jenny Rowe, Chief Executive of the Supreme Court; Professor Cheryl Thomas from University College London Faculty of Laws; Dr Ruth Fox of the Hansard Society and Julia Labeta of the Government Whips' Office. We have had the benefit of presentations given by colleagues from across the Government Legal and Economic Services and other Government departments.

5.25
On 16 May 2011, a team of legal and other staff from the Commission joined members of the judiciary and teams from many of London's law firms and sets of chambers in the annual London Legal Walk. The team raised over £3,200 for the London Legal Support Trust, which organises the event to support free legal advice agencies in and around London, including Law Centres and pro bono advice surgeries.

Picture 5.3:
Members of the Law Commission preparing to step out on the 2011 London Legal Walk in May.

Our partner Law Commissions and the devolved authorities

5.26
Over the course of the year we have worked closely with the Scottish Law Commission on a number of projects. This year also saw the start of our first tripartite law reform project, Regulation of Health Care Professionals, which we are conducting with our colleagues in the Scottish and Northern Ireland Law Commissions.

5.27
Much of the Law Commission's work on statute law repeals is also conducted jointly with the Scottish Law Commission and many of the repeal candidates contained in Statute Law Repeals Reports extend to Scotland. Indeed, because Statute Law (Repeals) Acts extend throughout the UK and the Isle of Man, we liaise regularly on our repeal proposals not only with the Scottish Law Commission but also with the authorities in Wales (the Office of the Secretary of State for Wales and the Counsel General to the National Assembly for Wales) and with the authorities in Northern Ireland and in the Isle of Man. Their help and support in considering and responding to the repeal proposals is much appreciated.

5.28
In July we attended the annual meeting of the four law reform bodies of the UK and the Republic of Ireland, and the Jersey Law Commission, who generously hosted the meeting this year.

Wider engagement

5.29
The Law Commission also plays a wide role in the international business of law reform. We are pleased to continue to receive international guests at our offices in London and invitations to visit colleagues around the world.

5.30
During 2011–12, we welcomed a number of overseas visitors, including representatives from the Secretariat of the Thai Senate, the Ugandan Law Reform Commission, the Dutch Academy for Legislation and the New Zealand Law Commission.

PART SIX
Staffing and related matters

> The Law Commission brings great expertise to these questions.

Lord Marks of Henley-on-Thames. 2nd reading, Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Bill, House of Lords. Hansard (HL), 13 May 2011, vol 727, col 1110.

6.1

The Commissioners appreciate the dedication and expertise of all the staff at the Law Commission and are grateful for their contribution to the work of the Commission.

Working at the Commission

6.2

In 2011–12 the Law Commission consisted of 55 staff (full-time equivalent: 52.94, at 1 April 2012) who cover various specialisms.[1]

Figure 6.1:
People working at the Law Commission (full-time equivalent, at 1 April 2012)

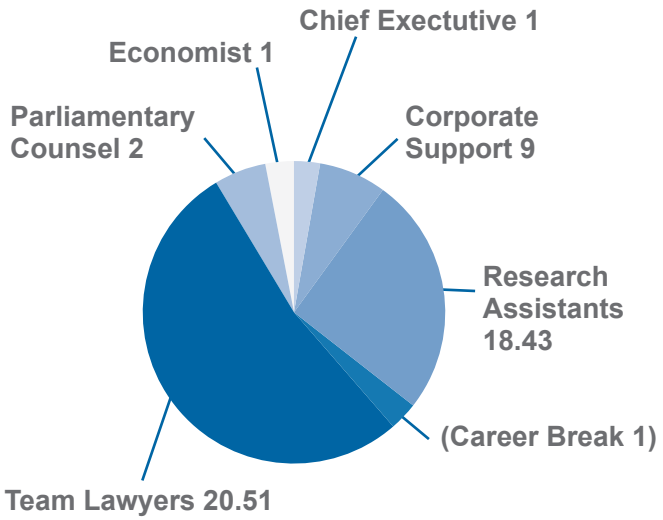
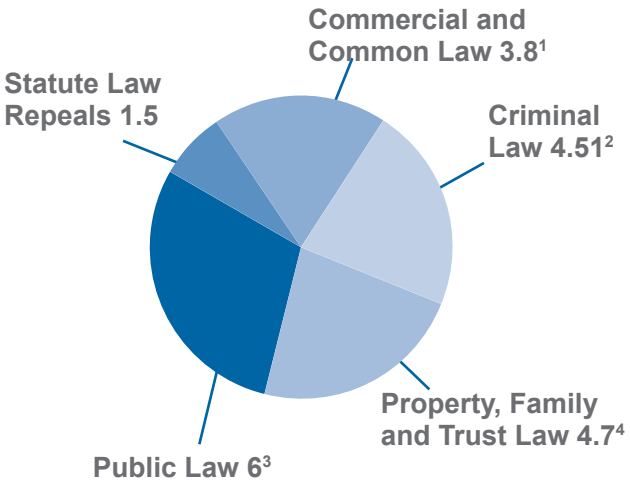


Figure 6.2:
Team lawyers



1. 1 returned from maternity leave 3 October 2011
2. 1 joined 13 February 2012; 1 joined 12 March 2012
3. 1 joined 10 October 2011
4. 1 returned from maternity leave 4 January 2012

[1] Excluding the Chairman, Chairman's Clerk and Commissioners.

Legal staff

6.3
The Commission's lawyers are members of the Government Legal Service and are barristers, solicitors or legal academics from a wide range of professional backgrounds, including private practice and the public service. They are employed for their subject-matter expertise and interest in law reform work. Parliamentary Counsel, who prepare the draft Bills attached to the law reform reports, and who undertake the consolidation of existing legislation, are seconded to the Law Commission from the Office of the Parliamentary Counsel.

Research assistants

6.4
Each year a number of well-qualified graduates are recruited 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. The selection process is extremely thorough and we have aimed to attract a diverse range of candidates of the highest calibre from the UK and abroad through contact with faculty careers advisers, as well as through advertisements both online and in the press. In 2011–12 we recruited 15[2] new research assistants through this process. For many research assistants, working at the Commission has been a step on the ladder to an extremely successful career. We recognise the contribution they make, particularly through their enthusiastic commitment to the work of law reform and their lively participation in debate.

Economic and analytical services

6.5
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. Our economist also provides an essential bridge into the Ministry of Justice (MoJ) and other Government Department analytical teams to ensure that our work is received well by them.

6.6
In 2011–12 we reduced the number of economists in the team due to budgetary pressures. In 2012–13 we hope to increase our capability in this area as the need for economic and statistical evidence to support our proposals for reform grows.

External relations

6.7
The Commission also has an in-house communcation professional who supports our work through managing our website, stakeholder relations and events, and handling media enquiries.

Corporate services

6.8
The small corporate services team supports our work in the following areas:

Library service	Information technology	Printing and publishing
Health and safety	Programme management	Internal communications
Human resources	Information assurance	eCommunications
Resource accounting	Records management	Secretarial assistance

6.9
The Corporate Services team draws specialist support from MoJ and its shared services, particularly in the areas of HR and ICT. It is also in regular contact with other parts of the Ministry to ensure that we are represented and in receipt of up-to-date advice and best practice.

6.10
The Head of Corporate Services is the Competent Person for health and safety management at the Commission, representing staff at the quarterly meetings of the Steel House Health and Safety

[2] Full-time equivalent: 13.56.

Committee and monitoring progress against a detailed Health and Safety Plan. She also leads on Departmental Information Assurance matters.

6.11

In 2011–12 there were no notifiable incidents in relation to staff of the Commission and the Health and Safety at Work Act 1974. There were also no notifiable incidents in relation to data loss.

6.12

The Librarian provides a vital information service in support of our legal work and makes use, reciprocally, of a number of other libraries. The Commission is a member of the Institute of Advanced Legal Studies. Our Library has a large collection of printed sources available for research and makes full use of the internet and other electronic services and databases. Where possible, these are also made available through each individual desktop PC. The Librarian also provides training and advice in all areas of legal information research.

6.13

The Publishing Editor makes the Commission's publications available on our website.[3] Older reports and consultation papers are also available through the British and Irish Legal Information Institute,[4] or can be supplied electronically on request.[5]

Freedom of Information requests and transparency

6.14

The Law Commission has a publication scheme and we publish 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 the FOI page of our website.[6]

Sustainability

6.15

We take sustainability seriously. Our actions in relation to energy saving contribute to the overall reduction in Steel House consumption.

Figure 6.3:

Recycling in Steel House, of which we occupy two floors, 2011–12

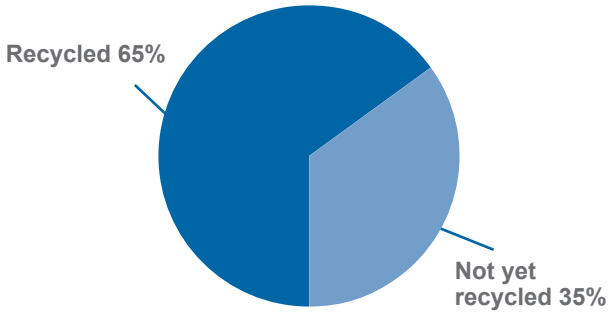
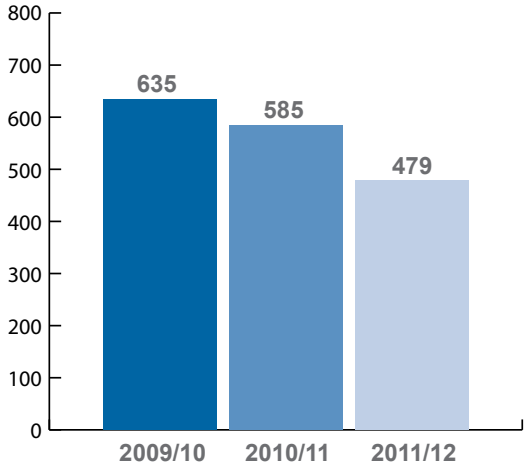


Figure 6.4:

CO2 emissions (tonnes) Steel House, reduction by year



[3] http://www.lawcom.gov.uk.
[4] http://www.bailii.org.
[5] Available in pdf format. Requests should be made to communications@lawcommission.gsi.gov.uk.
[6] http://lawcommission.justice.gov.uk/freedom-of-information.htm.

Working arrangements

6.16
We offer our staff a wide variety of flexible work/life balance arrangements, such as home-working and working part time or compressed hours. In 2011–12, 28% of our staff were working on a part-time or flexible basis.

People Survey results

6.17
We were delighted to note that, with an engagement index of 75%, the results of the annual People Survey for the Commission placed us as a high-performing organisation in relation to other organisations of a similar size within the civil service in 2011.

Signed by:
Sir James Munby, Chairman
Elizabeth Cooke
David Hertzell
David Ormerod
Frances Patterson QC

Elaine Lorimer, Chief Executive
1 June 2012

Appendix A
Implementation status of Law Commission law reform reports

LC No	Title	Status	Related Measures
	1966		
3	Proposals to Abolish Certain Ancient Criminal Offences	Implemented	Criminal Law Act 1967 (c58)
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)
7	Proposals for Reform of the Law Relating to Maintenance and Champerty	Implemented	Criminal Law Act 1967 (c80)
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)
	1967		
9	Transfer of Land: Interim Report on Root of Title to Freehold Land	Implemented	Law of Property Act 1969 (c59)
10	Imputed Criminal Intent (Director of Public Prosecutions v Smith)	Implemented in part	Criminal Justice Act 1967 (c80), s 8
11	Transfer of Land: Report on Restrictive Covenants	Implemented in part	Law of Property Act 1969 (c59)
13	Civil Liability for Animals	Implemented	Animals Act 1971 (c22)
	1968		
16	Blood Tests and the Proof of Paternity in Civil Proceedings (HC 2)	Implemented	Family Law Reform Act 1969 (c46)
	1969		
17	Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (HC 38)	Implemented	Law of Property Act 1969 (c59)
18	Transfer of Land: Report on Land Charges affecting Unregistered Land (HC 125)	Implemented	Law of Property Act 1969 (c59)
19	Proceedings against Estates (Cmnd 4010)	Implemented	Proceedings against Estates Act 1970 (c17)
20	Administrative Law (Cmnd 4059)	Implemented	See LC 73
21	Interpretation of Statutes (HC 256)	Rejected	
23	Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights (HC 369)	Implemented	Matrimonial Proceedings and Property Act 1970 (c45)
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)
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)
26	Breach of Promise of Marriage (HC 453)	Implemented	Law Reform (Miscellaneous Provisions) Act 1970 (c33)

LC No	Title	Status	Related Measures
	1970		
29	Criminal Law: Report on Offences of Damage to Property (HC 91)	Implemented	Criminal Damage Act 1971 (c48)
30	Powers of Attorney (Cmnd 4473)	Implemented	Powers of Attorney Act 1971 (c27)
31	Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Cmnd 4497)	Implemented	Administration of Estates Act 1971 (c25)
33	Family Law: Report on Nullity of Marriage (HC 164)	Implemented	Nullity of Marriage Act 1971 (c44), now Matrimonial Causes Act 1973 (c18)
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
35	Limitation Act 1963 (Cmnd 4532)	Implemented	Law Reform (Miscellaneous Provisions) Act 1971 (c43)
40	Civil Liability of Vendors and Lessors for Defective Premises (HC 184)	Implemented	Defective Premises Act 1972 (c35)
	1971		
42	Family Law: Report on Polygamous Marriages (HC 227)	Implemented	Matrimonial Proceedings (Polygamous Marriages) Act 1972 (c38); now Matrimonial Causes Act 1973 (c18)
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.
	1972		
48	Family Law: Report on Jurisdiction in Matrimonial Proceedings (HC 464)	Implemented	Domicile and Proceedings Act 1973 (c45)
	1973		
53	Family Law: Report on Solemnisation of Marriage in England and Wales (HC 250)	Rejected	
55	Criminal Law: Report on Forgery and Counterfeit Currency (HC 320)	Implemented	Forgery and Counterfeiting Act 1981 (c45)
56	Report on Personal Injury Litigation: Assessment of Administration of Damages (HC 373)	Implemented	Administration of Justice Act 1982 (c53)
	1974		
60	Report on Injuries to Unborn Children (Cmnd 5709)	Implemented	Congenital Disabilities (Civil Liability) Act 1976 (c28)
61	Family Law: Second Report on Family Property: Family Provision on Death (HC 324)	Implemented	Inheritance (Provision for Family and Dependants) Act 1975 (c63)
62	Transfer of Land: Report on Local Land Charges (HC 71)	Implemented	Local Land Charges Act 1975 (c76)
	1975		
67	Codification of the Law of Landlord and Tenant: Report on Obligations of Landlords and Tenants (HC 377)	Rejected	
68	Transfer of Land: Report on Rentcharges (HC 602)	Implemented	Rentcharges Act 1977 (c30)
69	Exemption Clauses: Second Report by the two Law Commissions (SLC 39) (HC 605)	Implemented	Unfair Contract Terms Act 1977 (c50)

LC No	Title	Status	Related Measures
	1976		
73	Report on Remedies in Administrative Law (Cmnd 6407)	Implemented	Rules of Supreme Court (Amendment No 3) 1977; Supreme Court Act 1981 (c54)
74	Charging Orders (Cmnd 6412)	Implemented	Charging Orders Act 1979 (c53)
75	Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability (Cmnd 6428)	Implemented	Occupiers' Liability Act 1984 (c3)
76	Criminal Law: Report on Conspiracy and Criminal Law Reform (HC 176)	Implemented in part	Criminal Law Act 1977 (c45)
77	Family Law: Report on Matrimonial Proceedings in Magistrates' Courts (HC 637)	Implemented	Domestic Proceedings and Magistrates' Courts Act 1978 (c22)
	1977		
79	Law of Contract: Report on Contribution (HC 181)	Implemented	Civil Liability (Contribution) Act 1978 (c47)
82	Liability for Defective Products: Report by the two Commissions (SLC 45) (Cmnd 6831)	Implemented	Consumer Protection Act 1987 (c43)
83	Criminal Law: Report on Defences of General Application (HC 566)	Rejected	
	1978		
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)
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
89	Criminal Law: Report on the Mental Element in Crime (HC 499)	Rejected	
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)
	1979		
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)
96	Criminal Law: Offences Relating to Interference with the Course of Justice (HC 213)	Rejected	
	1980		
99	Family Law: Orders for Sale of Property under the Matrimonial Causes Act 1973 (HC 369)	Implemented	Matrimonial Homes and Property Act 1981 (c24)
102	Criminal Law: Attempt and Impossibility in Relation to Attempt, Conspiracy and Incitement (HC 646)	Implemented	Criminal Attempts Act 1981 (c47)
104	Insurance Law: Non-Disclosure and Breach of Warranty (Cmnd 8064)	Rejected	
	1981		
110	Breach of Confidence (Cmnd 8388)	Rejected	
111	Property Law: Rights of Reverter (Cmnd 8410)	Implemented	Reverter of Sites Act 1987 (c15)
112	Family Law: The Financial Consequences of Divorce (HC 68)	Implemented	Matrimonial and Family Proceedings Act 1984 (c42)

LC No	Title	Status	Related Measures
	1982		
114	Classification of Limitation in Private International Law (Cmnd 8570)	Implemented	Foreign Limitation Periods Act 1984 (c16)
115	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
116	Family Law: Time Restrictions on Presentation of Divorce and Nullity Petitions (HC 513)	Implemented	Matrimonial and Family Proceedings Act 1984 (c42)
117	Family Law: Financial Relief after Foreign Divorce (HC 514)	Implemented	Matrimonial and Family Proceedings Act 1984 (c42)
118	Family Law: Illegitimacy (HC 98)	Implemented	Family Law Reform Act 1987 (c42)
	1983		
121	Law of Contract: Pecuniary Restitution on Breach of Contract (HC 34)	Rejected	
122	The Incapacitated Principal (Cmnd 8977)	Implemented	Enduring Powers of Attorney Act 1985 (c29)
123	Criminal Law: Offences relating to Public Order (HC 85)	Implemented	Public Order Act 1986 (c64)
124	Private International Law: Foreign Money Liabilities (Cmnd 9064)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)
125	Property Law: Land Registration (HC 86)	Implemented	Land Registration Act 1986 (c26)
	1984		
127	Transfer of Land: The Law of Positive and Restrictive Covenants (HC 201)	Rejected	
132	Family Law: Declarations in Family Matters (HC 263)	Implemented	Family Law Act 1986 (c55), Part III
134	Law of Contract: Minors' Contracts (HC 494)	Implemented	Minors' Contracts Act 1987 (c13)
137	Private International Law: Recognition of Foreign Nullity Decrees (SLC 88) (Cmnd 9347)	Implemented	Family Law Act 1986 (c55), Part II
	1985		
138	Family Law: Conflicts of Jurisdiction (SLC 91) (Cmnd 9419)	Implemented	Family Law Act 1986 (c55), Part I
141	Covenants Restricting Dispositions, Alterations and Change of User (HC 278)	Implemented in part	Landlord and Tenant Act 1988 (c26)
142	Forfeiture of Tenancies (HC 279)	Rejected	
143	Criminal Law: Codification of the Criminal Law: A Report to the Law Commission (HC 270)	Superseded	See LC 177
145	Criminal Law: Offences against Religion and Public Worship (HC 442)	Implemented	Criminal Justice and Immigration Act 2008 (c4)
146	Private International Law: Polygamous Marriages (SLC 96) (Cmnd 9595)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)
147	Criminal Law: Poison Pen Letters (HC 519)	Implemented	Malicious Communications Act 1988 (c27)
148	Property Law: Second Report on Land Registration (HC 551)	Implemented	Land Registration Act 1988 (c3)

LC No	Title	Status	Related Measures
149	Criminal Law: Report on Criminal Libel (Cmnd 9618)	Rejected	
151	Rights of Access to Neighbouring Land (Cmnd 9692)	Implemented	Access to Neighbouring Land Act 1992 (c23)
152	Liability for Chancel Repairs (HC 39)	Rejected	
	1986		
157	Family Law: Illegitimacy (Second Report) (Cmnd 9913)	Implemented	Family Law Reform Act 1987 (c42)
	1987		
160	Sale and Supply of Goods (SLC 104) (Cm 137)	Implemented	Sale and Supply of Goods Act 1994 (c35)
161	Leasehold Conveyancing (HC 360)	Implemented	Landlord and Tenant Act 1988 (c26)
163	Deeds and Escrows (HC 1)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
164	Formalities for Contracts for Sale of Land (HC 2)	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)
166	Transfer of Land: The Rule in Bain v Fothergill (Cm 192)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
168	Private International Law: Law of Domicile (SLC 107) (Cm 200)	Rejected	
	1988		
172	Review of Child Law: Guardianship (HC 594)	Implemented	Children Act 1989 (c41)
173	Property Law: Fourth Report on Land Registration (HC 680)	Superseded	See LC 235
174	Landlord and Tenant: Privity of Contract and Estate (HC 8)	Implemented	Landlord and Tenant (Covenants) Act 1995 (c30)
175	Matrimonial Property (HC 9)	Rejected	
	1989		
177	Criminal Law: A Criminal Code (2 vols) (HC 299)	Superseded	Superseded by the criminal law simplification project: see Tenth Programme.
178	Compensation for Tenants' Improvements (HC 291)	Rejected	
180	Jurisdiction over Offences of Fraud and Dishonesty with a Foreign Element (HC 318)	Implemented	Criminal Justice Act 1993 (c36), Part I
181	Trusts of Land (HC 391)	Implemented	Trusts of Land and Appointment of Trustees Act 1996 (c47)
184	Title on Death (Cm 777)	Implemented	Law of Property (Miscellaneous Provisions) Act 1994 (c36)
186	Computer Misuse (Cm 819)	Implemented	Computer Misuse Act 1990 (c18)
187	Distribution on Intestacy (HC 60)	Implemented in part; Rejected in part	Law Reform (Succession) Act 1995 (c41)
188	Overreaching: Beneficiaries in Occupation (HC 61)	Implemented in part	Trusts of Land and Appointment of Trustees Act 1996 (c47)

LC No	Title	Status	Related Measures
	1990		
192	Family Law: The Ground for Divorce (HC 636)	Implemented	Family Law Act 1996 (c27), Part II (enacted, but never brought into force)
193	Private International Law: Choice of Law in Tort and Delict (SLC 129) (HC 65)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)
	1991		
194	Distress for Rent (HC 138)	Implemented in part; Rejected in part	Tribunals, Courts and Enforcement Act 2007 (c15), Part III (enacted, but not yet brought into force)
196	Rights of Suit: Carriage of Goods by Sea (SLC 130) (HC 250)	Implemented	Carriage of Goods by Sea Act 1992 (c50)
199	Transfer of Land: Implied Covenants for Title (HC 437)	Implemented	Law of Property (Miscellaneous Provisions) Act 1994 (c36)
201	Obsolete Restrictive Covenants (HC 546)	Rejected	
202	Corroboration of Evidence in Criminal Trials (Cm 1620)	Implemented	Criminal Justice and Public Order Act 1994 (c33)
204	Land Mortgages (HC 5)	Rejected	
	1992		
205	Rape within Marriage (HC 167)	Implemented	Criminal Justice and Public Order Act 1994 (c33)
207	Domestic Violence and Occupation of the Family Home (HC 1)	Implemented	Family Law Act 1996 (c27), Part IV
208	Business Tenancies (HC 224)	Implemented	Regulatory Reform (Business Tenancies) (England and Wales) Order 2003
	1993		
215	Sale of Goods Forming Part of a Bulk (SLC 145) (HC 807)	Implemented	Sale of Goods (Amendment) Act 1995 (c28)
216	The Hearsay Rule in Civil Proceedings (Cm 2321)	Implemented	Civil Evidence Act 1995 (c38)
217	Effect of Divorce on Wills (Cm 2322)	Implemented	Law Reform (Succession) Act 1995 (c41)
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)
219	Contributory Negligence as a Defence in Contract (HC 9)	Rejected	
	1994		
220	Delegation by Individual Trustees (HC 110)	Implemented	Trustee Delegation Act 1999 (c15)
221	Termination of Tenancies (HC 135)	Superseded	See LC 303
222	Binding Over (Cm 2439)	Implemented in part	In March 2007, the President of the Queen's Bench Division issued a Practice Direction
224	Structured Settlements (Cm 2646)	Implemented	Finance Act 1995 (c4); Civil Evidence Act 1995 (c38); Damages Act 1996 (c48)

LC No	Title	Status	Related Measures
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)
227	Restitution: Mistakes of Law (Cm 2731)	Implemented in part; Rejected in part	See Kleinwort Benson v Lincoln City Council [1999] 2 AC 349
228	Conspiracy to Defraud (HC 11)	Implemented	Theft (Amendment) Act 1996 (c62)
	1995		
229	Intoxication and Criminal Liability (HC 153)	Superseded	See LC 314
230	The Year and a Day Rule in Homicide (HC 183)	Implemented	Law Reform (Year and a Day Rule) Act 1996 (c19)
231	Mental Incapacity (HC 189)	Implemented	Mental Capacity Act 2005 (c9)
235	Land Registration: First Joint Report with HM Land Registry (Cm 2950)	Implemented	Land Registration Act 1997 (c2)
236	Fiduciary Duties and Regulatory Rules (Cm 3049)	Rejected	
	1996		
237	Involuntary Manslaughter (HC 171)	Implemented in part; Superseded in part	Corporate Manslaughter and Corporate Homicide Act 2007 (c19); see LC 304
238	Responsibility for State and Condition of Property (HC 236)	Accepted in part but will not be implemented; Rejected in part	
242	Contracts for the Benefit of Third Parties (Cm 3329)	Implemented	Contracts (Rights of Third Parties) Act 1999 (c31)
243	Money Transfers (HC 690)	Implemented	Theft (Amendment) Act 1996 (c62)
	1997		
245	Evidence in Criminal Proceedings: Hearsay (Cm 3670)	Implemented	Criminal Justice Act 2003 (c44)
246	Shareholder Remedies (Cm 3759)	Implemented	Companies Act 2006 (c46)
247	Aggravated, Exemplary and Restitutionary Damages (HC 346)	Rejected	
	1998		
248	Corruption (HC 524)	Superseded	See LC 313
249	Liability for Psychiatric Illness (HC 525)	Rejected	
251	The Rules against Perpetuities and Excessive Accumulations (HC 579)	Implemented	Perpetuities and Accumulations Act 2009 (c18)
253	Execution of Deeds and Documents (Cm 4026)	Implemented	Regulatory Reform (Execution of Deeds and Documents) Order 2005
255	Consents to Prosecution (HC 1085)	Accepted	(Advisory only, no draft Bill)
	1999		
257	Damages for Personal Injury: Non-Pecuniary Loss (HC 344)	Implemented in part; Rejected in part	See Heil v Rankin [2000] 3 WLR 117
260	Trustees' Powers and Duties (SLC 172) (HC 538; SE2)	Implemented	Trustee Act 2000 (c29)
261	Company Directors: Regulating Conflicts of Interests (SLC 173) (Cm 4436; SE/1999/25)	Implemented	Companies Act 2006 (c46)

LC No	Title	Status	Related Measures
262	Damages for Personal Injury: Medical and Nursing Expenses (HC 806)	Rejected	
263	Claims for Wrongful Death (HC 807)	Rejected	
	2001		
267	Double Jeopardy and Prosecution Appeals (Cm 5048)	Implemented	Criminal Justice Act 2003 (c44)
269	Bail and the Human Rights Act 1998 (HC 7)	Implemented	Criminal Justice Act 2003 (c44)
270	Limitation of Actions (HC 23)	Rejected	
271	Land Registration for the Twenty-First Century (jointly with HM Land Registry) (HC 114)	Implemented	Land Registration Act 2002 (c9)
272	Third Parties – Rights against Insurers (SLC 184) (Cm 5217)	Implemented	Third Parties (Rights Against Insurers) Act 2010 (c10)
273	Evidence of Bad Character in Criminal Proceedings (Cm 5257)	Implemented	Criminal Justice Act 2003 (c44)
	2002		
276	Fraud (Cm 5560)	Implemented in part	Fraud Act 2006 (c35)
277	The Effective Prosecution of Multiple Offending (Cm 5609)	Implemented	Domestic Violence, Crime and Victims Act 2004 (c28)
	2003		
281	Land, Valuation and Housing Tribunals: The Future (Cm 5948)	Rejected	
282	Children: Their Non-accidental Death or Serious Injury (Criminal Trials) (HC 1054)	Implemented	Domestic Violence, Crime and Victims Act 2004 (c28)
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
284	Renting Homes (Cm 6018)	Superseded	See LC 297
286	Towards a Compulsory Purchase Code: (1) Compensation (Cm 6071)	Accepted but will not be implemented	
	2004		
287	Pre-judgment Interest on Debts and Damages (HC 295)	Rejected	
289	In the Public Interest: Publication of Local Authority Inquiry Reports (Cm 6274)	Accepted but will not be implemented	
290	Partial Defences to Murder (Cm 6301)	Implemented	Coroners and Justice Act 2009 (c25)
291	Towards a Compulsory Purchase Code: (2) Procedure (Cm 6406)	Accepted but will not be implemented	
	2005		
292	Unfair Terms in Contracts (SLC 199) (Cm 6464; SE/2005/13)	Accepted in principle	
295	The Forfeiture Rule and the Law of Succession (Cm 6625)	Implemented	Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Act 2011
296	Company Security Interests (Cm 6654)	Pending	
	2006		
297	Renting Homes: The Final Report (Cm 6781)	Rejected for England, Accepted in principle for Wales	

LC No	Title	Status	Related Measures
300	Inchoate Liability for Assisting and Encouraging Crime (Cm 6878)	Implemented	Serious Crime Act 2007 (c27)
301	Trustee Exemption Clauses (Cm 6874)	Implemented	See Written Answer, Hansard (HC), 14 September 2010, vol 515, col 38WS
302	Post-Legislative Scrutiny (Cm 6945)	Implemented	See Post-Legislative Scrutiny: The Government's Approach (2008) Cm 7320
303	Termination of Tenancies (Cm 6946)	Pending	
304	Murder, Manslaughter and Infanticide (HC 30)	Implemented in part; Rejected in part	Coroners and Justice Act 2009 (c25)
	2007		
305	Participating in Crime (Cm 7084)	Accepted but will not be implemented	
307	Cohabitation: The Financial Consequences of Relationship Breakdown (Cm 7182)	Pending	
	2008		
309	Housing: Proportionate Dispute Resolution (Cm 7377)	Accepted in part	
312	Housing: Encouraging Responsible Letting (Cm 7456)	Rejected	
313	Reforming Bribery (HC 928)	Implemented	Bribery Act 2010 (c23)
	2009		
314	Intoxication and Criminal Liability (Cm 7526)	Rejected	
315	Capital and Income in Trusts: Classification and Apportionment (HC 426)	Accepted, Bill before Parliament	
317	Consumer Remedies for Faulty Goods (Cm 7725)	Pending	
318	Conspiracy and Attempts (HC 41)	Accepted but will not be implemented	
319	Consumer Insurance Law: Pre-Contract Disclosure and Misrepresentation (Cm 7758)	Implemented	Consumer Insurance (Disclosure and Representation) Act 2012 (c6)
	2010		
320	The Illegality Defence (HC 412)	Rejected	
322	Administrative Redress: Public Bodies and the Citizen (HC 6)	Pending	
324	The High Court's Jurisdiction in Relation to Criminal Proceedings (HC 329)	Pending	
	2011		
325	Expert Evidence in Criminal Proceedings in England and Wales (HC 829)	Pending	
326	Adult Social Care (HC 941)	Pending	
327	Making Land Work: Easements, Covenants and Profits à Prendre (HC 1067)	Pending	
329	Public Service Ombudsmen (HC 1136)	Pending	
331	Intestacy and Family Provision Claims on Death (HC 1674)	Pending	
	January to March 2012		
332	Consumer Redress for Misleading and Aggressive Practices (Cm 8323)	Pending	

Appendix B
The cost of the Commission

B.1

The Commission's resources are mainly made available through the Ministry of Justice in accordance with section 5 of the Law Commissions Act 1965.

	2009/2010 (April/March)		2010/2011 (April/March)		2011/2012 (April/March)	
	£000	£000	£000	£000	£000	£000
Commissioner salaries (including ERNIC)	521.5**		540.3		546.4	
Staff salaries*	2972.2		3008.4		2168.7	
		3493.7		**3548.7**		**2715.1**
Communications, printing and publishing, online subscriptions, publicity and advertising Design, print and reprographic services Events and conferences (non-training) Supply of information technology, equipment maintenance, hire of photocopiers Library services (books and other on-line subscriptions) Postage and distribution Grants in aid and utilities (includes telecommunications)	216.3		173.9		174.2	
Rent for accommodation (met by MoJ)	541.7		546.3		546.3	
Travel and subsistence (includes non-staff)	20.1		17.4		21.4	
Stationery and office supplies, cleaning, office refuse collection, depreciation charges Recruitment, training, professional bodies membership Ex-gratia payments to staff, payroll services (non-PFI), staff recognition and reward scheme awards, childcare vouchers Health and safety equipment	108.5		43.9***		34.8	
Entertainment	5.0		3.3		1.8	
		891.6		**784.8**		**778.5**
TOTAL		**4385.3**		**4333.5**		**3493.6+**

* Includes ERNIC, ASLC, bonuses (not covered under the recognition and reward scheme), consultancy, secondees/ contract staff, agency staff (includes provision of security), Treasury Solicitor's fees and early retirement costs.
** Cost reduced due to a revised start date of a new Commissioner.
*** Cost reduced due to general economies and a more efficient system for stationery/office supply costs, under which these are supplied directly by MoJ.
\+ Figures will form part of the wider MoJ set of accounts which will be audited.

Index of projects, Bills and Acts

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