



Law
Commission
Reforming the law

Annual Report 2015–16

Law Commission

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YEARS

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The Law Commission

Annual Report 2015–16

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The Fiftieth Annual Report of the Law Commission

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communications@lawcommission.gsi.gov.uk

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Law Commission Annual Report 2015–16

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

This annual report covers the period 1 April 2015 to 31 March 2016, although we have also included references beyond the reporting period, up to and including 7 June 2016 when the terms of this report were agreed.



Law Commission staff, Chief Executive and
Commissioners at our London office

“ When in July 2016 we start the consultation process for the next three-yearly Programme of work, we shall do so with confidence in the future, and a firm belief that the need for law reform and the simplification of the law will be as important in the next half-century as it has been in the half-century since the Commission was established. ”

The Rt Hon Lord Justice Bean, Chairman, June 2016.

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Law Commission Annual Report 2015–16



To the Right Honourable Michael Gove MP, Lord Chancellor and Secretary of State for Justice

This is my first annual report as Chairman of the Law Commission since I took up post on 1 August 2015. I begin by thanking my predecessor, Sir David Lloyd Jones, for his distinguished contribution to the work of the Law Commission during his three years in office. The volume and quality of the Commission's reports and consultation papers over the past three years have been remarkable: this is a testament to David's leadership, as well as to the work of our highly skilled and dedicated staff.

Commissioners, Board members and staff

Professor Nick Hopkins has been appointed as Commissioner responsible for property, family and trust law in succession to Professor Elizabeth Cooke, whose valuable contribution to the work of the Commission was noted in last year's Annual Report. Professor David Ormerod QC, Commissioner for criminal law, had his term of office renewed, Stephen Lewis continues as Commissioner for commercial and common law, and Nicholas Paines QC as Commissioner for public law.

Sir David Bell KCB, Vice-Chancellor of Reading University and previously Permanent Secretary at the Department for Education, has been appointed as our first non-executive Board member. His role is to assist in the governance of the Commission by offering constructive challenge and the perspective of a non-lawyer with wide experience of public life.

I am grateful to him for his wise counsel and support to the Commission.

Elaine Lorimer, Chief Executive since January 2012, left us in March 2016 to become CEO of Revenue Scotland. Elaine was held in the highest regard by her colleagues at the Commission and across Whitehall. We all wish her well in her new role. Following an open selection process Phil Golding (who worked at the Law Commission in 2004-5) was chosen as Elaine's successor, and joined us on 31 May 2016. I am grateful to Matthew Jolley, who during the interregnum acted as Chief Executive and ensured a smooth transition.

The four law reform teams each consist of one Commissioner, one team manager and a number of lawyers and research assistants. We are fortunate to have a talented quartet of lawyers as the team managers: David Connolly (public law), Tamara Goriely (commercial and common law), Matthew Jolley (property, family and trust law) and Jessica Ugucioni (criminal law).

In addition, following the retirement in 2015 of John Saunders, who served for many years as head of our statute law repeals team, Julia Jarzabkowski has been appointed to carry on this significant and underrated part of our work.

50th anniversary

The Law Commissions Act 1965, which created the Law Commission of England and Wales and the Scottish Law Commission, received Royal Assent on 15 June 1965, 750 years to the day after the grant of Magna Carta. Our 50th anniversary was marked in July 2015 by a Parliamentary reception attended by many of our friends and supporters, including Members of both Houses, at which a short video, Law Commission 50th anniversary: a celebration, was shown publicly for the first time. Dominic Raab MP, Parliamentary Under-Secretary at the Ministry of Justice with responsibility for the Ministry's arm's-length bodies, paid tribute to the work of the Commission. The reception was an opportunity for us to thank in person some of the

many people and organisations who have supported the Commission over the years. We are enormously grateful to those who so generously share with us their knowledge and expertise, and to everyone who has spoken up in support of the Commission and its aims. Without them, we could not have achieved all we have done.

A conference, 50 Years of the Law Commissions, was held at the Supreme Court on 10–11 July, organised by the Dickson Poon School of Law at King's College London and the Faculty of Law of the University of Cambridge. The keynote address was given by Baroness Hale of Richmond, Deputy President of the Supreme Court and former Law Commissioner. The speakers included my five immediate predecessors as Chairman of the Law Commission of England and Wales, and present and past members of our Commission and those of Scotland, Northern Ireland, Canada and New Zealand. The papers will appear in book form later this year.

Wales

One of the most significant aspects of David Lloyd Jones' term of office was the Law Commission's work relating to Wales, reflecting the developing body of Welsh law. The Wales Act 2014 enabled the Welsh Government to refer law reform projects directly to the Commission, and a Protocol was drawn up concerning our work on Welsh devolved matters. A Welsh Advisory Committee provides us with valuable expert advice on the law reform needs of Wales. The Chairman and Chief Executive hold regular meetings with the First Minister, the Counsel General and officials of the Welsh Government. In the next few weeks we expect to publish a major report on the Form and Accessibility of the Law Applicable in Wales.

Ministry of Justice

The last Triennial Review of the Law Commission considered a number of ways in which law reform might be delivered and concluded that the existing model was the best one. It also made some helpful

proposals to improve our governance, such as the appointment of up to two non-executive Board members. In July 2015 a Framework Document was agreed between the Ministry and the Commission setting out the main principles of our organisation and our relationship with the MoJ as sponsoring Department. It emphasises that the Commissioners are responsible for the discharge of the functions of the Law Commission and as such may organise themselves as they see fit; also that the Lord Chancellor is accountable to Parliament for the activities and performance of the Commission.

The Government's Spending Review for the years up to 2020 resulted in a substantial cut in the budget of unprotected Departments such as the MoJ. The Commission has had to cope with significantly reduced core funding in recent years and it is likely that this unwelcome trend will continue over the next four years. Further savings will be increasingly difficult to realise; however, the Commissioners are determined to maintain the high reputation of the Law Commission and the quality and momentum of our work.

Justice Select Committee

On 2 March 2016 Professor Ormerod, Elaine Lorimer and I gave oral evidence to the Justice Select Committee of the House of Commons chaired by Robert Neill MP.¹ The Commission also submitted written evidence. This was a useful opportunity to explain the work of the Commission to Parliamentarians and to a wider audience.

Implementation

The 2010 Protocol, agreed with the Lord Chancellor following the passing of the Law Commission Act 2009, provides that the Commission will not embark on a project unless the relevant Department has indicated a serious intention to take forward reform in that area of the law. The result has been a marked improvement in the rate of implementation of our reports. We should not, in my view, be in the business of writing academic treatises that are unlikely to produce practical results.

¹ <http://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/one-off-sessions/parliament-2015/work-of-law-commission/>

During the year under review Parliament passed the Charities (Protection and Social Investment) Act 2016, and the National Assembly of Wales passed the Renting Homes (Wales) Act 2016; both implemented the work of the Law Commission. The Insurance Act 2015, enacted at Westminster at the end of the last Parliament, implemented all the recommendations from our 2014 Insurance Contract Law report, except our recommendation to give a cause of action to a policyholder who has sustained loss from an insurer's unreasonable delay in payment of a claim. This proposal was included in the Bill which became the Enterprise Act 2016. At the start of the new Session in May 2016 a Bill was introduced into the House of Lords to implement the recommendations of a Law Commission report on unjustified threats in intellectual property.

Occasionally a Commission report achieves a very quick result. In December 2015 we published a report on pressing problems in the law of firearms. Within weeks our proposals found their way into the Policing and Crime Bill, which is currently before Parliament. But this is unusual. In 1999 the Commission published its report on Damages for Wrongful Death. It expressed the view that two decisions of the House of Lords (*Cookson v Knowles* and *Graham v Dodds*) had led to an illogical method of calculating damages for fatal accidents, and recommended that they should be reversed. Successive Governments took no action on the proposal; but in the recent case of *Knauer v Ministry of Justice* the Supreme Court overruled the two House of Lords cases and accepted the Law Commission's recommendations, 17 years after they were made. Generally law reformers have to be patient and persistent.

After 40 years of dealing with the law as it is, I have found it invigorating to work in a body which considers how the law could be improved. So it is a real privilege for me to chair the Law Commission. When in July 2016 we start the consultation process for the next three-yearly Programme of work, we shall do so with confidence in the future, and a firm belief that the need for law reform and the simplification of the law will be as important in the next half-century as it has been in the half-century since the Commission was established. I conclude by thanking my colleagues and the staff of the Law Commission for their hard work, dedication and enthusiasm.



Sir David Bean

Chairman

Highlights of 2015–16

2015

May	June	July	August	September	October
28	3	1	1	1	1
Charities (Protection and Social Investment) Bill introduced into Parliament	20th Report on Statute Law Repeals published	Sentencing Procedure (Transition) issues paper published	Sir David Bean joins the Law Commission as Chairman	Sir David Bell joins the Commission as non-executive Board member	Consumer Rights Act 2015 came into force
	17	7		8	1
	Annual meeting of five law reform bodies: England and Wales, Scotland, Northern Ireland, Republic of Ireland and Jersey	Consultation on Mental Capacity and Deprivation of Liberty opens		Symposium on Reform of Firearms Law	Professor Nick Hopkins joins the Commission as Commissioner for property, family and trust law
	18	9		9	9
	Consultation on Consumer Prepayments on Retailer Insolvency opens	Consultation on Form and Accessibility of the Law Applicable to Wales opens		Consultation on Bills of Sale opens	Second consultation on Sentencing Code opens
	24	10			9
	Report on Simplification of Criminal Law: Public Nuisance and Outraging Public Decency published	Protocol between the Welsh Ministers and the Law Commission presented to the National Assembly for Wales			Law Commission participates in annual Legal Wales conference
	30	16			13
	Statute Law Repeals team hosts annual seminar for Commonwealth drafters	50th anniversary Parliamentary reception			Report on Patents, Trade Marks and Designs: Unjustified Threats published
		20			29
		Consultation on Firearms Law opens			Consultation on Event Fees in Retirement Properties opens
		20			
		Annual Report 2014–15 published			

2016

November

3

Report on Reform of Offences against the Person published

10

Final report on Wildlife Law published

December

13

Chairman gives lecture on work of Law Commission at workshop in Shenzhen, China

14-17

50th anniversary exhibition in Parliament

16

Big Voice Model Law Commission Parliamentary event

16

Report on Firearms Law published

17

Scoping Paper on Getting Married published

January

13

Report on Unfitness to Plead published

14

“Building Fairness”, Event Fees in Retirement Properties consultation function at Portcullis House, Westminster

18

Renting Homes (Wales) Act 2016 receives Royal Assent

20

Consultation on Misconduct in Public Office issues paper opens

20

Symposium on Misconduct in Public Office, King’s College London

February

2

Charities (Protection and Social Investment) Bill completes its passage through Parliament

4

Interim Report on Electoral Law published

10

Policing and Crime Bill introduced into Parliament

25

Third Parties (Rights against Insurers) draft regulations introduced into Parliament

March

2

Chairman, Law Commissioner for criminal law and Chief Executive give evidence to Justice Select Committee

9

Enterprise Bill completes its passage through Parliament

16

Charities (Protection and Social Investment) Act 2016 receives Royal Assent

31

Updating the Land Registration Act 2002 consultation opens

PART ONE

Who we are and what we do

“

Elections are fundamental to democracy. They are the mechanism by which citizens exercise their democratic rights. The price we pay as a democracy when the electoral process loses credibility is high and potentially catastrophic.

“Electoral law must be simplified, modernised and rationalised so that it can be more easily understood and used by administrators and candidates, and the public can have more certainty as to their rights....

We are pleased to make these recommendations for reform and are hopeful that this opportunity to make electoral law more principled and efficient will be taken forward. ”

Nicholas Paines QC, Law Commissioner for public law, publishing our Electoral Law interim report, 4 February 2016. See p31.

The Chairman and Commissioners of the Law Commission

The Law Commission is headed by five Commissioners, all of whom are appointed by the Lord Chancellor. At 31 March 2016, the Law Commissioners were:

- The Rt Hon Lord Justice Bean, Chairman¹
- Professor Nick Hopkins, Property, Family and Trust Law²
- Stephen Lewis, Commercial and Common Law
- Professor David Ormerod QC, Criminal Law
- Nicholas Paines QC, Public Law

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

The Law Commission was created by the Law Commissions Act 1965 for the purpose of reforming the law of England and Wales. It is a statutory public body, which is sponsored by the Ministry of Justice.

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

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

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

We approach this work in two distinct strands: law reform projects and statute law work, which includes both statute law repeals and consolidation. The progress we have made during 2015–16 in these areas of work is recorded in Part Two.

Non-executive Board member

This year we were delighted to welcome the Law Commission's first ever non-executive Board member, Sir David Bell, who joined the Commission in September 2015. The Government's 2014 Triennial Review of the Commission recommended that we appoint non-executive advisors "to provide a level of support, independent challenge and expertise to the Commission when it is meeting as a Board".³ Sir David's appointment fulfils this recommendation, offering us an opportunity to improve the strategic governance of the organisation.

Our objectives

As an organisation, we have worked together to identify the characteristics to which the Law Commission should aspire:

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

Our Business Plan

We set out in our Business Plan⁴ the commitments we have made as an organisation as to how we will meet our priorities. Our key commitments for 2015–16 were to:

- use our 50th anniversary to strengthen relationships with existing stakeholders and to establish relationships with new ones (see pp42-5);

¹ Sir David Bean joined the Commission on 1 August 2015.

² Professor Nick Hopkins joined the Commission on 1 October 2015.

³ <https://www.gov.uk/government/publications/law-commission-triennial-review-stage-one-report> (last visited 6 April 2016).

⁴ <http://www.lawcom.gov.uk/document/law-commission-business-plan/>.

Sir David Bell KCB, Non-executive Board member

Sir David Bell, Vice Chancellor of the University of Reading and former Permanent Secretary at the Department for Education, joined the Law Commission as our first non-executive Board member in September 2015.

“I should say straight away that I’m not a lawyer and have no particular legal expertise. However, I have always been interested in the implementation and execution of the law. This interest grew particularly during my time in Whitehall.

At a local level, I have always seen the law as a force for good, with the potential to improve lives. The idea of being involved in reform of the law is very attractive to me so when I heard about the non-executive Board membership at the Law Commission I jumped at the chance.

I believe that any organisation benefits from having input at Board level from people who are a step removed from the day-to-day work of the executive team. A non-executive Board member has no business encroaching on management responsibilities but can add value to the work of the Board through experience gained in different organisational environments. At times of change this external perspective can be particularly useful.

I joined the Law Commission just as the 2015 Spending Review was coming to a head and the Board was having to wrestle with the consequences. I would hardly describe that as a ‘quiet’ induction but it has been fascinating to become involved at such a significant time for the organisation.

I was aware before I joined of the vital importance of the Law Commission’s work and the direct impact it can have on people’s lives. This has only been reinforced for me over the past months.

What I hadn’t fully appreciated was the level of care and attention that goes into each project of the law reform programme. This, above all, is why the Commission’s work is so widely respected. There is nothing casual or



cavalier about any aspect of the work the Commission undertakes. Nothing is assumed.

What the Law Commission does supremely well is to engage and consult widely so that it draws upon the expertise of others in all areas relevant to the matter in hand whenever it brings its expertise to bear on tricky legal problems. A social worker in Reading, knowing of my involvement, recently commented positively on the extent to which the Commission listens to practitioners and others who may be affected by legislation. He had been engaged as part of the consultation on mental capacity and deprivation of liberty (see pp34-5).

There are clearly challenges ahead. The biggest strategic challenge for the Board is to manage the outcome of the Spending Review, which will necessitate some careful decision-making about how best to use the reduced budget.

The loss of an outstanding chief executive in Elaine Lorimer and the appointment of a new one is another type of transition for the Commission. It is vital that the Board is able to help and support the new chief executive as he settles in to the role.

Finally, there’s the normal operational challenge of thinking ahead to the next programme, considering what shape it might take and how best to manage it. We need to ensure, above all, that the Law Commission’s tradition of well-considered, impartial recommendations for reform of the law is maintained. To have even a small part in this process is, for me, an honour and a privilege.”

- agree with the Welsh Government a Protocol to govern the relationship between the Commission and the Welsh Government on law reform work relating to devolved matters (see below); and
- agree and publish our Framework Document to set out clearly the relationship between the Commission and our sponsor department, the Ministry of Justice (MoJ) (see below).

For more on our Business Plan priorities, see Appendix C.

Our relationship with the Ministry of Justice

In July 2015 the Commission agreed a Framework Document with the Ministry of Justice,⁵ which sets out the broad framework for the Ministry's governance of the Commission and how the relationship between us and the MoJ should operate.

The document outlines the responsibilities of the MoJ sponsorship team in relation to the Commission. The sponsorship team is our primary contact with the MoJ. It acts as an advocate for us within the Ministry and other Departments, and makes sure that we are aware of MoJ's views and any relevant Departmental policies.

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

The frequency with which Ministers of the MoJ and other Departments will meet members of the Commission, and the scope of the Commission's relationship with Parliament are also set out in the Framework Document. It details the Lord Chancellor's statutory duties in relation to the Commission and the direct relationship we have with Parliament through, for example, maintaining

contacts with Parliamentarians and Committee Chairs, and giving evidence in relation to our functions or projects.

The Law Commission in Wales

2015–16 has seen further advances in relation to the Law Commission's work in Wales.

Working with the Welsh Government

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

The Act empowers the Law Commission to give information and advice to Welsh Ministers. In turn, this enables Welsh Ministers to refer work directly to the Commission whereas, previously, referrals could be made only through the Wales Office. This is a very welcome development that will give the people of Wales a stronger voice in law reform.

The 2014 Act also:

- provides for a Protocol⁶ setting out the working relationship between the Law Commission and the Welsh Government, and
- requires Welsh Ministers to report annually to the Assembly about the implementation of our reports relating to devolved matters.

For more on the Protocol and the Welsh Ministers' report, see p60.

Reforming the law in Wales

Our 12th Programme, which we launched on 22 July 2014, included for the first time two law reform projects that relate specifically to Wales. We have made good progress on both these projects through

⁵ Framework Document: Ministry of Justice and the Law Commission for England and Wales (2015).

⁶ Protocol rhwng Gweinidogion Cymru a Comisiwn y Gyfraith/Protocol between the Welsh Ministers and the Law Commission (2015).

2015–16, and we are grateful for the support and contributions we have received from our stakeholders in Wales.

For more on these projects, see:

- The form and accessibility of the law applicable in Wales – p31.
- Planning law in Wales – p32.

The Renting Homes (Wales) Act 2016 received Royal Assent on 18 January 2016. The Act implements the recommendations of our Renting Homes in Wales report⁷ (see p39). The Act was described by the Welsh Government as a “landmark” and “one of the most significant pieces of legislation to be passed by the National Assembly for Wales”.⁸

Welsh Advisory Committee

We are grateful to have been supported throughout this year by our Welsh Advisory Committee. We established the Committee in 2013 to advise us on the exercise of our statutory functions in relation to Wales.

Measuring success

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

However, implementation does not fully demonstrate the breadth of the Commission’s impact. In an effort to assess our impact and influence, we take note of instances when the Law Commission is cited in judgments or during business in the Houses of Parliament. In 2015, for example, the Commission was mentioned 327 times in UK judgments and our name appears 258 times in Hansard, the official report of Parliamentary proceedings.

Our work is also widely quoted in academic journals and the media, with over 750 references to the Law Commission being made in UK academic journals in 2015 and in almost 600 articles in the mainstream

media. There were many more mentions in local and specialist press and in blogs. Some of these will be made in support of the Commission; some will not. At the very least these figures show that the Law Commission continues to engage the attention of people with an interest in the law and what can be achieved through its reform.

⁷ Renting Homes in Wales/Rhenttu Cartrefi yng Nghymru (2013) LC337.

⁸ <http://gov.wales/newsroom/housing-and-regeneration/2016/160119-landmark-renting-homes-law-receives-royal-assent/?lang=en>

PART TWO

Review of our work for 2015–16

“ It is extraordinary that the unfitness to plead procedure is not currently available in the magistrates’ and youth courts, where some of the most vulnerable defendants in the criminal justice system can be found. Extending our reforms throughout the courts system would ensure that young people are no longer treated less fairly than adults. ”

Professor David Ormerod QC, Law Commissioner for criminal law, launching our report on unfitness to plead, 13 January 2016. See p54.

Commercial and common law

Commissioner: Stephen Lewis



19 May 2016	Patents, trade marks and designs: unjustified threats	Intellectual Property (Unjustified Threats) Bill, introduced into Parliament	p12
11 May 2016	Event fees in retirement homes	Interim statement published	p13
9 September 2015	Bills of sale	Consultation opened	p13
18 June 2015	Consumer pre-payments on retailer insolvency	Consultation opened	p14
27 March 2015	Insurance contract law: insurable interest	Consultation opened	p15

Patents, trade marks and designs: unjustified threats

- Intellectual Property (Unjustified Threats) Bill, introduced into Parliament 19 May 2016

Litigation over infringement of intellectual property rights is complex, expensive and disruptive and usually involves specialist courts, judges, lawyers and experts. The mere threat of proceedings is a potent weapon, even where the right concerned is invalid or where there has been no infringement. Businesses can use such unjustified threats of infringement proceedings as a form of commercial bullying to scare off a rival's customers and other contractors. Since the 19th century the law has provided protection against such threats. The statutory threats provisions originate in patent law and were later extended to trade marks and design rights.

In April 2014 we published a report recommending reforms to the threats provisions for patents, trade marks and designs¹ We suggested changes that

would produce a clear and consistent law of unjustified threats that distinguished between those threats made legitimately to protect valuable intellectual property assets, and those misused to cause commercial damage. The reforms would support disputing parties in reaching a negotiated settlement so avoiding litigation. We also recommended that professional advisers acting on behalf of their clients should no longer face liability for making threats.

The Government accepted the report and asked us to produce a draft Bill suitable for introduction into Parliament through the special procedure for uncontroversial Law Commission Bills. We published the draft Bill on 12 October 2015.

We also made a further recommendation to clarify the connection between an unjustified threat and the UK. This is needed because intellectual property litigation is frequently international and, increasingly, may come before international courts. From 2017 disputes about Unitary Patents may be heard in a new European court, the Unified Patent Court. Rather than relating to threats to sue in a UK court, we recommend that

¹ (2014) LC346.

the Bill applies to threats to sue for infringements that occur in the UK.

The Bill was introduced in the House of Lords on 19 May 2016, on the first day of business of the 2016/17 Parliamentary session.

Event fees in retirement homes

(Previously, Transfer of title and change of occupancy fees in leaseholds)

- Interim statement published 11 May 2016

Older people who buy a leasehold retirement flat often have to pay more than just the purchase price. When the property is later sold, they may be required to pay between 1 per cent and 30 per cent of the resale value to the company that built or manages the property. These fees can also be triggered by other events such as sub-letting. We have, therefore, named them “event fees”. Event fees are common in specialist housing for older people but rare in other residential leases.

Event fees can help make specialist housing for older people affordable for buyers to buy and builders to supply. However, a lack of transparency about the fees in the past has led to people having been caught unawares when they came to sell their property. In 2013 the Office of Fair Trading investigated and concluded that terms imposing these fees were potentially unfair contract terms and noted “a lack of clarity in the legal framework”.

In September 2014, the Department for Communities and Local Government asked the Law Commission to look into the problem, the existing law and possible solutions.

On 29 October 2015 we opened a consultation seeking feedback on a series of provisional proposals:

- Industry codes of practice should be strengthened to ensure that event fees are disclosed early, clearly and prominently.

- Where a landlord breaches the code provisions, the consumer should have a clear remedy. To achieve this, event fee terms should be added to the “grey list” of indicatively unfair contract terms in Schedule 2 to the Consumer Rights Act 2015.
- Statutory reform should clarify how the law of unfair terms applies to event fee provisions in long leases.
- Event fees that are solely for the maintenance, repair or improvement of the estate should be required by statute to be held on trust.

The consultation period closed on 29 January 2016. We received 168 responses and intend to publish our analysis of them in summer 2016. We expect to be working until March 2017 with the industry and consumer groups to draft provisions to add to professional codes of practice for the retirement property sector. We want to see these backed up by primary and secondary legislation to give them consistent and solid legal status.

For more detail on this consultation see p16-17.

Bills of sale

- Consultation opened 9 September 2015

Bills of sale are a way in which individuals can use goods they already own as security for a loan. Their use has grown dramatically, from 2,840 registered in 2001 to 52,483 in 2014.

This reflects the rapid increase in logbook loans. A logbook loan is a type of sub-prime lending, where the borrower transfers ownership of a vehicle they already own to the lender by a bill of sale. The borrower may continue to use the vehicle so long as repayments are kept up but risks having it seized on default.

The law on bills of sale is seriously outdated and causes problems for borrowers, purchasers and lenders alike. It is governed by two particularly complex Victorian Acts (passed in 1878 and 1882). They impose costly registration and formal requirements on lenders while failing to protect borrowers or purchasers.

In September 2014, HM Treasury asked the Law Commission to consider the current law and make recommendations for reform. We published a consultation paper in September 2015.² We proposed that the current law should be repealed in its entirety and replaced with a new “Goods Mortgages Act” regulating how individuals may use their goods as security. Under the new Act:

- logbook lenders would save over £2 million in unnecessary costs incurred by registering bills of sale at the High Court;
- borrowers and purchasers would have similar protections to those which exist for hire purchase. Logbook lenders would not usually be entitled without a court order to repossess vehicles from borrowers who had paid a third of the total sum; and private purchasers who acted in good faith would acquire title to the goods; and
- unincorporated businesses would find it easier to borrow money on the security of goods. In particular, goods could be used to secure overdrafts, revolving credit and guarantees.

Our consultation closed on 9 December 2015. We expect to publish our final report in summer 2016. If the Government accepts our recommendations we hope to draft a Bill for introduction into Parliament in 2017/18.

Consumer prepayments on retailer insolvency

- Consultation opened 18 June 2015

This project considers whether there is a need to provide greater protection for consumer prepayments when retailers or other service providers become insolvent.

Consumers often pay for goods and services in advance of receiving them. This is common practice for a range of products, from flights and theatre tickets to football season tickets and holidays. British consumers also spend £5.4 billion on gift vouchers each year, paying immediately for a card or voucher that can be exchanged for a product or service at some point in the future.

High-profile retailer insolvencies have highlighted the lack of protection for consumers in this area. When the Christmas savings club Farepak collapsed in 2006, it owed £38 million to vulnerable consumers. In 1982, the Cork report³ rejected greater protection for consumers, noting that consumers typically lose small and affordable amounts while the effect on suppliers can be catastrophic. But following the Farepak collapse, the Treasury Select Committee described the existing safety net as “inadequate and incomplete”.⁴

We published a consultation paper on 18 June 2015,⁵ which analysed the outcome of the insolvency of 20 large retailers and 11 small retailers. We found that deposits are particularly prevalent in the furniture, DIY and home-improvements sector. Here, a long list of retailers have encountered financial difficulties and gone into administration, including MFI, Focus DIY, Habitat, Homeform, Dwell and Paul Simon.

When a retailer becomes insolvent, the law imposes a strict hierarchy of creditors to be paid from any remaining assets. Consumers, who are classed as unsecured creditors, are near the bottom of the list and frequently receive nothing. The administrator may decide to honour consumer prepayments and gift vouchers but they are under no obligation to do so. Consumers are often unaware of the legal situation and, in some cases, conflicting information from administrators further confuses matters. Our consultation paper considered a range of possible solutions, including:

- better information about how consumers can contact their credit and debit card issuers for a refund under the chargeback scheme;
- more protection when vouchers are sold as savings schemes;
- preferential status for a small number of large consumer prepayments made by cash and cheque, when no other protection is available; and
- simpler rules about when consumers acquire ownership of the goods on which they have paid deposits.

² (2015) LCCP225.

³ <http://discovery.nationalarchives.gov.uk/details/r/C11294859> (last visited 22 April 2016).

⁴ <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmtreasy/504/50407.htm> (last visited 22 April 2016).

⁵ (2015) LCCP221.

An analysis of responses is available on our website.⁶ We plan to publish our final report in summer 2016. Our aim is to propose a series of options to the Government to improve consumer awareness and provide greater protection to consumers.

Insurance contract law

Insurable interest

- Consultation opened 27 March 2015

On 26 June 2015 we completed a consultation on the law of insurable interest. We had previously consulted on this matter in 2008⁷ and as part of our 2011 consultation on post-contract duties and other issues.⁸

Initially we took the view that reform in this area was not a priority. However, in 2014 the Investment and Life Assurance Group (ILAG) approached us on behalf of life insurers, asking us to return to the issue. ILAG told us that their members are under pressure to write policies that include cover for children and cohabitants, and to insure “key employees” for substantial amounts. Although such policies perform a useful social function, they may be considered void under the current law. This puts insurers and policyholders in a difficult position.

In March 2015 we published a new paper on this issue,⁹ opening a consultation on updated proposals to clarify the concept of insurable interest in indemnity insurance and extend the concept for life insurance. We proposed that people should be allowed to insure the lives of their children, cohabitants or employees. We did not think that the law should put controls on this. Whether insurance was appropriate in any given circumstances should be left to the good sense of insurers, with regulatory intervention if necessary.

Our proposals were intended to be relatively permissive, to ensure that, broadly speaking, any insurance products that insurers want to sell and people wish to buy, could be made available.

The responses to our consultation revealed broad support from insurance companies, brokers and

lawyers. Working with our Parliamentary Counsel, we have produced a draft Bill that we hope will be suitable for the procedure for uncontroversial Law Commission Bills. We await comments from stakeholders and other interested parties.

Our intention is to publish a third and final report by the end of 2016 covering insurable interest, which will also deal briefly with other outstanding issues, such as brokers’ liability for premiums and the need for a formal marine policy.

Previous reports and implementation

Our work on insurable interest derives from a much wider review that we have been conducting with the Scottish Law Commission with the aim of simplifying insurance contract law, bringing it into line with modern market practice and making it fairer between insureds and insurers.

This wider project has already resulted in two reports. The first, on consumers’ duty of disclosure,¹⁰ led to the Consumer Insurance (Disclosure and Representations) Act 2012. The second¹¹ covered:

- the duty of disclosure in business insurance;
- warranties;
- insurers’ remedies for fraudulent claims; and
- late payment of claims.

The report’s recommendations on the first three of these issues were implemented in the Insurance Act 2015. The relevant provisions will come into force in August 2016.

The issue of damages for late payment is covered under the Enterprise Act 2016, which received Royal Assent on 4 May 2016.

See p38 for more information.

⁶ <http://www.lawcom.gov.uk/project/consumer-prepayments-on-retailer-insolvency/>

⁷ Insurable Interest (2008) Issues Paper 4.

⁸ (2011) LCCP201/SLCDP152.

⁹ Insurable Interest (2015) Issues Paper 10.

¹⁰ Consumer Insurance Law: Pre-contract Disclosure and Misrepresentation (2012) LC319/SLC 219.

¹¹ Insurance Contract Law (2014) LC353/SLC238.

Shining a light on hidden fees in retirement leases

Project: Event fees in retirement leases. Formerly, Transfer of title and change of occupancy fees in leaseholds

Portcullis House, Westminster, played host to Building Fairness, the January 2016 event we staged to shine a light on the law relating to retirement property. The event marked the highlight of our consultation exercise on “event fees”, the charges that can be built into leases of retirement flats and bungalows. Dame Esther Rantzen, a high-profile advocate for older people, delivered a powerful keynote address calling for a better retirement property market. Participants included residents, developers, and representatives from Age UK, the Elderly Accommodation Counsel (EAC), the Association of Retirement Community Operators and LEASE, the Leasehold Advisory Service.

Our Building Fairness event, jointly hosted with the EAC, was well attended, filling the room at Portcullis House and reflecting the extremely positive response we had received to our consultation exercise as a whole. By the time the consultation closed on 29 January the team had received 168 responses. Of these, 131 were from residents and consumer groups, 21 from developers, operators, managing agents and investors in retirement property and 16 from other interested professionals.

The consultation opened on 29 October 2015 with the publication of a paper setting out our provisional proposals, followed by a leaflet and questionnaire for residents in retirement properties. The team worked with older people's charities and organisations and held information events at retirement communities to raise awareness of the project and the opportunity to contribute. We also consulted with industry bodies.

We started the project in 2014 at the request of the Department for Communities and Local Government, following an investigation by the Office of Fair Trading. The main focus of our work has been the fact that event fees have not always been explained fully or disclosed early enough in the purchasing process. This can lead to an unpleasant shock when the resident learns about the fee – typically when they come to sell the property and the fee becomes payable.

Event fees can vary from 1 per cent to 30 per cent of the property's resale value, depending on the business model the developer operates and the services provided. Higher charges appear not to equate to higher levels of dissatisfaction, perhaps because a fee of 20 per cent or 30 per cent is harder to ignore at the purchase stage, whereas 1 per cent sounds negligible and could more easily slip under the radar.

In our consultation paper we accept that, in general, event fees serve a useful purpose. When properly applied, these fees can make retirement housing more affordable by allowing people to pay a lower service charge, effectively deferring payment for the benefits they enjoy as residents. An underlying concern, however, is that the lack of transparency over event fees and the uncertainty over their legal status, if not resolved, could have a negative impact on the development of much-needed specialist housing for older people.

Our proposals for reform focus on early, clear and prominent disclosure of event fees to make sure consumers have a choice and the fees collected are managed well for the benefit of residents. In brief, our proposals cover:

- ensuring any fees are clearly advertised alongside the purchase price;
- requiring landlords to provide a full disclosure statement regarding event fees to all prospective purchasers at the earliest stage;
- offering consumers a choice of payment option, such as paying up front, to avoid the uncertainty of a fee based on a future selling price; and
- protecting residents' contributions to the sinking fund by ensuring landlords hold them in trust for irregular maintenance works.

Following on from this consultation, we expect to publish an interim report in the summer of 2016. We are working with developers, operators, managing agents and estate agents to develop a series of provisions on event fees that can be added to professional codes of practice and are backed up by legislation.



“

We were surprised by the strength of feeling this consultation revealed among residents. The consultation exercise has brought out the level of public dissatisfaction around the issue of event fees and gained clear acknowledgement from the industry that there is a problem with lack of clarity.

**Tamara Goriely, Team Manager,
commercial and common law team**

”

“

The right housing for older people is a human right, and people need information and advice they can trust.

Dame Esther Rantzen DBE

”

Dame Esther Rantzen DBE meeting participants at Portcullis House (above)
Law Commissioner Stephen Lewis presenting our work to consultees (above, right)
The project team: Veena Srirangam Nadhamuni and Team Manager Tamara Goriely (not present, Sarah Witchell and Max Marenbon) (right)



What are “event fees” and how do they work?

Leases of retirement flats and bungalows often include a fee triggered by certain events, such as when the owner sells or sub-lets their property. These fees – which can be given a variety of names such as “transfer”, “contingency”, “deferred-management” and “selling-service” fees – are typically set at around 1 per cent of the property sale price but may be as high as 30 per cent. By deferring running costs until a property is sold, event fees can be a practical way of making retirement flats affordable. But owners and their families are often not told about the fees until after they have agreed to buy the property or do not realise how high they can be.



Criminal law

Commissioner: Professor David Ormerod QC



18 May 2016	Sentencing code	Interim report published	p18
20 January 2016	Misconduct in public office	Consultation on Issues Paper 1 opened	p19
13 January 2016	Unfitness to plead	Final report published	p20
January 2016	Breaches of government data	Project commenced	p20
16 December 2015	Firearms	Final report published	p21
3 November 2015	Offences against the person	Final report published	p21
25 June 2015	Public nuisance and outraging public decency	Final report published	p24
	Contempt of Court: outstanding issues	Decision not to resume	p24

Sentencing code

- Interim report published 18 May 2016

The law governing the procedure for sentencing affects all criminal cases, and is applied in hundreds of thousands of trials and thousands of appeals each year. Currently, the law lacks coherence and clarity: it is spread across many statutes, and frequent updates are brought into force at different times by different statutory instruments and have a variety of transitional arrangements.

This makes it difficult, if not impossible at times, for practitioners and the courts to understand what the present law of sentencing procedure actually is. This can lead to delays, costly appeals and unlawful sentences. A survey of 400 Court of Appeal cases

from 2012 by the sentencing expert Robert Banks found that 262 were appeals against sentences and that in 76 of these cases unlawful sentences were passed in the Crown Court. These are not cases in which there is a disagreement as to what the level of sentence should be; these are cases where the basis for the sentence was wrong in law. Banks wrote: “[This] figure shows that we can no longer say the sentencing system is working properly. Cases since then have indicated that these figures are not unrepresentative.”¹²

The courts have repeatedly complained about the complexity of modern sentencing procedure. There is strong evidence that the high number of unlawful sentences being handed down is a direct result of judges’ inability to navigate and apply the relevant provisions. This undermines public confidence in

¹² Robert Banks. *Banks on Sentence*, Vol.1 (2013).

sentencing and costs a great deal of public money to rectify on appeal.

There seems to be near unanimity from legal practitioners, judges and academic lawyers that the law in this area is in urgent need of reform. Our project, which was launched on 26 January 2015, has been described by the Rt Hon the Lord Thomas of Cwmgiedd, Lord Chief Justice of England and Wales, as “a valuable and long-overdue stepping stone in the process of the rationalisation and clarification of the criminal law” and as promising “clear benefits in terms of increasing efficiency and improving clarity and transparency of the sentencing process for offenders and the general public.”

Our aim is to introduce a single sentencing statute that will act as the first and only port of call for sentencing tribunals. It will set out the relevant provisions in a clear and logical way, and ensure that all updates can be found in a single place. The project will not interfere with mandatory minimum sentences or with sentencing tariffs in general, but the process by which they come to be imposed will be streamlined and much improved.

In July 2015 we published our first issues paper,¹³ examining how the new Sentencing Code should be introduced. In that paper we explained why sweeping away the vast bulk of historic sentencing procedure would cause no unfairness to the defendant, nor would it involve any breach of human rights obligations, as long as certain basic safeguards were observed. We also published, in October 2015,¹⁴ a document that is intended to be a complete statement of the current primary legislation governing sentencing. We consulted on whether this 1,300-page document accurately represented the entire statute law so that we could use that as the base for our codification. The consultation for this stage of the project ended on 9 April 2016.

We published an interim report on our findings in respect of transition to the new Sentencing Code in May 2016¹⁵ and expect to publish later in 2016 our findings in respect of our consultation that closed in April regarding the current law. These papers

will lead into the publication of a consultation paper containing the draft new Sentencing Code in early 2017.

Misconduct in public office

- Consultation on Issues Paper 1 opened 20 January 2016

Misconduct in public office is a common law offence: it is not defined in any statute. It carries a maximum sentence of life imprisonment.

The offence is widely considered to be ill-defined and has been subject to recent criticism by the Government, the Court of Appeal, legal academics and the press. Although there are relatively few prosecutions each year, a disproportionately high number of these are the subject of appeal. Key areas of uncertainty include:

- The scope of the offence and to whom it applies (persons in “public office”) are not defined. Doubtful cases include contractors carrying out functions for public bodies, and employees of charities whose objects serve a wide public interest. As the demarcation between public/private blurs, the element of the offence which rests on the notion of a “public” office comes under considerable strain.
- There is no clear standard of fault or wrongfulness. Various tests are mentioned in the cases, such as breach of trust and dishonesty, but these often seem to apply to particular types of case rather than forming part of an overall definition.

On 20 January 2016 we launched the first phase of our consultation with a symposium of eminent speakers and delegates and with the publication of Issues Paper 1.¹⁶ This stage focused on the current law and its problems. In the summer of 2016 we will begin a second phase of consultation, and publish a further consultation document setting out options for reform. We expect to publish our final report and recommendations in 2017.

¹³ Sentencing Procedure (2015) Issues Paper 1 – Transition.

¹⁴ Sentencing Law in England and Wales (2015) Legislation Currently in Force.

¹⁵ A New Sentencing Code for England and Wales. Transition: Final Report and Recommendations (2016) LC365.

¹⁶ Misconduct in Public Office (2016), Issues Paper 1 – The Current Law.

Unfitness to plead

- Final report published 13 January 2016

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

In the report we made recommendations for reform of the whole unfitness to plead framework based on an extensive process of consultation. As part of the evidence gathering, for example, the team conducted a half-day session with a group of consultees with autism spectrum conditions. This included a visit to a magistrates' court and the Crown Court and a group discussion, all of which gave us valuable insight into the issues discussed in the paper.

We developed our policies taking account of the reduction of funding in the criminal justice system and the changing approach to vulnerability by the courts. Our iterative consultation process meant that the majority of our provisional proposals met with widespread approval and our final recommendations have enjoyed broad support from an extremely wide range of stakeholders.

Our recommendations aim to modernise the law, making it fair, effective and accessible. The underlying premise of our recommendations is that a full and fair trial should be achieved wherever possible. We therefore make recommendations to ensure the normal trial process is adjusted wherever necessary to ensure that defendants can be tried in the normal way when that can be fairly achieved as, for example, through our recommendations in respect of intermediaries.

Our recommendations also aim to streamline the clinical assessment process for defendants with participation difficulties and include establishing a

new legal test to identify those who cannot participate effectively at trial. Under our reforms judges will have more robust and effective options for dealing with defendants who lack capacity for trial.

Another important change in our recommendations relates to young defendants. We recommend that a statutory scheme should be introduced, for the first time, allowing the magistrates' and youth courts properly to take account of vulnerable defendants' participation difficulties.

Breaches of protected Government data

- Project commenced January 2016

In early 2016 at the request of the Cabinet Office we began work on a project to examine the effectiveness of the ways in which information held by Government is protected from unauthorised disclosure.

In this project we will review the current criminal law provisions and consider options for improving the protection of official information. This will include researching possible improvements to the civil and criminal sanctions available to the Government in instances where individuals do not protect Government information as they should. We will make recommendations for improvements in a final report.

Our aim is to ensure an effective and coherent legal response to unauthorised disclosures. We will also examine provisions that criminalise those who illegitimately obtain or attempt to obtain official information.

The review will incorporate a wide range of legislative provisions and will include but not be limited to the Official Secrets Acts 1911, 1920 and 1989. It will include other relevant criminal provisions and take into account aspects of the Data Protection Act 1998, the Public Interest Act 1998 and the protections for information exempt from release under the Freedom of Information Act 2000. We will take a holistic approach and examine how the legislative landscape could be rationalised and made more coherent.

We will also consider:

- the relationship between the legislative regime and internal disciplinary measures to which public servants and others are subject;
- the powers available to investigators;
- the relationship between the criminal law and any civil remedies; and
- the effect of technological change on the way in which data is stored, shared and understood, and whether the current law needs to be reformed to account for these changes more effectively.

We expect to publish a final report early in 2017

Firearms

- Final report published 16 December 2015

We undertook a scoping review of firearms law and, on 20 July 2015,¹⁷ published a consultation paper, which was followed by a two-month consultation period. We published our report on 16 December,¹⁸ completing the project in under a year.

The current law relating to firearms is contained in 34 different statutes and dozens of pieces of secondary legislation. It is also supplemented by Home Office guidance running to over 200 pages. This results in a confusing picture, and creates significant practical difficulties for investigating authorities and prosecutors. It also makes it difficult for legitimate firearms users – such as hunting and shooting enthusiasts – to comply with the law.

We made a number of recommendations intended to remedy the most pressing problems with the law on firearms. These would ensure that key terms, such as “firearm”, are defined in unequivocal terms. They would also minimise the risk of types of antique firearm that pose a risk to public safety being freely purchased.

As noted on p40 the Government has decided to implement the majority of our recommendations in Part 6 of the Policing and Crime Bill. The Bill was

introduced into Parliament on 10 February 2016 and has been carried over into the 2016-17. For a more detailed account of our consultation for this project, see p22-3.

Offences against the person

- Final scoping report published 3 November 2015

This project aimed to modernise and codify the law around the main offences of violence. These are:

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

The purpose of the project was to replace all these offences with a single modern and easily understandable statutory code. We recommended that this should be based on a draft Bill published by the Home Office in 1998, with some significant changes and updating. The key innovation in our report relates to our new proposed offence of “aggravated assault”, to be tried only in the magistrates’ court with a maximum 12-month sentence. This is intended to bridge the gap between the existing offences of common assault and actual bodily harm. There are many cases involving low-level injuries that do not fit conveniently into either offence.

- If charged as actual bodily harm, the case may be tried in the Crown Court and receive a sentence of up to five years. In practice, however, over a third of all sentences passed by the Crown Court for this offence are for six months or less. We believe that the Crown Court should not be dealing with cases of this less serious kind.
- If charged as common assault, the case remains in the magistrates’ court and the maximum sentence is six months. Victims will rightly feel aggrieved that their injuries are not reflected in the charge.

¹⁷ (2015) LCCP224.

¹⁸ (2015) LC363.

Setting our sights on firearms law



Project: Firearms

The current law regulating firearms is contained in a labyrinth of over 34 pieces of legislation and related case-law. This unnecessary complexity has clear implications for public safety and means in practice that both criminal justice professionals and legitimate firearms users face significant difficulties in understanding the law. It is unsurprising that a wide range of stakeholders recommended that we review firearms law as part of our 12th Programme.

In July 2015 we published a scoping consultation paper on firearms law. The paper had two aims: first, to ascertain the most pressing problems with the law and propose ways they could be remedied, and second, to examine whether more fundamental reform of the law was necessary. Our paper was based on our significant research and extensive engagement with a wide range of stakeholders including ballistic experts, police, the proof houses (who are responsible for confirming the safety of firearms), shooting enthusiasts and antique firearms collectors, as well as those concerned to place greater control on firearms.

The scoping consultation paper proposed reforms to address pressing problems including failures of definition of core terms in the legislation, loopholes in the law that were capable of being exploited, and situations where the law had failed to keep pace with technological developments. More broadly, we also proposed that the entire law on firearms be codified.

The publication of the scoping consultation paper was followed by a two-month consultation period.

As part of the consultation exercise we held a half-day symposium that attracted over 100 stakeholders. The symposium was a huge success in gathering views from across the spectrum of interests and in enabling delegates to respond to our formal consultation with a better understanding of the issues involved.

We received over 200 responses to our scoping consultation from the groups at the symposium and others, including the Scottish Government.

Recommendation: defining “lethal”

The Crown Prosecution Service (CPS) confirmed to us that the term “lethal” is ill-defined in the legislation despite being integral to what constitutes a firearm (under the Firearms Act 1968, a firearm is defined as a “lethal barrelled weapon”). The result is that expert witnesses disagree on how “lethal” ought to be defined as well as on whether the particular firearm under scrutiny meets their definition. This adds unnecessary complexity to trials.

After extensive consultation with ballistics experts our scoping consultation paper proposed that the term “lethal” be defined by reference to a fixed muzzle kinetic energy. This was widely supported on consultation and in our final report we recommended that a firearm be deemed to be lethal if it discharges a projectile with a muzzle kinetic energy of one joule, thereby establishing a test that can be applied easily and consistently. The proposal also promotes public safety since, as far as we are aware, there are no cases of serious injury or death caused by a firearm with a muzzle kinetic energy below one joule.

In December 2015 we published our final report. We recommended that firearms law be codified following almost universal support by stakeholders for this provisional proposal. Our proposed reforms to address pressing problems – including defining “lethal” and creating a new criminal offence – were also broadly supported.

Implementation

The majority of our recommendations, including the two examples highlighted here, have recently been adopted by the Government in Part 6 of the Policing and Crime Bill.



Recommendation: creating a new criminal offence

The current law does not criminalise the possession of equipment with the intention of using it to convert imitation firearms into live firearms. Again, the police and CPS confirmed this as a serious omission that needed to be remedied in the interests of public safety. We proposed the creation of a new offence and in doing so drew on comparisons with fraud: under the Fraud Act 2006 it is illegal to possess articles with the intention of using them in connection with fraud.

Speakers at our symposium included:

- Police
- Crown Prosecution Service
- Gun Control Network
- Gun Trade Association
- National Ballistics Intelligence Service
- Countryside Alliance
- British Shooting Sports Council
- UK Airsoft Retailers Association
- British Association of Antiques Dealers
- Barristers with a specific interest in firearms law

The project team: Vincent Scully, Rory Kelly, Karl Laird and Team Manager Jessica Ugucioni (opposite page)

The audience gathers for our symposium at the University of Westminster (left)

Law Commissioner, Professor David Ormerod QC, presenting our proposals for reforming firearms law (bottom, left)

The new offence of aggravated assault is designed to cover these low-level injury cases in a way that reflects and acknowledges the fact that an injury has been caused. At the same time, these cases will remain in the magistrates' court and the sentence is limited to 12 months. This ensures that cases are tried in a court of the appropriate level, avoiding expensive and time-consuming procedures of the Crown Court where they are not necessary.

We published our scoping report and draft Bill in November 2015.¹⁹

Public nuisance and outraging public decency

- Final report published 25 June 2015

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

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. The offence traditionally dealt with environmental nuisance such as noise, smells and obstruction, but its focus has shifted to more general forms of public misbehaviour, bringing a wider range of potential offenders into its scope.

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

We published our final report for this project on 25 June 2015²⁰ in which we set out our recommendations that:

- both offences should be restated in statutory form;
- both offences should require intention or recklessness; and
- the separate common law offence of conspiracy to outrage public decency should be abolished, as it was no longer necessary.

We are awaiting a response from the Government on these recommendations.

The review of public nuisance and outraging public decency forms part of a wider project, Simplification of the criminal law, which originated in our 10th Programme of law reform.

Contempt of court: outstanding issues

In 2012 the Law Commission published a consultation paper covering a range of issues on contempt of court.²¹ Further to this work, we published three reports that have been accepted by Government.²² We also considered doing work on reform of the law of contempt in the face of the court and aspects of contempt by publication. During 2015–16 we made the decision not to resume work immediately on this third potential report. We will, however, reconsider it for possible inclusion in our forward programme.

See p50 for information on our report on Contempt of court: court reporting.

¹⁹ (2015) LC361.

²⁰ (2015) LC538.

²¹ (2012) LCCP209.

²² (2012) LC335; (2013) LC340; (2014) LC344.

Property, family and trust law

Commissioner: Professor Nick Hopkins



31 March 2016	Land registration	Consultation opened	p25
17 December 2015	Marriage law	Scoping report published	p25
20 March 2015	Charity law, technical issues	Consultation opened	p26
11 March 2015	Family financial orders - enforcement	Consultation opened	p26
Early 2015	Wills	Preliminary work	p27

Land registration

- Consultation opened 31 March 2016

This project aims to update the current law governing land registration contained in the Land Registration Act 2002, which sets out the law relating to the registration of titles to and interests in freehold and some leasehold land.

The land registration regime is of enormous and growing importance. Over 85 per cent of land in England and Wales is registered, with Land Registry maintaining more than 24 million titles. Dealings and disputes that engage the land registration regime can be complex and require expert advice. Uncertainty in the regime makes advising clients difficult, incentivises litigation and increases costs for landowners.

Evidence suggests that some areas of the current law would benefit from revision or clarification; our scoping work revealed a range of often highly technical issues that have important implications for those who own land (whether the land is a home, a business or an investment), those with an interest in land (including mortgage providers), and Land Registry. This project therefore comprises a

wide-ranging review of the 2002 Act, with a view to amending the parts that could be improved. In particular, it examines the extent of Land Registry's guarantee of title, rectification and alteration of the register, and the impact of fraud. It also re-examines the legal framework for electronic conveyancing.

We published a consultation paper in March 2016²³ and aim to publish a report and draft Bill in late 2017.

Marriage law

- Scoping report published 17 December 2015

This project involved a review of the law governing how and where people can marry in England and Wales.

The Law Commission agreed to carry out an initial piece of work to prepare the way for potential future reform of this important area of law. Our preliminary study involved research into domestic and comparative law, and engagement with key stakeholders. See the feature on p00 for an account of how we conducted this scoping study. The aim was to identify and analyse the issues that would need to be addressed in order to develop reform proposals as part of any future work. The work did

²³ (2016) LCCP227.

not cover who can be married (for example, the age of consent to marry), the rights or responsibilities imparted by marriage (for example, the financial consequences of divorce), or whether religious groups should be obliged to solemnise marriages of same sex couples.

We completed the initial phase of our work and published *Getting Married: A Scoping Report* at the end of 2015. We concluded that the law is in need of reform and we set out the issues that we would address in a future law reform project. The report comprises a list of questions to be addressed against the guiding principles of certainty and simplicity, fairness and equality, protecting the state's interest, and respecting individual wishes and beliefs. We await the Government's response to our recommendations for further work. If the Government wishes us to continue with the review, we will agree detailed terms of reference before we move on to the next stage and produce a consultation paper containing proposals for reform of the law.

Charity law, technical issues

- Consultation opened 20 March 2015

This project examines a range of issues concerning the constitution and regulation of charities and their activities. Part of the project reviews the procedures by which charities incorporated by Royal Charter and Act of Parliament amend their governing documents. The rest comprises issues arising from Lord Hodgson's 2012 review of the Charities Act 2006 that were referred to us by the Office for Civil Society in the Cabinet Office.

We started the project with a consultation on the powers and duties of charity trustees when making social investments and published our recommendations in 2014.²⁴ The Government has since implemented these recommendations (see p25 for details).

On 20 March 2015 we published a consultation paper²⁵ covering the remaining areas of the project, including:

- the powers of charities to amend their governing documents;
- what should happen to the proceeds of a fundraising appeal when it fails to raise sufficient funds;
- the obligations on charity trustees when they sell land;
- the restrictions on spending permanent endowment;
- whether a charity should have a default power to pay trustees for the supply of goods;
- whether charities should be permitted to make *ex gratia* payments (payments that trustees are morally, but not legally, obliged to make) without Charity Commission consent;
- the merger and incorporation of charities;
- the insolvency of charitable trusts; and
- the powers of the Charity Tribunal.

The consultation ran until July 2015, during which period we participated in various consultation events and met with stakeholders. Since then we have been analysing consultation responses, continuing to meet with stakeholders and deciding on our final recommendations for reform. We expect to publish our final report and draft Bill at the end of 2016.

Family financial orders – enforcement

- Consultation opened 11 March 2015

This project looks at the various means by which court orders for financial provision on divorce or the dissolution of a civil partnership, and orders concerning financial arrangements for children, are enforced. It examines the legal tools available to force a party to comply with financial orders made under the Matrimonial Causes Act 1973, the Civil Partnership Act 2004 and the Children Act 1989.

The law in this area has in the past been described as “hopelessly complex and procedurally tortuous”.²⁶ The available enforcement mechanisms are

²⁴ Social Investment by Charities: Recommendations (2014).

²⁵ Technical Issues in Charity Law (2015) LCCP220

²⁶ Family Law Bar Association response to the 11th Programme consultation

contained in a wide range of primary and secondary legislation with the result that members of the public, legal practitioners and the courts find it difficult to understand how the various mechanisms interact. In some cases the law prevents sensible arrangements being put in place.

Reform of the law is intended to offer a clear set of rules and the opportunity to access the full range of enforcement options, as well as new enforcement options. The aim of reform is to ensure that money that has been ordered to be paid for the support of adults and children is paid. It is important that the court has the ability to consider enforcement against a wide range of assets.

The project is not concerned with the basis for claims for financial provision, nor with the enforcement of maintenance for children administered by the Child Maintenance Service because such payments are not owed under a court order.

We published a consultation paper in March 2015²⁷ and subsequently held various consultation events and met with stakeholders. In accordance with proposals in our consultation paper for improving the accessibility of information about enforcement, HM Courts and Tribunals Service made some changes to its guidance. Since the close of the consultation period we have been analysing responses, continuing to meet with stakeholders and deciding on our final recommendations. We aim to publish a report with our final recommendations at the end of 2016.

Wills

- Preliminary work early 2015

When someone dies intestate – without leaving a will, or with a will that is not valid – it can cause delays and difficulties for the family, adding to stress at a time of bereavement. Yet the Law Society has estimated that 40 per cent or more of the adult population does not have a will; and even where a person has made one, the complexities in the law give rise to a risk of the validity of the will being called

into question. The intestacy rules are no substitute for the expression of an individual's own wishes. It is therefore important that people make wills and that the law supports this.

The primary wills statute, the Wills Act 1837, and *Banks v Goodfellow*, the case that establishes the law which governs mental capacity to make a will ("testamentary capacity") both derive from the Victorian era. There is concern that the current law discourages some people from making wills, that it is out of step with social and medical developments, and that it may not give best effect to a person's intentions. It has been criticised for being difficult to understand and apply. In the case of testamentary capacity, these concerns present a growing problem, since conditions that affect capacity are becoming more common as people live longer.

In this project we are reviewing the law of wills, focusing on a number of key areas including:

- testamentary capacity;
- what makes a will valid;
- the law on rectifying mistakes in wills; and
- mutual wills.

We are considering whether the law could be reformed to encourage and facilitate will-making in the 21st century: for example, by taking account of developments in technology and the medical understanding of capacity. By clarifying the law governing formalities and mental capacity, the project will also aim to reduce the likelihood of wills being challenged after death, and the incidence of litigation. Such litigation is expensive, can divide families and is a cause of great stress for the bereaved.

We had planned to commence the project early in 2015 and conducted some preliminary work, but at the start of 2015 the Government asked us to prioritise work on marriage law (see p38). Following publication in December 2015 of our scoping report *Getting Married*, we returned to the wills project and expect to publish a consultation paper in spring 2017.

²⁷ (2015) LCCP219.

Getting Married – a proposal for reform

Project: Marriage law

Marriages are events both deeply personal and legally significant. A couple's wedding is one of the most meaningful days of their lives and yet, despite huge social changes, marriage law is still based on a structure designed in the 19th century. Our scoping exercise marks the first stage in considering how to make marriage law fairer, simpler and more appropriate for the way we live now.

In 2014 the Government consulted on whether non-religious belief organisations such as the British Humanist Association should be able to solemnise marriages. There was considerable support for a reform but the consultation highlighted the difficulty of further piecemeal extension of the already complex and unclear law. For this reason the Government asked us to conduct a broad review of the law governing how people get married.

The aim of the initial scoping phase was to set out clearly what a review of marriage law would need to consider, given that marriage law touches on wider social concerns and areas such as immigration and religion. We conducted an in-depth analysis of the current law and asked a broad range of stakeholder groups about their concerns and wishes.

The scoping team travelled around England, Wales and Scotland speaking to a wide range of faith organisations. They talked to representatives of the British Humanist Association and Government bodies, including the General Register Office and the Forced Marriage Unit. They met professional celebrants and went to a variety of weddings, including religious weddings, a Humanist wedding ceremony and two civil marriages, one for a same-sex couple and another for a Muslim couple who had already had a religious ceremony. They also went to Scotland, where the law allows for a legally binding Humanist wedding.

In December 2015 we published *Getting Married*, a paper setting out the proposed parameters and direction of a future project (see p25).



The project team: Elizabeth Welch, Rebecca Huxford, Amy Perkins and Spencer Clarke (not present, Team Manager Matthew Jolley)



Our concern was to understand the range of stakeholder viewpoints and to get a clear sense of where the law is particularly complicated, unfair or restrictive. For example, there was a strong feeling amongst independent celebrants and Humanists that they should be allowed to conduct legally binding ceremonies. It was also clear that there is a great demand from the public for a wider range of wedding venues. Outdoor ceremonies are particularly popular, for example, but will, in almost all cases, fail to meet the legal criteria.

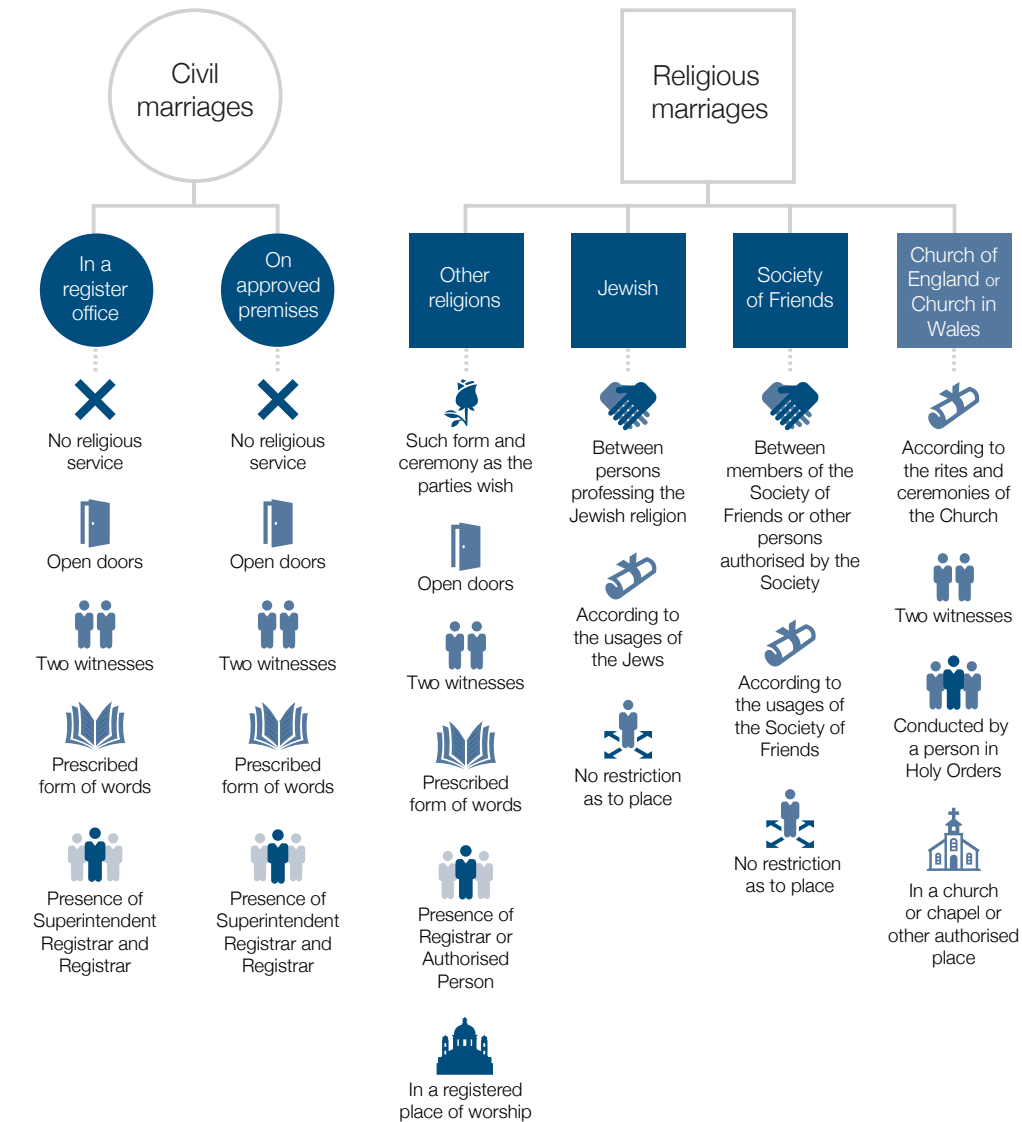
Certain religious wedding ceremonies do not meet the legal criteria either but may appear to be legally binding to one or both of the couple. This uncertainty has caused problems in divorce cases and has the potential to create hardship for those who discover their ceremony had no legal status. It's not just about giving people more choice. Choice needs to be balanced against the need for safeguards and the protection of the interests of the state. Our aim is greater choice within a simpler and clearer overall structure.



Professor Nick Hopkins

ROUTES TO MARRIAGE

Solemnization of marriages under the Marriage Act 1949



- ◆ Under Part III of the Marriage Act 1949: Marriages under Superintendent Registrar's Certificate
- ◆ Under Part II of the Marriage Act 1949: Marriage according to the rites of the Church of England

The legal requirements for marriages to be solemnised (that is, made legally binding) are particularly complex. They vary according to religion. There are specific conditions for marriages in the Church of England/Church in Wales, the Society of Friends (Quakers) and the Jewish faith, each according to their custom. For all other religions another set of conditions applies in which there are restrictions as to the building within which the marriage takes place. Non-religious civil marriages differ again and can be held only in a register office or approved premises in the presence of a Superintendent Registrar and Registrar.

Public law

Commissioner: Nicholas Paines QC



25 May 2016	Mental capacity and deprivation of liberty	Interim statement published	p30
4 February 2016	Electoral law	Interim report published	p31
9 July 2015	The form and accessibility of the law applicable in Wales	Consultation opened	p31
23 July 2014	Planning law in Wales	Project commenced	p32

Mental capacity and deprivation of liberty

- Post-consultation interim statement, giving an indication of our initial thinking 25 May 2016

The Mental Capacity Act 2005 provides a framework for assessing whether people have the capacity to make certain decisions and, where they do not, for others to make those decisions in the incapacitated person's best interests.

In 2004, the European Court of Human Rights established that the informal admission to a psychiatric hospital of a compliant but incapacitated person could amount to a deprivation of liberty under article 5 of the European Convention on Human Rights. The UK was found to be in breach of the article, because the law in England and Wales did not provide for an adequate system of authorisation and review of the deprivation of liberty involved.

In response to this, the Deprivation of Liberty Safeguards (DoLS) were introduced by the Mental Health Act 2007. The safeguards aimed to plug the gap identified in the Strasbourg case and ensure that such situations are properly regulated in line with the person's human rights. However, they apply only to deprivations of liberty in hospitals and care homes; elsewhere, deprivations of liberty must be authorised and supervised by the Court of Protection.

The DoLS provisions have been criticised for being overly complex and excessively bureaucratic. Staff find them difficult to understand, and there is confusion regarding the relationship between powers under the Mental Health Act 1983 and the DoLS.

In March 2014 a House of Lords Select Committee found that DoLS were not “fit for purpose” and called for them to be replaced by a new system that would also cover people in supported living arrangements. Shortly afterwards, a decision of the Supreme Court made it clear that the range of circumstances in which incapacitated people are to be regarded as deprived of liberty is wider than had previously been thought. This decision has led to a very significant increase in the number of applications under the DoLS.

Our project considers how deprivation of liberty should be authorised and supervised in hospitals, care homes and community settings and includes an examination of the legislation underpinning DoLS in its entirety. Work began in summer 2014. We published a consultation paper on 7 July 2015²⁸ and an extremely busy three-month consultation period followed, during which we received almost 600 responses. We issued an interim statement in May 2016, giving an indication of our initial thinking, and expect to publish a full report, with recommendations for reform and a draft Bill, by the end of that year. For more on our consultation see p34-5.

²⁸ (2015) LCCP222.

Electoral law

- Joint interim report published 4 February 2016

The law relating to the administration of elections is old, disparate, confusing and sometimes contradictory. Particularly in the period since 1997 we have seen a legal structure designed in the 19th century patched up and adapted to accommodate new elections to new institutions with new voting systems, resulting in a system dependent on voluminous guidance, and on the considerable energy and ingenuity of electoral administrators.

A major project to reform electoral law was included in our 11th Programme.

The first stage of our project, a scoping study, lasted from July 2011 to December 2012, when our scoping report was published.²⁹ This identified those areas of electoral law that could properly be dealt with as a matter of technical law reform, including the administration of local campaigns, election timetables, the law governing polling day and the count, combination of polls, challenges to the result and criminal offences, and the administration of referendums.

Matters of a fundamentally political nature, like the franchise, voting systems, electoral boundaries and the national funding of political parties, were excluded.

Electoral law must necessarily be addressed on a UK-wide basis. The substantive stage of the project was conducted jointly with the Scottish and Northern Ireland Law Commissions. This was the Law Commissions' second tripartite project.

We published a detailed consultation paper in December 2014.³⁰ The consultation period ran until 31 March 2015, and we published our substantive law reform recommendations in a joint interim report on 4 February 2016.³¹ If the Governments and the Commissions decide to proceed with the project to the final drafting phase, we intend to publish the final report and draft legislation in 2017.

The form and accessibility of the law applicable in Wales

- Consultation opened 9 July 2015

Across the UK the law can be difficult for both professionals and members of the public alike to find and understand. The process of devolution lends an extra dimension to these problems in relation to the law in Wales.

The Government of Wales Act 1998 transferred executive powers to the National Assembly for Wales by means of transfer of functions orders, while other powers were transferred by statute. In 2007, these functions were transferred to Welsh Ministers, and provision was made for transferring legislative competence either by statute or by legislative consent order. The system changed again in 2011, this time giving the National Assembly broader powers to make laws in devolved areas.

This is causing difficulty in a number of areas. It may appear from a statute that a power is exercised by the Secretary of State when, in fact, it has been transferred to Welsh Ministers. Following the commencement of Part 4 of the Government of Wales Act 2006, statutes can be amended both in Westminster and by the National Assembly in respect of their application in Wales. As a result, some now contain a mix of provisions covering both England and Wales, provisions that cover England only and provisions that apply only to Wales.

In this project we are considering ways in which the earlier legislation can be simplified and made more accessible, and how future legislation could reduce, rather than multiply, the problems.

This is one of two projects in the 12th Programme that relate solely to Wales. The project will be purely advisory, and our final report will not contain a draft Bill. We published a consultation paper on 9 July 2015³² and the formal consultation ended on 9 October. We will present our advice to the Welsh Government after the Assembly elections in 2016.

²⁹ Electoral Law in the United Kingdom: A Scoping Report (2012).

³⁰ (2014) LCCP218.

³¹ Electoral Law: A Joint Interim Report (2016).

³² (2015) LCCP223.

Planning law in Wales

(Formerly, Planning and development control in Wales)

- Project commenced July 2014

Planning law in both England and Wales is over-complicated and difficult to understand. The statutory provisions have not been consolidated since the Town and Country Planning Act 1990, and there has been piecemeal legislative development ever since.

The position is especially complex in Wales. Some, but not all, of the recent English legislation is applicable to Wales, while some provisions are specific to Wales only and some that are applicable in both countries have been commenced in England but not in Wales. This means that it can be very difficult, even for professionals, to understand what planning law applies in Wales. This is causing increased costs to individuals, communities and businesses, as well as to local planning authorities.

These problems cannot be adequately dealt with by consolidation alone. This project, which began in summer 2014, therefore considers the benefits of consolidation combined with technical reform aimed at producing simplified, modernised planning law for Wales.

Initially, the main focus was the reform of the distinct process of development management and consideration of planning applications, and the relationship between development management and local development plans. However, in agreement with the Welsh Government we have refocussed the project to cover planning law for Wales more broadly.

A simplified and modernised planning system for Wales will have the potential to promote economic growth, increase the supply of housing and protect the environment, as well as increasing efficiency and reducing transaction costs.

We expect to publish a scoping paper setting out parameters for the project in June 2016 to be followed by a consultation paper by the end of the year. We aim to publish an interim report that includes substantive conclusions in summer 2017.

Statute law

Commissioner: Chairman

Statute law repeals

In 2014 we published two consultation papers seeking views on the proposed repeals of a significant amount of comparatively modern but obsolete law. The first covered trade and industry matters while the second proposed general repeals and covered a wider range of topics including agriculture, criminal law, housing and taxation.

In 2015 we completed our examination of 20th century Acts and published our 20th Statute Law Repeals report and Bill.

We expect the Bill to be introduced into Parliament and enacted in 2016. The Bill will repeal 209 Acts in their entirety and remove redundant provisions from 63 other Acts.

Safeguarding protective care

Project: Mental capacity and deprivation of liberty

The Deprivation of Liberty Safeguards, or DoLS, are not working. They have been described as “an administrative and bureaucratic nightmare” and are felt to be placing intolerable pressure on an already overstretched health and social care system. The Law Commission has been charged with reviewing the body of legislation that underpins the DoLS and proposing a new and better way to ensure the protection of people who lack capacity.

The Deprivation of Liberty Safeguards were intended to protect a small number of people who lacked capacity to consent to their own care in specific medical settings and needed to be deprived of their liberty in their own best interests. This could happen, for example, if care home staff prevented an elderly person with worsening dementia from leaving the building alone because they could become confused and get lost. The DoLS were first set up in 2009 to plug a legislative gap whereby this specific group was found not to be adequately protected in compliance with article 5 of the European Convention on Human Rights.

In 2014 a House of Lords Select Committee described the DoLS as “not fit for purpose” and soon afterwards a Supreme Court judgment (known as *Cheshire West*) expanded the definition of the phrase “deprivation of liberty” to cover instances far beyond those originally envisaged. This has placed a huge burden on health and social care professionals and local authorities and has resulted in a ten-fold increase in the number of deprivation of liberty cases in England. In 2015 there were nearly 140,000 applications to local authorities for DoLS assessments. As a result there is a huge backlog of cases and people are being left without legal safeguards.

The Law Commission was asked to review the relevant legislation and consider how best to authorise and supervise the deprivation of liberty in hospitals, care homes and community settings. We published a consultation paper in July 2015. It took as its starting-point the premise that DoLS are

“deeply flawed” and proposed a new system, quite different in its approach, called “Protective Care”. This represented our initial view about how the law should be reformed.

The scheme we proposed – and which we are reviewing thoroughly in response to the results of the consultation – was based on the aim to:

- deliver tangible benefits and improved outcomes to incapacitated people, their family and other unpaid carers, and professionals;
- establish a scheme that is firmly rooted in the approach, language and empowering ethos of the Mental Capacity Act;
- simplify processes wherever possible in order to remove unnecessary bureaucracy while also protecting legal rights and providing meaningful procedural safeguards;
- be fully compliant with the European Convention on Human Rights;
- be fully supportive of the aims and aspirations of the UN Convention on the Rights of Persons with Disabilities; and
- be flexible and recognise the different contexts in which deprivation of liberty may occur (for example, in an accident and emergency department or a long-stay care home).



The project team: Thomas Jones, Tim Spencer-Lane, Patrick Tomison, Team Manager David Connolly and Olivia Bird

The consultation paper went into a good deal of detail about our proposals for the new system. These included reducing the number of professional assessments that would be required (partly by allowing the use of equivalent existing assessments for this purpose), and allowing deprivations of liberty to be authorised in more than one setting. We have also proposed rights to independent advocacy for the person and their family along with a straightforward tribunal system should they wish to challenge the deprivation of liberty. In addition we made proposals around “supportive care”, whereby people who lack mental capacity and are receiving care but are not subject to deprivation of liberty are given some protection in the form of preventive safeguards.

During our four months’ public consultation members of the team attended 83 events across England and Wales. These covered a wide audience, including service users, patients, family members and other unpaid carers, health and social care professionals, academics, lawyers, service providers, regulatory bodies and voluntary, charitable and campaigning organisations. At each of the consultation events we attended, we heard a wide range of views on various aspects of our proposals. We were struck by the widespread support for the project and the need to reform this area of law as a matter of priority.

“

I am shocked at the current DoLS legal nightmare. The time taken up by this issue will destroy time needed to look after patients.... Only one option is possible – completely scrap this legislation and start again by asking this one question: How do we safeguard the rights of the patients who are unjustly incarcerated against their will whilst protecting the safety of the patients who are unable to self-care in a resource neutral law?

GP, in response to our consultation

”

Because DoLS have a very poor public image it was particularly important to raise awareness of the consultation among the general public. To this end lead lawyer on the project team, Tim Spencer-Lane, appeared alongside two family carers on Radio 4’s You and Yours. We also attended events organised by service-user and carers’ groups such as a half-day workshop in Bristol with family carers who provide support to people with learning difficulties.

Our consultation exercise yielded 583 responses. These came, in the main, from local authorities and individual health and social care practitioners and providers. Most were supportive of our proposals, although a number raised concerns about how any new system might be funded.

We published an interim report on 25 May 2016, setting out the key issues that emerged from the consultation and some initial conclusions in light of those issues. We will submit a full report with recommendations and a draft Bill by the end of the year.



Tim Spencer-Lane, the lawyer leading on the project, presenting at the Deprivation of Liberty Safeguards in End of Life Care conference, Sheffield

PART THREE

Implementation of Law Commission law reform reports 2015–16

“

Insurance enables businesses and individuals to protect themselves against risk but late payment of valid claims undermines that principle. Fire, flood and other such events can be devastating for a business. If a valid claim is then not paid, the loss suffered can be catastrophic.

“These reforms...would help to balance fairly the interests of insurers and policyholders, and ensure an effective, competitive and trusted business insurance market.”

”

Stephen Lewis, Law Commissioner for commercial and common law, welcoming the introduction into Parliament of the Government's Enterprise Bill, 17 September 2015. See p38.

Implementing law reform

Implementation of our reports is a crucial indicator of the extent to which we are meeting our statutory obligation, the “systematic development and reform” of the law. There have been a number of developments in recent years designed to increase the rate at which Law Commission reports are implemented:

- the Law Commission Act 2009, which places a requirement on the Lord Chancellor to report to Parliament annually on the Government’s progress in implementing our reports; and
- a Protocol between the Law Commission and Government, which sets out how we should work together.

Law Commission Parliamentary procedure

One further development is a dedicated Parliamentary procedure, approved by the House of Lords on 7 October 2010 as a means of improving the rate of implementation of Law Commission reports. Bills are suitable for this procedure if they are regarded as “uncontroversial”.

Six Law Commission Bills have now followed this procedure:

- Insurance Act 2015, received Royal Assent on 12 February 2015.
- Inheritance and Trustees’ Powers Bill, received Royal Assent on 14 May 2014.
- Trusts (Capital and Income) Act 2013, received Royal Assent on 31 January 2013.
- Consumer Insurance (Disclosure and Representations) Act 2012, received Royal Assent on 8 March 2012.
- Third Parties (Rights against Insurers) Act 2010, received Royal Assent on 25 March 2010.
- Perpetuities and Accumulations Act 2009, received Royal Assent on 12 November 2009.

On 19 May 2016 the Intellectual Property (Unjustified Threats) Bill, derived from our report, Patents, Trade Marks and Designs: Unjustified Threats, was

introduced into Parliament. This Bill will also follow the special procedure..

Implementation of our reports 2015–16

Between 1 April 2015 and 31 March 2016 we published six final reports with recommendations for law reform:

- Public Nuisance and Outraging Public Decency, 24 June 2015
- Patents, Trade Marks and Designs: Unjustified Threats, 12 October 2015
- Reform of Offences Against the Person, 3 November 2015
- Wildlife Law, 10 November 2015
- Firearms Law: Reforms to Address Pressing Problems, 16 December 2015
- Unfitness to Plead, 13 January 2016

The statistics from the creation of the Commission in 1965 to 31 March 2016 are:

- Law reform reports published 217
- Implemented in whole or in part 143 (66%)
- Accepted in whole or in part, awaiting implementation 8 (4%)
- Accepted in whole or in part, will not be implemented 5 (2%)
- Awaiting response from Government 19 (9%)
- Rejected 31 (14%)
- Superseded 8 (4%)

Reports implemented

Charity law, social investment

- Charities (Protection and Social Investment) Act 2016

In 2013 we began a project considering a range of issues relating to charity law (see p26). One of these issues was whether the law regarding charity trustees' powers and duties when making social investments – that is, investments designed both to achieve a financial return and to further the charity's purposes – was sufficiently clear.

We made provisional proposals for reform of the law governing social investment in a consultation paper¹ published in April 2014 and we published our recommendations in September 2014.² We recommended the introduction of a new default statutory power for charity trustees to make social investments, and the creation of statutory duties that charity trustees must comply with when making a social investment. The Government accepted our recommendations and incorporated our Bill into the Charities (Protection and Social Investment) Bill, which was introduced into Parliament on 28 May 2015 and received Royal Assent on 16 March 2016.

Consumer remedies for faulty goods

- Consumer Rights Act 2015

UK consumers have a legal right to reject faulty goods. This provides consumers with the right to a refund if they act within a reasonable time.

In 2009 the Law Commission and the Scottish Law Commission recommended that the right to reject should be retained in the UK as a short-term remedy of first instance.³ More certainty was needed, however, over how long the right lasted. The Commissions recommended that in normal circumstances a consumer should have 30 days to return faulty goods and receive a refund. The Government accepted the need for a clear time limit. The 30-day period, with provision for a shorter period for certain items such as perishable goods, is included in Part 1, Chapter 2 of the Consumer Rights Act 2015.

To prevent consumers from being locked into a cycle of failed repairs, the report recommended that consumers should be entitled to escape a contract after one failed repair or one failed replacement. This recommendation is also included in the Consumer Rights Act 2015, which came into force on 1 October 2015.

Insurance contract law – damages for late payment

- Enterprise Act 2016

As outlined on p15, our review with the Scottish Law Commission to simplify and modernise insurance contract law resulted in two reports, which led to the Consumer Insurance (Disclosure and Representations) Act 2012 and the Insurance Act 2015. The Insurance Act 2015 received Royal Assent on 12 February 2015 and will come into effect on 12 August 2016.

However, the issue of damages for late payment of claims was not covered by this legislation. Instead, clauses based on our recommendations have been included in the Enterprise Act 2016. These clauses implement our recommendation that, contrary to the position under the current law, insurers should have a contractual obligation to pay any insurance claims within a reasonable time. If they do not, insurers may be liable for losses caused by their breach, on normal contractual principles.

The Act received Royal Assent on 4 May 2016, giving effect to the clauses on late payment at the same time as the Insurance Act 2015 comes into force on 12 August 2016.

¹ LCCP216.

² Social Investment by Charities: Recommendations (2014).

³ Consumer Rights: Consumer Remedies for Faulty Goods (2009) LC317.

Matrimonial property, needs and agreements – financial needs

- Guidance issued for the public on the financial aspects of divorce and the dissolution of civil partnerships

This project was set up to examine the status and enforceability of prenuptial agreements but was later extended to include financial aspects of divorce and the dissolution of civil partnerships. One of the recommendations in our final report⁴ was that the meaning of “financial needs” in this context should be clarified by the provision of guidance both for judges and for the public so the term can be applied consistently by the courts and understood by court users.

The Government accepted this recommendation and work is being taken forward by the Family Justice Council. Advicenow and the Family Justice Council have published guides for the public regarding the financial aspects of divorce and dissolution.⁵ Work is continuing on guidance for judges.

For more on the other recommendations arising from this project see p53.

Renting homes in Wales

- Renting Homes (Wales) Act 2016

In 2006, we published *Renting Homes: The Final Report*.⁶ The report proposed a fundamental reform of the law relating to rented accommodation. In May 2009, the Government rejected the report for England. Housing is, however, a devolved matter in Wales, and Welsh Ministers had accepted the report in principle in May 2007.

In 2011 the National Assembly for Wales gained wider legislative competence and in 2012 announced its intention to legislate to implement our recommendations.⁷ To assist with implementation, we undertook a short piece of work, supported by the Welsh Government, to update the original proposals, taking into account any devolution issues

that might arise and how the proposals might relate to other current policy concerns. The result was the report, *Renting Homes in Wales/Rhentu Cartrefi yng Nghymru*, which we published in April 2013.⁸

In May 2013 the Welsh Government published its own white paper to consult on implementing the proposals.⁹ A Bill was introduced into the National Assembly in February 2015 that proposed replacing almost all of the widely differing tenancies and licences currently in use with just two types of occupation contract. The *Renting Homes (Wales) Act 2016* received Royal Assent on 18 January 2016.

The Welsh Government noted: “This is one of the most significant pieces of legislation to be passed by the National Assembly for Wales and it will directly affect the lives of over one million people who rent their home in Wales.”¹⁰

Unfair terms in contracts

- Consumer Rights Act 2015

In 2005 the Law Commission and Scottish Law Commission published a report on unfair terms in contracts that recommended a simplified regime, bringing together the UK law (set out in the *Unfair Contract Terms Act 1977*) and the regulations implementing the EU Directive.

In May 2012, the Government asked the two Commissions to update their recommendations relating to consumers in the light of the issues that had arisen in the 2009 litigation over bank charges for unauthorised overdrafts. In March 2013 the Commissions published an updated report.¹¹ We recommended that the courts should not interfere with prices that are transparent and prominent; however, where charges are tucked into small print, the courts should have the power to assess them for fairness.

The Government adopted all the recommendations in the Commissions’ updated report and included them in Part 2 of the *Consumer Rights Act 2015*, which came into force on 1 October 2015.

⁴ (2014) LC343.

⁵ <http://www.advicenow.org.uk/guides/survival-guide-sorting-out-your-finances-when-you-get-divorced> (last visited 22 April 2016) and <https://www.judiciary.gov.uk/related-offices-and-bodies/advisory-bodies/fjc/guidance/sorting-out-finances-on-divorce/> (last visited 22 April 2016).

⁶ (2006) LC297.

⁷ *Homes for Wales: A White Paper for Better Lives and Communities* (2012).

⁸ (2013) LC337.

⁹ *Renting Homes: A Better Way for Wales* (2013).

¹⁰ <http://gov.wales/topics/housing-and-regeneration/legislation/rentingbill/?lang=en> (last visited 22 April 2016).

¹¹ *Consumer Rights: Unfair Terms in Contracts* (2013) LC292.

Reports in the process of being implemented

Fiduciary duties of investment intermediaries

- Guidance for pension trustees issued July 2014
- Rules imposing a duty on Independent Governance Committees to act in the interests of scheme members came into force April 2015
- Awaiting a response from the Government on outstanding recommendations

This project considered how far those working in financial markets are subject to fiduciary duties (that is, the legal duty to act in another's best interest). It responded to concerns that the law is misunderstood by pension trustees and others who invest on other people's behalf. In particular, trustees may think they need to maximise financial returns over a short time-scale, precluding consideration of long-term factors that impact on company performance, such as social and environmental issues.

We published our report on 1 July 2014,¹² along with guidance to pension trustees on how far investment decisions could take account of long-term risks and non-financial factors.

In October 2014 the Government endorsed our guidance,¹³ since when it has been circulated widely, reflected in the Pensions Regulator's updated Trustee Toolkit and discussed at the trustee meetings of 41 per cent of pension funds.¹⁴

Our report made a number of recommendations relating to the introduction of Independent Governance Committees (IGCs) within firms operating workplace pension schemes. New rules imposing a duty on IGCs to act in the interests of scheme members came into force in April 2015.

We also asked the Government to review aspects of the Occupational Pension Schemes (Investment) Regulations 2005. Following consultation,¹⁵ the Government decided in November 2015 not to adopt these changes on the grounds that guidance would be more effective than amending the regulations.¹⁶

We made a number of other recommendations relating, among other issues, to the charge cap

on default funds in defined contribution pension schemes and the operation of intermediated shareholding. The Government is continuing to consider these recommendations.

Firearms

- Policing and Crime Bill introduced into Parliament 10 February 2016

Our report on firearms made a series of recommendations to deal with the most pressing problems in firearms law.

The key recommendations included:

- defining central but previously undefined terms such as "lethal", "component part" and "antique firearm";
- a requirement that deactivation of firearms should be to an approved Home Office or EU standard; and
- tightening the law in respect of converting imitation firearms into live firearms.

The majority of these recommendations were accepted by the Government and included in Part 6 of the Policing and Crime Bill, which was introduced into Parliament on 10 February 2016. These recommendations solve the most pressing problem but a more overarching one remains: firearms law as a whole is complex and is spread across over 34 pieces of legislation. To tackle this we recommended a broader review of firearms law with a view to full-scale codification.

Patents, trade marks and designs: unjustified threats

- Intellectual Property (Unjustified Threats) Bill introduced into Parliament 19 May 2016

In April 2014 we published a report recommending reforms to the statutory provisions that deal with the issue of unjustified threats of proceedings for patent, trade mark and design right infringement.¹⁷

¹² (2014) LC350.

¹³ <https://www.gov.uk/government/publications/kay-review-of-uk-equity-markets-and-long-term-decision-making-implementation-progress-report> (last visited 22 April 2016).

¹⁴ http://www.plsa.co.uk/PolicyandResearch/DocumentLibrary/0412_NAPF_engagement_survey_2014.aspx (p36) (last visited 22 April 2016).

¹⁵ See <https://www.gov.uk/government/consultations/changes-to-the-law-on-investments-in-occupational-pension-schemes> (last visited 22 April 2016).

¹⁶ Better Workplace Pensions: Reducing regulatory burdens, minor regulation changes, and response to consultation on the investment regulations, p30 (November 2015) at <https://www.gov.uk/government/consultations/occupational-pensions-reducing-regulatory-burdens-and-minor-regulation-changes> (last visited 22 April 2016).

¹⁷ (2014) LC346.

As discussed on p12, the Government accepted these recommendations in February 2015, subject to minor qualifications, and asked us to draft a Bill suitable for introduction through the special procedure for uncontroversial Law Commission Bills. We published the draft Bill in October 2015 along with further recommendations to clarify that the Bill applies to all threats to sue made in respect of infringement alleged to have happened, or that will happen, in the UK. The Bill was introduced in the House of Lords on 19 May, the first day of the 2016/17 Parliamentary session.

Third parties (rights against insurers)

- Regulations made 28 April 2016

The Law Commission and Scottish Law Commission reported on this issue in 2001.¹⁷ The aim was to streamline the procedures by which a person with a claim against an insolvent but insured wrongdoer can claim against the insurer. The report was implemented in the Third Parties (Rights against Insurers) Act 2010. The Act required updating to reflect changes in insolvency law and will now come into force in August 2016.

The Insurance Act 2015 made some of the necessary amendments, and added a regulation-making power to the Act to make others. Regulations to effect the outstanding changes were made on 28 April 2016. These will amend the Act when it comes into force in August.¹⁹

¹⁷ (2014) LC346.

¹⁸ Third Parties (Rights against Insurers) (LC 272) (31.07.2001).

¹⁹ <http://www.legislation.gov.uk/uksi/2016/570/contents/made> (last visited 2 June 2016).

Celebrating 50 years of the Law Commission

The Law Commissions Act 1965 received Royal Assent on 15 June 1965, establishing the Law Commission “for the purpose of promoting the reform of the law” and with a duty to “take and keep under review all of the law” of England and Wales.

To mark our 50th anniversary and help make it a significant year for the Commission, we set ourselves four objectives. We would:

- broaden our group of friends and strengthen existing relationships;
- strengthen existing international ties and increase international engagement;
- leave a lasting legacy to mark the 50th anniversary; and
- promote the importance, relevance and benefits of law reform to new audiences.

A Parliamentary celebration

On a summer evening in July the Law Commission welcomed more than 180 guests, including former Law Commissioners and Law Commission staff, stakeholders and friends of the Commission, to Parliament’s elegant Terrace Pavilion to help us celebrate the achievements of 50 years of law reform.

Opening the reception, our host Lord Carlile of Berriew QC CBE remarked that Parliament was “absolutely the right place” to celebrate 50 years of the Law Commission and the role we continue to play in presenting Parliament with well thought-out legislation.

Raising a toast to the Commission, our sponsoring Minister, Dominic Raab MP, commended the “impressive” rate at which our recommendations for reform have been implemented over the years. He noted the extent to which our work has impacted on “everyone in our society” and spoke of “the high esteem in which you are rightly held by Parliamentarians, the judiciary and stakeholders across England and Wales and beyond.”

Sir David Lloyd Jones, then Chairman of the Commission, set out before the assembled guests

the achievements of 50 years of law reform, and acknowledged that these achievements have been possible because of the support we have received from our friends, in particular those in Parliament, and our stakeholders.

We are grateful to everyone who attended and helped to make the night such a memorable occasion, and to The Legal Education Foundation for their generous sponsorship.

“

The founding fathers of the Law Commission, Lord Gardiner and Professor Andrew Martin - and its first Chairman, Lord Scarman - would, I believe, be proud of what has been achieved.

”

Sir David Lloyd Jones



Lord Carlile QC CBE and Dominic Raab MP (above)



Parliamentary showcase

For a week in December we staged an exhibition in the Upper Waiting Hall of the Palace of Westminster.

Members of Parliament are an important audience for the Law Commission. This small exhibition allowed us to showcase some of our successes from the last 50 years and provide MPs and Peers with an opportunity to learn more about the Law Commission and the role we play in reforming the law.

We are grateful to Kelly Tolhurst MP for having sponsored our exhibition.

Scarman lecture

In the early evening of 24 March 2015 a distinguished audience gathered in the historic Middle Temple Hall for the Scarman Lecture, one of the most anticipated events in the London legal calendar.

The Law Commission hosts the Scarman Lectures in honour of our first Chairman, Lord Scarman, bringing speakers of world renown before audiences drawn from the senior judiciary, legal practice, Parliament, academia and the voluntary and business sectors.

In proud celebration of the Law Commission's 50th anniversary, we were honoured to welcome as speaker the Rt Hon Sir Geoffrey Palmer KCMG AC QC, former President of the Law Commission of New

Zealand and former Prime Minister of New Zealand. His lecture, "The law reform enterprise: evaluating the past and charting the future", examined 50 years of the Law Commissions of Great Britain and the Commonwealth and asked, what can their experience tell us about law making?

There is a full account of the Lecture in the Law Commission's Annual Report 2014–15. A transcript and videos are available on our website.



Sir Geoffrey Palmer

Reaching the next generation of legal practitioners

In summer 2015 we launched our first-ever law reform competition for universities. An exciting new venture for the Commission, it:

- gives students an opportunity to practise research, writing and policy development, skills that are highly valued in the legal profession;
- tests their ability to see the law in context;
- gives them a valuable insight into the demands, complexities and benefits of law reform; and
- helps them gain a clear understanding of how the Commission does its work.

We congratulate the students of the University of Sheffield for their winning entry: A meeting of minds: denouncing ‘parasitic liability’ in joint enterprise.



Sir David Bean meets the winners of our law reform competition

Reforming the law in Wales

We continued our 50th anniversary celebrations in March with a discussion event in Cardiff, bringing together an audience of 90 people from the National Assembly, the Welsh Government, the senior judiciary and the public, voluntary and business sectors. Opened by David Melding AM, Chairman of

the Constitutional and Legislative Affairs Committee, the event was led by a distinguished panel chaired by Sir David Lloyd Jones:

- The Rt Hon Sir Geoffrey Palmer KCMG AC QC
- The Rt Hon the Lord Thomas of Cwmgiedd, Lord Chief Justice of England and Wales
- Theodore Huckle QC, Counsel General for Wales
- Dylan Hughes, First Legislative Counsel for Wales

More information can be found in last year’s annual report.

Fifty Years of the Law Commissions: The Dynamics of Law Reform Now, Then and Next

Set in the Supreme Court over a July weekend, this international conference saw the Law Commissioners and Chief Executive reflecting upon 50 years of law reform in the UK. Academics, legal practitioners, judges and past and present members of the three Law Commissions of England and Wales, Scotland and Northern Ireland came together to consider the achievements of the Commissions’ first 50 years and examine how the legal landscape has changed since 1965.*

Looking to the future

Sir David Lloyd Jones, then Chairman of the Law Commission, asked what the future might hold, pointing to advantages the Commission has that should serve it well in the future, including:

- great legal expertise in many fields;
- the ability to consult widely and thoroughly; and
- a valued reputation for independence, objectivity and impartiality.

“There may be choppy waters ahead, but I am confident that with all these advantages the Commissions will come through with flying colours.”

* The talks from this conference will be published in M Dyson, J Lee and S Wilson Stark, Fifty Years of the Law Commissions: The Dynamics of Law Reform. Publication 11 August 2016.

Reflections on statutory implementation

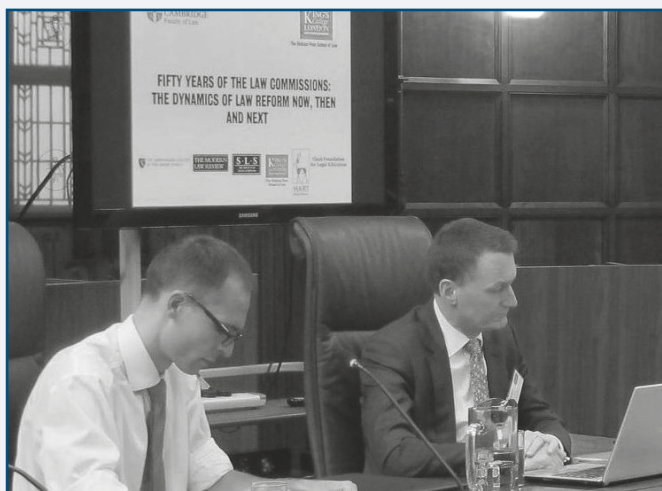
Observing that rates of implementation are “a difficult thing” to measure, Nicholas Paines QC, Law Commissioner for public law reflected on the statutory implementation of law reform and explored other routes through which reform can be achieved.

“For as long as there remain areas of the statute book that require the sort of attention that we are the best people to give to them, the prospects of legislative implementation, in my view, remain good.”

The Bill’s progress

Stephen Lewis, Law Commissioner for commercial and common law used our insurance contract law project to illustrate the influence of consultation on law reform. He explained how we consulted extensively with a wide cross-section of the insurance market as well as legal practitioners and judges. The result was “a widespread acceptance” that legislative reform was needed.

“The BILA has stated publically that, throughout the consultation process, the Law Commission showed itself to be assiduously fair in its dealing with both policyholders and insurers.”



Professor David Ormerod QC (right) in conference at the Supreme Court

The relationship between the courts and the Law Commission

Professor David Ormerod QC, Law Commissioner for criminal law, talked about the “dynamic interrelationship” between the Law Commission and the courts. Both, he said are engaged in a flexible, long-term collaborative exercise of “refining the law”. The courts act as “a reliable and valuable” supplier of work to the Commission, as well as occasionally adopting our recommendations. In return, we examine aspects of the law where the courts are unable, or prefer not, to advance reform.

“The courts and the Commissions have a symbiotic relationship.... If they adopt our work we are both beneficiaries – as is the law and society generally.”

Commissioning the future

Elaine Lorimer, Chief Executive at the time, set out the changing economic and legal contexts within which the Commission is operating.

As well as our core law reform skills and growing expertise in devolution matters, to succeed in the economic future, she said, we must also retain excellent communication, social research, economic and organisational skills.

“We have demonstrated our ability to respond to major changes in the context in which we operate and so we should feel confident that we are ready for whatever challenges and opportunities the future holds for us.”

Law Reform across the Commonwealth

The Chairman, Commissioners and Chief Executive also spoke about the Commission’s first 50 years at two significant conferences in April: the 2015 Commonwealth Law Conference, staged by the Commonwealth Lawyers Association, and Law Reform in a Fast-changing World, held by the Commonwealth Association of Law Reform Agencies (CALRAs) and the Scottish Law Commission.

Reports awaiting implementation

Easements, covenants and profits à prendre

- Final report and draft Bill published 8 June 2011²⁰

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.

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

Our report, *Making Land Work: Easements, Covenants and Profits à Prendre*, recommended reforms to modernise and simplify the law underpinning these rights, making it fit for the 21st century and a modern registration system.²¹ The recommendations would remove anomalies, inconsistencies and complications in the current law, saving time and money by making it more accessible and easier to use for those who rely on and engage with these interests most: homeowners, businesses, mortgage lenders and those involved in the conveyancing process. They would also give new legal tools to landowners to enable them to manage better their relationships with neighbours and facilitate land transactions.

On 18 May 2016, following the Queen's Speech, the Government announced that it intended to bring forward proposals in a draft Law of Property Bill to respond to our recommendations.²²

Electronic Communications Code

- Final report published 28 February 2013²⁴

Schedule 2 to the Telecommunications Act 1984, 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.

In this project we examined the current Code and made recommendations to make it more efficient and accessible for those who work with and are affected by it. Our report made a number of recommendations to form the basis of a revised Code.²⁵

Our recommendations would modernise and simplify the Code while balancing the interests of operators and landowners. In particular, they would:

- provide a clearer definition of the market value that landowners receive for the use of their land;
- rationalise the conditions under which landowners can be ordered to give an operator access to their land;
- resolve a number of inconsistencies between the current Code and other legislation;
- redefine the circumstances in which landowners are able to remove network equipment from land;
- specify limited rights for operators to upgrade and share their equipment; and
- improve the procedure for resolving disputes under the Code.

In December 2014, the Department for Culture, Media and Sport announced that it would reform the Code based on our recommendations.²⁶ The Government prepared legislation for a new Code and tabled it as an amendment to the Infrastructure Bill, but that amendment was later withdrawn. The Government consulted on its draft legislation between February and April 2015.²⁷

²⁰ (2011) LC327.

²¹ (2011) LC327.

²² <https://www.gov.uk/government/publications/queens-speech-2016-background-briefing-notes>, p61 (last visited 25 May 2016).

²⁴ (2013) LC336.

²⁵ The Electronic Communications Code (2013) LC336.

²⁶ The Minister of State, Department for Transport, Mr John Hayes, Hansard (HC) 18 December 2014, col38.

²⁷ <https://www.gov.uk/government/consultations/consultation-on-reforming-the-electronic-communications-code> (last visited 22 April 2016).

On 17 May 2016, the Government published details of its revised proposals for a new Code.²⁸ Following further consultation and additional independent economic analysis, the Government's proposed reforms remain broadly aligned with our recommendations, with some key exceptions. In particular, it has decided to adopt a different basis for the valuation of Code rights and to confer automatic rights to upgrade and share apparatus. The Government's proposals will be included in the Digital Economy Bill announced in the Queen's Speech on 18 May 2016.

Level crossings

- Final report, with draft Bill and draft regulations, published 25 September 2013²⁹

This joint project with the Scottish Law Commission sought to improve the law relating to the 7,500 to 8,000 level crossings in Great Britain.

If implemented, our recommendations would:

- create a new, more streamlined procedure to close individual level crossings where it is in the public interest to do so;
- bring safety regulation entirely under the umbrella of the Health and Safety at Work etc. Act 1974, and provide tools to support this;
- impose a statutory duty on railway and highway operators to consider the convenience of all users, and to co-operate with each other when carrying out their obligations in respect of level crossings;
- provide clarity regarding the position of statutory level crossings; and
- disapply outdated or obsolete statutory provisions.

The Government provided a final response to the report in October 2014, accepting both the case for reform and the majority of our recommendations.³⁰ The Department for Transport published an action plan in December 2014, setting out an indicative timetable for implementing our recommendations and identifying a number of areas where further consideration with stakeholders is needed before reaching a conclusion.

Regulation of health and social care professionals

- Final report and draft Bill published 2 April 2014³¹

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

Our final report and draft Bill set out a new single legal framework for the regulation of all health and social care professionals and reforming the oversight role of the Government in relation to the regulators.³²

The draft Bill received a very positive response from stakeholders: the General Medical Council has described it as “a once in a generation opportunity to future-proof medical regulation in the UK”, while the Nursing and Midwifery Council described the Bill as essential to enabling the Council to “modernise its ‘outdated and inflexible’ decision-making processes.”

The Government responded to the draft Bill on 29 January 2015,³³ accepting the majority of the recommendations and stating its commitment to legislate to implement them at the earliest possible opportunity.

In the meantime the Government has implemented some of our recommendations in the Health and Social Care (Safety and Quality) Act 2015 and through the use of secondary legislation.

The regulation of social care professionals in Wales is devolved. On 23 February 2015 the Welsh Government introduced the Regulation and Inspection of Social Care (Wales) Bill into the National Assembly, where it received Royal Assent on 18 January 2016. The Welsh Government stated that “although [the Law Commission report] did not cover social care workers in Wales, it is considered to

²⁸ <https://www.gov.uk/government/publications/government-publishes-proposals-for-a-new-electronic-communications-code>

²⁹ (2013) LC339.

³⁰ (2015) HC1062.

³¹ (2014) LC345.

³² Regulation of Health Care Professionals: Regulation of Social Care Professionals in England (2014) LC345/SLC237/NILC18.

³³ (2015) Cm8995.

have provided significant evidence and guidance for the development of workforce regulation in this Bill.”³⁴

Taxi and private hire services

- Final report and draft Bill published
23 May 2014 ³⁵

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

In May 2012 we published our consultation paper,³⁶ proposing a single statute to govern both the taxi and private hire trades, and the setting of national standards in order to free up the private hire market. The interest was such that we had to extend the consultation period twice. We received just over 3,000 responses, a record number for any Law Commission consultation.

Some of our proposals provoked a great deal of controversy. In April 2013 we published a short interim statement³⁷ explaining that we had changed our views on abolishing the ability of local licensing authorities to limit taxi numbers and refined our views in other areas. We also published all of the responses received.

Our report and draft Bill were published in May 2014. Although the Government has not yet responded formally to our recommendations, two taxi and private hire measures – based on our recommendations – were included in the Deregulation Act, which received Royal Assent in March 2015.

The Government has suggested that these measures should be regarded as the first steps on a longer path of reform, which will be continued in the event that a dedicated Taxi Bill is brought forward.

³⁴ (Wales) Bill, Explanatory Memorandum (February 2015).

³⁵ (2014) LC347.

³⁶ (2012) LCCP203.

³⁷ <http://www.lawcom.gov.uk/project/taxi-and-private-hire-services/>.

Reports awaiting a Government decision

Cohabitation

Cohabitation: the financial consequences of relationship breakdown

- Final report published 31 July 2007³⁸
- Holding response from Government 6 September 2011³⁹

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

Our report recommended the introduction of a new scheme of financial remedies that would lead to fairer outcomes on separation for cohabitants and their families.

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

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

In broad terms, the scheme would seek to ensure that the financial pluses and minuses of the relationship were fairly shared between the couple. For example, if one partner were disadvantaged in the job market as a result of time spent bringing up the couple's children, they might receive some

financial compensation from their former partner to support them while retraining or otherwise preparing to return to work.

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

In 2011 the then Government announced that it did not intend to take forward our recommendations for reform during that Parliament. We await the current Government's response to our recommendations.

Intestacy and family provision claims on death (cohabitants)

- Final report and draft Inheritance (Cohabitants) Bill published 13 December 2011
- Holding response from Government 21 March 2013⁴⁰

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

Our final report, Intestacy and Family Provision Claims on Death, was accompanied by two draft Bills to implement our recommendations.⁴¹ The first Bill was implemented and became the Inheritance and Trustees' Powers Act 2014. The second Bill, the draft Inheritance (Cohabitants) Bill, would:

- reform the law regarding an application for family provision by the survivor of a couple (who were not married or in a civil partnership) 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, this entitlement would arise if the couple lived together for five years before the death or for two years if they had a child together.

³⁸ (2007) LC307.

³⁹ Written Ministerial Statement, Hansard (HC), 6 September 2011, col 16WS.

⁴⁰ Written Statement, Hansard (HL), 21 March 2013, vol 744, col 59WS.

⁴¹ (2011) LC331.

The Government announced in March 2013 that it did not intend to implement the draft Inheritance (Cohabitants) Bill during the then-current Parliament. We await the current Government's response to our recommendations.

Conservation covenants

- Final report and draft Bill published 24 June 2014⁴²
- Interim response from Government 28 January 2016

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

This project considered the case for permitting landowners to enter into long-lasting and enforceable agreements where a conservation objective would be met by an obligation to use, or not use, land in a particular way. These types of agreements, which already exist in other jurisdictions such as the USA, Canada, Australia, New Zealand and Scotland, are not specifically linked to nearby land. They allow a landowner to agree, for example, to maintain a woodland habitat and allow public access to it, or to refrain from using certain chemicals on land.

The consultation for this project ran from March to June 2013 and we published our final report and draft Bill on 24 June 2014.⁴³ The report recommends the introduction of a new statutory scheme of conservation covenants in England and Wales. In this scheme, a conservation covenant would:

- be formed by the agreement of two parties – a landowner (a person with a freehold estate or leasehold estate of more than seven years),

and a responsible body drawn from a limited class of organisations;

- be able to contain both restrictive and positive obligations;
- be capable of binding the landowner's successors in title (that is, all subsequent owners) after he or she has disposed of the land; and
- be made for the public good.

The Secretary of State for the Environment, Food and Rural Affairs wrote to the Commission on 28 January 2016 praising the quality of our work and giving a commitment to explore the role conservation covenants could play in the 25-year Environment Plan being prepared by the Department.

Contempt of court: court reporting

- Final report published 26 March 2014⁴⁴
- Holding response from Government 13 March 2015⁴⁵

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

- introducing a publicly accessible database available on the internet (similar to the one that already operates in Scotland) listing the court hearings in which restrictions are currently in place; and

⁴² (2014) LC349.

⁴³ (2014) LC349.

⁴⁴ (2014) LC344.

⁴⁵ Report on the Implementation of Law Commission Proposals, Ministry of Justice (2015), paragraph 77.

- creating a more extensive restricted database where, for a charge, registered users could find out the detail of the reporting restriction and could sign up for automated email alerts of new orders.

These recommendations would greatly reduce the risk of contempt for publishers, from large media organisations to individual bloggers. It would enable them to comply with the courts' restrictions and report proceedings to the public with confidence. We also undertook a pilot study that demonstrated the likely efficiency of such a scheme.

The Government has welcomed our recommendations and stated its intention to respond formally when the Criminal Justice System Common Platform is implemented.

For more on our contempt of court project, see p24.

Data sharing between public bodies

- Scoping report published 11 July 2014⁴⁶
- Awaiting a Government response

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

We conducted this project as a scoping review designed to identify where the problems truly lie and what should be done to address them. We ran a consultation during autumn 2013 and published our scoping report in July 2014.

In the report we concluded that a full law reform project should be carried out in order to create a principled and clear legal structure for data sharing. We are awaiting the Government's response.

Expert evidence in criminal proceedings

- Final report and draft Criminal Evidence (Experts) Bill published 22 March 2011⁴⁷
- Government response to majority of recommendations 21 November 2013⁴⁸
- Awaiting Government response to remaining recommendations

This project addressed the admissibility of expert evidence in criminal proceedings in England and Wales.

The Ministry of Justice responded to our report on 21 November 2013, indicating that it did not intend to act on the majority of our recommendations at that time.

Since then however, there have been significant developments in giving effect to our recommendations through non-legislative means.

As the Lord Chief Justice explained in his Kalisher Lecture to the Criminal Bar Association in October 2014,⁴⁹ the Criminal Procedure Rules Committee has adopted as many of the recommendations as it could adopt through the Criminal Procedure Rules and accompanying Criminal Practice Directions. As a result, while the common law remains the source of the criteria by reference to which the court must assess admissibility, the Rules list those matters which must be covered in experts' reports so that the court can conduct such an assessment and the Practice Directions list the factors the court may take into account in determining the reliability of expert opinion.

Meanwhile, in a parallel development, a series of cases concerned mainly with the use of Low Template DNA has established a requirement that the court can admit expert evidence only if it is reliable.

In a development at least as significant as the other two, the Advocacy Training Council has adopted our recommendations in this report as the basis for its training. In this way, we are confident that the entire approach of the profession to expert evidence in both criminal and civil proceedings can be fundamentally reformed and the risk of unfair outcomes greatly reduced.

⁴⁶ Data Sharing between Public Bodies: A Scoping Report (2014) LC351.

⁴⁷ (2011) LC325.

⁴⁸ <https://www.gov.uk/government/publications/government-response-to-law-commission-report-on-expert-evidence> (last visited 22 April 2016).

⁴⁹ <https://www.judiciary.gov.uk/announcements/2014-kalisher-lecture-on-the-future-of-forensic-science-in-criminal-trials-by-the-lord-chief-justice/> (last visited 22 April 2016).

We await the Government's response in respect of the remaining recommendations contained in our report.

Hate crime

- Final report published 28 May 2014⁵⁰
- Awaiting a Government response

This project was referred to the Law Commission by the Ministry of Justice following the publication of the Government's three-year Hate Crime Action Plan in March 2012.⁵¹ As part of our extensive consultation work we hosted a symposium with over 100 interested stakeholders and received over 150 responses to our consultation.

The police and Crown Prosecution Service record a crime as a "hate crime" if the victim or anyone else believes that it is motivated by hostility based on any one or more of five characteristics: (1) disability; (2) transgender identity; (3) race; (4) religion; and (5) sexual orientation. Currently, the criminal law regarding hate crime falls under three Acts:

- the Crime and Disorder Act 1998, sections 28–36 (which cover "aggravated offences" on grounds of race or religion);
- the Public Order Act 1986, section 17 (which covers stirring up hatred on grounds of race, religion or sexual orientation); and
- the Criminal Justice Act 2003 sections 145 and 146 (which cover enhanced sentencing for offences motivated by hostility to any of the five protected characteristics).

The project examined the case for extending the aggravated offences and the offences of stirring up hatred to include all five of the protected characteristics. We also considered use of the current legislation around enhanced sentencing for hate crimes.

In our report we made the following key recommendations, that:

- the enhanced sentencing system for hate crimes be strengthened and that anyone given

an enhanced sentence for hostility should have this recorded on the Police National Computer;

- the Sentencing Council should produce sentencing guidelines to deal with hate crime;
- there should be a full-scale review of aggravated offences or, in the absence of this, the extension of aggravated offences to include disability, sexual orientation and transgender identity; and
- the stirring up offences should not be extended.

We are awaiting a response from the Government to these recommendations.

The High Court's jurisdiction in relation to criminal proceedings

- Report and draft Bill published on 27 July 2010⁵²
- Holding response from Government 13 March 2015⁵³

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

The Government is continuing to consider these recommendations.

Intestacy and family provision claims on death (cohabitants), see Cohabitation

Kidnapping

- Final report published 20 November 2014⁵⁴
- Awaiting a Government response

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

- the kidnapping offence be redefined in statute but should remain triable in the Crown Court only;

⁵⁰ (2014) LC348.

⁵¹ Challenge it, Report it, Stop it: The Government's Plan to Tackle Hate Crime, HM Government (2012).

⁵² (2010) LC324.

⁵³ Report on the Implementation of Law Commission Proposals, Ministry of Justice (2015), paragraph 99.

⁵⁴ Kidnapping and related Offences (2014) LC355.

- the existing offence of false imprisonment be replaced by a new statutory offence of unlawful detention;
- the maximum sentence for offences under sections 1 and 2 of the Child Abduction Act 1984 be increased from seven to 14 years' imprisonment; and
- section 1 of the 1984 Act be extended to cover cases involving the wrongful retention of a child abroad – this would close the gap in the law highlighted in the case of *R (Nicolaou) v Redbridge Magistrates' Court*.⁵⁵

This work forms part of a wider project, Simplification of the criminal law, which originated in our 10th Programme of law reform.

Matrimonial property, needs and agreements

- Final report and draft Bill published 27 February 2014⁵⁶
- Interim response from the Government 18 September 2014

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

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

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

- the meaning of “financial needs” should be clarified by the provision of guidance so that it can be applied consistently by the courts;
- legislation should be enacted introducing “qualifying nuptial agreements”; and
- work should be done to assess whether a formula for calculating payments would be feasible,

but only when sufficient data is available about divorce outcomes under the current law.

The Government's interim response was published on 18 September 2014. The Government accepted the first of our recommendations and work has been taken forward by the Family Justice Council (see p39). The Ministry of Justice is undertaking scoping work on the third recommendation. We are awaiting a final response from the Government on the second recommendation, concerning qualifying nuptial agreements.

Offences against the person

- Scoping report and draft Bill published 3 November 2015⁵⁷
- Awaiting a Government response

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

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

Our aim was to replace all these offences with a single modern and easily understandable statutory code largely based on a draft Bill published by the Home Office in 1998 but with some significant changes and updating.

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

See p21 for more on this report.

Public nuisance and outraging public decency

- Final report published 24 June 2015⁵⁸
- Awaiting a Government response

As discussed in Part Two (p24), this report recommends retaining the offences and restating

⁵⁵ [2012] EWHC 1647 (Admin); [2012] 2 Cr App R 23.

⁵⁶ (2014) LC343.

⁵⁷ (2015) LC361.

⁵⁸ Simplification of Criminal Law: Public Nuisance and Outraging Public Decency (2015) LC358.

them in statute largely in their existing form. However, as the offences are serious ones, punishable by up to life imprisonment, the recommendations provide that the defendant should be liable only if there is proof of intention or recklessness.

This work forms part of a wider project, Simplification of the criminal law, which originated in our 10th Programme of law reform.

Rights to light

- Final report and draft Bill published 4 December 2014.⁵⁹

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.

We commenced our project on rights to light in spring 2012 and held a consultation between February and May 2013. The consultation examined whether the current law provides an appropriate balance between the interests of those benefiting from rights to light and those wishing to develop land in the vicinity.

We received over 125 responses from a wide variety of stakeholders and published our final report and draft Bill on 4 December 2014.⁶⁰

We recommended:

- establishing a statutory notice procedure allowing landowners to require their neighbours to tell them within a set time limit if they plan to seek an injunction to protect their right to light;
- introducing a statutory test to clarify when the courts may order damages to be paid, rather than halting development or ordering a building to be demolished by granting an injunction (this takes into account the Supreme Court decision in the case of *Coventry v Lawrence*);⁶¹

- updating the procedure whereby landowners can prevent their neighbours from acquiring rights to light by prescription;
- amending the law governing when an unused right to light is to be treated as having been abandoned; and
- giving power to the Lands Chamber of the Upper Tribunal to discharge or modify obsolete or unused rights to light.

We expect the Government's response in 2016.

Termination of tenancies for tenant default

- Published 31 October 2006⁶²

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

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

The Government's 2015 report on the implementation of Law Commission proposals identified stakeholders' concerns about the summary termination procedure proposed. The Government said in its report that it was considering how these concerns might be overcome.⁶³

We expect the Government's response in 2016.

Unfitness to plead

- Final report and draft Bill published 13 January 2016⁶⁴

⁵⁹ (2014) LC356.

⁶⁰ (2014) LC356.

⁶¹ [2014] UKSC 13, [2014] 2 WLR 433.

⁶² (2006) LC303.

⁶³ Report on the implementation of Law Commission proposals, Ministry of Justice (2015) HC 1062.

⁶⁴ (2006) LC303.

- Awaiting a Government response

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

After a wide-ranging consultation conducted in winter 2010/11,⁶⁵ we published an analysis of responses⁶⁶ and an issues paper in 2013⁶⁷ and our final report and draft Bill in January 2016.⁶⁸ We are awaiting a response from the Government.

For more on this project, see p20.

Wildlife

- Report on the control of invasive non-native species published February 2014⁶⁹
Recommended reforms given effect in the Infrastructure Act 2015
- Final report on remaining elements, with draft Bill, published 10 November 2015⁷⁰
- Awaiting a Government response to final report

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

This project, which was proposed by the Department for Environment, Food and Rural Affairs (Defra) and included in our 11th Programme, considered the transposition of key EU directives on wild birds and those animals and plants characterised as European Protected Species, and their integration with other, domestic, legal structures. It also sought to bring various purely domestic protection regimes for specific species into the same legislative structure.

In March 2012 the Government asked us to add consideration of the possibility of appeals against licensing decisions by regulatory bodies to the project.

We held a consultation in 2012 proposing a single statute bringing together most of the law relating to wildlife.⁷¹ In addition to making specific proposals on the most appropriate way of transposing the EU directives, we also looked at the current regime for the enforcement of wildlife legislation, including both criminal offences and civil sanctions, and at appeals.

Environment law is devolved in Wales. We have been liaising closely with the Welsh Government, which is engaged on a process of policy development and reform based on the Natural Environment Framework for Wales.

Following a request by Defra to bring forward one element of the project, we published a report on the control of invasive non-native species in February 2014.⁷² Our recommendations in relation to species control orders were given effect in the Infrastructure Act 2015. Our final report and draft Bill on the remaining elements of the project were published in November 2015⁷³ and we are awaiting a response from Government.

⁶⁵ (2010) LCCP197.
⁶⁶ <http://www.lawcom.gov.uk/project/unfitness-to-plead/>.
⁶⁷ <http://www.lawcom.gov.uk/project/unfitness-to-plead/>.
⁶⁸ (2016) LC364 (two volumes).

⁶⁹ (2014) LC342.
⁷⁰ (2015) LC362 (two volumes)
⁷¹ (2012) LCCP206.
⁷² (2014) LC342.
⁷³ (2015) LC362 (two volumes).

PART FOUR

How we work

“

Violent behaviour results in up to 200,000 prosecutions each year but the law under which violent offences are prosecuted is out of date and confusing for the courts, defendants and victims.

“If implemented, our recommended reforms will produce a clear, modern statutory code to deal with offences of violence. A logical hierarchy of clearly defined offences will allow prosecutors to make more appropriate and efficient use of valuable court time. And properly labelled offences will make sure the true nature of violent behaviour is recognised for what it is.

”

Professor David Ormerod QC, Law Commissioner for criminal law, launching Reform of Offences Against the Person at Bangor University, 3 November 2015.

The work of the Law Commission is grounded in thorough research and analysis of case law, legislation, academic and other writing, and other relevant sources of information both in the UK and overseas. It takes full account of the European Convention on Human Rights and relevant European law. Throughout this process, where appropriate, we act in consultation or work jointly with the Northern Ireland Law Commission and the Scottish Law Commission.

Our programme of law reform

The Law Commission is required to submit to the Lord Chancellor programmes for the examination of different branches of the law with a view to reform.

Every three or four years we consult widely, asking for suggestions for appropriate projects. During 2015–16 we have continued work on projects selected for our 12th programme of law reform, which we launched in July 2014, and earlier programmes. Details of this work are set out in Part Two of this report. The full list of nine projects selected for our 12th Programme can be found in our annual report for 2014–15.¹ We expect to begin consulting for our 13th programme in July 2016.

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

- the strength of the need for law reform;
- 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.

Although we have a duty to “take and keep under review all the law”,² it is important that our efforts are directed towards areas of the law that most need reform and reforms that are most likely to be implemented. We focus on change that will deliver real benefits to the people, businesses, organisations and institutions to which that law applies.

How we conduct our law reform projects

Before starting a law reform project, we will agree the terms of reference with the relevant Government Department and, in some instances, set one or more review points. These allow us to pause at specific stages of a project to consider, with the relevant Department, whether the research and analysis we have done so far suggest that a substantive law reform project is in fact required.

Consultation

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

On occasion we 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 might also use this opportunity to call for evidence.

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

During our formal consultations we ask for written responses and provide a number of ways for consultees to submit these. All the responses we receive are analysed and considered carefully. Individual responses, or sometimes an aggregated analysis, are published on our website, usually alongside our final report.

¹ Annual Report 2014–15 (2015) LC359, p12–13.

² Law Commissions Act 1965, s 3(1).

The Law Commission follows the Government Consultation Principles issued by the Cabinet Office.³

Making recommendations for reform

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

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

Other law reform projects

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

During 2015–16 one project was referred to us by Government:

- Breaches of protected government data – an examination of the effectiveness of the ways in which information held by Government is protected from unauthorised disclosure. This project was referred to us by the Cabinet Office (see p20).

Figure 4.1 Common stages of a law reform project



³ <https://www.gov.uk/government/publications/consultation-principles-guidance> (last visited 7 April 2016).

Statute law

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

Since its creation, the Law Commission has performed this important function of removing legislation that is obsolete or which has lost any modern purpose. The legislation appears to be still in force but this is misleading because it no longer has a job to do. This may be because the political, social or economic issue an Act was intended to address no longer exists or because an Act was intended to do a specific thing which, once done, means it has served its purpose.

Over time a vast body of legislation has built up; this is commonly referred to as the "statute book". Legislation that has no further function has not always been effectively cleared away. This can make things more costly, in terms of time and money, for those who work with the law. Also, an Act that still appears to have legal significance may entice people to rely on it, for example, as is becoming more common, where a person without the aid of a lawyer brings or defends a court case on the basis of a statutory right they think they have.

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

Statute law repeals

This work is carried out by a dedicated team. Candidates for repeal are identified and researched. The legal background to an Act is examined, as

well as the historical and social circumstances which might have led to it. We consult on proposed repeals and then prepare a draft Bill. The repeals are carried out by means of Statute Law (Repeals) Bills. Nineteen of these Acts have been enacted so far, between them repealing over 3,000 Acts in their entirety and partially repealing thousands of others.

In future, our statute law repeals work is likely to narrow its focus. Work will concentrate on the repeal of Acts and provisions where it is most needed and where it brings the greatest benefit. Priority candidates for repeal will be dead law that creates a risk of misleading the broadest range of those who rely on the statute book, whether that is in a professional or private capacity.

For progress on our 20th Statute Law Repeals report and Bill, see p33.

Consolidation

Between its establishment in 1965 and 2006, the Law Commission was responsible for 220 consolidation Acts. Since then only two have been produced: the Charities Act 2011 and the Co-operative and Community Benefit Societies Act 2014. This change reflects the fact that, in a time of reduced funding in most areas of public services and, specifically, reduced core funding for the Law Commission, consolidation on the old-fashioned model can no longer be considered a priority.

However, the Commissioners take the view that the need for simplification of the law is as great as it ever has been. The pattern in future is likely to be codification rather than a simple consolidation in areas where statute law is incoherent or confusing and where codification would bring genuine practical benefits.

Work that is currently being undertaken by our criminal law team on important but technical provisions dealing with transitional arrangements in sentencing, will pave the way for a consolidation Bill to introduce a new Sentencing Code.

Implementation

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

Using this procedure ensures that the Bill takes up a minimum amount of Parliamentary time on the floor of each House and should always be enacted once introduced.

The Law Commission and Government

Government response to Law Commission reports

In March 2010 the Law Commission agreed a statutory Protocol⁴ with the Lord Chancellor that governs how the Commission and Government Departments should work together on law reform projects. The latter part of the Protocol sets out departmental responsibilities once we have published a report. The Minister for the relevant Department is expected to provide an interim response to us as soon as possible but not later than six months after publication of the report. We expect to receive a final response within a year of the report being published.

Improving the prospects of implementation

The Protocol also requires that, where the Law Commission is considering taking on a law reform project, the relevant Department will give an undertaking that there is a “serious intention” to take forward reform in that area of law. While this is not a guarantee that the Government will accept or implement our recommendations for reform, it enables us to commit resources to a project in the knowledge that we have a reasonable expectation of implementation.

Accounting to Parliament for implementation

The Law Commission Act 2009 requires the Lord Chancellor to report annually to Parliament on the extent to which the Law Commission’s proposals have been implemented by the Government. The report must set out the Government’s reasons for decisions taken during the year to accept or reject our proposals and give an indication of when decisions can be expected on recommendations that are still being considered. The Lord Chancellor issued the fifth of these reports on 13 March 2015.⁵

The Law Commission and the National Assembly for Wales

The Wales Act 2014 provides for a Protocol⁶ to be established between the Law Commission and the Welsh Government. This Protocol was agreed and presented to the National Assembly for Wales on 10 July 2015. It sets out the approach that we and Welsh Ministers jointly take to our law reform work. It covers how the relationship works throughout all the stages of a project, from our decision to take on a piece of work, through to the Ministers’ response to our final report and recommendations.

In a direct reflection of the obligations placed on the Lord Chancellor by the Law Commission Act 2009, the 2014 Act also requires Welsh Ministers to report annually to the Assembly about the implementation of our reports relating to Welsh devolved matters. The first Welsh Government Report on the Implementation of Law Commission Proposals/ Adroddiad ar weithredu cynigion Comisiwn y Gyfraith was laid before the Assembly on 16 February 2016.

In his introduction to the 2016 implementation report, the Rt Hon Carwyn Jones AM, First Minister of Wales, said: “The Welsh Government is committed to Welsh legislation that is consistent with the rule of law, is effective and is accessible to the ordinary citizen. The work of the Law Commission is a crucial component of this endeavour, and I am pleased that the Wales Act 2014 and the Protocol now place this on a statutory basis. This report demonstrates that

⁴ Protocol between the Lord Chancellor (on behalf of the Government) and the Law Commission (2010) LC321.

⁵ <https://www.gov.uk/government/collections/implementation-of-the-law-commission-proposals> (last visited 13 April 2016).

⁶ Protocol rhwng Gweinidogion Cymru a Comisiwn y Gyfraith/Protocol between the Welsh Ministers and the Law Commission (2015).

the Welsh Government is implementing the excellent work of the Law Commission.”

Informing debate and scrutiny

The Commission is often invited to give evidence to Special Committees to assist with their inquiries and their consideration of Bills, some of which may include provisions that have derived from Law Commission recommendations. During 2015–16 we gave evidence to two Special Committees.

Environment, Food and Rural Affairs Committee

Nicholas Paines QC, Law Commissioner for public law, was invited to attend the House of Commons Environment, Food and Rural Affairs Committee on 24 February 2016 to give a private briefing on our investigation of wildlife law and our recommendations for reform.

Justice Committee

On 2 March 2016 the Chairman, the Commissioner for criminal law Professor David Ormerod QC and the Chief Executive gave written and oral evidence to the Justice Committee.

The Committee Members, led by Chairman Robert Neil MP, asked for information on a wide range of topics, including where our law reform projects come from, how we carry them out and what happens to our recommendations. We talked about the importance we place on engaging with our many stakeholders and how we work with Government. We also discussed the impact of devolution on the Law Commission and the forthcoming consultation for our next programme of law reform.

This was a valuable and very welcome opportunity for the Law Commission to strengthen its relationship with the Justice Committee, and part of the discussion explored how we might take that relationship forward in the future.

The Law Commissioners

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

In accordance with Government policy for all non-departmental public bodies, there is a Code of Best Practice for Law Commissioners. It incorporates the Seven Principles of Public Life and covers matters such as the role and responsibilities of Commissioners.⁷

External relations

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 send us feedback on our consultation papers, contribute project ideas for our programmes of law reform, and provide input and expertise at all stages of the process of making recommendations to the Government.

It would not be possible in this annual report to thank individually everyone who provides us with guidance or offers us their views. We would, however, like to express our gratitude to all those organisations and individuals who have worked with us as members of advisory groups on our many projects and who have contributed in so many ways to our work during the course of the year.

We also acknowledge the support and interest shown in the Commission and its work by a number of Ministers, Members of Parliament and Peers from across the political spectrum and public officials. We continue to make progress in extending the number of ways in which we engage with our friends and supporters. Our website users can choose to receive email alerts when we open a consultation or publish a report; 4,000 new subscribers have signed up for the service this year, bringing the total to 10,824.

⁷ <http://www.lawcom.gov.uk/about/who-we-are>.

We also continue to find new ways to present our work and engage new audiences using social media. We showcase our projects using video via the Law Commission website as well as on our own YouTube channel.⁸ The videos which, together, have been viewed more than 9,000 times over the year, provide short, clear explanations of our work and, where relevant, set out what we are asking for from consultees. Among this year's videos are:

- a message from Professor David Ormerod QC setting out the aims of our consultation on firearms law and requesting responses;
- an explanation of the deprivation of liberty safeguards from Tim Spencer-Lane, the lawyer leading on our review of the safeguards, and an accompanying video of the Commissioner for public law, Nicholas Paines QC, asking for feedback on our provisional proposals for reform; and
- requests for responses to our consultations on event fees, consumer prepayments and land registration.

To mark our 50th anniversary in July 2015 we produced a short video showing some of the Law Commission's achievements over 50 years and the benefits that law reform has brought to families, individuals, organisations and society, including:

- The Care Act 2014 – introduced new duties based on individual well-being, helping to reduce the pressure on informal carers, and new protections against the abuse and neglect of disabled people.
- Family Law Act 1996 – provided protections for the 20 per cent of adults who experience domestic abuse, and made it easier for them to stay in their own homes.
- The Bribery Act 2010 – made tackling corruption more efficient and effective.
- The Children Act 1989 – placed children and their welfare at the heart of the law relating to young people.

We screened the video for the first time at our 50th anniversary Parliamentary reception on 16 July

2015 before an audience of Parliamentarians, senior judiciary, legal practitioners and long-term friends and supporters of the Commission. It can be seen on our website and on YouTube.

Our corporate Twitter account now has more than 9,500 followers,⁹ up from 7,600 last year. Our followers include legal practitioners, academics, students, librarians and journalists, as well as people and organisations who have a specific interest in our individual law reform projects. In December 2015 we launched a new Twitter account to help us engage with the stakeholders of our consumer law projects.¹⁰ The followers on this account include consumer advisory bodies and organisations representing older people and leaseholders.

To extend our audience reach, we also have active corporate accounts on LinkedIn, an online networking site for professionals, and Mootis, a social media platform dedicated to people and organisations with an interest in the legal sector.

Alumni

The Law Commission is keen to hear from our former colleagues. We were delighted to see many former Commissioners, Law Commission lawyers, research assistants and corporate staff at our anniversary event in July and very much appreciate their continued interest and support.

One of our 50th anniversary activities was to launch an alumni group on LinkedIn. We use the group to keep members up to date on our work and other Law Commission activities, and members can use it to keep in touch with each other. We would encourage all former colleagues to join.

Education and engagement

The Law Commission has a statutory duty to promote the reform of the law. To help us meet this obligation, we engaged in a number of education-related initiatives throughout the year.

⁸ <https://www.youtube.com/user/LawCommissionEandW>

⁹ @Law_Commission

¹⁰ @LawCom_Consumer

- To mark our 50th anniversary we set up a competition, inviting law school undergraduates to submit a proposal for law reform. Our aim was to engender a greater understanding of the process of law reform and how the Law Commission works among the next generation of legal practitioners. The winners were announced in February 2016, and we were delighted to welcome the winning team from the University of Sheffield to visit the Commission on 26 April 2016 to present their project to the Law Commissioners.
 - We hosted six delegates from the Public Administration International course on “Changing the Law: Successful Reform” on 13 October 2015, discussing with them the importance of law reform, the work of the Law Commission and how the Commission works with Government. The delegates included the Assistant Chief Law Reform Officer of the Malawi Law Commission, the Assistant Legislative Counsel from the Department of the Prime Minister of Papua New Guinea, the Senior State Counsel of Singapore, the Chairman of the Zanzibar Law Review Commission, the Chief Executive Officer of the Ugandan Law Development Centre and the Director of Research from the Law Reform Commission in Ireland.
 - We were pleased to welcome a group of undergraduate students from Rice University, Texas, on 4 March 2016 to what has become an annual event. The students, all of whom have recently completed semester-long internships with US Federal District Court judges or Texas State Appellate Court justices, come to us to learn about the role of law reform and the work of the Law Commission.
 - In July 2015 the Open University recorded an interview with Professor David Ormerod QC on the workings of the Law Commission to use in their second-level law course, Public Law and Criminal Law. They also introduced our video, *The Law Commission and Independence*,¹¹ to the library of materials used on this course.
 - We made a number of visits to university law schools during the year to engage students in the work of the Law Commission. In February 2016 we were pleased to be invited to talk to 25 first-year LLB students at Roehampton University’s newly opened law school, all of whom are expected to take a Law Reform module designed to enhance their understanding of law reform and law making.
 - In June 2015 the statute law repeals team hosted a seminar for Commonwealth drafters. This is also an annual event organised by arrangement with the Institute of Advanced Legal Studies and is designed to facilitate the understanding of overseas’ delegates about the law reform, Bill drafting, consolidation and statute law rationalisation functions delivered by the Law Commission.
 - We were pleased to once again be able to give support to the Big Voice project. The Big Voice is a volunteer-led youth project aimed at sixth formers interested in issues of legal identity and the process of law reform. We have contributed to their programme for a number of years, and were the inspiration behind the Big Voice Model Law Commission project. In November 2015, two of our lawyers, Spencer Clarke and Laura Burgoyne, our economist, Vindelyn Smith-Hillman, and our Head of External Relations, Phil Hodgson, took part in an evening session, offering advice and guidance to the students who were working on a series of law reform reports. The students presented their completed projects to a panel of Parliamentarians chaired by Mrs Justice Asplin on 16 December in Parliament’s Portcullis House, during which Law Commissioner Professor Nick Hopkins gave a talk on behalf of the Commission.
 - Twice during the year – in May and December – we conducted “lunch and learn” sessions offered by the Ministry of Justice Arm’s-length Body (ALB) Governance Division, giving a presentation to colleagues from across the Ministry on the work of the Commission and our current projects.
- We continue to seek out opportunities for reaching and engaging all those who are interested in law

¹¹ <http://www.lawcom.gov.uk/about/>

reform and the processes by which the law is improved, and we welcome approaches from within the UK and across the world.

Speaking on law reform

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.

- On 11 July 2015 our then Chairman, Sir David Lloyd Jones, the Commissioners and Chief Executive all gave presentations alongside our colleagues from Scotland at a conference staged to mark the 50th anniversary of both the Law Commission of England and Wales and the Scottish Law Commission. See the feature on p42-5 for more.
- As we have done for a number of years, the Law Commission contributed to the annual Legal Wales conference in Cardiff on 9 October 2015. Sir David Lloyd Jones chaired the plenary session, “Devolution in Scotland: New laws, new challenges, new judge-led reforms”, led by the Rt Hon Lady Clark of Calton, a former Chairman of the Scottish Law Commission. Sarah Young, a lawyer from our public law team, and research assistant Elin Hughes led a workshop session based on our project, The Form and Accessibility of the Law applicable in Wales.
- Nicholas Paines QC, Law Commissioner for public law, spoke about our review of the Deprivation of Liberty Safeguards at the Association of Directors of Adult Social Services spring conference in April 2015. He was invited to speak again on this subject in October at the Association for Real Change annual conference, Here and Now... inclusion and human rights for people with learning disabilities.
- In May 2015 Nicholas Paines was invited to speak about one of our first Wales-only projects, Planning Law in Wales, to an audience of experts in planning, development and the

related law at the Royal Town Planning Institute in Cardiff.

- Mr Paines was also invited by the Association of Electoral Administrators to speak to their conference on 29 February 2016 about our work to simplify UK electoral law and bring it up to date.
- On 28 January 2016 Professor Hopkins spoke to an audience of delegates from the charity sector about our project, Social Investment by Charities, at the Westminster Social Policy Forum Keynote Seminar: The Future for Charity Law, Funding and Social Investment.
- Professor Hopkins also delivered a paper on The Law Commission and Land Registration at the Modern Studies in Property Law conference on 6 April 2016.

As ever, there has been a great deal of interest in the work of our criminal law team, with Professor David Ormerod QC, Commissioner for criminal law, accepting a number of invitations to speak throughout the year.

- On 19 April 2016 Professor Ormerod gave the annual MacDermott Lecture at Queen’s University, Belfast, on The Rise and Fall of Joint Enterprise.¹² The Lecture is given in commemoration of Lord MacDermott, the former Attorney General and Lord Chief Justice of Northern Ireland.
- Professor Ormerod delivered the 2015 Politeia Lecture, Codifying Sentencing, on 19 October. His talk was part of the series of annual lectures, A Free Society under the Rule of Law, staged by Politeia and BPP University Law School. He also focused on our Sentencing Code project when invited to deliver the annual Suffolk and North Essex Law Society Lecture at Essex University Law School on 25 March 2016.
- Our report on Expert Evidence in Criminal Proceedings, published in March 2011, was the subject of three talks, with Professor Ormerod delivering a paper on Expert Evidence Reform at the International Advocacy Training Congress in Belfast on 19 April 2016, participating in a symposium on expert evidence at the

¹² <https://www.youtube.com/watch?v=nhMI6akmjWE>

University of Cambridge on 30 June 2015 and, in September, accepting an invitation to speak at the International Bar Conference at the Law Society in London.

- Other events during the year that focused on our criminal law projects were the launch, on 3 November 2015, of our Offences against the Person report at Bangor University in Wales; a talk on our Hate Crime report at the University of Liverpool's conference at the Albert Dock on 12 October 2015; and another on our Unfitness to Plead project, given on 4 December 2015 to the PDP annual conference on Secure Mental Health Services in the East of England.
- In October, Professor Ormerod was invited to speak on Developments in Criminal Law and Law Reform to the Service Prosecution Authority annual conference. On 5 December he delivered the keynote speech to the Criminal Bar Association Annual Conference, which also focused on Recent Developments in Criminal Law and, on 6 April 2016, he spoke on The Present and Future Work of the Law Commission Criminal Team at the Socio-Legal Scholars Association Annual Conference at Lancaster University.

Social responsibility

Every year a team of legal and other staff from the Commission joins members of the judiciary and teams from many of London's law firms and sets of chambers in the annual London Legal Walk. In 2015 the team raised more than £800 for the London Legal Support Trust, which organises the event. The funds go to support free legal advice agencies in and around London, including Law Centres and pro bono advice surgeries.

Staff at the Commission have come together to raise funds for other causes during the year, in a variety of ways.

We raised almost £300 on Wear it Pink day, Breast Cancer Now's flagship fundraising event. Staff at the Commission joined in with great enthusiasm,

sponsoring colleagues to wear something pink, baking and selling cakes (also pink) and buying raffle tickets.

Our Christmas raffle raised over £60 for Crisis and our brave, if ultimately unsuccessful, participation in the Great Legal Quiz raised £155. Half the money raised was donated to the London Legal Support Trust; the other half, to Toynbee Hall, a charity based in the East End of London providing access to free advice and support to some of the UK's most deprived communities.

International

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

- We have had a number of opportunities this year to share our experience of law reform with the legal community in China. In December 2015 our Chairman Sir David Bean was invited to give a lecture on the work of the Law Commission at a workshop on transparency in the preparation of legislation in Shenzhen. In November, Professor David Ormerod QC, Commissioner for criminal law, was invited to speak at the Rule of Law Conference at Hong Kong University, which is jointly hosted by University College London, Peking University and The University of Hong Kong. In January 2016 we were pleased to welcome Russell Coleman, Chairman of the Sub-committee on Access to Information of the Hong Kong Law Reform Commission, who met Nicholas Paines QC, Commissioner for public law.
- In December 2015 Professor David Ormerod QC and our Head of External Relations, Phil Hodgson, hosted a group of 13 Members of the Regional Representatives Council of the Indonesian Parliament. The aim of their visit to the Law Commission was to inform the work currently underway in Indonesia to eliminate corruption by strengthening the country's laws and regulations.

- On 16 March 2016 we were visited by delegates from the Norwegian Law Commission who met Professor Ormerod QC and Karl Laird, a lawyer from our criminal law team, to talk about law reform and criminal procedure.
- Eljona Bylykbashi, a lawyer from Albania, spent a week with us in February, as part of the Foreign and Commonwealth Office training programme, Professional Development for the Western Balkans: Leaders for the Future. She met colleagues from each of the law teams as well as our economist and members of the corporate team.

On 3 June 2015 we published, jointly with the Scottish Law Commission, the Twentieth Statute Law Repeals report,¹⁴ proposing that 200 old laws should be repealed.

Our partner law commissions and the devolved authorities

For two days in June 2015 the Chairman, Commissioners and Chief Executive welcomed colleagues from the five law reform bodies of England and Wales, Jersey, Northern Ireland, the Republic of Ireland and Scotland. This is an annual event that allows us to exchange experiences and strengthen our relationships.

During the year we have worked closely with our colleagues in the Scottish Law Commission on a number of law reform projects.

On 4 February 2016 the Law Commissions of England and Wales, Scotland and Northern Ireland published an interim report outlining the public response to our joint consultation on electoral law and making recommendations for reform.¹³ (see p00).

Statute Law (Repeals) Acts extend throughout the UK and we liaise regularly on our repeal proposals with the authorities in Wales, specifically the Office of the Secretary of State for Wales and the Counsel General to the National Assembly for Wales, and in Northern Ireland. Their help and support in considering and responding to the repeal proposals is much appreciated.

¹³ Electoral Law: Interim Report (2016).

¹⁴ (2015) LC357/SLC243.

PART FIVE

Our people and corporate matters

“

The Law Commission believes that a modern law of marriage should allow couples to get married in the way they want and in a place that is meaningful to them, while continuing to recognise the interests of society and the state in protecting the status of marriage.

“The law of marriage in England and Wales is now out of date, inconsistent and overly restrictive. Our modern society deserves a clearer set of rules that gives all couples greater choice and certainty, while providing protection from the abuses involved in sham and forced marriage.”

”

Professor Nick Hopkins, Law Commissioner for property, family and trust law, on the publication of *Getting Married: A Scoping Paper*, 17 December 2015. See p25.

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

Staff at the Commission

On 31 March 2016 there were 56 people working at the Law Commission (the full-time equivalent of 53.7).¹

Figure 5.1 People working at the Commission (full-time equivalent, at 31 March 2016)

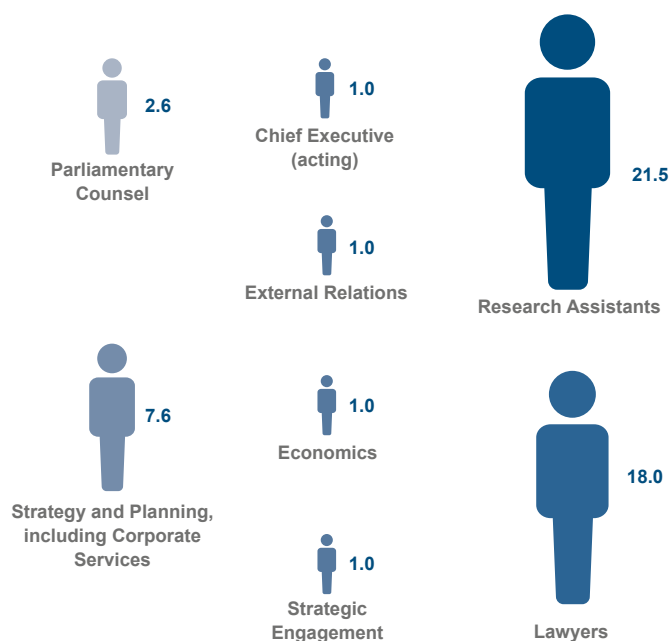
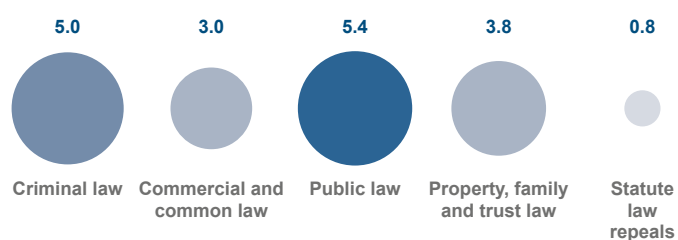


Figure 5.2 Team lawyers (full-time equivalent, at 31 March 2016)



Chief Executive

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

The Chief Executive provides advice and assistance to the Chairman and other Commissioners. Key to this is her support of the Chairman in his relationships with Ministers, the Senior Judiciary, relevant Parliamentary Committees, the media and outside interests.

Legal staff

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

The Commission organises the legal staff into five teams to support the Commissioners: commercial and common law; criminal law; property, family and trust law; public law; and statute law repeals.

The first four teams undertake law reform work, each with one Commissioner responsible for the work of the team. Each of these four teams is led by a Team Manager, a senior lawyer who provides direct support to the relevant Commissioner and leads the team of lawyers and research assistants working with the Commissioner to deliver their projects. Team Managers generally do not lead on specific law reform projects themselves, their role focuses on project-managing the team's work, providing legal and policy input into those projects, recruiting, mentoring and managing staff and working with the Chief Executive on corporate matters. The Team Managers also lead on relationships with key stakeholders inside and

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

outside Government for the projects in their area. Team Managers report to the Chief Executive.

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

The statute law repeals team is also headed by a Team Manager lawyer. Historically, the Chairman has taken overall responsibility for the work of that team.

The Commission is fortunate to have in-house Parliamentary Counsel who prepare the draft Bills attached to the law reform reports, and who are seconded to the Law Commission from the Office of the Parliamentary Counsel. We are very grateful to them all for their expertise and hard work.

Research assistants

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.

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

The selection process is extremely thorough and we aim to attract a diverse range of candidates of the highest calibre through contact with faculty careers advisers, as well as through our website and social media channels, and by placing articles in the relevant media.

In 2015–16 we recruited 15 research assistants through this process.

The Commission recognises the contribution our research assistants make, particularly through their

enthusiastic commitment to the work of law reform and their lively participation in debate.

Economic and analytical services

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

External relations

The Commission also has an in-house communication professional who provides strategic direction on all communication issues for the Commission and supports our work through managing and developing our website, social media accounts, stakeholder relations and events, and handling our media relations.

Parliamentary engagement

The Commission remains keen to strengthen its links with Parliamentarians and has made progress in doing so over the last year. We are very grateful to those Members who sit on Committees in support of our special procedure, who supported us at our 50th anniversary events and who contribute to our consultations as stakeholders.

We had an opportunity in June 2015 to meet the Clerks of the Commons Committee Office at their Friday Afternoon Group. We gave a talk on the work of the Law Commission and our existing relationship with Parliament. We also discussed the ways in which we would like to contribute in future to the Committee process through giving evidence on matters concerning the Commission and our projects.

Two of our 50th anniversary events took us to Parliament. In July we held a reception in the Terrace Pavilion of the Houses of Parliament, welcoming 180 guests to an evening celebration of 50 years of the Law Commission. Later in the year, we staged an

exhibition in Parliament's Upper Waiting Hall, giving Parliamentarians an opportunity to find out about some of our achievements and hear about our current work. For more on our 50th anniversary, see p42-5.

Corporate services and strategic planning

There is a small corporate services and planning team that supports the work of the Law Commission through ensuring effective corporate service provision including in relation to:

- governance;
- risk;
- performance management;
- human resources;
- information technology;
- financial management;
- internal communications;
- publishing;
- knowledge and records management;
- information assurance;
- health and safety;
- business continuity; and
- secretarial support to the Chief Executive and Commissioners.

The team delivers on these areas either through the direct provision of services, such as internal communications, or by providing a bridge between the Commission and the MoJ and/or Shared Services, for example in regards to human resources.

The team also has working-level responsibility for managing the relationships with key partners in the Ministry of Justice. This includes the sponsorship team who are the primary contact with the Law Commission in the Ministry of Justice and act as an advocate for the Commission within the Ministry and with other Departments, as set out in the Framework Document agreed between the Law Commission and the MoJ (see p9).

Working at the Commission

The equality and diversity statement published on our website sets out our commitment to respect

and value all facets of diversity and strive to give our people equality of opportunity and equality of outcome.³

Staff engagement

The results of the annual People Survey show the Law Commission with an engagement index of 75 per cent for 2015. This figure is not as high as in previous years and most likely reflects, among other factors, the uncertain environment in which all Government Departments and arm's-length bodies currently find themselves. Nonetheless, it still places the Commission as a high-performing organisation compared with other organisations of a similar size within the Civil Service.

Building on the 2015 staff engagement survey we set up a focus group with people taken from across the Commission to generate ideas on how we could enhance the friendly working atmosphere and create more opportunities for colleagues to get to know each other. A number of ideas were put forward, including lunchtime language lessons, a walking group and yoga classes, which we began early in 2016. The sessions are run by one of our team-manager lawyers who is a trained yoga instructor.

To help our staff maintain a good work/life balance, we also offer a wide variety of flexible working arrangements such as home-working, part-time and compressed hours.

In December 2015 we held a staff event, spending half a day out of the office in Westminster Conference Centre, using rooms kindly loaned to us by the Department for Business, Innovation and Skills. This time away from our desks allowed us to come together as an organisation to explore our priorities, talk about our experiences throughout the year and celebrate our achievements.

During the day, the Chairman led an "ask the panel" discussion, giving staff from across the Commission an opportunity to present questions on any topic to any one of the Commissioners. Staff also had an opportunity to meet Sir David Bell, our new

² Shared Services is a key element of the Civil Service Reform Plan. Its purpose is to enable core services such as HR, finance, procurement and payroll to be shared in order to deliver efficiencies and savings.

³ <http://www.lawcom.gov.uk/working-for-the-law-commission/>

non-executive Board member. Sir David told us about his previous experience of working in Whitehall, his thoughts about the Law Commission and why he decided to join the Board. See a profile of Sir David on p8.

We were fortunate to be joined at our awayday by leading legal commentator, Joshua Rozenberg QC. Mr Rozenberg gave us an insight into how the Law Commission is seen by the legal media and the wider legal world, and offered us a perspective on what we might do to increase our impact and reach, and make ourselves better understood. We are very grateful to him.

Investing in our people

The Law Commission is keen to invest in the continuing professional development of all our staff. In addition to providing access to formal training, we run a series of lunchtime seminars throughout the year.

We invite contributors from the legal, Parliamentary and academic worlds, as well as asking our colleagues within the Commission to share their considerable expertise.

- 11 November 2015, our new Law Commissioner for property, family and trust law, Professor Nick Hopkins, gave an informal talk on his work researching and teaching property law, his thoughts on the Law Commission and why he decided to become a Law Commissioner.
- 5 January 2016, Kate McKenzie-Bridle, a Senior Legal and Policy Adviser from the New Zealand Law Commission came to tell us about some of the law reform projects she and her colleagues were working on and compare notes on our experiences of law reform.
- 28 January 2016, Laura Burgoyne, a lawyer from our commercial and common law team, gave a presentation to staff about the Parliamentary procedure for non-controversial Law Commission Bills and her experience of

working with the HM Treasury Bill team to guide the Insurance Bill through the procedure.

Whistleblowing

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

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

Freedom of Information

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

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

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

Information assurance

In 2015–16 we reported a total of five notifiable incidents: the loss of one BlackBerry mobile phone, three RSA tokens and one Becrypt token, which are used for the secure operation of Law Commission laptops. None of these incidents involved any loss of data.⁴

Health and safety

An audit conducted in July 2015 recommended that we make some improvements to our health-and-safety governance, performance and training.

We have established a Health and Safety Committee, which meets quarterly to ensure that we have processes in place in order to promote the health and safety of our staff by monitoring and updating our guidance and ensuring our workplace is managed safely and appropriately.

Sustainability

Our actions in relation to energy saving contribute to the overall reduction in consumption across the Ministry of Justice estate.

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

⁴ <http://www.lawcom.gov.uk/about/freedom-of-information/>



David Bean



N.P. Halls



Stephen Lewis



David Ormerod



Nicholas Paines



David Bell

Sir David Bean, Chairman
 Professor Nick Hopkins, Law Commissioner
 Stephen Lewis, Law Commissioner
 Professor David Ormerod QC, Law Commissioner
 Nicholas Paines QC, Law Commissioner
 Sir David Bell KCB, Non-executive Board Member
 7 June 2016

Elaine Lorimer, Chief Executive
 (to 14 March 2016)



Elaine Lorimer

APPENDICES

“ The Deprivation of Liberty Safeguards have been called ‘not fit for purpose’. The reforms we are provisionally proposing would sweep away the Safeguards and establish a new purpose for protective care – to provide appropriate care and better outcomes for disabled and older people and their families. ”

Nicholas Paines QC, Law Commissioner for public law, opening the Mental Capacity and Deprivation of Liberty consultation, 7 July 2015. See p30.

Appendix A

Implementation status of Law Commission law reform reports

LC No	Title	Status	Related Measures
	2016		
364	Unfitness to Plead	Pending	
	2015		
363	Firearms Law – Reforms to Address Pressing Problems	Accepted	Policing and Crime Bill (Part 6)
362	Wildlife Law	Pending	
361	Reform of Offences against the Person (HC 555)	Pending	
360	Patents, Trade Marks and Designs: Unjustified Threats	Accepted	Awaiting introduction of Bill
358	Simplification of Criminal Law: Public Nuisance and Outraging Public Decency	Pending	
	2014		
356	Rights to Light (HC 796)	Pending	
355	Simplification of Criminal Law: Kidnapping and Related Offences	Pending	
353	Insurance Contract Law (Cm 8898;SG/2014/131)	Implemented	Insurance Act 2015; Enterprise Act 2016
351	Data Sharing between Public Bodies: A Scoping Report	Pending	
350	Fiduciary Duties of Investment Intermediaries (HC 368)	Pending	
349	Conservation Covenants (HC 322)	Pending	
348	Hate Crime: Should the Current Offences be Extended? (Cm 8865)	Pending	
347	Taxi and Private Hire Services (Cm 8864)	Pending	
346	Patents, Trade Marks and Design Rights: Groundless Threats (Cm 8851)	Pending	Superseded by LC360
345	Regulation of Health Care Professionals: Regulation of Social Care Professionals in England (Cm 8839 / SG/2014/26 / NILC 18 (2014))	Pending	
344	Contempt of Court (2): Court Reporting (HC 1162)	Pending	
	2013		
343	Matrimonial Property, Needs and Agreements (HC 1039)	Accepted in part; pending in part	
	2014		
342	Wildlife Law: Control of Invasive Non-native Species (HC 1039)	Implemented	Infrastructure Act 2015

LC No	Title	Status	Related Measures
	2013		
340	Contempt of Court (1): Juror Misconduct and Internet Publications (HC 860)	Implemented	Criminal Justice and Courts Act 2015
339	Level Crossings (Cm 8711)	Pending	
337	Renting Homes in Wales/Rhentu Cartrefi yng Nghymru (Cm 8578)	Accepted by the Welsh Government; Renting Homes (Wales) Bill introduced into Welsh Assembly on 9 February 2015	
336	The Electronic Communications Code (HC 1004)	Pending	
	2012		
335	Contempt of Court: Scandalising the Court (HC 839)	Implemented	Crime and Courts Act 2013 (s33)
332	Consumer Redress for Misleading and Aggressive Practices (Cm 8323)	Implemented	Consumer Protection (Amendment) Regulations 2014; Consumer Rights Act 2015
	2011		
331	Intestacy and Family Provision Claims on Death (HC 1674)	Implemented in part	Inheritance and Trustees' Powers Act 2014
329	Public Service Ombudsmen (HC 1136)	Pending	
327	Making Land Work: Easements, Covenants and Profits à Prendre (HC 1067)	Pending	
326	Adult Social Care (HC 941)	Implemented	Care Act 2014 and Social Services and Well-Being (Wales) Act 2014
325	Expert Evidence in Criminal Proceedings in England and Wales (HC 829)	Implemented	Criminal Procedure Rules
	2010		
324	The High Court's Jurisdiction in Relation to Criminal Proceedings (HC 329)	Pending	
322	Administrative Redress: Public Bodies and the Citizen (HC 6)	Pending	
320	The Illegality Defence (HC 412)	Rejected	
	2009		
319	Consumer Insurance Law: Pre-Contract Disclosure and Misrepresentation (Cm 7758)	Implemented	Consumer Insurance (Disclosure and Representation) Act 2012 (c6)
318	Conspiracy and Attempts (HC 41)	Accepted but will not be implemented	
317	Consumer Remedies for Faulty Goods (Cm 7725)	Implemented	Consumer Rights Act 2015
315	Capital and Income in Trusts: Classification and Apportionment (HC 426)	Implemented	Trusts (Capital and Income) Act 2013
314	Intoxication and Criminal Liability (Cm 7526)	Rejected	
	2008		
313	Reforming Bribery (HC 928)	Implemented	Bribery Act 2010 (c23)
312	Housing: Encouraging Responsible Letting (Cm 7456)	Rejected	

LC No	Title	Status	Related Measures
309	Housing: Proportionate Dispute Resolution (Cm 7377)	Accepted in part	
	2007		
307	Cohabitation: The Financial Consequences of Relationship Breakdown (Cm 7182)	Pending	
305	Participating in Crime (Cm 7084)	Pending	
	2006		
304	Murder, Manslaughter and Infanticide (HC 30)	Implemented in part	Coroners and Justice Act 2009 (c25)
303	Termination of Tenancies (Cm 6946)	Pending	
302	Post-Legislative Scrutiny (Cm 6945)	Implemented	See Post-Legislative Scrutiny: The Government's Approach (2008) Cm 7320
301	Trustee Exemption Clauses (Cm 6874)	Implemented	See Written Answer, Hansard (HC), 14 September 2010, vol 515, col 38WS
300	Inchoate Liability for Assisting and Encouraging Crime (Cm 6878)	Implemented	Serious Crime Act 2007 (c27)
297	Renting Homes: The Final Report (Cm 6781)	Rejected for England, Accepted in principle for Wales	
	2005		
296	Company Security Interests (Cm 6654)	Pending	
295	The Forfeiture Rule and the Law of Succession (Cm 6625)	Implemented	Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Act 2011
292	Unfair Terms in Contracts (SLC 199) (Cm 6464; SE/2005/13)	Implemented	Consumer Rights Act 2015
	2004		
291	Towards a Compulsory Purchase Code: (2) Procedure (Cm 6406)	Accepted but will not be implemented	
290	Partial Defences to Murder (Cm 6301)	Implemented	Coroners and Justice Act 2009 (c25)
	2006		
288	In the Public Interest: Publication of Local Authority Inquiry Reports (Cm 6274)	Accepted but will not be implemented	
	2004		
287	Pre-judgment Interest on Debts and Damages (HC 295)	Rejected	
	2003		
286	Towards a Compulsory Purchase Code: (1) Compensation (Cm 6071)	Accepted but will not be implemented	
284	Renting Homes (Cm 6018)	Superseded	See LC 297
283	Partnership Law (SLC192) (Cm 6015; SE/2003/299)	Implemented in part; Accepted in part; Rejected in part	The Legislative Reform (Limited Partnerships) Order 2009
282	Children: Their Non-accidental Death or Serious Injury (Criminal Trials) (HC 1054)	Implemented	Domestic Violence, Crime and Victims Act 2004 (c28)
281	Land, Valuation and Housing Tribunals: The Future (Cm 5948)	Rejected	

LC No	Title	Status	Related Measures
	2002		
277	The Effective Prosecution of Multiple Offending (Cm 5609)	Implemented	Domestic Violence, Crime and Victims Act 2004 (c28)
276	Fraud (Cm 5560)	Implemented in part	Fraud Act 2006 (c35)
	2001		
273	Evidence of Bad Character in Criminal Proceedings (Cm 5257)	Implemented	Criminal Justice Act 2003 (c44)
272	Third Parties – Rights against Insurers (SLC 184) (Cm 5217)	Implemented	Third Parties (Rights Against Insurers) Act 2010 (c10); Third Parties (Rights against Insurers) Regulations 2016
271	Land Registration for the Twenty-First Century (jointly with HM Land Registry) (HC 114)	Implemented	Land Registration Act 2002 (c9)
270	Limitation of Actions (HC 23)	Rejected	
269	Bail and the Human Rights Act 1998 (HC 7)	Implemented	Criminal Justice Act 2003 (c44)
267	Double Jeopardy and Prosecution Appeals (Cm 5048)	Implemented	Criminal Justice Act 2003 (c44)
	1999		
263	Claims for Wrongful Death (HC 807)	Rejected	
262	Damages for Personal Injury: Medical and Nursing Expenses (HC 806)	Rejected	
261	Company Directors: Regulating Conflicts of Interests (SLC 173) (Cm 4436; SE/1999/25)	Implemented	Companies Act 2006 (c46)
260	Trustees' Powers and Duties (SLC 172) (HC 538; SE2)	Implemented	Trustee Act 2000 (c29)
257	Damages for Personal Injury: Non-Pecuniary Loss (HC 344)	Implemented in part	See Heil v Rankin [2000] 3 WLR 117
	1998		
255	Consents to Prosecution (HC 1085)	Accepted (Advisory only, no draft Bill)	
253	Execution of Deeds and Documents (Cm 4026)	Implemented	Regulatory Reform (Execution of Deeds and Documents) Order 2005
251	The Rules against Perpetuities and Excessive Accumulations (HC 579)	Implemented	Perpetuities and Accumulations Act 2009 (c18)
249	Liability for Psychiatric Illness (HC 525)	Rejected	
248	Corruption (HC 524)	Superseded	See LC 313
	1997		
247	Aggravated, Exemplary and Restitutionary Damages (HC 346)	Rejected	
246	Shareholder Remedies (Cm 3759)	Implemented	Companies Act 2006 (c46)
245	Evidence in Criminal Proceedings: Hearsay (Cm 3670)	Implemented	Criminal Justice Act 2003 (c44)
	1996		
243	Money Transfers (HC 690)	Implemented	Theft (Amendment) Act 1996 (c62)

LC No	Title	Status	Related Measures
242	Contracts for the Benefit of Third Parties (Cm 3329)	Implemented	Contracts (Rights of Third Parties) Act 1999 (c31)
238	Responsibility for State and Condition of Property (HC 236)	Accepted in part but will not be implemented; Rejected in part	
237	Involuntary Manslaughter (HC 171)	Implemented in part	Corporate Manslaughter and Corporate Homicide Act 2007 (c19); see LC 304
	1995		
236	Fiduciary Duties and Regulatory Rules (Cm 3049)	Rejected	
235	Land Registration: First Joint Report with HM Land Registry (Cm 2950)	Implemented	Land Registration Act 1997 (c2)
231	Mental Incapacity (HC 189)	Implemented	Mental Capacity Act 2005 (c9)
230	The Year and a Day Rule in Homicide (HC 183)	Implemented	Law Reform (Year and a Day Rule) Act 1996 (c19)
229	Intoxication and Criminal Liability (HC 153)	Superseded	See LC 314
	1994		
228	Conspiracy to Defraud (HC 11)	Implemented	Theft (Amendment) Act 1996 (c62)
227	Restitution: Mistakes of Law (Cm 2731)	Implemented in part	See <i>Kleinwort Benson v Lincoln City Council</i> [1999] 2 AC 349
226	Judicial Review (HC 669)	Implemented in part	Housing Act 1996 (c52); Access to Justice Act 1999 (c22); Tribunals, Courts and Enforcement Act 2007 (c15)
224	Structured Settlements (Cm 2646)	Implemented	Finance Act 1995 (c4); Civil Evidence Act 1995 (c38); Damages Act 1996 (c48)
222	Binding Over (Cm 2439)	Implemented in part	In March 2007, the President of the Queen's Bench Division issued a Practice Direction
221	Termination of Tenancies (HC 135)	Superseded	See LC 303
220	Delegation by Individual Trustees (HC 110)	Implemented	Trustee Delegation Act 1999 (c15)
	1993		
219	Contributory Negligence as a Defence in Contract (HC 9)	Rejected	
218	Legislating the Criminal Code: Offences against the Person and General Principles (Cm 2370)	Implemented in part	Domestic Violence Crime and Victims Act 2004 (c28)
217	Effect of Divorce on Wills (Cm 2322)	Implemented	Law Reform (Succession) Act 1995 (c41)
216	The Hearsay Rule in Civil Proceedings (Cm 2321)	Implemented	Civil Evidence Act 1995 (c38)
215	Sale of Goods Forming Part of a Bulk (SLC 145) (HC 807)	Implemented	Sale of Goods (Amendment) Act 1995 (c28)
	1992		
208	Business Tenancies (HC 224)	Implemented	Regulatory Reform (Business Tenancies) (England and Wales) Order 2003

LC No	Title	Status	Related Measures
207	Domestic Violence and Occupation of the Family Home (HC 1)	Implemented	Family Law Act 1996 (c27), Part IV
205	Rape within Marriage (HC 167)	Implemented	Criminal Justice and Public Order Act 1994 (c33)
	1991		
204	Land Mortgages (HC 5)	Rejected	
202	Corroboration of Evidence in Criminal Trials (Cm 1620)	Implemented	Criminal Justice and Public Order Act 1994 (c33)
201	Obsolete Restrictive Covenants (HC 546)	Rejected	
199	Transfer of Land: Implied Covenants for Title (HC 437)	Implemented	Law of Property (Miscellaneous Provisions) Act 1994 (c36)
196	Rights of Suit: Carriage of Goods by Sea (SLC 130) (HC 250)	Implemented	Carriage of Goods by Sea Act 1992 (c50)
194	Distress for Rent (HC 138)	Implemented in part	Tribunals, Courts and Enforcement Act 2007 (c15), Part III (enacted, but not yet brought into force)
	1990		
193	Private International Law: Choice of Law in Tort and Delict (SLC 129) (HC 65)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)
192	Family Law: The Ground for Divorce (HC 636)	Implemented	Family Law Act 1996 (c27), Part II (enacted, but never brought into force)
	1989		
188	Overreaching: Beneficiaries in Occupation (HC 61)	Implemented in part	Trusts of Land and Appointment of Trustees Act 1996 (c47)
187	Distribution on Intestacy (HC 60)	Implemented in part	Law Reform (Succession) Act 1995 (c41)
186	Computer Misuse (Cm 819)	Implemented	Computer Misuse Act 1990 (c18)
184	Title on Death (Cm 777)	Implemented	Law of Property (Miscellaneous Provisions) Act 1994 (c36)
181	Trusts of Land (HC 391)	Implemented	Trusts of Land and Appointment of Trustees Act 1996 (c47)
180	Jurisdiction over Offences of Fraud and Dishonesty with a Foreign Element (HC 318)	Implemented	Criminal Justice Act 1993 (c36), Part I
178	Compensation for Tenants' Improvements (HC 291)	Rejected	
177	Criminal Law: A Criminal Code (2 vols) (HC 299)	Superseded	Superseded by the criminal law simplification project: see Tenth Programme.
	1988		
175	Matrimonial Property (HC 9)	Rejected	
174	Landlord and Tenant: Privity of Contract and Estate (HC 8)	Implemented	Landlord and Tenant (Covenants) Act 1995 (c30)
173	Property Law: Fourth Report on Land Registration (HC 680)	Superseded	See LC 235

LC No	Title	Status	Related Measures
172	Review of Child Law: Guardianship (HC 594)	Implemented	Children Act 1989 (c41)
	1987		
168	Private International Law: Law of Domicile (SLC 107) (Cm 200)	Rejected	
166	Transfer of Land: The Rule in Bain v Fothergill (Cm 192)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
165	Private International Law: Choice of Law Rules in Marriage (SLC 105) (HC 3)	Implemented	Foreign Marriage (Amendment) Act 1988 (c44)
164	Formalities for Contracts for Sale of Land (HC 2)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
163	Deeds and Escrows (HC 1)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
161	Leasehold Conveyancing (HC 360)	Implemented	Landlord and Tenant Act 1988 (c26)
160	Sale and Supply of Goods (SLC 104) (Cm 137)	Implemented	Sale and Supply of Goods Act 1994 (c35)
	1986		
157	Family Law: Illegitimacy (Second Report) (Cmnd 9913)	Implemented	Family Law Reform Act 1987 (c42)
	1985		
152	Liability for Chancel Repairs (HC 39)	Rejected	
151	Rights of Access to Neighbouring Land (Cmnd 9692)	Implemented	Access to Neighbouring Land Act 1992 (c23)
149	Criminal Law: Report on Criminal Libel (Cmnd 9618)	Rejected	
148	Property Law: Second Report on Land Registration (HC 551)	Implemented	Land Registration Act 1988 (c3)
147	Criminal Law: Poison Pen Letters (HC 519)	Implemented	Malicious Communications Act 1988 (c27)
146	Private International Law: Polygamous Marriages (SLC 96) (Cmnd 9595)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)
145	Criminal Law: Offences against Religion and Public Worship (HC 442)	Implemented	Criminal Justice and Immigration Act 2008 (c4)
143	Criminal Law: Codification of the Criminal Law: A Report to the Law Commission (HC 270)	Superseded	See LC 177
142	Forfeiture of Tenancies (HC 279)	Rejected	
141	Covenants Restricting Dispositions, Alterations and Change of User (HC 278)	Implemented in part	Landlord and Tenant Act 1988 (c26)
138	Family Law: Conflicts of Jurisdiction (SLC 91) (Cmnd 9419)	Implemented	Family Law Act 1986 (c55), Part I
	1984		
137	Private International Law: Recognition of Foreign Nullity Decrees (SLC 88) (Cmnd 9347)	Implemented	Family Law Act 1986 (c55), Part II
134	Law of Contract: Minors' Contracts (HC 494)	Implemented	Minors' Contracts Act 1987 (c13)

LC No	Title	Status	Related Measures
132	Family Law: Declarations in Family Matters (HC 263)	Implemented	Family Law Act 1986 (c55), Part III
127	Transfer of Land: The Law of Positive and Restrictive Covenants (HC 201)	Rejected	
	1983		
125	Property Law: Land Registration (HC 86)	Implemented	Land Registration Act 1986 (c26)
124	Private International Law: Foreign Money Liabilities (Cmnd 9064)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)
123	Criminal Law: Offences relating to Public Order (HC 85)	Implemented	Public Order Act 1986 (c64)
122	The Incapacitated Principal (Cmnd 8977)	Implemented	Enduring Powers of Attorney Act 1985 (c29)
121	Law of Contract: Pecuniary Restitution on Breach of Contract (HC 34)	Rejected	
	1982		
118	Family Law: Illegitimacy (HC 98)	Implemented	Family Law Reform Act 1987 (c42)
117	Family Law: Financial Relief after Foreign Divorce (HC 514)	Implemented	Matrimonial and Family Proceedings Act 1984 (c42)
116	Family Law: Time Restrictions on Presentation of Divorce and Nullity Petitions (HC 513)	Implemented	Matrimonial and Family Proceedings Act 1984 (c42)
114	Classification of Limitation in Private International Law (Cmnd 8570)	Implemented	Foreign Limitation Periods Act 1984 (c16)
114	Property Law: The Implications of Williams and Glynns Bank Ltd v Boland (Cmnd 8636)	Superseded	See City of London Building Society v Flegg [1988] AC 54
	1981		
112	Family Law: The Financial Consequences of Divorce (HC 68)	Implemented	Matrimonial and Family Proceedings Act 1984 (c42)
111	Property Law: Rights of Reverter (Cmnd 8410)	Implemented	Reverter of Sites Act 1987 (c15)
110	Breach of Confidence (Cmnd 8388)	Rejected	
	1980		
104	Insurance Law: Non-Disclosure and Breach of Warranty (Cmnd 8064)	Rejected	
102	Criminal Law: Attempt and Impossibility in Relation to Attempt, Conspiracy and Incitement (HC 646)	Implemented	Criminal Attempts Act 1981 (c47)
99	Family Law: Orders for Sale of Property under the Matrimonial Causes Act 1973 (HC 369)	Implemented	Matrimonial Homes and Property Act 1981 (c24)
	1978		
96	Criminal Law: Offences Relating to Interference with the Course of Justice (HC 213)	Rejected	
95	Law of Contract: Implied Terms in Contracts for the Sale and Supply of Goods (HC 142)	Implemented	Supply of Goods and Services Act 1982 (c29)
91	Criminal Law: Report on the Territorial and Extra-Territorial Extent of the Criminal Law (HC 75)	Implemented in part	Territorial Sea Act 1987 (c49)
89	Criminal Law: Report on the Mental Element in Crime (HC 499)	Rejected	

LC No	Title	Status	Related Measures
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
86	Family Law: Third Report on Family Property: The Matrimonial Home (Co-ownership and Occupation Rights) and Household Goods (HC 450)	Implemented	Housing Act 1980 (c51); Matrimonial Homes and Property Act 1981 (c24)
	1977		
83	Criminal Law: Report on Defences of General Application (HC 566)	Rejected	
82	Liability for Defective Products: Report by the two Commissions (SLC 45) (Cmnd 6831)	Implemented	Consumer Protection Act 1987 (c43)
79	Law of Contract: Report on Contribution (HC 181)	Implemented	Civil Liability (Contribution) Act 1978 (c47)
	1976		
77	Family Law: Report on Matrimonial Proceedings in Magistrates' Courts (HC 637)	Implemented	Domestic Proceedings and Magistrates' Courts Act 1978 (c22)
76	Criminal Law: Report on Conspiracy and Criminal Law Reform (HC 176)	Implemented in part	Criminal Law Act 1977 (c45)
75	Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability (Cmnd 6428)	Implemented	Occupiers' Liability Act 1984 (c3)
74	Charging Orders (Cmnd 6412)	Implemented	Charging Orders Act 1979 (c53)
73	Report on Remedies in Administrative Law (Cmnd 6407)	Implemented	Rules of Supreme Court (Amendment No 3) 1977; Supreme Court Act 1981 (c54)
	1975		
69	Exemption Clauses: Second Report by the two Law Commissions (SLC 39) (HC 605)	Implemented	Unfair Contract Terms Act 1977 (c50)
68	Transfer of Land: Report on Rentcharges (HC 602)	Implemented	Rentcharges Act 1977 (c30)
67	Codification of the Law of Landlord and Tenant: Report on Obligations of Landlords and Tenants (HC 377)	Rejected	
	1974		
62	Transfer of Land: Report on Local Land Charges (HC 71)	Implemented	Local Land Charges Act 1975 (c76)
61	Family Law: Second Report on Family Property: Family Provision on Death (HC 324)	Implemented	Inheritance (Provision for Family and Dependants) Act 1975 (c63)
60	Report on Injuries to Unborn Children (Cmnd 5709)	Implemented	Congenital Disabilities (Civil Liability) Act 1976 (c28)
	1973		
56	Report on Personal Injury Litigation: Assessment of Administration of Damages (HC 373)	Implemented	Administration of Justice Act 1982 (c53)
55	Criminal Law: Report on Forgery and Counterfeit Currency (HC 320)	Implemented	Forgery and Counterfeiting Act 1981 (c45)
53	Family Law: Report on Solemnisation of Marriage in England and Wales (HC 250)	Rejected	

LC No	Title	Status	Related Measures
	1972		
48	Family Law: Report on Jurisdiction in Matrimonial Proceedings (HC 464)	Implemented	Domicile and Proceedings Act 1973 (c45)
	1971		
43	Taxation of Income and Gains Derived from Land: Report by the two Commissions (SLC 21) (Cmnd 4654)	Implemented in part	Finance Act 1972 (c41), s 82
42	Family Law: Report on Polygamous Marriages (HC 227)	Implemented	Matrimonial Proceedings (Polygamous Marriages) Act 1972 (c38); now Matrimonial Causes Act 1973 (c18)
	1970		
40	Civil Liability of Vendors and Lessors for Defective Premises (HC 184)	Implemented	Defective Premises Act 1972 (c35)
35	Limitation Act 1963 (Cmnd 4532)	Implemented	Law Reform (Miscellaneous Provisions) Act 1971 (c43)
34	Hague Convention on Recognition of Divorces and Legal Separations: Report by the two Commissions (SLC 16) (Cmnd 4542)	Implemented	Recognition of Divorces and Legal Separations Act 1971 (c53); now Family Law Act 1986 (c55), Part II
33	Family Law: Report on Nullity of Marriage (HC 164)	Implemented	Nullity of Marriage Act 1971 (c44), now Matrimonial Causes Act 1973 (c18)
31	Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Cmnd 4497)	Implemented	Administration of Estates Act 1971 (c25)
30	Powers of Attorney (Cmnd 4473)	Implemented	Powers of Attorney Act 1971 (c27)
29	Criminal Law: Report on Offences of Damage to Property (HC 91)	Implemented	Criminal Damage Act 1971 (c48)
	1969		
26	Breach of Promise of Marriage (HC 453)	Implemented	Law Reform (Miscellaneous Provisions) Act 1970 (c33)
25	Family Law: Report on Financial Provision in Matrimonial Proceedings (HC 448)	Implemented	Matrimonial Proceedings and Property Act 1970 (c45); now largely Matrimonial Causes Act 1973 (c18)
24	Exemption Clauses in Contracts: First Report: Amendments to the Sale of Goods Act 1893: Report by the Two Commissions (SLC 12) (HC 403)	Implemented	Supply of Goods (Implied Terms) Act 1973 (c13)
23	Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights (HC 369)	Implemented	Matrimonial Proceedings and Property Act 1970 (c45)
21	Interpretation of Statutes (HC 256)	Rejected	
20	Administrative Law (Cmnd 4059)	Implemented	See LC 73
19	Proceedings against Estates (Cmnd 4010)	Implemented	Proceedings against Estates Act 1970 (c17)
18	Transfer of Land: Report on Land Charges affecting Unregistered Land (HC 125)	Implemented	Law of Property Act 1969 (c59)
17	Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (HC 38)	Implemented	Law of Property Act 1969 (c59)

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

Appendix B

The cost of the Law Commission

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

	2014/2015 (April/March)		2015/2016 (April/March)	
	£000	£000	£000	£000
Commissioner salaries (including ERNIC) ¹	553.2		507.9	
Staff costs ²	2973.1		3210.3	
		3526.3		3718.2
Research and consultancy	21.0		17.0	
Communications (printing and publishing, translation, media subscriptions, publicity and advertising)				
Design, print and reprographics				
Events and conferences (non-training)				
Information technology				
Equipment maintenance				
Library services (books, articles and on-line subscriptions)				
Postage and distribution				
Telecommunications	140.6		150.5	
Accommodation recharge (e.g. rent, rates, security, cleaning) (met by MoJ) ³	752.9		663.5	
Travel and subsistence (includes non-staff)	29.0		37.0	
Stationery and office supplies				
Recruitment				
Training and professional bodies membership				
Recognition and reward scheme awards				
Childcare vouchers				
Health and Safety equipment/services	42.3		32.6	
Hospitality	0.3		0.2	
		986.1		900.8
TOTAL		4512.4		4619.0⁴

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

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

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

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

Appendix C

Our Business Plan priorities for 2015–16

Priorities for 2015–16
Law Reform – to make a difference through law reform
<p>We will:</p> <ul style="list-style-type: none"> • deliver law reform work that is high quality, to time and supported by a robust assessment of its impact, working in collaboration with stakeholders and in accordance with our Protocol, and we will support implementation of our law reform proposals • improve how we deliver the content of our publications to our stakeholders with a focus on accessibility, effectiveness and efficiency.
Our People – to attract the best and continue to ensure the Law Commission is an excellent place to work
<p>We will:</p> <ul style="list-style-type: none"> • have an organisational model which promotes more effective ways of working and which gives us more scope to flex our resources. • promote employee engagement in the corporate development of the Commission through effective internal communications. • invest in our staff, developing their skills and knowledge, so that over time our capabilities remain aligned with our evolving business needs. • put in place a strategy for maintaining our corporate memory and ensuring effective knowledge and information management. • investigate the opportunities offered by the cross-Whitehall “The Way We Work” (TW3) programme to ensure we have a modern and effective working environment.
External Relations and Reputation – to engage proactively with our stakeholders and respond to their feedback
<p>We will:</p> <ul style="list-style-type: none"> • refine the framework for how – and why – the Law Commission presents itself to audiences. • continue to use a range of media and activities to generate interest in and engagement with the work of the Law Commission, our consultations and our reports. • maximise the potential of our online presence to enable engagement with our stakeholders, facilitate and encourage participation in our consultations and provide easy access to our reports and other papers. • use our 50th Anniversary to strengthen relationships with existing stakeholders and to establish relationships with new stakeholders across sectors.
Finance and Governance – to ensure decision making that is robust
<p>We will:</p> <ul style="list-style-type: none"> • provide the administration necessary to support effective and efficient corporate performance which supports the Commission in the delivery of its objectives. • strive to deliver within the budget that we are set, and look to drive such further efficiencies as are possible. • complete the implementation of the recommendations of the Triennial Review so that as an organisation we are fully compliant with modern standards of good governance. • agree and publish our Framework Document to set out clearly the relationship between the Commission and our sponsor department. • agree with the Welsh Government a protocol to govern the relationship between the Commission and the Welsh Government on law reform projects which have been referred to us by them.

Appendix D

Targets for 2015–16 and 2016–17

Figure D.1 Targets for 2015–16.

Target	Outcome
To publish reports on:	
Electoral law	Interim report published 4 February 2016
Firearms	Published 16 December 2015 (LC363)
Insurance contract law: insurable interest	Carried over to 2016–17
Offences against the person	Published 3 November 2015 (LC361)
Patents, trade marks and designs: unjustified threats	Published 13 October 2015 (LC360)
Public nuisance and outraging public decency	Published 25 June 2015 (LC358)
Statute law repeals	Published 3 June 2015 (LC357)
Unfitness to plead	Published 13 January 2016 (LC364)
Wildlife	Published 10 November 2015 (LC362)
To publish consultations on:	
Bills of sale	Published 9 September 2015 (LCCP225)
Consumer prepayments on retailer insolvency	Published 18 June 2015 (LCCP221)
Event fees (formerly, Transfer of title and change of occupancy fees in leaseholds)	Published 29 October 2015 (LCCP226)
Firearms	Published 20 July 2015 (LCCP224)
Form and accessibility of the law applicable in Wales	Published 9 July 2015 (LCCP223)
Land registration	Published 31 March 2016 (LCCP227)
Marriage	Issues paper published 17 December 2015
Mental capacity and deprivation of liberty	Published 7 July 2015 (LCCP222)
Misconduct in public office	Scoping paper published 20 January 2016
Planning law in Wales	Carried over to 2016–17
Wills	Carried over to 2016–17

Figure D.2 Targets for 2016–17.

Target	
To publish reports on:	
Bills of sale	Breaches of protected Government data
Breaches of protected Government data	Misconduct in public office
Charity law, technical issues	Planning law in Wales
Consumer prepayments on retailer insolvency	Sentencing Code
Event fees (formerly, Transfer of title and change of occupancy fees in leaseholds)	Wills
Family financial orders, enforcement	
Form and accessibility of the law applicable in Wales	
Insurance contract law: insurable interest	
Mental capacity and deprivation of liberty	

Index of projects, Bills and Acts

Bills of sale	4, 13, 88
Breaches of protected Government data	20, 58, 88
Bribery Act 2010	62
Care Act 2014	62
Charities Act 2011	59
Charities (Protection and Social Investment) Act 2016	3, 5, 38
Charity law, technical issues	26, 88
Charity law, social investment	38
Child Abduction Act 1984	53
Children Act 1989	26, 62
Civil Partnership Act 2004	26
Cohabitation: the financial consequences of relationship breakdown	49
Conservation covenants	50
Consolidation	59
Consumer insurance law: pre-contract disclosure and misrepresentation	15
Consumer Insurance (Disclosure and Representations) Act 2012	15, 37, 38
Consumer prepayments on retailer insolvency	4, 14, 88
Consumer remedies for faulty goods	38
Consumer Rights Act 2015	4, 13, 38
Contempt of court	24, 50
Contempt of court: court reporting	50
Co-operative and Community Benefit Societies Act 2014	59
Crime and Disorder Act 1998	52
Criminal Justice Act 2003	52
Damages for wrongful death	3
Data Protection Act 1998	20
Data sharing between public bodies	51
Deregulation Act 2015	48
Digital Economy Bill	47
Easements, covenants and profits à prendre	46
Electoral law	5, 6, 31, 64, 66, 88
Electronic Communications Code	46
Enterprise Bill	5, 36
Enterprise Act 2016	3, 15, 38
European Convention on Human Rights	30, 34, 57
Event fees in retirement homes	4, 13, 16-17, 62, 88
Expert evidence in criminal proceedings	51, 64

Family financial orders, enforcement	26, 88
Family Law Act 1996	62
Fiduciary duties of investment intermediaries	40
Firearms	3, 4, 5, 21, 22-3, 37, 40, 62, 88
Firearms Act 1968	22
Form and accessibility of the law applicable to Wales	2, 4, 10, 31, 64, 88
Fraud Act 2006	23
Freedom of Information Act 2000	20, 71
Government of Wales Acts 1998, 2006	31
Hate crime	52, 65
Health and Safety At Work etc Act 1974	47
Health and Social Care (Safety and Quality) Act 2015	47
High court's jurisdiction in relation to criminal proceedings	52
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Inheritance and Trustees' Powers Act 2014	37, 49
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Insurance contract law	2, 15, 45
Insurance contract law: damages for late payment	15, 38
Insurance contract law: insurable interest	15, 88
Insurance contract law: business disclosure, warranties, insurers' remedies for fraudulent claims and late payment	15
Intellectual Property (Unjustified Threats) Bill	3, 12, 37, 40
Intestacy and family provision claims on death (cohabitants)	49, 52
Kidnapping	52
Land registration	5, 25, 62, 64, 88
Land Registration Act 2002	25
Law Commission Act 2009	2, 37, 60
Law Commissions Act 1965	1, 7, 9, 42, 57, 59
Level crossings	47
Marriage Act 1949	29
Marriage	5, 25, 27, 28-9, 66, 88
Matrimonial Causes Act 1973	26
Matrimonial property, needs and agreements	39, 53
Mental Capacity Act 2005	30, 34
Mental capacity and deprivation of liberty	4, 8, 30, 34-5, 75, 88
Mental Health Acts 1983, 2007	30

Misconduct in public office	5, 19, 88
Offences against the person	5, 21, 37, 53, 56, 65, 88
Offences Against the Person Act 1861	21, 88
Official Secrets Acts 1911, 1920, 1989	20
Patents, trade marks and designs: unjustified threats	4, 12, 37, 40, 88
Planning law in Wales	10, 32, 64, 88
Police Act 1996	21, 53
Policing and Crime Bill	3, 21, 23, 40
Public Order Act 1986	52
Public Interest Act 1998	20
Public nuisance and outraging public decency	4, 24, 37, 53, 88
Regulation and Inspection of Social Care (Wales) Bill	47
Regulation of health and social care professionals	47
Renting homes in Wales	10, 39
Renting Homes (Wales) Act 2016	3, 5, 10, 39
Rights to light	54
Sentencing code	4, 18, 59, 64, 88
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Taxi and private hire services	48
Telecommunications Act 1984	46
Termination of tenancies for tenant default	54
Third parties (rights against insurers)	5, 41
Third Parties (Rights against Insurers) Act 2010	37, 41
Town and Country Planning Act 1990	32
Transfer of title and change in occupancy fees, see Event fees in retirement homes	
UN Convention on the Rights of Persons with Disabilities	34
Unfair Contract Terms Act 1977	39
Unfair terms in contracts	39
Unfitness to plead	5, 10, 20, 37, 54, 65, 88
Wales Act 2014	2, 9, 60
Wildlife law	5, 37, 55, 61, 88
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Wills Act 1837	27

