Law Commission
Reforming the law

Thirteenth Programme of Law Reform

Law Com No 377

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Thirteenth Programme of Law Reform

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THE LAW COMMISSION

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

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The terms of this report were agreed on 8 November 2017.

The text of this document is available on the Law Commission's website at www.lawcom.gov.uk.

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THIRTEENTH PROGRAMME OF LAW REFORM

To the Right Honourable David Lidington MP, Lord Chancellor and Secretary of State for Justice

PART 1 – INTRODUCTION

BACKGROUND

1.1 The Law Commission was established by the Law Commissions Act 1965 for the purpose of promoting the reform of the law. The Law Commission is required to receive and consider proposals for law reform and to prepare and submit to the Lord Chancellor, from time to time, programmes for the examination of different branches of the law with a view to reform.[1]

1.2 This 13th Programme of Law Reform will run from 13 December 2017. We seek the Lord Chancellor's approval for the projects listed in Part 2 of this document, in accordance with section 3(1)(b) of the 1965 Act.

CONSULTATION

1.3 The Law Commission consults widely when drawing up programmes of law reform, in order to ensure that our work is as relevant and informed as possible. Consultation for the 13th Programme was launched on 11 July 2016 with an event at the Supreme Court of the United Kingdom. This was attended by parliamentarians from both Houses, members of the senior judiciary and leading legal practitioners, as well as representatives from the private, public and third sectors and academia. A second launch event was held in Cardiff Law School on 12 July. This event was attended by representatives of the legal profession, academia, and the private, public and third sectors in Wales. The consultation then ran until 31 October.

1.4 Our consultation asked which areas of the law need to be reformed and explained the criteria on which we select projects (see below). As well as asking that open question, we published a short document setting out some areas of the law that might benefit from reform. These potential projects were identified following discussions both internally and with stakeholders, and consultees were invited to comment on their merits. Perhaps suitably for a 13th Programme, we suggested thirteen possible areas of work:

(1) Arbitration

(2) Banks' duties to customers

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1 Law Commissions Act 1965, s 3(1)(a) and (b).

(3) Codification of the law in Wales

(4) Confiscation

(5) Inquiries

(6) Leasehold law

(7) Legislative standards for Wales

(8) Online communications

(9) Reviewing children's social care

(10) Statute law repeals

(11) Streamlining

(12) Surrogacy

(13) Weddings

1.5 Over 600 of the consultation responses we received commented on these suggested projects, and two of them have been included in the final Programme, with confiscation being taken up by way of a Ministerial reference.

1.6 Information on the 13th Programme consultation was distributed to professional associations, legal academic groups, public sector organisations, and membership and umbrella organisations in the private, public and third sectors. Law reform teams also notified their existing contacts of the opportunity to submit proposals. The Commission publicised the details more widely through articles in the legal and third sector media, as well as via its website and Twitter account.

1.7 During the consultation period, the Chairman, Commissioners, Chief Executive and staff met a wide range of individuals and groups who wanted to comment on our project suggestions or suggest ideas of their own. We were very impressed by the level of interest shown in the Programme and the time and effort that our stakeholders put into advancing the case for law reform. We also met with officials across Whitehall to gauge likely interest in suggested law reform projects.

1.8 In total, we received 1315 submissions, almost six times as many as we received during consultation on the 12th Programme of Law Reform in 2014. Of these, there were 222 different topics suggested, some attracting support from only one or two consultees, whereas others received support from numerous people. For example, we received 343 submissions on surrogacy reform, which was the most popular proposal of the consultation and is included in the final Programme. Leasehold reform received support in 151 submissions and is also included in the Programme.

1.9 The Law Commission would like to thank everyone who contributed to the 13th Programme consultation. We were delighted at the enthusiastic response and the wide

variety of ideas that were generated by consultees. We believe that this has allowed us to develop a diverse, relevant and forward looking Programme of law reform.

WALES

1.10 The Law Commission covers the jurisdiction of England and Wales. Law reform in Wales has always been an essential part of our work, but its nature has changed as devolution in the UK has gathered pace. The Commission remains committed to meeting the law reform needs of both England and Wales in this evolving constitutional context.

1.11 The Wales Act 2014 amended the Law Commissions Act 1965 to take account of Welsh devolution, allowing Welsh Ministers to refer law reform projects directly to the Commission for the first time. Our work for Welsh Ministers is now governed by a protocol, signed in Cardiff by Sir David (now Lord) Lloyd Jones, our then Chair, and the First Minister of Wales, and presented to the National Assembly for Wales in July 2015.[2]

1.12 The Law Commission's relationship with the Welsh Government is now well established. The 12th Programme of Law Reform included two projects exclusively for Wales. Our report on the Form and Accessibility of the Law Applicable in Wales was published in June 2016. The Counsel General, on behalf of Welsh Ministers, accepted the majority of our recommendations in June 2017. The Welsh Government has expressed its intention to pursue a long term process of codification of the law within the National Assembly's competence, and a pilot project is currently underway. We will provide whatever assistance we can.

1.13 We published a major consultation paper, *Planning Law in Wales,* in November 2017. The results of that consultation will inform our Report setting out proposals for the simplification of planning law in Wales. This Report should in turn inform a new Planning Bill, which will be the core of a proposed planning Code for Wales. We are working closely and productively with the Welsh Government's planning directorate, and the Office of the Legislative Counsel on this project.

1.14 We continue to keep the machinery for law reform in Wales under review, making improvements where we can. We now operate under a new Welsh language policy, which was arrived at in consultation with the Welsh Language Commissioner, and routinely publish appropriate consultation papers and reports bilingually. We have recently expanded the role of one of our Commissioners, Nicholas Paines QC, to give him special responsibility for the law in Wales. In 2017, Nicholas spoke about law reform in Wales at the Legal Wales conference in Swansea. We are also grateful to members of the Law Commission's Welsh Advisory Committee who have given their time and experience to help support our work in Wales.

1.15 The 13th Programme consultation document suggested two possible projects relating exclusively to Wales and we received numerous consultation responses from Welsh consultees, including proposals for projects in devolved areas of the law. The Welsh

[2] Protocol between the Welsh Ministers and the Law Commission (2015), Gen-LD10290.

Advisory Committee provided valuable input, both in relation to the Wales-only projects and to the impact in Wales of other suggested projects.

1.16 Given the focus on Brexit, as well as the pilot in relation to codification, our discussions with the Welsh Government have not yet yielded a specific area suitable for a Wales-only law reform project. We remain committed to including at least one Wales-only project in the Programme so we have put aside resources to enable this, as and when an appropriate area of work arises. Any such work would be taken on as a Ministerial reference from the Welsh Government and conducted alongside the main Programme.

THE LAW COMMISSION'S PROJECT SELECTION CRITERIA

1.17 This is the third programme of law reform to be developed under the terms of the Protocol between the Lord Chancellor and the Law Commission, which was given statutory backing by the Law Commission Act 2009,[3] and the first under the equivalent Protocol in Wales.[4] The Protocols explain how Government and the Law Commission work together, and establish the procedure for creating a programme of law reform.

1.18 When considering whether to include a project in the 13th Programme, the Law Commission assessed each proposal against the following selection criteria:

(1) Importance: the extent to which the law is unsatisfactory (for example, unfair, unduly complex, inaccessible or outdated), and the potential benefits of reform.

(2) Suitability: whether the independent, non-political Commission is the most suitable body to conduct the project.

(3) Resources: whether the necessary resources, including project-specific funding, are available to enable the project to be carried out effectively.

1.19 The Protocols also require consideration of:

(1) whether there is a Scottish or Northern Irish dimension to the project that needs the involvement of the Scottish and/or Northern Ireland Law Commissions;

(2) whether there is a Welsh dimension that needs the involvement of the Welsh Government; and

(3) the degree of departmental support for the project. Under the terms of the Protocols, the Lord Chancellor or Welsh Ministers will expect the relevant department to indicate a serious intention to take forward law reform in the area before approving the inclusion of a project in the Programme.

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3 Protocol between the Lord Chancellor (on behalf of the Government) and the Law Commission (2010) Law Com No 321, HC 499.

4 Protocol between the Welsh Ministers and the Law Commission (2015), Gen-LD10290.

CONFIRMED PROJECTS FOR THE THIRTEENTH PROGRAMME

1.20 Having applied the criteria set out above, Commissioners have selected the following projects for the 13th Programme of Law Reform.

Name of project	Policy responsibility
A Modern Framework for Disposing of the Dead	Ministry of Justice
Administrative Review	Ministry of Justice
Automated Vehicles	Department for Transport and Department for Business, Energy and Industrial Strategy
Electronic Signatures	Ministry of Justice
Employment Law Hearing Structures	Ministry of Justice
Intermediated Securities	Department for Business, Energy and Industrial Strategy
Modernising Trust Law for a Global Britain	Ministry of Justice
Museum Collections	Department for Digital, Culture, Media and Sport
Registered Land and Chancel Repair Liability	Ministry of Justice
Residential Leasehold	Department for Communities and Local Government
Simplifying the Immigration Rules	Home Office
Smart Contracts	Ministry of Justice
Surrogacy	Department of Health
Unfair Terms in Residential Leasehold	Department for Communities and Local Government

1.21 Each of these projects is explained in more detail in Part 2.

1.22 We are pleased to have arrived at a highly varied and relevant Programme of Law Reform. The projects within it are designed to address a wide range of issues: from those which could strengthen the UK's competitiveness following the decision to leave

the EU, such as modernising trust law and smart contracts; to projects which will improve outcomes for citizens, such as surrogacy and residential leasehold; and work which promotes emerging technologies by ensuring the law keeps pace with developments such as electronic signatures and automated vehicles.

1.23 This Programme represents a significant body of work and it is unlikely the Commission will be able to initiate all of it during the normal three year Programme cycle. The intention behind such a varied and substantial Programme is two-fold.

1.24 First, the Commission is operating in uncertain times. Government priorities may change as the impact of Brexit becomes clearer. The Commission may need to respond swiftly, either to undertake Brexit-related work or, more generally, help support policy objectives which colleagues in Whitehall may not be able to undertake as they focus their energies on Brexit.

1.25 Second, this Programme of law reform focuses predominantly on those projects which will need to be funded from the Commission's core budget, provided by the Ministry of Justice. This budget is designed to allow the Commission to undertake projects on behalf of all of Government and not just the Ministry of Justice. In line with most of Government, the Commission has experienced significant budget reductions over the last few years. This is set to continue over the course of the Programme. The consequence is that the Commission needs to source and undertake more income-generating projects, not only now, but throughout the lifetime of the Programme. Such projects tend to arrive as high priority references from Government Ministers and usually have to start immediately and operate to very tight timescales.

1.26 The pressure to commence a greater number of income-generating projects quickly, together with the uncertain environment, may result in core-funded projects being delayed, possibly for some years. This is in no way a reflection of the priority the Commission attaches to core-funded Projects, rather it is a practical consequence of the need to undertake a greater proportion of income-generating projects so as to ensure the Commission meets its budgetary obligations and remains a viable organisation.

1.27 The Commission hopes that, by including a substantial number of potential core-funded projects in the Programme, we will have flexibility to determine independently which projects can be undertaken, as and when resources allow. We give an indication in Part 2 of possible timeframes for some but not all the projects included in the Programme, and all timings are subject to change.

ONGOING LAW REFORM WORK AND FURTHER PROJECTS

1.28 As referenced above, not all of the projects included in a law reform programme are completed during the course of that programme. We set out for information in Part 3 of this document details of projects from previous Programmes that are already being conducted by the Commission and which will be completed alongside 13th Programme work. In addition, alongside the 13th Programme process, the Commission has attracted two references (confiscation under the Proceeds of Crime Act 2002 and anti-money laundering) which do not form part of the Programme.

1.29 We are also likely to take on additional work during the course of the 13th Programme in the form of Ministerial references under section 3(1) of the Law Commissions Act 1965.

1.30 Part 4 of this document summarises a number of projects which we considered for the 13th Programme, but have not been able to take forward in the Programme for reasons of timing or a current lack of Government support. We may be able to accept some of these projects as references from Ministers during the course of this Programme, or consider them for a future Programme of law reform.

WORKING WITH OTHER LAW COMMISSIONS

1.31 The Law Commission's role covers the law of England and Wales, but not the law of Scotland or the law of Northern Ireland. We have close relationships with the Scottish Law Commission and will discuss with them the best mechanism for ensuring that, where relevant, the position in Scotland is best reflected in any law reform proposals that Parliament might extend to Scotland. The Northern Ireland Law Commission is operating at reduced capacity but we will work with the administration in Northern Ireland as appropriate.

PART 2 – THIRTEENTH PROGRAMME PROJECTS

INTRODUCTION

2.1 In this Part we set out the new projects we will be undertaking. Some of these projects are already well defined, while the parameters of others will be clarified only after scoping work.

A MODERN FRAMEWORK FOR DISPOSING OF THE DEAD

Expected start date: As and when resources allow
Expected duration: 2 – 3 years

2.2 The law governing how we dispose of the bodies of our loved ones when they die is unfit for modern needs. While we often think of the choice as being between burial and cremation, new methods of disposal are being developed and are being used in other countries. These include resomation (a process using alkaline hydrolysis to reduce the body to ash) and promession/cryomation (a process using liquid nitrogen to crystallise the body and vibration to disintegrate it into particles). These methods are completely unregulated here, which is an unsatisfactory position that acts as a disincentive to innovation and investment, and potentially takes away choice. Further, the legislation governing more traditional methods of disposal is outdated, piecemeal and complex. The law does not ensure that a person's own wishes as to the disposal of their remains are carried out, leading to disputes where family members disagree. Disputes also arise as to entitlement to a person's remains.

2.3 The law is, in some instances, out of touch with the public's expectations, and is not always reflective of diverse family structures and an increasingly multicultural and environmentally-aware society. The problems in the law lead to additional stress and emotional upset at an already distressing time in people's lives and additional cost to the individuals and organisations (including local and central Government) involved.

2.4 This project will seek to create a future-proof legal framework that brings the existing law into line with modern practices and enables safe and dignified new processes to be made available in England and Wales. The project would also seek to provide greater certainty that a person's wishes in respect of what happens to their body following death are respected, whilst ensuring that the public interest in this sensitive area of law is properly respected.

ADMINISTRATIVE REVIEW

Expected start date: As and when resources allow
Expected duration: 18 – 24 months

2.5 Administrative review is the system, internal to a public decision maker, by which a decision concerning an individual is reconsidered at the request of the individual or at the discretion of the decision maker. In some cases, requesting a review is a prerequisite to appealing to a tribunal. Administrative review decisions determine the

outcome of at least as many cases as appeals, probably more; yet have received a fraction of the analysis or academic attention given to other aspects of administrative justice.

2.6 Effective internal review procedures reduce the number of appeals and promote confidence in administrative decision-making. However, recent independent reports have cast doubt on the efficacy of some of the review procedures presently in place.

2.7 This law reform project will aim to promote correct decisions, cheaper correction mechanisms, and public confidence in decision making. We will consider and assess the merits of the different procedures that are in place and make recommendations with a view to identifying best practice and generally improving them. This would include considering the frequency of legal challenge and identifying any items of concern from the point of view of the judiciary and legal practitioners.

AUTOMATED VEHICLES

Expected start date: February 2018
Expected duration: 3 years

2.8 The Government's Centre for Connected and Autonomous Vehicles (CCAV), has asked the Law Commission to undertake a far-reaching review to deliver a modern and robust package of reforms promoting the development and use of automated vehicles, and their application as part of public transport networks and on-demand passenger services by 2021.

2.9 Technological innovations are opening new ways for people and businesses to plan and undertake their journeys, and the Government wants to facilitate this, for example by enabling the use of automated vehicles. Automated vehicles do not readily fit within existing legal frameworks, so the review will identify pressing problems in the law that may be barriers to the use of automated vehicles, as well considering broader, longer term reforms. The Law Commission will also explore how automated vehicles could fit within existing regulation of public transport frameworks, and provision of innovative on-demand passenger transport.

2.10 The review will build on previous work from the Department for Transport, and CCAV's Code of practice for testing of automated vehicle technologies, as well as the insurance reforms contained in the Automated and Electric Vehicles Bill. The review will directly support the Government's aims of ensuring the UK remains one of the best places in the world to develop and use connected and automated vehicles. The Law Commission's work will aim to promote public confidence in the safe use of automated vehicles, and to ensure the UK has a vibrant, world-leading connected and automated vehicles industry. This project will also feed in to the recently announced regulatory review as part of the 'Future of Mobility' Grand Challenge.

ELECTRONIC SIGNATURES

Expected start date: December 2017
Expected duration: 9 – 18 months (may run in conjunction with Smart Contracts)

2.11 Most modern businesses have embraced technology to conduct transactions online and electronically. However, there is no case law or legislation setting out explicitly that documents executed with an electronic signature (and which may exist solely in electronic form) satisfy statutory requirements for documents to be in writing and/or signed and/or under hand. For example, the Electronic Communications Act 2000 deals with the admissibility into evidence, but not the intrinsic validity, of electronic signatures. There are a handful of relevant cases, which generally deal with electronic signatures only tangentially. Furthermore, electronic documents have sometimes, but not always, been accepted by the courts.

2.12 Stakeholders have told the Law Commission that, in the absence of clear authority, the question of the validity of such documents remains open to doubt, and uncertainty still exists. It appears that there are particular concerns around how an electronic signature should be witnessed.

2.13 Although the 13th Programme consultation revealed concerns about the validity of electronic contracts relating to land, it is the Law Commission's view that a broader project would be appropriate. That is particularly the case given the extent to which modern business is conducted electronically and online. We have been told that the uncertainty around electronic signatures and witnessing is preventing some UK businesses from moving towards fully electronic transactions, which could be faster and more efficient. In these circumstances, the purpose of the project would be to address any uncertainty as to the validity of electronic signatures in all types of contracts.

EMPLOYMENT LAW HEARING STRUCTURES

Expected start date: As and when resources allow
Expected duration: 12 months

2.14 The Civil Courts Structure Review led by Briggs LJ noted that there is an "awkward area" of shared and exclusive jurisdiction in the fields of discrimination and employment law, which has generated boundary issues between the courts and the Employment Tribunal System (the Employment Tribunal and the Employment Appeals Tribunal). As sui generis entities, both employment tribunals sit "uncomfortably stranded between the Civil Courts and the main Tribunal Service". These issues are well known amongst employment law experts, judges and practitioners; they can cause delay and can also prevent cases being determined by the judges best equipped to handle them.

2.15 The project will seek to resolve problems caused by this allocation of jurisdiction, as well as investigating the outdated and in some respects arbitrary limits on the Employment Tribunal's jurisdiction in the employment field.

2.16 The Ministry of Justice and the Department of Business, Energy, Innovation and Skills (BEIS) are in the process of reforming the Employment Tribunal system as part of the modernisation of the courts and tribunals system, and have indicated that there are no plans to consider radical structural change. This project will work within the boundaries

set out by the Government's position, considering ways of addressing the jurisdictional problems of the Employment Tribunal System by means short of major restructuring.

INTERMEDIATED SECURITIES

Expected start date: As and when resources allow
Expected duration: 12 months

2.17 Shares and bonds are increasingly held through a system of "dematerialisation" and "intermediation". In other words, paper certificates have been replaced by a system in which most investors "own" securities in the form of computerised credit entries through a chain of intermediaries (such as brokers and banks). Such relationships may be extremely complex, with multiple layers of intermediaries.

2.18 This system of intermediated shareholdings has made securities trading significantly quicker, cheaper and more convenient. However, there are potential problems with the current system. For example, the ultimate investors of intermediated securities may be deprived of remedies they would have had against the issuer of the shares if they held the securities directly, because they have no direct relationship. Even where ultimate investors suffer loss due to the negligent or even fraudulent actions of the issuer or an intermediary further up the chain, they may have no remedy.

2.19 It is also unclear how securities would be distributed in the case of insolvency. This may be a significant issue if a major bank or broker were to become insolvent.

2.20 Some of these issues are compounded by the fact that each tier of a chain of intermediaries could be subject to a different system of law (determined by the location of the holding party). The European Commission is currently considering this particular issue.

2.21 Another issue – raised in the Department for Business, Energy and Industrial Strategy (BEIS) Corporate Governance Reform Green Paper earlier this year – is that investors may be unable to assert voting or information rights relating to company shares they have paid for, but which are held by intermediaries. This has been criticised by supporters of better corporate governance. BEIS has the lead for the company law framework that governs intermediated securities and also leads for Government on 'dematerialisation'. Its recent response to the Green Paper pledged to keep this issue under review and did not rule out possible reform.

2.22 The purpose of this project will be to produce a scoping study. This would provide a clear statement of the current law and consider any options available to Government to create greater legal certainty for investors, intermediaries and banks.

MODERNISING TRUST LAW FOR A GLOBAL BRITAIN: A SCOPING STUDY

Expected start date: As and when resources allow
Expected duration: 1 – 1½ years

2.23 Trusts are used by a range of people within the UK, but also by individuals and corporations internationally, many of whom choose our domestic law and courts to

govern their arrangements. It is therefore an important global legal export bringing a range of business to the UK for lawyers, accountants, banks and trust companies.

2.24 A number of leading stakeholder groups have outlined various technical problems and limitations with our current trust law. A reform project reviewing the law of trusts would consider an outdated area of the law, with a view to modernising trust law to enhance the competitiveness of this jurisdictions' trust services in a global market. The general law of trusts has not been comprehensively reviewed since 1925. In contrast, many other "onshore" and "offshore" jurisdictions – including Scotland, Jersey, New Zealand and Singapore – have updated their trust law and been creative in maintaining a healthy trust market. As well as problems with the existing law, consultees have outlined the development of alternative, flexible trust and trust-like structures in other jurisdictions that are not available in England and Wales, such as Jersey Foundations and Cayman Star Trusts. Not all of these structures may be suitable for this jurisdiction, but there is a strong argument that their advantages and disadvantages should be evaluated.

2.25 This project will not make recommendations regarding the taxation of trusts, for which HM Treasury has policy responsibility. The project will therefore exclude the law of mistake which has significant tax consequences. The question of whether trusts should have legal personality will also be outside the scope of the project. That question has been considered before by the Commission. We decided not to proceed with that work because the potential consequences of a change proved a significant obstacle to stakeholder consensus on the issue.

2.26 The project will be an initial scoping study investigating problems with trust law with a view to identifying aspects of trust law to take forward in one or more law reform projects.

MUSEUM COLLECTIONS

Expected start date: As and when resources allow
Expected duration: 2 – 3 years

2.27 Museums face significant problems dealing with objects where, as result of poor or non-existent acquisition records (often from a time when record keeping did not meet modern standards) legal title is uncertain or the owners are unknown or cannot be found. Museums are concerned about dealing with such objects (for example transferring them to other museums) because of the risk of being found liable for a civil wrong (conversion) if they were not in fact entitled to do so.

2.28 Local authorities that are responsible for running museums face particular problems managing items in their collections due to a lack of clarity as to how – at law – such items are held and when they can be legitimately (and ethically) disposed of. Certain national museums can only dispose of items following an arguably unnecessary process requiring the authorisation of the Secretary of State.

2.29 This project will review these problems with a view to providing clear legal rules as to how objects are held and can be dealt with. Such rules would help to reassure potential donors, who will have a better understanding of what can and cannot be done with their donation. Similarly, those responsible for museum collections will be able to manage

their collections more effectively without having first to seek expensive, specialist legal advice to ascertain the applicable legal rules, or incur unnecessary storage costs for items that have no continuing heritage value.

REGISTERED LAND AND CHANCEL REPAIR LIABILITY

Expected start date: As and when resources allow
Expected duration: 6 – 9 months

2.30 Liability for chancel repair is the liability of certain landowners to pay for repairs to a local church. The intention of the Land Registration Act 2002 was that chancel repair liability should not bind purchasers of land after 2013 unless protected on the register. However, since the 2002 Act was brought into force, a question has arisen about the legal status of the liability, and so whether homeowners are nevertheless bound despite that Act.

2.31 This small project would aim to close the loophole and so achieve with certainty what was intended to be achieved by the Land Registration Act 2002. Doing so would eliminate the current standard practice of purchasers searching and/or insuring against the risk of liability, which costs an estimated £20 million each year. The work will take the form of either an advice to Government, or recommendations with a short draft Bill.

RESIDENTIAL LEASEHOLD

Expected start date: December 2017
Expected duration: 2½ years (in the first instance)

2.32 There is an extensive list of highly significant problems with residential leasehold law. A large number of respondents to our 13th Programme consultation criticised inconsistency, complexity and (many say) unfairness in the legislation governing enfranchisement, service charges, lease administration fees, rights of first refusal, the right to manage and the appointment of a manager. Concerns were also raised about the limited regulation of managing agents, leaving leaseholders exposed to high fees and poor service. The commonhold regime was also criticised by consultees. It was introduced to avoid problems with long leases, but has not been adopted by developers and it is almost impossible for existing leaseholders to convert to this form of ownership. It is essential that leasehold works fairly for the approximately 4 million leasehold properties in England,[5] and commonhold should be reviewed to enable it to play the role that it was designed for.

2.33 Our residential leasehold project will start by addressing three issues identified as priority areas by the Department for Communities and Local Government (DCLG):

(1) Commonhold; a form of ownership allowing a person to own the freehold of a flat and become a member of a commonhold association managing the communal areas. We will review why commonhold has failed and consider what reforms are necessary to the law to enable it to operate successfully.

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5 Department of Communities and Local Government, Statistical Release, *Estimating the number of leasehold dwellings in England 2014-2015* (April 2017).

(2) Enfranchisement; this is the right of a leaseholder to purchase the freehold or a lease extension. We will look at ways to simplify the procedure and make the valuation fairer and more transparent.

(3) Regulation of managing agents; the scope of our work will be decided following DCLG's recent call for evidence.[6]

2.34 The project may also include other areas of leasehold law raised by consultees (which we will continue to discuss with DCLG), and will complement DCLG's own work on leasehold issues.[7]

SIMPLIFYING THE IMMIGRATION RULES

Expected start date: December 2017
Expected duration: 12 months

2.35 The Immigration Rules are crucial in setting out the way in which the Government intends the immigration system as a whole to operate, and affect a large number of individuals seeking leave to enter or remain in the UK. However, they are widely criticised for being long, complex and difficult to use. They total 1033 pages in length. Statements of changes to the Rules are now frequent and detailed. Between 2012 and 2016, for example, and driven mainly by the introduction of a "points based" immigration system, the Rules increased in length by about 25%. It has also been suggested that the Rules are poorly drafted. The numbering system is inconsistent: as well as the familiar hybrid paragraph numbering due to insertion of new paragraphs (adding "As" and "ABs" and the like), several appendices have been introduced which have their own different numbering system.

2.36 The project also provides an opportunity to review the balance between the Rules and external material which contains guidance or supplementary information, and to seek underlying causes of excessive length and complexity in the Rules and make recommendations to improve them for the future.

2.37 This project will not involve any substantive policy changes or any legislation, but will instead aim to identify principles by reference to which the Rules could be redrafted to make them simpler and more accessible to the user. The review will not impact the legal basis on which a person has leave to enter, or remain in the UK.

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6 *Protecting consumers in the letting and managing agent market: call for evidence* (October 2017) available at https://www.gov.uk/government/consultations/protecting-consumers-in-the-letting-and-managing-agent-market-call-for-evidence.

7 See DCLG's recent consultations *Tackling unfair practices in the leasehold market* (July 2017) available at https://www.gov.uk/government/consultations/tackling-unfair-practices-in-the-leasehold-market; *Recognising residents' associations, and their power to request information about tenants* (July 2017) available at https://www.gov.uk/government/consultations/recognising-residents-associations-and-their-power-to-request-information-about-tenants.

SMART CONTRACTS

Expected start date: May run in conjunction with Electronic Signatures
Expected duration: 9 – 18 months

2.38 Emerging technologies such as blockchain are being touted as a way to create "smart contracts", which are self-executing contracts written in computer code. A smart contract automatically triggers various processes according to its terms. Smart contracts are expected to increase trust and certainty in business.

2.39 To ensure that English courts and law remain a competitive choice for business, there is a compelling case for reviewing the current English legal and regulatory framework to ensure that it facilitates the use of smart contracts. For example, historical data recorded in blockchain code cannot be erased or rewritten. Although this is usually presented as an advantageous feature of blockchain, it also means that a third party arbiter (such as a court) cannot correct any perceived mistakes, or unfairness in the contract in the same way. There are questions about how this feature would interact with contract law concepts such as implied terms or contracts which are held to have been void from the outset. There are also questions about data protection law.

SURROGACY

Expected start date: Spring 2018 (subject to confirmation of funding)
Expected duration: 2 – 3 years

2.40 Surrogacy describes the situation where a woman bears a child on behalf of another person or persons who intend to become the child's parents for all purposes. Typically, intended parents enter into a surrogacy arrangement because they have experienced fertility problems or are unable to conceive naturally. In the UK surrogacy is governed by the Surrogacy Arrangements Act 1985 and certain provisions of the Human Fertilisation and Embryology Act 2008. The intended parents can become the legal parents of the child born to the surrogate mother by obtaining a Parental Order after the child has been born.

2.41 Although it is likely that children born as a result of surrogacy arrangements to UK-based intended parents number only in the hundreds rather than thousands each year, the use of such arrangements has significantly increased over the last ten years, and is expected to continue to rise. The greater acceptance of same-sex relationships, with the introduction of civil partnerships and the extension of marriage, is one of a number of factors likely to result in an increase in the number of children born as a result of a surrogacy arrangement. For a same-sex male couple, surrogacy is the only formal way of having a child who is biologically related to one of the intended parents. Surrogacy may also be an important route to parenthood for some transgender people. The law of surrogacy engages very important issues and rights for both the children and adults involved in such arrangements: these include questions of parentage and the prevention of exploitation of children and others.

2.42 It has therefore become a matter of concern that there are significant problems with the law. The law has fallen behind changing social attitudes and the increasing prevalence of surrogacy, including surrogacy arrangements with international aspects. For

example, courts have struggled to implement the statutory conditions for a Parental Order because the paramount position of the child's best interests makes it difficult for the court to refuse to recognise an existing relationship between the intended parents and child. Consequently, courts have extended or modified many of the statutory requirements for a Parental Order, but case law has not been able to resolve the underlying problems in the statute, or find solutions to all difficulties. One requirement, that an application for a Parental Order be made by two people, has been declared to be incompatible with the European Convention on Human Rights. The law, as governed by the 1985 and 2008 Acts, may therefore be honoured more in the breach than in the observance.

2.43 There are, therefore, significant questions relating to the procedure for the grant of Parental Orders to the intended parents. But these are only some of the issues that arise. Surrogacy arrangements also raise issues of children's rights to access information about their parentage, both genetic and gestational, while there are wider questions around the basis on which surrogacy arrangements should be permitted. International surrogacy arrangements bring into focus problems surrounding the nationality of children born to surrogates (including the risk of statelessness), bringing surrogate-born children into the UK, and the risk of exploitation of all the parties involved.

2.44 Calls for reform, both nationally and internationally, are becoming louder and more urgent: in the House of Lords it has been said that "…we look to the future and to surrogacy in the UK being updated for the 21st century", and that surrogacy "…cries out for attention by the Law Commission for inclusion in its imminent next programme of law reform". Surrogacy is a widely discussed issue in the press and in Parliament, and has recently been debated by the Hague Conference on Private International Law and the Council of Europe. We take the view that the law relating to surrogacy is outdated and unclear, and requires comprehensive reform. Reform will deliver significant benefits of clarity, modernity and the protection of those who enter into surrogacy arrangements and, most importantly, of the children born as a result of such arrangements.

UNFAIR TERMS IN RESIDENTIAL LEASEHOLD

Expected start date: As and when resources allow
Expected duration: 12 months

2.45 Problems around leasehold properties have recently been highlighted by the media and by the All Party Parliamentary Group for Leasehold and Commonhold Reform. The Law Commission has heard from stakeholders about many potentially unfair terms in leases, including ground rents which increase exponentially, fixed service charges and fees on assignment of leases. These types of terms in leases are currently unregulated and cannot be challenged by leaseholders under landlord and tenant law. However, it may be possible to use unfair terms law to fill this gap.

2.46 Currently, only the original leaseholder can effectively challenge a term under unfair terms law. When the lease is assigned or sold, the subsequent leaseholder cannot effectively challenge the fairness of the term. This is because under section 62(5) of the Consumer Rights Act 2015, whether a term is fair is to be determined by "reference to all the circumstances existing when the term was agreed". When considering whether

a term is fair, the court may only look at the circumstances surrounding the agreement of the term between the original landlord and original leaseholder. The circumstances surrounding the assignment to the subsequent leaseholder cannot be considered.

2.47 The purpose of this project is to consider whether, each time a lease is assigned, this should be seen as creating a new contract between the landlord and leaseholder for the purposes of unfair terms law. The effect would be that the court could focus on the circumstances that existed when the current leaseholder took the assignment of the lease.

PART 3 – ONGOING PROJECTS

INTRODUCTION

3.1 In this section, we give a brief overview of the current projects on which the Commission has been working since before the 13th Programme. We also set out details of two projects which we taking on, which recently arrived via references from the Home Office: anti-money laundering and confiscation under the Proceeds of Crime Act 2002.

ANTI-MONEY LAUNDERING

3.2 The anti-money laundering regime disproportionately affects businesses and is not optimal in preventing, detecting and prosecuting money-laundering. The project is particularly important in the context of exiting the EU and the upcoming Financial Action Task Force evaluation of the UK in 2018. Solving the problems identified above will be crucial to maintain London's reputation as the world's financial centre.

3.3 The project will include consideration of the consent regime in sections 327 to 329 and 335 and 338 of Part 7 of the Proceeds of Crime Act 2002 ("PoCA"); and the disclosure offences in sections 330 to 333A of the Act, which raise related problems.

3.4 The project aims to optimise the detection of anti-money laundering through effective reporting and to minimise the adverse impact of the current regime on the businesses and institutions. This project came in as a reference from the Home Office and is commencing in December 2017 with an expected duration of 12 months.

CONFISCATION UNDER THE PROCEEDS OF CRIME ACT 2002

3.5 The confiscation project will examine the entire confiscation regime under Part 2 of PoCA. All consultees and stakeholders have highlighted the importance of reforming Part 2 of PoCA to enable the more efficient making of confiscation orders and to increase the recovery rate. A more efficient confiscation regime would allow significant savings in court time and increase public confidence in the criminal justice system.

3.6 Confiscation rules are excessively complex and judges do not all have the necessary expertise and confidence in this area. Problems with the imposition of confiscation orders result in time consuming proceedings, judicial errors, numerous appeals, instances of injustice against offenders and victims, and the limitation of the number of orders made each year.

3.7 Additionally, the prospect of enforcement on orders is often limited. The amounts that offenders are ordered to pay are often unrealistic due to the operation of drastic statutory assumptions and rules on the calculation of the available amount (notably, the tainted gift provisions and findings of hidden assets following defendants' failure to account for their expense either since the particular criminal conduct or in the past six years). The current incentives to satisfy orders (an 8% interest rate on orders) and sanctions for default (activation of the default term of imprisonment) are ineffective: for instance, in 2012, only 2% of orders were paid in full after the activation of the default

term. Finally, magistrates lack sufficient or adequate powers to enforce confiscation orders effectively. Problems with the enforcement of confiscation orders result in limited recovery and undermine public confidence in law enforcement and the principle that crime does not pay.

3.8 This project came in a reference from the Home Office, will commence in early 2018 and is expected to be completed in two years.

ELECTORAL LAW

3.9 Electoral law in the UK is complex, voluminous and fragmented. After a scoping stage, a consultation paper was published jointly with the Scottish Law Commission and Law Commission for Northern Ireland. Its proposals for reforming electoral law focused on electoral administration, electoral offences, and legal challenge. They received overwhelming support from the Electoral Commission, electoral administrators, expert lawyers and the main political parties. In February 2016, an interim report was published setting out our recommendations in the light of consultation.

3.10 Following a review by the Cabinet Office of the interim report, and in the light of congested legislative schedules after Brexit, the Law Commission has been working with Government and the Electoral Commission to determine the extent to which its recommendation can be given effect through secondary legislation. Following Ministerial approval for this work, the Law Commission is now working to produce a report accompanied by draft clauses which can be implemented through secondary legislation.

FROM BILLS OF SALE TO GOODS MORTGAGES

3.11 Bills of sale are a way in which individuals can use goods they already own as security for a loans or other obligations, while retaining possession of those goods. They are governed by two Victorian statutes, from 1878 and 1882. The use of bills of sale has grown dramatically this century, from 3,000 in 2001 to over 30,000 in 2016. This is mainly due to the rise in “logbook loans”, where a borrower grants security over their vehicle. The borrower may continue to use the vehicle while they keep up the repayments, but if they default the vehicle can be repossessed, without the protections that apply to hire-purchase transactions.

3.12 In 2014, HM Treasury asked the Law Commission to review the bills of sale legislation and to make recommendations for its reform. In 2016, we recommended that the bills of sale legislation be repealed and replaced with a new “goods mortgages” regime. The Government indicated that it supported the overarching thrust of our recommendations and asked us to draft legislation to implement them. We published a further report, including a draft Goods Mortgages Bill, in November 2017.

INSURABLE INTEREST

3.13 The Law Commission of England and Wales and the Scottish Law Commission are undertaking a joint review of insurance contract law. To date, we have published two

reports which have resulted in legislation introduced through the special parliamentary procedure for uncontroversial Law Commission Bills.[8]

3.14 The final topic covered by our insurance contract law project is the requirement for insurable interest. This requires that the person taking out insurance must stand to gain a benefit from the preservation of the subject matter of the insurance, or to suffer a disadvantage should it be lost or damaged. The Law Commissions were asked to simplify and update the law in this area and draft a Bill to implement those proposals. We have previously consulted on a draft Bill which we are updating in light of stakeholder comments. We plan to consult on the updated draft in the near future.

LAND REGISTRATION

3.15 This project, which originated in our 12th Programme of law reform, started in spring 2015. It is designed to update the current law governing land registration contained in the Land Registration Act 2002, in light of the experience of its operation since it came into force in October 2003.

3.16 The land registration regime is of enormous and growing importance. Over 84 per cent of land in England and Wales is registered, with HM 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.

3.17 Evidence suggests that some areas of the current law would benefit from revision or clarification. We consulted between March and June 2016, and our work to date has 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 HM 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 registered title fraud. It also re-examines the legal framework for electronic conveyancing.

3.18 This project is scheduled to be completed in summer 2018, at which time we will be publishing our law reform recommendations and a draft Bill.

MISCONDUCT IN PUBLIC OFFICE

3.19 Misconduct in public office is a common law offence: it is not defined in any statute. It carries a maximum sentence of life imprisonment. The offence requires that: a public officer acting as such; wilfully neglects to perform his or her duty and/or wilfully misconducts him or herself; to such a degree as to amount to an abuse of the public's trust in the office holder; without reasonable excuse or justification. The offence is widely considered to be ill-defined and has been subject to recent criticism by the Government, the Court of Appeal, the press and legal academics. The project is a review of the

8 The Consumer Insurance (Disclosure and Representations) Act 2012 and the Insurance Act 2015.

current law and provides options for reform and modernisation. We published a consultation paper in September 2016 and expect to report by summer 2018.

PLANNING LAW IN WALES

3.20 Planning law in England and Wales is unnecessarily complex 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. Devolution has complicated this situation to the point that even legal professionals can struggle to accurately identify those sections of the law which are applicable in Wales. It can be difficult and time consuming to navigate planning law in Wales, resulting in increased costs for individuals, businesses and local planning authorities.

3.21 Originally part of our 12th Programme of law reform, in this project we are considering the scope of a new Planning Code for Wales, and in particular will make recommendations with regard to a new Welsh Planning Bill to simplify, modernise and consolidate planning law as it applies in Wales. This follows the approach recommended in the Law Commission's June 2016 Report on the form and accessibility of the law in Wales, and is a key part of the Welsh Government's wider pilot project considering the codification of law in Wales.

3.22 We published a scoping paper in June 2016. After receiving the views of stakeholders on the questions raised there, our formal Consultation Paper *Planning Law in Wales* was published in November 2017. The consultation will run until February 2018. After considering stakeholder responses, we intend to produce a report setting out our final recommendations in summer 2018.

PROTECTION OF OFFICIAL DATA

3.23 In 2015 the Cabinet Office, on behalf of Government, asked the Law Commission to review the effectiveness of the criminal law provisions that protect official information from unauthorised disclosure. Our work commenced in 2016, and we expect to report by summer 2018.

3.24 The focus has been primarily upon the Official Secrets Acts 1911 – 1989. We have also analysed the numerous other offences (over 120) that exist to criminalise the unauthorised disclosure of information. In addition, we have examined matters that might arise in the investigation and prosecution of Official Secrets Act cases. Finally, we have examined the argument that could be made for the introduction of a statutory public interest defence. We published a consultation paper in February 2017. We received over 1200 responses.

SEARCH WARRANTS

3.25 A search warrant is an order of a court authorising a police officer or other official to enter a building or other place and search it for articles of a kind specified in the warrant. It sometimes also confers power to seize or remove the articles or (when the articles are documents) to take copies or extracts. In December 2016, the Home Office invited the Law Commission to conduct a review to identify and address pressing problems

with the law governing search warrants and to produce reform which will clarify and rationalise the law.

3.26 We expect to publish a consultation paper in early 2018.

SENTENCING

3.27 The law of sentencing is extremely complex and disparate, and applies to over a million individual cases every year. The complexity of the current law leads to a disproportionate number of errors and unlawful sentences being imposed, resulting in delays, an unnecessary number of appeals, and an inefficient use of public money.

3.28 Over the last three years the Law Commission has been working to produce a Sentencing Code to bring the law of sentencing procedure into one place, simplifying the law and providing a coherent structure while repealing old and unnecessary provisions. On 27 July 2017, we published our draft Bill and an accompanying consultation paper. Consultation is open on the draft Bill until 26 January 2018 and we expect to publish a report and final Bill in summer 2018.

3.29 The Sentencing Code is a consolidation of the current law, and does not make any significant changes of policy, beyond enacting a 'clean sweep' of historic sentencing legislation – simplifying sentence procedure by removing the need to make reference to historic versions of sentencing procedure law.

WILLS

3.30 A person's will is an important document. People use wills to choose how to distribute their possessions after they have died, and often to express preferences about what happens to their bodies, and to appoint guardians who will take care of their children. Yet it is thought that 40% of the adult population do not have a will. When someone dies intestate – that is, without leaving a will, or with a will that is not valid – it can cause difficulties for the family, adding to stress at a time of bereavement.

3.31 The law in England and Wales that governs wills is, in large part, a product of the 19th century: the main statute is the Wills Act 1837, and the law that specifies when a person has the capacity to make a will ("testamentary capacity") is set out in the 1870 case of *Banks v Goodfellow*. The law of wills needs to be modernised to take account of the changes in society, technology and medical understanding that have taken place since the Victorian era.

3.32 The project is a wide-ranging review of the law of wills, with the central issues being testamentary capacity; the rules that govern when a will is valid (such as requirements for signing and witnessing), and what happens when those rules are not properly followed; protecting vulnerable testators; and making wills electronically. Our consultation paper proposes reforms that have the potential to support testamentary freedom by ensuring that people's last wishes as to what should happen to their property are given effect, to increase protection against fraud and undue influence for those making wills and to increase the clarity and certainty of the law.

3.33 We consulted on this topic from July to November 2017, and we are scheduled to complete the project in late 2018 or 2019.

PART 4 – FURTHER POTENTIAL PROJECTS

INTRODUCTION

4.1 In this section, we outline a number of proposals that the Law Commission has not been able to take forward as part of the 13th Programme, and explain why this is the case. We believe that these proposals could have significant merit as law reform projects. If resources allow, it may prove possible to accept one or more of these projects as references from Ministers during the course of the 13th Programme.

AGRICULTURAL TENANCIES

4.2 A project on agricultural tenancies would look to address criticisms of the Agricultural Holdings Act 1986 and Agricultural Tenancies Act 1995. It could consider the overall balance of the legal regime governing agricultural tenancies between landlords and tenants, including a review of succession rights and rent control, or it could be limited to more technical (and less controversial) problems. A project could also encompass broader agricultural property issues, such as the availability of alternative dispute resolution mechanisms in the agricultural property context; and the lack of a clear definition of "agriculture" in the relevant legislation.

4.3 At the time the Programme was finalised, Government was considering how to take forward possible reform of agricultural tenancies. We could, in the future, undertake a project to create a modernised, flexible legal framework for agricultural leasehold.

BIRTH REGISTRATION

4.4 The registration of births in England and Wales, governed by the Births and Deaths Registration Act 1953, originally dates from the introduction of civil registration in 1836. Currently, the law only allows the registration of two (legal rather than biological or genetic) parents, and requires children to be registered as either male or female. These requirements have not been revisited in light of widespread changes in the forms that families take, including the growing number of children conceived through the use of donor gametes or surrogacy (whose legal parents may differ from their biological parents), and the increasing acceptance of transgender people and awareness of those born intersex.

4.5 Beyond these issues, a project could consider the fundamental questions of for what reason and for whose benefit the record is kept, raising wider questions about the law determining who is a "parent" and the legal consequences of being a parent.

4.6 Although the scope and emphasis of a project on birth registration would need careful consideration, nearly all stakeholders who responded to our 13th Programme consultation thought that the Law Commission is the appropriate body to undertake reform.

4.7 We believe that there is a case for reform to birth registration but we do not think that now is the time for such a project to begin. With a few exceptions, the stakeholders that

we have spoken to did not identify the issue of birth registration as one of the most pressing for immediate law reform. This view was shared by Government departments. Moreover, we take the view that the nature and scale of the issues around the reform of birth registration have not yet fully emerged. In particular, the Government is reviewing the Gender Recognition Act 2004; and our work on the reform of surrogacy law may help to highlight some of the birth registration issues in a specific context, and act as a 'springboard' for identifying issues to take forward in further work.

4.8 We have not, therefore, included a project on birth registration in our 13th Programme of law reform, but we expect that developments in this area will mean that such a project is a real possibility, either for inclusion in our next Programme or as a future Ministerial reference.

COMMERCIAL LEASEHOLD

4.9 Defects in leasehold law are adversely affecting the 1.2 million businesses that need premises in England and Wales from which to operate, and every landlord of those business premises. That impacts on many domestic businesses, but also on foreign companies looking to establish in the UK. There are two main problems:

(1) Lease renewals: stakeholders from across the industry have criticised various aspects of the scheme that gives business tenants security of tenure in the Landlord and Tenant Act 1954. The legislation is not operating to the benefit of the tenants it was designed to protect, nor to the benefit of landlords. The scheme was created for different (post-war) economic conditions and now leads to unnecessary costs of £20 – 40 million (for both landlords and tenants) and the needless loss of hundreds of thousands of retail trading days each year. It puts unnecessary obstacles in the way of businesses starting up in the UK and generates up to 1,400 more cases for the courts annually than is necessary.

(2) Guarantees and assignments: legislation intended to protect tenants is inadvertently blocking or complicating standard and commercially important consensual transactions by tenants to assign their leases. This is giving rise to costs of £100,000s, and huge losses to the value of freeholds (examples given were of losses of over £100m and of £25m).

4.10 There is a consensus that these problems create needless red tape, inhibit economic growth and productivity, and cause tenants, landlords, local authorities and central Government to suffer significant preventable financial losses. The law creates commercial uncertainty and stifles legitimate commercial transactions.

4.11 A law reform project to address these problems has extensive and long-standing cross-industry support. However, Government does not currently support such a project. The Department for Communities and Local Government has said that, while it recognises that commercial leasehold could be improved, other departmental priorities mean that it is not able to support the project at the moment. As a result, the Law Commission will not conduct the project at this time. Nevertheless, the project could be undertaken in the future if it is supported by Government.

CRIMINAL RECORDS DISCLOSOURE

4.12 The need to undertake a broader review of criminal records was the key recommendation in our February 2017 Law Commission Report on the narrow issue of the list of "non-filterable" offences. In our report, we noted that the system of "filtering" is flawed and that there is a strong case for undertaking a wider review of the criminal records system as a whole, as it produces inconsistent and disproportionate results. A number of conjoined appeals will be considered together by the Supreme Court early in the New Year.

4.13 The Lammy Review has, meanwhile, proposed 'sealing' some criminal records and highlighted "the broader significant negative impact that the current criminal records disclosure regime has on people's chances of finding work after they've turned their lives around".

4.14 At the time of finalising the Programme, it has not been possible to secure Protocol support from the Home Office. We will continue to discuss options for further reform with the relevant officials.

EVIDENCE IN CHIEF AND NEW TECHNOLOGY (BODY CAM EVIDENCE)

4.15 This project would seek to assess and remedy the extent of the failure of the courts to keep pace with advancements in technology. At present the courts are operating a system which fails to maximise cost effectiveness and causes unnecessary inconvenience for witnesses and defendants. The particular focus of the project would be on how the law ought to accommodate the increased deployment of police body cameras. The increased prevalence of police body cameras raises a number of issues relating to how the evidence derived from their use ought to be stored, presented and retained.

4.16 This project provides the opportunity to achieve much needed consistency in two respects. First, in regulating how body cameras are used by police forces and, secondly, in how the evidence derived from their use ought to be presented in criminal proceedings.

4.17 The Ministry of Justice has concluded that this is not a priority at this time and has declined to provide Protocol support.

ISSUES IN CORONERS' LAW

4.18 Coroner law was substantially reformed by the Coroners and Justice Act 2009, which, among other things, established the office of the Chief Coroner. Enough time has now passed to reveal gaps or potential problems in the law, and the time may be ripe for its review.

4.19 Respondents to our consultation raised two discrete issues. They suggested that we might consider the benefits of: (1) extending coroners' jurisdiction to allow the investigation of stillbirths; and (2) bringing coroners within the courts and tribunals service, without local authority appointment or funding.

4.20 In his annual report[9] the Chief Coroner raised a number of other technical matters which he considers in need of reform. We were persuaded that taken together, these issues make a compelling case for a limited review of coroners' law.

4.21 It has not been possible to discuss all of the issues that were brought to our attention with officials at the Ministry of Justice within the necessary timeframe for possible inclusion of a project in the Programme. We will give further thought to how a project reviewing coroners' law might be conducted, and seek further discussions with the Ministry of Justice in the coming months.

MOVING HOME

4.22 There is dissatisfaction with the speed, transparency and certainty of the home-moving process from all involved: buyers, sellers, conveyancers, lenders, estate agents and mortgage brokers. A potential project would aim to modernise the home-moving process and create a legal framework which accounts for new technologies which could make the process more efficient.

4.23 The home-moving process has a significant impact on the economy and on family life. It affects the buyers and sellers in each of the 1.2 million home sales in England and Wales per year, as well as many others involved in the process.

4.24 The Conveyancing Association suggested that we undertake a project on home-moving in our 13th Programme. A range of legal and non-legal issues need to be considered. At the time the Programme was being finalised, the Department for Communities and Local Government had published a Call for Evidence concerning the home moving process.[10] Therefore it was not the right time for the Law Commission to undertake work. Once the outcome of that consultation is known, it would be possible for Government to refer to us a project considering the home-moving process or particular aspects of it.

ONLINE COMMUNICATIONS

4.25 The suggestion that the Law Commission look at reforming this area of law was one of the most popular new project ideas we have ever consulted on as part of the 13th Programme. We think the popularity of this project is driven largely by the recognition that criminality of this type is so damaging to equality. The failure of the law in this area disproportionately affects women and minority groups. Anecdotally, we have heard that the failure of the law in this area undermines equality in numerous ways. Fears shared with us include:

(1) Concern that not combating offensive online communications allows behaviours to escalate into even more serious *offline* offending, such as stalking and physical abuse.

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9 See: https://www.judiciary.gov.uk/wp-content/uploads/2016/09/chief_coroner_report_2016_web2.pdf.

10 Improving the home buying and selling process (22 October 2017), available at https://www.gov.uk/government/consultations/improving-the-home-buying-and-selling-process-call-for-evidence.

(2) Concern that failures in legislation mean that the police response is often confused and minimal, making it more likely that women will not report offending.

(3) Concern that persistent offensive online communications against women, children and other minority groups "normalises" behaviour of this kind, creating a society in which abuse against women and other minority groups could also go unchallenged in offline arenas.

(4) Concern that failure to legislate against offensive online communications effectively has a disproportionate economic impact on women, who feel unsafe on the internet and may disengage with the many professional opportunities it offers.

(5) Concern that large-scale online abuse suffered by high-profile women will further erode the willingness of women to stand for office, or to take up senior positions, reducing the diversity in the workforce for the next generation.

4.26 The ubiquitous nature of internet communications makes reform in this area particularly pressing, and the project of particular societal importance. Attention on reforming the law in this area intensified when the Home Affairs Select Committee began their inquiry into hate crime and its report supporting review and reform in this area.

4.27 Because of the cross-cutting nature of this work within Government, it has not been possible to secure Protocol support for this project in time to be included in the Programme. We will continue to work with Government to assess whether a project can be supported and, if so, the focus such work would take.

PROTECTING VULNERABLE ADULTS

4.28 There are at present various ways in which health and social care professionals and the courts can intervene when seeking to take concrete steps to safeguard adults who have capacity for the purposes of the Mental Capacity Act 2005 but are in some way vulnerable, in particular to coercion or duress on the part of third parties. For example, there are clear statutory duties placed upon local authorities to inquire into the situation of such individuals (for instance the duty to undertake a safeguarding investigation under the Care Act 2014). However, the powers that exist to take concrete steps to secure their well-being are said to be both disparate and incomplete. In some cases, local authorities and the NHS must rely upon the inherent jurisdiction of the High Court. However, the parameters of the inherent jurisdiction are uncertain, and the process can be expensive and cumbersome.

4.29 A project looking at this area would provide an opportunity to review the law in relation to vulnerable or at risk adults (including the inherent jurisdiction), identify gaps that may require a legislative response and make recommendations for reform.

4.30 We spoke to officials at the Ministry of Justice and the Department of Health, who made clear that legislative change in this area was not currently a priority for Government. Commissioners therefore decided that the project should not be included on the 13th Programme. However, we will continue to monitor developments in the law, and would be pleased to consider the project as a future Ministerial reference in due course.

PUBLIC RIGHTS OF WAY

4.31 The current legislation on public rights of way is confusing. A number of different types of rights of way have arisen over time, and these rights are now scattered over numerous pieces of legislation which have been much amended. New types of rights of way have been grafted onto a scheme which was constructed around historical rights at common law, some of which are less relevant today or are no longer used at all.

4.32 A number of consultees proposed that the Law Commission should undertake a project to reform and update the law relating to certain, largely non-vehicular, public rights of way, clarifying the nature and extent of those rights. Consultees were concerned in particular with clarifying and simplifying the process by which rights of way are diverted or extinguished.

4.33 We discussed with officials in the Department for Environment, Food and Rural Affairs a project reviewing the legislation governing the existing procedures by which public rights of way are created, registered, recorded, diverted or extinguished with a view to either wholesale redesign, or the consolidation, harmonisation and simplification of the current law.

4.34 However, Government is currently working with stakeholders to improve the system and did not consider that further legislative change would be appropriate until that process is complete. In the light of this Commissioners concluded that this project should not feature in the 13th Programme. It may, however, be appropriate for a future ministerial reference.

RECTIFICATION OF MISTAKES IN PENSION DEEDS

4.35 The issue of deficits in defined benefit pensions is highly topical and has been referred to the Law Commission by The Pensions Institute as a "crushing reality". One problem which arises relates to correcting mistakes in pension scheme documentation, when such mistakes result in members' benefits being overstated in the document compared to their expectations.

4.36 These mistakes have led to a sharp increase in complex, expensive, high-value litigation. For example, the total amount at stake in three recent reported cases was approximately £245 million. When so many schemes are unable to meet their liabilities, difficult questions arise about whether members should receive payments which they did not expect, and on which they did not rely, at the expense of the fund and future scheme members. This is especially the case if the result of not correcting the deeds would be to force schemes into the Pension Protection Fund, under which liabilities will be met by the remaining schemes.

4.37 The purpose of this project would be to consider the law of rectification as it applies to pension schemes, together with the law on improperly executed deeds. We have not secured Protocol support for this project, but will keep the area of law under review.

REGULATION OF SOCIAL ENTERPRISES

4.38 As part of a recent project on social investments and pensions, the Law Commission considered the regulation of social enterprises. It identified problems with the current

regulatory regime, particularly as regards the regulation of community interest companies ("CICs") compared with cooperative and community benefit societies (known as "registered societies"). At the moment, CICs are regulated by the CIC regulator. In contrast, registered societies are registered with and overseen by the Financial Conduct Authority ("FCA"), which has wider powers.

4.39 Stakeholders have told the Law Commission that this fragmented approach leads to piecemeal policy making and an uneven playing field, and the potential for regulatory arbitrage. It may also subject social enterprises to more red tape than ordinary businesses.

4.40 The current regulatory regime is set out in several different pieces of legislation. We are in discussions with relevant Government Departments over the implications of bringing CICs and some registered societies under the oversight of a single regulator where appropriate.

4.41 It has not been possible to secure Protocol support for this project in time to be included in the Programme. We will continue to work with Government to assess whether a project can be supported and, if so, the scope of such work.

REVIEW OF THE COURT OF APPEAL (CRIMINAL DIVISION)'S POWERS

4.42 The project would look at the grounds required for a miscarriage of justice, the powers to substitute convictions and the limits on sentence. The Registrar of Criminal Appeals and his office have made many suggestions to us as to how the processes might be rendered more efficient.

4.43 There is the potential to explore reforms to the provisions concerning appeals against sentence (both by the defendant and by the Attorney General under the unduly lenient sentence scheme). There are potential problems in that the tests for allowing an appeal against sentence (namely whether or not the sentence is manifestly excessive or wrong in principle) are not based in statute and are constructs of the common law. Further, in the circumstances of a conviction at a re-trial, the Criminal Appeal Act 1968 prohibits the imposition of a sentence more severe than that which was imposed following the original conviction, notwithstanding the fact that the second hearing is a de novo hearing.

4.44 This project is one of significant importance, and could generate substantial savings. It has been suggested that the law at present is inconsistently applied and can result in unfairness. Additionally, there are theoretical inconsistencies contained in both regimes governing appeals against conviction and sentence. Consultees raised numerous examples in their submissions of unfairness in practice. The breadth and variety of consultees ranging from practitioners to the Justice Select Committee is indicative of the perceived need of such a review.

4.45 The impact on the Criminal Cases Review Commission ("CCRC") and the continuing appropriateness of the arguably over restrictive "reasonable possibility" test under section 13(1) of the Criminal Appeal Act 1995 for reference of a case to the Court of Appeal would also need to be examined. The CCRC serves an important function but is arguably struggling to fully realise its role in the appeals system given recent and

numerous criticisms of decisions taken and cases referred to the Court of Appeal under the 1995 Act. The growing workload of the Court of Appeal – in spite of a reduction of applications for leave to appeal conviction and sentence – and the CCRC is also of concern, although the interests of access to a fair remedy must take precedence.

4.46 The Ministry of Justice has concluded that this is not a priority at this time and has declined to provide Protocol support.

REVIEWING PART 3 OF THE CHILDREN ACT 1989

4.47 Part 3 of the Children Act sets out the powers and duties of local authorities when supporting children and their families. This includes section 17 of the Act, which enables a local authority to safeguard and promote the welfare of children within their area and to promote the upbringing of such children by their families. However there are reported to be a number of difficulties in the way in which Part 3 currently works. For example, there is no express duty to assess children and their families, the legal definitions in part 3 are outdated and discriminatory, the use of eligibility criteria by local authorities outside of a legal framework is widespread and the interface between Part 3 and other legislative provisions (such as the Chronically Sick and Disabled Persons Act 1970) is uncertain.

4.48 We discussed with officials at the Department for Education the possibility of reviewing Part 3 to ensure that it is working effectively and as intended for all children to whom it applies. The Department took the view that, given the current pressures on legislative time, they could not commit to a serious intention to reform the law in this area. However, in the event that the legislative landscape changes, we would be glad to reconsider this project.

SECURITIES OVER IP RIGHTS AND CORPORATE DISCLOSURE OF IP RIGHTS

4.49 In recent years, the value of intellectual property rights ("IPR") has increased, especially for small and medium enterprises ("SMEs"). However, despite holding such valuable assets, many SMEs experience difficulty in sourcing finance to grow their business. This is partly because IPR are personal property that cannot be physically held, so lending against these rights is classed as unsecured. Mainstream lending practice is geared towards traditional fixed assets for which there are established principles for registration, valuation and priority.

4.50 Problems in the current law include issues with registration of IPR, which may have consequences in relation to priorities of interests. For example, although it is possible to register a security against a registered IPR, there is no requirement that they must be registered to be valid. There are also two competing systems of registration – the IP specialist registers and the Companies House register – and the same security over the same IPR may be registered in both, with inconsistent results. Additionally, for certain types of IPR (such as design rights and copyright) there is nowhere to register securities. A further, related, point, is whether IPR should be included in corporate disclosure, to give a better, and more accurate, picture of a company's assets.

4.51 The purpose of this project would be to explore and to consult on potential solutions for these issues, supporting SMEs and encouraging economic growth. At the time of finalising the Programme these projects have not received Protocol support.

SUMMARY JUDGMENT PROCEDURES IN ARBITRATION

4.52 Although London continues to be the world's preferred venue for international commercial arbitration, there is concern that rival jurisdictions such as Hong Kong, Singapore, Paris and Dubai could soon "catch up". The Arbitration Act 1996 is now 20 years old. In that time, other jurisdictions have enacted their own legislation, with provisions which reflect recent developments in this practice area.

4.53 The purpose of this project would be to consider the reform of the Arbitration Act 1996. One area of potential reform is the use of a statutory summary judgment style procedure. There is no express power in the 1996 Act for such a procedure. It is arguable that arbitrators already have a power to order summary judgment. However, we have been told that such powers are rarely if ever exercised because of the risk that awards would be challenged for breach of due process or that problems could arise with international enforcement. We could also consider, as part of the project, including in the Act a wider range of summary powers for arbitrators, for example to strike out an unmeritorious claim or defence.

4.54 Such reform could have a subtle but positive impact on London's attractiveness as an arbitration venue. Because of the cross-government nature of this work, it was not possible to secure Protocol support in time for publication of this Programme. We are hopeful that Ministers will be able to make a reference to the Commission so that we can undertake work in this area.

TRUST LAW ARBITRATION

4.55 English trust law is an important global legal export and London is a world-leading centre for dispute resolution, including arbitration. However, where trust law and arbitration meet, this jurisdiction is lagging behind its international competitors. At present, a clause in a trust instrument requiring disputes to be arbitrated is not binding. A potential project investigating how the Arbitration Act 1996 could be amended to make trust law arbitration clauses valid was proposed by the Trust Law Committee and supported by the Justice Committee, the Bar Council and the Society of Trusts and Estates Practitioners.

4.56 As well as furthering the UK's reputation as a centre for the resolution of international commercial disputes, the introduction of trust law arbitration would increase the competitiveness of the trust law services industry and create a new branch of business in the arbitration sector. These benefits have prompted other jurisdictions (including Guernsey, Singapore and five US states) to make provision for trust law arbitration.

4.57 The project would design an arbitration system that is appropriate for trust disputes, and will therefore engage several complex issues; for example compliance with human rights law, the need to take into account any interests of HMRC in the outcome of arbitration proceedings, and whether any change in the law should extend to all types of trust (including charitable trusts).

4.58 Because of the cross-government nature of this work, it was not possible to secure Protocol support in time for publication of this Programme. We are hopeful that Ministers will be able to make a reference to the Commission so that we can undertake work in this area.

VARIOUS CRIMINAL LAW REFORMS

4.59 The project would consider the potential problem of overuse of criminalisation both in terms of its impact on the prison population and questions of principle regarding the statement of values criminal law ought to reflect. Given Brexit implications, this could prove a timely and appropriate project. Many regulatory criminal offences come from EU legislation and the powers in the European Union Withdrawal Bill could be used as an implementation mechanism. Timing in this regard is important – the powers as currently drafted are only exercisable within two years of the Exit Date. If the project takes place primarily in the form of a repeal Bill it may be suitable for Law Commission Special Procedure.

4.60 The project would involve considering whether particular criminal offences ought to be decriminalised because they are either unnecessary duplicated offences, or could be dealt with by way of regulatory penalties/civil sanctions. It would also ascertain the extent to which certain criminal offences could be replaced with a single offence.

4.61 The number of regulatory criminal offences has continued to rise dramatically in recent years. While there is a dearth of accurate quantitative studies – James Chalmers and Fiona Leverick have noted that it is not even possible to identify the number of regulatory bodies with powers to create such offences[11] – research shows that 1268 offences applicable to England and Wales were created in 2010-11 alone, roughly 60% of which implemented European Union obligations and 40% of which the maximum punishment is a fine.[12]

4.62 Many of these offences are rarely (or never) prosecuted, weakening public confidence in the criminal justice system. Where offences are prosecuted, criminal liability often seems to be inappropriate considering the level of harm caused by the offence and the impact of a criminal conviction, the degree of stigma resulting from it and the punishments available to civil courts in the regulatory sphere. This can similarly weaken public faith in the power of the criminal sanction. Further, the significant number of over-lapping criminal offences, and their differing maximum sentences, can lead to inconsistent responses by the criminal justice system to materially alike courses of conduct.

4.63 The Ministry of Justice has concluded that this is not a priority at this time and has declined to provide Protocol support.

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[11] J Chalmers and F Leverick, 'Tracking the Creation of Criminal Offences' [2013] Criminal Law Review 543, at 547.

[12] J Chalmers and F Leverick, 'Tracking the Creation of Criminal Offences' [2013] Criminal Law Review 543.

WEDDINGS

4.64 A couple's wedding day is one of profound emotional, cultural, social, and legal significance. It is often presented as the best or most important day of one's life, and as a result is generally seen as requiring a special level of celebration and expenditure, both by the couple and by family and friends. For many, a marriage will be celebrated with significant religious rites.

4.65 A wedding is also a legal transition in which the state has a considerable interest. Since a marriage will result in a legally binding tie with specific legal consequences, it should be clear when it has come into being. The legal recognition of a ceremony requires a measure of scrutiny by the state to ensure that those seeking to marry are legally free to do so and to prevent sham and forced marriages.

4.66 Despite the law's importance, and the huge numbers of people it affects, its structure has not fundamentally altered since 1836. The law is antiquated, and not fit for purpose in modern day England and Wales. The law, having been added to over time, is also needlessly complex, inconsistent, and uncertain. The Ministry of Justice asked us to undertake a scoping review to identify the problems that law reform would need to address. We concluded in our 2015 scoping paper, *Getting Married*, that the law is unnecessarily restrictive and outdated and fails to serve today's diverse society, and that the solution lies in full-scale reform.

4.67 The Ministry of Justice has told us that Government does not currently support a project to develop recommendations for the reform of weddings law. The Minister of State has explained that priority is being given to reforms to address the increase in public and private family law cases currently putting pressure on the justice system. As a result the Law Commission will not conduct a weddings project at this time. We welcome, however, the Minister's assurance that he will keep the possibility of further Law Commission work under review.

(signed) The Right Honourable Lord Justice Bean, Chairman
Professor Nick Hopkins
Stephen Lewis
Professor David Ormerod
Nicholas Paines QC

Phil Golding, Chief Executive

13 December 2017

APPENDIX 1 – LIST OF CONSULTEES

Our formal consultation response pro forma included notice that all responses will be treated as public documents. Where no such notice has been given to a consultee, for example because they contacted us by email without completing the pro forma, the Commission must work on the basis that we do not have consent to publish either the response or the personal details of the individual responding. To do so could result in the Law Commission breaching its legal obligations to protect individuals' information.

We are grateful to everyone who responded to our consultation and considered all responses irrespective of the format in which they are sent to us.

Submissions received included those from the following:

A2Dominion Housing Group Ltd

ADF International

Advisory Panel on the Archaeology of Burials in England

Age UK

David Alexander

Dr Amel Alghrani and Emma Walmsley

Mark and Jackie Allen

Kathy Allen

Marisa Allman

Ellie Allwood

Professor Paul Almond

AMHP Leads Network

Archaeology Section of the British Academy's Fellowship

Richard Arthur

Animals in Need

Anscombe Bioethics Centre

Associated Retirement Community Operators

Association of British Insurers

Association of Fertility Patient Organisations

Association of Her Majesty's District Judges

Association of Independent Celebrants

Association of Lawyers for Children

Association of Leasehold Enfranchisement Practitioners

Association of Local Government Archaeology Officers (England)

Association of Personal Injury Lawyers

Association of Private Crematoria and Cemeteries

Association for Real Change

Association of Residential Managing Agents

Association of Retirement Housing Managers

Autism Together

Clover Baker

Banner Property Services

Baptist Union of Great Britain

Anne Barber

Barclays Bank PLC

Bates Wells Braithwaite

Battersea Dogs and Cats Home

Charlotte Barnes

Rupert Barnes

Professor Warren Barr and Professor Debra Morris

Darren Becks

BEIS Legal Group

Bircham Dyson Bell LLP

Mike Bird

Blacks Solicitors LLP

Lesley Blessington

Helen Bowden

Nigel Bradley

Alison Brammer

Born Innocent

Robert Brialey

Tom Bridge

Brighton Hove and District Leaseholders Association

Brilliant Beginnings

British Association for Biological Anthropology and Osteoarchaeology

British Association of Social Workers Mental Health

British Bankers Association

British Council of Shopping Centres

British Fertility Society

British Medical Association

British Property Federation

British Toilet Association

Steve Broach

Lynn Brooks

BrookStreet des Roches LLP

Peter Browning

Burges Salmon LLP

Laura Burkinshaw

Tim Butler

Cafcass

Dr Thérèse Callus

Cambridge Family Law

Andrew Campbell-Tiech QC

Cardiff Law School Innocence Project

Caxtons Chartered Surveyors

Central Association of Agricultural Valuers

Centre for Anatomy and Human Identification

Centre for Criminal Appeals

Centre for Gender Equal Media, Durham University

Challenging Behaviour Foundation

Chancery Bar Association

Charities' Property Association

Charity Law Association

Chartered Institute of Arbitrators

Chartered Institute for Archaeologists

Chartered Institute of Legal Executives

Adam Cheal

Jo Chimes

Christian Action Research & Education

Christian Concern

Christian Medical Foundation

Churches' Legislations Advisory Service

Civil Sub-Committee of Council of Circuit Judges

Citizens Advice Cymru

City of London Law Society

The City of Westminster and Holborn Law Society

Clapham & Collinge LLP

Paul Clark

Professor David Clarke

John Clay

CMS Cameron McKenna

Alan Collins

Joanne Collins

Commercial Litigation Association

Commonwealth War Graves Commissions

Richard Connaughton

Barbara Connolly QC

Graham Conridge

Dr Heather Conway

The Conveyancing Association

Coodes LLP

Helen Cook

Coram Children's Legal Centre

Geoffrey Cotterill

Council for British Archaeology

Council of HM Circuit Judges

Council of Mortgage Lenders Church in Wales Sarah Chapman

Country Land & Business Association

Viscount Janric Craigavon

Criminal Procedure Rule Committee

Cripps LLP

Rawdon Crozier

The Crown Estate Commissioners

Crown Prosecution Service

Susan Cunningham

Cytûn – Churches Together in Wales

John Dagnall

The Daisy Network

Dawson Cornwell

DDA Watch Ltd

Kelvin Danny Debideen

Dr Enys Delmage

Derezlegal Ltd

Dr Lauren Devine and Stephen Parker

Digital-Trust

Disabled Children's Partnership

DMD Solicitors

Gillian Douglas

Professor James Driscoll

Roger Duffin

Amanda Dunckley

Clive Durdle

Stuart Durrant

DWF LLP

Matthew Dyson

East Kent Specialist Confiscation Panel

Ecclesiastical Law Society

Michael Egan QC

Professor Shachar Eldar

Employment Lawyers Association

End Online Misogyny

Endangered Dogs Defence & Rescue Ltd

ERA Property Services

Emily Evans

Steffan Evans

Family Justice Council

Family Law Group of the Board of Deputies of British Jews

Family Law Research Group

Federation of Burial and Cremation Authorities

Federation of Private Residents' Association

Judith Feld

Fellowship of Professional Celebrants

Fisher Meredith LLP

Dr Catrin Fflur Huws

Cllr Nick Forbes

A Robert Forrest

Gillian Foster-Smith

Caroline Frean

Fraud Lawyers Association

Fraud Advisory Panel

David Gatrell

Felicity Gerry QC

Gibbons Smith Property Lawyers

Alison Gill

Professor Alisdair Gillespie

Vivienne Goldstein

Professor Roy Goode

Terence Grady

Graff and Redfern Solicitors

Stephanie Greenhalgh

Damian Greenish

Gideon Groom

Alison Grundy

Philip Hall

Anne-Marie Hamer

Dr Charles Harpum

Simon Harris

Michelle Hart

Mike Harvey

Kevin Hastings

Raymond Hayes

Stan Hayward

Rose-Anna Higgins

Hindu Council UK

Historic England

Hogan Lovells LLP

Home Owners Alliance

David Hodson OBE

Dr Adam Hofri-Winogradow

Dr Kirsty Horsey

Howard Kennedy LLP

Institute of Cemetery & Crematorium Management

Institute of Historic Building Conservation

Institute of Residential Property Management Limited

Intrusive Footpaths Campaign

Investment Property Forum

Sharon Irvine

Christine Jackson

Professor Emily Jackson

Paul Jarvis

Christopher Jessel

Rebecca Johnston

Helen Johnston

Joint Insolvency Committee

Dr Imogen Jones

Amanda Jordan

Sheila Joss

JUSTICE

Justice Committee

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Gillian Kemp

Marcella King

Martin Kingerley

John Knowles

Land Registry

Landlord and Tenant Act Working Group

Maria Lati

Elizabeth Laws

The Law Society

Law Society of Scotland

LEASE

The Leaseholder Association

Marie-Ann Lee

Marlene Leivers

Professor Michael Levi

Mr Justice Lewis

LGBT Family Law Institute

Morgan Lister

Angharad Lloyd

The Right Honourable Lord Justice Lloyd Jones

Elizabeth Machado

Lord Mackay

Claire Macmillan

Siobhan MacNamara

Barry Male

Frances Marshall

Maunder Taylor Chartered Surveyors

Professor Graham McBain

Colin McCarthy-Little

The Right Honourable Lord Justice McCombe

Suzanne McGreavy

Alex McKnight

Dr Aisling McMahon and Dr Bríd NíGhráinne

Medical and Dental Defence Union of Scotland

Mencap

Maria Miller MP

Mills & Reeve LLP

Dr Kenneth Mitchell

Hugh Morgan

Theresa Morris

The Museum of London

Nabarro LLP

Nacro

NAGALRO

Dr Sarah Nason

National Association of Funeral Directors

National Audit Office

National Gamete Donation Trust Alternative Family Law

National Farmers' Union

National Independent Safeguarding Board (Wales)

National Leasehold Group

National Panel for Registration

The National Police Coordination Centre

National Spiritual Assembly of the Bahá'ís of the United Kingdom

Natural England

National Crime Agency

Mark Newby

Luke Norbury

Notaries Society of England and Wales

Nottingham Law School

Older People's Commissioner for Wales

Professor Dawn Oliver

Michael Orlik

Tom Osborne

Harry O'Sullivan

Marion Oswald, Helen James and Emma Nottingham

Gwilym Owen and Marie Parker

Professor Nicola Padfield

Pagan Federation

Sharon Paton

Martin Peace

Pembroke Lodge

Personal Injuries Bar Association

Andrew Powell

Practitioner Alliance for Safeguarding Adults UK

Preim Ltd

Premier Property Lawyers

Matthew Price

Prison Reform Trust

Professor Rebecca Probert

PROGAR

Progress Educational Trust

Property Litigation Association

PSL Solicitor

Quakers in Britain

Professor Muireann Quigley

Philip Rainey QC

Recognised Leaseholders Residents Association

Redbird Conveyancing Ltd

Registration Archives and Coroners, North Yorkshire County Council

Brian Reid

Religious Society of Friends (Quakers) in Britain

Resolution

Nicholas Rheinberg

Christina Roberts

Dr Nicholas Roberts

Gerard Rothschild

Royal College of Nursing

Royal College of Psychiatrists

RSPCA

Alex Ruck Keene

Dr Julie Rugg

Russell-Cooke LLP

Dr Russell Sandberg

Professor Andrew Sanders

Peter Sanguinetti

Sasa Savic

Laura Scaife

Penelope Schofield

J Scollan & Co

Serious Fraud Office

Professor Duncan Sheehan

Alan Sheeley and Anne-Marie Ottaway

James Shepherd

Dr Kendal Shepherd

Jan Shillito

Daniela Sibille

Michael and Kerry Snape

Society of Antiquaries of London

Society of Local Council Clerks

Belinda Solomon

Tim Spencer-Lane

SPL Management

Professor Keith Stanton and Dr Holly Powley

STEP Digital Assets Working Group

Jane Stewart

Professor Lindsay Stirton

Claire Stoneman

Stonewall

Stowe Family Law LLP

Surrogacy Lawyers

Surrogacy UK

Nigel Thomas

Sarah Thomson

Barbara Thorne

Michael Timms

Joe Tomlinson and Professor Robert Thomas

Helen Torresi

Dr Andrea Tosato

Training for Professionals

Trust Law Committee

Professor Janet Ulph

Jean Underdown

Unlock

UK Environmental Law Association

UK Health Forum

UK and Ireland LGBT Family Law Institute

Valentine & Co

V V Veeder QC

Victim's Commissioner for England and Wales

Dr Vishal Vora

Dr Katherine Wade

Tom Wainwright

Nicola Wake and Natalie Wortley

Peter Wallington QC

Andrew Wallis

Jane Walton

Professor Thomas Glyn Watkin

David Watkins

Sarah Wayman

Welsh Language Commissioner

Mary Welstead

Catherine West MP

Stephen White

Fergus Whyte

Adele Wilde

Huw Williams

Peter Williams

Dr Debra Wilson

Dr Paulina Wilson

Lyndsay Winpenny

Women's Aid

Patricia Wooding

Claire Wood, Connie Atkinson, Katie Newbury

Professor Lorna Woods

Caroline Young

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