



**Law
Commission**
Reforming the law

Annual Report 2012–13



The Law Commission Annual Report 2012–13

(LAW COM No 338)

The Forty-Seventh Annual Report of the Law Commission

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

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“

Outside of Parliament itself and the Departments of State it is probably true to say that no body has had greater impact on the law and the lives of our citizens than the Law Commission since its creation in 1965. ”

The Rt Hon Lord Justice Etherton, Chancellor of the High Court.
Evidence to the Triennial Review of the Law Commission, February 2013.



From left to right: Professor David Ormerod QC, Professor Elizabeth Cooke, Elaine Lorimer, Sir David Lloyd Jones, David Hertzell, Frances Patterson QC



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

Commissioners:

The Rt Hon Lord Justice Lloyd Jones, Chairman*
Professor Elizabeth Cooke
David Hertzell
Professor David Ormerod QC
Frances Patterson QC

Chief Executive:

Elaine Lorimer

This annual report covers the period 1 April 2012 to 31 March 2013, although we have also included recent and relevant references beyond the reporting period.

The terms of this report were agreed on 15 May 2013.

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

www.lawcom.gov.uk

* Sir David Lloyd Jones succeeded Sir James Munby on 1 August 2012.

“

[The Law Commission] is unique, carrying out a much needed task. It has set a model for the rest of the world in independence, scholarship, pragmatism and success. There is a real danger that law would stagnate without it.

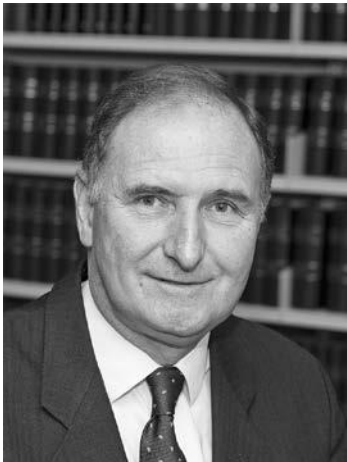
”

The Baroness Deech DBE MA HonLLD. Evidence to the Triennial Review of the Law Commission, February 2013.

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Law Commission Annual Report 2012–13



To the Right Honourable Chris Grayling MP, Lord Chancellor and Secretary of State for Justice.

I wish to begin this introduction to my first annual report as Chairman of the Law Commission by thanking my predecessor, Sir James Munby, for the outstanding contribution he has made to the Law Commission and its work. I have inherited a thriving and successful organisation where he is held in great respect and affection and where the news of his recent appointment as President of the Family Division of the High Court has been greeted with delight.

I am extremely grateful to the Commissioners, Chief Executive and staff of the Commission for making me so welcome since my arrival in August 2012. I have rapidly come to realise how fortunate the Commission is in having such accomplished and dedicated staff.

During the past year they have achieved a great deal and the efforts of earlier years have, in a number of respects, come to fruition.

- The Consumer Insurance (Disclosure and Representations) Act 2012, which came into force on 6 April 2013, represents an important and long overdue reform of this aspect of the law of consumer insurance. We hope to build on this success in the remaining stages of the insurance law project.
- The Statute Law (Repeals) Act 2013, which received Royal Assent on 31 January 2013, is based on the 19th Law Commission Report on Statute Law Repeals, the largest of its kind. It has effected the repeal of 817 Acts in their entirety and the partial repeal of redundant provisions in 50 more.
- The Trusts (Capital and Income) Act 2013, which also received Royal Assent on 31 January 2013, is a product of the special parliamentary procedure for non-controversial Law Commission Bills. It introduces technical but important reforms in the law of trusts for the benefit of both trustees and beneficiaries.

At the request of the Ministry of Justice we accelerated that part of the Contempt of Court project relating to the offence of scandalising the court. We published our consultation paper in August 2012 and our report, which recommended abolition of the offence, on 19 December 2012 (after publication of a summary of recommendations on our website on 4 December 2012). On 10 December 2012 an amendment to the Crime and Courts Bill, abolishing the offence, was carried by the House of Lords. Subsequently that amendment was accepted by the House of Commons on 31 January 2013.

Recent months have brought welcome news of Government plans to implement further Law Commission recommendations.

- The Government announced on 21 March 2013 that it accepted certain of the recommendations in the Commission's project on Intestacy and Family Provision Claims on Death. The Inheritance and Trustees' Powers Bill, which would implement these recommendations, is expected to be the next Bill to be introduced into the House of Lords under the special parliamentary procedure for non-contentious Law Commission Bills. The Government is still considering the Law Commission's recommendations in a second draft Bill, The Inheritance (Cohabitants) Bill, but has indicated that it will not be taken forward during this Parliament.
- In April 2013 the Ministry of Justice announced its intention to introduce legislation to amend the Third Parties (Rights against Insurers) Act 2010 and to commence it as soon as reasonably possible after it has been amended.
- The Care Bill, announced in the Queen's speech, will implement in England Law Commission recommendations contained in our report on Adult Social Care published in May 2011.
- The Consumer Rights Bill, also announced in the Queen's speech, and associated regulations are expected to implement recommendations

contained in three Law Commission reports on Unfair Contract Terms, Consumer Redress for Misleading and Aggressive Practices and Remedies for Faulty Goods.

The recent acquisition by the National Assembly for Wales of direct legislative powers under Part 4, Government of Wales Act 2006, has opened new opportunities for implementation and the Welsh Government has recently announced its intention to give effect to certain Law Commission recommendations for law reform.

- The Social Services and Well-being (Wales) Bill, currently before the National Assembly for Wales, will implement Law Commission recommendations on adult social care.
- Following the rejection by Government in England of the recommendations in the Law Commission report on Renting Homes published in 2006, at the request of the Welsh Government the Commission updated that report.¹ A White Paper in May 2013 will be followed by the introduction of a Bill in the Assembly implementing these proposals.

In addition, the four teams at the Commission have made excellent progress with the current law reform projects. The current work programme is particularly ambitious and has placed considerable burdens on all levels within the Commission. In addition to the report on Scandalising the Court, referred to above, we have published reports on The Electronic Communications Code and Renting Homes in Wales. In March 2013 we published our advice paper on Unfair Terms in Consumer Contracts. During the last year we have published eleven consultation papers on the following subjects: Taxis and Private Hire Vehicles, Insurance Contract Law (Third Consultation Paper), The Electronic Communications Code, Unfair Terms in Consumer Contracts, Scandalising the Court, Wildlife Law, Matrimonial Property, Needs and Agreements (Supplementary Consultation Paper), Contempt of Court, Rights to Light, Conservation Covenants and Patents, Trade

¹ Renting Homes in Wales/Rhenttu Cartrefi yng Nghymru (2013) LC337.

Marks and Design Rights: Groundless Threats. We have published scoping papers and consulted on Insanity and Automatism and on Electoral Law in the UK. In addition, the Statute Law Repeals team has published a consultation paper on British India Statute Repeals. We have continued to work closely with the Scottish Law Commission on joint projects including that on the law of level crossings. In addition, we have completed the consultation on Regulation of Health Care Professionals, our first tripartite law reform project with the Scottish Law Commission and the Northern Ireland Law Commission and are now proceeding to instruct Parliamentary Counsel jointly.

The extent to which the proposals of a law reform body are implemented must be an important measure of its success. In this regard, we have enjoyed a number of successes in the past year as indicated above. I am glad to report that the new parliamentary procedure for non-contentious Law Commission Bills, adopted by the House of Lords Rules Committee in October 2010, is proving a most effective means of law reform. Under this procedure proposed reforms are subjected to rigorous and expert scrutiny. The Consumer Insurance (Disclosure and Representations) Act 2012 and the Trusts (Capital and Income) Bill 2013 have both reached the statute book through this procedure, as has the Partnerships (Prosecution) (Scotland) Act 2013, which implements proposals by the Scottish Law Commission. We are confident that there will be no shortage of further candidates for this procedure. It remains too early to express firm conclusions on how effective have been the reforms in the machinery of law reform made by the Law Commission Act 2009. Present trends are encouraging but we would welcome decisions by Government on whether to implement the substantial back log of published proposals. Furthermore, during the past year the Commission has become increasingly aware of possible means of implementation other than legislation. Here, for example, we welcome the decision of the Advocacy Training Council to use recommendations in our report on Expert Evidence in Criminal Cases as the basis of its training.

This has also been a year of personal successes. All three of my immediate predecessors as Chairman have achieved great distinction in their judicial careers: Sir Roger Toulson has been appointed a Justice of the Supreme Court, Sir Terence Etherton has been appointed Chancellor of the High Court and Sir James Munby has been appointed President of the Family Division. There have also been outstanding achievements among the current Commissioners. In April Professor David Ormerod was appointed a Queen's Counsel *honoris causa* and Professor Elizabeth Cooke was appointed a Deputy High Court Judge. On 24 May 2013 it was announced that Frances Patterson QC has been appointed a Justice of the High Court, Queen's Bench Division with effect from 1 October 2013. This appointment has brought great pleasure to all her colleagues at the Commission, tempered only by our sadness at her departure from the Commission where, as Commissioner leading the Public Law team, she has driven forward a number of particularly demanding projects with great skill. I extend to them all my warmest congratulations.

Triennial Review

In recent months the Law Commission has undergone Stage 1 of its first triennial review. I wish to record my warm appreciation of the support the Commission has received from the many individuals and organisations with whom we have dealings who responded to the call for evidence. We hope that Stage 2 will commence shortly and conclude by late summer.

Branding and website

The need for the Law Commission to be both independent and seen to be independent has been at the core of linked threats to the Commission that have persisted throughout my first nine months in office. Shortly after my arrival the Commission was informed that it would in future be required to use standard Government branding and that it would be required to be part of the new Government website where it would be described as "inside Government".

We objected to both decisions on the basis that the Law Commission is an independent body, created by Parliament, that is required to be distinct from the executive and that the deliberate alignment of the Commission with the executive would be very damaging to the Commission's reputation. It became necessary for us to invite many of our stakeholders to write in support of our applications for exemption. Thanks to their assistance and with strong support from Ministers in the Ministry of Justice, we were eventually successful on the issue of branding, the Prime Minister's Office and Cabinet Office communication team accepting that we had provided a significant and compelling volume of stakeholder evidence supporting our contention that adoption of Government branding could have a damaging effect on the Commission. At the time of publication of this report we remain deeply concerned about the future of our website which is, as yet, unresolved.

Wales

The Law Commission has long been aware of its duty to be an effective law reform body for both England and Wales within their shared legal system. Under my predecessors as Chairman, the Commission has engaged closely with the Welsh Government and Welsh public bodies and has ensured that its consultations on law reform projects extend throughout Wales.

The acquisition by the National Assembly of new legislative powers under Part 4, Government of Wales Act 2006 has added a new dimension to the law reform work of the Commission. There is now likely to be a divergence between English law and Welsh law, as in the case of the Commission's proposed reforms to the law of renting homes which, as mentioned above, are to be implemented in Wales but not in England. In March 2013, following a successful seminar held at Aberystwyth University at which the Commissioners, the Chief Executive and I made presentations on the work of the Commission to leading figures in Welsh public life, the Commission decided to create a Welsh Advisory Committee. This Committee, which will meet for the first time in Cardiff on 21 June 2013, will advise the Commission on the exercise of its statutory functions in relation to Wales.

As matters presently stand, section 3(1)(e), Law Commissions Act 1965, which empowers Government Departments to refer law reform projects to the Law Commission, does not apply to the Welsh Government. Accordingly, the Law Commission has, in conjunction with the Welsh Government, requested the Secretary of State for Wales to make a transfer of functions order pursuant to section 58, Government of Wales Act, 2006 so as to permit Welsh Ministers to refer to the Commission matters that fall within the devolved area of responsibility.

The future

Between July and October 2013 the Law Commission will hold a consultation on its forthcoming Twelfth Programme of Law Reform. This will provide an opportunity for public and private bodies and for individuals to propose projects for inclusion in the next programme. We expect to submit our proposals for the programme to the Lord Chancellor in the summer of 2014. If approved, the programme will constitute the main part of the Commission's law reform work in the following three years.

Finally, I wish to thank the Commissioners, Chief Executive and staff of the Law Commission very warmly for their hard work over the past year and for their dedication to the promotion of law reform.



Sir David Lloyd Jones
Chairman

Highlights of 2012–13

2012

April	May	June	July	August	September
4	10	15	5	1	11
19th Statute Law Repeals report published	Taxis and Private Hire Vehicles consultation opens	Electoral Law scoping consultation opens	Meeting of the four law reform bodies of the UK and the Republic of Ireland, and the Jersey Law Commission	Sir David Lloyd Jones commences as Chairman	Matrimonial Property, Needs and Agreements supplementary consultation opens
17	We welcome the Legal Counsel and officials from Ministry of Justice, South Korea	21	11	10	20
We welcome Laura Watts, Senior Fellow, British Columbia Law Institute and Canadian Centre for Elder Law	15	Annual Report 2011–12 published	Government announces intention to implement our adult social care recommendations in England	Scandalising the Court consultation opens	Visit by delegates of RIPA International's Translating Policy into Legislation programme
26	Commonwealth drafters seminar delivered, Institute of Advanced Legal Studies	21	16	14	
Announcement made, Sir David Lloyd Jones to succeed Sir James Munby as Chairman	23	Insurance Contract Law third consultation opens	We welcome the Ugandan Law Reform Commission	Wildlife Management consultation opens	
	We welcome the Committee on Foreign Affairs of the Faroe Islands	28	18		
		Electronic Communications Code consultation opens	25		
			Insanity and Automatism scoping paper published		
			Unfair Terms in Consumer Contracts consultation opens		

2013

October	November	December	January	February	March
2	20	4	7	6	8
Sir David Lloyd Jones appointed Lord Justice of Appeal	Visit by Inge Lorange Backer, Professor of Law, University of Oslo, and Karin Bruzelius, former Justice of the Norwegian Supreme Court	British India repeals consultation opens	19th Statute Law Repeals Bill and Trust (Capital and Income) Bill passed	We submit our response to the Ministry of Justice Triennial Review of the Law Commission	Welsh Advisory Committee inaugural seminar, Aberystwyth University
10	22	10	9	18	19
19th Statute Law Repeals Bill introduced into Parliament	Big Voice London event	House of Lords adopts Crime and Courts Bill amendment abolishing offence of scandalising the court	Ministry of Justice launches Triennial Review of Law Commission	Rights to Light consultation opens	Unfair Terms in Consumer Contracts advice paper published
12	22	11	16	27	21
Chairman delivers lecture, Law Reform in a Devolved Wales , to Legal Wales Conference	Chairman delivers Sir William Dale Annual Lecture	Electoral Law scoping report published	Commission gives evidence to Joint Committee on draft Care and Support Bill	We submit our response to the Silk Commission on Devolution in Wales	Government accepts in part recommendations from Intestacy and Family Provision Claims on Death
16	23	14	19	28	26
Visit by 23 A-level law students from Brighton and Hove V1th Form College	Visit by judges and officials from the Supreme Court of Nepal	Work starts on Hate Crime project	Contempt of Court symposium at University College London	Electronic Communications Code report published	Work starts on Fiduciary Duties of Investment Intermediaries project
18	28	19	22		28
Commission gives evidence to the Political and Constitutional Reform Committee inquiry into ensuring standards in the quality of legislation	Contempt of Court consultation opens	Scandalising the Court report published	Lord Chancellor makes his third report to Parliament on the implementation of Law Commission proposals		Conservation Covenants consultation opens
23			31		
Visit from students of PAI's Changing the Law: Successful Reform course			Statute Law Repeals Act 2013 and Trusts (Capital and Income) Act 2013 receive Royal Assent		
26					
Visit by 19 students from Stetson University College of Law, USA			House of Commons accepts Crime and Courts Bill amendment abolishing offence of scandalising the court		

PART ONE

Who we are and what we do

“

If we are to continue to be a society that values justice, a body such as the Law Commission, that seeks to keep under constant review our overall system of justice, is essential.

”

Professor Robert Stevens, Faculty of Law, University of Oxford.
Evidence to the Triennial Review of the Law Commission, January 2013.

Who we are

1.1

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

1.2

The Chairman and Commissioners of the Law Commission, 2012–13:

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

1.3

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

What we do

1.4

The Law Commission was created by the Law Commissions Act 1965 for the purpose of reforming the law of England and Wales. It is an advisory, non-departmental body, which is part of the family of Ministry of Justice arm's-length bodies.

1.5

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

1.6

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

- simplification and modernisation of the law
- codification
- removal of anomalies
- repeal of obsolete and unnecessary enactments, and
- consolidation.

1.7

In 2012–13:

- we consulted on 12 law reform projects, and
- we published three law reform reports and our 19th Statute Law Repeals report.

Welsh Advisory Committee

Following a successful seminar at Aberystwyth University, in March 2013 the Law Commission decided to create a Welsh Advisory Committee. The creation of the Committee is intended to give Wales a stronger voice in law reform and to assist us in continuing to be an effective law reform body for both England and Wales.

The Committee will advise the Commission on the exercise of its statutory functions in relation to Wales. It will assist us with:

- identifying the law reform needs of Wales, within both the devolved and reserved areas, and
- identifying and taking into account specific Welsh issues in projects that relate to Great Britain or the whole of the UK.

Law reform in Wales

Over the years the Commission has developed strong links with the Welsh Government and Welsh stakeholders. The Advisory Committee will be a further voice for Wales in relation to proposals for law reform both in devolved and reserved areas. The Advisory Committee will also have an important role to play in identifying stakeholders and promoting consultations on proposals for law reform. It will assist us in ensuring that appropriate steps are taken to ensure effective Welsh engagement in its work.

12th Programme of Law Reform

The Welsh Advisory Committee will have a key part to play in the development of the 12th Programme. We will be consulting on the new Programme during the summer of 2013 and will be turning to the Committee for assistance in identifying ideas for new projects. These might be generated by the Committee itself or flow from its ability to help us engage more fruitfully with Welsh stakeholders and communities. The Committee will also have a helpful role to play in assessing proposals for projects.

The members

The Committee is led by the Chairman of the Law Commission. Its membership is drawn from academia, the judiciary, practitioners and the public and third sectors.

Graham Benfield OBE, *Wales Council for Voluntary Action*

Anna Buchanan, *Office of the Older People's Commissioner for Wales*

Keith Bush

Professor Dermot Cahill, *School of Law, Bangor University*

Professor Gillian Douglas, *Department of Law, Cardiff University*

Ruth Henke QC

Emyr Lewis, *Wales Governance Centre, Cardiff University*

Richard Owen, *Department of Law Accounting and Finance, Faculty of Business and Society, University of South Wales*

Professor Gwynedd Parry, *Department of Law, Swansea University*

Professor Richard Rawlings, *Faculty of Law, University College London*,

Peter Tyndall, *Public Services Ombudsman for Wales*

Professor Thomas Glyn Watkin

Angela Williams, *Citizens Advice Cymru*

Professor John Williams, *Department of Law and Criminology, Aberystwyth University*

Professor Daniel Wincott, *Cardiff University Law School*

The Law Commission in Wales

1.8

One significant – and far-reaching – achievement this year has been the establishment of a Welsh Advisory Committee. The purpose of the Committee is to give Wales a stronger voice in law reform and enable the Commission to continue to be an effective law reform body for both England and Wales. The Committee, whose members are drawn from different areas in Welsh life relevant to law reform, will advise the Law Commission on the exercise of its statutory functions in relation to Wales. This will not be limited to law reform in devolved areas but will also include the Welsh dimension of reserved matters. The Committee will give guidance to the Commission by:

- assisting in the selection of projects for our programmes of law reform
- assessing the need for law reform in Wales, and
- advising us on the context within which the law operates.

1.9

As the Law Commission of England and Wales, we strive to meet the law reform needs of the people of Wales. During 2012–13 we have been engaged on 28 projects that, if implemented, would impact on many aspects of their lives. The Social Services and Well-being (Wales) Bill, which implements our proposals on adult social care¹, will have implications for all those in Wales receiving such support. The recommendations in our Renting Homes in Wales report² have been accepted by the Welsh Government and are to be implemented in Wales, where almost a third of the population live in rented accommodation.

1.10

To strengthen our capacity to deliver effective law reform for Wales, we have been working with the Welsh Government to establish a concordat between us that will provide a formal framework for our relationship. In addition, we have asked the Secretary of State for Wales to make a transfer of functions order under s58 of the Government of Wales Act 2006 to enable the Welsh Government to refer Welsh law reform projects directly to the Commission.

Our objectives

1.11

The arrival of our new Chief Executive in January 2012 gave the Commission an opportunity to re-examine our strategic direction and to set out a clear vision for what we expect to achieve and how we make a difference to the public we serve.

1.12

In our business plan for 2012–13 we identified the characteristics to which the Law Commission should aspire:

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

1.13

We have had opportunities throughout the year to reflect on how far we have realised our aspirations. In August 2012 we gave evidence³ to the Political and Constitutional Reform Committee inquiry into ensuring standards in the quality of legislation. In February 2013 we submitted a response to the Ministry of Justice’s Triennial Review of the Law Commission.⁴ And, in November, we made a successful application to the Ministry of Justice to retain the Commission’s distinct branding, which is fundamental to its independent identity.

1.14

Together, these activities gave us further, valuable opportunities to reflect on the role of the Law Commission and to learn from our stakeholders how others perceive the value of the Commission and the impact of our work. We are grateful to all the people who responded to the Triennial Review and who supported our application to retain our distinct branding.

1 Adult Social Care (2011) LC326.

2 Renting Homes in Wales (2013) LC337.

3 www.publications.parliament.uk/pa/cm201213/cmselect/cmpolcon/writev/ensuringstandards/content.htm (last visited 23 April 2013).

4 <http://lawcommission.justice.gov.uk/publications/triennial-reviews.htm> (last visited 23 April 2013).

Our Business Plan for 2012–13

1.15

We worked together as an organisation early in the year to set our strategic objectives and identify our priorities for action. The work we did will shape our approach to our next programme of law reform and help us to understand the resources we will need to deliver it effectively.

1.16

We identified four priority areas for action:

- Law reform – to make a difference through law reform.
- External relations and reputation – to engage proactively with our stakeholders and respond to their feedback.
- Our people – to attract the best and continue to ensure the Law Commission is an excellent place to work.
- Finance and governance – to ensure decision making that is robust.

1.17

What we have achieved in these four areas of activity is outlined throughout this annual report.

Measuring success

1.8

The implementation of our recommendations for reform is clearly an important indicator of the success of the Law Commission. This is covered in detail in Part 3 of this report.

1.9

However, implementation does not fully demonstrate the breadth of the Commission's impact. In an effort to assess our impact and influence, we record instances during the calendar year when the Law Commission is cited in judgments or during business in the Houses of Parliament, and we look at the profile given to us in the media.

Table 1.1: Citations 2012

In UK judgments	324
In judgments from other common law jurisdictions	34
In Hansard	39

1.20

In addition, the Commission's work is widely quoted in academic journals and the media. A basic search on the internet reveals 121 references made in UK academic journals during the calendar year 2012, and our monitoring service picked up 594 references to the Law Commission from the media during 2012–13. Some of these will be made in support of the Commission; some may not. At the very least these figures show that the Law Commission is gaining attention and stimulating debate on the issues with which we are tasked to deal.

PART TWO

Review of our work for 2012–13

“

Since it was established in 1965 the Law Commission has achieved a deservedly high reputation for the quality of its work and the rigour of its approach to law reform.

”

Maura McGowan QC, Chairman of the Bar. Letter to the Chairman, December 2012.

Commercial law and common law

Commissioner

David Hertzell

Insurance Contract Law

2.1

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

2.2

We are conducting the review in phases. In December 2009, we published a report and draft Bill covering disclosures and representations in consumer insurance.¹ The Bill received Royal Assent on 8 March 2012 and came into force on 6 April 2013. We have held several discussions with insurers and brokers as they prepare for implementation.

2.3

In December 2011, we published a second consultation paper on post contract duties and other issues.² We received 53 responses, which we have now analysed. Summaries of the responses received are available on the Law Commission website.³

2.4

In June 2012 we published our third and final consultation paper dealing with two issues: non-disclosure in business insurance and warranties.

2.5

The law requires a business taking out insurance to disclose all material facts to the insurer but the evidence shows that this duty is not well understood.

2.6

We identified two problems and proposed solutions:

- *The extent of the duty is unclear*
We proposed to include the best principles drawn from the case law in the statute itself, to provide more guidance and certainty to policyholders and insurers.
- *The remedy is too harsh*
If the policyholder fails to disclose a material circumstance, the insurer may “avoid the contract” and refuse all claims. For conduct that is not dishonest, we proposed a new default regime of proportionate remedies based on what the insurer would have done had full information been provided.

2.7

The law of warranties has been criticised for being overly harsh on policyholders. Under the Marine Insurance Act 1906 a warranty “must be exactly complied with, whether it be material to the risk or not”. Once a warranty has been broken, the policyholder cannot use the defence that the breach has been remedied. Furthermore, the breach discharges the insurer from all liability under the contract, not just liability for the type of risk in question. Thus a failure to check a fire alarm would discharge the insurer from paying a claim for flood damage.

2.8

We proposed that a breach of warranty would suspend the insurer’s liability, rather than discharge it. Where the breach is remedied before the loss, the insurer must pay the claim. Furthermore, where a term was designed to reduce the risk of a particular type of loss, a breach would suspend liability in respect only of that type of loss. For example, a failure to install mortice locks would not affect a claim for storm damage.

¹ Consumer Insurance Law: Pre-Contract Disclosure and Misrepresentation (2009) LC319/SLC219.

² Insurance Contract Law: Post Contract Duties and other Issues (2011) LCCP201/SLCDP152.

³ http://lawcommission.justice.gov.uk/consultations/post_contract_duties.htm (last visited 24 May 2013).

2.9

The third consultation paper was launched at a one-day conference organised by the British Insurance Law Association. We have since held extensive discussions with a range of stakeholders, including the Association of British Insurers, Lloyd's Market Association, lawyers' and brokers' organisations and the risk managers' association Airmic. We received and analysed 50 written responses and have published summaries of those responses on our website.⁴ There is strong support for reform.

2.10

In view of the positive response to our consultation, our aim is to publish a further Bill and report early in 2014. Our work with Parliamentary Counsel is underway.

Patents, Trade Marks and Design Rights: Groundless Threats

2.11

Litigation over infringement of intellectual property rights is a frightening prospect. It is complex, expensive and disruptive. It usually involves specialist courts, judges, lawyers and experts. The mere threat of proceedings is, therefore, a potent weapon. Traders can use groundless threats of infringement proceedings to damage a rival by scaring away its customers and other contractors.

2.12

Since the 19th century, the law has provided protection against such threats. The statutory provisions originate in patent law and were later extended to trade marks and design rights. Any person who is aggrieved by threats of infringement proceedings may go to court and obtain a declaration, injunction or damages unless the threatener can justify the threat by proving infringement.

2.13

We were asked by the Intellectual Property Office to consider whether to repeal or reform the law of groundless threats. The current law has been criticised. It does not protect against allegations falling short of threats. The drafting of the provisions is sometimes poor, inconsistent and ambiguous. Furthermore, it is easy for rights holders and their advisers inadvertently to fall foul of the provisions when sending a letter before action, and so a "sue first – talk later" mentality is encouraged. However, despite these problems the provisions still appear to provide an important protection.

2.14

The project began in April 2012, since when we have set up and consulted a working group of judges, lawyers, practitioners and their clients. We have had many meetings with stakeholders including the intellectual property courts, user groups and the Civil Procedure Rules Committee.

2.15

We opened a consultation on 17 April 2013 seeking responses by 17 July 2013. We have agreed to provide final recommendations (but no Bill) by March 2014.

Unfair Contract Terms

2.16

The current law on unfair contract terms is unnecessarily complicated and difficult to understand. It is covered by two pieces of legislation: the Unfair Contract Terms Act 1977 and Unfair Terms in Consumer Contracts Regulations 1999 (UTCCR). The two laws contain inconsistent and overlapping provisions, using different language and concepts to produce similar but not identical effects.

2.17

In 2005 we published a report with the Scottish Law Commission on Unfair Terms in Contracts.⁵ We recommended new legislation to replace the 1977 Act and UTCCR in one simplified regime.

⁴ lawcommission.justice.gov.uk/consultations/business_disclosure.htm (last visited 24 May 2013).

⁵ Unfair Terms in Contracts (2005) LC292/SLC199.

2.18

In January 2012 the Department of Business, Innovation and Skills (BIS) asked the two Commissions to review our previous recommendations to see whether the consumer provisions should form part of a new comprehensive Bill on consumer rights.

2.19

The most controversial issue is which terms should be exempt from review. The UTCCR are based on the Unfair Terms Directive 1993, which states that terms in plain intelligible language should not be assessed for fairness if they relate to “the definition of the main subject matter” or “the adequacy of the price”. There has been considerable debate about the meaning of these words. The issue was explored but not wholly resolved by the Supreme Court in the bank charges litigation, *Office of Fair Trading v Abbey National*.⁶

2.20

In July 2012 we published an issues paper seeking views on reform, and received 58 written responses. On the basis of these responses, we reconsidered our original recommendations and published a further Advice to BIS⁷ in March 2013.

2.21

Our central recommendation is that price and main subject matter terms should be exempt from review only if they are transparent and prominent. This offers a practical way of distinguishing between headline terms, which consumers know about and take into account in their decisions, and terms buried in small print.

Other consumer reports

2.22

The unfair terms advice is the last of a series of reports on consumer law, written jointly with the Scottish Law Commission.

2.23

Two reports await implementation:

- In November 2009 we published a report on Consumer Remedies for Faulty Goods,⁸ recommending ways to simplify the law on the remedies available to consumers who buy goods that “do not conform to contract”.
- In March 2012 we published a report on Consumer Redress for Misleading and Aggressive Practices.⁹ Under the Consumer Protection from Unfair Trading Regulations 2008, regulators can bring action against traders who engage in misleading or aggressive practices. However, the Regulations do not give consumers a right to compensation. We recommended that consumers who have entered into a contract or made a payment as a result of a misleading or aggressive trade practice should have a new right of redress.

2.24

Over the past year we discussed these reports with BIS and worked on the detail of the recommendations. The Queen’s Speech in May 2013 announced that Government would publish a draft Bill to simplify consumer law. The new Bill will include the great majority of recommendations from these reports, either in the new Consumer Bill of Rights or in related regulation.

2.25

In November 2011 we published an analysis¹⁰ of the Common European Sales Law.¹¹ This is a proposal from the European Commission for a new legal regime that traders could choose to use to govern their cross-border contracts. Following publication, David Hertzell and the Scottish Law Commissioner, Professor Hector MacQueen, gave evidence to the European Parliament’s Legal Affairs Committee. Over the last year, we have continued to discuss the issue with interested parties.

6 [2009] UKSC 6, [2010] 1 AC 696.

7 Unfair Terms in Consumer Contracts: Advice to the Department for Business, Innovation and Skills (2013).

8 (2009) LC317/SLC216.

9 (2012) LC332/SLC226.

10 An Optional Common European Sales Law: Advantages and Problems (2011).

11 European Commission, Proposal for a Regulation on a Common European Sales Law, 11.10.2011, Com (2011) 635 final.

Criminal law

Commissioner

Professor David Ormerod QC

Contempt of Court

2.26

We published a consultation paper on contempt of court on 28 November 2012. Given that the law on contempt of court is vast, the consultation paper considered four discrete aspects of the law that have been identified as causing difficulty in practice:

- *Contempt by publication both under the Contempt of Court Act 1981 and at common law*
We considered how best to balance the right to a fair trial by an impartial tribunal with the right to freedom of expression.
- *The impact of new technology on the question of who constitutes a publisher for the purposes of the contempt*
We assessed whether the 1981 Act is capable of dealing effectively with rapidly developing media technologies, including social media.
- *The issue of jurors who seek information related to the proceedings that they are trying beyond the evidence presented in court or those who disclose information related to their deliberations, both of which are forms of contempt*
We asked how to strike a balance between the public interest in the administration of justice, the defendant's right to a fair trial and the rights of the jurors concerned.
- *Contempts in the face of the court committed in the Crown Court or in the magistrates' courts when exercising criminal jurisdiction*
We explored uncertainties and inconsistencies in existing court powers and made proposals that would make the law clear, fair and practicable.

2.27

As part of the consultation, we held a symposium at University College London in January 2013, which saw lively debate on each of the topics considered in the consultation paper. The event was attended by over 100 journalists, solicitors, barristers, academics, judges, government officials, and representatives of non-governmental organisations.

2.28

The consultation closed on 28 February. We aim to produce our final report by spring 2014.

Contempt of Court: Scandalising the court

2.29

Scandalising the court is a form of contempt. It has been defined as “any act done or writing published calculated to bring a Court or a judge of the Court into contempt, or to lower his authority”. Our work on this topic (which forms part of our Contempt of Court project) was brought forward and expedited in response to a proposal to abolish the offence by an amendment to the Crime and Courts Bill. We considered both the question of abolition and whether scandalising the court should be retained but modified and, if so, how.

2.30

We published our consultation paper in August 2012 and our report in December 2012. In the report we recommended that the offence or contempt known as scandalising the court should be abolished without replacement.

2.31

An amendment to the Crime and Courts Bill, abolishing scandalising the court, was introduced in the House of Lords and accepted on 10 December 2012. The amendment was accepted by the House of Commons on 31 January 2013. Section 33 of the Crime and Courts Act 2013 enacts that recommendation.

Contempt of Court symposium – bringing the experts together

The Commission consults widely when drawing up its programmes of reform and in developing its law reform projects. We are committed to ensuring that our work is informed by the knowledge and experience of the people who work in and with the law and whose lives, businesses and other enterprises are shaped by it.

In January 2013 we held a symposium at the Judicial Institute of University College London, which was attended by over 100 invited guests. Our panel of speakers, which was led by the Chairman, included experts from across academia, the judiciary, police, media, Parliament and legal practice. Each chapter of the consultation paper – contempt by publication, the new media, contempt by jurors and contempt in the face of the court – was thrown open to debate by our audience of journalists, solicitors, barristers, academics, judges, Government officials and representatives of non-governmental organisations.

As well as the symposium, we held a seminar at the Royal Courts of Justice to discuss the issues raised by the consultation paper with members of the High Court and Court of Appeal. We held a small, round-table discussion, bringing together representatives from the media and the judiciary to consider the impact of new technology on contempt and the difficulties posed by internet publications. In addition, Professor David Ormerod QC, the Law Commissioner for criminal law, delivered a series of lectures on contempt to groups of students, academics, lawyers and judges at the Universities of Birmingham, Durham and Cambridge.

“

The contempt symposium...also served to increase learning and improve links between academics, the judiciary, practitioners and journalists working in this field of law, aside from helping the Law Commission to obtain views for the purposes of its consultation.

”

Rowena Collins-Rice, Director General, Attorney General's Office. Evidence to the Triennial Review of the Law Commission, February 2013.



Sir David Lloyd Jones (1), Professor David Ormerod QC (2) and Kate Grady, lawyer from the Criminal Law team (3) lead the debate.

Fitness to Plead

2.32

In some circumstances a person who is charged with an offence is not fit to plead to that charge and to stand trial. He or she is said to be “unfit to plead”. Many of the problems surrounding the current rules for determining fitness to plead relate to the fact that they were devised when psychiatry was in its infancy.

2.33

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

2.34

We opened a consultation on 27 October 2010. In our consultation paper¹² we provisionally proposed that:

- the focus of the new test should be on whether an accused can play a meaningful and effective part in the trial and make relevant decisions, and
- greater use be made of special measures to ensure that, where people could participate in the trial meaningfully with extra help, that help is provided.

2.35

We have now considered the responses to the consultation paper. Our next step will be to take proposals for reform forward, amended in light of the feedback received on consultation.

Hate Crime

2.36

This project was referred to us by the Ministry of Justice following the publication of the Government’s three-year Hate Crime Action Plan¹³ in March 2012 and an exchange of correspondence over the second half of that year.

2.37

The project examines the case for extending two existing groups of offences dealing with hate crime to include additional groups of potential hate crime victims:

- *“Aggravated” offences*
One group of offences are “aggravated” variants of certain offences (including criminal damage and assault) where the defendant has either (1) demonstrated hostility towards the victim on grounds of the victim’s race or religion, or (2) been motivated (wholly or partly) by hostility towards a member of a racial or religious group based on their membership of that group. The aggravated offences carry higher maximum sentences than the non-aggravated equivalents. Our project considers whether these aggravated offences should be extended to cover cases where the defendant’s hostility is based on disability, sexual orientation or transgender identity.
- *Stirring up hatred*
The other group of offences criminalise conduct intended or likely to stir up hatred on grounds of race, religion or sexual orientation. Our project examines the case for extending these offences to cover stirring up hatred on grounds of disability or transgender identity.

¹² Unfitness to Plead (2010) LCCP197.

¹³ Challenge it, Report it, Stop it: The Government’s Plan to Tackle Hate Crime, HM Government (2012).

2.38

In the course of our review we are also looking at the application of sections 145 and 146 of the Criminal Justice Act 2003 which provide that the court must treat the defendant's hostility on grounds of race, religion, sexual orientation, disability or transgender status as an aggravating factor in sentencing in any case where an aggravated offence was not available.

2.39

We expect to report on the consultation by February/March 2014 to allow Government to legislate during this Parliament, if it wishes to do so.

Insanity and Automatism**2.40**

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

2.41

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

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

2.42

We published a scoping paper in July 2012¹⁴ in order to discover whether the current law causes problems in practice and, if so, the extent of those problems. We adopted this approach because, although convinced, on the basis of our research, of the many cogent criticisms that may be made of the current law, there is less evidence that the defence causes significant difficulties in practice.

2.43

We plan to publish our next paper on this project in summer 2013.

Regulation, Public Interest and the Liability of Businesses**2.44**

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

2.45

We opened a consultation in August 2010 which examined:

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

¹⁴ Insanity and Automatism: A Scoping Paper (2012).

2.46

The Ministry of Justice incorporated many of the proposals we put forward in our consultation paper¹⁵ on the use of criminal law in regulatory contexts into its guidance for regulatory law makers published in the summer of 2011.

2.47

The remainder of the project, which deals with a small number of doctrines relating to business liability, is on hold. We hope to take this work forward as part of a full scale project on the liability of businesses, in the future.

Simplification of Criminal Law**2.48**

In the 10th Programme of Law Reform, we stated our intention¹⁶ to embark on a project for the simplification of the criminal law. Simplification is not the same as codification but includes work that could be preparatory to later codification.

2.49

The simplification project involves reviewing some of the older or less-used common law or statutory offences, with a view to considering either abolishing these offences or making relatively modest legal changes aimed at removing injustices or anomalies. In some cases we may recommend restating existing common law offences in statutory form.

Public Nuisance and Outraging Public Decency**2.50**

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

2.51

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

2.52

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

2.53

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

2.54

Our provisional proposals, which we set out in our consultation paper,¹⁷ are that:

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

¹⁵ Criminal Liability in Regulatory Contexts (2010) LCCP195.

¹⁶ (2008) LC311, para 2.24 and following.

¹⁷ Simplification of Criminal Law: Public Nuisance and Outraging Public Decency (2010) LCCP193.

2.55

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

Kidnapping**2.56**

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

2.57

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

2.58

We opened our consultation¹⁸ on this project in September 2011. We provisionally proposed that kidnapping, and probably false imprisonment, should be replaced by statutory offences, and offered three possible models for consultation:

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

2.59

Following a period on hold to enable more urgent work to be undertaken, work has started again on this project and we hope to publish our report towards the end of 2013.

18 Simplification of Criminal Law: Kidnapping (2011) LCCP200.

Property, family and trust law

Commissioner

Professor Elizabeth Cooke

Charity Law, selected issues

2.60

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

2.61

We started work on this project, which was announced in the 11th Programme, in March 2013.

2.62

The content of part of the project comprises issues suitable for Law Commission investigation arising from Lord Hodgson's report, *Trusted and Independent: Giving charity back to charities: Review of the Charities Act 2006* (July 2012). This report identified a number of technical issues for the project, relating to areas such as the powers of the Charity Tribunal, points arising in the context of charity mergers and the working of the *cy-près* rules.

2.63

We are also examining issues relating to charitable corporations established by Royal Charter and charities with statutory governing documents, which had already been identified as suitable for Law Commission review. In particular, we are considering the procedure for amendments to the constitutions of such charities.

2.64

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

Conservation Covenants

2.65

This project considers the case for giving special legal status to agreements over land designed to achieve important conservation objectives. Under current law, a landowner can agree to use or not to use that land in a particular way. But such an agreement will be enforceable against future owners only if certain conditions are met: it must impose only restrictions (for example, not to build on the land), and not positive obligations (for example, to maintain a dry stone wall), and those restrictions must "touch and concern" other land nearby by providing an identifiable benefit to that land.

2.66

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

2.67

The major issues to be examined include:

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

2.68

We started work on this project in January 2012 and published a consultation paper on 28 March 2013.¹⁹ Following consultation we will review, in discussion with Government, how to take the project forward. If the project proceeds to a final report and draft Bill, we anticipate that publication will be in late 2014.

¹⁹ Conservation Covenants (2013) LCCP211.

Electronic Communications Code

2.69

The Electronic Communications Code is set out in Schedule 2 to the Telecommunications Act 1984. It establishes the regime that governs the rights of designated electronic communications operators to maintain infrastructure on public and private land. Today it applies to the wide variety of infrastructure-forming networks that support broadband, mobile internet and telephone, cable television and landlines.

2.70

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

2.71

The current Code has been criticised as out of date, unclear and inconsistent with other legislation. We opened a consultation on 28 June 2012 seeking views on reform, to which we received a large number of detailed responses.

2.72

On 28 February 2013 we published a report²⁰ making recommendations to form the basis of a revised Code, which would:

- provide a clearer definition of the market value that landowners receive for the use of their land, giving them greater confidence to negotiate agreements and giving providers a better idea of what their networks are likely to cost
- clarify the conditions under which a landowner can be ordered to give a network provider access to his or her land, bringing more certainty to both landowners and providers and helping them to reach agreement more easily
- resolve inconsistencies between the current Code and other legislation

- clarify the circumstances in which landowners are able to remove network equipment from land
- specify limited rights for operators to upgrade and share their network equipment, and
- improve the procedure for resolving disputes under the Code.

Matrimonial Property, Needs and Agreements

2.73

This project was initially established, under the title Marital Property Agreements, to examine the status and enforceability of agreements (commonly known as “pre-nups”) made between spouses and civil partners (or those contemplating marriage or civil partnership) concerning their property and finances. We opened a consultation in January 2011 exploring the arguments for and against a range of options for reform and inviting views about the correct balance between a couple’s autonomy to decide for themselves the financial effects of divorce or dissolution and the need for the law to provide protection for economically weaker parties.²¹

2.74

In November 2011 the Family Justice Review, led by David Norgrove, published its final report making a range of recommendations for the reform of the family justice system.²² The report commented on the need for a separate review of the law governing financial orders on divorce and the dissolution of civil partnership. The Ministry of Justice’s February 2012 response to the report²³ announced that the scope of our Marital Property Agreement project would be extended to include a targeted review of two aspects of financial provision on divorce and dissolution.

20 The Electronic Communications Code (2013) LC336.

21 Marital Property Agreements (2011) LCCP198.

22 www.gov.uk/government/uploads/system/uploads/attachment_data/file/181133/FJR-2011.pdf (last visited 24 May 2013).

23 www.gov.uk/government/publications/family-justice-review-government-response (last visited 24 May 2013).

Understanding matrimonial property, needs and agreements

Consultation is a defining feature of the Law Commission's work. It refines our thinking and shapes our recommendations for reform. We are always grateful to the many individuals and organisations who give their valuable time to share their expertise and tell us about their experiences: the judiciary, lawyers, parliamentarians, Government officials; interest groups; and, not least, the general public.

In September 2012 we opened a consultation examining two aspects of financial provision on divorce and the dissolution of civil partnership as part of our project on Matrimonial Property, Needs and Agreements. When two people bring their marriage or civil partnership to an end it is vital that the law is able to help them resolve their financial arrangements as quickly and fairly as possible. The current law creates too much potential for uncertainty and inconsistent outcomes. Our consultation focused on two particular areas of difficulty: to what extent should one spouse be required to meet the other's financial "needs", and what should happen to "non-matrimonial" property that one partner owned before the relationship or received by gift or inheritance during the course of it?

Before we can consider reforming the law, we must acquire a thorough knowledge of the technical legal issues and where the law is failing. To truly understand the impact of those failures and what needs to be done to resolve them, we must talk to the people who have experience of the operation of the law in practice. Our consultation in September 2012 was designed to enable us to hear, and learn from, the people who practise in this area of family law and some of the individuals they represent.

During the three-month period of the consultation, we held a series of events around England and Wales. These included:

- an evening seminar at the Institute of Advanced Legal Studies, giving members of the general public an opportunity to ask questions of, and share their experiences with, Law Commissioner Professor Elizabeth Cooke and her legal team
- a seminar at the University of Leeds for local practitioners, academics, members of the public and students
- an event at the National Museum, Cardiff, for academics, law students and local practitioners
- an all-day workshop for invited academics, judges and policy makers hosted by the Nuffield Foundation, and
- a family law symposium at Inner Temple, attended by around 80 practitioners and led by Inner Temple Academic Fellow, Joanna Miles of Trinity College, Cambridge. The symposium included a panel discussion chaired by former Chairman of the Law Commission, Sir James Munby, now President of the Family Division. The audience also heard from guest speaker Professor Carol Rogerson of the University of Toronto, a leading family law academic and co-author of the Spousal Support Advisory Guidelines for the Canadian Department of Justice.

To encourage wide participation, and so help us achieve the most useful result, we provided a number of different ways for potential consultees to engage with the consultation. In addition to the full-length consultation paper, we published a series of summary papers. These were tailored specifically to meet the needs of different audiences, including the general public. We launched a podcast on our website, which set out some of the issues raised by the consultation and was supported by a CPD-accredited questionnaire.

2.75

To reflect these extended terms of reference, we renamed our project “Matrimonial Property, Needs and Agreements”. Our aim is not to examine the entirety of the law governing financial orders but to investigate the scope for clarifying two areas of that law that cause particular difficulties. To that end, we published a supplementary consultation paper on needs and non-matrimonial property in September 2012.²⁴ We held a series of consultation events around England and Wales for the general public and for academic and practitioner audiences. These included public events at the National Museum, Cardiff and the University of Leeds, and an Inner Temple panel event featuring Professor Carol Rogerson from the University of Toronto who shared her experiences of co-developing the Canadian Spousal Support Advisory Guidelines.

2.76

We will produce our final report in autumn 2013, which will:

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

Rights to Light

2.77

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

2.78

We published a consultation paper on 18 February 2013.²⁵ The paper investigates whether the current law by which rights to light are acquired and enforced provides an appropriate balance between those benefiting from the rights and those wishing to develop land in the vicinity.

2.79

The paper makes provisional proposals to:

- prevent, for the future, the acquisition of rights to light by long use (known as “prescription”)
- introduce a new statutory test to clarify the current law on when courts may order a person to pay damages instead of ordering that person to demolish or stop constructing a building that interferes with a right to light
- introduce a new statutory notice procedure, which would require those with the benefit of rights to light to make clear whether they intend to apply to the court for an injunction (ordering a neighbouring landowner not to build in a way that infringes a right to light), with the aim of introducing greater certainty into rights to light disputes, and
- extend the jurisdiction of the Lands Chamber of the Upper Tribunal to enable the Tribunal to be able to extinguish rights to light that are obsolete or have no practical benefit, with payment of compensation in appropriate cases, as it can do under the present law in respect of restrictive covenants.

2.80

Once we have analysed consultation responses and formed policy conclusions we will review, in discussion with the Department for Communities and Local Government, how the project should be taken forward. If both the Commission and Government agree that further work is appropriate, we will aim to produce a final report and draft Bill by, at the latest, the end of 2014.

2.81

This project builds on our recent work on the general law of easements,²⁶ which recommended a specific review of rights to light.

²⁴ Matrimonial Property, Needs and Agreements (2012) LCCP208.

²⁵ Rights to Light (2013) LCCP210.

²⁶ See 3.76-8.

Public law

Commissioner

Frances Patterson QC

Data Sharing

2.82

Public bodies frequently report difficulties in sharing data with other public bodies, to an extent that impairs their ability to perform their functions for citizens. What is not clear is whether this is because of defects in the law or because the law is either imperfectly framed or just poorly understood.

2.83

Our project, which is from the 11th Programme, will be a scoping review designed to establish where the problems truly lie and what should be done to address them.

2.84

The project will start in April 2013 and report in April 2014.

Electoral Law

2.85

The law in relation to the administration of elections is old, disparate, confusing and sometimes contradictory. Particularly since 1997, a structure designed in the 19th century has been patched-up and adapted to accommodate new elections to new institutions with new voting systems. The system can be maintained only by the production of voluminous guidance, fortified by the considerable energy and ingenuity of electoral administrators.

2.86

A major project to reform electoral law was included in our 11th Programme. We divided the project into three stages:

- a scoping study
- the development of substantive law reform proposals, and
- the production of a draft bill.

2.87

The first-stage scoping study lasted from July 2011 to December 2012 and included a consultation exercise, which opened on 15 June 2012. During the consultation period, we addressed 19 conferences, meetings and events. We received 82 responses from electoral administrators, political parties, academics and members of the public.

2.88

We published our scoping report on 11 December. The report delineated those areas of electoral law that could properly be dealt with as a matter of law reform, including the administration of the local campaign, the timetable for elections, the law governing polling day and the count, combination of polls, challenges to the result and criminal offences and the administration of referendums.

2.89

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

2.90

Electoral law must necessarily be addressed on a UK-wide basis. We conducted the scoping review stage in close consultation with the Scottish Law Commission and the Northern Ireland Law Commission.

2.91

The next, substantive, stage of the project is being conducted on a tripartite basis by all three UK Law Commissions. Accordingly, on the same day that the scoping report was published, both the Cabinet Office, for the UK Government, and the Scottish Government referred the substantive project to the relevant Commissions. Although the Northern Ireland Executive and the Welsh Government do not have devolved responsibility for electoral administration, we will maintain appropriate contacts with both as the project develops.

2.92

From January 2012 we have been working with our partner commissions on the substantive project, with the aim of consulting after the referendum on Scottish independence in September 2014. This phase will terminate in autumn 2015. If the Governments and the Commissions decide to proceed with the project to the final drafting phase, we intend to publish the final report and draft legislation in early 2017.

Level Crossings**2.93**

This joint project with the Scottish Law Commission, which seeks to improve the law relating to the 7,500 to 8,000 level crossings in Great Britain, is drawing to a close. The final stages have taken longer than anticipated.

2.94

We expect to publish a final report, accompanied by a draft Bill and draft regulations, in summer 2013.

Regulation of Health and Social Care Professions**2.95**

This project deals with the professional regulatory structure relating to 32 healthcare professions throughout the UK, and social workers in England. Together, this amounts to over 1.5 million people. It is our first tripartite project, which we are conducting jointly with the Scottish Law Commission and the Northern Ireland Law Commission.

2.96

The project, which was referred to us by the Secretary of State for Health in summer 2010, deals with the following regulatory bodies: the General Chiropractic Council, the General Dental Council, the General Medical Council, the General Optical Council, the General Osteopathic Council, the General Pharmaceutical Council, the Health and Care Professions Council, the Nursing and Midwifery Council, and the Pharmaceutical Society of Northern Ireland. It also considers the role of the oversight body, the Professional Standards Authority (previously the Council for Healthcare Regulatory Excellence).

2.97

In March 2012 we opened a three-month consultation.²⁷ We attended 42 consultation events and received 192 written responses. On 20 February 2013 we published a 300-page analysis of the responses.²⁸

2.98

We expect to publish our final report and draft Bill in early 2014.

Renting Homes in Wales**2.99**

In 2006, we published *Renting Homes: the final report*. The report proposed a fundamental reform of the law relating to rented accommodation. In May 2009, Government rejected the report for England. Housing is, however, a devolved matter in Wales, and Welsh Ministers had accepted *Renting Homes* in principle as early as May 2007. In 2011, the National Assembly for Wales gained wider legislative competence and, in 2012, announced its intention to legislate to implement *Renting Homes*. To assist with implementation, we undertook a short piece of work, supported by the Welsh Government, to update the original *Renting Homes* proposals, to consider any devolution issues that might arise, and to consider how the proposals might relate to other current policy concerns. The result was the report, *Renting Homes in Wales/Rhenttu Cartrefi yng Nghymru*, published in April 2013. In May, the Welsh Government published

²⁷ Regulation of Health Care Professionals. Regulation of Social Care Professionals in England (2012) LCCP202/SLCDP153/NILC12.

²⁸ Regulation of Health Care Professionals. Regulation of Social Care Professionals in England. Consultation analysis (2013).

its own white paper to consult on implementing the proposals. The Welsh Government aims to introduce legislation in 2015.

Taxi and Private Hire Services

2.100

This project was proposed as part of the 11th Programme of Law Reform by the Department for Transport. Taxis (“hackney carriages”) and private hire vehicles are highly regulated. The current regime for taxis is largely Victorian. Private hire services are regulated by unsatisfactory legislation dating from 1976 (outside London) and 1998 (London). The project aims to take a broadly de-regulatory approach to the process of modernising and simplifying the regulatory structures for this important economic activity.

2.101

In May 2012 we published our consultation paper.³³ In it, we proposed a single statute to govern both the taxi and private hire trades, and to deal with both London and the rest of England and Wales. We proposed freeing up the private hire market by removing the ability of local licensing authorities to specify conditions for operator, driver and vehicle licensing, relying instead on national standards set by the Secretary of State and the Welsh Government. Operators licensed in one area would also be able to use vehicles and drivers licensed in other areas. On the taxi side, we provisionally proposed keeping local conditions but abolishing the ability of licensing authorities to limit the number of taxis it will license.

2.102

The result was a unique consultation process. The interest was such that we had to extend the consultation period by a month, and by another month for a number of consultees who applied for an extension. We attended 73 events, allowing us to hear the views of thousands of people, including a large number of those engaged in the trades. We received just over 3,000 responses, a record number for any Law Commission consultation. Some of the proposals provoked a great deal of controversy, and there has

been a lobby of Parliament by members of trades unions representing taxi drivers opposing many of the provisional proposals.

2.103

Given the high level of interest occasioned by the project, we published a short interim statement in April 2013. In the statement, we explained that we had changed our views on abolishing the ability of local licensing authorities to limit taxi numbers and refined our views in other areas. We also published all of the responses received.

2.104

We aim to publish a report and draft Bill by the end of 2013.

Wildlife

2.105

Wildlife law is spread over numerous statutes and statutory instruments, going back well into the 19th century. The result is difficult for people and businesses to access, for policy makers to adapt and for everyone to understand. The project was included in the 11th Programme, having been proposed by the Department for Environment, Food and Rural Affairs.

2.106

The project considers the transposition of key EU directives on wild birds and the particularly important animals and plants characterised as European Protected Species, and their integration with other, domestic, legal structures. It also seeks to bring into the same legislative structure various purely domestic protection regimes for specific species.

2.107

The project does not seek to make independent value judgements on what level of protection should be accorded to particular species. Rather, it aims to create a structure within which those decisions can properly be made by Government, guided by appropriate scientific advice. It also expressly excludes consideration of the Hunting Act 2004.

³³ (2012) LCCP203.

Learning about the taxi and private hire trades

Understanding the context within which the law operates – and how it impacts on society – is a critical step in reforming the law.

Without such an understanding, we cannot fully comprehend the difficulties that arise when the law is no longer effective, nor can we have a clear picture of the potential impact of our proposed reforms.

Between May and September 2012 we ran a consultation on our review of the law relating to taxis and private hire vehicles. There are 300,000 licensed taxi and private hire drivers in England and Wales, many of whom depend on the fleet of 78,000 taxis and 155,000 private hire vehicles to make a living. The trade is important to our economy: in 2010 UK households alone spent over £2.5 billion on taxi journeys, 80 per cent of that in England and Wales. The true worth, including business and tourist journeys, must be significantly higher.

The law that governs the trade, some of which dates back to 1831, is not suited to the environment in which taxis and private hire vehicles operate today. It is complex, unclear and inefficient, all of which imposes unnecessary burdens and costs across the industry.

Over the four months of our consultation we attended over 80 events in over 30 towns and cities. These included public meetings organised by local authorities and attended by taxi and mini-cab owners and drivers, licensing officers and local authority officers; focus groups, where we heard about the challenges faced by disabled passengers; and large-scale conferences and road shows organised by key players such as the National Private Hire Association and the Institute of Licensing.

But meetings and conferences can give us only half the picture. To see the real effect of the law on the day-to-day lives of the men and women who drive and operate taxis and private hire vehicles, and their passengers, we went out to work with them. Along the way, we:

- toured the streets of Liverpool, Birmingham and London, working shifts with the local taxi fleet to see the business as they see it;
- drove with the police, licensing officers and local authority councillors on a night tour of a university city in the lively throes of freshers' week;
- witnessed first hand the impact on the legitimate trade of illegal, unlicensed vehicles touting for business, and the risks that that presents to unwary passengers; and
- visited executive car agencies and mini-cab firms to hear about how the current licensing regime restricts their ability to develop their businesses, and the job losses that can come as a result.

The complexity and lack of clarity in the law have engendered many myths and misunderstandings in the trade. We heard the genuine concern of many drivers and operators who want to work within the law but fear they do not really know what it is. We saw the frustration of licensing officers struggling to interpret 200-year-old legislation and work without the powers or tools they need to do their jobs. And we heard the passion with which many taxi drivers speak about a trade that represents not just their livelihood but their investment in the future, a passion demonstrated during the June 2012 lobby of Parliament opposing our proposals.

The weight of evidence we found during our consultation – we received over 3,000 written responses – along with further research, convinced us to change one of our more contentious original proposals: to abolish controls on the number of taxis permitted to operate in a given area. We were, instead, persuaded that controls on numbers should be retained. One outcome of this will be to preserve the “plate” value of taxi licences in these areas which, for many drivers and owners, represent a significant investment.

2.108

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

2.109

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

2.110

We opened our consultation on 14 August 2012, extending the deadline to 30 November at the request of stakeholders and, further, to 21 December to accommodate responses on the question of the maritime extent of the project. We attended numerous events and meetings with a wide range of stakeholders in both England and Wales and received 488 written responses.

2.111

In our consultation paper we proposed a single statute bringing together most of the law relating to wildlife.²⁹ In addition to making specific proposals on the most appropriate way of transposing the EU directives, we also looked at the current regime for the enforcement of wildlife legislation, including both criminal offences and civil sanctions, and at appeals.

2.112

Initially, we had hoped that it would be possible for us to consider the transposition of a proposed new directive on the control of invasive non-native species. We put forward suggestions for new ways of enforcing controls, although it was not clear at the time of our consultation what approach to specifying invasive non-native species would be adopted in the directive. The directive has been further delayed, however, so we are considering how we can apply our proposed new approaches to the existing domestic law.

2.113

Given the addition of a further element into the project at the insistence of the Government, it was agreed that the review point for the project would be in May 2013. We aim to publish a final report in summer 2014.

²⁹ Wildlife Law (2012) LCCP206.

Statute Law

Commissioner
Chairman

Introduction

2.114

Consolidation of statute law, and the repeal of statutes that are obsolete or no longer serve any useful purpose, have been important functions of the Law Commission since its creation. By modernising the statute book and leaving it clearer, shorter and more accessible, this work helps to save time and costs for practitioners who work with the law and others who need to use it, and makes it easier for citizens to access justice. As social and technological change continues to be reflected in new legislation, so the need for systematic and expert review of older legislation will remain.

Consolidation

2.115

Over 200 consolidation Acts have been enacted since the Commission was established in 1965. The aim of this work is to make statute law more accessible and comprehensible; it can have real practical benefits.

2.116

A consolidation Bill draws together different enactments on the same subject to produce a single statutory text while preserving the effect of the current law. The single text usually replaces provisions in a number of different Acts or instruments. Often the structure of that legislation will have become distorted over time and requires reforming into something more rational that makes the cumulative effect of different layers of amendment or new law more intelligible.

2.117

A consolidation will also aim to remove obsolete material, modernise language and resolve minor inconsistencies or ambiguities that can result both from successive Acts on the same subject and from more general changes in the law.

2.118

Consolidation has sometimes been used as a response to the difficulty of accessing a usable text of legislation that has been repeatedly amended. Modern electronic and printed sources of updated legislation make it much easier to find a reliable, up-to-date version. However, while updated texts may be sufficient for many practical purposes, they would have been no substitute for most of the consolidation Acts passed since 1965. A good consolidation does much more than produce an updated text.

2.119

There is still a need for consolidation and this is increasingly likely to be the case given the volume of legislation being enacted each year. That need is most acute when there is repeated legislative activity on a subject over a period of several years, without the whole of the law on that topic having been replaced.

The Law Commission and consolidation

2.120

Consolidation at the Law Commission is carried out under arrangements made by our in-house Parliamentary Counsel.

2.121

For the Commission to commence a consolidation project, we must be convinced that the law concerned is suitable for and in need of consolidation and is likely to remain sufficiently stable over the life of the project. We would also consider a number of other factors:

- the complexity and size of a potential project. Consolidation can involve a significant commitment for a drafter over a period of years. It is seldom possible to tell how long a project will take until it is well advanced
- the cost of the work involved
- changes in departmental priorities, which can affect the level of support given
- the size of our Parliamentary Counsel team (currently two counsel), which means that most significant Bills will have to be drafted by other

drafters under arrangements made by the Commission, and

- the risk of changes being made to the law during the consolidation exercise.

2.122

In our last two annual reports we noted³⁰ that we have in recent years prepared fewer consolidation Bills than before, and explained why some particular projects were abandoned at a late stage before a Bill was completed. A particular issue has been that we could not always obtain the necessary continuing support from Departments from inception to completion of a project. For understandable reasons, consolidation is often not a high priority while there are limited financial resources; and those priorities can change significantly over the life of a project.

2.123

Our recent experiences led to the Commission adopting in 2011 a new approach to assessing a proposed consolidation project. In addition to the existing criteria, we consider it essential to be fully satisfied at the outset, as far as is possible, that:

- the responsible Department will provide sufficient support, in the form of time and effort, to see a consolidation project through to completion and then the enactment of the necessary Bill, and
- if done in house, the project can be completed in a reasonable time without interfering with our law reform work.

2.124

We would normally expect the Department to make a financial contribution to our costs.

2.125

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

Implementation

2.126

Crucial to the implementation of our consolidation Bills is the dedicated parliamentary procedure. The technical accuracy of a Bill, and any proposed changes to the law, are scrutinised by a joint committee. This ensures that the Bills take up a minimum of parliamentary time on the floor of each House and that they should always be enacted once introduced. The existence of this procedure is a sign of the trust Parliament has in the Law Commission and its Parliamentary Counsel.

Our work in 2012–13

2.127

Suggestions for possible consolidation projects have been considered during the year by our Senior Parliamentary Counsel. We welcome all such suggestions.

Co-operative and Public Benefit Societies

2.128

We started work during the year on a consolidation of the law on co-operative and public benefit societies (also known as industrial and provident societies). In January 2012 the Prime Minister announced that the Government wished to consolidate the law and we were invited to take the necessary work forward with the Treasury.

³⁰ (2010–11) paragraphs 2.75–85; (2011–12) paragraphs 2.104–20.

2.129

We hope that the work can be completed in time to introduce a Bill in the second half of the 2013–14 session of Parliament.

2.130

We are grateful to the Office of the Parliamentary Counsel for lending us one of their counsel to help with this project.

*Bail***2.131**

It has not proved possible to make progress with the consolidation of the law on bail that was started in 2009 but later suspended owing to the Ministry of Justice's wish to concentrate on a programme Bill.

2.132

We hope to restart work on this project in the coming year.

Statute law repeals**2.133**

The principal purpose of this strand of our work is the repeal of statutes that are obsolete or which otherwise no longer serve any useful purpose.

2.134

The work is carried out by means of Statute Law (Repeals) Bills, which we publish periodically in draft in our Statute Law Repeals reports. Nineteen such Bills have been drafted since 1965. All have been enacted, thereby repealing over 3,000 Acts in their entirety and achieving the partial repeal of thousands of other Acts.

Our work in 2012–13**2.135**

Our statute law repeals work during 2012 and early 2013 has focused on securing the implementation of our most recent Bill and in carrying out new projects relating to British India, churches and redundant 20th century Acts.

*Statute Law (Repeals) Act 2013***2.136**

Our most recent Bill, annexed to the 19th Statute Law Repeals report,³¹ was introduced into Parliament on 10 October 2012 and received Royal Assent on 31 January 2013.³² This was our largest ever repeals Bill and its enactment resulted in the repeal of 817 Acts in their entirety and the removal of redundant provisions from 50 other Acts.

*British India***2.137**

We opened a consultation on our British India project in December 2012.³³ This consultation represented the third and final phase of our review of obsolete UK legislation relating to British India.³⁴ We identified for repeal some 24 statutes enabling companies to be established and to operate a variety of commercial undertakings either in, or in connection with, what was (until 1947) British India. These undertakings included Assam companies specialising in the cultivation and production of tea, and the India Steam Ship Company, which was formed to carry passengers and cargoes to India and Australia. Other undertakings included the working of mines and collieries and the construction of telegraph links to India and the Far East. We received no objections to any of our proposals for the repeal of these obsolete statutes.

31 Joint report with the Scottish Law Commission. (2012) LC333/SLC227.

32 Statute Law (Repeals) Act 2013 (c.2).

33 (2012) LCCP SLR 01/12.

34 Our first two consultations related to the East India Company and to Indian railways.

Churches

2.138

Our churches project involves the examination of 18th and 19th century Acts that were passed to raise money for the repair or rebuilding of ancient churches in England and Wales. Parliamentary authority had been necessary for the repair or rebuilding work because the cost of the works had to be met by rates levied on the inhabitants of the parishes affected. In nearly every case, the Acts became obsolete once sufficient money had been raised from parishioners. Indeed, many of the churches no longer exist, often as a result of enemy bombing during the Second World War. Work on this project is in progress and we expect to publish a consultation paper later this year setting out our repeal proposals.

20th Century Acts

2.139

Most of our statute law repeals work is topic-led. In other words we examine the statute book on a topic-by-topic basis and review the current status of all the law within each topic from earliest times up to the present day. This approach works well when, as is usually the case, there is a large body of law to review within each topic.³⁵ However, a recent review of the legislation of the 20th century suggests the existence of a considerable volume of obsolete law that has not been included in any of our earlier topic-led reviews and which still remains on the statute book. Work on this project is at an early stage but we plan to publish a consultation paper setting out our findings during 2014.

³⁵ For example, our recent work on the poor law, railways and turnpikes uncovered many obsolete laws within each of these areas.

PART THREE

Implementation of Law Commission reports

“

The Law Commission of England and Wales has a long and distinguished history of providing advice and recommendations, invariably of a high quality and, above all, independent.”

Professor Andrew Ashworth, University of Oxford. Letter to the Chairman, January 2013.

3.1

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

- between 1 April 2012 and 31 March 2013
 - we published 2 final reports with recommendations for law reform
 - 1 report was implemented
 - 4 were accepted and in the process of being implemented
- at 31 March 2013
 - 3 reports were awaiting implementation
 - 12 were awaiting a decision from Government¹

3.2

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

- Law reform reports published 195
- Accepted and implemented in whole or in part 142 (70%)
- Accepted by Government in whole or in part but awaiting implementation 9 (5%)
- Accepted by Government in whole or in part but will not be implemented 6 (3%)
- Response from Government awaited 9 (5%)
- Rejected 31 (16%)
- Superseded 8 (4%)

Improving the rate of implementation

3.3

Over the last five years we have instigated three developments designed to improve the rate at which Law Commission reports are implemented. We welcome these developments, which have already begun, and we believe will continue, to assist in ensuring that progress is made in considering and implementing our reports in a timely and efficient manner.

Lord Chancellor's report to Parliament

3.4

In November 2009 the Law Commission Act 2009 was passed by Parliament (amending the Law Commissions Act 1965). A key feature of this Act is that it places a requirement on the Lord Chancellor to report to Parliament annually on the Government's progress in implementing our reports. The third report to Parliament was made on 22 January 2013.²

Protocol between Government and the Law Commission

3.5

Following the commencement of the Law Commission Act 2009, in March 2010 the Government and the Law Commission agreed the terms of a Protocol³ in relation to our work. The latter part of the Protocol sets out departmental responsibilities once we have published a report. The Minister for the relevant Department will provide an interim response to us as soon as possible (but not later than six months after publication of the report), and will give a final response as soon as possible but within a year of the report being published.

3.6

The Protocol applies only to those projects we have taken on since it was agreed in March 2010, although we have agreed with Government Departments to take it into account, so far as is practicable, in relation to projects that were ongoing at that date.

Law Commission parliamentary procedure

3.7

On 7 October 2010 the House of Lords approved⁴ a new parliamentary procedure that had been recommended by the House of Lords Procedure Committee as a means of improving the rate of implementation of Law Commission Reports.⁵ Bills are suitable for this procedure if they are regarded as "uncontroversial".

3.8

1 Includes Intestacy and Family Provision Claims on Death (2012) LC331, which has been accepted in part.

2 www.gov.uk/government/publications/report-on-the-implementation-of-law-commission-proposals (last visited on 23 April 2013).

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

4 www.publications.parliament.uk/pa/ld200708/ldhansrd/text/80403-0002.htm#08040373000008 (last visited on 23 April 2013).

5 www.publications.parliament.uk/pa/ld200708/ldselect/ldprohse/63/6303.htm (last visited on 23 April 2013).

Four Law Commission Bills have now followed this procedure:

- Perpetuities and Accumulations Act 2009, introduced in April 2009, received Royal Assent on 12 November 2009
- Third Parties (Rights against Insurers) Act 2010, introduced in November 2009, received Royal Assent on 25 March 2010
- Consumer Insurance (Disclosure and Representations) Act 2012, introduced in May 2011, received Royal Assent on 8 March 2012
- Trusts (Capital and Income) Act 2013, introduced on 29 February 2012, received Royal Assent on 31 January 2013

3.9

We are hopeful that a Bill deriving from the recommendations made in our report Intestacy and Family Provision Claims on Death will be the next to be introduced into Parliament using the special procedure. The draft Inheritance and Trustees' Powers Bill, which gives effect to most of the recommendations set out in our report (see 3.22–3), was published by the Ministry of Justice for consultation between March and May 2013.

3.10

The House of Lords Procedure Committee also recommended that the procedure should specifically be extended to reports of the Scottish Law Commission.⁶ This was approved by the whole House on 7 October 2010.⁷ The first Scottish Law Commission Bill to follow the procedure, the Partnerships (Prosecution) (Scotland) Bill, was introduced in November 2012 and received Royal Assent on 25 April 2013.

⁶ www.publications.parliament.uk/pa/ld201011/ldhansrd/text/101007-0001.htm#10100714000813 (last visited on 23 April 2013).

⁷ www.publications.parliament.uk/pa/ld201011/ldselect/ldprohse/30/3003.htm#a1 (last visited on 23 April 2013).

Implemented reports

Capital and Income in Trusts: Classification and Appointment⁸

3.11

The Law Commission's recommendations on capital and income in trusts were accepted by Government on 22 March 2010. The Trusts (Capital and Income) Bill was introduced in the House of Lords on 29 February 2012 under the parliamentary procedure for non-controversial Law Commission Bills.

3.12

The Trusts (Capital and Income) Act received Royal Assent on 31 January 2013. It includes three principal reforms:

- The Act disapplies, for new trusts, certain technical rules requiring the apportionment of receipts and outgoings between income and capital. They will apply only where the creator of the trust has specifically incorporated them (for example, in a will).
- A clear rule is established to classify receipts from tax-exempt corporate demergers as capital, in accordance with the economic reality of the situation, together with a power for trustees to make a payment to income beneficiaries in appropriate circumstances.
- Provision is made for the Charity Commission to establish a framework for charities with permanent endowment to adopt a total return approach to investment. This will simplify the procedure for trustees of these charities to opt into that investment approach, which avoids unduly limiting trustees' decisions as to how to invest by reference to the technical trust law classification of receipts as capital or income. Instead, the whole investment return is taken into account when determining how much to allocate for immediate spending and how much to retain.

3.13

On 18 March 2013 the Secretary of State made an order specifying the dates for certain provisions of the Act to come into force.⁹

⁸ (2009) LC315.

⁹ The Trusts (Capital and Income) Act 2013 (Commencement No 1) Order 2013, SI 2013 No 676.

Reports in the process of being implemented

Adult Social Care¹⁰

3.14

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

3.15

The Department of Health warmly welcomed our report, stating that it was in agreement with our analysis of the existing adult social care statute as opaque, outdated and confusing. It agreed also that the need for law reform is clear, and that our recommendations “provide a solid foundation and a way forward”.¹¹

3.16

The draft Care and Support Bill that implements the vast majority of our recommendations was issued by the Department of Health on 11 July 2012 for pre-legislative scrutiny. The Joint Committee of the House of Lords and House of Commons published its report on 19 March 2013, which supported the Bill and suggested several areas in which it could be improved, most of which were in line with our final report. In May 2013 Government introduced the Care Bill in the House of Lords.

3.17

The Welsh Government is responsible for adult social care in Wales. In January 2013 it introduced the Social Services and Well-being (Wales) Bill into the National Assembly, which incorporates most of our recommendations. We expect the Bill to be passed later this year and be implemented in 2015.

Contempt of Court: Scandalising the Court¹²

3.18

On 19 December 2012 we published our final report recommending abolition of the historic common law form of contempt of court known as scandalising the court.

3.19

This work was brought forward to feed into the Government’s consideration of a proposed amendment to the Crime and Courts Bill to abolish the offence. That proposal followed a well-publicised case in Northern Ireland in spring 2012 highlighting the offence. The House of Lords debated, and accepted, the abolition of scandalising the court as an amendment to the Crime and Courts Bill on 11 December 2012 and, on 31 January 2013, the House of Commons also accepted the amendment. Section 33 of the Crime and Courts Bill enacts that recommendation.

Intestacy and Family Provision Claims on Death¹³

3.20

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

¹⁰ (2011) LC326.

¹¹ www.gov.uk/government/publications/report-on-the-implementation-of-law-commission-proposals, paragraphs 34–7 (last visited 23 April 2013).

¹² (2012) LC335.

¹³ (2011) LC331.

3.21

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

3.22

We reported on this project on 14 December 2011, making recommendations for reform to Government. We published two draft Bills with our final report. The first, the Inheritance and Trustees' Powers Bill, implements a number of recommendations:

- the entitlements of spouses and other family members will be updated
- complex and costly "life interests" will no longer be imposed; a simpler form of sharing will be substituted where there are children, and
- unnecessary obstacles to valid claims for family provision will be removed and the powers of trustees modified.

3.23

These recommendations were accepted by Government on 21 March 2013.¹⁴ The Ministry of Justice has consulted on the Inheritance and Trustees' Powers Bill with a view to implementation.

3.24

Government has not yet given a final response to the recommendations in the second draft Bill published with our report, the Inheritance (Cohabitants) Bill (see 3.74-5).

Renting Homes: The Final Report¹⁵**3.25**

In May 2006 we published this report, proposing a wholesale reform of the law relating to short term renting (that is, for a term less than 21 years).

3.26

In May 2009 Government rejected the proposals for England. In Wales, on the other hand, Ministers accepted the report in principle (in November 2007). Following the introduction of wider powers of legislative competence in 2011, the Welsh Government consulted on its legislative programme, and, in a white paper published in May 2012, committed itself to legislation during the term of the current National Assembly.¹⁶

3.27

In April 2013 we published our report *Renting Homes in Wales*,¹⁷ and the following month the Welsh Government published a white paper to consult on implementation of *Renting Homes*.¹⁸ It hopes to introduce a Bill in the National Assembly in 2015.

¹⁴ Written Statement, Hansard (HL), 21 March 2013, vol 744, col WS59.

¹⁵ (2006) LC297.

¹⁶ *Homes for Wales: a white paper for better lives and communities*.

¹⁷ (2013) LC337.

¹⁸ *Renting Homes: a better way for Wales*.

Reports awaiting implementation

Conspiracy and Attempts¹⁹

3.28

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

3.29

Government has accepted the recommendations contained in this report but, despite considering this a worthwhile project for future consideration, does not consider that this is a priority area for immediate reform and will not, therefore, be implementing our recommendations during the lifetime of this Parliament.²⁰

Participating in Crime²¹

3.30

In this report we examined the law of secondary liability for assisting and encouraging crime. The principles determining when someone can be found liable for a crime on the basis of help or encouragement have become less clear and can result in unfairness. In 2012 the Justice Committee recommended that Government consult on the Law Commission's recommendations in this report.

3.31

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

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

3.32

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

Partnership Law²³

3.33

Our joint report with the Scottish Law Commission was published in November 2003. It was in two parts. Most of the recommendations concerned general partnerships. In 2006, the Government rejected this part of the report.²⁴ We also made recommendations about limited partnerships. Limited partnerships (as distinct from limited liability partnerships) allow general partners and limited partners to join together. A general partner manages the business and has unlimited liability for its obligations, while limited partners take no part in the management and assume only limited liability. Our recommendations were designed to clarify the relationship between limited partnerships and general partnership law.

¹⁹ (2009) LC318.

²⁰ www.gov.uk/government/publications/report-on-the-implementation-of-law-commission-proposals--10, paragraphs 28–9 (last visited on 23 April 2013).

²¹ (2007) LC305.

²² www.gov.uk/government/publications/report-on-the-implementation-of-law-commission-proposals--10, paragraphs 19–21 (last visited on 23 April 2013).

²³ (2003) LC283/SLC192.

²⁴ Written Ministerial Statement, Ian McCartney MP, Hansard (HC), 20 July 2006, vol 449, col WS53.

3.34

In July 2006 Government announced its intention to implement this part of our report.²⁵ In August 2008, the then Department for Business, Enterprise and Regulatory Reform published a consultation paper and draft Legislative Reform Order. Subsequently, however, Government announced that it would proceed with the limited partnership reforms in stages.

3.35

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

3.36

Government plans to address the remaining recommendations as and when resources and priorities allow.²⁶

²⁵ See preceding reference.

²⁶ www.gov.uk/government/publications/report-on-the-implementation-of-law-commission-proposals--10, paragraphs 10–12 (last visited on 23 April 2013).

Reports awaiting a Government decision

Administrative Redress: Public Bodies and the Citizen²⁷

3.37

This report was published in May 2010. Our 2008 consultation paper²⁸ had considered two main areas for reform:

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

3.38

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

3.39

In relation to the public sector ombudsmen, the consultation process and subsequent developments led us to conclude that further investigation of issues relating to ombudsmen was necessary and desirable. We published a further consultation paper²⁹ on 2 September 2010 focusing solely on the public sector ombudsmen, and a report in July 2011.³⁰

3.40

Government is currently assessing the feasibility of our proposals on reporting compensation and associated litigation costs as part of future initiatives on improving the publication of public bodies' data in open and standardised formats. Preliminary pilot work has been conducted in line with our recommendations.³¹

Cohabitation: The Financial Consequences of Relationship Breakdown³²

3.41

In this report we examined the financial consequences of the termination of cohabitants' relationships by separation or death. The existing law is a patchwork of legal rules, sometimes providing cohabitants with interests in their partners' property. The law is unsatisfactory: it is complex, uncertain, and expensive to rely on. It gives rise to hardship for many cohabitants and, as a consequence, their children.

3.42

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

3.43

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

3.44

In order to obtain a remedy, applicants would have to prove that they had made qualifying contributions to the parties' relationship that had given rise to certain lasting consequences at the point of separation. In broad terms, the scheme would seek to ensure that the pluses and minuses of the relationship were fairly shared between the couple. The report recommended that couples should, subject to necessary protections, be able to disapply the statute by means of an opt-out agreement, leaving them free to make their own financial arrangements.

27 (2010) LC322.

28 (2008) LCCP187.

29 (2010) LCCP196.

30 (2011) LC329.

31 www.gov.uk/government/publications/report-on-the-implementation-of-law-commission-proposals, paragraphs 28–9 (last visited on 23 April 2013).

32 (2007) LC307.

3.45

Government announced in September 2011 that the recommendations for reform would not be taken forward in this Parliament.

Company Security Interests³³**3.46**

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

3.47

We were disappointed that the then Department for Trade and Industry was not able to include our main recommendations within the Companies Act 2006, though a power was included to make some amendments to the scheme for registration of charges. In 2010, the Department for Business, Innovation and Skills consulted on changes to the scheme,³⁴ and subsequently announced an intention to introduce regulations.³⁵ The revised scheme for registration of charges came into force in April 2013.³⁶ We still await a decision on our broader recommendations.

Consumer Redress for Misleading and Aggressive Practices³⁷**3.48**

This was a joint project with the Scottish Law Commission, referred to us by the Department for Business, Innovation and Skills in February 2010.

3.49

In March 2012 we published our final report recommending new legislation to provide redress to consumers who experience misleading and aggressive practices in their dealings with traders. This followed a joint consultation in April 2011.³⁸

3.50

There are already sanctions against misleading and aggressive practices under the Consumer Protection from Unfair Trading Regulations 2008.³⁹ The Regulations, however, do not give consumers a private right of redress. They concern public enforcement rather than private law. Instead, consumers who have been victims of unfair practices must rely on existing private law doctrines, such as the law of misrepresentation and duress, if they want redress.

3.51

Yet the law of misrepresentation is complex and difficult to enforce, while the law of duress fails to protect many vulnerable consumers. We were given many examples of elderly consumers who had suffered unscrupulous hard-selling on the doorstep, where, for example, salesmen pretended to be from social services or refused to leave when asked. The law fails to provide clear routes to redress for these problems.

3.52

We recommend targeted reform. We do not propose that consumers should have a right of redress simply because there has been a breach of the Regulations. Instead, we recommend a new right only where there is a clear problem in the marketplace. The new right would follow the substance of the definition of misleading practice in Regulation 5(2)(a) and aggressive practice from Regulation 7. We have concluded that there should not be a private right of redress for “pure” omissions.

33 (2005) LC296.

34 www.bis.gov.uk/Consultations/registration-of-charges (last visited on 23 April 2013).

35 www.gov.uk/government/uploads/system/uploads/attachment_data/file/49949/10-1319-government-response-consultation-registration-of-charges.pdf (last visited on 23 April 2013).

36 SI 2013 No 600.

37 (2012) LC332/SLC226.

38 (2011) LCCP199/SLCDP149.

39 Consumer Protection from Unfair Trading Regulations 2008 SI 2008/1277.

3.53

We also made recommendations on remedies. We thought that the central remedy should be the right to unwind the contract and obtain a full refund. After 90 days the consumer should be allowed to claim a discount on the price. In some circumstances this would be supplemented by “tier 2” remedies to compensate for indirect loss.

3.54

Government has considered our report closely and we anticipate a response in summer 2013. We hope that these changes will be implemented as part of Government’s wide ranging reform of consumer law, announced in the 2013 Queen’s Speech.

Consumer Remedies for Faulty Goods⁴⁰**3.55**

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

3.56

In November 2009 we published our final report recommending ways to simplify the law on the remedies available to consumers who buy goods that “do not conform to contract”. This followed a consultation in November 2008.⁴¹

3.57

This area of law affects almost everyone and is particularly complex. Currently, UK consumers have the “right to reject” faulty goods. This means they have a right to a full refund, provided they act within “a reasonable time”. The area is also governed by the European Consumer Sales Directive, under which consumers’ first recourse is to repair or replacement. In October 2008 the European Commission published a proposal that, if adopted, would have required the UK to abolish the right to reject. Faced with considerable evidence in favour of the right to reject, including our report, this proposal was later abandoned.⁴²

3.58

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

3.59

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

3.60

In 2012 the Department for Business, Innovation and Skills published its own consultation paper on changes to consumer law, which included detailed proposals in this area.⁴³ In May 2013 the Queen’s Speech announced a draft Consumer Bill. We hope that these proposals would be included in that Bill.

The Electronic Communications Code⁴⁴**3.61**

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

3.62

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

40 (2009) LC317/SLC216.

41 Consumer Remedies for Faulty Goods (2008) LCCP188/SLCDP139.

42 In March 2010, Viviane Reding, the EU Commissioner responsible for this area, acknowledged the importance of the UK’s right to reject and undertook

to amend the proposed new directive: speech, Madrid 15 March 2010 (available on <http://europa.eu>).

43 www.gov.uk/government/uploads/system/uploads/attachment_data/file/31864/12-937-enhancing-consumer-consultation-supply-of-goods-services-digital.pdf.

44 (2013) LC336.

3.63

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

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

3.64

We look forward to a response from Government in due course.

Expert Evidence in Criminal Proceedings in England and Wales⁴⁵

3.65

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

3.66

Under the current judicial approach too much expert opinion evidence is admitted without adequate scrutiny because no clear test is being applied to determine whether the evidence is sufficiently reliable to be admitted and judges lack the necessary powers to reject potentially unreliable defence evidence.

3.67

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

3.68

Government is in the process of preparing a formal response.⁴⁶ The Commission is also exploring with a number of bodies the possibility of partial implementation by means other than legislation.

The High Court's Jurisdiction in Relation to Criminal Proceedings⁴⁷

3.69

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

3.70

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

⁴⁵ (2011) LC325.

⁴⁶ www.gov.uk/government/publications/report-on-the-implementation-of-law-commission-proposals, paragraphs 32–3 (last visited 23 April 2013).

⁴⁷ (2010) LC324.

3.71

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

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

3.72

Government is still considering the report.⁴⁸

Intestacy and Family Provision Claims on Death⁴⁹ (Cohabitants)**3.73**

As reported above (see 3.22), our final report on Intestacy and Family Provision Claims on Death was accompanied by two draft Bills to implement our recommendations. The draft Inheritance and Trustees' Powers Bill has been accepted by Government.

3.74

The second Bill, the draft Inheritance (Cohabitants) Bill, contained recommendations that would:

- reform the law regarding an application for family provision by the survivor of a couple who had children together, and
- in defined circumstances, entitle the deceased's surviving cohabitant to inherit under the intestacy rules where there was no surviving spouse or civil partner: generally speaking, this entitlement would arise if the couple lived together for five years before the death or for two years if they had a child together.

3.75

Government announced on 21 March 2013 that it did not intend to implement the Inheritance (Cohabitants) Bill during this Parliament.⁵⁰

Making land work: Easements, Covenants and Profits à Prendre⁵¹**3.76**

This project examined the general law governing easements (rights enjoyed by one landowner over the land of another, such as rights of way), covenants (promises to do or not do something on one's own land, such as to mend a boundary fence or to refrain from using the land as anything other than a private residence) and profits à prendre (rights to take products of natural growth from land, such as rights to fish). We looked closely at the characteristics of these rights, how they are created, how they come to an end and how they can be modified.

3.77

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

3.78

We understand that Government's consideration of our report has been delayed by work on other priorities. However, Government has met with a number of stakeholders to discuss our recommendations and is in the process of preparing its response.

⁴⁸ www.gov.uk/government/publications/report-on-the-implementation-of-law-commission-proposals, paragraphs 30-1 (last visited 23 April 2013).

⁴⁹ (2011) LC331.

⁵⁰ Written Statement, Hansard (HL), 21 March 2013, vol 744, col WS59.

⁵¹ (2011) LC327.

Public Services Ombudsmen⁵²

3.79

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

3.80

We published our report and final recommendations on 14 July 2011.

3.81

Government is considering our recommendations in consultation with the ombudsmen and we are expecting a response by summer 2013.⁵³

3.82

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

Termination of Tenancies⁵⁴

3.83

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

3.84

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

3.85

Government has told us that it hopes to reach a decision on the recommendations we make in this report by the end of 2013.

52 (2011) LC329.

53 www.gov.uk/government/publications/report-on-the-implementation-of-law-commission-proposals, paragraphs 40–2 (last visited 23 April 2013).

54 (2006) LC303.

PART FOUR

How we work

“

The Law Commission is an excellent institution which conscientiously delivers high quality, rigorous, well-respected, and important work with really very modest resources... Its consultation exercises, I believe, attract high confidence levels: one genuinely has a sense that the process of consultation can make a difference, that the Law Commission is open to cogent argument and new evidence.

”

Joanna Miles, Faculty of Law, University of Cambridge. Evidence to the Triennial Review of the Law Commission, January 2013.

Our programme of law reform

4.1

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

4.2

Every three or four years we consult widely, seeking suggestions for appropriate projects. Decisions about whether to include a particular subject in a programme of reform are based on the strength of the need for law reform, the importance of the issues it will cover, the availability of resources in terms of both expertise and funding, and whether the project is suitable to be dealt with by the Commission.

4.3

Although we have a duty to “take and keep under review all the law”,¹ it is important that our efforts are directed towards areas of the law that most need reform and reforms that are most likely to be implemented. There should be a focus on change that will deliver real benefits to the people, businesses, organisations and institutions to which that law applies.

4.4

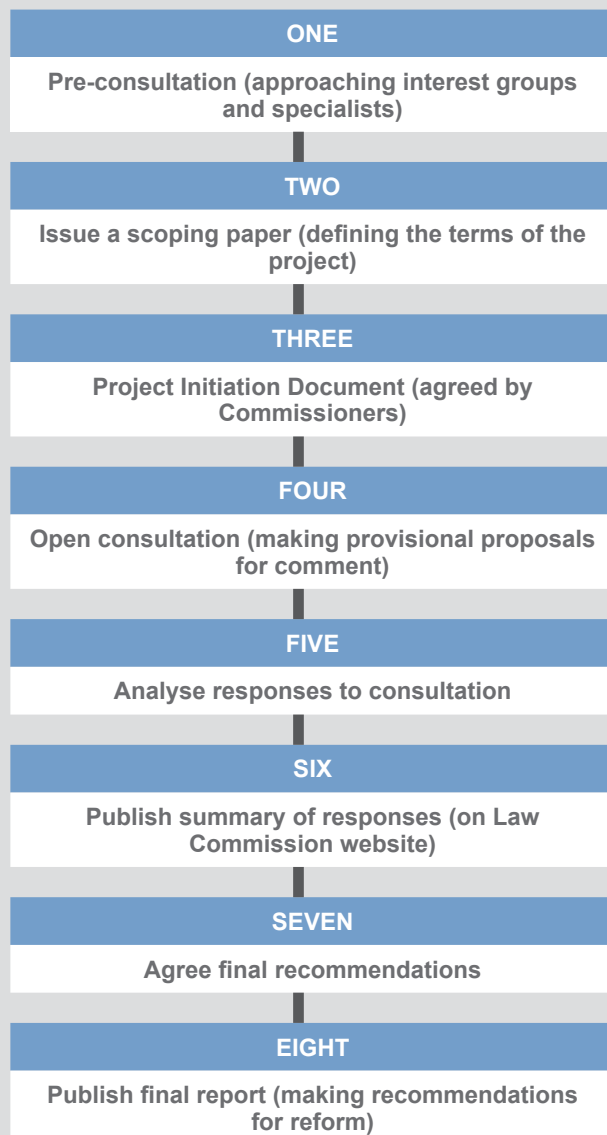
The majority of the projects set out in Part 2 of this annual report originated in the 11th Programme of Law Reform,² which was launched in July 2011. We are consulting on our next programme in summer 2013.

Our other work

4.5

Parts 2 and 3 of this report include updates on projects that were announced in earlier law reform programmes and are still ongoing, projects that have been referred to us by Government departments and our statute law work.

Common stages of a law reform project



¹ Law Commissions Act 1965, s 3(1).

² (2011) LC330.

The Commission's role and methods

4.6

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

4.7

We set out our final recommendations in a report. When the implementation of any recommendations would involve primary legislation, the report will usually contain a Bill drafted by Parliamentary Counsel. The report is laid before Parliament. It is then for Government to decide whether it accepts the recommendations and to introduce any necessary Bill in Parliament, unless a Private Member or Peer agrees to do so. After publication of a report the Commissioner and Parliamentary Counsel who worked on the draft Bill will often give further assistance to Government Ministers and Departments.

Consultation

4.8

The Commission is committed to consulting fully with all the people and organisations that are likely to be affected by our proposals.

4.9

Our thorough, targeted consultations allow us to acquire a good understanding of the issues that are arising in an area of law and the effect they are having, as well as giving us a clear picture of the context within which the law operates. We use them to assess the impact of our proposed policies and refine our thinking.

4.10

Our law reform consultations can include meetings with individuals and organisations, public events, conferences, symposia and other types of event. We issue a consultation paper and provide a number of ways for consultees to respond, including online.

4.11

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

4.12

We follow the Government Consultation Principles.³

Protocol between the Government and the Law Commission

4.13

In March 2010 the Law Commission agreed a statutory protocol⁴ with the Lord Chancellor that governs how the Commission and Government Departments should work together on law reform projects. The protocol is provided for under the Law Commission Act 2009, which came into force on 12 January 2010 and amends the Law Commissions Act 1965. It applies to all projects that started after 29 March 2010.

4.14

Under the Act, the Lord Chancellor is also required to report annually to Parliament on the extent to which the Law Commission's proposals have been implemented by the Government. The Lord Chancellor issued his third such report on 22 January 2013,⁵ setting out the Government's reasons for decisions taken during the year to accept or reject our proposals and giving an indication of when decisions can be expected on recommendations that are still being considered.

³ www.gov.uk/government/publications/consultation-principles-guidance (last visited 22 April 2013).

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

⁵ www.gov.uk/government/publications/report-on-the-implementation-of-law-commission-proposals (last visited 23 April 2013).

Economics and the law

The economics discipline is concerned with more than simply demand and supply. Microeconomics examines how choice and behaviour can be framed in a way that ensures the best use of resources. Law is fundamentally intertwined with economics in that it sets the framework within which this choice is made. The economics team at the Law Commission provides answers to questions such as

- why, according to economics, must a price be placed on justice, and
- how can seemingly unrealistic assumptions help measure/evaluate/assess the impact of law reform recommendations?

The principal task of the economist is to assess the impact of reform and help the Commission and Government understand the consequences of any intervention.

Impact assessment

Procedural guidance on drafting impact assessments underwent further changes during the review year. The new guidance requires that departments adopt a proportionate approach in the use of evidence. This initiative was aimed at reducing the burden placed on the Regulatory Policy Committee, which is the body responsible for scrutinising the quality of impact assessments.

The Commission has kept abreast of changing requirements and continues to draft impact assessments that are consistent with good practice. This is particularly important if delays to our projects are to be prevented. It is also an indicator of the Commission's ability to meet the demands of informed policy development and appraisal.

2012–13

During this year, the economics team has worked on a diverse range of law reform projects, from contempt of court, hate crime and reforming electoral law to the management of wildlife. It

is increasingly common for the Commission to produce an impact assessment at the consultation stage of a project. This practice has provided us with invaluable opportunities to gather evidence from stakeholders. Some projects have made use of a scoping exercise – an early consultation seeking evidence of the extent of an issue. These requests for evidence anticipate the subsequent demands of an impact assessment. This approach was followed in our projects on Electoral Law and Conservation Covenants.

A continuing challenge for the economics team is to contribute to developing within the Commission the requisite skills for making effective impact assessments.

The opportunity to work collaboratively with lead departments fosters a wider network and greater contributions towards an evidence base. This is an important development because it improves the scope for the valuation of the “known unknowns” – the intangible benefits.

11th Programme

The year has been a busy one for economic analysis, largely because of the type of projects the Commission has been working on. In particular, projects with a regulatory dimension, such as Taxi and Private Hire Services, have required much greater analytical engagement than is usually the case. The Commission's role as a consultative and independent body has proved to be an important factor in facilitating access to information that is not always easy to obtain. This has been helpful in undertaking cost benefit analysis.

The 11th Programme saw a greater involvement of economics in our law reform work in that a number of the projects selected for the Programme explicitly incorporated value for money considerations. We look forward to building on this initiative in our next Programme.

Code of best practice for Law Commissioners

4.15

In accordance with Government policy for all non-departmental public bodies, there is a written code for Law Commissioners, agreed with the Ministry of Justice. It incorporates the Seven Principles of Public Life and covers matters such as the role and responsibilities of Commissioners. The code is available on our website.⁶

4.16

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

External relations

4.17

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

4.18

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

4.19

We are particularly grateful to the stakeholders whose powerful support this year helped our successful campaign to retain our independent brand identity and to those who contributed to the Ministry of Justice's Triennial Review of the Law Commission.

4.20

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

4.21

We continue to make progress in extending the number of ways in which we engage with our stakeholders. As well as providing a way for consultees to respond to us online, we have made it possible for our website users to choose to receive email alerts when we open a consultation or publish a report. We have experimented with podcasting and have successfully engaged new audiences using our Twitter accounts. We now have over 3,000 followers, including legal practitioners, journalists, academics and students.

Education and engagement

4.22

We have been actively engaged in education initiatives this year, in particular collaborating with Big Voice London, a youth project supported by the UK Supreme Court. We invited a group of 23 A-level law students from Brighton and Hove Sixth Form College to visit us to learn about how we conduct a law reform project and, in October, we welcomed a group of 19 students from Stetson University College of Law in America.

⁶ www.lawcom.gov.uk.

4.23

In May 2012 the statute law repeals team hosted a seminar for Commonwealth drafters. These annual events are organised by arrangement with the Institute of Advanced Legal Studies and are designed to facilitate the understanding of overseas' delegates of the law reform, Bill drafting, consolidation and statute law rationalisation functions delivered by the Law Commission.

4.24

In March 2013 we held a seminar at Aberystwyth University. The invited audience included representatives of the Welsh Government, the legal professions, all of the Welsh law schools and public bodies and individuals with an interest in law reform. In addition to the Chairman and the Law Commissioners, the speakers included the Counsel General and Keith Bush, former Head of Legal Services to the National Assembly. The seminar provided an opportunity for us to give an account of the Commission's activities and plans in relation to Wales, both in the devolved and reserved areas. The seminar also addressed the creation of our Welsh Advisory Committee.

4.25

We ran a number of other seminars during the year, including one in September for delegates from RIPA International's programme "Translating Policy into Legislation" and another in October for students of the Public Administration International course, "Changing the Law: Successful Reform".



Members of the Law Commission preparing to step out on the London Legal Walk, June 2012.

The Chairman, Commissioners and other members of the Law Commission accept invitations throughout the year to attend and speak at a large number and wide range of conferences, seminars, lectures and other events. In October 2012 the Chairman delivered a lecture on Law Reform in a Devolved Wales to the Legal Wales Conference and, in November, was invited to deliver the annual Sir William Dale Lecture. His talk focused on the implementation of Law Commission recommendations.⁷ We continue to seek out opportunities for reaching and engaging those people who are interested in law reform and the processes by which the law is improved.

4.27

With a view to the continuing professional development of our legal staff, we run a series of in-house lunchtime seminars throughout the year, inviting contributors from the legal, parliamentary and academic worlds. We have been fortunate this year in welcoming, among others, Shona Wilson, from the University of Cambridge, who gave us a presentation entitled "50 Years of the British Law Commissions: Work in Progress". Rachel Lofthouse from Bangor University gave a talk on Risk Markers for Offending Behaviour in Adults with Intellectual Disabilities, and Nigel Rendell from the Office of the Parliamentary Counsel, led a session on Welsh devolution. We also had presentations from Commissioners and colleagues, giving all staff opportunities to benefit from the exceptional expertise that exists within the Commission.

4.28

On 21 May 2012 a team of legal and other staff from the Commission joined members of the judiciary and teams from many of London's law firms and sets of chambers in the annual London Legal Walk. The team raised almost £1,500 for the London Legal Support Trust, which organises the event to support free legal advice agencies in and around London, including Law Centres and pro bono advice surgeries.

⁷ lawcommission.justice.gov.uk/publications/lectures.htm (last visited 23 April 2013).

Big Voice London

On 22 November the Law Commission played host for the second time to Big Voice London. Big Voice London is a youth project and the brain-child of Jennifer Blair. With support from the UK Supreme Court, Big Voice works with sixth formers to explore issues of legal identity and the workings of the UK legal system.

A group of around 30 Big Voice students and their team leaders were welcomed to the Commission by the Chairman and Chief Executive. As an introduction, Professor David Ormerod QC, Law Commissioner for Criminal Law, gave a presentation on the principles and some of the practicalities of law reform. The students then spent the rest of their half day at the Commission working in four groups, each supported by one of the Commission's law reform teams. The students examined a reform project from their team's perspective before reporting back in the afternoon to the rest of the delegates.

The event provided the Big Voice students with an opportunity to meet, and learn from, the experts whose day-to-day lives are dedicated to law reform, and to gain hands-on experience of what is involved in a law reform project. The students were also encouraged to talk to the Commission's research assistants who, being at the start of their careers, are in a good position to advise the young delegates on the different paths that can lead to a career in the law.

The Big Voice London visit also gave the Commission a chance to reflect on some of our principles and practices, and to see the work we do from a fresh perspective. It allowed us to open our doors to an audience we do not often encounter in the practice of law reform.



Young delegates from Big Voice London discussing law reform with members of the Commission's Property, Family and Trust team, November 2012.

Our partner Law Commissions and the devolved authorities

4.29

Over the course of the year we have worked closely with the Scottish Law Commission on a number of projects. This year, we also completed the consultation on our first tripartite law reform project, Regulation of Health Care Professionals, working with colleagues in the Scottish and Northern Ireland Commissions. Following the consultation,⁸ which closed in May 2012, we published in February 2013 an analysis of the responses received⁹ and expect to issue our final report and draft Bill in early 2014.

4.30

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

4.31

In July the Chairman and Chief Executive travelled to Dublin to attend the annual meeting of the four law reform bodies of the UK and the Republic of Ireland, and the Jersey Law Commission.

Wider engagement

4.32

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

4.33

In November 2012 Professor David Ormerod QC delivered the keynote address at the Law Reform conference in Hong Kong, at the invitation of the Director of Public Prosecutions for Hong Kong.

4.34

In March 2013 the Law Commission's economic adviser Vindelyn Smith-Hillman was invited to contribute to the Second International Seminar on Electronic Health Records in Rio de Janeiro. At the invitation of the co-hosts, the Civil House of the Presidency and the British Embassy, she undertook a study considering the impacts of introducing electronic health records in Brazil. She presented her findings, and a report on the British experience of impact assessment, to an audience that included the technical coordinator of the Brazilian Programme for Strengthening Institutional Capacity for Regulatory Management.

4.35

During 2012–13, we welcomed a number of overseas visitors, including representatives from the Committee on Foreign Affairs of the Faroe Islands, the Ugandan Law Reform Commission and judges and officials from the Supreme Court of Nepal.



Law Commission Economist, Vindelyn Smith-Hillman, presenting at the International Seminar on Electronic Health Records, Rio de Janeiro, March 2013 (with thanks to Agência Nacional de Saúde Suplementar (ANS), Brazil).

8 (2012) LCCP202/SLCD153/NILC12.

9 Regulation of Health Care Professionals. Regulation of Social Care Professionals in England. Consultation analysis (2013).

PART FIVE

Staffing and related matters

“

The Law Commission provides excellent, thought-provoking and vital review of the law in England and Wales. It deserves far greater credit than it normally gains for its tireless work in repealing obsolete statutes and proposing and working towards the enactment of consolidating and reforming legislation... The Law Commission provides great value for money in terms of the impact that it has on every-day lives touched by the law and legal developments.

”

Dr Emma Waring, York Law School, University of York. Evidence to the Triennial Review of the Law Commission, January 2013.

5.1

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

Staff at the Commission

5.2

In 2012–13 the Law Commission consisted of 59 staff (full-time equivalent: 57.51, at 1 April 2013).¹

Figure 5.1

People working at the Commission (full-time equivalent, at 1 April 2013)

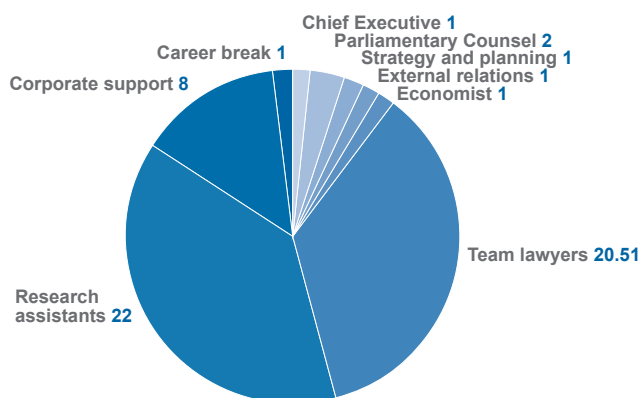
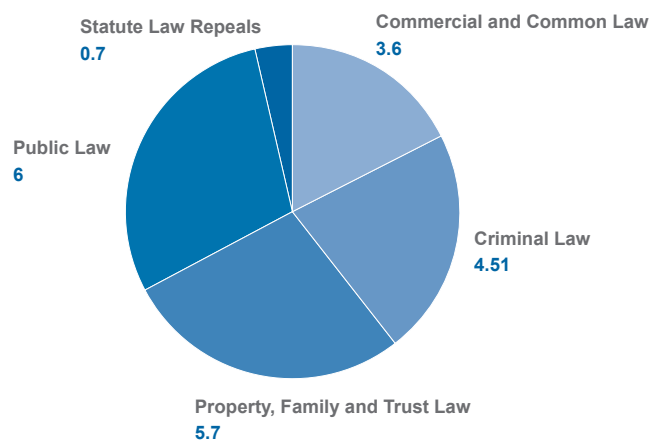


Figure 5.2

Team Lawyers



Legal staff

5.3

The Commission's lawyers are barristers, solicitors or legal academics from a wide range of professional backgrounds, including private practice and public service. In addition, Parliamentary Counsel who prepare the draft Bills attached to the law reform reports, and who undertake the consolidation of existing legislation, are seconded to the Law Commission from the Office of the Parliamentary Counsel. The Commission is very grateful to them all for their expertise and hard work.

Research assistants

5.4

Each year a dozen or so well-qualified graduates are recruited to assist with research, drafting and creative thinking. They generally spend a year or two at the Commission before moving on to further their legal training and careers. The selection process is extremely thorough and the Commission has aimed to attract a diverse range of candidates of the highest calibre through contact with faculty careers advisers, as well as through advertisements both online and in the press. In 2012–13 we recruited 16 new research assistants through this process. For many research assistants, working at the Commission has been a rung on the ladder to an extremely successful career. The Commission recognises the contribution they make, particularly through their enthusiastic commitment to the work of law reform and their lively participation in debate.

Economic and analytical services

5.5

The Commission benefits from the expertise of an economist who provides specialist advice in relation to the assessment of the impact of our proposals for law reform. Our economist also provides an essential bridge into the Ministry of Justice and other Government Department analytical teams.

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

External relations

5.6

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

Corporate services

5.7

The corporate services team supports the work of the Law Commission in the following areas:

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

5.8

The Head of Corporate Services is the competent person for health and safety management at the Commission, representing staff at the quarterly meetings of the Steel House Health and Safety Committee and monitoring progress against a detailed health and safety plan.

5.9

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

5.10

The Publishing Editor makes our publications available on the website.² Older reports and consultation papers are also available through the British and Irish Legal Information Institute³ or can be supplied as pdfs on request.⁴

5.11

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

5.12

The team values the help available to them from their colleagues in the Ministry of Justice.

Working at the Commission

5.13

We offer our staff a wide variety of flexible work/life balance arrangements such as home-working and working part-time or compressed hours.

5.14

The equality and diversity statement published on our website sets out our commitment to respect and value all facets of diversity and strive to give our people equality of opportunity and equality of outcome.

People survey results

5.15

We were delighted to note that, with an engagement index of 76 per cent, the results of the annual People Survey for the Commission placed us as a high-performing organisation in relation to other organisations of a similar size within the civil service in 2012.

² www.lawcom.gov.uk.

³ www.bailii.org.

⁴ Requests should be made to communications@lawcommission.gsi.gov.uk.

Health and safety, and information assurance

5.16

In 2012–13 there was one notifiable incident in relation to staff of the Commission and the Health and Safety at Work Act 1974. There were also two notifiable incidents in relation to data loss. All incidents were reported as appropriate.

Freedom of Information

5.17

The Law Commission has a publication scheme. We publish a quarterly disclosure log of requests made under the Freedom of Information Act that we have received and dealt with. More details can be found on the FOI page of our website.⁵

Sustainability

5.18

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

Figure 5.3

Recycling in Steel House, of which we occupy two floors, 2012–13.

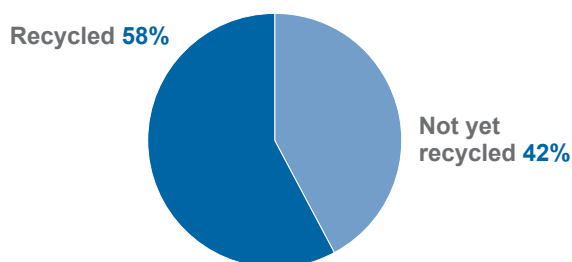
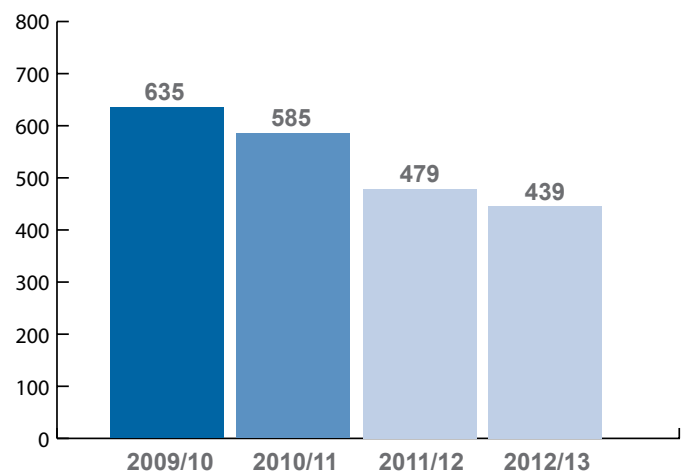


Figure 5.4

CO₂ emissions (tonnes) for Steel House, reduction by year.



Sir David Lloyd Jones, Chairman
 Elizabeth Cooke
 David Hertzell
 David Ormerod QC
 Frances Patterson QC

Elaine Lorimer, Chief Executive
 15 May 2013

⁵ lawcommission.justice.gov.uk/freedom-of-information.htm.

APPENDICES

“

Resolution respects and values the neutrality of the Law Commission and holds the belief that they will always put those that will be affected by law change at the heart of what they do.

”

Liz Edwards, Chair of Resolution. Letter to the Chairman, November 2012.

Appendix A

Implementation status of Law Commission law reform reports

LC No	Title	Status	Related Measures
1966			
3	Proposals to Abolish Certain Ancient Criminal Offences	Implemented	Criminal Law Act 1967 (c58)
6	Reform of the Grounds of Divorce: The Field of Choice (Cmnd 3123)	Implemented	Divorce Reform Act 1969 (c55); now Matrimonial Causes Act 1973 (c18)
7	Proposals for Reform of the Law Relating to Maintenance and Champerty	Implemented	Criminal Law Act 1967 (c80)
8	Report on the Powers of Appeal Courts to Sit in Private and the Restrictions upon Publicity in Domestic Proceedings (Cmnd 3149)	Implemented	Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (c63)
1967			
9	Transfer of Land: Interim Report on Root of Title to Freehold Land	Implemented	Law of Property Act 1969 (c59)
10	Imputed Criminal Intent (Director of Public Prosecutions v Smith)	Implemented in part	Criminal Justice Act 1967 (c80), s 8
11	Transfer of Land: Report on Restrictive Covenants	Implemented in part	Law of Property Act 1969 (c59)
13	Civil Liability for Animals	Implemented	Animals Act 1971 (c22)
1968			
16	Blood Tests and the Proof of Paternity in Civil Proceedings (HC 2)	Implemented	Family Law Reform Act 1969 (c46)
1969			
17	Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (HC 38)	Implemented	Law of Property Act 1969 (c59)
18	Transfer of Land: Report on Land Charges affecting Unregistered Land (HC 125)	Implemented	Law of Property Act 1969 (c59)
19	Proceedings against Estates (Cmnd 4010)	Implemented	Proceedings against Estates Act 1970 (c17)
20	Administrative Law (Cmnd 4059)	Implemented	See LC 73
21	Interpretation of Statutes (HC 256)	Rejected	
23	Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights (HC 369)	Implemented	Matrimonial Proceedings and Property Act 1970 (c45)
24	Exemption Clauses in Contracts: First Report: Amendments to the Sale of Goods Act 1893: Report by the Two Commissions (SLC 12) (HC 403)	Implemented	Supply of Goods (Implied Terms) Act 1973 (c13)
25	Family Law: Report on Financial Provision in Matrimonial Proceedings (HC 448)	Implemented	Matrimonial Proceedings and Property Act 1970 (c45); now largely Matrimonial Causes Act 1973 (c18)
26	Breach of Promise of Marriage (HC 453)	Implemented	Law Reform (Miscellaneous Provisions) Act 1970 (c33)

LC No	Title	Status	Related Measures
1970			
29	Criminal Law: Report on Offences of Damage to Property (HC 91)	Implemented	Criminal Damage Act 1971 (c48)
30	Powers of Attorney (Cmnd 4473)	Implemented	Powers of Attorney Act 1971 (c27)
31	Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Cmnd 4497)	Implemented	Administration of Estates Act 1971 (c25)
33	Family Law: Report on Nullity of Marriage (HC 164)	Implemented	Nullity of Marriage Act 1971 (c44), now Matrimonial Causes Act 1973 (c18)
34	Hague Convention on Recognition of Divorces and Legal Separations: Report by the two Commissions (SLC 16) (Cmnd 4542)	Implemented	Recognition of Divorces and Legal Separations Act 1971 (c53); now Family Law Act 1986 (c55), Part II
35	Limitation Act 1963 (Cmnd 4532)	Implemented	Law Reform (Miscellaneous Provisions) Act 1971 (c43)
40	Civil Liability of Vendors and Lessors for Defective Premises (HC 184)	Implemented	Defective Premises Act 1972 (c35)
1971			
42	Family Law: Report on Polygamous Marriages (HC 227)	Implemented	Matrimonial Proceedings (Polygamous Marriages) Act 1972 (c38); now Matrimonial Causes Act 1973 (c18)
43	Taxation of Income and Gains Derived from Land: Report by the two Commissions (SLC 21) (Cmnd 4654)	Implemented in part	Finance Act 1972 (c41), s 82.
1972			
48	Family Law: Report on Jurisdiction in Matrimonial Proceedings (HC 464)	Implemented	Domicile and Proceedings Act 1973 (c45)
1973			
53	Family Law: Report on Solemnisation of Marriage in England and Wales (HC 250)	Rejected	
55	Criminal Law: Report on Forgery and Counterfeit Currency (HC 320)	Implemented	Forgery and Counterfeiting Act 1981 (c45)
56	Report on Personal Injury Litigation: Assessment of Administration of Damages (HC 373)	Implemented	Administration of Justice Act 1982 (c53)
1974			
60	Report on Injuries to Unborn Children (Cmnd 5709)	Implemented	Congenital Disabilities (Civil Liability) Act 1976 (c28)
61	Family Law: Second Report on Family Property: Family Provision on Death (HC 324)	Implemented	Inheritance (Provision for Family and Dependants) Act 1975 (c63)
62	Transfer of Land: Report on Local Land Charges (HC 71)	Implemented	Local Land Charges Act 1975 (c76)
1975			
67	Codification of the Law of Landlord and Tenant: Report on Obligations of Landlords and Tenants (HC 377)	Rejected	
68	Transfer of Land: Report on Rentcharges (HC 602)	Implemented	Rentcharges Act 1977 (c30)
69	Exemption Clauses: Second Report by the two Law Commissions (SLC 39) (HC 605)	Implemented	Unfair Contract Terms Act 1977 (c50)

LC No	Title	Status	Related Measures
1976			
73	Report on Remedies in Administrative Law (Cmnd 6407)	Implemented	Rules of Supreme Court (Amendment No 3) 1977; Supreme Court Act 1981 (c54)
74	Charging Orders (Cmnd 6412)	Implemented	Charging Orders Act 1979 (c53)
75	Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability (Cmnd 6428)	Implemented	Occupiers' Liability Act 1984 (c3)
76	Criminal Law: Report on Conspiracy and Criminal Law Reform (HC 176)	Implemented in part	Criminal Law Act 1977 (c45)
77	Family Law: Report on Matrimonial Proceedings in Magistrates' Courts (HC 637)	Implemented	Domestic Proceedings and Magistrates' Courts Act 1978 (c22)
1977			
79	Law of Contract: Report on Contribution (HC 181)	Implemented	Civil Liability (Contribution) Act 1978 (c47)
82	Liability for Defective Products: Report by the two Commissions (SLC 45) (Cmnd 6831)	Implemented	Consumer Protection Act 1987 (c43)
83	Criminal Law: Report on Defences of General Application (HC 566)	Rejected	
1978			
86	Family Law: Third Report on Family Property: The Matrimonial Home (Co-ownership and Occupation Rights) and Household Goods (HC 450)	Implemented	Housing Act 1980 (c51); Matrimonial Homes and Property Act 1981 (c24)
88	Law of Contract: Report on Interest (Cmnd 7229)	Implemented in part	Administration of Justice Act 1982 (c53); Rules of the Supreme Court (Amendment No 2) 1980
89	Criminal Law: Report on the Mental Element in Crime (HC 499)	Rejected	
91	Criminal Law: Report on the Territorial and Extra-Territorial Extent of the Criminal Law (HC 75)	Implemented in part	Territorial Sea Act 1987 (c49)
1979			
95	Law of Contract: Implied Terms in Contracts for the Sale and Supply of Goods (HC 142)	Implemented	Supply of Goods and Services Act 1982 (c29)
96	Criminal Law: Offences Relating to Interference with the Course of Justice (HC 213)	Rejected	
1980			
99	Family Law: Orders for Sale of Property under the Matrimonial Causes Act 1973 (HC 369)	Implemented	Matrimonial Homes and Property Act 1981 (c24)
102	Criminal Law: Attempt and Impossibility in Relation to Attempt, Conspiracy and Incitement (HC 646)	Implemented	Criminal Attempts Act 1981 (c47)
104	Insurance Law: Non-Disclosure and Breach of Warranty (Cmnd 8064)	Rejected	
1981			
110	Breach of Confidence (Cmnd 8388)	Rejected	
111	Property Law: Rights of Reverter (Cmnd 8410)	Implemented	Reverter of Sites Act 1987 (c15)
112	Family Law: The Financial Consequences of Divorce (HC 68)	Implemented	Matrimonial and Family Proceedings Act 1984 (c42)

LC No	Title	Status	Related Measures
1982			
114	Classification of Limitation in Private International Law (Cmnd 8570)	Implemented	Foreign Limitation Periods Act 1984 (c16)
115	Property Law: The Implications of Williams and Glyns Bank Ltd v Boland (Cmnd 8636)	Superseded	See City of London Building Society v Flegg [1988] AC 54
116	Family Law: Time Restrictions on Presentation of Divorce and Nullity Petitions (HC 513)	Implemented	Matrimonial and Family Proceedings Act 1984 (c42)
117	Family Law: Financial Relief after Foreign Divorce (HC 514)	Implemented	Matrimonial and Family Proceedings Act 1984 (c42)
118	Family Law: Illegitimacy (HC 98)	Implemented	Family Law Reform Act 1987 (c42)
1983			
121	Law of Contract: Pecuniary Restitution on Breach of Contract (HC 34)	Rejected	
122	The Incapacitated Principal (Cmnd 8977)	Implemented	Enduring Powers of Attorney Act 1985 (c29)
123	Criminal Law: Offences relating to Public Order (HC 85)	Implemented	Public Order Act 1986 (c64)
124	Private International Law: Foreign Money Liabilities (Cmnd 9064)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)
125	Property Law: Land Registration (HC 86)	Implemented	Land Registration Act 1986 (c26)
1984			
127	Transfer of Land: The Law of Positive and Restrictive Covenants (HC 201)	Rejected	
132	Family Law: Declarations in Family Matters (HC 263)	Implemented	Family Law Act 1986 (c55), Part III
134	Law of Contract: Minors' Contracts (HC 494)	Implemented	Minors' Contracts Act 1987 (c13)
137	Private International Law: Recognition of Foreign Nullity Decrees (SLC 88) (Cmnd 9347)	Implemented	Family Law Act 1986 (c55), Part II
1985			
138	Family Law: Conflicts of Jurisdiction (SLC 91) (Cmnd 9419)	Implemented	Family Law Act 1986 (c55), Part I
141	Covenants Restricting Dispositions, Alterations and Change of User (HC 278)	Implemented in part	Landlord and Tenant Act 1988 (c26)
142	Forfeiture of Tenancies (HC 279)	Rejected	
143	Criminal Law: Codification of the Criminal Law: A Report to the Law Commission (HC 270)	Superseded	See LC 177
145	Criminal Law: Offences against Religion and Public Worship (HC 442)	Implemented	Criminal Justice and Immigration Act 2008 (c4)
146	Private International Law: Polygamous Marriages (SLC 96) (Cmnd 9595)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)
147	Criminal Law: Poison Pen Letters (HC 519)	Implemented	Malicious Communications Act 1988 (c27)
148	Property Law: Second Report on Land Registration (HC 551)	Implemented	Land Registration Act 1988 (c3)

LC No	Title	Status	Related Measures
149	Criminal Law: Report on Criminal Libel (Cmnd 9618)	Rejected	
151	Rights of Access to Neighbouring Land (Cmnd 9692)	Implemented	Access to Neighbouring Land Act 1992 (c23)
152	Liability for Chancel Repairs (HC 39)	Rejected	
1986			
157	Family Law: Illegitimacy (Second Report) (Cmnd 9913)	Implemented	Family Law Reform Act 1987 (c42)
1987			
160	Sale and Supply of Goods (SLC 104) (Cm 137)	Implemented	Sale and Supply of Goods Act 1994 (c35)
161	Leasehold Conveyancing (HC 360)	Implemented	Landlord and Tenant Act 1988 (c26)
163	Deeds and Escrows (HC 1)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
164	Formalities for Contracts for Sale of Land (HC 2)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
165	Private International Law: Choice of Law Rules in Marriage (SLC 105) (HC 3)	Implemented	Foreign Marriage (Amendment) Act 1988 (c44)
166	Transfer of Land: The Rule in <i>Bain v Fothergill</i> (Cm 192)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
168	Private International Law: Law of Domicile (SLC 107) (Cm 200)	Rejected	
1988			
172	Review of Child Law: Guardianship (HC 594)	Implemented	Children Act 1989 (c41)
173	Property Law: Fourth Report on Land Registration (HC 680)	Superseded	See LC 235
174	Landlord and Tenant: Privity of Contract and Estate (HC 8)	Implemented	Landlord and Tenant (Covenants) Act 1995 (c30)
175	Matrimonial Property (HC 9)	Rejected	
1989			
177	Criminal Law: A Criminal Code (2 vols) (HC 299)	Superseded	Superseded by the criminal law simplification project: see Tenth Programme.
178	Compensation for Tenants' Improvements (HC 291)	Rejected	
180	Jurisdiction over Offences of Fraud and Dishonesty with a Foreign Element (HC 318)	Implemented	Criminal Justice Act 1993 (c36), Part I
181	Trusts of Land (HC 391)	Implemented	Trusts of Land and Appointment of Trustees Act 1996 (c47)
184	Title on Death (Cm 777)	Implemented	Law of Property (Miscellaneous Provisions) Act 1994 (c36)
186	Computer Misuse (Cm 819)	Implemented	Computer Misuse Act 1990 (c18)
187	Distribution on Intestacy (HC 60)	Implemented in part; Rejected in part	Law Reform (Succession) Act 1995 (c41)
188	Overreaching: Beneficiaries in Occupation (HC 61)	Implemented in part	Trusts of Land and Appointment of Trustees Act 1996 (c47)

LC No	Title	Status	Related Measures
1990			
192	Family Law: The Ground for Divorce (HC 636)	Implemented	Family Law Act 1996 (c27), Part II (enacted, but never brought into force)
193	Private International Law: Choice of Law in Tort and Delict (SLC 129) (HC 65)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)
1991			
194	Distress for Rent (HC 138)	Implemented in part; Rejected in part	Tribunals, Courts and Enforcement Act 2007 (c15), Part III (enacted, but not yet brought into force)
196	Rights of Suit: Carriage of Goods by Sea (SLC 130) (HC 250)	Implemented	Carriage of Goods by Sea Act 1992 (c50)
199	Transfer of Land: Implied Covenants for Title (HC 437)	Implemented	Law of Property (Miscellaneous Provisions) Act 1994 (c36)
201	Obsolete Restrictive Covenants (HC 546)	Rejected	
202	Corroboration of Evidence in Criminal Trials (Cm 1620)	Implemented	Criminal Justice and Public Order Act 1994 (c33)
204	Land Mortgages (HC 5)	Rejected	
1992			
205	Rape within Marriage (HC 167)	Implemented	Criminal Justice and Public Order Act 1994 (c33)
207	Domestic Violence and Occupation of the Family Home (HC 1)	Implemented	Family Law Act 1996 (c27), Part IV
208	Business Tenancies (HC 224)	Implemented	Regulatory Reform (Business Tenancies) (England and Wales) Order 2003
1993			
215	Sale of Goods Forming Part of a Bulk (SLC 145) (HC 807)	Implemented	Sale of Goods (Amendment) Act 1995 (c28)
216	The Hearsay Rule in Civil Proceedings (Cm 2321)	Implemented	Civil Evidence Act 1995 (c38)
217	Effect of Divorce on Wills (Cm 2322)	Implemented	Law Reform (Succession) Act 1995 (c41)
218	Legislating the Criminal Code: Offences against the Person and General Principles (Cm 2370)	Implemented in part	Domestic Violence Crime and Victims Act 2004 (c28)
219	Contributory Negligence as a Defence in Contract (HC 9)	Rejected	
1994			
220	Delegation by Individual Trustees (HC 110)	Implemented	Trustee Delegation Act 1999 (c15)
221	Termination of Tenancies (HC 135)	Superseded	See LC 303
222	Binding Over (Cm 2439)	Implemented in part	In March 2007, the President of the Queen's Bench Division issued a Practice Direction
224	Structured Settlements (Cm 2646)	Implemented	Finance Act 1995 (c4); Civil Evidence Act 1995 (c38); Damages Act 1996 (c48)
226	Judicial Review (HC 669)	Implemented in part	Housing Act 1996 (c52); Access to Justice Act 1999 (c22); Tribunals, Courts and Enforcement Act 2007 (c15)

LC No	Title	Status	Related Measures
227	Restitution: Mistakes of Law (Cm 2731)	Implemented in part; Rejected in part	See Kleinwort Benson v Lincoln City Council [1999] 2 AC 349
228	Conspiracy to Defraud (HC 11)	Implemented	Theft (Amendment) Act 1996 (c62)
1995			
229	Intoxication and Criminal Liability (HC 153)	Superseded	See LC 314
230	The Year and a Day Rule in Homicide (HC 183)	Implemented	Law Reform (Year and a Day Rule) Act 1996 (c19)
231	Mental Incapacity (HC 189)	Implemented	Mental Capacity Act 2005 (c9)
235	Land Registration: First Joint Report with HM Land Registry (Cm 2950)	Implemented	Land Registration Act 1997 (c2)
236	Fiduciary Duties and Regulatory Rules (Cm 3049)	Rejected	
1996			
237	Involuntary Manslaughter (HC 171)	Implemented in part; Superseded in part	Corporate Manslaughter and Corporate Homicide Act 2007 (c19); see LC 304
238	Responsibility for State and Condition of Property (HC 236)	Accepted in part but will not be implemented; Rejected in part	
242	Contracts for the Benefit of Third Parties (Cm 3329)	Implemented	Contracts (Rights of Third Parties) Act 1999 (c31)
243	Money Transfers (HC 690)	Implemented	Theft (Amendment) Act 1996 (c62)
1997			
245	Evidence in Criminal Proceedings: Hearsay (Cm 3670)	Implemented	Criminal Justice Act 2003 (c44)
246	Shareholder Remedies (Cm 3759)	Implemented	Companies Act 2006 (c46)
247	Aggravated, Exemplary and Restitutionary Damages (HC 346)	Rejected	
1998			
248	Corruption (HC 524)	Superseded	See LC 313
249	Liability for Psychiatric Illness (HC 525)	Rejected	
251	The Rules against Perpetuities and Excessive Accumulations (HC 579)	Implemented	Perpetuities and Accumulations Act 2009 (c18)
253	Execution of Deeds and Documents (Cm 4026)	Implemented	Regulatory Reform (Execution of Deeds and Documents) Order 2005
255	Consents to Prosecution (HC 1085)	Accepted	(Advisory only, no draft Bill)
1999			
257	Damages for Personal Injury: Non-Pecuniary Loss (HC 344)	Implemented in part; Rejected in part	See Heil v Rankin [2000] 3 WLR 117
260	Trustees' Powers and Duties (SLC 172) (HC 538; SE2)	Implemented	Trustee Act 2000 (c29)
261	Company Directors: Regulating Conflicts of Interests (SLC 173) (Cm 4436; SE/1999/25)	Implemented	Companies Act 2006 (c46)
262	Damages for Personal Injury: Medical and Nursing Expenses (HC 806)	Rejected	
263	Claims for Wrongful Death (HC 807)	Rejected	

LC No	Title	Status	Related Measures
2001			
267	Double Jeopardy and Prosecution Appeals (Cm 5048)	Implemented	Criminal Justice Act 2003 (c44)
269	Bail and the Human Rights Act 1998 (HC 7)	Implemented	Criminal Justice Act 2003 (c44)
270	Limitation of Actions (HC 23)	Rejected	
271	Land Registration for the Twenty-First Century (jointly with HM Land Registry) (HC 114)	Implemented	Land Registration Act 2002 (c9)
272	Third Parties – Rights against Insurers (SLC 184) (Cm 5217)	Implemented	Third Parties (Rights Against Insurers) Act 2010 (c10)
273	Evidence of Bad Character in Criminal Proceedings (Cm 5257)	Implemented	Criminal Justice Act 2003 (c44)
2002			
276	Fraud (Cm 5560)	Implemented in part	Fraud Act 2006 (c35)
277	The Effective Prosecution of Multiple Offending (Cm 5609)	Implemented	Domestic Violence, Crime and Victims Act 2004 (c28)
2003			
281	Land, Valuation and Housing Tribunals: The Future (Cm 5948)	Rejected	
282	Children: Their Non-accidental Death or Serious Injury (Criminal Trials) (HC 1054)	Implemented	Domestic Violence, Crime and Victims Act 2004 (c28)
283	Partnership Law (SLC192) (Cm 6015; SE/2003/299)	Implemented in part; Accepted in part; Rejected in part	The Legislative Reform (Limited Partnerships) Order 2009
284	Renting Homes (Cm 6018)	Superseded	See LC 297
286	Towards a Compulsory Purchase Code: (1) Compensation (Cm 6071)	Accepted but will not be implemented	
2004			
287	Pre-judgment Interest on Debts and Damages (HC 295)	Rejected	
289	In the Public Interest: Publication of Local Authority Inquiry Reports (Cm 6274)	Accepted but will not be implemented	
290	Partial Defences to Murder (Cm 6301)	Implemented	Coroners and Justice Act 2009 (c25)
291	Towards a Compulsory Purchase Code: (2) Procedure (Cm 6406)	Accepted but will not be implemented	
2005			
292	Unfair Terms in Contracts (SLC 199) (Cm 6464; SE/2005/13)	Accepted	
295	The Forfeiture Rule and the Law of Succession (Cm 6625)	Implemented	Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Act 2011
296	Company Security Interests (Cm 6654)	Pending	
2006			
297	Renting Homes: The Final Report (Cm 6781)	Rejected for England, Accepted in principle for Wales	
300	Inchoate Liability for Assisting and Encouraging Crime (Cm 6878)	Implemented	Serious Crime Act 2007 (c27)
301	Trustee Exemption Clauses (Cm 6874)	Implemented	See Written Answer, Hansard (HC), 14 September 2010, vol 515, col 38WS

LC No	Title	Status	Related Measures
302	Post-Legislative Scrutiny (Cm 6945)	Implemented	See Post-Legislative Scrutiny: The Government's Approach (2008) Cm 7320
303	Termination of Tenancies (Cm 6946)	Pending	
304	Murder, Manslaughter and Infanticide (HC 30)	Implemented in part; Rejected in part	Coroners and Justice Act 2009 (c25)
2007			
305	Participating in Crime (Cm 7084)	Accepted but will not be implemented	
307	Cohabitation: The Financial Consequences of Relationship Breakdown (Cm 7182)	Pending	
2008			
309	Housing: Proportionate Dispute Resolution (Cm 7377)	Accepted in part	
312	Housing: Encouraging Responsible Letting (Cm 7456)	Rejected	
313	Reforming Bribery (HC 928)	Implemented	Bribery Act 2010 (c23)
2009			
314	Intoxication and Criminal Liability (Cm 7526)	Rejected	
315	Capital and Income in Trusts: Classification and Apportionment (HC 426)	Implemented	Trusts (Capital and Income) Act 2013
317	Consumer Remedies for Faulty Goods (Cm 7725)	Accepted	
318	Conspiracy and Attempts (HC 41)	Accepted but will not be implemented	
319	Consumer Insurance Law: Pre-Contract Disclosure and Misrepresentation (Cm 7758)	Implemented	Consumer Insurance (Disclosure and Representation) Act 2012 (c6)
2010			
320	The Illegality Defence (HC 412)	Rejected	
322	Administrative Redress: Public Bodies and the Citizen (HC 6)	Pending	
324	The High Court's Jurisdiction in Relation to Criminal Proceedings (HC 329)	Pending	
2011			
325	Expert Evidence in Criminal Proceedings in England and Wales (HC 829)	Pending	
326	Adult Social Care (HC 941)	Accepted. Bills before Parliament and the National Assembly for Wales.	
327	Making Land Work: Easements, Covenants and Profits à Prendre (HC 1067)	Pending	
329	Public Service Ombudsmen (HC 1136)	Pending	
331	Intestacy and Family Provision Claims on Death (HC 1674)	Accepted in part	
January to March 2012			
332	Consumer Redress for Misleading and Aggressive Practices (Cm 8323)	Accepted	
335	Contempt of Court: Scandalising the Court (HC 839)	Implemented	Crime and Courts Act 2013 (s33)
2013			
336	The Electronic Communications Code (HC 1004)	Pending	
337	Renting Homes in Wales/Rhentu Cartrefi yng Nghymru (Cm 8578)	Accepted by the Welsh Government	

Appendix B

The cost of the Commission

B.1

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

	2011/2012 (April/March)		2012/2013 (April/March)	
	£000	£000	£000	£000
Commissioner salaries (including ERNIC)	546.4		550.6	
Staff costs*	2749.4		3101.0	
		3295.8		3651.6
Research and consultancy	35.6		16.2	
Communications (printing and publishing, media subscriptions, publicity and advertising)	174.2		151.3	
Design, print and reprographics				
Events and conferences (non-training)				
Information technology				
Equipment maintenance				
Library services (books, articles and online subscriptions)				
Postage and distribution				
Telecommunications				
Rent for accommodation (met by MoJ)	546.3		546.3	
Travel and subsistence (includes non-staff)	21.4		38.0	
Stationery and office supplies	35.3		58.6	
Recruitment				
Training and professional bodies membership				
Recognition and reward scheme awards				
Childcare vouchers				
Health and safety equipment/services				
Hospitality	1.8		2.1	
		814.6		812.5
TOTAL		4110.4		4464.1**

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

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

Appendix C

Targets for 2012–13 and 2013–14

Outcomes

C.1 Targets 2012–13

Summary of our performance during the year 2012–13 and how we met our targets.

Target	Outcome
To publish reports on:	
Insurance Contract Law	Carried forward to 2013–14
Level Crossings	Carried forward to 2013–14
To publish consultation papers on:	
Conservation Covenants	Published 28 March 2013 (LCCP211)
Contempt of Court	Published 28 November 2012 (LCCP209)
Contempt of Court (Scandalising the Court)	Published 10 August 2012 (LCCP207) Report published 19 December 2012 (LC335)
Data Sharing between Public Bodies	Carried forward to 2013–14
Electronic Communications Code	Published 28 June 2012 (LCCP205) Report published 28 February 2013 (LC336)
Insurance Contract Law	Published 26 June 2012 (LCCP204)
Marital Property Agreements (supplementary consultation)	Published 11 September 2012 (LCCP208)
Patents, Trade Marks and Design Rights: Groundless Threats	Carried forward to 2013–14 Published 17 April 2013 (LCCP212)
Rights to Light	Published 18 February 2013 (LCCP210)
Taxis and Private Hire Car Regulation	Published 10 May 2013 (LCCP203)
Wildlife Management	Published 14 August 2012 (LCCP206)
To complete scoping papers on:	
Electoral Law	Published 11 December 2012
Insanity and Automatism	Published 18 July 2012

C.2 Targets 2013–14

Summary of our major targets for 2013–14.

Target	
To publish reports on:	
Contempt of Court	To publish consultation papers on:
Data Sharing between Public Bodies	Data Sharing between Public Bodies
Insurance Contract Law	Hate Crime
Kidnapping	
Level Crossings	
Matrimonial Property, Needs and Agreements	
Patents, Trade Marks and Design Rights: Groundless Threats	
Regulation of Health and Social Care Professionals	
Taxis and Private Hire Car Regulation	
Fitness to Plead	

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Patents, Trade Marks and Design Rights: Groundless Threats	20, 79
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