



**Law
Commission**
Reforming the law

Annual Report 2019-20

The Law Commission

Annual Report 2019-20

(Law Com No 391)

The Fifty Fourth Annual Report of the Law Commission

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

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Law Commission Annual Report 2019-20

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

This annual report covers the period 1 April 2019 to 31 March 2020, although we have also included references beyond the reporting period, up to and including 9 June 2020 when the terms of this report were agreed.

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Chair's introduction



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

I am proud to introduce the Law Commission's 54th Annual Report.

During the past 12 months of perpetual political uncertainty, the Law Commission has been busier than almost at any time in its long history. We are engaged on about 20 law reform projects and are negotiating taking on several important new projects. Our work stretches from the digital economy through leasehold reform all the way to hate crime. We have during the year also completed projects on such diverse topics as reform of immigration rules and modernisation of electoral law and we have some important law reform projects relating to Wales both ongoing and about to commence.

During this period we have concentrated upon our core work with the result that during the lock-down the teams and the Commissioners have been exceptionally busy finalising a growing number of consultation papers and final reports. As I write, in June 2020, we have just completed peer reviewing three different reports on residential property ownership and management and consultation papers on consumer prepayments, weddings and hate crime and we are shortly to embark upon a review of a consultation paper on confiscation of the proceeds in criminal proceedings.

All in all the Law Commission is in robust health. However, the fact that Parliament and the Executive have been diverted from mainstream law reform by the process of exiting from the EU, a general election, and the COVID-19 crisis, has masked the fact that there is outstanding business that the Law Commission needs to finalise with Government concerning our funding model and an improved way of ensuring that the Commission can adopt a longer term and more strategic approach to its work. These are not bones of contention between ourselves and Government; there is a general consensus that these are matters to be resolved when a greater degree of normality is restored. We will need to be adequately resourced to conduct the critical work that we carry out.

At the commencement of 2020 we welcomed two new Commissioners: Professor Sarah Green as the new Commissioner for Commercial and Common Law, and Professor Penney Lewis as the new Commissioner for Criminal Law. Both have inherited heavy work-loads to be added to the new projects that their teams are embarking upon. More recently, Professor Nick Hopkins' term as the Commissioner for Property, Family and Trust Law has been extended by a further 5 years. It is appropriate that I pay tribute to the substantial contributions made by the two departing Commissioners: Stephen Lewis and Professor David Ormerod QC. The latter acted as a Commissioner for over 9 years and during his tenure he made a quite remarkable contribution to the development of criminal law.

The Law Commission is a small organisation comprising approximately 65 persons, mainly lawyers and Research Assistants. They are highly skilled in a wide variety of legal and Parliamentary disciplines and are expert in the arts of consultation. The preponderant part of our budget is allocated to front line law reform work. We are serviced by an exceptional, but very small, corporate support team. The Law Commission is a tightly knit group that works for the public good and, I can say with complete confidence, provides extraordinarily good value for (very modest) public money.

We are now preparing for the future. We are acutely conscious that over the next few years we will have to grapple with and adjust to the consequences of our departure from the EU, the effects of the COVID-19 crisis and the rapid use of AI throughout industry and government. There are major tasks ahead for us but we are determined to contribute to a strong and resilient society and economy. We are ready and able to work with Government on addressing these future challenges.



Sir Nicholas Green
Chair

Chief Executive's comment



It seems strange to be writing comments about the past year when so much of the future is uncertain, but that is of course the focus for this annual report. It is my view, however, that much of what we have achieved in 2019–20 will have a direct bearing on our ability to face current and future challenges. There are three reasons for taking that view.

First, we have worked hard to source highly relevant new work for the Commission, for example, Hate Crime, Abusive and Offensive Online Communications, Weddings and Digital Assets. It takes a great deal of work to identify such issues and then build the consensus, including securing Ministerial support, for the Law Commission to be asked to undertake a project. Our staff and Commissioners have become expert in this and it is often an unseen aspect of our work. Our Chair has led the way in thinking of new ways for us to engage with stakeholders and Government and I feel confident that we have the skills and expertise to continue to identify future law reform work which is relevant to the society we serve.

I must also reflect that all of the above projects are income-generating projects for the Commission as the sponsoring Whitehall Department directly funds the marginal cost. This method of funding has become increasingly crucial as our core budget, provided by the Ministry of Justice, has been cut so substantially since 2010. It means we have been able to undertake a similar number of projects, while also maintaining our expert cadre of staff. However, as recognised by the Tailored Review, published during 2018–19, this financial model is highly volatile

and does not make the most strategic use of the Commission. Over the last year, we have worked hard to suggest a number of possible alternative approaches and have had fruitful discussions with the Ministry of Justice. However, an election, planning for leaving the EU and now COVID-19 have all understandably impacted on the ability of the Ministry to make progress. But, the problem will not go away and it is only a matter of time before we face a funding shortfall. Nonetheless, it is more than that; the Commission should be in a position to work strategically with Government, Parliament and stakeholders so that we can focus our attention on those areas where reform is most needed, regardless of whether an individual department happens to have funding available at a particular moment in time.

Second, I believe we are operating from solid foundations across the organisation. This has helped us to ensure we continue to deliver against our objectives. Our People Survey results continue to be among the best in Government. I am not however complacent. Our staff have worked hard to identify ways to improve the organisation, including the introduction of Mental Health Allies and a Social Committee, which have been particularly important in the current environment. There is always more to do and we will continue to identify ways to strengthen the organisation. We also have the support of a very strong Corporate Services Team, which ensures we have robust governance mechanisms in place. Their work sometimes goes unrecognised alongside our law reform efforts, but it is incredibly important and the organisation could not function without it. I also believe our Senior Management Team provides excellent strategic advice to the Board, ensuring that Board decisions are evidence-based, transparent and stand up to wider scrutiny. Given the challenges faced this year, and those ahead, we are incredibly fortunate to have the advice of our non-Executive Board Members: Bronwen Maddox, Joshua Rozenberg and Baroness Ruth Deech. Taken together, I believe the Law Commission functions as a very efficient and effective organisation, well equipped to continue to deliver our objectives in a rapidly changing environment.

Third, I must again pay tribute to all of the staff of the Law Commission. I have mentioned already the work of our Corporate Services Team. I add to that the expertise and dedication of our law reform teams. They take on some of the most challenging and complex issues facing society and help to build consensus so that lasting improvements can be implemented by Government and Parliament. Our in-house Parliamentary Counsel and economist also help to ensure our law reform proposals take into account the legislative and economic perspectives. All of our staff work under increasingly tight timescales and uncertainty and yet they remain deeply committed to delivering high quality work which has a direct impact on people's lives.

It is not, however, just about the work we undertake. The last two weeks of the period this report covers were spent in lockdown, with the organisation having shifted to working remotely in a matter of hours. The Commission is of course a small part of an extraordinary and humbling effort by the public sector and beyond to cope with the effects of COVID-19. Not only do we continue to deliver our law reform work, but I am also very proud of the support that our staff have provided to one another. I believe this speaks volumes about the type of organisation we are and I am grateful to everyone at the Commission who has played their part in helping to bring that about.



Phillip Golding
Chief Executive

Part One:

Who we are and what we do

The Law Commission

The Law Commission is headed by five Commissioners, all of whom are appointed by the Lord Chancellor. At 31 March 2020, the Law Commissioners were:

- The Rt Hon Lord Justice Green¹, Chair.
- Professor Sarah Green², Commercial and Common Law.
- Professor Nick Hopkins³, Property, Family and Trust Law.
- Professor Penney Lewis⁴, Criminal Law.
- Nicholas Paines QC⁵, Public Law and the Law in Wales

Professor David Ormerod QC and Stephen Lewis left their roles as Commissioner for Criminal Law and Commissioner for Commercial and Common Law, respectively, on 31 December 2019 after the completion of their terms. The Law Commission is grateful for their dedication and expertise while in the role and wishes them both well in their future endeavours.

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

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

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

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

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

The progress we have made on our law reform projects during 2019–20 is recorded in Part Two of this report.

COMMISSIONER RECRUITMENT

On 28 March 2019, the Law Commission launched a recruitment campaign for two new Commissioners to replace Stephen Lewis and Professor David Ormerod QC. We were pleased to appoint Professor Sarah Green and Professor Penney Lewis as our new Commissioners. For further information on both Commissioners, see page 11.

As part of the recruitment campaign, we established a Commissioner diversity workshadowing scheme. This helped us to attract a broad and diverse pool of talent to find our Commissioners of the future. The scheme was aimed at those from under-represented groups and provided candidates with an opportunity to experience the role, helping them to decide whether they wished to take their interest further – whether now or in the future. The results were encouraging with over 2,000 unique page views on the Commissioner diversity landing pages on our website and a number of participants applying for the Commissioner roles.

1 Sir Nicholas Green joined the Commission on 1 August 2018.

2 Professor Sarah Green joined the Commission on 1 January 2020.

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

4 Professor Penney Lewis joined the Commission on 1 January 2020.

5 Nicholas Paines QC joined the Commission on 18 November 2013.

We had hoped to relaunch the scheme in early 2020–21 but the COVID-19 pandemic means this will need to be delayed until later in the year, although we will continue to talk to those interested in a career at the Commission, making use of technology wherever possible.

LAW COMMISSION BOARD

In October 2019, it was agreed that the Head of Legal Services and the Head of Corporate Services would become full members of the Law Commission Board. They now join the Commissioners, Chief Executive and Non-Executive Board Members in meeting as the Law Commission Board on a monthly basis. The Law Commission’s legal team heads and Senior Parliamentary Counsel attend the Board in an advisory capacity. Board meetings are used to set the Commission’s strategic direction, review risk, discuss operational matters and review the financial position.

NON-EXECUTIVE BOARD MEMBERS

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

In May 2019, we completed a recruitment process to replace Sir David Bell and were pleased to appoint Baroness (Ruth) Deech DBE QC (hon) and Joshua Rozenberg QC (hon) as Non-Executive Board Members from 1 June 2019. They join Bronwen Maddox as the Law Commission’s Non-Executive Board Members.

OUR OBJECTIVES

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

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

Our Business Plan⁶ for 2019–20 identified four priority areas:

- Law reform – ensuring that the law is fair, modern and clear.
- A forward looking organisation – to develop the strategic use of the Law Commission across Government.
- A great place to work – to continue to support and develop the Law Commission’s staff.
- Good corporate governance – to ensure decision making that is robust and sound.

The commitments to meet these priorities can be found at Appendix C.

OUR RELATIONSHIP WITH THE MINISTRY OF JUSTICE

In July 2015 we agreed a Framework Document with the MoJ,⁷ which sets out the broad framework for the Department’s sponsorship of the Commission and how the relationship between us and the MoJ should operate.

6 <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2019/06/201920-Business-plan-Final.pdf>.

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

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

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

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

TAILORED REVIEW

In line with Cabinet Office requirements, the Law Commission was subject to a Tailored Review⁸ that was published in February 2019. A tailored review evaluates the work of an Arm's Length Body, providing robust challenge to and assurance on the continuing need for the organisation.

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

Over the last year, we have made positive progress towards either completing or commencing the implementation of recommendations included within the *Tailored Review of the Law Commission* and will seek to implement the remainder of the recommendations in 2020–21. The focus will be on resolving discussions on the Law Commission's funding model. While positive progress was made in 2019–20 in terms of identifying potential options, there is still much work to do. Delays to identifying a resolution to the funding model brought about by COVID-19 will have a significant impact on the Commission, creating uncertainty and hindering the ability to plan strategically for the future.

MEASURING SUCCESS

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

However, implementation does not fully demonstrate the breadth of our impact. In an effort to assess our impact and influence, we take note of instances when the Law Commission is cited in judgments or during business in the Houses of Parliament. During the reporting period the Commission was mentioned 101 times in judgments in England and Wales (up from 87 in 2018–19) and our name appears 137 times in Hansard (down from 158 in 2018–19), the official report of Parliamentary proceedings.

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

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

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

THE LAW COMMISSION IN WALES

Working with the Welsh Government

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

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

The 2014 Act also:

- Provides for a protocol⁹ setting out the working relationship between the Law Commission and the Welsh Government.
- Requires Welsh Ministers to report annually to the Senedd about the implementation of our reports relating to Welsh devolved matters.

Reforming the law in Wales

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

- The Form and Accessibility of the Law Applicable in Wales – a report was published in June 2016 with the majority of the recommendations accepted. See page 40 for more details.
- Planning Law in Wales – a report setting out recommendations for the simplification of planning law in Wales was published in December 2018. See page 41 for more details.

We underlined in our 13th Programme of Law Reform, published in December 2017, our resolve to undertake at least one law reform project on a devolved area of law. This has since been identified as devolved tribunals in Wales and we have now commenced work on this project.

We continue to keep the machinery already in place to provide law reform in Wales under review, making improvements where possible. One of our Commissioners, Nicholas Paines QC, also has special responsibility for the law in Wales.

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

Wales Advisory Committee

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

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

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

Commission on Justice in Wales

The Commission on Justice in Wales, chaired by Lord Thomas of Cwmgiedd, was set up to review the operation of the justice system in Wales and set a long term vision for its future. The Commission's final report, *Justice in Wales for the People of Wales*, was published in October 2019. It warmly supports our project on devolved tribunals in Wales (see page 31) and endorses the setting up of a Law Council of Wales, including a representative from the Law Commission.

Welsh language policy

We published our Welsh language policy¹⁰ on 4 September 2017. This sets out our commitment to treating with linguistic parity projects relating to Wales and projects which are likely to have significant public interest in Wales. We routinely publish appropriate project documents, such as report summaries, bilingually.

The policy states that it will be reviewed on an annual basis with progress reported to the Board. This was undertaken by the Law Commission's Chief Executive in October 2019 and approved by the Board.

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

2020 brings two new commissioners



2020 saw two new Commissioners join the Law Commission. Professor Penney Lewis replaced Professor David Ormerod QC as Criminal Law Commissioner, whilst Professor Sarah Green replaced Stephen Lewis as the Commercial and Common Law Commissioner.

Professor Lewis was formerly Professor of Law and Co-Director of the Centre of Medical Law and Ethics in the Dickson Poon School of Law, King's College London. She became Reader in Law in 2005, and Professor of Law in 2007.

Professor Lewis is a member of the Board of the Human Tissue Authority (HTA). Her research covers criminal evidence and procedure, focusing on prosecutions for historic childhood sexual abuse and the law governing corroborative and supporting evidence. She has also published widely in the field of medical law, with a particular interest in the relationship between the criminal law and medicine.

Professor Lewis and the Criminal Law team are working to protect victims of abusive online communications, and from the taking, making and sharing of intimate images without consent. Professor Lewis will also lead on the work to review the adequacy of protection offered by hate crime legislation and on the confiscation of the proceeds of crime.



It is a fascinating time to be leading criminal law reform for the Commission across a number of important projects. The work we are doing will have a real impact, helping to protect victims from new forms of technological abuse, including so-called deep fake pornography and cyber-flashing within our abusive and offensive online communications and intimate image abuse projects. We will aim to balance the need for the criminal law to be sufficiently certain so that individuals can use it to guide their behaviour, with sufficient flexibility so that it can respond to new technological developments in the future.

Professor Penney Lewis
Criminal Law Commissioner





Professor Green was previously Professor of Private Law at the University of Bristol. Prior to that, she was Professor of the Law of Obligations at the University of Oxford and, before that, a lecturer at the University of Birmingham from 2001 to 2010.

Professor Green has written about a variety of issues including virtual currencies, blockchain issues surrounding intermediated securities, smart contracts, sale of goods law as applicable to digitised assets and wage theft.

Professor Green's team has recently started an analysis of the law relating to crypto assets and smart contracts. Ongoing projects include an evaluation of intermediated securities, which will identify potential issues for both investors and companies, a report on the Right to Manage, which aims to make it easier for leaseholders to take control over the running of their buildings and a consultation on improving protections for consumers when pre-paying for goods.

“

I am delighted to be working on law reform at a time of such transformative technological and commercial change. It has given me the opportunity to be involved in the sort of challenges that present themselves only very rarely, but which require a thorough and robust legal response. The project on cryptoassets in particular requires a fresh look at long-established property concepts in order to ensure that the law remains relevant and effective in an increasingly digitised age. Our work on smart contracts, which is to some extent complementary to the cryptoassets study, recognises the growing number of transactions that are conducted on an automated basis, and considers which reforms are required to accommodate these novel commercial practices.

Professor Sarah Green
Criminal Law Commissioner

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The appointments are the first made through a new process that sought to encourage applications from a broader and more diverse range of individuals than the Commission had traditionally recruited from (see page 6 for more information). This is a long-term scheme and the Commission is continuing to engage with a diverse range of individuals who might considering applying for lawyer or Commissioner roles in the future.

Part Two:

Review of our work in 2019-20

Commercial and common law

Commissioner: Professor Sarah Green

Insurable Interest	Draft Bill published for comment	June 2018	page 14
Right to Manage	Consultation completed	April 2019	page 14
Intermediated Securities	Call for evidence published	August 2019	page 14
Electronic Execution of Documents	Report published	September 2019	page 15
Consumer Prepayments – Transfer of Ownership	Project started	September 2019	page 15
Smart Contracts	Project paused	March 2019	page 16

Insurable Interest

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

The current law is unclear in some respects and antiquated and restrictive in others. It is inhibiting the insurance market's ability to develop products for which there is demand. As a result we, together with the Scottish Law Commission, are working to develop recommendations which will simplify and update the law in this area, and draft a Bill to implement those proposals. We have consulted on this difficult issue several times, including on two drafts of a Bill. Our proposals are intended to be relatively permissive, to ensure that, broadly speaking, any legitimate insurance products that insurers want to sell and people wish to buy, can be made available. Whether insurance is appropriate in any given circumstances should be left to the market to determine, with regulatory intervention if necessary.

In our most recent consultation, we consulted on a draft Bill which would remove archaic restrictions in order to allow people to insure the lives of their children and cohabitants, and a greater ability to insure the lives of employees. Work on the project is currently paused due to resource constraints. However, we will produce a report with final recommendations and a draft Bill when resource allows.

Right to Manage

The commercial and common law team is responsible for delivering the Right to Manage project, which falls under the Residential Leasehold programme of work. A full update on all of the Residential Leasehold projects, including Right to Manage, can be found on page 25.

Intermediated Securities

The way that investors hold shares, bonds and other investment securities has changed significantly in recent years. Paper certificates have been replaced by a system in which most investors "own" securities through electronic entries held through a chain of intermediaries. Concerns have been raised about the effect of this system on corporate governance, transparency and legal redress available to investors, particularly in the case of insolvency of an intermediary.

We have been asked by the Department for Business, Energy & Industrial Strategy (BEIS) to produce a scoping study, providing an accessible account of the law and identifying issues in the current system of intermediation. For more information on this project, see page 17.

We expect to publish the scoping study in Autumn 2020.

Electronic Execution of Documents

Most modern businesses have embraced technology to conduct transactions online and electronically. However, we have been told that uncertainty around the electronic execution of documents is preventing some businesses from moving towards fully electronic transactions, which could be faster and more efficient.

We published our report on 4 September 2019 with our review of the existing law concluding that an electronic signature is already capable in law of being used to execute a document (including a deed) provided that (1) the person signing the document intends to authenticate that document and (2) other formalities relating to execution of that document are satisfied. Rather than recommending a change to the law to make this explicit, we set out a set of eight principles explaining our conclusions as to the current law. We also recommended that:

- Government should convene an industry working group with multi-disciplinary membership to consider practical issues relating to the electronic execution of documents. It should also provide best practice guidance for the use of electronic signatures in different commercial transactions as well as where individuals, particularly vulnerable individuals, execute documents electronically.
- The industry working group should consider potential solutions to the practical and technical obstacles to video witnessing of electronic signatures on deeds and attestation. Following the work of the industry working group, the Government should consider legislative reform to allow for video witnessing.

- A future review of the law of deeds should consider broad issues about the efficacy of deeds and whether the concept remains fit for purpose, as well as specific issues which have been raised by consultees in relation to witnessing, delivery and the decision in Mercury. Such a review should take a holistic approach, and deal with both deeds executed on paper and electronically.

The Government responded to our report in March 2020, confirming its agreement with our legal conclusions and undertaking to establish an Industry Working Group to consider issues of security and technology. It also said the Government will ask the Law Commission to undertake a wider review of deeds when resources allow.

Consumer Prepayments – Transfer of Ownership

In July 2016, the Law Commission published its report, Consumer Prepayments on Retailer Insolvency, setting out five recommendations which would improve the position of consumers who have prepaid for goods or services and have not received them when the retailer enters into insolvency.

One of our recommendations related to updating the provisions on transfer of ownership, currently in the Sale of Goods Act 1979, to better suit the consumer context. In its response to our report, the Government said it considers the Law Commission's recommendations on transfer of ownership to be sensible, but indicated that more work and consultation would be required to determine whether, and how, to take this forward. BEIS have since asked the Law Commission to produce draft legislation on this topic, which will be subject to further public consultation and consideration.

Smart Contracts

“Smart contracts” refer to the technology which runs on distributed ledger technology (DLT) and by which legal contracts may be executed automatically, at least in part. The use of smart contracts is expected to increase efficiency in business transactions and it is suggested that the use of DLT will increase trust and certainty. The technology is important to ensure that English courts and law remain a competitive choice for business.

During 2019–20, our work on smart contracts was paused pending the work of the UK Jurisdiction Taskforce, part of the LawTech Delivery Panel. The UK Jurisdiction Taskforce published its legal statement on cryptoassets and smart contracts in November 2019. We are considering the contents of the legal statement and look forward to taking forward further work in this area in due course.

Intermediated securities

Traditionally, investment securities, such as shares or bonds, were held in paper form. However, they are now increasingly held electronically. In other words, most paper certificates have been replaced by a system in which investors “own” securities in the form of entries in an electronic register. When investors buy and sell securities, these transfers are effected by amending the register.

This move to electronic holdings has brought with it an increase in “intermediation”. By this we mean that there is not a direct relationship between the investor and a company issuing securities such as shares. For example, under an intermediated securities system, an investor may purchase shares in a company through a broker (an intermediary). The broker, in turn, has an account with a bank or financial institution, which is registered as the legal owner of the shares, having purchased them from the company.

The courts have categorised these arrangements as a series of trusts and sub-trusts, so that each intermediary holds on trust for the party in the chain below it. The investor therefore has a beneficial interest in the securities, but is not the legal owner. This means that, for example, an investor does not have all the rights of a shareholder under company law.

An ultimate investor holding securities in this way may be an individual (such as a retail investor), an institution holding securities on its own behalf, or a fund (such as a pension fund) which manages investments on behalf of individuals or corporate bodies.

This system has made trading quicker, cheaper and more convenient. However, it has been the subject of criticism, particularly in relation to corporate governance and transparency. For example, investors may find it difficult to vote on resolutions or to obtain confirmation that a vote representing their views has been cast and recorded. Ultimate investors may also be deprived of remedies they would have had against the issuer of the shares if they held the securities directly.

Our approach to this project

In June 2019, BEIS asked the Law Commission to undertake a “scoping study” into the intermediated system.

We have not been asked to make formal recommendations for reform. Rather, our scoping study is a first step which may lead onto further work, either by the Law Commission or Government itself, if it is thought that reform is desirable.

The scoping study will provide an accessible account of the current law and set out the corporate governance and other legal issues associated with intermediated securities. Our work is intended to inform public debate and develop a broad understanding of potential solutions to the problems poised.

As a first step, we published a short call for evidence, seeking views about, and evidence of, stakeholders’ experiences of the intermediated securities system. We asked for views as to whether the issues we had identified create problems in practice, and suggestions as to potential solutions.

We have spoken to around 50 stakeholders in the course of our work so far, both during the preparation of the call for evidence and since its publication. These stakeholders have included financial institutions and industry participants, bodies representing investor interests, regulators and other public bodies, and academics. We have also set up an advisory panel consisting of experts from across the stakeholder groups.

Why is it important that we do this project?

This is not the first time that intermediated securities have been subjected to formal scrutiny, including by the Law Commission itself.¹¹ In 2017, BEIS acknowledged the issues and pledged to keep the intermediated model under review.¹²

A number of recent developments mean that the issue has come back to the fore.

- Several high-profile instances, reported in the mainstream press, of ultimate investors being excluded, or apparently excluded, from major corporate decisions relating to proposed takeovers and relocations.
- Revisions to the UK Stewardship Code placing new obligations on signatories (including pension schemes and investment consultations) regarding transparency and engagement through the investment chain.
- Rising interest amongst retail investors and pension savers in the impact of corporate decisions regarding matters such as climate change and executive pay, meaning that more investors may wish to participate in the decisions of the companies in which they invest.
- The increasing interest in blockchain technology as a possible alternative, or part-solution, to the model of intermediated holding.

Stakeholder views

At the time of writing, we are in the process of analysing the responses received to the call for evidence, many of which were substantial.

11 See for example, Financial Markets Law Committee, "Issue 3 – Property interests in investment securities" (July 2004); BIS, "Exploring the intermediated shareholding model" (2016); Law Commission, *The UNIDROIT Convention on Substantive Rules regarding Intermediated Securities: Further Updated Advice to HM Treasury* (May 2008).

12 BEIS, "Corporate governance reform: the Government response to the green paper consultation" (2017) para 1.63.

Criminal law

Commissioner: Professor Penney Lewis

Misconduct in Public Office	Consultation completed	January 2017	page 19
Protection of Official Data	Consultation completed	May 2017	page 19
Search Warrants	Consultation completed	September 2018	page 20
Confiscation of the Proceeds of Crime	Project started	November 2018	page 20
Hate Crime	Project started	March 2019	page 20
Review of the Communications Offences	Project started	June 2019	page 20
Taking, Making and Sharing of Intimate Images	Project started	June 2019	page 21
Anti-money Laundering	Report published	June 2019	page 21

Misconduct in Public Office

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

We are reviewing the current law with the aim of providing options for reform and modernisation.

We published an issues paper in January 2016, and a further consultation paper in September 2016. As part of our consultation, we proposed the creation of two criminal offences to replace the common law offence of misconduct in public office: an offence criminalising a breach of duty causing or risking serious harm and an offence criminalising an abuse of position for the purpose of achieving a benefit or causing a detriment.

Our proposals were based on an analysis of the harms and wrongs underlying the current offence. We also propose ways to define public office more clearly and consistently. Finally, we sought consultees' views on additional reforms, such as a review of sexual

offences and the specification of public office as an aggravating factor for the purposes of sentencing.

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

We are working towards publication of the report in 2020.

Protection of Official Data

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

We launched an open public consultation in February 2017 and received a large number of responses. The focus of our work has been primarily upon the Official Secrets Acts 1911-1989. We have also

analysed the numerous other offences (over 120) that exist to criminalise the unauthorised disclosure of information. In addition, we have examined matters that might arise in the investigation and prosecution of Official Secrets Act cases. Finally, we have studied the argument that could be made for the introduction of a statutory public interest defence to the unauthorised disclosure offences contained in the Official Secrets Act 1989.

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

We are working towards publication of the report in 2020.

Search Warrants

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

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

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

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

We are scheduled to publish a final report in 2020.

Confiscation of the Proceeds of Crime

The law on confiscation contained within Part 2 of the Proceeds of Crime Act 2002 enables the state to deprive offenders of the benefit of their criminal conduct. We have been commissioned by the Home Office to review the law with a view to improving the process by which confiscation orders are made, ensuring the fairness of the confiscation regime, and optimising the enforcement of confiscation orders.

We are aiming to publish a consultation paper later in 2020. For more information on this project, see page 22.

Hate Crime

In 2014 the Law Commission concluded an examination of limited aspects of hate crime law. In it we recommended a comprehensive review of the law in this important area. In September 2018 the Government asked the Commission to conduct this comprehensive review. Building on our earlier work, this project considers the adequacy and parity of protection offered by the law relating to hate crime and will make recommendations for its reform. It will also consider which characteristics (for example gender, age, disability) deserve enhanced protection in criminal law and on what basis.

This project aims to ensure that the criminal law provides consistent and effective protection against those who commit crimes demonstrating hatred. It will provide the criminal justice system with more effective ways of tackling hate crime in all its forms.

We aim to publish a consultation paper in 2020.

Review of the Communications Offences

The criminal laws that most directly address online communications (section 127 of the Communications Act 2003, and section 1 of the Malicious Communications Act 1988) are overlapping, ambiguous and can be unclear for online users, technology companies and law enforcement agencies alike.

This project, which follows on from our 2018 scoping report on *Abusive and Offensive Online Communications*, will consider reform and potential rationalisation of the “communications offences” as they relate to online communication. It will include consideration of the need to reform the law in relation to online communications which amount to the glorification of self-harm and of violent crime. We will also review the law in relation to coordinated online harassment by groups of people.

Our review aims to simplify and clarify the law, and to make it fit for purpose in the modern world. This would help users and tech companies to understand when the law has been broken, and assist law enforcement to apply the law consistently and relevantly.

We anticipate that we will publish a consultation paper later in 2020.

Taking, Making and Sharing of Intimate Images

Currently, there is no single criminal offence in England and Wales that governs the taking, making and sharing of intimate images without consent. Instead, we have a patchwork of offences that have developed over time, most of which existed before the rise of the internet and use of smartphones. Each offence has different definitions and fault requirements, and there are some behaviours that are left unaddressed. The project will review the current range of offences, identifying gaps in the protection offered.

The aim of the project is to ensure that the criminal law provides consistent and effective protection against the creation and sharing of intimate images without consent. This would help members of the public understand when they are the victims of crime, perpetrators to understand when they have broken the law, and facilitate consistent and confident enforcement.

We aim to publish a consultation paper later in 2020.

Anti-money Laundering

We were commissioned by the Home Office to review the consent provisions of the anti-money laundering regime in Part 7 of the Proceeds of Crime Act 2002 and of the counter-terrorism financing regime in Part 3 of the Terrorism Act 2000. We published our report on 18 June 2019.

The primary purpose of the review was to improve the prevention, detection and prosecution of money laundering and terrorism financing in the UK. The review focussed on the current consent regime and analysed the benefits and problems arising from it to produce reform options.

Our report outlines the need for a more efficient system in which there is an improved understanding of existing obligations. This should lead to better quality reports being submitted by the regulated sector – which includes banks, insurance companies, lawyers and accountants – allowing law enforcement agencies to act on opportunities to disrupt, prevent and investigate crime.

Confiscation of the proceeds of crime

Part 2 of the Proceeds of Crime Act 2002 (POCA 2002) governs the confiscation of proceeds of crime by the state, post-conviction. The problems with the current regime are well-documented, including in reports by the National Audit Office in 2013 and the House of Commons Home Affairs Committee in 2016. As at 31 March 2019, the value of outstanding confiscation orders was at more than £2bn.

As a result, in September 2017, the Home Office commissioned a Law Commission project with the objective of reforming Part 2 of POCA 2002.

Under the terms of the Memorandum of Understanding between the Law Commission and the Home Office, the Law Commission was to be guided by the following aims:

- Improve the process by which confiscation orders are made.
- Ensure the fairness of the confiscation regime.
- Optimise the enforcement of confiscation orders.

In considering these aims, the Law Commission has been asked to focus on a number of areas including: the irregular compensation of victims in confiscation proceedings, the frequent imposition of unrealistic confiscation orders, the ineffective incentives and sanctions of the confiscation regime, the interplay between civil and criminal investigations under POCA 2002, the complexity of the relevant legislative provisions and related case law, the role of restraint, and the insufficient enforcement powers of magistrates' courts and Crown Courts.

Our approach

During our initial fact-finding exercise, we hosted a series of meetings with individuals, and a number of round-table discussions around the country. In particular, we conducted a confiscation symposium in Newcastle, hosted by Northumbria University. Attended by stakeholders from across the UK, this event provided us with a rich seam of views which helped set the parameters for further investigation. We also met with government and law enforcement agencies (including the Crown Prosecution Service),

expert practitioners and academics (both from the UK and overseas) and other interested parties (including the Bar Council, Her Majesty's Courts and Tribunals Service, judges from all levels of the judiciary and victims of crime). We sought written responses from stakeholders willing to share their expertise on the areas of the legislation perceived to be most problematic. Through this engagement we were able to better understand the practical difficulties incurred when applying the current law and pinpoint the areas in most need of reform.

We also conducted research into the confiscation regimes of comparable jurisdictions and undertook analyses of data collected from different court centres in collaboration with the Law Commission economist.

Our proposals

A draft consultation paper is shortly to be reviewed by Commissioners with a view to anticipated publication in summer 2020.

Presently, it is anticipated that the consultation paper will be divided into parts including: introduction, objectives of the legislation, preparation of the confiscation hearing, calculation of "benefit", the "recoverable amount", making a confiscation order and enforcement of the order, further orders of the court, reconsideration of the confiscation order and preserving the value of assets.

“

[confiscation] is not prioritised in the Criminal Justice System, it is an afterthought. There is no continuity and case ownership is a big issue. Counsel and others lose interest tying up the loose ends.

Member of the judiciary

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While the Home Office originally afforded the Law Commission scope to discard the existing Part 2 of POCA 2002 and re-write the law in its entirety, our engagement with stakeholders has led us to adopt an approach that involves making changes to discrete areas of the existing regime rather than wholesale reform. The changes currently under consideration involve substantial reform of certain portions of the Act and significant strengthening of others.

The overall objective of the consultation paper is to make proposals which result in more realistic confiscation orders being made, which are easily and efficiently enforceable.

“

The legislation tries to deal with a wide array of aspects of criminality, perhaps too wide. We need to make things simpler.

Academic stakeholder

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Importance of the project

Part 2 of POCA 2002 is a very dense piece of legislation. It straddles the criminal and civil law jurisdictions and poses significant challenges for law enforcement, criminal law practitioners, judges and those subject to confiscation orders.

Several concerns were identified by stakeholders during our initial consultation. These included the way in which a defendant’s “benefit” from crime is calculated. Often defendants will have “benefit” figures recorded against them which are very large and unlikely to ever be recouped by the state. Additionally, the current regime relies on a magistrates’ court to take responsibility for the enforcement of confiscation orders, often without the full case history of the matter. Stakeholders also questioned the adequacy of the existing guidance on when a defendant’s assets should be restrained in order to ensure later compliance with a confiscation

order. These are merely a selection of examples of the many difficulties experienced by legal practitioners, law enforcement and the judiciary when grappling with Part 2 of POCA 2002.

All of the stakeholders we spoke to welcomed this review and noted the current regime’s complexity and inefficiency. For these reasons we embrace the opportunity to assist in untangling this convoluted area of law.

Looking ahead

This project will soon be moving into a broader consultation phase. During this time, we plan to engage with stakeholders across the criminal justice spectrum to ensure that we collect qualitative data that is diverse, reliable and persuasive.

After the consultation period we will use the data collected to inform our final recommendations which will be presented as a Final Report.

We anticipate, based on discussions with stakeholders, that there may be other tangential areas of law which our proposals will highlight as fertile ground for further reform projects. However, these will be properly addressed in our Final Report.

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The best way to encourage compliance is to make the whole process more fair.

Academic stakeholder

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Property, family and trust law

Commissioner: Professor Nick Hopkins

Leasehold enfranchisement	Consultation completed Report on valuation	November 2018 January 2020	page 24
Right to manage	Consultation completed	April 2019	page 25
Commonhold	Consultation completed	March 2019	page 25
Surrogacy	Consultation completed	October 2019	page 26
Weddings	Project started	July 2019	page 27
Making a will	Project paused	N/A	page 27

Residential Leasehold and Commonhold

In England and Wales, properties can either be owned as freehold or as leasehold. Leasehold is a form of ownership where a person owns a property for a set number of years (for example, 99 or 125 years) on a lease from a landlord, who owns the freehold. Flats are almost always owned on a leasehold basis, but in recent years leasehold has also increasingly been used for newly built houses. The Government has estimated that there are at least 4.3 million leasehold properties in England alone – and others have suggested that the figure is higher. However, the law which applies to leasehold is far from satisfactory.

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

In January 2020, we published a final report on one aspect of our enfranchisement project, namely the price that must be paid by leaseholders to make an enfranchisement claim.¹³ We are now finalising our recommendations for reform in relation to all other aspects of the enfranchisement process, as well as on the right to manage and on commonhold. We will publish our final reports shortly and then assist with the implementation of our recommendations. More information on the three strands of the project can be found below.

Leasehold enfranchisement

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

Our project on leasehold enfranchisement seeks to make the enfranchisement process simpler, easier, quicker and more cost effective, and to examine the options to reduce the price payable by leaseholders to enfranchise.

¹³ Leasehold home ownership: buying your freehold or extending your lease – Report on options to reduce the price payable (2020) Law Com No 387.

We published a consultation paper on a new enfranchisement regime in September 2018.¹⁴

Our provisional proposals would:

- Provide a better deal for leaseholders by making enfranchisement easier, quicker and more cost effective.
- Reform the existing rights of leaseholders, including removing (so far as possible) the separate rules for houses and for flats.
- Simplify and reduce the legal and other costs of the procedure for acquiring a freehold or an extended lease.

Government asked us to set out options for reducing the price payable by leaseholders to exercise enfranchisement rights, whilst ensuring sufficient compensation for landlords to reflect their legitimate property interests. We published our final report on the options that were available to Government in January 2020.

Right to manage

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

This project aims to improve access to, and the operation of, the right to manage for the benefit of all parties, making the procedure simpler, quicker and more flexible.

In January 2019, we published our consultation paper.¹⁵ We proposed:

- Relaxing the qualifying criteria, so that leasehold houses, and buildings with more than 25% non-residential space, could qualify for the right to manage.
- Permitting multi-building right to manage on estates.
- Reducing the number of notices that leaseholders must serve, and giving the tribunal the power to waive procedural mistakes.
- Setting out clearer rules for the transfer of information about management functions, and for the management of property which is not exclusive to the premises claiming the right to manage.
- Requiring each party to bear its own costs of any tribunal action, and exploring options for the landlord's non-litigation costs.

This project is being led by the Law Commission's commercial and common law team.

Commonhold

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

This project seeks to identify and reform aspects of the law of commonhold which impede its success, in order to reinvigorate commonhold as a workable alternative to leasehold for both existing and new homes.

We published a call for evidence in February 2018, and a consultation paper in December 2018.¹⁶ We proposed to:

- Enable commonhold to be used for larger, mixed-use developments which accommodate not only residential properties but also commercial units such as shops, restaurants and leisure facilities.

¹⁴ Leasehold home ownership: buying your freehold or extending your lease (2018) Law Com Consultation Paper No 238.

¹⁵ Leasehold home ownership: exercising the right to manage (2019) Law Commission Consultation Paper No 243.

¹⁶ (LCCP 241) Reinvigorating commonhold: the alternative to leasehold ownership (2018).

- Allow shared ownership leases to be included within commonhold.
- Make it easier for existing leaseholders to convert to commonhold and gain greater control over their properties.
- Improve mortgage lenders' confidence in commonhold to increase the choice of financing available for home buyers.
- Provide homeowners with a greater say in how the costs of running their commonhold are met.

Surrogacy

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

In the UK surrogacy is principally governed by the Surrogacy Arrangements Act 1985 (SAA 1985) and certain provisions of the Human Fertilisation and Embryology Acts 1990 and 2008. The increased use of surrogacy has brought to light significant concerns with the law. The project, undertaken jointly with the Scottish Law Commission, focuses on three key areas – the regulation of surrogacy including what payments the intended parents can make to their surrogate; parental orders and parenthood to consider the legal parents of a child at birth; and the international dimensions of surrogacy.

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

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

We are currently analysing responses to the consultation and considering our final policy recommendations. We expect to produce a final report with our recommendations for reform of the law, and a draft Bill, in early 2022.

For more information on this project, see page 28.

Weddings

In December 2014, the Government asked the Law Commission to conduct a review of the law governing how and where people can marry in England and Wales. A year later, we published a scoping paper, titled *Getting Married*, in which we concluded that there is a clear need for reform of the law. The current law about how and where couples can marry dates from 1836. It is not meeting the needs of modern couples: the law is complex, uncertain and out of date, and is creating unfairness and hardship in some cases.

In the Budget 2018, the Government asked us to “...undertake a full review of the law on how and where couples can marry...and propose options for a simpler and fairer system to give modern couples meaningful choice.” After settling the terms of reference for the project with Government, we commenced the project in July 2019.

The full project is considering how and where people can get married in England and Wales, with a focus on giving couples greater choice within a simple, fair and consistent legal structure. We are looking at what should happen before, during and after the ceremony. The guiding principles for reform are certainty and simplicity; fairness and equality; protecting the state’s interest; respecting individuals’ wishes and beliefs; and removing any unnecessary regulation, so as to increase the choice and lower the cost of wedding venues for couples. The detailed review was expected to last two years, although publication of the consultation paper has been delayed until September 2020 as a result of COVID-19, which is likely to impact on the overall timetable.

Making a Will

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

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

We published a consultation paper in July 2017.

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

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

Surrogacy

The impact of academic research on surrogacy law reform

The Law Commission is always seeking ways in which we can work with the academic community. The insights and research that academics provide can have a significant impact on the recommendations that we make for the reform of the law.

The work of academics has been vital in understanding the legal and social context of surrogacy in the UK and around the world. We were aware, before even starting the project, that surrogacy is a topic that generates a great deal of interest among academics. Commentary from academics, alongside other stakeholders, helped to confirm that this was an area which we should consider taking on as part of our 13th Programme of Law Reform, subject to attracting support from the Government for this work.

The Commission's public consultation on what should form part of our 13th Programme ran from mid-July to the end of October 2016. We were fortunate to receive many thoughtful contributions from academics to that consultation.

We were invited to attend a conference in Hong Kong, in September 2016, on 'Eastern and Western Perspectives on Surrogacy', organised by the Centre for Medical Ethics and Law (the Centre) at the University of Hong Kong and the Cambridge Family Law Centre at the University of Cambridge. We have formed close working links with Professor Jens Scherpe and Dr Claire Fenton-Glynn from the Centre.

The Hong Kong conference allowed us the opportunity to hear about how surrogacy is approached and regulated (or not) in a wide range of countries, including, among others, France, Germany, Taiwan, Israel, South Africa, Australia, the US and India. It introduced us to academics working in those jurisdictions and provided much for us to consider. For example, it provided a useful categorisation of how different countries approach the question of surrogacy regulation, with these being described as prohibitive, tolerant, regulatory and free market. The characterisation of the UK as 'tolerant'

helped us to understand the UK's approach in its international context.

Since the project began, we have continued to benefit from a collaboration with Cambridge Family Law Centre. That has included, in particular, two further conferences at Cambridge in June 2018 and June 2019, respectively entitled 'Law and Practice of Surrogacy' and 'International Surrogacy Forum'.

The first conference, held just after we started work on the project, brought together academics and practitioners with experience of a range of international jurisdictions. The combination of academic research and practical experience discussed at the conference helped us to develop our thinking for the provisional proposals set out in our consultation paper, *Building Families Through Surrogacy*, published in June 2019 jointly with the Scottish Law Commission.

The second conference, coming just before the start of the formal consultation period across the summer of 2019, was a great opportunity to publicise our consultation, and to engage with experts in surrogacy from around the world. Those experts included the UN Special Rapporteur on the sale and sexual exploitation of Children. We were also able to contribute a workshop to the conference to which we invited a selected group of international stakeholders to explore our provisional proposals.

Dr Kirsty Horsey of the University of Kent is another leading surrogacy academic whose work on the reform of surrogacy law has been very helpful. This is particularly because it is focused on the practicalities of reform, and informed by Dr Horsey's involvement with Surrogacy UK, one of the UK's non-profit surrogacy organisations, and the All Party Parliamentary Group on Surrogacy. Dr Horsey organised a conference on surrogacy reform in June 2019, which we were able to use as the platform to launch our consultation paper.

We are also alive to the valuable work of academics outside the UK who work directly on law reform. For example, we note the major contribution to reform around surrogacy and assisted conception of Dr Sonia Allen, who led the reviews of the surrogacy legislation in South Australia and Western Australia. Such work provides an important source of comparison and inspiration for our own reform efforts. It allows us to see how reforms have worked – or failed to work – in practice, albeit in different social contexts and against a backdrop of differing private family law.

It is not only legal research that is relevant to law reform. In devising reforms for surrogacy, we have placed particular significance on understanding the impact of potential reform on those personally involved in surrogacy, particularly children born through surrogacy.

To this end, we have also benefitted from the expertise of another group of Cambridge academics at the multidisciplinary research institute, the Centre for Family Research, led by Professor Susan Golombok. The Centre's work on parent-child relationships and psychological wellbeing of children in new family forms, such as the families created by surrogacy, has provided an important context for our legal reform work.

Again outside the legal sphere, our work has been informed by academics in the social work and policy fields, particularly Dr Marilyn Crawshaw, who has shared her expertise of working with children and families resulting from adoption and assisted conception. She has helped us to think through issues such as the disclosure of information about their conception to those conceived as a result of a surrogacy arrangement.



Moving forwards, we have been grateful for all the responses from academics to our consultation paper, which will inform our consideration of our recommendations for the reform of surrogacy law in the UK. These responses, together with our continued engagement with academia, will assist us in making our proposals robust and workable.

Public law and the law in Wales

Commissioner: Nicholas Paines QC

Planning Law in Wales	Report published; working on Bill	December 2018	page 30
Automated Vehicles	Consultation	January 2020	page 30
Simplification of the Immigration Rules	Report published	January 2020	page 31
Devolved Tribunals in Wales	Project started	June 2020	page 31
Electoral Law	Report published	March 2020	page 31
Employment Law Hearing Structures	Report published	April 2020	page 32

Planning Law in Wales

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

Automated Vehicles

In March 2018, the Government's Centre for Connected and Autonomous Vehicles (CCAV) asked the Law Commission to undertake a far-reaching review of the UK's regulatory framework for road-based automated vehicles.

In a joint project with the Scottish Law Commission, we are identifying pressing problems in the law that may be barriers to the use of automated vehicles, from road traffic legislation which focuses on "the driver", to product liability, criminal offences and public transport. This will build on the work of CCAV and the insurance law reforms in the Automated and Electric Vehicles Act 2018. This project aims

to promote confidence in the laws around the safe use of automated vehicles, and in the UK as a vibrant, world-leading venue for the connected and automated vehicle industry.

Our first consultation paper focused on the safe deployment of automated vehicles for private use by consumers. It asked a range of questions aimed at anticipating the challenges and disruption to long-established driver-centric laws that highly automated vehicles will present. In June 2019, we published an analysis of responses we received, together with suggestions for work to be undertaken.¹⁷

Our second consultation paper focussed on the legal challenges posed by Highly Automated Road Passenger Services (HARPS): a new term coined to describe automated vehicles used in the provision of passenger transport services to the public. It also examined how HARPS might be integrated with public transport. In May 2020, we published an analysis of responses.¹⁸ We are now working on our third consultation paper which will consider in greater depth some of the overarching issues arising out of our previous two consultations. We are aiming to publish in the last quarter of 2020 with a view to

¹⁷ Available at <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2019/06/Automated-Vehicles-Analysis-of-Responses.pdf>.

¹⁸ Available at <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2020/05/AV-CP2-analysis-21-May.pdf>.

producing our final report including recommendations for legislative change by the end of 2021.

Simplification of the Immigration Rules

The Immigration Rules are long and complex. Since 2008, when a new points-based system was introduced, they have been increasingly criticised for being poorly drafted and confusingly organised. A number of decisions under the rules have been challenged in the highest courts, where the Rules were the subject of adverse comments by senior members of the judiciary.

Our final report, published on 14 January 2020, recommends a range of possible reforms aimed at producing simpler rules. A simplified set of Immigration Rules will make them easier to understand and apply for Home Office staff, legal professionals and applicants. It will promote consistency of style and substance across the Rules and ought to reduce the risk of adverse decisions and comment by the courts.

For more information on this project, see page 33.

Devolved Tribunals in Wales

The Wales Act 2017 led to the creation of the office of the President of the Welsh Tribunals and the Welsh Tribunals Unit (“WTU”), which provides administrative support to a number of devolved tribunals in Wales. The rules and procedures governing devolved tribunals in Wales, however, have developed piecemeal from a wide range of different pieces of legislation. Reviews in 2010 by the Welsh Committee of the Administrative Justice and Tribunals Council and in 2014 by the Welsh Government highlighted some of the difficulties with the law. This has led to the Law Commission being asked to undertake a further review with a view to recommending a coherent tribunal system for Wales.

The project commenced in June 2020. The review will cover issues including:

- The scope of a tribunal system for Wales.
- The roles of the President of Welsh Tribunals and the Welsh Tribunals Unit.
- Appointment and discipline of Tribunal judges and other members.
- Appointment of Presidents/Deputies.
- Power to make and standardise procedural rules.
- Appeals processes.
- Complaints process.
- Protecting judicial independence.

We aim to publish a consultation paper later in 2020.

Electoral Law

Electoral law in the UK is complex, voluminous, and fragmented, with many statutes and secondary legislation governing a long list of elections and referendums.

As part of our 11th Programme of Law Reform we set out to streamline the legislative framework governing all elections and referendums, and to simplify and modernise the law governing the conduct of elections and referendums. We published an interim report in 2016 and a final report, jointly with the Scottish Law Commission, on 16 March 2020.

The central thrust of our recommendations for reform is to lay down a simplified and coherent legal governance structure for the conduct of elections and referendums in the UK. Primary legislation should contain the important and fundamental aspects of electoral law for all polls. The current law should also be modernised and simplified to ensure it is understood, complied with, and enforced.

One Act of Parliament would cover the core structure for running electoral events within the UK Government’s legislative competence, supplemented by simplified secondary legislation. The law will be easier to understand, apply, and, as relates to detailed administrative matters, to update.

Employment Law Hearing Structures

In the wake of Lord Justice Briggs' Civil Court Structure Review in 2016, this project addressed problems arising from the shared jurisdiction of the employment tribunal and the civil courts in employment and discrimination cases, as well as reviewing some of the limits on the jurisdiction of employment tribunals.

We published our report on 28 April 2020 making recommendations to refine and rationalise areas of exclusive jurisdiction of the employment tribunals, and areas of overlap between the tribunal and the civil courts, recommending necessary and sensible adjustments in order to bring the law up to date, or enable the fair and effective determination of all or most employment disputes in one forum. We have aimed to produce a structure for hearing employment and discrimination disputes which is fairer to the parties, more agile and effective, without compromising the uniqueness of the employment tribunal system.

Simplification of the immigration rules

The Immigration Rules regulate the entry into and stay in the UK of people who are subject to immigration control. They impact on millions of people each year. Yet it is widely acknowledged that they have become overly complex and unworkable. As part of its 13th Programme of Law Reform, the Law Commission reviewed the Rules to identify principles under which they could be redrafted to make them simpler and more accessible.

Our approach

Following a review of the history of the Rules, their content, and their updates, and greatly assisted by discussions with experts, our consultation paper identified the underlying causes of their complexity and made proposals as to how they could be simplified and made more accessible. Our consultation concluded in May 2019, during which many fruitful consultation events and meetings took place. We heard from a wide variety of people including applicants for leave under the Rules, support groups, immigration advisers, lawyers, judges, higher education providers and campaigning groups. We also spoke with Home Office staff who implemented the Rules.



We commend the quality of the Law Commission's analysis of the ad-hoc development of the Immigration Rules ('the Rules') and the challenges they throw up for all who engage with them.

Law Society of England and Wales



Our recommendations

When they were introduced in 1973, the Immigration Rules were a 40 page statement of the UK's immigration policy, which relied greatly on the discretion and judgement of officials. By 2019, the Rules ran to over 1100 pages. Their structure has become confusing and numbering inconsistent. Provisions overlap with identical or near identical wording. The drafting style, often including multiple cross-references, can be hard to penetrate.

One reason for that was the policy of setting out very detailed requirements, particularly about the evidence that must be sent in with an application. Such rules had been amended frequently, adding even more detail to their content. Detailed rules are justified when the detail is required to maintain clarity and consistency, reducing the risk of different caseworkers coming to different decisions. We recommended a flexible approach to the evidence required from applicants, providing a non-exhaustive list of acceptable forms of evidence and admitting other forms of evidence that demonstrate compliance with the requirement of the Rules. We have recommended a made-to-measure approach for different routes of applications. For example, categories such as international students may be suitable for precise evidential requirements whereas family member applicants may have more complex histories and be less likely to be able to provide standard documentation to prove their circumstances. We also recommended more interactive decision making by caseworkers, allowing them to address concerns or request additional evidence before making a decision.



Importance of the project

For both applicants and case workers, the drafting of the immigration rules and frequent updates makes them too difficult to follow. This has resulted in mistakes that waste time and cost taxpayer money. By improving the drafting, restructuring the layout and removing inconsistencies, our recommendations will make a real difference by improving the efficiency of the system and increasing public confidence in the rules. Our consultation revealed a great degree of consensus about the categorical importance of the immigration rules as a document, and the shared interest between Government and the public in the Rules being a clear and reliable statement of the UK's immigration policy. The Government responded in detail to the Report, wholly or partly accepting its recommendations, in March 2020. See page 45.

“

I am extremely grateful to the Law Commission for their detailed and constructive work.

Kevin Foster MP,
Minister for Future Borders and Immigration

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Part Three:

Implementation of Law Commission
law reform reports 2019–20

There have been a number of developments designed to increase the rate at which Law Commission reports are implemented:

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

Law Commission parliamentary procedure

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

Eight Law Commission Bills have now followed this procedure:

- Sentencing (Pre-consolidation Amendments) Act, received Royal Assent on 8 June 2020.
- Intellectual Property (Unjustified Threats) Act 2017, received Royal Assent on 27 April 2017.
- Insurance Act 2015, received Royal Assent on 12 February 2015.
- Inheritance and Trustees' Powers Act 2014, received Royal Assent on 14 May 2014.
- Trusts (Capital and Income) Act 2013, received Royal Assent on 31 January 2013.
- Consumer Insurance (Disclosure and Representations) Act 2012, received Royal Assent on 8 March 2012.
- Third Parties (Rights against Insurers) Act 2010, received Royal Assent on 25 March 2010.
- Perpetuities and Accumulations Act 2009, received Royal Assent on 12 November 2009.¹⁹

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

Implementation of our reports 2019–20

Between 1 April 2019 and 31 May 2020 we published 6 final reports with recommendations for law reform:

- Anti-Money Laundering, 18 June 2019.
- Electronic Execution of Documents, 4 September 2019.
- Residential Leasehold – Options to Reduce the Price Payable, 9 January 2020.
- Simplification of the Immigration Rules, 14 January 2020.
- Electoral Law, 16 March 2020.
- Employment Law Hearing Structures, 29 April 2020.

The statistics from the creation of the Commission in 1965 to 31 May 2020 are:

- Law reform reports published – 236.
- Implemented in whole or in part – 151 (64%).
- Accepted in whole or in part, awaiting implementation – 18 (8%).
- Accepted in whole or in part, will not be implemented – 7 (3%).
- Awaiting response from Government - 18 (8%).
- Rejected – 31 (13%).
- Superseded – 11 (5%).

¹⁹ The Bill passed through Parliament as part of a trial for the Law Commission Parliamentary procedure.

REPORTS IMPLEMENTED DURING THE YEAR

Abusive and Offensive Online Communications

- Scoping report published on 1 November 2018.²⁰

This project reviewed the current law around abusive and offensive online communications with a view to highlighting any gaps in the criminal law which cause problems in tackling this abuse.

The scoping report was published in November 2018. Our recommendations for further work are being taken forward as part of our review of hate crime legislation, and projects on the communications offences and related matters, and the non-consensual taking and sharing of intimate images (which together constitute phase 2 of this project).

Mental Capacity and Deprivation of Liberty

- Final report published on 13 March 2017.²¹
- Interim response received from the Government on 30 October 2017.
- Detailed response received from the Government on 14 March 2018.

On 13 March 2017, we published our final report and draft Bill recommending that the Deprivation of Liberty Safeguards (DoLS) be replaced as a matter of pressing urgency. The report sets out a replacement scheme for the DoLS – which we have called the Liberty Protection Safeguards.

In its detailed response, the Government has accepted, or accepted in principle, all of the recommendations except the recommendation relating to a statutory codification of capacity law in relation to children, and four areas which it has left for the independent Mental Health Act review to consider.

The Government introduced the Mental Capacity (Amendment) Bill in the summer of 2018. While the Bill replicated the Law Commission’s broad approach, it omitted a number of provisions which were considered superfluous or a matter for best practice. Some of these provisions were reintroduced by amendments in the Lords. The Bill received Royal Assent on 16 May 2019.

REPORTS IN THE PROCESS OF BEING IMPLEMENTED

Conservation Covenants

- Final report and draft Bill published on 24 June 2014.²²
- Response received from Government on 28 January 2016.
- The Bill was introduced as Part 7 of the Environment Bill on 30 January 2020.

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

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

20 (2018) LC 381.

21 (2017) LC 372.

22 (2014) LC 349.

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

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

The then Secretary of State for the Environment, Food and Rural Affairs (Rt Hon Elizabeth Truss MP) wrote to the Commission on 28 January 2016 praising the quality of our work and giving a commitment to explore the role conservation covenants could play in the 25-year Environment Plan being prepared by the department. In the 25 Year Plan published in 2018,²³ Government confirmed that, working with landowners, conservation groups and other stakeholders, it will review and take forward our proposals for a statutory scheme of conservation covenants.

Between September 2018 and February 2019, we worked with the Department for Environment, Food and Rural Affairs (Defra) reviewing our draft proposals, with a view to them being taken forward in accordance with the 25 Year Environment Plan commitments. Defra consulted on the proposals (suggesting some largely minor changes) between 22 February and 22 March 2019. It published its response to consultation on 23 July 2019 announcing an intention to introduce legislation for conservation covenants in England (but not Wales) in the Environment Bill.

Our draft Bill was introduced as Part 7 of the Environment Bill on 15 October 2019. The Environment Bill fell on the subsequent dissolution of Parliament for a general election. The Bill was reintroduced following the election on 30 January 2020 and had its second reading on 26 February 2020. It is currently in Committee.

Consumer Prepayments on Retailer Insolvency

- Final report published on 13 June 2016.²⁴
- Government response received on 28 December 2018.

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

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

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

²³ HM Government, *A Green Future: Our 25 Year Plan to Improve the Environment* (2018) p 62.

²⁴ (2016) LC 368.

The Government has already worked with the card payment industry, insolvency practitioners, business and consumer groups to implement the Law Commission's recommendation that consumers should be given more information about chargeback when a retailer becomes insolvent.

The Government's response said that the Law Commission's work will be further reflected upon in light of BEIS' consumer green paper, published in April 2018. In particular, the Government said:

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

The Government said it considers the Law Commission's recommendations on transfer of ownership to be sensible, and acknowledged that this issue will be increasingly important as internet sales grow. It indicated that more work and consultation would be required to determine whether, and how, to take this forward. BEIS have since asked the Law Commission to produce draft legislation on this topic (see page 15 for more information), which will be subject to further public consultation and consideration.

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

Electronic Execution of Documents

- Final report published 4 September 2019.²⁵
- Government response published 3 March 2020.²⁶

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

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

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

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

25 (2019) LC 386.

26 <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2019/09/Government-response-to-electronic-signatures-report.pdf>.

Enforcement of Family Financial Orders

- Final report published on 15 December 2016.²⁷
- Response from Government received on 23 July 2018.

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

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

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

We received the Government’s full response in a letter from the then Parliamentary Under-Secretary of State (Lucy Frazer MP) in July 2018. Government has agreed to take forward those of our recommendations which do not require primary legislation to put into effect. These non-statutory reforms can be implemented through changes in court rules and practice directions; court administration; and the provision of guidance. This will implement much of what we recommended and we believe that these changes will go a long way towards making enforcement in this area more efficient, effective and accessible.

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

The Form and Accessibility of the Law Applicable in Wales

- Final report published on 29 June 2016.²⁸
- Response received from Welsh Government on 19 July 2017.

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

²⁷ (2016) LC 370.

²⁸ (2016) LC 366.

The Welsh Government issued its final response on 19 July 2017. The report provides a helpful blueprint as to how the Welsh Government and others can take action to ensure the law of Wales are more accessible. The Welsh Government was able to accept, or accept in principle, all except one of the recommendations.

The Welsh Government has already begun to implement these recommendations by introducing a Bill into the Senedd on 3 December 2018. Part 1 of the Legislation (Wales) Act 2019 imposes a duty on the Counsel General and the Welsh Ministers to take steps to improve the accessibility of the law in Wales. The Welsh Government has subsequently produced (in October 2019) a Consultation Paper on *The Future of Welsh Law*, recognising the contribution made by the Commission and setting out a programme of consolidation, codification and better publication.²⁹

Pension Funds and Social Investment

- Final report published 21 June 2017.³⁰
- Interim Government response published on 18 December 2017.
- Final Government response published in June 2018.

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

Our report found that barriers to social investment by pension funds are, in most cases, structural and behavioural rather than legal or regulatory. We identified steps which could be taken by Government,

regulators and others to minimise these barriers, and made recommendations for reform. We also suggested further options for reform, for Government to consider in due course.

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

In particular, the Government has implemented our recommended reforms in relation to trust-based pension schemes. The relevant provisions in the Occupational Pension Schemes (Investment) Regulations 2005 came into force on 1 October 2019.³¹ The Financial Conduct Authority has made similar changes, in force from 6 April 2020, to rules applying to contract-based pension schemes.³²

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

Planning Law in Wales

- Final report published on 3 December 2018.³³
- Interim Government response received on 17 May 2019.³⁴

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

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

30 (2016) LC 374.

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

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

33 (2018) LC 383.

34 <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2019/05/Interim-Response-to-the-Report-on-Planning-Law-in-Wales-English.pdf>.

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

Sentencing Code

- Final report and draft Bill published on 22 November 2018.³⁵
- Interim response received from the Government on 22 May 2019.
- Final Government response received on 30 April 2020.

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

The current law of sentencing is inefficient and lacks transparency. The law is incredibly complex and difficult to understand even for experienced judges and lawyers. It is spread across a huge number of statutes, and is frequently amended. Worse, amendments are brought into force at different times for different cases. The result of this is that there are multiple versions of the law that could apply to any given case.

This makes it difficult, if not impossible at times, for practitioners and the courts to understand what the present law of sentencing procedure actually is. This leads to delays, costly appeals and unlawful sentences.

Between 2015 and 2018 the Law Commission worked to produce a Sentencing Code to bring the law of sentencing procedure into one place, simplifying the law and providing a coherent structure while repealing

old and unnecessary provisions. The final report and draft Bill was published in November 2018.

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

The PCA Act is a short technical Act that facilitates the consolidation process and the “clean sweep.” It corrects minor errors and changes language to avoid inconsistency. The law, as amended by the PCA Act, will then be consolidated into the Sentencing Code, which is contained in the Sentencing Bill.

The Sentencing Bill had its first reading on 5 March 2020. It is intended that the Sentencing Code will be brought into force during 2020.

REPORTS AWAITING IMPLEMENTATION

Contempt of Court: Court Reporting

- Final report published on 26 March 2014.³⁶

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

³⁵ (2018) LC 382.

³⁶ (2014) LC 344.

cautious in reporting, to avoid the risk of being found to be in contempt. In the report we recommended:

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

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

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

Event Fees in Retirement Homes

- Final report published on 31 March 2017.³⁷
- Interim Government response received on 26 November 2017.
- Final Government response received on 27 March 2019.

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

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

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

- Seek to determine the best means of providing information to prospective buyers through an online database.
- Give further consideration to the recommendation for spouses’ and live-in carers’ succession rights to stay at a property without payment of an event fee, to explore the implications both for consumers and new supply.

Making Land Work: Easements, Covenants and Profits à Prendre

- Final report and draft Bill published on 8 June 2011.³⁸

This project examined the general law governing:

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

37 (2017) LC 373.

38 (2011) LC 327.

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

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

The Government announced in the Housing White Paper published on 7 February 2017 that: “The Government also intends to simplify the current restrictive covenant regime by implementing the Law Commission’s recommendations for reform and will publish a draft Bill for consultation as announced in the Queen’s Speech”. This supplemented the earlier announcement on 18 May 2016 that the Government intended to bring forward proposals in a draft Law of Property Bill to respond to the Commission’s recommendations. Our recommendations would support Government’s intention to ban the sale of houses on a leasehold basis.³⁹ We are providing support to Government in updating the draft Bill with a view to implementation.

Public Services Ombudsmen

- Final report published on 14 July 2011.⁴⁰

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

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

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

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

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

40 (2011) LC 329.

Regulation of Health and Social Care Professionals

- Final report and draft Bill published on 2 April 2014.⁴¹

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

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

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

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

Simplification of the Immigration Rules

- Final report published on 14 January 2020.⁴²
- Final Government response received on 25 March 2020.

The Immigration Rules are long and complex. Since 2008, when a new points-based system was introduced, they have been increasingly criticised for complex and unworkable. Our report sets out principles under which redrafted to make them simpler and more accessible. For more information on the project, see page 33.

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

Taxi and Private Hire Services

- Final report and draft Bill published on 23 May 2014.⁴³

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

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

41 (2014) LC 345.

42 (2020) LC 388.

43 (2014) LC 347.

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

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

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

Wildlife

- Report on the control of invasive non-native species published on February 2014.⁴⁴
- Recommended reforms given effect in the Infrastructure Act 2015.
- Final report on remaining elements, with draft Bill, published on 10 November 2015.⁴⁵

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

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

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

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

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

44 (2014) LC 342.

45 (2015) LC 362 (two volumes).

REPORTS ACCEPTED BUT WHICH WILL NOT BE IMPLEMENTED

Bills of Sale

- Original report published on 12 September 2016.⁴⁶
- Updated report with draft Bill published on 23 November 2017.⁴⁷

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

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

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

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

Level Crossings

- Final report, with draft Bill and draft regulations, published on 25 September 2013.⁴⁹

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

Our recommendations would:

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

The Government provided a final response to the report in October 2014, accepting both the case for reform and the majority of our recommendations.⁵⁰ In May 2018, the Minister of State for Transport, Jo Johnson, wrote to the Commission stating the Department’s final view on reform. The Minister agreed that reform is needed but stated that the best way to achieve this is through the administrative changes

46 (2016) LC 369.

47 (2017) LC 376.

48 See <https://services.parliament.uk/Bills/2019-21/goodsmortgagesbill.html>.

49 (2013) LC 339.

50 (2015) HC 1062.

rather than through legislative reform. The Government stressed that these administrative changes were ‘in the spirit of the Law Commission’s recommendations’.

REPORTS AWAITING A GOVERNMENT DECISION

Anti-Money Laundering

- Final report published on 18 June 2019.⁵¹

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

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

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

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

Cohabitation

Cohabitation: The Financial Consequences of Relationship Breakdown

- Final report published on 31 July 2007.⁵²
- Holding response received from Government on 6 September 2011.⁵³

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

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

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

In broad terms, the scheme would seek to ensure that the financial pluses and minuses of the relationship were fairly shared between the couple.

51 (2019) LC 384.

52 (2007) LC 307.

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

For example, if one partner was disadvantaged in the job market as a result of time spent bringing up the couple's children, they might receive some financial compensation from their former partner to support them while retraining or otherwise preparing to return to work.

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

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

Intestacy and Family Provisions Claims on Death (Cohabitants)

Final report and draft Inheritance (Cohabitants) Bill published on 14 December 2011.⁵⁴

- Holding response received from Government on 21 March 2013.⁵⁵

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

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

- Reform the law regarding an application for family provision by the survivor of a couple (if they were not married or in a civil partnership) who had children together.

- In defined circumstances, entitle the deceased's surviving cohabitant to inherit under the intestacy rules where there was no surviving spouse or civil partner. Generally speaking, this entitlement would arise if the couple lived together for five years before the death or for two years if they had a child together.

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

Criminal Records Disclosures: Non-Filterable Offences

- Final report published on 1 February 2017⁵⁶

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

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

54 (2011) LC 331.

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

56 (2017) LC 371.

Data Sharing Between Public Bodies

- Scoping report published on 11 July 2014.⁵⁷
- Interim Government response received on 24 December 2014.

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

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

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

Electoral Law

- Report published on 16 March 2020.⁵⁸

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

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

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

Employment Law Hearing Structures

- Report published on 29 April 2020.⁵⁹

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

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

The High Court's Jurisdiction in Relation to Criminal Proceedings

- Report and draft Bill published on 27 July 2010.⁶⁰
- Holding response received from Government on 13 March 2015.⁶¹

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

The Government is continuing to consider these recommendations.

⁵⁷ Data Sharing between Public Bodies: A Scoping Report (2014) LC 351.

⁵⁸ (2020) LC 389.

⁵⁹ (2020) LC 390.

⁶⁰ (2010) LC 324.

⁶¹ Report on the Implementation of Law Commission Proposals, Ministry of Justice (2015), paragraph 99.

Kidnapping

- Final report published on 20 November 2014.⁶²

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

- The kidnapping offence be redefined in statute but should remain triable in the Crown Court only.
- The existing offence of false imprisonment be replaced by a new statutory offence of unlawful detention.
- The maximum sentence for offences under sections 1 and 2 of the Child Abduction Act 1984 be increased from seven to 14 years' imprisonment.
- Section 1 of the 1984 Act be extended to cover cases involving the wrongful retention of a child abroad – this would close the gap in the law highlighted in the case of *R (Nicolaou) v Redbridge Magistrates' Court*.⁶³

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

Matrimonial Property, Needs and Agreements

- Final report and draft Bill published on 27 February 2014.⁶⁴
- Interim response received from Government on 18 September 2014.

This project was set up, initially under the title "Marital Property Agreements" to examine the status and enforceability of agreements (commonly known as "pre-nups") made between spouses and civil partners

(or those contemplating marriage or civil partnership) concerning their property and finances.

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

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

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

The Government's interim response was published on 18 September 2014. The Government has accepted and taken action on the recommendation for guidance. The Family Justice Council developed financial guidance for separating couples and unrepresented litigants, which it published in September 2015, followed by publication of guidance for the judiciary on financial needs in June 2016.

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

62 Kidnapping and related Offences (2014) LC 355.

63 [2012] EWHC 1647 (Admin); [2012] 2 Cr App R 23.

64 (2014) LC 343.

Offences Against the Person

- Scoping report and draft Bill published on 3 November 2015.⁶⁵

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

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

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

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

Public Nuisance and Outraging Public Decency

- Final report published on 24 June 2015.⁶⁶

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

This work forms part of a wider project, Simplification of the Criminal Law, which originated in our 10th Programme of Law Reform. The Government continues to consider this report.

Rights to Light

- Final report and draft Bill published on 4 December 2014.⁶⁷

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

We published our final report and draft Bill on 4 December 2014.⁶⁸ We recommended:

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

65 (2015) LC 361.

66 (2015) LC 358.

67 (2014) LC 356.

68 (2014) LC 356.

In its most recent report on the implementation of Law Commission recommendations, the Lord Chancellor stated that Government had been carefully considering the report and that there were no immediate plans to implement the recommendations as a result of other legislative priorities, but that the position would be kept under review.⁶⁹ We are still awaiting Government's final response.

Technical Issues in Charity Law

- Final report published on 14 September 2017.⁷⁰

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

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

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

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

We await Government's response to our recommendations.

Termination of Tenancies for Tenant Default

- Final report published on 31 October 2006.⁷¹

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

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

In March 2019, the Housing, Communities and Local Government Select Committee recommended that Government implement our recommendations.⁷² In response, Government has asked us to update our report.⁷³

69 Implementation report (July 2018), para 41, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/730404/implementation-of-law-commission-recommendations-report-2017-2018.pdf.

70 (2017) LC 375.

71 (2006) LC 303.

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

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

Unfitness to Plead

- Final report and draft Bill published on 13 January 2016.⁷⁴
- Interim Government response received on 30 June 2016.

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

After a wide-ranging consultation conducted in winter 2010–11⁷⁵ we published an analysis of responses⁷⁶ and an issues paper in 2013,⁷⁷ and our final report and draft Bill in January 2016.⁷⁸

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

Updating the Land Registration Act 2002

- Final report published on 24 July 2018.⁷⁹
- Interim Government response received on 31 January 2019

An effective land registration law is essential for everyone who owns land, whether the land is a home, a business or an investment. The core purpose of a register of title is to make conveyancing faster, easier and cheaper. However, time has shown that some aspects of the Land Registration Act 2002 are unclear, inefficient, or have unintended outcomes. With over 25 million registered titles in England and Wales – ranging from residential flats to farms and shopping centres – any inefficiencies, uncertainties or problems in the land registration system have the capacity to have a significant impact on the property market, and the economy as a whole. Uncertainty also makes advising clients difficult, incentivises litigation, and increases costs for landowners.

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

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

74 (2016) LC 364 (two volumes).

75 (2010) LCCP 197.

76 <http://www.lawcom.gov.uk/project/unfitness-to-plead/>.

77 <http://www.lawcom.gov.uk/project/unfitness-to-plead/>.

78 (2016) LC 364 (two volumes).

79 (2018) LC 380.

We received an interim response from Government in January 2019 which stated that many of the recommendations were likely to be acceptable in principle but, due to the breadth of subject matter and complexity of the corresponding recommendations, the Government will set out its final conclusions in due course.

20th Statute Law (Repeals) Report

- Report published on 3 June 2015.⁸⁰

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

The draft Bill awaits implementation by Government. For more information on statute law repeals, see page 59.

80 (2015) LC 357.

Part Four:

How we work

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

Our programmes of law reform

We are required to submit to the Lord Chancellor programmes for the examination of different branches of the law with a view to reform.

Every few years we consult widely, asking for suggestions for appropriate projects. During 2019–20 we have continued work on projects selected for our 13th Programme of Law Reform, which we launched in December 2017,⁸¹ and earlier programmes. Details of this work are set out in Part Two of this report. The full list of the fourteen projects selected for our 13th Programme can be found in our annual report for 2017–18.⁸²

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

- The extent to which the law in that area is unsatisfactory.
- The potential benefits that would flow from reform.
- Whether the independent non-political Commission is the most suitable body to conduct a review in that area of the law.
- Whether the Commissioners and staff have, or can access, the relevant experience.

Although we have a duty to “take and keep under review all the law”,⁸³ it is important that our efforts are directed towards areas of the law that most need reform and reforms that are most likely to be implemented. We focus on change that will deliver real benefits to the people, businesses, organisations and institutions to which that law applies.

Consultation

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

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

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

We follow the Government Consultation Principles issued by the Cabinet Office.⁸⁴

81 (2017) LC 377.

82 Annual Report 2017–18 (2018) LC 379, p52.

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

84 <https://www.gov.uk/government/publications/consultation-principles-guidance>.

Making recommendations for reform

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

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

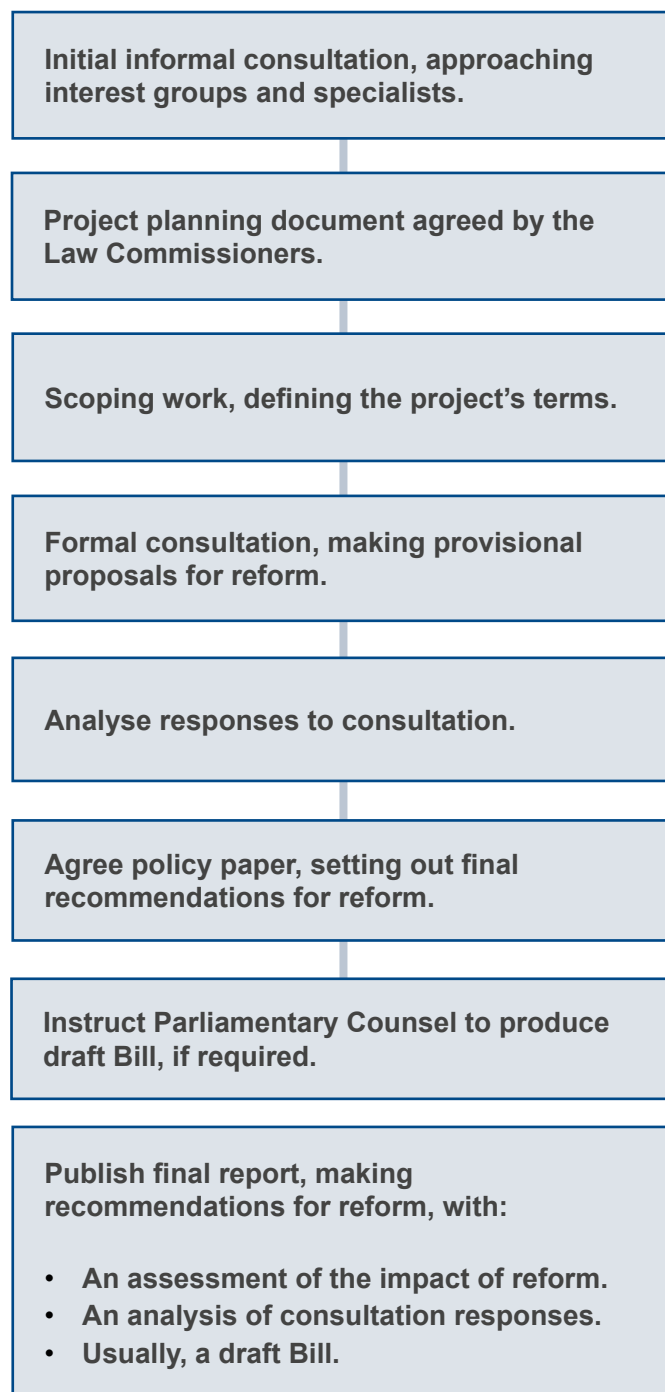
Other law reform projects

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

During 2019–20, four projects were referred to us by Government:

- Consumer Prepayments – to update the provisions on transfer of ownership, currently in the Sale of Goods Act 1979, to better suit the consumer context. This project was referred to us by BEIS (see page 15).
- Review of the Communications Offences – to consider the reform and potential rationalisation of the current communications offences as they relate to online communication. This project was referred to us by the Department for Digital, Culture, Media and Sport (see page 20).
- Taking, Making and Sharing of Intimate Images – assessing the adequacy of the criminal law in relation to the non-consensual taking, making and sharing of intimate images of and by adults. This project was referred to us by the MoJ (see page 21).
- Weddings – a review of weddings to consider how and where couples can marry in England and Wales. This project was referred to us by the MoJ (see page 27).

Figure 4.1 Common stages of a law reform project



Statute law

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

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

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

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

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

Statute Law Repeals

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

In recent times, enthusiasm in Government for repeals work has reduced, which in turn makes it difficult for the Commission to allocate resource to this aspect of our work. Nevertheless, we remain committed to repeals work and will continue to consider ways in which we can focus our attention on those areas of law which have the potential to cause genuine confusion.

Consolidation

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

In November 2018 we published our final report on *The Sentencing Code*. In it we recommended a major consolidation of the legislation which governs sentencing procedure, and included a draft Bill - the "Sentencing Code".

The law on sentencing affects all criminal cases, and is applied in hundreds of thousands of trials and thousands of appeals each year. It is spread across a vast number of statutes, and is frequently

amended. Worse, amendments are brought into force at different times for different cases. The result of this is that there are multiple versions of the law in force and it is difficult to identify which should apply to any given case. This makes it difficult, if not impossible at times, for practitioners and the courts to understand what the present law of sentencing procedure actually is. This leads to delays, costly appeals and unlawful sentences.

We estimate that our proposed Sentencing Code could save millions over the next decade by avoiding unnecessary appeals and reducing delays in sentencing clogging up the court system.

The Secretary of State for Justice accepted the principal recommendation of the report in May 2019. The Sentencing (Pre-consolidation Amendments) Act received Royal Assent on 8 June 2020. This is a short technical Act that facilitates the consolidation process and the “clean sweep.” The Sentencing Bill (which will enact the Code itself) had its first reading on 5 March 2020.

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

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

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

Implementation

Crucial to the implementation of our consolidation and statute law repeal Bills in Westminster is a dedicated Parliamentary procedure (see page 36 for more information). The Bill is introduced into the House of Lords and, after Lords Second Reading, is scrutinised by the Joint Committee on Consolidation Bills. The Committee is appointed by both Houses specifically to consider consolidation and statute law repeal Bills and will hear evidence from the Law Commission. After this, the Bill returns to the House of Lords and continues through its remaining stages.

THE LAW COMMISSION AND GOVERNMENT

Government response to Law Commission reports

In March 2010 we agreed a statutory Protocol⁸⁵ with the Lord Chancellor that governs how the Commission and Government Departments should work together on law reform projects. The latter part of the Protocol sets out departmental responsibilities once we have published a report. The Minister for the relevant Department will provide an interim response to us as soon as possible but not later than six months after publication of the report. We expect to receive a final response within a year of the report being published.

Improving the prospects of implementation

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

Accounting to Parliament for implementation

The Law Commission Act 2009 requires the Lord Chancellor to report to Parliament on the extent to which our proposals have been implemented by the Government. The report must set out the Government’s reasons for decisions taken during the year to accept or reject our proposals and give an indication of when decisions can be expected on recommendations that are still being considered. The Lord Chancellor issued the seventh of these reports on 30 July 2018⁸⁶ covering the period 12 January 2017 to 30 July 2018.

The Law Commission and the Welsh Government

The Wales Act 2014 provides for a protocol⁸⁷ to be established between the Law Commission and the Welsh Government. This protocol was agreed and presented to the Senedd on 10 July 2015. It sets out the approach that we and Welsh Ministers jointly take to our law reform work. It covers how the relationship works throughout all the stages of a project, from our decision to take on a piece of work, through to the Ministers’ response to our final report and recommendations.

In a direct reflection of the obligations placed on the Lord Chancellor by the Law Commission Act 2009, the 2014 Act also requires Welsh Ministers to report annually to the Senedd about the implementation of our reports relating to Welsh devolved matters. The fifth Welsh Government Report on the Implementation of Law Commission Proposals (Adroddiad ar weithredu cynigion Comisiwn y Gyfraith) was laid before the Senedd on 14 February 2020.⁸⁸

INFORMING DEBATE AND SCRUTINY

We are often invited to give evidence to special committees to assist with their inquiries and their consideration of Bills, some of which may include provisions that have derived from Law Commission recommendations.

On 2 July 2019, Nicholas Paines QC was invited to appear before the Public Administration and Constitutional Affairs Select Committee to answer questions on how urgent the need is to update and consolidate electoral law.⁸⁹

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

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

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

88 <https://senedd.wales/laid%20documents/gen-ld13039/gen-ld13039-e.pdf>.

89 <https://committees.parliament.uk/committee/327/public-administration-and-constitutional-affairs-committee/news/141699/committee-considers-urgent-recommendations-to-update-and-consolidate-electoral-law/>.

THE LAW COMMISSIONERS

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

In accordance with Government policy for all non-departmental public bodies, there is a Code of Best Practice for Law Commissioners. It incorporates the Seven Principles of Public Life and covers matters such as the role and responsibilities of Commissioners.⁹⁰

EXTERNAL RELATIONS

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

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

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

COMMUNICATIONS

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

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

Results have continued to improve across our campaigning and marketing channels. During the reporting period 297,918 users visited the website, an increase of almost 21%. We have 5,368 new subscribers to receive automatic updates about our work – 35,048 in total. Our Twitter account has also grown and now reaches 17,200 followers.

For our proactive announcements, we have repeatedly secured coverage in the national press and broadcast media. This is all supported by local and trade media.

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

⁹⁰ <http://www.lawcom.gov.uk/about/who-we-are>.

EDUCATION AND ENGAGEMENT

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

Some examples of this over the past year include:

- Meeting with a delegation from the Legislative Counsel Office of South Korea to discuss the structure of the Law Commission and how we select our projects.
- Meeting a Moroccan delegation to discuss the relationship between independent law reform bodies and Government.
- Being invited by the Malaysian government to discuss the role of judges in law reform as well as provide more information on how law reform is undertaken in the UK. This followed a visit from a Malaysian delegation in March 2019.
- Hosting a four week placement of a colleague from the Law Reform Commission of Trinidad and Tobago.
- Attending the Commonwealth Law Reform Agencies (“CALRAS”) Conference in Zambia to discuss law reform and engage with law reformers from around the commonwealth.
- Attending the Commonwealth Law Conference in Zambia providing an opportunity for the Commission to be represented in discussions with senior law reformers and other lawyers.
- Hosting a workshop titled ‘Changing the Law: Successful Reform’ on behalf of Public Administration International attended by delegations from Ghana, Nigeria, Hong Kong, Malawi and Uganda.
- Working with the Socio-Legal Studies Association and Society of Legal Scholars to support a joint conference on impact and law reform, focussing on co-operation between the Law Commission and academia.
- Once again supporting the Big Voice Model Law Commission project, a volunteer-led project to spark sixth formers’ interest in issues of legal identity and the process of law reform.

- Speaking at sessions at universities across the country including at Durham, Kent, Swansea and Cardiff.

We were delighted to note the creation of a Malaysian Law Commission, which was announced shortly after the visit of our Chair. We have offered continued assistance, if required.

SPEAKING ON LAW REFORM

As an outward facing organisation the Commission’s Chair, Commissioners and staff have been active speaking at many different events across the country.

Over 2019–20, this has included:

- Hosting the 7th Scarman Lecture at Gray’s Inn with keynote speaker Baroness Hale. For more information on the Scarman Lecture, see page 65.
- Jointly hosting with the Office of the Parliamentary Counsel a conference on ‘Law and Legislation: the Next 150 years’.
- Speaking about our Hate Crime project at a parliamentary meeting on making misogyny history for International Womens Day.
- Speaking at an event organised by Citizens UK to talk about reviewing the adequacy of protection offered by hate crime legislation.
- Holding a surrogacy symposium and a series of stakeholder events across the United Kingdom to discuss our consultation proposals.
- Attending the International Surrogacy Forum, held by the Cambridge Family Law Centre. For more detail on this, see page 28.
- Discussing our leasehold projects with a number of important stakeholders at the Professionalism in Property Conference.

SOCIAL RESPONSIBILITY

Every year a team, made up of our legal and other staff, join members of the judiciary and teams from many of London's law firms and sets of chambers in the annual London Legal Walk. In 2019 the team raised more than £1,250 for the London Legal Support Trust, which organises the event. The funds go to support free legal advice agencies in and around London, including Law Centres and pro bono advice surgeries. The Law Commission will support the London Legal Walk in 2020, which has now been postponed until October due to the COVID-19 outbreak.

In October, the commercial and common law team undertook a day of team building and volunteering in the grounds of Snaresbrook Crown Court. This included helping to make a significant difference to the area by removing litter and clearing ivy which had carpeted the nearby woodland floor.



OUR PARTNER LAW COMMISSIONS AND THE DEVOLVED AUTHORITIES

In October 2019, the Law Commission hosted the the Conference of Law Commissions with attendees including colleagues from the law reform bodies of Jersey, the Republic of Ireland and Scotland. This is an annual event that allows us to exchange experiences and strengthen our relationships. The theme at this year's conference considered the strategic and economic value of law reform.

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

The Scarman Lecture

On 13 November 2019 at Gray's Inn Hall, Baroness Hale, the President of the Supreme Court and former Law Commissioner delivered the 7th Scarman lecture.⁹¹

Every two years or so the Commission hosts a lecture by one of the world's leading law reformers, in honour of Lord Scarman, its first Chair. The inaugural lecture was delivered in February 2006 by the Hon Justice Michael Kirby AC CMG.

Previous lectures have been given by former Prime Minister of New Zealand Sir Geoffrey Palmer QC, Associate Justice of the Supreme Court of the United States Ruth Bader Ginsburg and former Lord Chief Justice of England and Wales, Lord Thomas of Cwmgiedd.

But this year, we were privileged to hear from Lady Hale, who spoke about 30 years of the Children Act 1989. As a Commissioner, she led the creation of the Act which created a comprehensive and integrated statutory scheme of court powers for dealing with children cases, and paved the way for the later introduction of a single jurisdiction for family proceedings, the Family Court.

To a packed hall of more than 100 members of the senior judiciary, lawyers, Parliamentarians and

Government officials, Lady Hale gave one of her last public speeches before retirement.

She discussed:

- The need to reform child care law – highlighting ten issues with it at the time.
- How the 1989 Act came to be. Whilst the Law Commission examined the law relating to the care and upbringing of children in their families, Lady Hale also sat on an interdepartmental group that was conducting its own review of child care law.
- The impact of the decision for the rule that the child's welfare is paramount in all court decisions about his care and upbringing to be placed at the beginning of the Bill.
- The aims of the Act, but also its downsides and disappointments.

The Children Act was a seminal piece of legislation and has stood the test of time, placing children's welfare at the centre of decisions about them. Lady Hale finished by celebrating the Act as one that has "largely stood the test of time as a piece of law-making" and which she hopes "that the great Lord Scarman would be proud."



Part Five:

Our people and corporate matters

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

BUDGET

The Law Commission’s core funding, provided to us by Parliament and received through the MoJ, for 2019–20 was £2.154m. This represents a decrease of 5% from 2018–19.

The cost to operate the Commission is approximately £4.6m (see Appendix B). This ensures that we are suitably resourced to undertake effective law reform. Our reducing budget following the Spending Review 2015 means that there is an increased necessity for a greater number of our law reform projects to be funded by monetary contributions, on a marginal cost basis, from the sponsoring Government department.

During the course of 2019–20, we held multiple strategic discussions with the MoJ to review our funding model, as recommended by the 2019 Tailored Review. While progress has been made, a resolution has not yet been forthcoming.

COVID-19

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

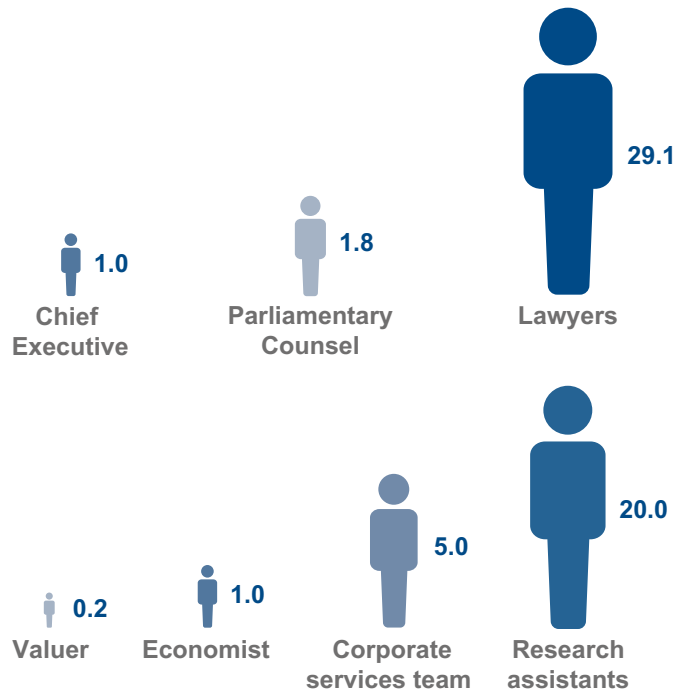
Government departments prioritise their response to COVID-19 and the possibility that funding for existing work runs out.

STAFF AT THE COMMISSION

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

In 2019–20 there were 64 people working at the Law Commission (full-time equivalent: 58.1 as at 31 March 2020).⁹²

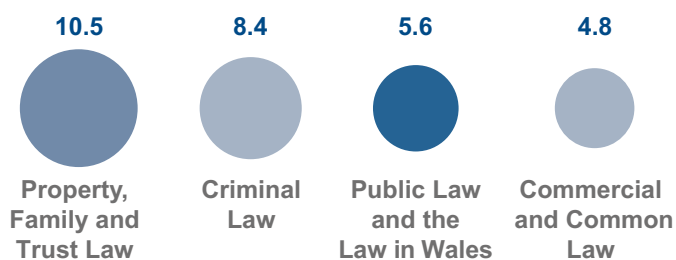
Figure 5.1 People working at the Commission (full-time equivalent, at 31 March 2020)⁹³



⁹² Excluding the Chair, Chair’s Clerk and Commissioners.

⁹³ An expert valuer was employed to work on the Enfranchisement project.

Figure 5.2 Lawyers
(full-time equivalent, at 31 March 2019)



Chief Executive

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

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

Legal staff

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

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

The four teams undertake law reform work, with one Commissioner responsible for the work of the team. The teams are led by a team head, a senior lawyer who provides direct support to the relevant

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

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

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

Research assistants

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

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

The selection process is extremely thorough and we aim to attract a diverse range of candidates of the highest calibre through contact with faculty careers advisers, as well as through our website and

social media channels. A comprehensive outreach programme was undertaken as part of the 2019 recruitment process, targeting law faculties at a wider range of universities and on campus presentations.

In 2019 we recruited 17 new research assistants and the 2020 RA campaign is now complete, with the new recruits due to start in September 2020.

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

Economic and analytical services

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

During the year, the team was expanded on a short term basis to undertake an assessment of the economic impact of law reform. We hope to share the findings of this work later in 2020–21.

Corporate Services

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

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

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



SENIOR MANAGEMENT TEAM

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

During the year a decision was made to increase transparency by communicating Senior Management Team decisions not only to all staff but also via formal papers to the Board.

WORKING AT THE COMMISSION

Staff engagement

The results of the annual People Survey show the Law Commission with an engagement index of 80% for 2019. This represented a 4% increase from the previous year and, overall, a very strong set of results that compare favourably across the civil service. However, the survey also flagged several areas that require more attention going forward, with scores dipping slightly or remaining static. As in previous years, a People Survey Action Group has been created to develop an action plan and monitor and report on progress in implementing the actions.

Groups and committees

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

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

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

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

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

Investing in our people

The Law Commission is keen to invest in the continuing professional development of all our staff. In addition to providing access to formal training, such as recent sessions on line management, we run a series of lunchtime seminars and have been building on our efforts over the last year. This has included sessions on law reform for future technologies, the role of Parliamentary Counsel and various sessions promoting awareness of mental health. During the course of the year, we have also run a series of talks from inspirational women in and around Parliament, such as Baroness Hale, Lucy Frazer MP and Andrea Coomber.

WHISTLEBLOWING

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

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

FREEDOM OF INFORMATION

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

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

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

GENERAL DATA PROTECTION REGULATION (GDPR)

As a consultative organisation, the Commission takes its responsibilities for the effective handling of personal data seriously. As a result, we ensured that a policy⁹⁴ setting out how we process and store personal data was in place prior to GDPR coming into force in May 2018. We hold regular holding to account meetings with MoJ to ensure that we are meeting our GDPR obligations.

INFORMATION ASSURANCE

In 2019–20 we reported a total of two notifiable incidents relating to a lost phone and a lost pass. Each incident was dealt with swiftly, in line with MoJ policies.

HEALTH AND SAFETY

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

SUSTAINABILITY

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

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

The Law Commission supports the MoJ's policy of reducing the supply of single use plastics in its buildings. During the year, this has involved replacing plastic straws and cups with environmentally friendly alternatives.

94 <https://www.lawcom.gov.uk/document/handling-personal-data/>.



Nicholas Green.

Sir Nicholas Green, Chair



S Green

Professor Sarah Green



N.P. Hopkins

Professor Nick Hopkins



Penney Lewis

Professor Penney Lewis



Nicholas Paines

Nicholas Paines QC



Phillip Golding

**Phillip Golding
Chief Executive**

Appendices

Appendix A

Implementation status of law commission law reform reports

LC No	Title	Status	Related Measures
2020			
390	Employment Law Hearing Structures	Pending	
389	Electoral Law	Pending	
388	Simplification of the Immigration Rules	Accepted	
2019			
386	Electronic Execution of Documents	Accepted	
384	Anti-money Laundering: the SARS Regime	Pending	
2018			
383	Planning Law in Wales	Accepted in part; pending in part	
382	Sentencing Code	Accepted	Sentencing (Pre-Consolidation Amendments) Act 2020; Sentencing Bill
381	Abusive and Offensive Online Communications: A Scoping Report	Accepted	
380	Updating the Land Registration Act 2002	Pending	
2017			
376	From Bills of Sale to Goods Mortgages	Accepted but will not be implemented	
375	Technical issues in Charity Law	Pending	
374	Pension Funds and Social Investment	Accepted; implemented in part	Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations 2018
373	Event Fees in Retirement Properties	Accepted in part; pending in part	
372	Mental Capacity and Deprivation of Liberty	Implemented in part	Mental Capacity (Amendment) Act 2019
371	Criminal Records Disclosures: Non-Filterable Offences	Pending	
2016			
370	Enforcement of Family Financial Orders	Accepted in part; pending in part	
369	Bills of Sale	Superseded	Superseded by LC 376
368	Consumer Prepayments on Retailer Insolvency	Accepted	
366	Form and Accessibility of the Law Applicable in Wales	Accepted	Legislation (Wales) Act 2019

LC No	Title	Status	Related Measures
365	A New Sentencing Code for England and Wales Transition	Superseded	Conclusions carried forward into LC382
364	Unfitness to Plead	Pending	
2015			
363	Firearms Law – Reforms to Address Pressing Problems	Implemented	Policing and Crime Act 2017 (Part 6)
362	Wildlife Law	Implemented in part; pending in part	Infrastructure Act 2015
361	Reform of Offences against the Person (HC 555)	Pending	
360	Patents, Trade Marks and Designs: Unjustified Threats	Implemented	Intellectual Property (Unjustified Threats) Act 2017
358	Simplification of Criminal Law: Public Nuisance and Outraging Public Decency	Pending	
2014			
356	Rights to Light (HC 796)	Pending	
355	Simplification of Criminal Law: Kidnapping and Related Offences	Pending	
No LC Number	Social Investment by Charities	Implemented	Charities (Protection and Social Investment) Act 2016
353	Insurance Contract Law (Cm 8898;SG/2014/131)	Implemented	Insurance Act 2015; Enterprise Act 2016
351	Data Sharing between Public Bodies: A Scoping Report	Pending	
350	Fiduciary Duties of Investment Intermediaries (HC 368)	Accepted	
349	Conservation Covenants (HC 322)	Accepted	
348	Hate Crime: Should the Current Offences be Extended? (Cm 8865)	Accepted in part	
347	Taxi and Private Hire Services (Cm 8864)	Implemented in part, pending in part	Deregulation Act 2015
346	Patents, Trade Marks and Design Rights: Groundless Threats (Cm 8851)	Superseded	Superseded by LC360
345	Regulation of Health Care Professionals: Regulation of Social Care Professionals in England (Cm 8839 / SG/2014/26 / NILC 18 (2014))	Accepted	
344	Contempt of Court (2): Court Reporting (HC 1162)	Pending	
343	Matrimonial Property, Needs and Agreements (HC 1039)	Implemented in part; pending in part	
342	Wildlife Law: Control of Invasive Non-native Species (HC 1039)	Implemented	Infrastructure Act 2015

LC No	Title	Status	Related Measures
2013			
340	Contempt of Court (1): Juror Misconduct and Internet Publications (HC 860)	Implemented	Criminal Justice and Courts Act 2015
339	Level Crossings (Cm 8711)	Accepted but will not be implemented	
337	Renting Homes in Wales/Rhentu Cartrefi yng Nghymru (Cm 8578)	Implemented	Renting Homes (Wales) Act 2016
336	The Electronic Communications Code (HC 1004)	Implemented	Digital Economy Act 2017
2012			
335	Contempt of Court: Scandalising the Court (HC 839)	Implemented	Crime and Courts Act 2013 (s33)
332	Consumer Redress for Misleading and Aggressive Practices (Cm 8323)	Implemented	Consumer Protection (Amendment) Regulations 2014; Consumer Rights Act 2015
2011			
331	Intestacy and Family Provision Claims on Death (HC 1674)	Implemented in part	Inheritance and Trustees' Powers Act 2014
329	Public Service Ombudsmen (HC 1136)	Pending	
327	Making Land Work: Easements, Covenants and Profits à Prendre (HC 1067)	Accepted	
326	Adult Social Care (HC 941)	Implemented	Care Act 2014 and Social Services and Well-Being (Wales) Act 2014
325	Expert Evidence in Criminal Proceedings in England and Wales (HC 829)	Implemented	Criminal Procedure Rules
2010			
324	The High Court's Jurisdiction in Relation to Criminal Proceedings (HC 329)	Pending	
322	Administrative Redress: Public Bodies and the Citizen (HC 6)	Rejected	
320	The Illegality Defence (HC 412)	Rejected	
2009			
319	Consumer Insurance Law: Pre-Contract Disclosure and Misrepresentation (Cm 7758)	Implemented	Consumer Insurance (Disclosure and Representation) Act 2012 (c6)
318	Conspiracy and Attempts (HC 41)	Accepted but will not be implemented	

LC No	Title	Status	Related Measures
317	Consumer Remedies for Faulty Goods (Cm 7725)	Implemented	Consumer Rights Act 2015
315	Capital and Income in Trusts: Classification and Apportionment (HC 426)	Implemented	Trusts (Capital and Income) Act 2013
314	Intoxication and Criminal Liability (Cm 7526)	Rejected	
2008			
313	Reforming Bribery (HC 928)	Implemented	Bribery Act 2010 (c23)
312	Housing: Encouraging Responsible Letting (Cm 7456)	Rejected	
309	Housing: Proportionate Dispute Resolution (Cm 7377)	Accepted in part	
2007			
307	Cohabitation: The Financial Consequences of Relationship Breakdown (Cm 7182)	Pending	
305	Participating in Crime (Cm 7084)	Pending	
2006			
304	Murder, Manslaughter and Infanticide (HC 30)	Implemented in part	Coroners and Justice Act 2009 (c25)
303	Termination of Tenancies (Cm 6946)	Pending	
302	Post-Legislative Scrutiny (Cm 6945)	Implemented	See Post-Legislative Scrutiny: The Government's Approach (2008) Cm 7320
301	Trustee Exemption Clauses (Cm 6874)	Implemented	See Written Answer, Hansard (HC), 14 September 2010, vol 515, col 38WS
300	Inchoate Liability for Assisting and Encouraging Crime (Cm 6878)	Implemented	Serious Crime Act 2007 (c27)
297	Renting Homes: The Final Report (Cm 6781)	Rejected for England, Accepted in principle for Wales	
2005			
296	Company Security Interests (Cm 6654)	Implemented in part	
295	The Forfeiture Rule and the Law of Succession (Cm 6625)	Implemented	Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Act 2011
292	Unfair Terms in Contracts (SLC 199) (Cm 6464; SE/2005/13)	Implemented	Consumer Rights Act 2015
2004			
291	Towards a Compulsory Purchase Code: (2) Procedure (Cm 6406)	Accepted but will not be implemented	

LC No	Title	Status	Related Measures
290	Partial Defences to Murder (Cm 6301)	Implemented	Coroners and Justice Act 2009 (c25)
288	In the Public Interest: Publication of Local Authority Inquiry Reports (Cm 6274)	Accepted but will not be implemented	
287	Pre-judgment Interest on Debts and Damages (HC 295)	Rejected	
2003			
286	Towards a Compulsory Purchase Code: (1) Compensation (Cm 6071)	Accepted but will not be implemented	
284	Renting Homes (Cm 6018)	Superseded	See LC 297
283	Partnership Law (SLC192) (Cm 6015; SE/2003/299)	Implemented in part; Accepted in part; Rejected in part	The Legislative Reform (Limited Partnerships) Order 2009
282	Children: Their Non-accidental Death or Serious Injury (Criminal Trials) (HC 1054)	Implemented	Domestic Violence, Crime and Victims Act 2004 (c28)
281	Land, Valuation and Housing Tribunals: The Future (Cm 5948)	Rejected	
2002			
277	The Effective Prosecution of Multiple Offending (Cm 5609)	Implemented	Domestic Violence, Crime and Victims Act 2004 (c28)
276	Fraud (Cm 5560)	Implemented in part	Fraud Act 2006 (c35)
2001			
273	Evidence of Bad Character in Criminal Proceedings (Cm 5257)	Implemented	Criminal Justice Act 2003 (c44)
272	Third Parties – Rights against Insurers (SLC 184) (Cm 5217)	Implemented	Third Parties (Rights Against Insurers) Act 2010 (c10); Third Parties (Rights against Insurers) Regulations 2016
271	Land Registration for the Twenty-First Century (jointly with HM Land Registry) (HC 114)	Implemented	Land Registration Act 2002 (c9)
270	Limitation of Actions (HC 23)	Rejected	
269	Bail and the Human Rights Act 1998 (HC 7)	Implemented	Criminal Justice Act 2003 (c44)
267	Double Jeopardy and Prosecution Appeals (Cm 5048)	Implemented	Criminal Justice Act 2003 (c44)
1999			
263	Claims for Wrongful Death (HC 807)	Rejected	
262	Damages for Personal Injury: Medical and Nursing Expenses (HC 806)	Rejected	

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

LC No	Title	Status	Related Measures
230	The Year and a Day Rule in Homicide (HC 183)	Implemented	Law Reform (Year and a Day Rule) Act 1996 (c19)
229	Intoxication and Criminal Liability (HC 153)	Superseded	See LC 314
1994			
228	Conspiracy to Defraud (HC 11)	Implemented	Theft (Amendment) Act 1996 (c62)
227	Restitution: Mistakes of Law (Cm 2731)	Implemented in part	See Kleinwort Benson v Lincoln City Council [1999] 2 AC 349
226	Judicial Review (HC 669)	Implemented in part	Housing Act 1996 (c52); Access to Justice Act 1999 (c22); Tribunals, Courts and Enforcement Act 2007 (c15)
224	Structured Settlements (Cm 2646)	Implemented	Finance Act 1995 (c4); Civil Evidence Act 1995 (c38); Damages Act 1996 (c48)
222	Binding Over (Cm 2439)	Implemented in part	In March 2007, the President of the Queen's Bench Division issued a Practice Direction
221	Termination of Tenancies (HC 135)	Superseded	See LC 303
220	Delegation by Individual Trustees (HC 110)	Implemented	Trustee Delegation Act 1999 (c15)
1993			
219	Contributory Negligence as a Defence in Contract (HC 9)	Rejected	
218	Legislating the Criminal Code: Offences against the Person and General Principles (Cm 2370)	Implemented in part	Domestic Violence Crime and Victims Act 2004 (c28)
217	Effect of Divorce on Wills (Cm 2322)	Implemented	Law Reform (Succession) Act 1995 (c41)
216	The Hearsay Rule in Civil Proceedings (Cm 2321)	Implemented	Civil Evidence Act 1995 (c38)
215	Sale of Goods Forming Part of a Bulk (SLC 145) (HC 807)	Implemented	Sale of Goods (Amendment) Act 1995 (c28)
1992			
208	Business Tenancies (HC 224)	Implemented	Regulatory Reform (Business Tenancies) (England and Wales) Order 2003
207	Domestic Violence and Occupation of the Family Home (HC 1)	Implemented	Family Law Act 1996 (c27), Part IV
205	Rape within Marriage (HC 167)	Implemented	Criminal Justice and Public Order Act 1994 (c33)

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

LC No	Title	Status	Related Measures
1988			
175	Matrimonial Property (HC 9)	Rejected	
174	Landlord and Tenant: Privity of Contract and Estate (HC 8)	Implemented	Landlord and Tenant (Covenants) Act 1995 (c30)
173	Property Law: Fourth Report on Land Registration (HC 680)	Superseded	See LC 235
172	Review of Child Law: Guardianship (HC 594)	Implemented	Children Act 1989 (c41)
1987			
168	Private International Law: Law of Domicile (SLC 107) (Cm 200)	Rejected	
166	Transfer of Land: The Rule in <i>Bain v Fothergill</i> (Cm 192)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
165	Private International Law: Choice of Law Rules in Marriage (SLC 105) (HC 3)	Implemented	Foreign Marriage (Amendment) Act 1988 (c44)
164	Formalities for Contracts for Sale of Land (HC 2)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
163	Deeds and Escrows (HC 1)	Implemented	Law of Property (Miscellaneous Provisions) Act 1989 (c34)
161	Leasehold Conveyancing (HC 360)	Implemented	Landlord and Tenant Act 1988 (c26)
160	Sale and Supply of Goods (SLC 104) (Cm 137)	Implemented	Sale and Supply of Goods Act 1994 (c35)
1986			
157	Family Law: Illegitimacy (Second Report) (Cmnd 9913)	Implemented	Family Law Reform Act 1987 (c42)
1985			
152	Liability for Chancel Repairs (HC 39)	Rejected	
151	Rights of Access to Neighbouring Land (Cmnd 9692)	Implemented	Access to Neighbouring Land Act 1992 (c23)
149	Criminal Law: Report on Criminal Libel (Cmnd 9618)	Rejected	
148	Property Law: Second Report on Land Registration (HC 551)	Implemented	Land Registration Act 1988 (c3)
147	Criminal Law: Poison Pen Letters (HC 519)	Implemented	Malicious Communications Act 1988 (c27)
146	Private International Law: Polygamous Marriages (SLC 96) (Cmnd 9595)	Implemented	Private International Law (Miscellaneous Provisions) Act 1995 (c42)

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

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

LC No	Title	Status	Related Measures
76	Criminal Law: Report on Conspiracy and Criminal Law Reform (HC 176)	Implemented in part	Criminal Law Act 1977 (c45)
75	Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability (Cmnd 6428)	Implemented	Occupiers' Liability Act 1984 (c3)
74	Charging Orders (Cmnd 6412)	Implemented	Charging Orders Act 1979 (c53)
73	Report on Remedies in Administrative Law (Cmnd 6407)	Implemented	Rules of Supreme Court (Amendment No 3) 1977; Supreme Court Act 1981 (c54)
1975			
69	Exemption Clauses: Second Report by the two Law Commissions (SLC 39) (HC 605)	Implemented	Unfair Contract Terms Act 1977 (c50)
68	Transfer of Land: Report on Rentcharges (HC 602)	Implemented	Rentcharges Act 1977 (c30)
67	Codification of the Law of Landlord and Tenant: Report on Obligations of Landlords and Tenants (HC 377)	Rejected	
1974			
62	Transfer of Land: Report on Local Land Charges (HC 71)	Implemented	Local Land Charges Act 1975 (c76)
61	Family Law: Second Report on Family Property: Family Provision on Death (HC 324)	Implemented	Inheritance (Provision for Family and Dependents) Act 1975 (c63)
60	Report on Injuries to Unborn Children (Cmnd 5709)	Implemented	Congenital Disabilities (Civil Liability) Act 1976 (c28)
1973			
56	Report on Personal Injury Litigation: Assessment of Administration of Damages (HC 373)	Implemented	Administration of Justice Act 1982 (c53)
55	Criminal Law: Report on Forgery and Counterfeit Currency (HC 320)	Implemented	Forgery and Counterfeiting Act 1981 (c45)
53	Family Law: Report on Solemnisation of Marriage in England and Wales (HC 250)	Rejected	
1972			
48	Family Law: Report on Jurisdiction in Matrimonial Proceedings (HC 464)	Implemented	Domicile and Proceedings Act 1973 (c45)
1971			
43	Taxation of Income and Gains Derived from Land: Report by the two Commissions (SLC 21) (Cmnd 4654)	Implemented in part	Finance Act 1972 (c41), s 82

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

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

Appendix B

The cost of the Law Commission

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

	2018–2019 (April–March)		2019–2020 (April–March)	
	£000	£000	£000	£000
Commissioner salaries (including ERNIC) ¹	559.9		559.7	
Staff costs ²	3406.1		3757.4	
		3966.0		4317.1
Research and consultancy	10.4		80.8	
Communications (printing and publishing, translation, media subscriptions, publicity and advertising)	127.7		157.7	
Design, print and reprographics				
Events and conferences (non-training)				
Information technology				
Equipment maintenance				
Library services (books, articles and on-line subscriptions)				
Postage and distribution				
Telecommunications				
Accommodation recharge (e.g. rent, rates, security, cleaning) (met by MoJ) ³	604.4		662.8	
Travel and subsistence (includes non-staff)	44.9		36.5	
Stationery and office supplies	45.2		37.1	
Recruitment				
Training and professional bodies membership				
Recognition and reward scheme awards				
Childcare vouchers				
Health and Safety equipment/services				
Hospitality	3.1		0.1	
		835.7		975.0
TOTAL		4801.7		5292.1⁴

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

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

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

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

Appendix C

Our business plan priorities for 2019–20

Ensure that the law is fair, modern and clear
<p>We will:</p> <ul style="list-style-type: none"> • Make recommendations to UK and Welsh Government that improve current law. • Assist Government with the myriad of technical legal challenges associated with Brexit and support the Global Britain agenda. • Ensure that our recommendations are shaped by input from experts, interested stakeholders and members of the public. • Continue to identify future areas of law reform, working with relevant Government Departments to secure project references. • Ensure best law reform practice is shared across all teams and consistency of approach achieved wherever possible.
A forward looking organisation
<p>We will:</p> <ul style="list-style-type: none"> • Continue work to build relationships with Government and promote the strategic use of the Law Commission. • To be a more outward facing organisation, influencing opinion at home and abroad. • Continue to develop our communications function to help maximise the impact of our work and communicate the benefits of reform to members of the public.
A great place to work
<p>We will:</p> <ul style="list-style-type: none"> • Work with staff across the Law Commission to identify actions to improve the organisation, making use of the People Survey scores to support the action plan. • Develop a diversity policy which ensures that the Commission is able to draw on the widest possible pool of candidates for research assistant, lawyer, Commissioner and corporate roles. • Achieve professional excellence through expanding the learning and development programme to help support staff in developing themselves and their career.
Good corporate governance
<p>We will:</p> <ul style="list-style-type: none"> • Successfully appoint two new Commissioners and at least one Non-Executive Board Member, seamlessly integrating them into the organisation and fully utilising their skills and experiences. • Ensure that the Commission continues to deliver effectively and efficiently, underpinned by good corporate governance. • Continue to ensure that the Law Commission complies with its obligations under the General Data Protection Regulation (GDPR). • Ensure that the Commission is able to maintain a robust financial position.

Appendix D

Tailored Review recommendations

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

Appendix E

Targets for 2019–20 and 2020–21

2019–20

Target	Outcome
To publish reports on:	
Anti-Money Laundering	Published on 18 June 2019 (LC 384)
Electronic Signatures	Published on 4 September 2019 (LC 386)
Residential Leasehold – Options to Reduce the Price Payable	Published on 9 January 2020 (LC 387)
Simplification of the Immigration Rules	Published on 14 January 2020 (LC 388)
Electoral Law	Published on 16 March 2020 (LC 389)
Employment Law Hearing Structures	Published on 29 April 2020 (LC 390)
Search Warrants (Summer 2019)	Carried over to 2020–21
Misconduct in Public Office (Autumn 2019)	Carried over to 2020–21
Breaches of Protected Government Data (Autumn 2019)	Carried over to 2020–21
Insurable Interest (December 2019)	Carried over to 2020–21
Enfranchisement (late 2019 or early 2020)	Carried over to 2020–21
Commonhold (February 2020)	Carried over to 2020–21
Right to Manage (February 2020)	Carried over to 2020–21
To publish consultations on:	
Surrogacy	Published on 6 June 2019 (LCCP 244)
Automated Vehicles	Published on 16 October 2019 (LCCP 245)
Confiscation of the Proceeds of Crime (November 2019)	Carried over to 2020–21
Hate Crime (early 2020)	Carried over to 2020–21
Review of the Communications Offences (January 2020)	Carried over to 2020–21

2020–21

Target	
To publish reports on:	To publish consultations on:
Breaches of Protected Government Data	Automated Vehicles
Confiscation of the Proceeds of Crime	Confiscation of the Proceeds of Crime
Consumer Prepayments	Consumer Prepayments
Intermediated Securities	Devolved Tribunals in Wales
Misconduct in Public Office	Hate Crime
Non-Consensual Intimate Images	Non-Consensual Intimate Images
Residential Leasehold - Commonhold	Review of the Communications Offences
Residential Leasehold - Enfranchisement	Weddings
Residential Leasehold - Right to Manage	
Review of the Communications Offences	
Search Warrants	

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