

## Country Report

### ENGLAND AND WALES The Law Society of England and Wales

23 January 2023

This report provides a summary of key developments in the regulatory landscape of the services market in England & Wales over the past year, as set out below:

1. Brexit and International Trade
2. The Rule of Law
3. Access to Justice
4. Judicial Diversity
5. Diversity and Inclusion (D&I)

#### **1. Brexit and International Trade**

London is home to legal professionals from 100 jurisdictions and to 200 foreign law firms. They are an integral and valued part of our legal sector.

The Law Society is committed to ensuring that our jurisdiction remains open to EU lawyers and all foreign lawyers who wish to practise here. Lawyers from abroad are, and will continue to be, able to establish practises and firms in England and Wales, partner with solicitors, practise their home country law, international law, EU law, and English and Welsh law outside a small number of reserved activities.

Additionally, lawyers from abroad who wish to requalify in England and Wales can now sit the Solicitors Qualifying Examination (SQE) - the same exams taken by solicitors who qualify domestically.

The UK's exit from the European Union has brought about new challenges for UK lawyers practising in the EU, and for EU lawyers practising in the UK, since the EU Lawyers Directives no longer apply to the UK. We have been working closely with European bars and law societies, and will continue to cooperate to support lawyers and law firms in transitioning to this new reality. Our EU counterparts have provided excellent support to UK lawyers and law firms operating in their jurisdictions.

It is positive to see that the EU-UK Trade and Cooperation Agreement includes provisions which protect the ability of UK lawyers in certain EU member states, and EU lawyers in the UK, to practise under home title. We are working with governments, bars, and law societies to ensure these provisions are fully implemented.

Following the end of freedom of movement between the UK and the EU, we are also pushing for more transparency on the new rules that apply to UK and EU citizens travelling on business, as envisaged by the agreement.

## **2. The Rule of Law**

### **2.1. Bill of Rights Bill**

There is currently uncertainty about whether the Bill of Rights Bill will come back to the House of Commons. The Law Society of England and Wales has repeatedly called on the government to axe this legislation, as we believe that this Bill erodes accountability and signals a deepening of the government's disregard for the checks and balances that underpin the rule of law. It would create an acceptable class of human rights abuses in the UK by introducing a bar on claims deemed not to cause 'significant disadvantage', and overall would be a lurch backwards for British justice. The disregard for the rule of law that the government is signalling through this Bill risks inflicting serious harm on Britain's reputation with trade partners, business, and in the international arena.

### **2.2. Deportations to Rwanda**

Last year, the UK Government indicated its plans to begin deporting those seeking asylum in the UK to Rwanda. The High Court ruled in December 2022 that this policy was lawful, but importantly, said that the Home Office failed to consider the individual circumstances in the eight cases put before it, and these cases must now be reconsidered. This decision is likely to be taken to the Court of Appeal and therefore it may be some time before the matter is completely settled.

Whatever the outcome, we believe that it is absolutely vital that each case is properly considered on its facts, and that the government should always assess whether removing the individual would be in breach of their human rights. Affected individuals should also have proper access to a lawyer, that the specific facts of each case are scrupulously considered, and enough time is provided for people to challenge a removal, where appropriate. Our members will be watching carefully to see that access to justice and the rule of law are preserved in whatever steps the government takes next.

## **3. Access to Justice**

HM Courts and Tribunals Service (HMCTS) is entering the final stages of its court reform programme, which is scheduled to run until December 2023. We agree that a modernised court service would benefit all users, as long as this does not come at the expense of justice. The pandemic did lead to an acceleration of some of the ongoing programme, like the use of video hearings. Other parts of the programme were understandably paused to focus on the court recovery efforts. However, HMCTS has informed us that there is no intention to extend the end date of the programme, despite some projects not having yet been started.

We are concerned that this timeframe does not allow sufficient time for proper testing, evaluation and evidence that technology works and that there is a risk we can slip into digital as the 'norm', without establishing whether there is an impact on outcomes. This 'new normal' should not be accepted as a permanent way of accessing and upholding justice in the future unless careful monitoring, due process, and robust evaluation is carried out.

We continue to engage regularly at all levels to put forward the views of our members. The National Audit Office undertook a 'Value for Money' study last year on the progress of the programme, which we directly fed into. The report on the study is expected to be published in due course. We have also recently surveyed our members to help identify the key issues

regarding the physical infrastructure of the court estate, following which we [published a five-point plan](#) to tackle court backlogs in the jurisdiction.

#### **4. Judicial Diversity**

We are determined to advocate for greater diversity among our judiciary, and for the appointment of more solicitors to the bench in a variety of roles in courts and tribunals. We believe that increasing the number of solicitor judges could contribute towards both greater diversity and to a greater breadth of skills, professional experience and expertise among judges. Our Solicitor Judges Division has approximately 1,000 members, including aspiring, sitting, and retired judges.

We also provide support and development opportunities for members interested in the judiciary. We support the Judicial Diversity Forum's Pre-Application Judicial Education (PAJE) scheme, which is aimed at eligible lawyers from underrepresented groups. The scheme is led by judges and runs several times a year to allow lawyers to explore the realities of being a judge, and tackle any questions they have regarding barriers to a judicial career.

#### **5. Diversity and Inclusion (D&I)**

The Law Society is committed to creating a more modern, diverse, and inclusive profession. We do this by informing; guiding and convening; supporting and engaging; advocating and influencing; and leading by example.

In September 2022 we launched our D&I framework, which is a systematic approach for firms to develop and deliver a diversity and inclusion strategy. It is currently targeted at large and mid-sized firms but is relevant to all firms and in-house teams. It is designed to stop a 'rush to action', instead providing support for firms to take a strategic approach to D&I that creates lasting change.

In December 2022, we marked 100 years since the first woman, Carrie Morrison, was admitted to the roll of solicitors in 1922. From now until International Women's Day, we are celebrating and educating our members on the key players in history, woman solicitor's hopes for the next 100 years, and raising awareness on issues like flexible working and alternative career paths.

Following our 'Legally Disabled?' research, we are hosting roundtables with senior leaders and recruitment agencies to discuss issues that were highlighted in this work. During Disability History Month in November - December 2022, we profiled our disabled members and hosted a virtual networking event for them. We are also refining our guidance for disabled students and continuing our initiative to increase the amount of part-time training being offered in law firms.

We are also hosting roundtables to gain further insights into the experience of our Ethnic Minority members and LGBTQ+ members. The feedback from these events will help us develop case studies for how to make firms more inclusive.