



Country Report

ENGLAND AND WALES

The Law Society of England and Wales

The Law Society of England and Wales undertook a series of steps to adapt to the changing legal market and economic landscape in 2015. The issues identified are the following:

1. The future of legal services report
2. The future of regulation report
3. The EU report
4. The Bill of Rights

1. The future of legal services report

The report carried out by the Law Society brings together new and existing evidence to identify the five key drivers of change in the UK legal services market. The report examines where there are opportunities and challenges for legal professionals stemming from these drivers and the impacts they are expected to have on the market by 2020.

The five key drivers identified by the report are:

- **Global and national economic business environments.** While top UK and US firms have benefited from globalisation, large law firms from emerging markets are creating a meaningful presence in their own countries and western markets. In addition, foreign investors from countries such as China, Russia and India have significantly changed the global business landscape.
- **How clients buy legal services** (including in-house lawyer buyers as well as small and medium sized businesses and the public). Buyers of corporate legal services are wielding greater bargaining power, driven by greater access to information to compare the cost of legal services, ability and willingness to unbundle and source legal services from cost-effective providers and alternatives to law firms. Technology is exerting a significant effect on consumer buying behaviours across a range of sectors and purchase needs.
- **Technological and process innovation.** Automation of routine work is well underway and may plateau. We may now see technology fuelling innovative models of delivery or services solutions, including online dispute resolution.
- **New entrants and types of competition.** Three forces are likely to have an impact on UK firms' profitability over the next 3-5 years: changing buying behaviours, threat of substitute suppliers/services and increasingly rivalry among the Top 200 and large corporate firms

worldwide. The implications of the Big 4 accounting firms (PwC, Deloitte, EY and KMPG) offering legal services should not be underestimated.

- **Wider political agendas** around funding, regulation and the principles of access to justice.

Opportunities for lawyers (and other legal providers) arise with new and evolving client types and the services they need, including new ways to disaggregate and repackage current offerings. The number of niche firms will continue to grow as solicitors identify an opportunity to service a particular market more competitively than larger, more broad-based firms. Solicitors who can reach out to help consumers clearly understand their issues and options, and market themselves as such, should do well as more providers enter the market and confusion around choice grows. Risk, an ever increasing factor in business operations, is underserved by current market suppliers and presents opportunities for lawyers to offer dedicated services. Change is happening at an unprecedented speed and lawyers will need to be quick and act confidently to keep up with their competitors, be they peers or others. Having said that, the findings of the report suggest this is an exciting time for lawyers and their firms to revisit existing business and service delivery models and ways to revamp and reinvent their offerings and client relationships.

2. The future of regulation report

What is the issue?

There is currently great interest in the framework for legal services regulation in England & Wales. The Ministry of Justice plans to review the Legal Services Act before 2020, presumably in a manner that will reflect the government's deregulatory agenda. Separately, the government has announced that it will launch a consultation in Spring 2016 on removing barriers to entry for alternative business models in legal services, and on making legal service regulators independent from their representative bodies. The review aims to '*create a more balanced regulatory regime for England and Wales that encourages competition, making it easier for businesses such as supermarkets and estate agents among others, to offer legal services like conveyancing, probate and litigation*'.

The Competition and Markets Authority, whose role is to promote competition for the benefit of consumers, has also launched a market study into the supply of legal services to consumers and micro-businesses. The study will examine '*long-standing concerns about the affordability of legal services and standards of service*', and will investigate how regulation and the regulatory framework impact on competition for the supply of legal services. In relation to the latter, there is particular concern around the complexity of the current regulatory framework. The outputs of this study will inform the government review.

In light of these developments, there is likely to be significant change to the current regulatory structure which is centred around specific 'reserved activities' and involves multiple regulators. This is likely to impact on the Law Society's relationship with the Solicitors Regulation Authority.

What is the Law Society doing?

- The Law Society supports the creation of any proper evidential basis to support regulatory reform and supports any change that makes improvements without compromising consumer protection.
- The Law Society will be raising the issue of an unfair regulatory playing field, where solicitors are disadvantaged by overly burdensome regulation which does not service the public or meet business need, while unregulated competitors provide services to the public who may be unaware that they are not covered by the same protections required to be in place when doing business with a solicitor, on occasion being attracted by lower prices.

- The Law Society is interested in unpicking the role of regulators from that of professional bodies in terms of what the latter can do in relation to setting and upholding professional standards. The Society considers that the legal services market would be best served by a structure where the regulator sets minimum standards linked to reserved legal activities and the professional bodies award and remove professional title, based on quality standards set by the profession - this would have the benefit that standards are led and owned by the people who practise law.

3. The EU report

What is the issue?

The UK Prime Minister, David Cameron, is currently involved in negotiations with fellow EU Member States to reform aspects of the EU. There is a government commitment to hold an in/out referendum on the UK's membership of the EU by no later than the end of 2017, although many commentators believe it could be held later this year. If the UK's relationship with the rest of the European Union (EU) were to change as the result of significant renegotiations or the UK choosing to give up its membership, the effects would be felt throughout the legal profession.

What is the Law Society doing?

In advance of this, The Law Society of England and Wales has published a detailed report looking at the relationship and potential impact of changes from the perspective of the legal sector. The report is aimed at providing solicitor members with the opportunity both to assess what impact Brexit might have on their own area of legal practice and their firm as a whole, and to contribute to the wider debate.

The report covers:

- the impact on specific areas of law;
- the impact on the business of law and England and Wales as a legal services centre; and
- the impact of alternatives to membership of the EU if the UK were to leave.

Key findings are:

- the effect on the legal sector ultimately depends on the impact on clients.
- the effects of an EU exit on the financial services sector are likely to be far-reaching. This will affect those individuals and firms working with that client group.
- some areas of the UK would be seriously affected if there are changes to EU economic support for agriculture, business start-up or regeneration in their region. Wales is likely to be hard hit in this scenario with consequent effects for legal practitioners in the area unless the UK government were to replace the economic support by a grant or other means.
- under alternative relationships with the EU, such as that held by Norway, continued access to the internal market would require the UK to remain subscribed to the relevant EU legal framework, without a right to influence change in that framework; the UK would remain subject to rulings from the Court of Justice of the European Union and under some models would continue to contribute to the EU budget

If the referendum were to result in Brexit, there would be a period of negotiation in which to settle the terms of that withdrawal and to formulate a new relationship with other EU member states and with third parties. As in any other relationship breakdown, much would depend upon whether the split was amicable.

The Law Society also commissioned an independent economic modelling exercise which was conducted by Oxford Economics. The analysis suggests that in the longer term the legal services sector as a whole would be disproportionately disadvantaged by Brexit compared with the UK economy. The stronger negative effects on the sector would be due to its reliance on intermediate demand from other sectors likely to be adversely affected by Brexit, such as financial services. Researchers looked at three scenarios in the event of Brexit. In all three scenarios, economic output and employment in the legal services sector fall from baseline forecasts for growth over the period 2020 to 2030.

The Law Society of England and Wales will continue to follow negotiations and to engage in the debate as it moves forward.

4. The British Bill of Rights

What is the issue?

The UK Government have stated that they plan to repeal the Human Rights Act (HRA) and replace it with a Bill of Rights. This was a key element of the Conservative election manifesto and is being overseen by Dominic Raab, the Parliamentary Under Secretary of State for Justice.

Repeal of this fundamental act could have profound consequences for the future of human rights in the UK, and for Britain's engagement with Europe.

There is also a constitutional issue as human rights legislation was devolved to Scotland in the 1998 Scotland Act. There are similar provisions in the Northern Ireland Act of the same year, and the Government of Wales Act 2006.

Background

In October 2014, the UK Conservative party announced the detail of the proposals it would pursue in relation to the HRA, if elected in the general election of May 2015:

"Protecting fundamental human rights is a hallmark of a democratic society, and it is central to the values of the Conservative Party. However, the present position under the European Court of Human Rights and the Human Rights Act is not acceptable. The next Conservative Government will make fundamental changes to the way human rights laws work in the United Kingdom, to restore common sense and put Britain first".

In the Conservative party election manifesto the following pledge was made:

"We will reform human rights law and our legal system. We have stopped prisoners from having the vote, and have deported suspected terrorists such as Abu Qatada, despite all the problems created by Labour's human rights laws. We will scrap Labour's Human Rights Act and introduce a British Bill of Rights which will restore common sense to the application of human rights in the UK.

The Bill will remain faithful to the basic principles of human rights, which we signed up to in the original European Convention on Human Rights. It will protect basic rights, like the right to a fair trial, and the right to life, which are an essential part of a modern democratic society. But it will reverse the mission creep that has meant human rights law being used for more and more purposes, and often with little regard for the rights of wider society. Among other things the Bill will stop terrorists and other serious foreign criminals who pose a threat to our society from using spurious human rights arguments to prevent deportation."

What is the Law Society doing?

The Law Society has previously responded to the Government's consultation on the commission of the Bill of Rights where it stated that the Law Society supported the retention of the HRA. The policy position since the General Election is to protect the rights enshrined in the Act and to seek to enhance protections, if possible.

The Society has held events highlighting the importance of human rights and office holders have included this message both internationally and domestically in speeches and written articles.

Implications on solicitors

The protection and promotion of human rights 'for all' is a matter of public interest. Solicitors have a key role to play in ensuring that these protections and safeguards are maintained. There is a risk that the Bill may impose new duties, which could potentially affect legal professional privilege. Furthermore, there is a clear link between removing human rights protections and access to justice.