

Country Report

ENGLAND AND WALES The Law Society of England and Wales

This report provides a summary of key developments in the regulatory landscape of the legal services market in England & Wales in 2020 as set out below:

1. Response to Russia's invasion of Ukraine
2. Brexit and International Trade
3. The Solicitors Qualifying Exam
4. Court Modernisation
5. Judicial Diversity
6. Diversity & Inclusion

1. Response to Russia's invasion of Ukraine

The Law Society condemns the Russian Federation's illegal war on Ukraine. The Kremlin's actions are a grievous breach of international law and a direct threat to the rule of law.

We recognise that the legal profession has a key role to play in ensuring that designated individuals and entities comply with the sanctions regimes set up by the UK, EU, US and other countries, and we have taken and are continuing to take proactive steps to ensure the regime is implemented effectively.

Solicitors and law firms responded quickly and forcefully to the Russian Federation's violation of international law, which rightly reversed more than twenty years of Western engagement with the country. By mid-March, all the UK-headquartered large international law firms had either shut their Moscow and St. Petersburg offices or separated from them. An even larger group stated they would not do business with individuals and entities linked to Putin's regime, as doing so would be inconsistent with their values.

We have also striven to do all we can to support our counterparts in Ukraine. We have been in touch with representatives of the Ukrainian legal profession. Our members are involved in several initiatives to provide free legal advice to Ukrainians, such as Ukraine Advice Project UK and the Ukraine Justice Alliance.

2. Post-Brexit relations with the EU and international trade

Throughout 2021 and 2022, we have been working with our European counterparts, stakeholders, Government and members for the implementation of the EU-UK Trade and Cooperation Agreement (TCA), which regulates EU-UK relations following the end of the Brexit transition period on 31st December 2020.

Our cooperation with European Bar Associations and Law Societies has a key role to play to ensure that the European legal profession makes the most of the new EU-UK relations for the benefit of clients, citizens and society.

We are pleased that a full section of the TCA is devoted to legal services. Subject to national reservations, it sets out the general principle of allowing UK lawyers in the EU and EU lawyers in the UK to continue to practise under their home title and advise clients on home country law and public international law, as well as arbitration, conciliation and mediation.

We are keen that this section is implemented by both parties, and we welcome the fact that EU lawyers in England and Wales have retained all their key practising rights after Brexit.

UK and EU lawyers practising cross-border are also dealing with new challenges in their ability to travel to each others' markets to provide services, as the end of UK-EU freedom of movement means there are new, complex immigration and mobility rules.

Article 145 of the TCA commits the UK and the EU to be transparent on these rules. Full implementation of this article would benefit service providers from both parties.

We have also been working with the UK Government on priorities for legal services ahead of and during negotiations for free trade deals with Switzerland, Japan, Australia and New Zealand (the latter now awaiting ratification), as well as India, Canada and Mexico. We are working to ensure that when the UK Government sets out its visions for free trade agreements, it recognises the importance of services - and particularly legal services- as well as the opportunities that increased trade can provide.

3. A new route for international lawyers to requalify in England and Wales: The Solicitors Qualifying Exam

From 1 September 2021, lawyers from abroad who wish to requalify in England and Wales can sit the Solicitors Qualifying Examination (SQE) – the same exams taken by solicitors who qualify domestically.

The SQE has replaced the Qualified Lawyers Transfer Scheme (QLTS) and is open to candidates from all jurisdictions.

Introducing a single, final, centralised qualification exam has brought England and Wales in line with most other jurisdictions.

To requalify as solicitors, overseas lawyers need to complete two stages of assessment – SQE1 (consisting of two exams in multiple-choice question format) and SQE2 (a series of practical assessments of skills through written and oral examinations).

They can apply for exemptions from parts of the SQE on the basis of their prior qualifications and/or experience.

4. Court modernisation

We welcome modernisation of the courts provided the proposals are not driven by austerity measures (access to justice must remain at the heart of the programme) and technology is not implemented unless it has been tested, evaluated and proven to work. We are engaging regularly at all levels to put forward the views of our members. We have been consulted on prototypes of the online processes.

Some of the reforms will have a positive impact on access to justice where digitisation will make processes simpler and faster. However, there will be times when only face-to-face physical hearings will deliver justice.

It must be noted that technology has played a critical role in enabling practitioners and other court users to work safely throughout the pandemic. Remote hearings have been particularly suitable for administrative hearings and it makes sense for the option to be available long-term. However, the HMCTS evaluation of the use of remote hearings during the pandemic reflected concerns we have raised that in some scenarios they are unsuitable and can have a serious impact on access to justice and may not be suitable for vulnerable people. We have stated that HMCTS and the Ministry of Justice must continue to carefully collate and review data on the effect of remote hearings on court users and on justice outcomes.

5. Judicial Diversity

We are determined to advocate for greater judicial diversity overall, and for the appointment of more solicitors to the bench, in a variety of roles in courts and tribunals. We have recently called to make refinements to the judicial appointments process to ensure that a diverse cohort of applicants is translated to greater diversity of judicial selections. We believe that increasing the number of solicitor judges could contribute both to greater diversity and to a greater breadth of skills, professional experience and expertise amongst judges. We provide support and development opportunities to aspiring and sitting solicitor judges, including: career-enhancing events, materials and networking opportunities. Our support is offered primarily through our Solicitor Judges Division, which counts over 1,000 aspiring, sitting and retired solicitor judges.

We provide online information for members interested in the judiciary as well as targeted training sessions and expert seminars for key stakeholders to discuss the appointment process and judicial diversity, focusing on solicitor judges. Our 'Judicial Careers' and 'Solicitor Judges' webpages contain a range of resources, from guides on the available judicial roles in England and Wales, through to eligibility criteria, recommended preparation, advice from solicitors recently appointed to the bench, webinars, case studies, etc.

We support the judicial Diversity Forum's [Pre Application Judicial Education \(PAJE\)](#) scheme aimed at eligible lawyers from underrepresented groups – ethnic minority lawyers, women lawyers, lawyers with disabilities and/or solicitors and chartered legal executives and those from a non-litigation background including academics. The scheme runs several times a year, is led by judges, and enables lawyers to explore the realities of being a judge as well as any perceptions they may have of barriers to a judicial career. In addition to PAJE we also offer a workshop aimed at black, Asian and minority ethnic solicitors interested in becoming judges.

6. Diversity and Inclusion (D&I)

The Law Society is committed to creating a more modern, diverse and inclusive profession and continues to make that a priority theme in its activities.

Our key message is:

Whoever you are and whatever your background, we want you to have the opportunity to join and succeed in this rewarding and globally leading profession. From the high street to the high court, the legal profession must reflect the society it serves. The profession knows how important this is to ensuring future success and maintaining trust in English and Welsh justice – but it also knows progress is mixed and there is much more to do.

Social mobility and well-being in the profession have been two priority issues in the presidential plan.

Socio-economic diversity

In 2021, we evaluated our longstanding Diversity Access Scheme which has, over the last 16 years, helped over 250 participants through their legal qualifications by providing scholarships for exam fees, quality paid work experience, and mentoring. Candidates come

from low income households, 44% are ethnic minority and almost a third are disabled. The proven success of the scheme has meant we have managed to attract more sponsorship and are now able to offer 15 rather than 10 places a year this year.

We're also participating in a government-commissioned Taskforce on Socio-Economic Diversity which aims to increase socio-economic diversity at senior levels in financial and professional services. We've been hosting roundtables around England and Wales with the legal sector to feed into the Taskforce's consultation on what more needs to be done to progress socio-economic diversity by firms, professional bodies, regulators and government.

Well-being

We continue to support LawCare, the independent charity that the Law Society helped found 25 years ago this year, which provides mental health support to lawyers. Last year, it published its Life in the Law research which identified the high burnout risks of those working in the profession and the need for more supportive workplace cultures and better supervision. Our collaboration with LawCare has helped get the message out and open up the conversation around mental health. We have also drawn attention to the IBA's recent research on mental health.