

LAW SOCIETY OF SCOTLAND COUNTRY REPORT

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors and was established in 1949. We have an overarching objective of leading legal excellence, and strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. As part of our regulatory duties, we set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's legal profession.

The Law Society also has a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective legal profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through active engagement with the Scottish and United Kingdom governments, parliaments, wider stakeholders and our membership.

This year we delivered year two of the Society's interim two-year strategy which was developed in response to the Covid-19 pandemic. Projects include:

- Engaging with the Scottish Government's consultation on legal services regulation, working to ensure reform is considered a priority within the Scottish Parliament
- IT transformation and driving forward improvements to the technology infrastructure underpinning our work, enhancing performance, connectivity, security and resilience
- Lessening our impact on the environment by agreeing and implementing a new carbon management programme.
- Agreeing a new five-year strategy for 2022-27
- Launching a work-based route to qualification as a solicitor

For more information about our work, visit: www.lawscot.org.uk/about-us/strategy-reports-plans/

1. COVID and the legal profession

As with all of our European colleagues, 2020 was defined by the impact of the COVID-19 pandemic on the profession, our court system, businesses, families and society in general.

We have been working with partners in the Scottish legal sector and closely monitoring official advice and updates from Scottish Government and NHS to ensure that we are acting

in accordance with the latest guidance to protect the health, safety and wellbeing of our employees, members and stakeholders. We have produced guidance and practice updates examining the effects of the pandemic on various areas of work, as well as business support tools for members experiencing difficulties. We have also increased and tailored the support we offer through our [Lawscot Wellbeing](#) initiative.

Fortunately, the majority of private practice firms in Scotland appear to have overcome the negative economic impact of the Covid-19 pandemic. The Law Society of Scotland published the findings of its [third survey into the financial impact of coronavirus on Scottish private practice legal firms](#) in November 2021. This was undertaken 11 months on from the second survey, results show that staffing levels and workloads have largely returned to pre-pandemic levels for most firms and, in some instances, increased.

Key findings from the survey, which was conducted in September 2021, include:

- 95% of firms surveyed had no solicitors on furlough and 81% also had no support staff members left on furlough. This compares to 35% of all solicitors and 41% of all support staff being placed on furlough at the beginning of the pandemic.
- The pandemic has not significantly impacted firms' recruitment plans, with 59% of respondents saying they intend to keep their solicitor staff numbers at their existing levels over the next 12 months, while 24% of firms plan to increase their solicitor staff numbers in the next year. No firms said they would decrease solicitor staff.
- On trainee recruitment, almost two-thirds of firms said they do not plan to change their trainee numbers in the next 12 months, although a majority of these firms do not normally recruit trainees. This finding is consistent with our December 2020 survey. However, promisingly, almost one in five firms surveyed plan to increase their trainee recruitment next year.
- On staff wellbeing, almost two-thirds of all firms reported they had regular conversations with staff to help with any issues that may have arisen due to the pandemic, with almost one fifth saying they had a formal wellbeing strategy in place.

2. Legal Services Review

In our strategy, [Leading Legal Excellence](#) (2015-2020), we set out our ambition to secure a modern, flexible and enabling legislative framework.

Most of the legislation covering the operation and regulation of the legal market is over 35 years old. It is increasingly out of date and unfit for purpose. While some reforms were brought in 2007 and 2010, the whole framework can be confusing and, in some cases, contradictory. New legislation is needed to better protect consumers and allow the Scottish legal services market to thrive.

Independent review

An independent review of the regulation of legal services was announced in April 2017. Its purpose was to make independent recommendations to reform and modernise the framework for the regulation of legal services and complaints handling. Esther Robertson led the review and published her report [‘Fit for the Future - Report of the Independent Review of Legal Services Regulation in Scotland’](#) on 23 October 2018.

The report makes 40 recommendations, some of which reflect those we made to the Scottish Government and in response to the review's call for evidence in early 2018, such as restricting use of the term 'lawyer', regulation at entity level and the need for flexible, proportionate regulation. While we support several of the report's recommendations, we are strongly opposed to the principal recommendation for a new, single regulatory body.

You can read more in [our news release](#) commenting on the report.

Scottish Government consultation

On 1 October 2021, the Scottish Government launched its [Legal Services Regulation Reform in Scotland](#) consultation setting out three different regulatory models.

In our response to the Scottish Government consultation on legal services regulation reform we have strongly rejected the option of a new single regulator. While we believe there is an urgent need for change to improve aspects of the current regulatory system, we already have strong checks and balances within the existing structure of co-regulation which protect the public interest. We also highlighted the key risks presented by options one and two in the consultation, including the threat to the rule of law and independence of the legal profession, and the risk of increased costs to solicitors and their clients. We believe an 'option three plus' would address the key failings in the current regulatory system, particularly around the current complaints system which is cumbersome, complex and costs too much, while retaining those aspects which have proven to work well.

You can read our [news release](#) and our full [consultation response](#).

3. New CEO

The Law Society of Scotland a new CEO, Diane McGiffen, who succeeds Lorna Jack. Diane McGiffen has worked in senior roles at Audit Scotland for the last 20 years, most recently as

chief operating officer, where she has led on strategy, corporate plans, governance, risk and performance.

Ms McGiffen will start her new role 5 January, leading the Law Society team as it develops and delivers a new five-year strategy, supports a growing and record sized membership, and delivers robust regulation in the public interest.

Diane McGiffen said, "I am thrilled to be joining the Law Society of Scotland. As Chief Executive I want to help the Society further strengthen Scotland's proud tradition of legal excellence, embracing the challenges ahead. The Society is committed to acting in the public interest to protect and promote the rule of law; so as we recover from the impact of Covid-19, a strong, independent legal sector is essential to ensure access to justice and the protection and promotion of human rights. The Society is also committed to influencing the creation of a fairer and more just society. These are proud goals - and they matter now more than ever - so it will be a privilege to support the Law Society of Scotland's contribution to these key areas. I look forward to meeting with everyone involved in the Society's work."

4. Standing in Solidarity with Ukraine

We stand in support of Ukraine against the ongoing illegal invasion by Russian forces, and have encouraged the Scottish legal profession to take an active role in assisting Ukraine and its people where they have the skills, experience and capacity to do so. The Council of the Society swiftly passed the following resolution to enable

Resolution on Ukraine and international rule of law

The Council of the Law Society of Scotland:

1. condemns the ongoing illegal invasion of Ukraine by Russian forces.
2. considers the actions of Russia to represent an egregious breach of the rule of law and an unacceptable attack on democracy.
3. expresses its profound sympathy with the people of Ukraine and its solidarity with friends and colleagues in the Ukrainian Bar Association (UBA), and agrees for the President to write in those terms to Anna Ogrenchuk, President of the UBA.
4. supports the position of the UBA in calling on the United Nations to consider establishing a special international tribunal for Russian officials responsible for the conflict.
5. welcomes the statement from the Prosecutor of the International Criminal Court on their intention to open an investigation into events in Ukraine "as rapidly as

- possible" in respect to possible crimes against humanity and war crimes committed within Ukraine, as called for the Council of Bars and Law Societies of Europe.
6. recognises the important responsibilities of Scottish law firms to comply, in full, with the sanctions and other restrictions imposed on Russia and Belarus by the UK Government, and notes the work of the Law Society executive team to ensure those responsibilities are understood across the profession.
 7. supports the work of the education, training and qualifications team to review the requirements for any Ukrainian lawyers wishing to requalify into Scotland in light of the challenges currently being faced.

Requalifying in Scotland

Ukrainian lawyers who wish to requalify in Scotland can [sit the Qualified Lawyers Assessment](#).

We welcome applications from lawyers from Ukraine and are happy to discuss individual circumstances. Decisions on applications will be made on a case-by-case basis, using the available evidence. Where it is difficult to access certain required documents, alternative documentation can be used to support an application. We are considering what – if anything – we can waive to assist those coming to Scotland.

5. Not Proven

The Law Society of Scotland has stated its opposition to plans to abolish the not proven verdict in Scottish criminal cases, arguing that the change risks an increase in miscarriages of justice.

President of the Law Society of Scotland, Ken Dalling, said: “It is in the interests of every citizen that we have a fair, just and open criminal justice system for all those involved. Any systemic change must be justified, proportionate and implemented with great care. The not proven verdict has been an important part of our criminal justice system for centuries and its wholesale removal cannot be justified.

This reflects [the results of our 2021 third verdict research carried out across the legal profession](#).

[Find out more about the Scottish Government’s not proven verdict and related reforms consultation and read the Criminal Law Committee’s response](#).

6. COP26 and Climate Change



A [survey of our members towards the end of 2020](#), showed that climate change raises a number of issues for the legal profession.. The survey findings also highlighted that our members are interested in climate change issues for both personal and professional reasons, including advising clients or in-house teams on related matters. Following COP26, is considering the legacy for lawyers and the legal profession in Scotland.

In 2020 we established the [COP26 and Climate Change Working Group](#), which includes volunteers from across existing Law Society committees with varied policy interests including environment, energy, finance, planning, marine, employment and equalities, technology, and criminal law.

On the eve of the UN Climate Change Conference of the Parties 2021 (COP26) in Glasgow we jointly hosted an event on Lawyers and Climate. Alongside the other UK law societies the event brought together over 1,000 delegates - online and in person and was a stimulating day examining the role of the law and lawyers in tackling climate change.