

Country Report
ENGLAND AND WALES
The Law Society of England and Wales

This report provides a summary of key developments in the work and campaigning priorities of the Law Society of England and Wales, as set out below:

1. International Trade
2. Access to Justice
3. Artificial Intelligence
4. Climate Guidance
5. Professional Ethics

1. 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 all foreign lawyers. 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. This replaced the Qualified Lawyers Transfer Scheme (QLTS) from 1 September 2021 and provides a route for international lawyers looking to requalify, bringing England and Wales in line with most other jurisdictions across the world.

The Law Society has been working with India as its key priority jurisdiction for a number of years. We welcome the *'Rules for Registration and Regulation of Foreign Lawyers and Law firms'* in India announced by the Bar Council of India in March 2023. We aim to provide our best possible support through information exchange with our Indian counterparts to ensure these rules work to the benefit of the Indian and international legal profession and society. We are excited that the proposed UK-India Free Trade Agreement is ambitious and has the potential to unleash enormous benefits by doubling bilateral trade for both jurisdictions by 2030.

The Law Society welcomes the UK-Singapore Digital Economy Agreement (DEA) that came into force in 2022, deepening technological and digital trade between the UK and Singapore. This agreement is the first of its kind to include specific commitments on cooperation in technology in legal services (lawtech), an area in which the UK and Singapore are both world-leaders.

We are also positive about the UK-Malaysia bilateral trade relationship which benefits from the first ever Free Trade Agreement between the two countries through the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) which the UK signed in July 2023. The Law Society is on board the legal services working group of the UK Malaysia Joint Trade Committee which is led by the UK's Department for Business and Trade and its Ministry of Justice. The committee aims to resolve the legal services market access barriers amongst other priority areas and progress bilateral cooperation through the ministerial led Joint Economic Trade Committee (JETCO) dialogue between the two jurisdictions.

Under the Australia-UK Free Trade Agreement (A-UKFTA) which was ratified at the beginning of June, a Legal Services Regulatory Dialogue was created to provide a platform

for regulators and representative bodies in both countries to work together to further liberalise legal services trade and practice. We recently held the first preliminary Dialogue meeting with all UK and Australian legal participants, where we reiterated our desire to seek a clear and proportionate path to requalification for UK lawyers in Australia.

Meanwhile, as the UK negotiates new Free Trade Agreements with countries around the world, we are calling on negotiators to put legal and other professional services at the forefront of negotiations due to the economic importance of the sector, both in its own right and in its role as a facilitator of all international business transactions.

2. Access to Justice

2.1. Court Modernisation and Backlogs

The Law Society of England and Wales has been continuously highlighting the state of our court infrastructure. There have been years of underinvestment, leaving victims and defendants in limbo, and instead of improving, we are seeing the backlogs of outstanding cases in the magistrates' court and Crown Court continue to get worse.

The new government recently announced an independent review into the criminal courts, chaired by Sir Brian Leveson. The Ministry of Justice have said that 'no reform is off the table' in the review, and we are aware that they are considering intermediate courts and trials without juries. We are not convinced that these proposals will solve the backlogs, and that if the personnel, physical and financial resources are available, we believe they should be invested in the existing court structure immediately.

The backlogs are being made worse by disrepair issues in the courts. In January 2024, the Lady Chief Justice reported that around 100 courtrooms a week suffer from unplanned closures due to repair issues. Given the urgent need of physical court capacity, it is imperative that funding is made available to allow for timely and necessary repairs to prevent courts having to close. Additionally, we believe it is essential that regular data on the court estate is shared, to help transform the issue of court maintenance from a reactive to a proactive one. It could also allow the courts to improve their maintenance routines and allow the courts to continually improve and adapt to changing needs, while being cost efficient.

In June 2023 Parliament's Public Accounts Committee published a report¹ on HM Courts and Tribunals Service's progress and implementation of the court reform programme. The report and recommendations reinforced the points we made in our written evidence² and our five-point plan³ to fix the court backlogs, namely that rushed reforms add to the crisis in our courts rather than improving the justice system. We believe technology can drive efficiency in courts, however, rolling out unfinished or untested software drives delays and costs.

Additionally, new research⁴ by the Law Society has found that the government's digitisation of the court system is adding to the delays plaguing the civil court system and undermining people's access to justice. More than half of those surveyed do not believe the portals are efficient and effective in delivering justice. 62% of respondents reported delays in court proceedings as a result of the portals, which had emotionally impacted their clients. 34% reported increased costs have been passed on to clients.

¹ See: [PAC seriously concerned at Court Reform Programme's multiple delays and revisions - Committees - UK Parliament](#)

² See: [committees.parliament.uk/writtenevidence/119484/html/](#)

³ See: [Five steps to help fix chaos in our courts | The Law Society](#)

⁴ See: [Online court services: delivering a more efficient digital justice system](#)

We continue to call on the Government to invest in buildings and staff; properly fund legal aid; keep cases out of the courtroom; ensure court technology is reliable; and collect better data on the effectiveness of remote hearing and the experience of claimants who represent themselves.

2.2. Fixed Recoverable Costs and Diversion to Alternative Dispute Resolution

Fixed recoverable costs (FRCs) for winning parties in litigation has now been implemented in most civil cases valued up to £100,000 from October 2023. This is not something that the Law Society supports; it will particularly impact the vulnerable and less well-off, and the data surrounding this regime is based on 2019 figures, making it less likely that FRCs are set at appropriate levels. While the Law Society has had a lobbying success in deferring the implementation of FRCs for housing cases until at least October 2025, the Government needs to go further and consider scrapping the implementation altogether.

Furthermore, the Government is considering several options which will seek to keep civil cases out of the courts by requiring the parties to pursue alternative means of resolving a dispute. While Alternative Dispute Resolution (ADR) is not new, and litigation should usually be seen as the last resort, the Government has now implemented changes to make engaging in ADR mandatory for most small claims, with a view to broadening the scope to higher value and more complex claims at a later date. The Law Society is generally supportive of parties attempting to resolving their dispute outside of court, but has real concerns that access to justice could be denied for some people or businesses if they are forced into ADR.

2.3. Criminal Legal Aid

The Law Society of England and Wales have recently celebrated a long-awaited increase in criminal legal aid rates of pay. This follows a judicial review, brought by the Law Society, against the government for failing to implement the full 15% rate increase called for in an independent review of criminal legal aid commissioned by the government in 2021. The Ministry of Justice have since announced a rate increase of 12%, which comes on top of a 12% rate increase that was already secured.

While this is a welcome step, years of inflation since the initial review means that further progress is needed to deliver a sustainable future for the criminal justice system in England and Wales. Alongside this, we have continued to engage with the 'Criminal Legal Aid Advisory Board' which aims to find an acceptable approach to restructuring the fee schemes.

2.4. Civil Legal Aid

Likewise, in civil legal aid, the government announced £20 million a year investment for immigration and housing cases. This will increase rates by at least 10% and in a few instances by up to 40%, this is the first time that fees have increased for civil legal aid providers since 1996. Research by Frontier Economics, commissioned by the Law Society, strongly influenced this positive move by government.

The previous government started a review of civil legal aid, and we are urging the government to continue the review process and provide a timetable for further investment in the system.

Recent figures show that 42% of people in England and Wales do not have access to a local legal aid provider for housing advice, and 84% do not have access to a local welfare benefits legal aid provider. Without adequate legal advice services, more people and families could be made homeless, fall further into debt, or be left without the welfare benefits they need.

3. Artificial Intelligence

Artificial intelligence and other emerging technologies are changing the legal services sector. We are staying up to date this evolving area to fully understand how this will affect the profession. In November 2023 we published our guidance on 'Generative AI - The Essentials', which provides an overview of the opportunities and risks the legal profession should be aware of to make more informed decisions when deciding whether and how generative AI technologies might be used. This was updated in August 2024 to reflect changes to the regulatory and policy landscape on AI and the legal sector.

We have developed a dedicated AI and Lawtech Hub, to consolidate our AI and technology resources and guidance documents, as well as our Law Society AI Strategy, published in September 2024. Our AI Strategy is member-facing and guides our AI work as led by the three long-term outcomes we wish to see for the legal profession:

1. innovation: AI is used across the legal sector in ways that benefit both firms and clients in legal service delivery
2. impact: there is an effective AI regulatory landscape that has been informed and influenced by the legal sector
3. integrity: the responsible and ethical use of AI has been used to support the rule of law and access to justice

To play to our unique role in delivering our AI strategy, a summary of our recent and planned activities include:

- Senior leadership presentations and panels on AI, including the All-Party Parliamentary Group on AI, hosting an AI dinner for the Master of the Rolls, Legal Geek Growth, Nigerian Bar conference and IBA in Mexico.
- Engagement with cross-cutting AI issues such as the Government's policy position, education and training, contempt of court and technology, and the digital justice system
- Foresight research to highlight new trends that may influence the legal sector; contributing as industry partners to academic research projects; insights survey to understand member attitudes towards AI.
- Commercial research to identify key solutions AI providers and engagement with those providers across different areas of legal service delivery.

4. Climate Guidance

The Law Society launched its own climate change guidance in April 2023. We believe this to be the first guidance of its kind for the solicitors' profession anywhere in the world.

The guidance has been drafted to provide guidance to the entire legal profession to understand where the impacts of climate change may affect their practice and/or their clients and to offer some guidance in terms of appropriate response. Consequently, this guidance covers a range of issues and does so intentionally as the effects of climate change are wide-ranging and constantly evolving. It also recognises that as a result, a solicitor's response will be context dependent and will vary for practitioners in differing roles, who are to apply the guidance to their own circumstances.

The Law Society has also developed supplementary pieces of guidance to support consideration of climate risks and opportunities in different practice areas, such as climate risk governance.

This year, the Law Society will be publishing a practice note on climate risk and property which was identified as a fast-changing key area which required member support.

5. Professional Ethics

The Law Society continues to support the solicitor's profession in working towards the highest possible ethical standards, which should in turn be underpinned by a robust regulatory framework.

The recent Post Office Horizon IT Inquiry made it clear that the scandal constitutes a threat to public perception of the rule of law and access to justice, and the reputation of the profession. In response to the Inquiry evidence, we consider it important to respond effectively to the anticipated findings of the Inquiry and take the lead in supporting the profession to learn the relevant lessons that led to such a significant miscarriage of justice.

During the scoping research for our three-year programme of work on ethics, Changing Ethical Landscapes, the in-house community were identified as facing unique ethical challenges stemming from the in-house solicitor occupying a dual role as both legal and business advisor, and therefore requires additional bespoke support. We are developing an in-house solicitor ethics framework as a part of the programme, which will aim to support and reinforce professional ethics for the in-house community.

The framework is in the final stages of development and will be launched in late February/early March 2025.