



The Law  
Society

# Our vision for law and justice

2019



## Foreword

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The Law Society of England and Wales represents 190,000 solicitors at home and overseas. We have a public interest role in upholding the rule of law and achieving access to justice for all.

Our membership includes some of the top law firms in the world, with over 200 international firms based in the UK, as well as thousands of small and medium-sized firms based across every region of England and Wales, helping to deliver access to justice and support local economies.

Our law firms generate huge economic benefits:

- UK legal services contributed over £27.9 billion to the UK economy in 2018.
- Every £1 spent on legal services supports £1.39 in spending across the wider economy.
- The sector contributes £4 billion to net exports.
- 380,000 people are employed by the UK legal services sector.

Together with a highly respected and independent judiciary and a top quality Bar we combine to make the UK the jurisdiction of choice for the resolution of international disputes.

Our members also fight the corner of some of the most vulnerable in society, including those struggling with mental health issues or personal hardship.

Meanwhile we are helping the profession to adopt new technologies to increase efficiency, lower costs and facilitate access to justice, without prejudicing the digitally disadvantaged.

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**380K** PEOPLE EMPLOYED BY UK LEGAL SERVICES SECTOR

As the country prepares for a general election, we call on the next government to:

- Fix our broken criminal justice system
- Make the legal system accessible to all
- Maintain the attractiveness of the UK as a global legal centre and jurisdiction of choice post-Brexit
- Ensure the UK leads the way on new technology.



**Simon Davis**  
President



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DELIVERED **£592**  
PRO-BONO WORK WORTH **MILLION**

WOMEN MAKE UP **50.8%** OF PRACTISING SOLICITORS | **16.5%** BAME REPRESENTATION

## Fix our broken criminal justice system

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The criminal justice system is facing a crisis following years of underinvestment and neglect. Current problems include a growing shortage of duty solicitors and independent experts, court closures, barriers to accessing legal aid, and crucial evidence not being disclosed in court until the last minute. A well-functioning criminal justice system is crucial to ensure victims of crime get justice, those accused of a crime are given a fair trial and public funds are used efficiently.

Data published by the Law Society highlights that in five to ten years' time there will be insufficient criminal duty solicitors in many regions of the country, leaving people accused of crimes and in need of urgent legal advice unable to enforce their rights. One of the prime reasons for the growing shortage is the low fees paid to criminal duty solicitors, which have not been increased since the 1990s.

The legal aid means test is preventing many people on low incomes, and even some families in poverty, from accessing the legal advice they need when attending court. Meanwhile court closures have caused trials to be delayed and forced victims, witnesses and defendants to make long and expensive journeys to their nearest court.

Our justice system has long been respected around the world, thanks to the strength of our law, our world-renowned judges, our high-quality legal profession, and our commitment to the rule of law. The poor functioning of our criminal justice system, however, is posing a serious threat to our international reputation.

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SOLICITORS**  
IN MANY REGIONS OF THE COUNTRY

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## We call on the next government to:

- **Conduct an independent economic review of the long-term viability of the criminal legal aid system.** The next government should raise criminal legal aid fees in real terms, and guarantee that there will be no future real terms cuts to remuneration.
- **Raise the upper limit of the criminal legal aid means test** to the level at which higher rate income tax is paid, and conduct a review to consider what further changes to the means test criteria are required.
- **Ensure that no more courts are closed** until replacement technologies have been fully tested and evaluated, to avoid leaving areas without access to local justice infrastructure.

## Ensure access to justice for all

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Access to justice is a fundamental principle that underpins British values and the rule of law. Effective access to justice means ensuring that vulnerable people are able to use the legal system when they face serious problems in their lives, whether that be conflict at work, an issue with a landlord or difficulty in their family life.

In England and Wales people face significant barriers to accessing justice. Stringent means testing for legal aid has left many people – even some living below the poverty line – ineligible for legal aid and unable to resolve their legal problems through the courts. For example, someone earning just above £12,475 a year could be deemed ineligible for fully funded legal aid and may have to pay significant contributions towards their legal costs.

The lack of legal aid for early advice from a lawyer leads to many cases escalating unnecessarily, putting strain on courts and the wider justice system as well as driving up costs. Our research shows that the average cost of a day in court is £2,692. Much of this sum could be saved by improving access to early advice. We encourage the next government to continue the pilot of early advice for social welfare and to consider extending this pilot to other areas of the law.

Human rights legislation meanwhile protects fundamental rights and ensures that people are able to seek redress through the courts when these rights have been breached. As such it is one of the cornerstones of the right to access justice and a key component of the rule of law. The next government must commit to retaining and enhancing its existing human rights obligations.

AVERAGE  
COST OF  
ONE DAY  
IN COURT 

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£2,692

## We call on the next government to:

- **Reinstate legal aid for early advice** from a solicitor in housing and family law. This will help prevent cases escalating unnecessarily and allow them to be resolved sooner.
- **Increase the civil legal aid means test income and capital thresholds** to ensure that more people can access legal aid, and remove the capital test for those on income related benefits.
- **Commit to increasing civil legal aid fees** in line with inflation and commission an independent review of the sustainability of the civil legal aid system, with a particular focus on the economic viability of service providers, local need and demand.
- **Introduce automatic legal aid for inquests** for families to access specialist legal representation following a state-related death.
- **End the questioning of survivors of domestic violence** by their alleged abusers in the family courts.
- **Retain the full scope of the Human Rights Act**, or ensure that all rights currently enshrined in UK law are protected and enhanced. These rights should apply to all equally and the next government should not seek to derogate from any of its existing human rights obligations except in limited circumstances as permitted by law.
- **Open a dialogue with the Welsh Government** with a view to exploring options for implementing the recommendations of the Commission on Justice in Wales.

## Maintain the attractiveness of the UK as a global legal centre post-Brexit

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After the UK leaves the European Union, the law of England and Wales will retain many of the advantages that make it attractive to international businesses, including its predictability, transparency and stability. However, preserving the legal sector's strong economic contribution to UK plc will require close co-operation with the EU and the continued ability of UK lawyers to practise, establish and provide temporary services on the Continent.

Currently, UK lawyers and law firms can have a temporary or permanent presence in other EU and EFTA member states. Unless alternative arrangements are agreed, after Brexit UK lawyers and law firms could fall back to operating under 31 different national regulatory systems across the EU and EFTA which would impact their ability to represent their clients effectively.

After Brexit people and companies will continue to live, travel, and conduct business across borders, and so maintaining co-operation on judicial matters with our European neighbours should be a priority during negotiations over Britain's future relationship with the EU.

Co-operation in civil justice helps consumers, families and businesses to resolve cross-border disputes easily – for example by facilitating prompt redress for businesses whose continental partners have been found in breach of contract, or swiftly returning

a child who has been abducted and taken across national borders.

Non-EU trade is also crucially important for lawyers and their clients. As an enabling sector for international trade, the next government should seek to negotiate legal services chapters in new free trade agreements with non-EU countries and support efforts to liberalise markets in other jurisdictions.

One of the reasons for the UK's reputation as a global legal centre is the strength of its legal profession. With the method of qualification for solicitors in England and Wales set to change from 2021, there is a risk that some will not be able to afford the costs of sitting the Solicitors Qualification Exam. It is essential to ensure that aspiring solicitors do not face financial barriers to entry to the profession so as to enhance social mobility and ensure that UK legal services remain able to attract the very best talent.



## We call on the next government to:

- **Ensure we have a deal and therefore avoid a ‘no deal’ Brexit** as this will cause damage to the legal services sector, the wider economy and the rule of law.
- **Secure a future relationship with the EU that allows lawyers to continue to practise law** and base themselves in the EU on both a temporary and a permanent basis, appear before EU courts, and ensure legal professional privilege for their clients. We believe the best way this can be achieved is through an Association Agreement.
- **Ensure close and comprehensive post-Brexit arrangements with the EU on civil judicial co-operation** including by applying to join the Lugano Convention as soon as possible. This should also be taken as a step to prepare for a no deal Brexit.
- **Ensure that legal services are prioritised in future trade deals with non-EU countries.** The next government should push for liberalisation in other key markets for legal services, including the United States, Brazil and India.
- **Make loans available for aspiring solicitors seeking to take the new Solicitors Qualifying Examination** from 2021 so that they are able to afford the costs of preparing for and taking the exam, regardless of their own financial means.

## Lead the way on new technology

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Legal services are being, and will continue to be, transformed by technology. The global market in legal technology, or lawtech, is rapidly growing and is valued at \$15.9bn.

The Law Society's economic analysis of the lawtech sector has found that faster adoption of new lawtech will reduce the cost of legal services to UK business users by £350 million by 2030, and could increase productivity growth in the legal sector from 1.3% per year to 2.7% per year.

A technologically empowered legal services sector can act as an enabler for businesses across all sectors of the economy, improving productivity, driving wealth generation and enabling UK business to be more competitive internationally.

Technology can also play a key role in widening access to legal advice. However, technology is not a silver bullet: the success of

technology-based initiatives for improving access to justice will rely on users' ability to access legal advice directly from a qualified lawyer, and as such technology can never be a replacement for legal aid. Nevertheless the next government can ensure that technology is used to improve access to the justice system by ensuring that innovation is directed towards addressing the needs of users of the system.

Meanwhile, with the use of algorithms in the criminal justice system increasing, it is important that a legal and ethical framework is established to govern their use and ensure that there are no adverse impacts on users of the system.

Faster adoption of new lawtech could increase productivity growth in the legal sector from 1.3% per year to 2.7% per year

## We call on the next government to:

- **Adopt the LawTech Delivery Panel's definition of lawtech** as *'technologies which aim to support, supplement or replace traditional methods for delivering legal services, or which improve the operation of the justice system'*. Doing so will ensure that lawtech is recognised as a distinct sector for the purposes of investment, development and procurement.
- **Provide tax incentives for the adoption of lawtech** amongst law firms, such as research and development tax credits and capital allowances.
- **Improve the accessibility of legal data** for lawtech firms, for example by establishing a legal data trust.
- **Create an Access to Justice Centre** to act as a convenor for the access to justice community and facilitate the sharing of resources and best practice.
- **Invest in the digital connectivity and infrastructure needed** to ensure that all regions are able to take advantage of technological solutions to improve access to justice.
- **Develop and adopt a list of access to justice problem statements** and agreed solutions to inform the terms of reference for the Ministry of Justice's innovation fund.
- **Develop a public register of algorithms in use in the criminal justice system and a mandatory code of practice for public bodies using such algorithms.**



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