



## LAW COMMISSION OF ENGLAND AND WALES

### 14<sup>TH</sup> PROGRAMME OF LAW REFORM

#### Overview

Dear consultee,

Thank you for your interest in the Law Commission and our 14<sup>th</sup> Programme of Law Reform. Your contribution will help to shape law reform priorities for the next three to four years.

The Law Commission carries out law reform projects with the aim of making the law fair, modern, simple and cost-effective. The purpose of this consultation is to establish what new areas of law we should review in our next programme. To do this we are asking you to tell us where you think the law is failing to work properly.

We want to hear about your ideas for reform. We have suggested a number of themes and some specific ideas for potential individual projects where we are keen to make the case for reform and therefore welcome comments. [Our suggested themes for law reform are available here](#) and [our specific suggestions for reform are available here](#). But please do not worry if your idea for law reform is not mentioned or does not fit any particular theme; we still want to hear from you and we are not limiting ourselves to the areas that we have outlined or to any particular theme.

Not every project suggested to us as a candidate for reform can be taken forward. It is therefore important those making suggestions complete this questionnaire as fully as possible. Your submission will be a vital part of making the case for reform. This is essential as we can only take on projects that are supported by Government. It will help you shape your suggestions if you familiarise yourself with the criteria which sets out the type of work the Commission is likely to undertake. [Information about the criteria is available here](#).

Not all types of legal reform are suitable for the Law Commission. We cannot for example provide solutions to problems where the underlying issues relate to the allocation of government funding. We are resolutely non-political and do not get involved in issues which are essentially political in nature, for example abortion or capital punishment, or issues of established Government policy such as taxation. We do not consider problems that relate to a particular individual's experience of the law as opposed to a more general problem. We also cannot work on issues that arise only in Scotland or Northern Ireland.

It is worth noting that a number of projects which we have not yet commenced from the 13<sup>th</sup> Programme will roll over into the 14<sup>th</sup> Programme and so we do not require submissions for these projects. [Details about 13<sup>th</sup> Programme projects not yet commenced are available here](#).

#### What happens next?

Your submission will automatically be logged into our 14<sup>th</sup> Programme database and you will receive an automatic email confirming receipt. We are a small organisation and typically our

consultations on possible reform issues can generate thousands of responses. Unfortunately, we are unable to reply personally to all submissions or to provide individual updates on the consideration of proposals. Nonetheless you can be assured that we value all suggestions and consider them very carefully.

All suggestions are analysed thoroughly as we start the process of refining the suggestions and progress towards the new Programme being finalised and approved by the Lord Chancellor.

An approximate timetable is:

- Consultation period: 24 March to 31 July 2021
- Analysis of responses, research and consultation with Government: mid-2021 to early 2022
- Subject to the Lord Chancellor's approval, publish the final Programme during the first half of 2022.

We will post updates on progress on our website and may, if required, contact you for further information as we put our Programme together.

## **CONSULTATION QUESTIONS**

### **Section 1: About You**

- (1) **What is your name?**
- (2) **What is your address?**
- (3) **What is your email address?**
- (4) **What is your telephone number?**
- (5) **Are you responding to this consultation in a personal capacity or on behalf of your organisation?**

### **Section 2: Your idea for reform**

*Please use this questionnaire to tell us where you think there is a significant problem with the law. We want to know what you think is wrong and what practical problems arise. Please give us as much information as you can, even if you cannot answer all the questions.*

- (6) **In general terms, what is the problem that requires reform?**
- (7) **Can you give us an example of what happens in practice?**

*For example, if you are a solicitor or barrister, you might describe how the problem affects your clients.*

- (8) **To which area(s) of the law does the problem relate?**

*We will be looking into the existing law that relates to the problem you have described. Please tell us about any court/tribunal cases, legislation, books or journal articles that relate to this problem. You may be able to tell us the name of the particular Act or case that relates to the problem.*

**(9) Can you give us information about how the problem is approached in other legal systems?**

*You might have some information about how overseas legislatures have responded or how the court or tribunals approach the problem.*

**(10) Within the United Kingdom, does the problem occur in any or all of England, Wales, Scotland or Northern Ireland?**

**(11) What do you think needs to be done to resolve the problem?**

**(12) What is the scale of the problem?**

*This might include information about the number of people affected this year or the number of cases which were heard in a court or tribunal over a particular period.*

**(13) What would be the positive impacts of reform?**

*Benefits derived from law reform can include:*

- (i) modernisation, for example, supporting and facilitating technological and digital development;*
- (ii) economic, for example, reducing costs or generating funds;*
- (iii) fairness, for example, supporting individual and social justice;*
- (iv) improving the efficiency and/or simplicity of the law, for example, ensuring the law is clearly drafted and coherent to those who need to use it;*
- (v) supporting the rule of law, for example, ensuring that the law is transparent;*
- (vi) improving access to justice, for example, ensuring procedures do not unnecessarily add to complexity or cost.*

*By way of example, when considering economic benefit, if the problem is one which must usually be resolved in court, court fees might be payable; this money might be saved if the problem was reformed. If it involves consulting a solicitor or barrister, legal costs might be relevant. Or, if the problem was one which caused significant costs to businesses, you might be able to tell us how much time or money businesses would save.*

*When seeking to address wider societal benefit, we are interested to hear your assessment of non-economic benefits. For example, will individuals have greater*

*access to justice, will the reputation of legal services be enhanced, or will reform offer greater protection to victims of crime?*

- (14) If this area of the law is reformed, can you identify what the costs or other negative impacts of reform might be?**

*The costs of reform might include, for example, increased administrative burden falling on business as a result of new regulatory requirements, or the costs and maintenance of creating a new oversight body. Non-economic costs might include reducing access to justice or unnecessarily increasing the regulatory burden on business.*

- (15) Does the problem adversely impact equality, diversity and inclusion by affecting certain groups in society, or particular areas of the country, more than others? If so, what are those groups or areas?**

*As an example, if the law relates to criminal justice, existing problems might be more likely to have a disproportionate impact on BAME communities. Or, if the law relates to agricultural land, it might affect farmers and their families more than the general population.*

- (16) In your view, why is the independent, non-political, Law Commission the appropriate body to undertake this work, as opposed to, for example, a Government department, Parliamentary committee, or a non-Governmental organisation?**

- (17) Have you been in touch with any part of the Government (either central or local) about this problem? What did they say?**

- (18) Is any other organisation such as the Government or a non-Governmental group currently considering this problem? Have they considered it recently?**

*If so, please give us the details of their investigation on this issue, and why you think the Law Commission should also look into the problem.*