



Dear consultee

The Law Commission carries out law reform projects with the aim of making the law fair, simple, clear and cost-effective.

We are currently consulting on what new areas of law should be addressed in our next programme of law reform. To do this, we are asking: where is the law failing to work properly? 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. If we need to know more, we may contact you.

What types of problem will we investigate?

Not all legal reform is suitable for the Law Commission. Please tell us about a problem only if it relates to the law and is:

- causing **substantial unfairness**, or
- **widely discriminatory** or **disproportionately costly**, or
- caused by laws or policies that are **complex** and **hard to understand** or
- caused by laws or policies being **out of step with modern standards**.

Please also tell us if you think it would be beneficial to bring together (consolidate) a number of statutes that all deal with the same area of law into a single new Act. That might just require the relevant legislation to be redrafted or might involve reform of some of the underlying law. Proposals for consolidation that do not involve substantial law reform will be considered separately from the law reform programme, but we are happy to receive suggestions for such work as part of this consultation.

Our law reform programme will not include subjects where the considerations are shaped primarily by political judgements (for example, abortion, immigration, membership of the EU, the Human Rights Act, capital punishment, decriminalisation of drug use) or issues of established Government policy, such as taxation. We will not consider problems that relate only to a particular individual's experience of the law as opposed to a more general problem. We do not work on issues that arise only in Scotland or Northern Ireland.

How we make decisions

When considering a potential law reform project, we are guided by our Protocol with Government (see http://lawcommission.justice.gov.uk/docs/Protocol_Lord_Chancellor_and_Law_Commission.pdf) which is intended to ensure that our recommendations have the best possible chance of becoming law. Some key points that we will look at when considering a project are:

- How **important** is the project: to what extent is the law unsatisfactory (eg, unfair, unduly complex, inaccessible or out of date)? What are the potential benefits of reform?
- Is the independent, non-political Commission the most **suitable** body to conduct the project?

- Are the necessary **resources** (for example, sufficient relevant experience, project-specific funding) available to enable us to carry out the project effectively?
- Would the project require involvement from the Welsh Government and/or the Scottish or Northern Ireland Law Commissions?

We will also assess whether there is likely to be Government support for a project. In order for a project to form part of our programme, a Government department must confirm that it has a “serious intention” to take forward law reform in that area. If Government does not seriously intend to see the law reformed there is no realistic prospect of any recommendations we make becoming law.

What happens next?

We will review all responses before drawing up a list of potential projects, where appropriate working with the relevant Government departments. As set out in the Law Commissions Act 1965, the Lord Chancellor will decide the final contents of the Twelfth Programme. We expect this to be during 2014.

We are likely to receive a large number of responses but can only accept a small number of projects for the Twelfth Programme; for our Eleventh Programme we received over 200 responses, which led to 14 new projects. We understand you may be disappointed if your proposal is not taken forward but please be assured we are grateful for your contribution. If you have any questions about the consultation process, please contact us on 020 3334 0252 or via programme@lawcommission.gsi.gov.uk.

Kind regards

The Law Commission

Please send us your response no later than

Thursday 31 October 2013.

Twelfth Programme of Law Reform consultation response

Please answer as many of these questions as you can, as fully as you can. If necessary, continue on additional sheets. Please also indicate where you are not able to provide an answer.

Please tell us about yourself:

Name:

Address:

Email:

Tel:

(Please tick one or more box)

Member of the public ☐

Third sector/voluntary sector ☐

Commercial sector/business ☐

Nature of third sector/business organisation:

Practising lawyer ☐

Academic ☐

Specialist area:

Specialist area:

Member of the judiciary ☐

Government official ☐

Court or tribunal:

Department:

Local authority staff member ☐

Parliamentarian ☐

Other (please state):

Consultation Principles: The Law Commission follows the Consultation Principles set out by the Cabinet Office, which provide guidance on type and scale of consultation, duration, timing, accessibility and transparency. The Principles are available on the Cabinet Office website at:

<https://update.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>.

We treat all responses as public documents in accordance with the **Freedom of Information Act** and we may include the names of respondents and attribute comments in any publication relating to this consultation. If you want your submission to remain confidential, you should contact us before sending your response. (Please note that we disregard automatic IT-generated confidentiality statements.)

1. In general terms, what is the problem that requires reform?

2. Can you give 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.

3. To which area(s) of the law does the problem relate (please tick one or more box)?

- | | | | |
|------------------------------|--------------------------|----------------------------|--------------------------|
| Administrative or public law | <input type="checkbox"/> | Criminal law | <input type="checkbox"/> |
| Property or land law | <input type="checkbox"/> | Family law | <input type="checkbox"/> |
| Trusts and wills | <input type="checkbox"/> | Commercial or contract law | <input type="checkbox"/> |
| Consumer law | <input type="checkbox"/> | Regulatory law | <input type="checkbox"/> |
| Planning and environment | <input type="checkbox"/> | Don't know | <input type="checkbox"/> |
| Other (please state): | | | |

- 4. 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 or journal articles that relate to this problem.**

You may be able to tell us the name of the particular Act or a case that relates to the problem.

- 5. Can you give us information about how the problem is approached in other legal systems?**

You might have some information about how overseas courts or tribunals approach the problem.

- 6. Within the United Kingdom, does the problem occur in any or all of England, Wales, Scotland or Northern Ireland?**

7. What do you think needs to be done to solve the problem?

8. 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.

9. What would be the benefits of reform? In particular, can you identify any:

- **economic benefits (costs of the problem that would be saved by reform); or**
- **other benefits, such as societal or environmental benefits?**

For example, 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.

10. If this area of the law is reformed, can you identify what the costs of reform might be?

The costs of reform might include, for example, the cost of the legal profession and judiciary undertaking training to learn about a new statute.

11. Does the problem affect 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 agricultural land, it might affect farmers and their families more than the general population.

12. In your view, why is the Law Commission the appropriate body to undertake this work, as opposed to, for example, a Government department, Parliamentary committee, or a non-Governmental organisation?

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

14. 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 of this issue, and why you think the Law Commission should also look into the problem.

Thank you for your response.

Please send it to us by **Thursday 31 October 2013.**

Send to: Twelfth Programme Project Officer
Law Commission
Steel House
11 Tothill Street
London SW1H 9LJ
Tel: 020 3334 0252
Email: programme@lawcommission.gsi.gov.uk
Fax: 020 3334 0201