

**Subject:** President's Update 25.1.2021



Dear colleague,

### **Your weekly Law Society update**

As the professional body for solicitors, every week the Law Society is working hard to influence the legal and regulatory environment on behalf of our profession and to promote solicitors at home and abroad. We support practice excellence, are an informed source of legal sector news and support members at every stage of their career.

### **My LS**

Please register with [My LS](#) to see content tailored to your practice and interests. Registering will also help you understand the benefit to your constituents.

### **Find a Solicitor Service**

Whilst the Law Society is not able to give legal advice, if you have a client who needs advice in a practice area other than your own, our Find a Solicitor service is available so they can identify a legal professional who can help. They can use the service by visiting [solicitors.lawsociety.org.uk](https://solicitors.lawsociety.org.uk) or by calling [020 7320 5650](tel:02073205650).

### **We have been in the media this week to promote the role and value of the profession in these difficult times**

The [Telegraph](#) (£), [Independent](#), [Daily Mail](#), [Evening Standard](#), [BBC](#), [Sunday Times](#) (£), [Gazette](#) and 99 regional papers covered our call to pause non-custodial work in Crown and magistrates courts for two weeks due to the new coronavirus variant.

I said: "Due to the rapid acceleration of transmission and the ever-increasing pressures on the NHS, we are now in a position where urgent action within the courts must be taken."

Our warnings about the critical situation in the criminal justice system was reiterated in articles in the [Daily Mail](#), [ITV](#), [Gazette](#), [Solicitors Journal](#), [Press and Journal](#) and 156 other news outlets, following a joint report on the courts backlog by the four national criminal justice watchdogs for England and Wales.

We pointed out the Crown court backlog was already substantial prior to the pandemic.

I'm quoted: 'Given the continuing impact of the pandemic - including the new more easily transmissible coronavirus variant - we have called for further steps to be taken to make the courts safer for all users. The gains sought to be achieved in pressing on regardless will be lost if such measures are not put in place. This is likely to lead to yet further delays due to court closures following outbreaks of coronavirus and due to staff, lawyers, judiciary and parties falling sick.'

The [Gazette](#), [Public Law Today](#), [Local Government Lawyer](#) covered a government blog post by Kevin Sadler, CEO of the HM Courts & Tribunal Service, who insisted that court buildings are safe, despite reports to the contrary.

Sadler's article followed a call from the Law Society to pause non-custodial cases in the crown and magistrates courts, reported [Legal Action Group](#) and [New Law Journal](#).

I said: "We agree with the four chief inspectors that, in light of the pandemic, the situation in the criminal justice system is now critical and a whole-system solution is required."

[Public Law Today](#) also covered our warnings about the critical situation in the criminal justice system and our call for a two-week pause of non-custodial crown and magistrates' court work.

I said: "To date we have welcomed the steps the government has taken to make court and tribunal buildings as safe as possible, however government figures showing a record daily reported 1,564 new fatalities and 47,525 new infections cannot be ignored. By its nature, unless remotely accessed, the court process throws people together in limited space."

[Legal News Wales](#) reported that Mark Davies, vice chair of our Wales committee, sent a letter to HM Courts & Tribunal Service Wales, outlining the concerns for safety of members and court users in light of the new more transmissible Covid-19 variant.

I said: "Throughout the pandemic the Law Society has maintained that it is essential for justice to continue to be delivered. However, the safety of both court users and those who work within the justice system is of the utmost importance, especially given the new more easily transmissible coronavirus variant."

[Legal News Wales](#) and the [Gazette](#) then reported that, after successful talks with the Law Society, HM Courts & Tribunals Service agreed for the Common Video Platform (CVP) to be the default option for solicitors involved in magistrates' court proceedings across Wales.

Mark Davies said: "The stance that will be taken by the court is that when notified that they wish to appear via CVP, the request will be treated as granted unless the court decides it is not in the interests of justice."

The [BBC](#) and [Headtopics](#) covered a warning from Public and Commercial Services Union (PCS) that courts in England and Wales could face industrial action unless improvements are made to staff coronavirus safety.

I said closing courts appeared to conflict with "the imperative to mitigate" the growing backlog of cases, but argued there was "almost certain to be a significant loss of capacity due to court closures following outbreaks of coronavirus, and due to staff, lawyers, judiciary and parties falling sick".

The [Financial Times \(£\)](#) carried an in-depth piece on how the pandemic, which has forced thousands to work from home, has been beneficial for disabled workers.

Jane Burton, chair of our lawyers with disabilities division, said that to reduce the "fear and stigma" overshadowing disability, employers should plan for a recovery that plays to people's strengths and circumstances. She urged senior staff with impairments to become visible role models and mentors, and champion part-time training contracts to help more disabled candidates get a foot in the door.

Jodie Hill of our employment law committee, spoke with [talkRadio](#) (in the 10.30 – 11.00 time slot from 21:00) about whether your employer can ask you to take a Covid vaccine. [BBC Radio Humberside](#) (from 20:00) and [BBC Radio Newcastle](#) (from 41:10) both spoke to our employment committee's Max Winthrop on the same topic.

Max then appeared on *LBC Radio* discussing new guidelines in Wales on workplace safety during the Covid-19 pandemic.

[Solicitors Journal](#), [Gazette](#), [Inside Conveyancing](#), [Today's Conveyancer](#), [Today's Wills & Probate](#), [LexisPSL Risk and Compliance \(£\)](#), [New Law Journal](#), [CCR Magazine](#), [Today's Wills & Probate](#), [Lexis Library Criminal Law and Disposition of Offenders \(£\)](#) reported our call to the profession to review their anti-money laundering policies as new guidance launches.

I said: "The guidance includes fully revised and expanded guidance on risk assessments, expanded guidance on source of funds and source of wealth, an updated training section and a new section on how to effectively use AML-related technology to mitigate risk.

"In light of these changes, the legal profession should review their current AML governance, policies and procedures and update where appropriate."

[New Law Journal](#) carried a feature looking at the litigation trends in 2021, including procedural reform, workflow, diversity and wellbeing.

It includes feedback from our civil justice committee that litigation outside London and the lower courts have been different than in the City.

[Estate Agent Today](#) revealed that Etime, a proptech company, has won a grant to improve ID verification or buying and selling homes via a digital identity trust scheme.

"This will ease the burden on consumers having to produce information for ID checks with different parties and could help reduce fraud and reduce delays in the sales process – all beneficial developments for our members. The Covid-19 crisis has resulted in transformational technological change in the conveyancing market and this represents another important step forward," I said. Also covered by [Estate Agent Today](#).

[Legal Futures](#) covered our criticism that the Legal Ombudsman's pitch for a 19% budget hike is unrealistic in the current economic climate. I described the budget request as "out of step" with the economy, especially given LeO's performance over the last year.

“The organisation needs to focus on the reasons behind its performance levels so that these may be addressed as well as tackling its human resource issues before considering the recruitment of more staff,” I said.

[Today's Conveyancer](#) noted our call that the proposed changes to the Mental Health Act must be properly funded to be effective.

I said: “Reform must be backed up by proper funding to meet the rising pressure on services and to address the poor state of infrastructure in many hospitals. This is vital to ensure the safeguards for people detained under the Act are sustainable, effective, and enforceable.”

[Property Industry Eye](#), [Inside Conveyancing](#) and [Estate Agent Today](#) highlight analysis from Rightmove that around 100,000 homebuyers will miss the 31 March deadline for the stamp duty holiday.

I said: “The volume of transactions already waiting to go through mean people should not have unrealistic hopes about the prospects of starting a new transaction now and completing before 31 March.”

Meanwhile [Legal News Wales](#) reports on the situation there with the Land Transaction Tax (LTT). “Having confirmed that the LTT holiday will end on 31 March 2021, the Welsh government must remain vigilant to ensure the right balance of stability, fairness and confidence in the market is in place,” I said.

[New Law Journal](#) reported the lord chancellor’s pledge to conduct a meaningful consultation on how legal aid bills are assessed after the Law Society lodged judicial review proceedings against the Legal Aid Agency (LAA) in September.

I said: “We brought this action because the LAA announced changes to the way legal aid costs were assessed without a credible consultation or evidence to support moving cost assessments from the courts into the LAA.”

The [Express](#) picked up our research showing just over a quarter of those surveyed know what happens to their digital assets when they die and why it is important to include them in their will.

I said: “With many social media platforms only created in the last few decades, it is all too easy to overlook your digital assets when making a will. However, this can leave family members unable to access family photos saved on the deceased’s online accounts or close their loved one’s social media accounts.”

[Independent](#), [Yahoo! News](#) and [Tech Register](#) reported on the privacy laws contained in data messaging apps such as Whatsapp. Dr Kerry Beynon, of our technology and law committee said: “It is not necessary for contracts to be written in complicated legal language.”

[Today's Wills and Probate](#) reported that Mental Health Act reform must be properly funded. I said: “Reform must be backed up by proper funding to meet the rising pressure on services and to address the poor state of infrastructure in many hospitals. This is vital to ensure the safeguards for people detained under the Act are sustainable, effective, and enforceable.”

The [Gazette](#) covered the Civil Justice Council’s report on guideline hourly rates. Our head of justice Richard Miller said: “Guideline hourly rates for solicitors have not been changed in over 10 years and were long overdue a review. Revised rates would give both solicitors and their clients greater clarity about costs and we look forward to responding to the consultation.” Also in [BusinessFast](#).

Mickael Laurans, our head of international, spoke to [La Gazette du Palais](#) about the impact of Brexit on British lawyers and law firms.

## Parliamentary

### Law Society mentioned during Overseas Operations Bill Debate

On Wednesday 20 January the Overseas Operations (Service Personnel and Veterans) Bill received its second reading in the House of Lords. During the debate, several Law Society concerns were raised, particularly those centred on the new presumption against prosecution and the way it interacts with the UK’s international legal obligations, and the limitation period for civil and human rights claims. Baroness Ritchie of Downpatrick mentioned the Law Society, quoting from our briefing and referencing us as a critic alongside the Equality and Human Rights Commission.

[Read our briefing here](#)

## Vice president speaks to aspiring lawyers

Vice president I. Stephanie Boyce spoke to members of the University of Greenwich Law Society on Thursday 21 January, answering questions and outlining work the Law Society is doing to support diversity in the profession.

## Regulation

### Revised Legal Sector Affinity Group (LSAG) AML Guidance published on 20 January

The LSAG, which includes the Law Society and all the legal sector supervisors named in the anti-money laundering regulations, has published the 2021 revised guidance on anti-money laundering. It is available in the Law Society's [website](#) and includes a summary of the changes to help firms comply with new requirements.

The guidance review was triggered by the EU's 5th Money Laundering Directive which came into force on 10 January 2020, amending Money Laundering Regulations.

The new guidance, which is pending HM Treasury endorsement, supports legal professionals in complying with the Money Laundering Regulations 2017. Having benefitted from extensive practitioner review and input from our Money Laundering Taskforce, the changes include revised guidance on risk assessments, sources of funds, legal professional privilege, training, clarification of client due diligence and a new section on technology.

The Money Laundering Taskforce is hosting a series of four webinars between January to March to support members, which will feature a guest speaker from the SRA. These will be covering key areas of impact to members on risk assessments, client due diligence, governance and policies, training and Brexit, and technology. <https://events.lawsociety.org.uk/default.aspx?tabid=683>

## Public Law

### Graham Turnbull essay competition and lecture

This week we announced the question for the Graham Turnbull essay competition: **'What improvements, if any, should be made to the Human Rights Act 1998? Why are they needed?'**

The Graham Turnbull essay competition encourages law students and junior lawyers to examine current pressing human rights issues and to consider their impact on the wider system of human rights and law. The winner of the competition is awarded a £500 cash prize by the Graham Turnbull Memorial Fund.

The deadline for entries is 5pm on Wednesday 31 March 2021. Full guidelines and entry criteria are available on the [Law Society website](#).

The winner will be announced at the Graham Turnbull Memorial Lecture, held on Tuesday 27<sup>th</sup> April, 5-6pm. Registration for this [virtual event is free and open to all here](#).

### Private Law Brexit transition - Divorce webinar

On 19 January, we hosted a webinar on cross-border divorce. The speakers, from the UK and Europe, covered areas such as divorce process, forum and jurisdiction across EU member states and non-member states and the use of the Lugano Convention, which the UK still hopes will be available to its practitioners again in the near future. The event was well attended.

## Justice

### Court safety

We have been engaging extensively with HMCTS and the judiciary over members' concerns about the courts, and that widespread fears Covid risks are not being managed effectively. We have been calling for a number of measures, focused around the greater use of remote hearings, more effective enforcement of guidelines when physical hearings need to happen, and better use of testing until a vaccine is available to court users.

### Legal Aid

We have submitted a response to the LAA consultation on proposed payments to solicitors for early engagement with police and prosecutors in criminal cases. While we welcome the proposal that the payment should be based on an hourly rate scheme, there are a lot of details that need to be resolved for this to work.

## Update from our Brussels Office

On 19 January, Marcus Corry chaired an online meeting with the Brussels Advisory group and with our Brussels based members. The group discussed the following points:

- Recent engagement with UKMIS and the British Embassy in Belgium over concerns relating to the expiry of the transitional period. Advice was provided in relation to Belgian residency, mobility arrangements for UK nationals and how UK firms can facilitate traineeship programmes.
- Law Society analysis of the UK-EU Trade and Cooperation Agreement in particular relating to trade in legal services but also wider policy areas such as competition/Level Playing Field.
- The End of Transition Guidance and related series of webinars which are being delivered to provide members with further practical support in certain fields.
- Wider political developments, including continued lobbying to approve the UK application to join the Lugano Convention within the one year timeframe.
- How the Brussels Advisory Group can in future feed into EU policy proposals which impact on the UK, such as the White Paper on Foreign Subsidies which would affect UK firms looking to complete an EU M&A or public procurement bid.

## Our work internationally

I along with Mickael Laurans spoke to the Chair of the International Committee of the French Bar (CNB) about practice rights for solicitors under the Trade & Co-operation Agreement. We are now considering the issues raised in that meeting.

## Diversity and Inclusion

### Easy wins and action points for disability inclusion

In this resource for large organisations within the legal sector, we share recommendations on how to improve disability inclusion in your workplace.

It includes a number of questions to keep in mind when designing policies, practical tips on starting initiatives to support disabled staff more effectively and details a number of easy considerations and adjustments you can make for a more disability inclusive future.

[Download the resource](#)

### Stonewall Housing – in discussion with Steven McIntyre

In this podcast members of our LGBT+ Lawyers Division Committee talk with Steven McIntyre, CEO of Stonewall Housing, a charity which works to ensure lesbian, gay, bisexual and trans people live in safer homes and free from fear.

[Listen to the podcast](#)

### Save the date: Diversity and inclusion conference, September 2021

By popular demand and following the successful event held in 2020, the Leeds Law Society in conjunction with the Law Society of England and Wales will once again be holding a free virtual Diversity and Inclusion Conference to mark National Inclusion Week from 14 September 2021 to 30 September 2021 (Tuesdays and Thursdays and at various times of day).

The conference will consist of virtual events across six days, with pre-recorded sessions being released at the same time. Each will focus on a particular strand of diversity and inclusion including:

- Mental Wellbeing
- Social Mobility
- Gender
- Disability
- LGBT+
- Religion
- Age
- Race and Ethnicity

This national conference will range from panel sessions made up of leading figures within a particular strand of diversity and inclusion to individual talks from experts within their field, as well as contributions from various other organisations.

Kind regards,

**David Greene**  
**President**

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