Value of Law Reform

Prepared for the Law Commission of England and Wales

By Derrick Jones and Ruth Wainwright

September 2019

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Executive Summary

This report considers the value of law reform in the context of the work of the Law Commission of England and Wales. It looks at the ways in which law reform projects affect individuals and groups in society and can contribute to a wide range of social and economic outcomes both domestically and internationally. The report was commissioned by the Law Commission and produced by independent consultants from March to September 2019.

The report uses contribution analysis as a framework to examine the Law Commission's work. The contribution analysis involved outlining the logical steps (or theory of change) from inputs to outputs to outcomes to impacts, to outline and then assess the evidence to support the narrative of how the Law Commission's work could be expected to bring about changes to the legal system and to the wider economy and society.

Examination of the work of the Law Commission identified potential indicators to measure project outputs and initial outcomes. Case studies were used to illustrate and examine outcomes, assumptions and impact pathways.

The Law Commission's projects showed high estimated benefits. The five Law Commission projects with reports published in the last five years, with the highest estimated net present values, have combined estimated benefits amounting to just under £3 billion[1] over ten years.

The evidence and findings supported a range of conclusions:

(1) The Law Commission's projects make a difference in myriad ways, broadly summarised in seven key themes: efficiency gains; technology driven growth; harm prevention; well-being improvement; rule of law; access to justice and modernising the legal system. These key themes provide a potential blueprint for evaluating the impact of future law reform initiatives.

(2) The potential beneficiaries of Law Commission projects are widespread and diverse.

(3) The potential social and economic impacts of Law Commission projects are significant, although complex to quantify. The key themes provide a means to consider potential impacts. Improved understanding of such impacts through post- implementation evaluation will improve understanding and raise the chances of benefits being replicated in future projects.

(4) Case study analysis illustrates the importance of the Law Commission's work in increasing confidence in the legal system and citizen expectations of fair treatment under the law. Such benefits are however difficult to quantify.

(5) Case study analysis suggests that the unintended consequences of the Law Commission's projects have been limited, while showing good evidence to support the project assumptions in many of the implemented cases.

(6) Carefully worded legislation will continue to be critical to ensure the legal system can respond to the challenges raised by new and emerging technologies.

(7) Government support is critical to the effective realisation of the potential benefits of law reform projects. The Law Commission makes recommendations and is not responsible for the implementation of recommended policy/legislation.

The report also makes recommendations for future data gathering to inform post-legislative assessments.

Derrick Jones

Ruth Wainwright

26th September 2019

1. Introduction

This report considers the value of law reform in the context of the work of the Law Commission of England and Wales. It looks at the ways in which law reform projects affect individuals and groups in society and can contribute to a wide range of social and economic outcomes both domestically and internationally.

Drawing on experiences from eleven historic and ongoing Law Commission projects the report explores the key themes underlying these effects, examines evidence of the projects' impacts and suggests avenues for future research. The findings of the report are intended to inform evaluations of the Law Commission's work in the future, indicating areas in which the Law Commission's work has been shown to have the greatest impact and areas in which additional research is required to assess predicted effects.

The authors[2] would like to thank the Law Commission staff for their vital input and support throughout the project. In particular, we would like to thank the Law Commission's in-house economist Dr Vindelyn Smith-Hillman, for her immense contribution to this report, without whom this work would not have been possible.

Context

The Law Commission of England and Wales was created by the Law Commissions Act 1965. It is a statutory arms' length public body, which is sponsored by the Ministry of Justice.

The Law Commission's principal objective is to promote reform of the law. It seeks to ensure that the law is as simple, accessible, fair, modern and cost-effective as possible by examining areas of law that are causing problems to individuals, businesses, public bodies and other organisations in society. The Law Commission then considers options for reform in consultation with stakeholders, and makes recommendations to government.

Since its creation, more than 350 law reform reports have been published the Law Commission. The value of the Law Commission's work has been recognised repeatedly, for example the Justice Committee recently affirmed the "clear benefit to the whole Government"[3] of the Law Commission's activities, and the Government has acknowledged the "clear contribution these functions make to the development of better and more effective law".[4]

Impact assessments conducted by the Law Commission have also demonstrated the potential economic value of recommended reforms with predicted benefits from individual projects in some cases exceeding £100 million over 10 years. The corresponding staff costs of running the Law Commission (approximately £4 million per year) appear slight in comparison, suggesting considerable net benefits from the Law Commission's work.

However, while impact assessments look to quantify the direct monetizable benefits from specific projects, they do not typically examine the broader picture of the many ways the work of the Law Commission can contribute to society. This report therefore aims to incorporate the wider effects of law reform projects: to look at how changes occur and how the contribution of legal reforms to citizen wellbeing and economic performance can be assessed.

[2] Derrick Jones BSc MA is Director of Derrick Jones Economics Ltd. He has worked in government, for international organisations and the charity sector. Prior to establishing his economics consultancy business, he worked for the Government Economic Service and was Chief Economist at the Food Standards Agency. Ruth Wainwright BSc MSc is an economics consultant specialising in monitoring and evaluation. She has worked in the private sector, for the Financial Conduct Authority and for charities and international development organisations.

[3] (Justice Committee, 2018)

[4] (HM Government, 2018)

Terms of Reference

This report has been commissioned by the Chair and Chief Executive of the Law Commission to be completed over the period from March to September 2019. The purpose of the study is to examine the economy-wide impacts of the Law Commission's law reform projects. The scope of the study was naturally limited by the short time frame in which it was to be completed. It thus aims to report overview findings in relation to the impacts of the Law Commission's projects and indicates areas in which further research is necessary to establish precise outcomes and impacts.

The report explores the types of impacts the Law Commission's projects can have domestically and internationally, the evidence of these effects and the conditions in which they are most likely to take place. Despite the focus of this report, it is important to note that it is not an objective of the Law Commission to produce an economic benefit, although many of its reports, as detailed in this report, do produce that advantage.

The three corresponding key research questions that the report focuses on are:

RQ1 – How do the Law Commission's projects make a difference, and for whom?

RQ2 – What are the indicators that can be used to assess the impacts of the Law Commission's projects?

RQ3 – Have the Law Commission's projects generated these impacts?

The scope of the report is limited to the law reform projects of the Law Commission in England and Wales. It considers the impacts of the projects at both the domestic and international levels and will consider impacts in the United Kingdom (in conjunction with the work of the Scottish Law Commission) where relevant.

The scope of the report is not limited to a specific period although the assessment predominantly covers more recent projects from 2000 onwards. The analysis considers the effects of law reform projects on individuals, businesses, public bodies and other organisations in society, looking at how benefits are distributed among these groups.

Approach

Several potential approaches to evaluating the impact of the Law Commission's projects were considered, following Government guidance on evaluation approaches, set out in the (HM Treasury, 2011) Magenta Book:

- Empirical impact evaluation – quantitatively testing whether a project caused significant changes in outcomes of interest.
- Theory based evaluation – understanding and testing the links between a project and the anticipated outcomes using a range of quantitative and qualitative methods.
- Methods based on combining the results of multiple evaluations (meta-analysis, systematic review, simulation modelling).

The most appropriate method was selected considering the data available and the complexity of the policy impacts. Examining the potential impact pathways for Law Commission projects it was clear that given the complexity of these pathways a theory based approach would be most suited to the evaluation.

Moreover, empirical evaluation methods were deemed less suitable as they are unlikely to provide a clear explanation of how and why each project makes a difference. The economy-wide impacts of the Law Commission's project would also be extremely difficult to estimate reliably using statistical methods. This is compounded by the lack of existing data and research in this area, which also renders meta-analysis techniques infeasible.

Accordingly, the main theory based evaluation method described in the government guidance was selected: Theory of Change Evaluation. This involves setting out an explicit theory of "how" and "why" a policy might cause an effect, investigating the causal relationships between outputs and outcomes to understand the combination of factors that leads to changes taking place. Taking this a step further is contribution analysis - asking what role is played by other factors, and where multiple factors cumulatively lead to an economy wide change, asking how important the specific policy the evaluator is looking at is in this context to bringing about change.

This was the approach selected for this report – using contribution analysis to explore how far the Law Commission's projects have contributed to change. The Law Commission's projects are examined both in aggregate and individually, with a series of case studies selected to illustrate the actual and potential effects of law reform projects.

Box 1: Contribution Analysis

Contribution analysis provides a framework for looking at a programme to: explore whether intended outcomes have or have not been achieved, examine how and why change has happened and assess what the contribution of a programme has been to change, alongside other factors.

Contribution analysis is an established impact evaluation approach that is useful in situations where experimental and quasi-experimental designs (for example, randomised control trials) are not feasible or practical. In such cases, this type of analysis can help assessors draw conclusions about the contribution being made by programmes to observed results.

The approach to contribution analysis adopted in this report follows three steps:

1. Outline a clear and coherent Theory of Change.

   The process begins with describing how the Law Commission brings about changes to the legal system and to the wider economy and society. This is illustrated as a logical chain from inputs to outputs to outcomes to impacts – a Theory of Change. The assumptions underlying the logic model are then identified and the evidence in support of those assumptions is evaluated.

2. Gather evidence on the projects and compare the results with the Theory of Change.

   The next step is to examine the evidence that can be used to assess whether the Law Commission's outputs have been or will be effectively realised, resulting in the outcomes predicted by the Theory of Change. This stage also involves examining whether any unexpected outcomes have arisen from law reform projects. The report looks both at the evidence covering the outcomes across the Law Commission's projects as well as an in-depth assessment of specific projects in a series of case studies representing the Law Commission's work.

3. Assess the influence of contextual factors and explore/eliminate other possible causes.

   The final stage is to assess the contribution narrative and the challenges to it. This step requires consideration of which of the links in the results chain are stronger (supported by evidence, strong logic, wide acceptance by stakeholders) and which are weaker, and an assessment of the credibility of the overall narrative taking account of other factors which might lead to the changes following the implementation of a Law Commission project.

Methodological Challenges and Adaptations

There are many advantages to contribution analysis as an evaluative tool, especially for assessing interventions with complex characteristics and undefined time frames for expected results, as in many legal reform projects. Some potential methodological challenges have also been identified for this type of analysis[5] which broadly relate to four areas of criticism:

- **Fidelity to the approach**: limited resources can impact the ability of evaluators to conduct multiple rounds of evidence gathering and contribution narrative testing, which could affect the strength of the corresponding contribution claims.
- **Narrow focus bias**: if the Theory of Change is not thoroughly researched there is the potential for subjectivity in the design, leading to a narrow assessment of potential outcomes and influencing factors.
- **Positive bias**: if the evidence threshold for contribution claims is minimal, the use of this methodology could lead to a positive bias where some level of contribution is always found**.**
- **Cognitive bias:** there is the risk of bias – conscious or unconscious – in the selection and presentation of the narrative evidence of contribution. This could include a tendency to search for, interpret, favour, and recall information in a way that affirms the proposed Theory of Change (confirmation bias). The risk of bias is greater where the funder of the evaluation is also the organisation whose work is being evaluated, as in this case.

Accordingly, this study has adopted several established strategies to mitigate these potential concerns:

- **Broad consultation**: the study has consulted a wide range of sources including academic literature, Law Commission internal knowledge and research, external analysis of Law Commission projects (including government reviews) and research by international law reform bodies to ensure the Theory of Change is informed by a broad spectrum of views and potential explanations.
- **Iterative approach:** the study has continually updated the Theory of Change as the contribution narrative has been tested and evidence has been gathered. Case studies which repeatedly explore different components of the Theory of Change have been used to inform and update the assessment.
- **Triangulation of methods and evidence**: the study has collected information using a variety of methods and combined quantitative and qualitative evidence to provide a more detailed and balanced picture of the impacts of law reform projects than could be achieved through a single line of enquiry.
- **Transparent evidence base**: the study has maintained a high level of transparency over the sources of evidence and items of evidence cited – full references are given, so that sources and citations can be scrutinised by anyone reading the report.
- **Independent peer review**: a highly experienced independent economic consultant[6] was commissioned to conduct a peer review of the study to evaluate the methodology and check for possible errors of omission or commission in implementation of the methodology.
- **Threshold independence**: this report does not stipulate the level of evidence required for a contribution claim. Instead, it provides a roadmap to contribution assessment and indicates the areas in which contribution claims appear stronger and areas where they appear weaker.

[5] See, for example, (McDavid & Budhwani, 2017).

[6] The peer reviewer, Karen Hancock, is Director of Long-Run Economics Ltd. She has worked in academia, government, and the private and charity sectors. Prior to establishing her economics consultancy business, she was Chief Economist at the Department of Education.

Report Structure

The rest of the report is structured as follows:

Section 2 – Outlines the logical chain from Law Commission inputs to outputs to outcomes to impacts (Theory of Change) and identifies key themes in the types of changes that are brought about.
Section 3 – Sets out the general observations on the impacts of the Commission's law reform programmes in relation to each of the key themes.
Section 4 – Provides a series of case studies examining the contribution of 11 law reform projects to the outcomes predicted by the Theory of Change.
Section 5 – Presents the findings of the report against initial research questions. It sets out the key conclusions and recommendations for future research.

2. Theory of Change

This section describes the process by which the Law Commission brings about changes to the legal system and to the wider economy and society. It illustrates this process as a sequence from law reform projects to changes in the legal system to wider impacts in society and identifies key themes in the changes that are brought about.

The Results Chain

The results chain describes the consequences of the Law Commission's work as a logical chain from inputs to outputs to outcomes to impacts. The assumptions underpinning each step in the chain are then identified to form a Theory of Change.

Box 2: The Results Chain

Inputs – the resources that are dedicated to law reform projects.

Processes – the activities that are conducted in a law reform project using the inputs available.

Outputs – the specific, direct products that result from project activities.

Outcomes – the changes that law reform projects deliver. These are typically short to medium term.

Impacts – the wider effects resulting (in part) from law reform projects. These may be direct or indirect, intended or unintended and are typically longer term.

The Theory of Change provides the framework for measuring the contribution of law reform projects. It sets out the predicted outcomes from law reform projects and makes explicit the requirements to move between each step of the results chain. The assumptions and predicted outcomes can then be tested empirically (see Section 3 of the report).

The components of the results chain are identified using a range of sources including: review of Law Commission documentation, consultation with Law Commission staff, review of wider literature on law reform bodies and on the impact of law reform projects internationally. They are summarised as follows:

Law Reform Project Inputs

The key resource underpinning the Law Commission's projects are the time and expertise of its staff. There are approximately 50 FTE staff at the Law Commission, the majority of whom are lawyers and research assistants in the law reform teams. A small in-house economics unit guides the teams in the production of economic impact assessments. The Law Commission staff are financed by a combination of core funding, received through the Ministry of Justice and direct funding, provided by government departments which commission specific law reform projects.

Law Reform Project Activities

The two main responsibilities of the Law Commission project work are: determining the law reform projects to be initiated and conducting the projects themselves. In discharging these functions, the Law Commission places considerable emphasis on consultation processes which take place throughout project work to gather views and critically assess potential options.

Selecting the projects involves four main activities: research to identify potential projects, extensive consultations (involving the public, parliamentarians, the judiciary, legal practitioners, and representatives from other organisations), the drafting and publication of a law reform programme (including an initial

economic assessment) and engagement with government departments to gauge support for proposed projects and receive referrals.

Conducting law reform projects involves six key processes: initiation – where the Terms of Reference for the project are developed, working with the relevant department; pre-consultation – where the relevant area of law is studied to identify defects and develop proposals; consultation – where a wide range of individuals and organisations are conferred with directly and invited to comment on proposals; policy development – where consultation responses are analysed to refine thinking; reporting – where a report is drafted, peer reviewed and agreed giving final recommendations (often including a draft bill) and rationale (including an economic impact assessment); and follow-up – where the Law Commission works with the relevant department on implementation of the recommendations.

Law Reform Project Outputs

These activities result in the production of seven key types of outputs: (i) law reform programmes and programme consultation products; (ii) law reform project terms of reference; (iii) scoping papers; (iv) consultation papers; (v) Final Reports including policy papers, draft bills and impact assessments; (vi) advisory services as the Law Commission works with government departments on implementation and (vii) communication products including press releases, public presentations and responses to media enquiries.

Initial Outcomes

The outcomes of the law reform projects are then subject to the responses of the Government, Parliament, public, media and judiciary.

First, the Government may accept or reject the law reform project's recommendations. If the Government accepts the recommendations it may act in several ways including:

- Propose new legislation, or bills repealing or consolidating existing legislation, to Parliament. If the bills are uncontroversial they may be considered by special procedure.[7] The Government's proposals are then subject to approval by both Houses of Parliament before they can be passed into law.
- Follow-up with the recommendations to specific departments, actioning the Law Commission's findings in relevant regulations, codes of conduct and guidance.
- Change a government policy or procedure in accordance with the project's recommendations.
- Accept the recommendations but choose not to implement them. Reasons for this might include the Government has other legislative priorities; the Government intends to examine the issues as part of a broader investigation in the future or the recommendations have been superseded by other legislation.

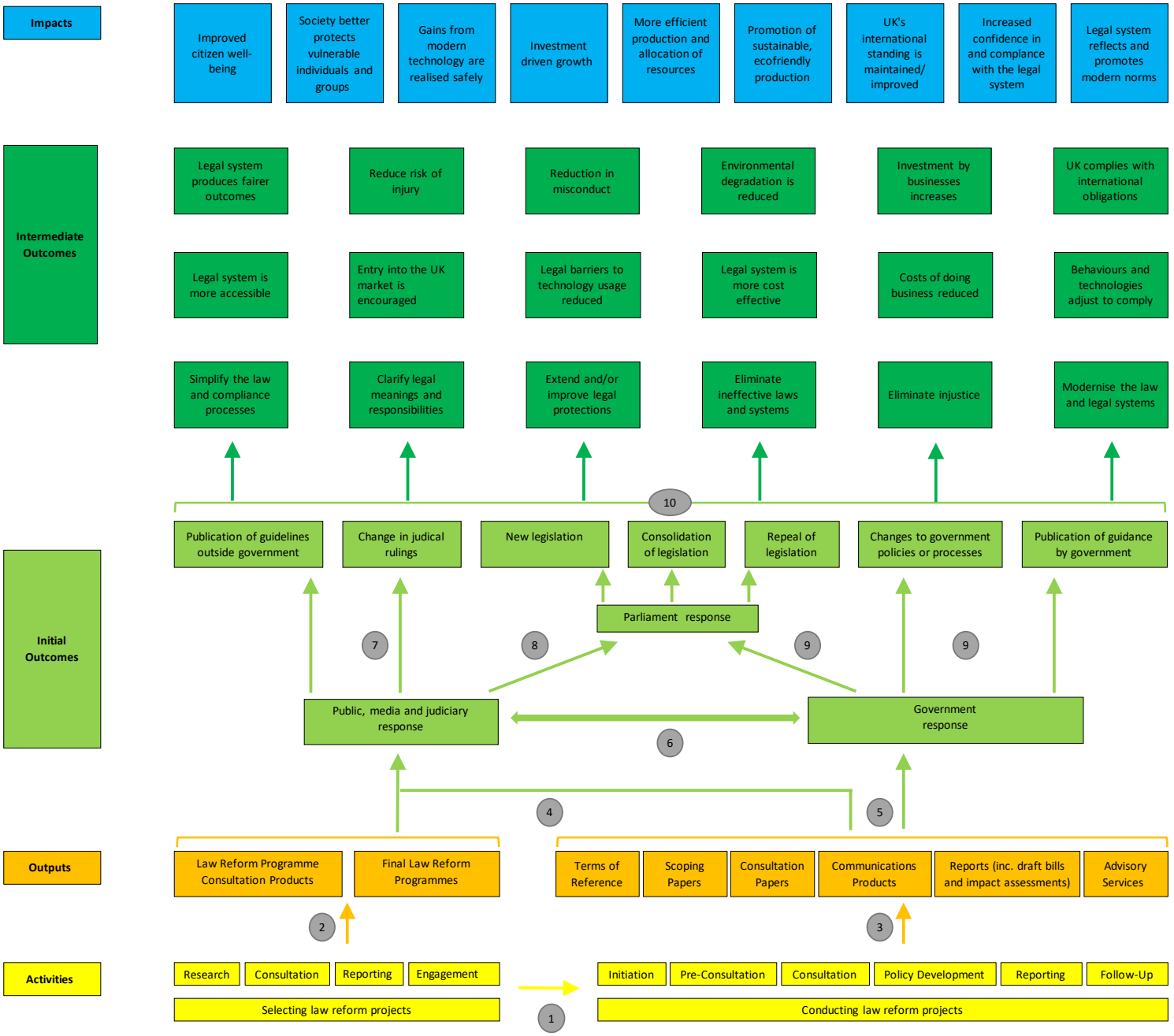
Second, the public, the media, the judiciary and other interest parties may respond openly to the Law Commission's recommendations. The views of these stakeholders can both inform and react to the Government's response to the project's recommendations.

If the Government does not take forward a project's recommendations, it can nevertheless lead to substantive change. For example, a private members bill[8] might put forward the proposed legislation, judgements in higher courts might begin to reflect the Law Commission's findings, and companies and individuals may act differently following public pressure.

[7] On 7 October 2010 the House of Lords approved a new parliamentary procedure to reduce the time that Law Commission Bills spend on the floor of the House by providing for certain stages to be carried out in Committee. This allows the Bills to be considered and scrutinised despite the pressures of Parliamentary time. Bills are suitable for this procedure if they are regarded as "uncontroversial".

[8] A legislative bill that is introduced privately by a Member of Parliament and is not part of a government's planned legislation.

Figure 1 : Theory of Change for Law Reform Projects



Note

The links from outcomes to impacts take many different forms.

The main sequences are illustrated in the key themes section below.

Assumptions

1	The announced projects are supported by the relevant departments.
2	Affected parties engage with Law Commission consultations
3	The project receives sufficient funding to be successfully completed
4	The public, media and judiciary engage with and respond to the Law Commission's work
5	The government responds to the Law Commission reports
6	The government response is influenced by the public/media/judiciary reaction and vice versa.
7	The judiciary is sufficiently affected by the findings of the reports to change its position in influential judgements.
8	Private members are able to successfully introduce new legislation.
9	The projects are successfully implemented: government takes action outlined in its response, parliament approves proposals.
10	The original project proposals are successfully implemented. That is, they are not amended such that they are no longer able to bring about the desired change.

Intermediate Outcomes

Changes to legislation, regulation, guidelines and processes as a result of a law reform project are intended to bring about a range of effects in the relevant area of law. These will depend on the specifics of the project but include: simplification of the law and compliance processes; clarification of legal meanings and responsibilities; extension and/or improvement of legal protections; elimination of ineffective laws and systems; elimination of injustice and modernisation of the law and legal systems.

These changes can in turn affect businesses, citizens, governments and other stakeholders in many ways: making the law more accessible to individuals without legal training, reducing legal barriers to companies using modern technologies, reducing costs for businesses, encouraging entry into UK markets and making the legal system more cost effective for government to run. As behaviours and technologies adjust to comply, depending on the relevant area, the resulting changes can reduce the risk of injury, misconduct and environmental degradation. They can also encourage investment into the UK and prompt the legal system to produce fairer outcomes in specific areas of law.

Impacts

The potential types of impact on the community from these outcomes are wide ranging. A useful way to group these potential changes is using the STEEPLE (socio-cultural, technological, economic, environmental, political, legal, ethical) framework.[9] The types of impact/benefits that law reform projects have been identified as contributing to are:

- **Socio-cultural** – improving citizen well-being and the protection and support of the most vulnerable in society.
- **Technological** – realising potential gains from emerging technologies and protecting against potential harms.
- **Economic** – promoting efficiency, reducing costs and facilitating investment driven economic growth.
- **Environmental/ecological** – improving the way the environment and natural resources are used to promote sustainable growth.
- **Political** – supporting the United Kingdom's international standing. This includes the international competitiveness of the UK as a location for multinational companies to conduct legal proceedings, transactions and other activities; and the UK's international reputation and influence as an advanced economy.
- **Legal** – increasing trust in and compliance with the law among the citizens of England and Wales.
- **Ethical** – ensuring the legal system reflects and promotes modern norms.

These wider impacts are illustrated in the Theory of Change diagram in Figure 1.

Key Themes

The changes resulting from Law Commission projects could arise in many different ways and the processes will vary considerably from one project to another. Review of the existing literature on the impact of legal reforms, and discussions with Law Commission staff have however led to the identification of several key themes which illustrate the main mechanisms by which law reform projects are expected to contribute to

[9] This is a standard management framework used to explore the global environment in which an organisation operates. See, for example, (Cadle, Paul, & Turner, 2014), pages 3-6. It is typically used to identify external factors, outside the control of an organisation, which might influence that organisation. In this report however, the taxonomy has been adopted to identify external factors which might be affected by the Law Commission's projects.

these wider impacts. The seven themes (in no particular order): efficiency gains, technology driven growth, harm prevention, well-being improvement, rule of law, access to justice and modernising the legal system are discussed in turn.

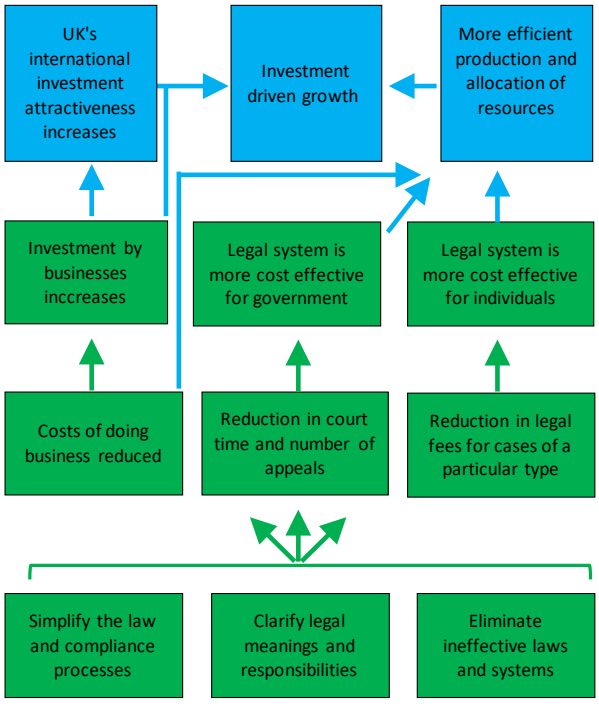
Efficiency gains

The theory underlying the efficiency gains theme is that streamlining and clarifying the law and eliminating ineffective systems can reduce costs and result in a more efficient allocation of resources.

Legal reforms could lead to savings for groups across society such as:

- Businesses – reforms can make the legal system more predictable and reduce the cost of doing business in England and Wales;
- Publicly funded organisations – reforms that makes the legal position easier for judges to interpret can save trial costs and reduce the likelihood of appeals; and
- Individuals – reforms that result in improvements to the court system can reduce the direct legal costs incurred by citizens involved in cases and other associated costs such as time taken off work.

Efficiency gains illustrative impact pathway



The strength of these effects will depend on how the money that is saved following legal reform is spent. For example, those on low incomes might benefit the most from reductions in legal costs, allowing them to reallocate funds to family necessities.

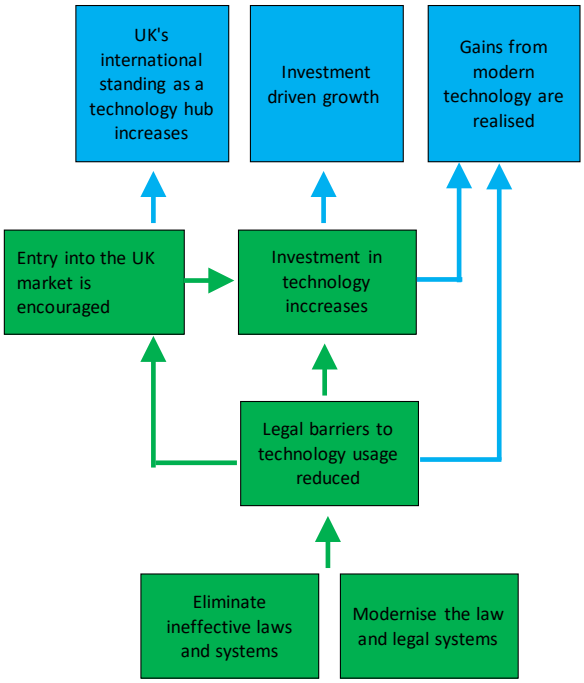
If the savings to businesses based in England and Wales are spent on investment activities they can in turn drive economic growth. Additionally, multinational companies might respond to legal reforms by increasing their activities and investment in this region. This can drive further investment in the region as England and Wales become more attractive to international investors.

Technology driven growth

A responsive legal system that keeps up to date with modern technology can facilitate innovation, enable the gains from technology to be realised and attract technology providers.

The introduction of legislation that clarifies the legal position on a new area of technology, regulates technology transfer and improves processes for ensuring compliance can make suppliers more confident introducing products to market. As a result, more products could be introduced and investment in technology increased.

Technology driven growth illustrative impact pathway



These changes can allow citizens to benefit from increased availability of modern technologies.

They also have the potential to support investment driven growth, especially if they encourage the entry of technology suppliers that would otherwise have been deterred from locating in England and Wales.

Modernising the legal system to accommodate the latest technologies also has a reputational effect, signalling the country's intention to encourage innovation.

These effects can potentially increase the United Kingdom's international standing as a hub for technology development. This could be especially valuable as the UK seeks to maintain and enhance industry competitiveness during the transition out of the European Union.

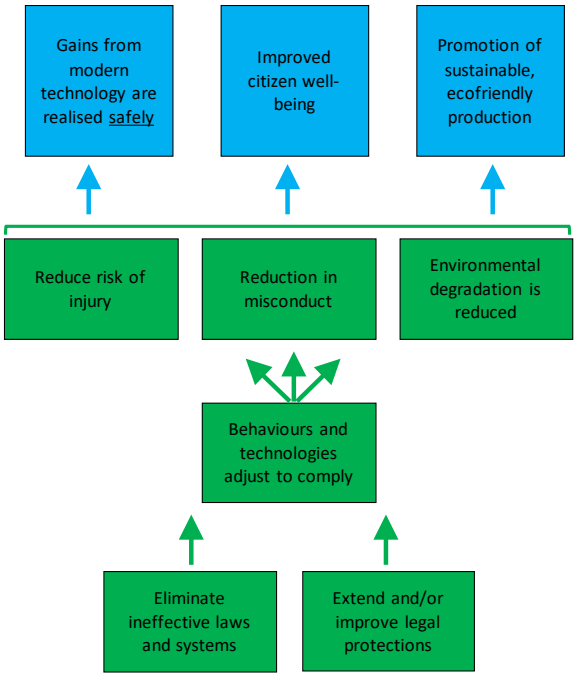
Harm prevention

Legal reforms can be used to help protect citizens and valuable resources that might otherwise be at risk. By reacting to ineffective laws and extending or improving protections to those at risk, law reform projects have the potential to protect citizens from potential harm.

Effective reforms to behaviours and technologies will reduce the risk of injury and harm arising from misconduct, leading to improved citizen well-being. They can also help to ensure that modern technologies are better utilised as users must commit to deploy them safely.

Environmental protections can help to reduce degradation, improve well-being (for example where they prohibit the use of toxic chemicals) and promote sustainable growth.

Harm prevention illustrative impact pathway



Well-being improvement

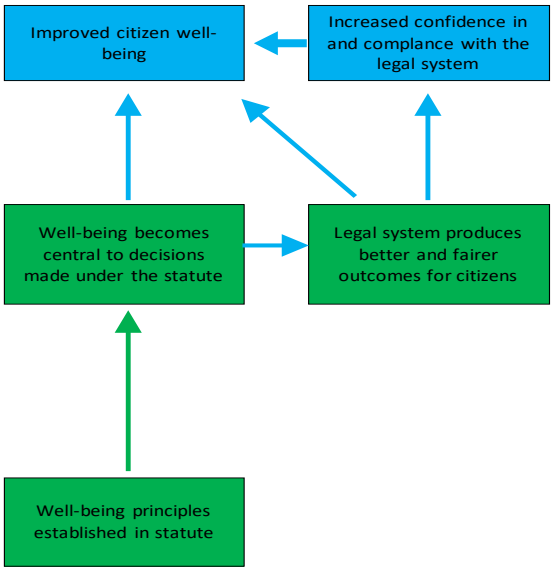
Legal reforms can lead to direct improvements in citizen well-being.

Putting citizen well-being at the centre of the legal system can help ensure that rulings and decisions are made with a view to directly improving individual well-being.

For example, (The Commonwealth Secretariat, 2017) posits, in its review "Changing the Law", effective legal frameworks can ensure the legal identity of individuals, allowing access to education, health and employment.

A legal system focussed on citizen well-being can facilitate the full inclusion and equal rights of all groups and individuals in society, empowering citizens to be economically and socially active.

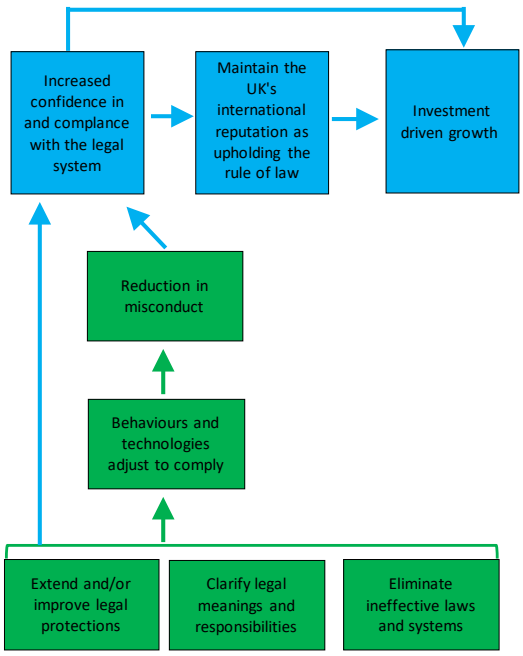
Well-being improvement illustrative impact pathway



Rule of law

Maintaining the rule of law is an often-cited reason for ensuring the legal system is kept under review and up to date. However, the rule of law itself is a contested concept with a wide range of potential definitions. Narrow (or "thin") conceptions envisage a society in which the legal system is respected, stable and predictable; whereas wider (or "thicker") conceptions require also that the system guarantees certain basic rights.

Rule of law illustrative impact pathway



The rule of law theme for this analysis adopts a narrow definition. Aspects of the wider definitions are discussed under the access to justice and modernising themes.

Ensuring that the law is simple, clear and that ineffective systems are eliminated can maintain the integrity of the legal system, increase confidence in that system and so facilitate the rule of law.

Reforms that help to uphold the rule of law can also promote compliance, both to legislation introduced by the reforms and to the existing body of legislation, as confidence in the legal system increases.

Increased confidence in the system can also encourage investment both domestically - as local companies benefit from the reforms - and internationally - as the England and Wales' reputation as having a reliable legal system is underscored by the reforms.

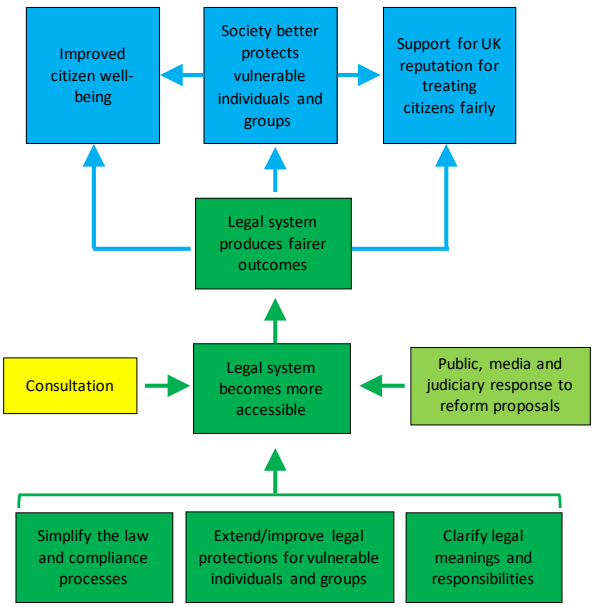
Access to justice

Similarly, there is no single agreed definition of access to justice as commentators' views differ according to the necessary conditions it to exist. This report adopts the (Cappelletti & Garth, 1978) characterisation of a system with access to justice: "First the system must be equally accessible to all and second it must lead to results that are individually and socially just."

Legal reform projects can help to promote access to justice leading to improvements in citizen well-being. Projects that enable citizens to have their voice heard, exercise their rights, challenge discrimination or hold decision-makers accountable can all improve access to justice.[10] The process of updating legislation also enables it to be produced in bilingual format in Wales.

These changes support the legal system to become more inclusive and accessible. This in turn can help ensure legal procedures are more likely to yield fairer outcomes.

Access to justice illustrative impact pathway



These improvements to the legal system help to foster a society in which vulnerable individuals and groups are better protected. They can also lead to improvements in citizen well-being (as citizens' rights are better protected) and reputational effects (as they lend credence to the perception that the United Kingdom is a society that treats people fairly).

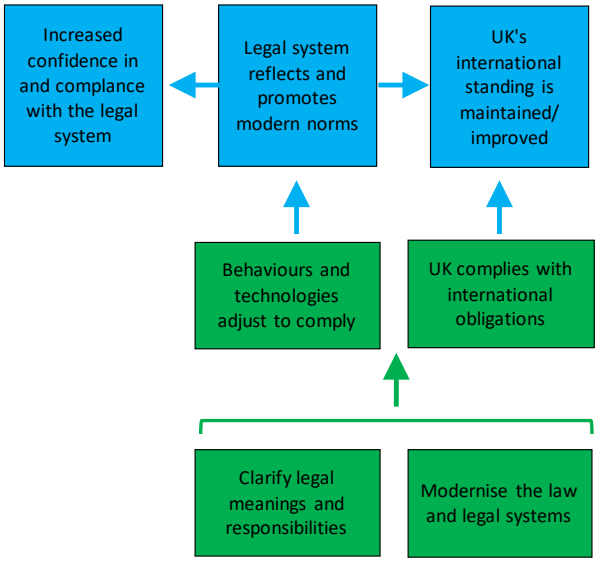
Modernising the legal system

Keeping the legal system up to date with current domestic and international norms can help to ensure that the legal system remains relevant and appropriate.

The implementation of reforms to modernise the system can increase confidence and compliance as citizens feel that the law reflects prevailing social and technological norms.

Ensuring the legal system keeps up with international obligations can also maintain the UK's standing internationally, underpinning its reputation and position in international organisations (such as in the United Nations).

Modernising illustrative impact pathway



The implementation of reforms in England and Wales to reflect modern norms can also influence international law making, such as legislation in the European Union, likewise maintaining the UK's international standing.[11]

[10] See, for example, (United Nations, 2019).

[11] For example, the Law Commission's work on consumer contract law had two major influences on EU Law: keeping the right to reject in remedies for faulty goods and abandoning the proposals for an optional instrument on consumer contract law.

3. Overview Findings

This section turns to the indicators that can be used to assess the impact of the Law Commission's projects. As set out in section 0, having outlined a Theory of Change for law reform projects, the next step is to gather evidence on project outcomes and compare the results with the proposed theory. The credibility of the overall narrative can then be assessed, taking into consideration other possible explanations for the changes observed.

This section provides an overview of the indicators that can be used to compare law reform projects with the anticipated effects. It presents some initial findings based on the data available across the Law Commission's projects and considers the relative strengths of the links in the results chain presented in section 2.

Law Commission Activities to Outputs

The first area to consider is how to ascertain the extent to which the Law Commission's activities result in the anticipated outputs. Possible indicators are detailed in the table below.

Table 1: Indicators for law reform project outputs

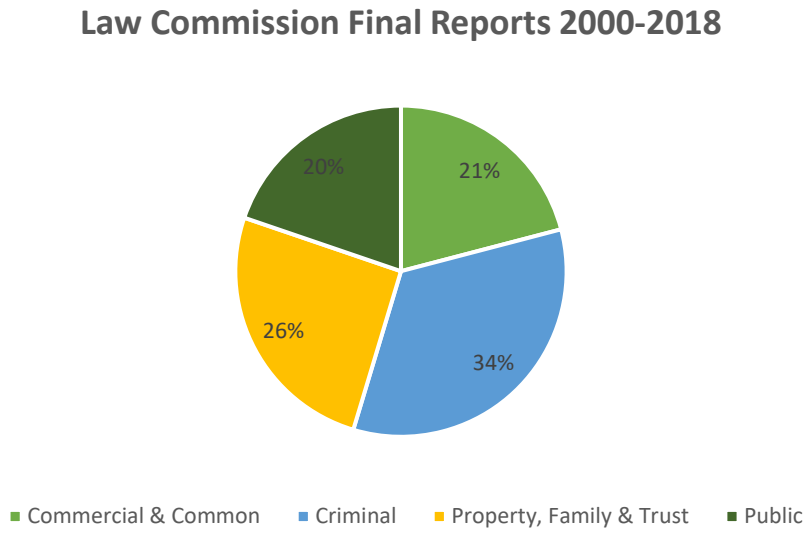
Output	Assumptions	Indicators
Law Reform Programmes and Consultations	The announced projects are supported by the relevant departments.	Number of programmes published; volume of respondents to consultations, range of respondents, quality of responses/engagement. Proportion of projects in the programme subsequently completed.
Law Reform Project Consultations	Affected parties engage with Law Commission consultations.	Number of consultations; range of respondents, quality of responses/engagement, volume of respondents.
Law Reform Project Reports	The project receives sufficient funding to be successfully completed.	Number of reports published; % of projects initiated that were completed; number of draft bills and/or guidance accompanying reports; number of impact assessments accompanying reports.
Law Reform Project Communications Products		Typical number of press releases, report briefings, talks etc. in a year; engagement statistics (e.g. visitors to project report pages)
Law Reform Project Advisory Services		Number/% of projects for which follow on services were provided to the government department. Staff hours provided in advisory services.

Key Findings

While it is not within the scope of this report to present detailed statistics on each of the Law Commission's outputs, several key findings emerge from a broad examination of the Law Commission's activities:

(1) An extensive body of project work has been accomplished by the Law Commission since its inception.

The Law Commission has published 232 Final Reports since formation, covering a wide range of topics. As the chart below illustrates, 34% of the reports related to Criminal Law matters, while Property Family and Trust matters accounted for 26% of reports, followed by Commercial and Common Law matters which accounted for 21%. Public Law matters accounted for 20% of the Final Reports published.



This is a significant body of work that compares favourably to other law reform bodies around the world. By way of illustration Table 2 shows the number of reports published by other law reform bodies since their inception.

Table 2: Law Reform Project Outputs in Other Regions

Output Measure	England and Wales	Scotland	Ireland	Australia	India
Number of reports published	232	188	106	90	277
Time period (years)	52	52	38	22	63
Average number of reports published per year	4.5	3.6	2.8	4.1	4.4

The number of reports in each category is not necessarily indicative of the net benefit delivered. For example, whilst the public law team accounted for the smallest proportion of reports its projects often had the most far-reaching scope (for example the projects relating to Adult Social Care and Mental Capacity – see Table 6 below).

(2) Law Commission consultations receive substantial and substantive engagement from stakeholders.

The Law Commission has an established reputation for conducting extremely successful consultations, adopting a multifaceted approach to encourage engagement including publishing consultation papers, conducting consultation events and approach stakeholders directly. The recent tailored review of the Law Commission (Ministry of Justice, 2019) noted that "the Consultation Period (both for individual projects and Programmes of Law Reform) has been praised by many stakeholders as being highly effective". The review highlighted the "diverse range of individuals and groups" consulted "including experts in their fields, senior judges and practitioners.

The practical value of the Law Commission's process of consultation can be seen especially in relation to national projects, which require multiple players to combine, cooperate and agree on standards, such as the recent consultation of Automated Vehicles. The formality of the consultation process can compel stakeholders to contribute and cooperate in a way which they would not in the absence of the Law Commission's centralised consultation process.

The quality of the Law Commission's consultation process is also emphasised in wider commentary on the workings of the Law Commission. For example, Philip Sales (2008) observes that the Law Commission can carry out detailed research and consult widely with all relevant actors, overcoming a key constraint on legislative action by courts, which only hear from the parties to the dispute before them rather than considering the best general legal solution for a particular problem.

The Guide to Law Reform published by The Commonwealth Secretariat (2017) also repeatedly cites the work of the Law Commission as an exemplar of good consultation practice. For example, the Secretariat draws attention to the Renting Homes project in which the Law Commission published a list of 72 events attended by members of the project team.

Other metrics, such as the number of respondents, appear to provide less meaningful information about the Law Commission's output. The number of responses fluctuates from one project to another depending on the nature of the consultation process (with short response forms receiving a high volume of returns and longer questionnaires receiving a smaller number of more detailed responses) and type of respondents (for example, responses are often received from groups representing a number of organisations and/or individuals).

Some consultations however do receive an extremely high volume of responses. For example, in the Law Commission's 2018 consultation on residential leasehold it received over 1,100 responses to the enfranchisement consultation, over 250 responses to the right to manage consultation, over 550 responses to the commonhold consultation and over 1,650 responses to the surveys of leaseholders. By way of comparison the Australian Law Reform Commission received 611 submissions in response to all of its consultations (3 projects in total) in the period 2017-2018.

(3) The additional research materials and support provided by the Law Commission in communications products and advisory services is considerable.

The additional assistance provided by the Law Commission takes a variety of forms including implementation support for Bills proposed by the Law Commission, ongoing consultation with stakeholders and independent advice to government.

The Commonwealth Secretariat (2017) repeatedly cites the work of the Law Commission as an exemplar of good practice in terms of communications and public engagement, for example referencing the Law Commission's considerable following on social media. For example, the Law Commission of England and Wales has the highest following on Twitter of any of the Law Commissions using this platform, as shown in the table below.

Table 3: Law Commissions on Twitter

	England and Wales	Australia	Scotland	New Zealand	Kenya
Twitter followers	16,300	13,600	4,286	2,495	1,789
Population (million)	59	25	5	5	50
Percentage of population	0.03%	0.06%	0.08%	0.05%	0.004%

Equally however, the population of England and Wales is the highest of all the countries whose Law Commissions are on Twitter and so would be expected to have a larger following. In terms of following as a proportion of the population, at present the Law Commission of England and Wales outperforms only that of Kenya.

Law Commission Outputs to Initial Outcomes

The next area to consider is the extent to which the outputs of the Law Commission's activities result in the anticipated outcomes. Possible indicators are detailed in the table below.

Table 4: Indicators for law reform project initial outcomes

Initial Outcome	Assumptions	Indicators
Government responses	The Government responds to the Law Commission's work.	% of reports which received Government response and % for which response is pending. Implementation statistics.
Public, media and judiciary responses	The public, media and judiciary engage with and respond to the Law Commission's work.	Law Commission coverage statistics – media references, citations in judgments, mentions in Parliamentary proceedings.
Legislation introduced to Parliament.	The Government takes the action outlined in its response. Private members can successfully introduce new legislation.	Number of acts including provisions proposed by the Law Commission introduced by government and by private members.
Parliament responses	Parliament approves the proposals.	% law reforms introduced to Parliament that have been passed
Changes to government policies and procedures or publication of guidance	The Government takes the action outlined in its response.	Number of projects resulting in changes to policy/procedure. Number of projects resulting in publication of guidance.
Change in judicial ruling	The judiciary is sufficiently affected by the findings of the reports to change its position in influential judgments.	Citations of Law Commission reports as motivating factor in judgments contravening precedent.

Key Findings

(1) Two-thirds of the recommendations made in Law Commission Final Reports have been implemented in whole or in part

As Figure 2 illustrates, 54% of the Law Commission's Final Report recommendations have been implemented and a further 11% have been implemented in part. A further 9% have been accepted or accepted in part. In total, 75% of the Law Commission's Final Report recommendations have been implemented or accepted in part or in full.

This appears to be broadly in line with implementation rates for other law reform bodies. By way of comparison, the analysis in (Hammond, 2015) of 12 Commonwealth Commissions reported that an implementation rate of 70% in whole or in part is a "sound empirical benchmark".

It should also be noted that these implementation statistics presented here do not capture all the developments arising from the Law Commission's work as they relate only to changes resulting from Law Commission final reports. As the Theory of Change illustrates, the impact of the Law Commission's work is not limited to recommendations arising from final reports, so these figures likely understate the contribution of the Law Commission's work.

(2) The Government has mostly responded to Law Commission reports, although 8% remain pending

As Figure 2 illustrates, there remain some reports for which a Government response is still outstanding. There are multiple reasons why reports may remain pending for a period of time including, for example, a change in Ministerial priorities or a lack of Parliamentary time. There are occasions where Law Commission proposals are in fact implemented a significant time after they are made so there can be advantages in allowing Law Commission recommendations to remain "on the books".

(3) In general, both House of Parliament have accepted the bills proposed based on a Law Commission recommendation, albeit with some amendments

The Law Commission has a team of Parliamentary Counsel embedded in the organisation who are responsible for drafting the bills to accompany law reform reports. The close working between the Parliamentary Counsel and project teams is likely to have contributed to the passing of Law Commission Bills in Parliament.

In the last ten years no draft bill which originated with a Law Commission report has ever been stopped during the Parliament process. Any draft bills that have been halted from proceeding through the Parliamentary process have been halted by the Government and not by failure to pass through the Parliamentary process.

(4) Law Commission reports see extensive coverage in the media

In the 2018-2019 annual report the Law Commission recorded over 5,000 references to the Law Commission across national, local, trade and academic media during the reporting period. Very little information appears to be made available about the media mentions of other law reform bodies. The Australian Law Reform Commission does report some information though, stating that in 2017-2018 it received 320 media mentions. These figures do not include academic media however and, moreover, the ALRC would be expected to report fewer mentions as there are also a number of state level law reform bodies which receive media attention and are not included in these statistics.

(5) Law Commission reports are cited in crucial judgements in the higher courts

In the 2018-2019 annual report the Law Commission reported that the Law Commission was mentioned 87 times in judgments in England and Wales and appears 158 times in Hansard, the official report of Parliamentary proceedings. By way of comparison, the Australian Law Reform Commission reported that in 2017-2018 there were 39 mentions of ALRC reports in the judgments of Australian courts and tribunals and 26 mentions in Parliament.

Key Themes

This next area to consider is the types of indicators that could be used to evaluate the outcomes of the Commission's law reform programmes in relation to each of the key themes. The table on the following pages outlines some of the existing research which has tested the assumptions implicit in the theory of change based on the key themes.

These outcomes and assumptions have not been analysed in depth across the Law Commission projects as the sets of outcomes, assumptions and impact pathways are specific to each project. Instead, the process for examining impact pathways is illustrated through a series of case studies in the following section.

However, some broad initial observations which suggest avenues for exploration in the case studies, are as follows:

(1) The potential gains to the economy from the implementation of Law Commission recommendations are significant and accrue to groups across society including government, citizens and businesses

The impact assessments of the Law Commission's projects, conducted prior to the implementation of their recommendations, indicate that their recommendations have the potential to generate substantial benefits.

While impact assessments focus on specific types of monetizable benefits, and therefore do not include the full range of impacts explored in this report, they provide an indication of the potential scale of the benefits that could be generated following implementation of the Law Commission's recommendations.

Table 5 shows the five Law Commission projects with reports published in the last five years with the highest estimated net present value over 10 years. The impact assessments for these projects illustrate the potential for widespread effects resulting from these projects with significant estimated gains from efficiencies (e.g. sentencing code, form and accessibility), facilitating investment (event fees), reducing regulatory burden on businesses (e.g. taxis and private hire) well-being impacts and harm prevention (e.g. mental capacity and deprivation of liberty safeguards). These benefits combined are estimated to amount of just under £3 billion over ten years. As the table shows the costs of running and implementing these projects is minimal in comparison to the predicted benefits.

Table 5: Five Law Commission Projects 2014-2018 with Highest Estimated Net Present Value

Year	Project	Estimated Net Present Value (benefits minus implementation costs) over 10 years	Main benefits	Cost of Project to Law Commission as Percentage of Estimated NPV	Cost of Implementation
2018	Sentencing Code	£256 million	Reduction in court time / legal costs	< 0.5%	Negligible
2017	Event Fees in Retirement Properties	£805 million	Investment in retirement housing	<0.05%	£4.76 million transition, £0.09 million annually
2017	Mental Capacity and Deprivation of Liberty*	£1,500 million	Improved health outcomes and harm prevention	N/A	N/ A
2016	Form and Accessibility of the Law	£194 million	Reduced research by legal practitioners	<0.02%	£0.22 million transition, £0.44 million annually

	Applicable in Wales				
2014	Taxis and Private Hire	£242 million	Reduced regulatory burden	<0.02%	£4.47 million transition, £0.78 million annually

* The benefit refers to the Department of Health estimate of its preferred option and not the Law Commission's preferred option.

Source: Law Commission Impact Assessments (includes draft/unpublished assessments); Law Commission internal cost calculations.

Similarly, the projects that the Law Commission is currently working on are predicted to generate significant benefits, far in excess of their costs. For example, the Law Commission is looking at improving the system of confiscation of the proceeds of crime. At present the total amounts ordered to be paid by the Courts are around £2 billion but net recovery is only 10%. The Law Commission's project will cost £250,000 a very small proportion of the benefits of improving recovery rates. Even just a 1% increase in recovery rates would generate £2 million for the Government, although potential savings are far greater - if reforms improved recovery rates to 50% of the total, this would generate approximately £800 million.

A key avenue for investigation in the contribution analysis therefore, is the extent to which the Law Commission's work has been seen to contribute to the potential gains estimated in the impact assessments.

(2) The potential effects of the implementation of Law Commission recommendations extend to groups across society

The Law Commission examines areas of law which have the potential to impact millions of peoples' lives, affecting businesses, households and individuals across England and Wales. Table 6 illustrates how some of the projects undertaken in the last decade have had the potential to affect sizeable groups within society.

Table 6: Examples of Largest Affected Groups in recent Law Commission Projects

Project	Largest Affected Group	Scale
Sentencing Code	Offenders sentenced in criminal court	1.2 million in 2017-2018
Adult Social Care	Recipients of adult social care services from local authorities in England and Wales	1.8 million new clients in 2017-2018, 0.9 million existing clients receiving long term care
Mental Capacity and Deprivation of Liberty	DoLS applicants in England and wales	0.2 million in 2017-2018
Form and Accessibility of the Law Applicable in Wales	Welsh population	3.2 million in 2019
Consumer Insurance*	Households in the United Kingdom	28 million in 2019

Sources: https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-march-2019; https://files.digital.nhs.uk/35/6A192B/Activity%20and%20Finance%20Report%20201718.pdf;https://www.communitycare.co.uk/2018/10/03/number-completed-dols-cases-20-past-year-backlog-continues-grow/; https://ukpopulation2019.com/population-of-wales-2019.html; https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/families/datasets/familiesandhouseholdsfamiliesandhouseholds.

** Joint project with the Scottish Law Commission.*

(3) There is some existing analysis examining the key themes but in general there is a lack of evidence-based research into the widespread impacts of law reform projects

A recurring theme in the broad review of the existing literature on the impact of law reform projects conducted for this report was the lack of dedicated research into this topic. For example, Economic Development and Institutions (2016) affirms that legal institutions are fundamental drivers of economic development but "our understanding of the causal pathways by which these institutions operate remains incomplete".

Similarly, the OECD (2016) highlights the lack of investment into sound evidence-based research and evaluation into understanding what strategies work, work cost effectively, when, why and for whom. The OECD emphasises that these gaps could inhibit broader justice system reforms designed to enhance inclusive growth.

Correspondingly, a key area for exploration in the case studies is how the examples from the Law Commission's work can be used to enhance our understanding of the causal pathways by which legal reforms bring about widespread impacts.

Table 7: Key Themes – Potential Indicators and Examples of Existing Research

Theme	Outcomes to Impacts	Assumptions	Indicators - Outcomes	Indicators - Impacts	Examples of Existing Research
Efficiency gains	Streamlining/clarification of the law leads to reduction in legal costs; reduced legal costs for government, businesses and individuals.	Making laws easier for judges to interpret, reduces court time, mistakes, contestations and appeals.	CPS data on number of appeals, length of trials. Legal firm data on costs per trial, costs of training junior lawyers in a complex area of law.	National indicators of wealth / income including GDP, GNI.	(Lorizio & Gurrieri, 2013) conduct a microeconomic assessment that finds Italian economic growth has been and is hampered by the length as well as by the civil and criminal justice processes, which reduces legal certainty and confidence, increases the risk of economic activities and therefore reduces the propensity to invest. (Aldashev, 2009) – reviewed the literature and asserted that in theory a better legal system should lead to a better allocation of resources, eventually increasing the aggregate total factor productivity.
Efficiency gains	Increasing the efficiency and effectiveness of the legal system can enhance entrepreneurial activity and investment.	Predictable, timely and enforceable legal rulings contribute to trust and stability, and thereby to a business environment conducive to entrepreneurial activity and investment.	Fraser Institute - Economic Freedom of the World: provides measures of the legal system and property rights	World Bank – Cost of Doing Business; Global Competitiveness Index – IMF/World Economic Forum; IMD – World Competitiveness Ranking	(Kumar, Rajan, & Zingales, 2001) find that more efficient judicial systems are associated with larger firms. (Beck, Maksimovic, & Demirgüç-Kunt, 2004) posit that improvements in the legal system allow firms to operate on a larger scale by facilitating access to external finance and a more efficient asset allocation. Using data on the largest industrial firms for 44 countries they find that firm size is positively related to the efficiency of the legal system. (Lorenzani & Lucidi, 2014) found that firm entry rates and FDI were linked to the implementation of civil justice reforms.
Technology driven growth	Legislation that clarifies the legal position on a new area of technology, and improves	Improved legislation makes suppliers more confident introducing	World Economic Forum – Enterprise Opinion Survey; World Bank - Investing	World Economic Forum – Enterprise Opinion Survey; World Bank - Investing	(The Commonwealth Secretariat, 2017) asserts that legal systems that do not adequately cover intellectual property and technology transfer issues can limit potential benefits from advances in science, technology

	compliance processes increases investment in technology.	products to market and attracts investors.	Across Borders; IMD – World Competitiveness Digital Ranking	Across Borders; IMD – World Competitiveness Digital Ranking	and innovation. (Thierer, 2016) refers to "global innovation arbitrage" the notion that capital moves almost instantly around the world as investors and entrepreneurs look for more hospitable tax and regulatory environments.
Harm prevention	Reacting to ineffective laws and extending or improving protections to those at risk, law reform projects can protect citizens from potential harm.	Increasing the cost of crime, for example by increasing sentences or the likelihood of being convicted, leads to a reduction in misconduct.	Average sentence lengths, conviction rates.	Sustainable Governance Index – Bertelsmann Foundation; Transparency International – Corruption Perceptions Index; Police recorded crimes	(Pyle, 1989) analysed property crime in England and Wales, and showed that the three significant factors reduce property crime: an increase in the expected penalty of crime, a reduction of the gains to illegitimate activity and an increase in the gains to legitimate activity.
Well-being improvement	Reforms that enshrine citizen well-being in the legal system can directly contribute to improved well-being.	Rulings and decisions are made to improve citizen well-being.	Well-being principles in legislation; citations of well-being principles in judgments; citizen perceptions of legal rulings.	OECD - Better Life Index; Fraser Institute – Human Freedom Index; Social Progress Imperative – Social Progress Index	(Berg & Desai, 2013) review of the literature on legal systems and sustainable development found that the evidence that exists between specific legal empowerment initiatives and broader social and economic outcomes – predominantly a series of detailed case studies but little comparative work – is mixed.
Rule of law	Legal reform can improve the rule of law which can lead to improved economic outcomes e.g. growth.	There is a direct link between the rule of law and economic development.	World Justice Programme – Rule of Law Index; Freedom House - Freedom in World, Rule of Law Subsection	National indicators of wealth / income including GDP, GNI.	The cross-country correlation between the rule of law and wealth is well established (see, for example, (Haggard, MacIntyre, & Tiede, 2008)). However, there is mixed evidence on the link between the rule of law and short-term growth and the causes of the observed correlations have been disputed in the literature. While some, such as (La Porta, Lopez-De-Silanes, Shleifer, & Vishny, 1997) claim strong evidence that the legal

					environment affects investment in the economy, others dispute this link. For example, (Oto-Peralias & Romero-Avila, 2017) analyse link between legal reforms and the economy. Their findings point to a lack of systematic effects of legal rules on economic and financial outcomes.
Rule of law	Reforms that reduce misconduct in a particular area can also promote compliance with the law generally.	As confidence in the legal system increases, and respect for the law rises, compliance increases.	Police recorded crimes in the area in which reforms are enacted**;**	World Justice Programme – Rule of Law Index; Freedom House - Freedom in World, Rule of Law Subsection	(Tyler, Psychological Perspectives on Legitimacy and Legitimation, 2006) compared the threat of sanction with the influence of morality and legitimacy on compliance with the law, for a panel of citizens in Chicago. Morality and legitimacy were shown to be more important than the risk of being caught in affecting compliance. Research has suggested the perception effect is stronger for crimes generally considered less immoral, more difficult to detect and less socially chastised.
Access to justice	Legal reform projects can help to promote access to justice leading to better protections for vulnerable citizens.	Improvements to the legal system help to foster a society in which vulnerable individuals and groups are better protected.	World Justice Programme – Global Insights on Access to Justice	OECD – Government at a Glance; Fraser Institute – Human Freedom Index	(OECD, 2016) asserts that "the inability to access legal and justice services can be both a result and a cause of poverty". The report cites (Tyler, 2011) stating that people who are more vulnerable to social exclusion typically report more justice problems than other groups and that legal problems spark other issues contributing to a cycle of decline.
Access to justice	Legal reform projects that promote access to justice and perceptions of justice can increase citizen well-being.	Better access to justice improves citizen well-being as citizens' rights are better protected and fairer allocations are achieved.	World Justice Programme – Global Insights on Access to Justice	Inequality measures such as the Gini co-efficient. OECD - Better Life Index; Fraser Institute – Human Freedom Index;	(Berg & Desai, 2013) review of the literature on legal systems and sustainable development states that evidence shows legal systems are important to the fair allocation of services.

Access to justice	Legal reform projects that promote access to justice and perceptions of justice can increase citizen satisfaction with the society they inhabit.	Better access to justice improves citizen satisfaction as it lends credence to the perception that the United Kingdom is a society that treats people fairly.	World Justice Programme – Global Insights on Access to Justice	European Values Survey – Eurobarometer Trust in Institutions Measures	(Van de Walle & Raine, 2008) find a strong correlation trust in the legal system and trust in Parliament and trust in institutions such as the police across a range of Western Democracies.
Modernising the legal system	The implementation of reforms to modernise the system can increase confidence and compliance as citizens feel that the law reflects prevailing social norms.	"Flouting thesis": Any areas of the law that are perceived as not reflecting notions of justice will make citizens less likely to view the law as containing moral authority to which they must adhere.	European Values Survey – Eurobarometer Trust in Institutions Measures	OECD – Government at a Glance; Police Crime statistics.	(Nadler, 2005) tests the flouting thesis and found that individuals are more willing to flout a variety of laws after being exposed to an unrelated unjust law. (Kinsey, 2002) found that when an acquaintance is overcharged by the IRS, this unjust outcome increased peoples' intention to cheat tax in the future.
Modernising the legal system	Ensuring the legal system keeps up with international obligations can maintain the UK's standing internationally, underpinning its reputation and position in international organisations.	Increased respect for the legal system can lead to improved perceptions of England and Wales more generally.	European Values Survey – Eurobarometer Trust in Institutions Measures	Freedom House – Freedom in World; Sustainable Governance Index – Bertelsmann Foundation; Transparency International – Corruption Perceptions Index	(UNDP, 2004): For many of the disadvantaged groups of concern to UNDP, existing legal frameworks — formal and traditional — are inadequate, depriving these groups of justice. Legal reforms that seek to bring formal and traditional justice systems into conformity with human rights norms and standards are therefore needed. Support should be available to countries to meet this need.

4. Case Studies

The case studies for review were selected with a view to meeting six main criteria outlined in the table below. Following discussions with team leaders and the Board of the Law Commission and weighting the various criteria, eight topics were selected comprising eleven projects.

For those case studies that are ongoing, in some instances the Law Commission's recommendations have not yet been published. The potential outcomes of these reports cannot therefore be assessed in detail at this stage. These cases were selected on balance however, given their alignment with the selection criteria and status as exemplars of the key themes.

Table 8: Criteria for case study selection

Criteria	8 Topics Selected Comprising 11 Projects
Mix of ongoing and historic (i.e. Final Report published) projects	8 historic projects selected, 3 ongoing
Mix of projects from across the teams	36% Property Family and Trust, 27% Public Law, 18% Criminal Law, 18% Commercial and Common Law
Mix of projects across the key themes identified (efficiency gains, technology driven growth, harm prevention, well-being improvement, rule of law, access to justice and modernising the legal system)	All the key themes are covered by the mix of projects selected
Mix of projects covering the types of impact identified (socio-cultural, technological, economic, environmental, political, legal and ethical) ("STEEPLE")	All types of impact are covered by the mix of projects selected
Projects relating to both England and Wales	Most projects relate to the law in England and Wales, and one of the topics selected exclusively concerns Welsh legislation
Inclusion of both implemented projects and projects which are awaiting implementation	Implemented (in whole or part) 45%; Accepted (in whole or part) 27%; Ongoing 27%

The topics and corresponding projects selected are follows:

(1) Review of Child Law
(2) Review of Fraud Law
(3) Law on Adult Social Care
(4) Insurance Law – (a) Consumer Insurance Law Pre-Contract Disclosures; (b) Penalties for Late Payments
(5) Welsh Legislation – (a) Form and Accessibility; (b) Planning Law
(6) Home Ownership Legislation – (a) Event Fees; (b) Residential Leasehold and Commonhold
(7) Hate Crime Legislation
(8) Automated Vehicles

Each case study outlines the background to the Law Commission's recommendations and the objectives of the recommended reforms. It then applies the framework outlined in Section 2 of the report to the reforms, outlining the theory of change and applicable themes. Finally, it sets out the claims to be investigated concerning the Law Commission's contribution to the potential impacts and evaluates whether the available information supports or contradicts those claims.

A simple “traffic light” indicator has been used to summarise the strength of the available evidence for each contribution claim finding. Green indicates that the information reviewed largely supports the claim, amber that the findings are inconclusive and red that the available information largely refutes the claim. Blue is used to indicate that limited information is available and/or it is too early to conclude. Thus case study projects yet to complete or be implemented are often marked blue, as it is too early to evaluate their impacts. The purpose of these markers is simply to illustrate the direction of the findings and as such they are necessarily subjective. They are not intended as threshold guides for the level of evidence required for a contribution claim and are not directly comparable across claims and case studies.

Child Law

Background

In 2018, there were 75,420 looked after children in England and 6,407 looked after children in Wales. For every 10,000 children in England, 164 are the subject of an initial child protection investigation. For all the families, social services providers and legal practitioners involved in the care system, it is essential that the law on care is straightforward, easily understood and fair to ensure that children and families are protected and looked after as well as possible.

In 1982 the House of Commons Social Services Committee undertook a review of children in care.[12] The Committee reported that the government should establish a review of child care law. In response, the Department of Health established an interdepartmental Working Party to conduct the review, including some members of the Law Commission's Family Law team.

The review was published in 1985 and reported that the current law relating to children was unsatisfactory, mainly because it had been developed on a piecemeal basis under successive governments. This caused problems for child care professionals trying to apply the law.[13] The review culminated in a 1987 White Paper titled 'The Law of Child Care and Family Services' in which the government stated its intention to reform the law in this area.[14] This was published at a time when a considerable amount of research and commentary was being produced relating to the government's care of children, including a 1985 overview of research studies on children in the care of local authorities ('the pink book'), and in the context of significant publicity on high profile failures including the deaths of Jasmine Beckford, Tyra Henry and Kimberly Carlile and the Cleveland child sexual abuse scandal.

At the same time as this review the Lord Chancellor's office expressed concern about children's well-being in court cases in private law and in 1985 the Law Commission announced a review of private law relating to the upbringing of children. This review sought to bring together into a single comprehensive code the concepts and procedures used in private law to allocate responsibility for children between individuals.[15]

While the two exercises were separate, the Law Commission was clear that in their work on private law they would incorporate the proposals emerging from the government review of the child care law and look towards an entire system of child law which is as simple, clear and consistent as possible.

The Law Commission published four working papers for consultation examining (i) Guardianship, (ii) Custody, (iii) Care, Supervision and Interim Orders in Custody Proceedings and (iv) Wards of Court.

Following extensive consultation, in 1988 the Law Commission published its report on child law titled 'Review of Child Law: Guardianship and Custody'. The report advocated a combined approach to legislating public and private law in this area to provide a single rationalized system for the care and upbringing of children. The report contained a draft Bill which covered the Law Commission's recommendations on private law and set out how the Government's proposals for public law might be provided for in a single statutory scheme.

This draft bill formed the basis of the Children Act 1989 which was subsequently drafted by the Government, introduced to Parliament and received Royal Assent in November 1989. Extensive guidance and regulations were also drafted, with assistance from Law Commission staff, to accompany the Act. These aimed to help

[12] (House of Commons Social Services Committee, 1984)
[13] (Department of Health and Social Security, 1985)
[14] (Department of Health and Social Security, 1987)
[15] (Law Commission, 1985)

those affected to understand the rationale for the Act and provide detailed information for practitioners on best practice with children and families.

The Act enshrined a number of principles including:

- The **welfare or paramountcy principle** specifies that when the court determines any question with respect to (a) the upbringing of a child, or (b) the administration of a child's property or the application of any income arising from it; the child's welfare shall be the court's paramount consideration. The **best interests** principle in the UN Convention on the Rights of the Child is similar but not identical requirement, specifying that children's interests are a *primary* consideration.
- The **no order** principle provides that where a court is considering making any type of order under the Act, the court cannot make the order unless it considers that doing so would be better for the child than making no order at all.
- The **significant harm** principle, provides that the state, and therefore a court, only has jurisdiction to intervene in the private life of the family when it is satisfied that the child concerned is suffering, or is likely to suffer, significant harm and that this harm/ likelihood of harm is attributable to the care being given to the child or the child's being beyond parental control.
- The **no delay** principle provides that "the court shall have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child."

The Act also codified the concept of **parental responsibility** which is defined as "the rights, duties, powers and responsibilities which by law a parent of a child has in relation to the child and his property" (section 3).

Objectives of the Children Act

The Children Act was a substantial piece of legislation covering many different areas relating to the care of children. While it is not practicable to investigate the logic and outcomes underlying each component of the Act, key objectives and themes can be drawn out. Key objectives underlying the Law Commission's recommendations for updated legislation included:

(i) Protect children from harm

One of the key issues the Act sought to address was the need to recognise the obligations of parents and the state to protect children from harm. It was enacted in part in response to the highly publicised deaths of children from abuse and neglect, recognising that the system needed to be improved substantially.

(ii) Promote the best interests of children

The Act was also concerned with the role of legislation to promote the best interests of children over and above protecting them from harm. It recognised that attention should be given by families and the state to various aspects of children's lives, including education, care, recreation, culture and health, and children's social behaviour.

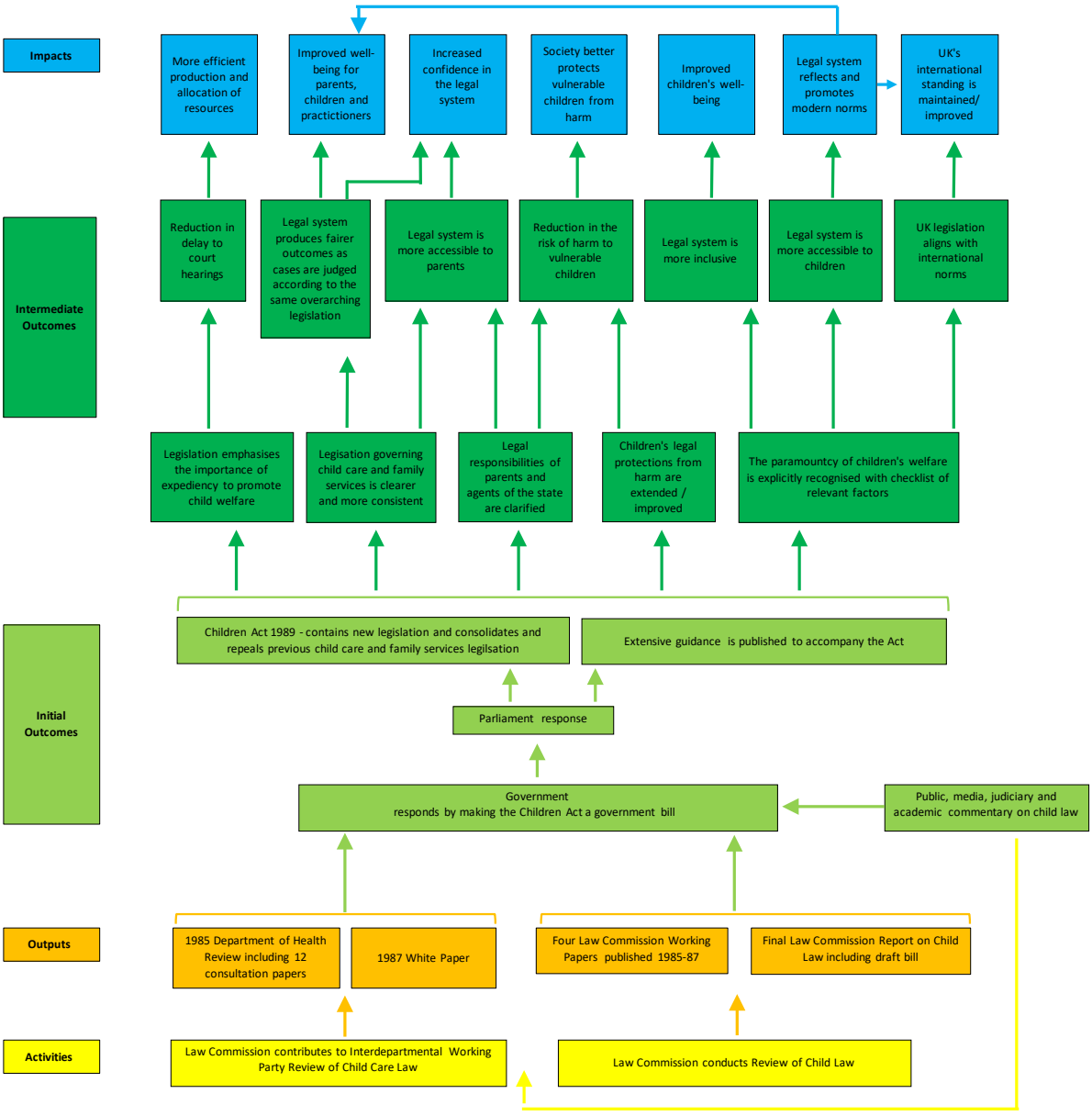
(iii) Consolidation

The Children Act 1989 sought to consolidate and simplify the law with a single framework for public and private law relating to the care of children. The implementation of the Act involved the repeal of over 50 pieces of legislation relating to children.

Theory of Change and Applicable Themes

In the diagram below the general theory of change framework set out in section 2 is applied to the reform work carried out by the Law Commission, Brenda Hoggett (now Lady Hale, President of the Supreme Court) and the members the interdepartmental Working Party (that led to the Children Act 1989. This illustrates the potential causal pathways from that work to wider impacts in England and Wales.

Review of Child Law Theory of Change



The key themes corresponding to these causal pathways are as follows:

Harm Prevention – The new legislation aimed to reduce the risk of fatalities and failures within the child care system and to improve the arrangements in place for protecting children at risk. It also aimed to recognise the potential harm to children of protracted private child proceedings.

Modernising – The Children Act sought to comprehensively codify the principles underlying the child care law in England and Wales, and to enshrine common law relating to child welfare in legislation.

Efficiency – The Act explicitly encouraged the reduction of the length of family proceedings, stating under its general principles that delay is likely to prejudice the welfare of the child. It also drastically consolidated the legislation relating to the care of children and encouraged inter-agency collaboration and co-operation. By clarifying in statute a checklist of factors to which the court is directed to have particular regard when deciding what would be in the best interests of a child, the 1989 Act aimed to encourage a more systematic approach to decisions concerning children and focus the minds of parties (and their legal advisers) on salient issues, promoting settlement in private proceedings.

Rule of Law – The legislation aimed to ensure that the law relating to the care of children is as simple and clear as possible. It also sought to remedy ineffective aspects of the existing system, with a view to increasing confidence in the effectiveness of the legislation. Importantly, by simplifying the law, the principles applicable to judicial decision-making about children could be more readily understood by the families most affected by the legislation, increasing confidence in best interests decision-making.

Contribution Claims

As set out in Section 2 above, the next step is to examine whether the Law Commission's outputs have been effectively realised, resulting in the outcomes predicted by the theory of change. Accordingly, the first claim to assess is whether the Law Commission's recommendations were successfully implemented.

CC1: The Law Commission made a difference to the passage of the Children Act 1989 and accompanying guidance.

CC1a: The Law Commission's work contributed to the content of the Children Act.
CC1b: Other organisations/influences did not make a larger contribution to the content of the Act.
CC1c: The Law Commission's work contributed to the decision to pass the Children Act into law.

The second claim to assess is whether the implementation of the Law Commission's recommendations made a difference as predicted.

CC2: The Children Act 1989 made a difference for a range of groups including children, parents, social workers, government and legal practitioners in England and Wales.

CC2a: The Children Act made a difference to children and parents' access to justice.
CC2b: The Children Act helped to protect children from harm.
CC2c: The Children Act resulted in well-being improvements.
CC2d: The Children Act led to a reduction in delay to court proceedings and other efficiency gains.
CC2e: The Children Act improved the England and Wales' reputation for its child protection legislation.

Findings

To assess the strength of the contribution claims the validity of the outcomes and assumptions necessary to establish the claims must be considered. The findings in relation to each of the contribution claims in this case are as follows:

Contribution Claim 1: The Law Commission made a difference to the passage of the Children Act 1989 and accompanying guidance.

CC1a: The Law Commission's report contributed to the content of the Children Act.		
Test	**Finding**	
Assumption – the Government adopted the recommendations in the Law Commission's report into its own draft Bill.	Examination of the Children Act reveals that the Act does include almost all the Law Commission's recommendations. This is supported by the Law Commission's annual reports at the time which expressed satisfaction that their recommendations had been adopted and incorporated in the Children Bill.[16]	
Alternative explanation – the Government would have proposed the same legislation even if the Law Commission had not produced the report.	The Law Commission's recommendations were made following extensive consultation and the publication of four working papers. No research has been found to suggest that, without this information, the Government would have devised the same legislative framework.	

CC1b: Other organisations/influences did not make a larger contribution to the content of the Children Act.		
Test	**Finding**	
Assumption – significant sections of the Bill were drafted by the Law Commission.	The Law Commission's commentary at the time supports this assumption. For example, (Law Commission, 1989) states that "much of this Bill was based on the Commission's comprehensive review of the law affecting children." It also notes the input the government received from the Law Commission as the Bill was passed through Parliament and on the Steering Committee on training for the Children Act 1989.	
Alternative explanation – the Government used the framework in the Law Commission's report but drafted much of the legislation itself.	Crucially, the draft Bill set out the Law Commission's recommendations on private law but also set out how the Government's proposals for public law might be incorporated into a single statutory framework. Consequently, it was expressly designed for the Government to make additions. Review of the Children Act 1989 indicates that the Act does include several sections which were not contained in the Law Commission's draft bill. The key topics covered which were not included in the Law Commission's report are: local authority support, protection of children (assessment orders, emergency protections), accommodation services, arrangements for fostering, day care and the Secretary of State's responsibilities. These sections came within the area of work covered by the Interdepartmental Working Party and were deliberately not covered by the bill produced as part of the Law Commission report. The draft Bill annexed to the Law Commission Report was intentionally incomplete, and intended to	

[16] (Law Commission, 1989)

	show that an integrated scheme of court orders was indeed possible, and how this might look. Accordingly, the assessment of the impact of the passing of the Children Act in this report will focus on the sections of the report which were recommended by the Law Commission.	

CC1c: The Law Commission's work contributed to the passing of the Children Act into legislation.		
Test	**Finding**	
Assumption – the Law Commission's input contributed to the tabling and passing of the Children Bill. Alternative explanation – the decision to pass the Children Act into legislation was predominantly driven by external factors.	The narrative among commentators on the introduction of the Children Act cites multiple influencing factors. While some descriptions cite the desire to incorporate the United Nations Convention on the Rights of the Child as the main determinant[17], others cite the Cleveland crisis as a formative influence[18] and others contend that the Act was largely the product of extensive research and consultation which took place prior to the Cleveland crisis.[19] It is likely that multiple events in combination led to the passing of the Children Act and further analysis would be necessary to estimate the relative importance of each of these factors. However, review of the commentary does indicate that the Law Commission's work cannot be discounted as a key contributor. The Law Commission's Bill showed how a complete legislative code was possible and the advantages of this approach.[20]	
Assumption – the Government published extensive guidance to accompany the legislation as recommended by the Law Commission.	The Government has published extensive guidance to accompany the legislation and has amended and updated the guidance many times since the introduction of the Children Act 1989 to reflect changes in legislation and practice over time. For example, the current statutory guidance for the Children Act 1989, covering court order and pre-proceedings, was updated in April 2014 following the granting of Royal Assent of the Children and Families Act 2014.[21]	

Contribution Claim 2: The Children Act 1989 made a difference for a range of groups including children, parents, social workers, government and legal practitioners in England and Wales.

CC2a: The Children Act made a difference to children and parents' access to justice.		
Test	**Finding**	
Assumption – the passing of the legislation led to more inclusive	Section 1(3) Children Act 1989 includes "the ascertainable wishes and feelings of the child concerned (considered in light of his age and	

[17] (Elliott, 2017)
[18] See for example (Speight & Wynne, 2000)
[19] (Hale, 2000)
[20] (Cretney, 2003)
[21] (Department of Education, 2014)

decision making with children's voices being heard more effectively in courts and child welfare agencies.	understanding)" as a factor to which a court should have particular regard when deciding what would be in his or her best interests. This means that children's views must be considered when making a decision, but are never determinative and need not be influential depending on the particular circumstances of a case. This assumption appears to have support in the Department of Health review of the research conducted on implementation. This found that "there is clear evidence that there has been a substantial cultural shift to include children in planning and decision-making that affects their lives".[22] However, the same review also emphasised a need for more work in child welfare agencies, particularly among social workers, to train staff to allow children to make their views heard effectively and appropriately. The impact of the legislation on access to justice has also been commented upon by the judiciary. For example, (Cobb, 2015) affirms the effectiveness of the Children Act 1989. He states that "the paramountcy principle has proved robust, and the welfare checklist adaptable to accommodate (indeed embrace) the manifold different permutations of family life with which it has had to grapple." While (Cobb, 2015) focused on private law, (Delahunty, 2019) examines public law cases, and is more critical of the effectiveness of the Act in improving children's ability to speak, particularly for older children. She finds that children who are competent to give instructions are often "represented through their Guardian when they could have the benefit of a direct voice to court, via their solicitor".	
Assumption – the passing of the legislation enabled parents to participate more effectively in proceedings concerning children in England and Wales.	Parent's access to justice in childcare proceedings has been a source of debate in the 30 years since the Children Act was passed into law. In private law proceedings the Act enables more effective participation, following the Law Commission's recommendations, by setting out clearly, in section 8, who can apply for which order with respect to children. The main argument against the positive effect of the Children Act in this area - that parents do not obtain sufficient access to justice - largely focus on the implementation of the Act, or to policies instituted after the Act. These criticisms go to the effective application of the principles of the Act, rather than changes to the legislation. For example, concerns about the impact of Legal Aid, Sentencing and Punishment of Offenders Act 2012 on parent's access to legal advice and representation in public law cases are entirely separate from the Children Act 1989 legislation itself.[23] Concerns have also been raised about failures by local authorities to obtain valid consent from parents, when taking children into care under voluntary arrangements using s 20 powers.[24] (Delahunty, 2019) explores this issue but concludes the Children Act itself clearly set out the duties of all parties	

[22] (Department of Health, 2001)

[23] See for example (Masson, 2008), (Mant, 2019), (Delahunty, 2019) and (Holt & Kelly, 2015)

[24] See for example (Welbourne, 2017), (Keehan, 2018) and (Delahunty, 2019)

	concerned. Rather, she viewed these instances "where the local authority has failed to consider the limitations on its s 20 powers and has taken children into care on less than adequate (or no) proper consent on the parent's part."	

CC2b: The Children Act helped to protect children from harm.		
Test	**Finding**	
Assumption – the passing of the legislation has led to more effective procedures for safeguarding children through the court system.	The (Department of Health, 2001) review of the research relating to safeguarding following the implementation of the Act found that "The court system has been changed for the better by the Children Act 1989". The Department found that the Children Act has generally had a positive impact on court practices. Similarly, when examining the legal framework for child protection the Laming Progress Report (Laming, 2009) concluded "Further legislative change not what is needed to protect children." One key exception noted by the (Department of Health, 2001) however was that there have been major delays in court proceedings, both in bringing care proceedings to court and in the duration of those proceedings which have in turn hampered the effectiveness of the safeguarding regime. This issue has been emphasised in recent years, for example (Munro, 2011) and (Family Justice Review Panel, 2011) highlight delays in the court processes as a major concern due to their harmful effects on children.	
Assumption – the passing of the legislation has made parent and social workers' responsibilities clearer, reducing the risk of harm to children.	The analysis relating to this assumption is mixed. For example, the (Department of Health, 2001) concluded in its review of the research on this topic that "the provision and delivery of services for children and families has made considerable progress under the Children Act, but there remains a need to refine systems, management and practice to use the Act even more effectively to safeguard and promote the welfare of children in need". Similarly, (Laming, 2009) emphasised that there is a need for practitioners to fully understand the safeguarding legislation and their accompanying responsibilities. However, in the area of parental responsibility, it can be argued that the Children Act did make the law clearer, particularly when it is shared between parents and state actors like local authorities, (for example, that parental responsibility can be exercised by one person acting alone without the concurrence of any other person, s 2(7) CA 1989). The Act defined parental responsibility as "all the rights, powers, obligations and duties to make decisions about a child's upbringing." (section 3(1)) but deliberately did not seek to define exhaustively all the ways in which parental responsibility might be exercised.	
Outcome – the risk of harm to vulnerable children in England and Wales was reduced following the passage of the Children Act.	It is difficult to isolate the effects of the passage of the Children Act in England and Wales on child protection in the context where children's care services have been strongly influenced by external factors and placed under considerable strain. For example, (The Association of Directors of Children's Services Ltd, 2018) provides evidence that in the past ten years (2008 to 2018) growing	

	pressures on children and families have resulted in significantly increased demand for support from social services which local authorities are struggling to manage. Commentary concerning the current state of child care services has in general however typically affirmed the principles of the Children Act as providing an appropriate basis for policy for safeguarding children. Criticisms have instead focused on the interpretation of the Act in certain circumstances and a lack of resources available to public bodies which have impeded effective implementation. For example, (Trowler, Care Proceedings in England: The Case for Clear Blue Water, 2018) conducted a study of care proceedings which found that while the majority of decisions to initiate care proceedings were reasonable they were not always necessary, and a large proportion of families going into court, ended up staying together. Trowler reported that over the last 10 years there has been a steady increase in England in the number of local authority applications for Care Orders, yet across England 20% of all disposals lead to a supervision order,[25] and a further 26% of children return home to extended family at the end of court proceedings. There is also a wide variance between local authorities in both the number of applications made and the rate of supervision orders. The report contends that children, families and the public purse pay a heavy price for taking this group of families into court. The key recommendation made is that safeguarding policy and practice be brought back into line with the fundamental principles of the Children Act 1989 – utilising the no order principle and encouraging voluntary accommodation provisions.	

CC2c: The Children Act resulted in well-being improvements.		
Test	**Finding**	
Assumption – the legislation has led practitioners to take a broader view of the conditions necessary for children to flourish.	The evidence in relation to this assumption is mixed. The (Department of Health, 2001) review revealed that change was slow in some areas as it took a long time to grasp the principles behind defining children in need. There was a reluctance to change from narrow eligibility criteria based on risk of harm to a concept of services provision based on the needs of children and with the aim of optimising health and development. However, the Department affirmed that later studies have shown that a broader definition of children in need is beginning to enter the language and actions of social services departments.	
Outcome – child welfare has improved following the implementation of the Act.	Many commentators and practitioners affirm the effectiveness of the Children Act in improving child welfare. Some have however suggested that	

[25] A supervision order is a court order placing the child under the supervision of a designated local authority. It does not give parental responsibility to the local authority. The supervisor's duty is to advise, assist and befriend the child and the court may attach certain requirements to the order for the child (and the parents) to comply with.

	the Act does not provide adequate protections or places too much emphasis on keeping families together. For example, (Speight & Wynne, 2000) assert that the Children Act acts as a deterrent to social workers intervening in cases of abuse and neglect. They posit that the Act exhibits a bias towards keeping abused and neglected children with their natural families and that the idea of partnership between social workers and parents is wholly inappropriate in these types of cases. However, (Hale, 2000) responds that this article "misunderstood and misapplied" the basic principles of the act. She defends the principles of the Act as serving an important role in promoting child welfare, affirming that "It is us, not the Act, who are to blame if seriously abused children are not receiving the protection they deserve." Overall, commentary suggests that the Children Act itself made a positive contribution to child welfare, and that failures to promote welfare have typically related to implementation issues rather than the legislation itself.	

CC2d: The Act led to a reduction in delay to court proceedings and other efficiency gains.		
Test	**Finding**	
Outcome – the passing of the Children Act led to a reduction in delays to court proceedings.	The Department of Health's 2001 review concluded that "the aim of the Children Act to reduce delay in court proceedings in order to take account of children's time scales has not succeeded". The studies found that the 26-week deadline for care proceedings originally set by the Children Act was unrealistic and the Department concluded that there is a need for further scrutiny of the way the court system is working for remedies to be developed. However, in recent years there has been a drive to reduce the duration of care proceedings and to honour the 26-week deadline. In particular, the Children and Families Act imposed a statutory deadline of 26 weeks on care proceedings. Since 2011 the average length of time for completing public care and supervision cases has been reduced from 57 weeks to 32 weeks.[26] While this is still outside the 26 weeks envisaged in the Children Act it represents a marked improvement. It must also be recognised that the Children Act, while advocating a principle of no delay, also sought to institute care proceedings that were compliant with the European Convention on Human Rights, which would inevitably take longer than had previously been the case.	
Outcome – the passing of the Children Act led to an improvement in inter-agency cooperation	There are indications of an improvement in co-operation following the implementation of the Children Act. For example, the (Department of Health, 2001) reported that "considering the low basis for collaboration that existed in many areas before the Act, considerable progress has been made	

[26] Statistics obtained from www.cafcass.gov.uk/about-cafcass/research-and-data/public-law-data, retrieved September 2019.

	in creating mechanisms for planning and working together to provide children's services".	

CC2f: The Act improved England and Wales' reputation for its child protection legislation.		
Test	**Finding**	
Assumption – the passing of the Children Act was received positively, increasing confidence in the child care legislation in England and Wales.	The Centre for Social Justice's Every Family Matters Report stated that "the Children Act was a highly respected piece of legislation, much copied across the world with radical new concepts and much flexibility of approach and outcome, which in our opinion is still working very well". Moreover, the Children Act appears to have stood the test of time, providing the flexibility to respond to modern situations 30 years after the Act was passed into legislation. For example, Delahunty (2009) cites the case of a transgender woman bringing an application for contact with her five children. She praises the way in which the principles of the Act could be applied in a nuanced way, balancing different facets of harm that were unlikely to be material considerations at the time of drafting in 1989. "Times are changing and the concept of 'best interests' will evolve on a case by case basis in a way that The Children Act legislators could not have predicted but which their drafting has made possible."	
Assumption – the passing of the Children Act was received positively internationally and helped England and Wales fulfil international obligations in relation to child protection.	International commentary appears to support this assumption at least in part. For example, UNICEF's 2012 review of the implementation of the UN Convention on the Rights of the Child (UNCRC) in England cites the Children Act 1989 as a key reform towards improving services for young people. However, this has not been sufficient to fulfil the requirements of the UNCRC and the report notes that in general the implementation of the UNCRC across England has been "sectoral and piecemeal". In Wales, in contrast, The Rights of Children and Young Persons (Wales) Measure 2011 states that Welsh Ministers must, when exercising any of their functions, have due regard to the requirements of the UNCRC and its optional protocols. (Taylor, 2016) echoes the findings of UNICEF's review, stating that commitment to embedding children's interests in political processes has been "patchy, with implementation depending on the location of responsibility within the devolution arrangements and the degree of political will within the department in question to a thorough commitment to children's interests and the UNCRC." Academic commentary, such as (Herring, 1999) has also drawn attention to the differences, and potential conflicts, between the paramountcy principle enshrined in the Children Act one the one hand and the principles set out in the UNCRC and ECHR which require a balancing of the best interests of children with the rights and interests of the other family members. Herring however finds that ultimately neither approach is perfect and that every case will require a balancing of interests and rights.	

	Overall, the Children Act appears to have been well received and lauded for having put children's interests at the forefront of decision making.	

Conclusion

The main conclusions of publicly available assessments and commentary on the Children Act 1989 over the past 30 years have been that the overarching primary legislation is generally sound and has provided an effective framework for the provision of services to children in need.

While a range of concerns have been expressed about the current state of child care services, these issues relate to the implementation of the principles of the Act, rather than the legislation itself. These views are summarised in recent review by (Delahunty, 2019) who concludes: *"What needs to develop is not the legislation but the willingness of government to provide the funds for the training, community and court services that are essential to enable us, 30 years on, to live up to its ethos."*

Fraud Legislation

Background

Ensuring the law on fraud is simple, modern, fair and effective is vital to citizens and the economy of England and Wales. Approximately one in 17 adults are victims of fraud in England and Wales[27] resulting in annual losses to the economy of £4.7 billion.[28] The costs to businesses and the public sector are estimated to be even greater, with the Centre for Counter Fraud Studies estimating that annual UK fraud losses could be £193 billion.[29]

In April 1998 the Home Secretary asked the Law Commission to examine the law on fraud, considering whether: (i) it is readily comprehensible to juries, (ii) it is adequate for effective prosecution, (iii) it is fair to potential defendants, (iv) it meets the need of developing technologies.

The Law Commission consulted on this project in April 1999 and published a Final Report in 2002, along with a draft Bill. The report made recommendations for reforming and simplifying the law of fraud, by repealing the eight offences of deception created by the Theft Acts 1968–96 and abolishing the common law crime of conspiracy to defraud. In their place it recommended the creation of new statutory offences for fraud and obtaining services dishonestly.

The Fraud Act contains a general fraud offence which can be committed in three different ways:

- Fraud by false representation. A representation may be express or implied. It is false if it is untrue or misleading and the person making it knows that this is, or might be, the case.
- Fraud by failing to disclose information where there is a legal duty to disclose it.
- Fraud by abuse of position. Abuse of position applies where a person occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person. A person may abuse that position through an act or omission.

Common to all three is the requirement that the person act dishonestly, intending to make a gain for himself or another or to cause loss to another (or expose another to a risk of loss).

The Fraud Act also creates new offences of obtaining services dishonestly and of possessing, making and supplying articles for use in fraud, as well as containing a new offence of fraudulent trading applicable to non-corporate traders. It increased the maximum custodial sentence for fraudulent trading to 10 years.

Two of the key changes from the previous regime were first, that under the new act there is no requirement to prove that the victim or another person believed the representation or acted on it and second, that under the offence of fraud by false representation it is not a requirement that the defendant is successful in obtaining anything for the offence to be caused.

Following the publication of the Law Commission's recommendations, in May 2004 the Home Office published the Consultation Paper 'Fraud Law Reform Consultation on Proposals for Legislation'. It received 71 responses after which the Government proposed the Fraud Bill which contained the Law Commission's recommendations with some modifications (the key change being that the Government opted not to repeal the common law crime of conspiracy to defraud). The Fraud Bill was introduced to Parliament in 2005 and the Act received Royal Assent on 8 November 2006. The Act came into force on 15th January 2007.

[27] Home Office. 2018. "The Scale and Nature of Fraud: A Review of the Evidence.", page 11.
[28] Home Office. 2018. "The economic and social costs of crime." Research Report 99, page 7.
[29] Centre for Counter Fraud Studies. 2016. "Annual Fraud Indicator" page 6.

Objectives of the Fraud Act

Several objectives behind the new legislation were set out in the Law Commission's Final Report. These are broadly summarised as follows:

(i) Codify and Establish Fraud Offences

A key motivation for the legislation was to ensure that the different forms of fraudulent activity would be explicitly covered by the legal system and thereby prosecutable. The recommendations sought to establish general offences of fraud and of obtaining services dishonestly in England and Wales. These were designed to be sufficiently broad as to enable successful prosecution but sufficiently narrow as to clearly identify what conduct is illegal (and thereby not risk infringement of personal freedom or the rule of law). One of the advantages of codification was that it would provide reassurance that the law regarding fraud offences complied with Article 7 of the European Convention on Human Rights (particularly which states that no-one can be held guilty of an act which did not constitute a criminal offence under national law at the time it was committed).

(ii) Simplify and Clarify the Law

The Law Commission's recommendations sought to repeal the eight offences of deception in the Theft Acts 1968–96 to simplify and clarify the law on these types of offences.[30] This was in part a response to repeated criticism of the length and complexity of fraud trials. It was envisaged that the new legislation would make the law more accessible and comprehensible to citizens and juries, and would increase the effectiveness of prosecutions.

(iii) Enable Legislation to Adapt to Technology Changes

The offences contained in the Act were intended to provide law enforcers and prosecutors with a modern and flexible law of fraud capable of combating the increasing sophistication of fraudulent activity and the rapid technological advances made by fraudsters.

(iv) Assert Intention to Tackle Fraud

Another motivation for the reform was to restore confidence in the legal system's ability to tackle fraud offences. It was thought that the existence of a modern and up-to-date code would show the seriousness with which society regards the control and punishment of these crimes. Extending the maximum prison sentence for certain offences would also reinforce this message.

Theory of Change and Applicable Themes

The general theory of change framework set out in section 2 is applied to the Law Commission's examination of the law on fraud in the diagram below. This illustrates the potential causal pathways from the Law Commission's work to wider impacts in England and Wales.

The key themes corresponding to these causal pathways are as follows:

Rule of Law – The Law Commission's recommendations sought to codify the law governing fraud and deception and to ensure it was simple and clear about the types of activity which are illegal and the corresponding

[30] The Law Commission also recommended the abolition of the common law crime of conspiracy to defraud, although this was not taken forward by government.

consequences. These measures aimed to increase confidence in the integrity and effectiveness of the legal system in tackling fraud.

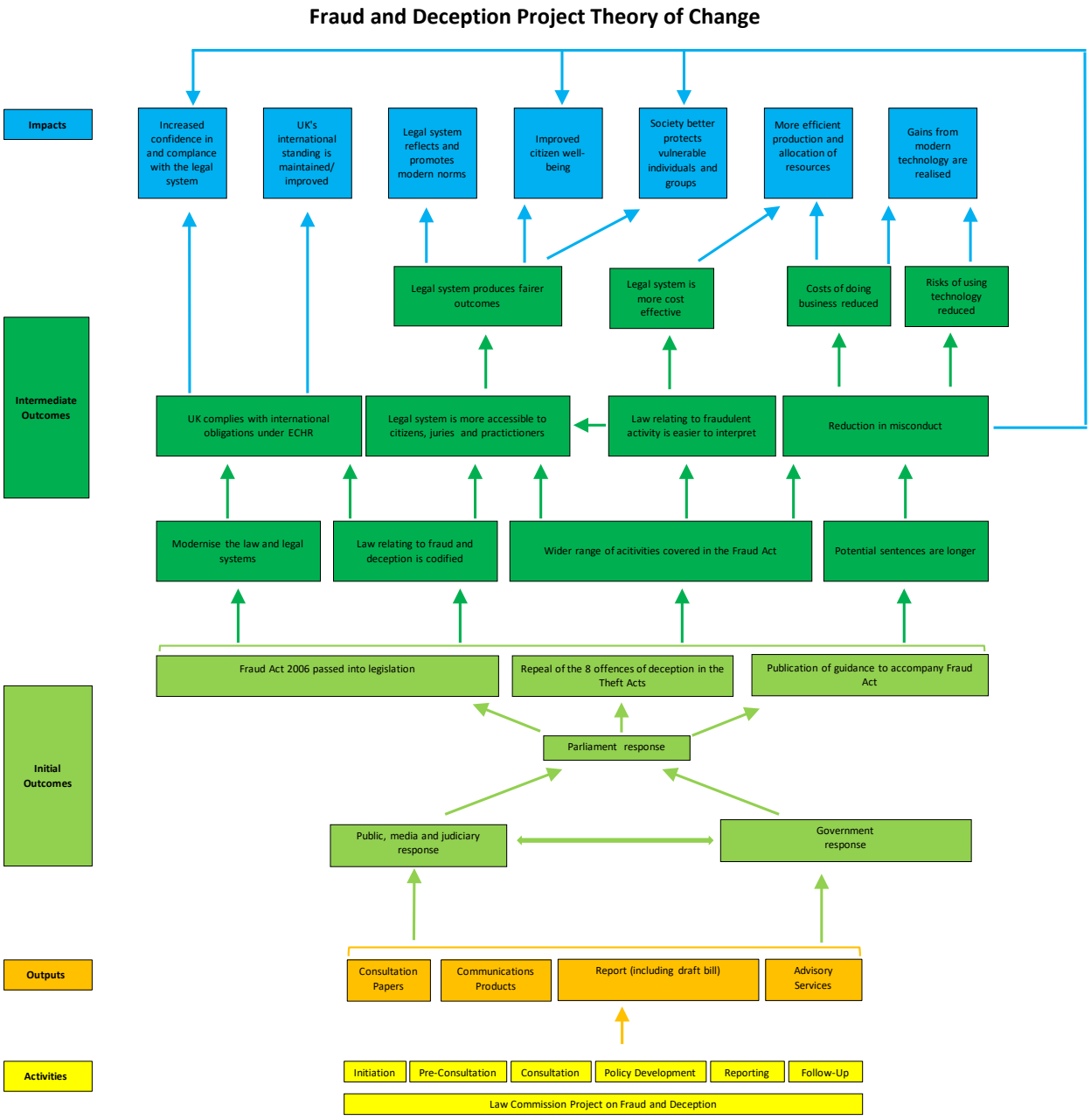
Access to justice – The recommendations aimed to make the law governing fraud and deception more accessible to prosecutors, juries and defendants by simplifying and clarifying the legal position.

Harm Prevention – The recommended reforms to the legislation aimed to reduce the risk of harm to businesses, citizens and public bodies of becoming victim to fraud and deception.

Technology driven growth – Clarifying the legal position on fraud could also help reduce the risks associated with using new technologies (for example, by reducing instances of fraud or by providing clearer avenues for obtaining compensation. This could in turn make suppliers more confident introducing innovative technologies to market. In particular, Sections 6 and 8 of the Fraud Act make it clear that the offences can be applied in an online context, stating that it is an offence for a person to possess or control any article for use in connection with any fraud where an "article" includes any program or data held in electronic form.

Efficiency gains – Improving the legal framework could also reduce costs for participants in fraud cases as cases may be resolved more swiftly. Reducing the risk of misconduct could also lead to savings for businesses, organisations and individuals who might otherwise have become victims.

Modernising – The reforms were intended to bring the law on fraud and dishonesty into an up-to-date code to reflect modern norms (such as the victim does not have to be harmed for fraud to have taken place) and international obligations (such as the European Convention on Human Rights). For example, the extra territorial jurisdiction of the Fraud Act (in respect of offences in sections 1,6,7,9 and 11) could be used to help hold transnational actors and corporations guilty of fraud offences to account.



Contribution Claims

As set out in Section 2 above, the next step is to examine whether the Law Commission's outputs have been effectively realised, resulting in the outcomes predicted by the theory of change. The first claim to assess is whether the Law Commission's recommendations were successfully implemented:

CC1: The Law Commission made a difference to the passage of the Fraud Act 2006.

The second claim to assess is whether the implementation of the Law Commission's recommendations made a difference as predicted.

CC2: The Fraud Act 2006 made a difference to government, citizens and legal practitioners in England and Wales.

CC2a: The Fraud Act contributed to improved perceptions of the rule of law in England and Wales.
CC2b: The Fraud Act improved access to justice for participants in cases on fraud and deception.
CC2c: The Fraud Act reduced the risks of harm to citizens, the state and businesses from fraud and deception.
CC2d: The Fraud Act facilitated technology driven growth.
CC2e: The Fraud Act reduced costs for those at risk of fraud and those involved in fraud litigation.
CC2f: The Fraud Act brought the law on fraud and dishonesty into an up-to-date code reflecting modern norms.

Findings

To assess the strength of the contribution claims the validity of the outcomes and assumptions necessary to establish the claims must be considered. The findings in relation to each of the contribution claims in this case are as follows:

Contribution Claim 1: The Law Commission made a difference to the passage of the Fraud Act 2006.

Test	**Finding**	
Assumption: the Law Commission's report motivated the Government to change the Law.	The (Ministry of Justice, 2012) post-legislative assessment of the Act affirmed that the Fraud Act "was based mainly on the recommendations in the Law Commission's Report on Fraud and a Home Office consultation in May 2004". The function of the Home Office consultation was to gather views on the Law Commission's recommendations and so it was highly reliant upon the Law Commission's report. Similarly, the Government's own research into fraud laws and trials (The Fraud Review Final Report, 2006) explicitly recognises the Law Commission's recommendations as the source for this Bill. This research was conducted by the Attorney General after the Fraud Bill had been introduced and is not expressly concerned with legal reform. It focuses on ways to prevent fraud, measure the incidence of fraud and make the investigation and prosecution of fraud more effective.	
Alternative explanation: based on its own work the Government would have proposed the Fraud Bill without intervention from the Law Commission.		
Assumption: the Government drafted the Fraud Bill as recommended by the Law Commission.	This assumption appears to be partially but not entirely supported. While the Fraud Bill contained most of the recommendations put forward in the Law Commission's report the Government decided not to propose the repeal the common law crime of conspiracy to defraud.	
Risk: the Government decided not to implement the Law Commission's recommendations		
Assumption: Parliament passed the Fraud Bill into legislation.	The Fraud Bill was introduced to Parliament in 2005 and the Act received Royal Assent on 8 November 2006.	

Risk: Parliament made substantial alterations to the Bill before it was enacted.	Parliament did make some amendments to the Bill. The most significant change was the introduction of section 2 part 5 specifying that representations include submissions to devices "designed to receive, convey or respond to communications", thereby bringing machines such as those with a chip and pin within scope. However, this amendment augments rather than undermines the Law Commission's recommendations.	

Contribution Claim 2: The Fraud Act 2006 made a difference to government, citizens and legal practitioners in England and Wales.

CC2a: The Fraud Act contributed to perceptions of the rule of law in England and Wales.		
Test	**Finding**	
Outcome: the law on fraud and deception is codified.	The Fraud Act was successful in creating new statutory offences for fraud and obtaining services dishonestly. However, the codification exercise did not go as far as the Law Commission intended as the Fraud Act did not revoke the common law relating to conspiracy to defraud.	
Assumption: the Fraud Act clarifies the types of behaviour that constitute illegal fraudulent activity. Risk: the Fraud Act's lack of specificity undermines the perceptions and utility of the Act.	In general, the (Ministry of Justice, 2012) found that prosecutors have been "impressed with the simplicity and clarity of the reformed law on fraud". However, the language used in the Fraud Act was also subject to criticism broadly relating to: (i) the breadth of the offences covered, (ii) a lack of definition of key terms.[31] For example, it was contended that the offence of fraud by false representation could cover a wide range of activities and the Fraud Act does not distinguish clearly between an offence which has had widespread costly consequences and a minor act which was simply ignored and had few consequences for the intended victims. It has also been remarked that the drafting of this offence also requires the jury to make determinations on some of the key definitions including the appropriate meaning of "falsity" and "dishonesty". Concerns were also raised that the offence of fraud by failure to disclose makes an individual liable if they dishonestly fail to disclose information that they had a legal duty to disclose. This again requires the jury to make a judgement as to whether this duty has been proven. It also raises questions about how civil and criminal law can remain aligned on the issue of what defendants have a legal duty to disclose. Despite these concerns, the post-legislative assessment of the Fraud Act conducted by the Ministry of Justice concluded that the Act had simplified fraud law and that the fraud offences were easily understood by those responsible for their investigation and prosecution. Commentary in academia has also supported this finding, with for example, (Virgo, 2017) concluding "Initial concerns about the ambit and interpretation of the legislation have largely proved unfounded."	

[31] See, for example (Summers, 2008), (Yeo, 2007) and (Ormerod, 2007).

Outcome: perceptions of the Rule of Law increase. Risk: the Fraud Act is so broad as to undermine perceptions of the rule of law. Risk: the Fraud Act is rarely used and fraudsters are punished under alternative regulatory modes.	The (Ministry of Justice, 2012) post-legislative review confirmed that the Fraud Act is being used effectively to prosecute perpetrators under the new offences. For example, there were more than 2000 charges brought by the CPS under section 6 of the Act in 2010. Concerns were initially expressed that by providing a "catch-all" framework for fraud the Act risks criminalising conduct which is more appropriately seen as a minor dispute and thereby risks undermining perceptions of the rule of law.[32] However, (Virgo, 2017) found that although the Fraud Act has expanded criminal liability it is not uncontrolled. He notes the guidance published by the CPS which operates to modify the breadth of liability and the restrictions liability that have been imposed in court decisions.	

CC2b: The Fraud Act improved access to justice for participants in cases on fraud and deception.		
Test	**Finding**	
Outcome: the Act made the law relating to fraud and deception easier to understand and interpret.	In their response to the (Ministry of Justice, 2012) evaluation the CPS stated that the general offence "limbs" in section 1 of the Act are straightforward and the behaviours specified in section 2 (fraud by false representation), which account for the overwhelming majority of charges, successfully cover a broad range of fraudulent offending, and are easy to apply and understand. As mentioned in relation to CC2a, some practitioners and academics initially raised concerns about interpretative difficulties resulting from a lack of clear definition of terms in the Act. However, these concerns do not appear to have materialised. Equally, many practitioners and academics have welcomed the Act. For example, (Withey, 2007) describes it as a "vast improvement on the former offences" and as "bringing some clarity and a welcome simplification to the law".	
Outcome: the Fraud Act made the law relating to fraud and deception more accessible to citizens and practitioners.	In their response to the Ministry of Justice evaluation the CPS advised that the Act has simplified fraud law. The offences are now easily understood by those involved in, and responsible for, the investigation of fraud. As mentioned in relation to CC2a, practitioners and academics initially raised concerns about the impact of the Fraud Act on accessibility for defendants. It was posited that the lack of specificity in the types of activities covered could potentially lead to the criminalisation of trivial disputes or convictions based on unintentional false representations. However, as noted above, the CPS and the courts have place limits on the breadth of liability which have allayed these concerns.	

[32] See, for example (Ormerod, 2007).

CC2c: The Fraud Act reduced the risks of harm to citizens, the state and businesses from fraud and deception.	
Test	**Finding**
Outcome: the Fraud Act led to a reduction in misconduct. Assumption: the Act deterred criminals from committing acts of fraud and deception.	It is difficult to draw a firm conclusion on this outcome. The number of reported incidents recorded by the police did fall following the introduction of the Fraud Act. However, this was in the context of downwards trend in police reports of incidents of fraud. The Office for National Statistics notes in its examination of these trends that the reductions may be explained by findings from the 2006 Fraud Review which pointed to a lack of understanding by the police as to what constituted fraud, as well as a general lack of capacity or willingness by police forces to accept fraud reports. Looking at a separate module of questions to householders on plastic card fraud, the (Office of National Statistics, 2018) find steady year-on-year increases from March 2006 with levels peaking 2008-2010 and declining following the introduction of chip card technology.
Assumption: the Act helped prosecutors catch more criminals and imprison them sooner. Risk: Insufficient resources are provided for the police to investigate.	According to the (Ministry of Justice, 2012) review the Act has been very useful for the prosecution of fraud from investigation through to trial. They found that the Act allows investigators to take prompt action to avoid further criminality. They found that no longer having to prove a person was deceived, or suffered an actual loss, as in earlier legislation, has proved helpful to prosecutors. For example, the City of London Police reported that basing the offences on the intention of the defendant rather than on the established outcome has led to increased consideration of early guilty pleas. In general, the Ministry of Justice found that practitioners report that guilt in respect of the new offences under the Act seems to be more readily admitted than for the former deception offences. For example, Ministry of Justice crime statistics reported in 2009[33] show that the percentage of guilty pleas for fraud offences in the Crown Court increased from 71% in 2005 to 81% in 2009.[34] While the effectiveness of prosecutions under the Fraud Act has reportedly been limited by the lack of resources and prioritisation of fraud cases within the police service[35], these issues result from a lack of available resources rather than the wording of the legislation.
Outcome: the Fraud Act resulted in better protection for vulnerable individuals and groups	Again, it is difficult to draw a conclusion on this outcome as it is unclear to what extent the implementation of the Fraud Act has prevented criminal activity that would otherwise have occurred. There have been successful

[33] Statistics reported in https://www.gov.uk/government/statistics/criminal-statistics-annual-report-ns. Chapter 5, Table 5.15. Statistics reported are for cases in the Crown Courts and include trials relating to conspiracy to defraud. Over the same period, guilty plea rates for all criminal offences increased, but by just 5% from 66% up to 71%.

[34] The current guilty plea rate for fraud cases is 63%. However, the basis on which plea rates are recorded change in this period so the figures are not directly comparable.

[35] For example. data released by the Ministry of Justice reveals significant delays in cases being charged. In 2018 the average time from offence to charge in fraud offence cases was 496 days, 4 times the average for all offences and the median time was 318 days, compared to 109 days for all offences Statistics reported in https://www.gov.uk/government/statistics/criminal-court-statistics-quarterly-january-to-march-2019 using "Offence group timeliness of cases at the criminal courts tool". Statistics reported are for cases in the Magistrates and Crown Courts and include trials relating to conspiracy to defraud. The HMICFRS also commented in its April 2019 review that law enforcement response to fraud is disjointed and ineffective.

	prosecutions under the Act which have resulted in restitution for vulnerable individuals but these might also have been punishable under previous legislation. For example, in (R v Greig, 2010) the defendants had charged a vulnerable elderly man £6,850 for gardening work valued at £300. The defendants were convicted of fraud by the implicit representation that the amounts they had charged 'represented fair payment for gardening work'. While the conviction was brought under the Fraud Act, it would likely however have also been an offence under the previous legislation (as demonstrated by cases such as (R v Silverman, 1987) in which a builder was convicted as having dishonestly represented unreasonable charges for work on two elderly sisters' home as fair).	

CC2d: The Fraud Act facilitated technology driven growth.		
Test	**Finding**	
Assumption: coverage under the Act has been sufficiently broad so as to allow prosecutions of fraud using modern technologies.	In their review the (Ministry of Justice, 2012) found that practitioners agree the Act has proved valuable in respect of a variety of technology-related criminality, such as that relating to credit cards, PIN entry devices, internet frauds and "phishing", and is flexible enough to respond to emerging types of criminality. The City of London Police reported that the Act has met the challenges posed by developments in technology and internet crime. In its role as the national lead force for intellectual property ('IP') crime, COLP praised the Fraud Act and observed it "has enabled the IP industry to report crime as fraud rather than before where the infringement of copyright or trading standards regulations were the only route forward for the industry." The changes brought about by the Fraud Act have resulted in successful prosecutions for intellectual property crimes as fraud offences. For example, in the landmark case (R v Nimley, 2010) Emmanuel Nimley was sentenced to jail under the Fraud Act for using his iPhone to record films at a cinema in Harrow. Similarly, Virgo (2017) reports that the Fraud Act has been successful in modernising fraud law so that the offences are appropriate to respond to ever more sophisticated and technologically advanced methods for perpetrating fraud.	
Outcome: the perceived and/or actual risks associated with using modern technologies were reduced following the implementation of the Act.	As with the assessment of whether the Fraud Act has influenced the level of misconduct it is difficult to draw a firm conclusion on this outcome. The National Audit Office noted in its 2017 report, "fraud, more than half of which is committed online, is becoming more common and is a growing threat". Equally, the Fraud Act has been used to successfully prosecute offenders for a wide range of offences associated with using modern technologies.	

	In the context of increasingly sophisticated activity by fraudsters, it is likely that having a modern and flexible legal system for prosecuting offences has positive effects on perceived and actual risks associated with using modern technologies. Further research would be necessary however to estimate the scale of this effect.	

CC2e: The Fraud Act reduced costs for those at risk of fraud and those involved in fraud litigation.		
Test	**Finding**	
Assumption: the Fraud Act made prosecutions simpler.	Practitioners have observed that the new legislation simplifies prosecutions as it allows for the clearer expression of large scale criminal acts under one charge.	
Outcome: the Act led to a reduction in court time and/or other resource savings in court cases prosecuted under the Act.	In the Ministry of Justice review the CPS reported that cases brought under the Act tend to be disposed of more quickly than other types of cases involving fraud. This is supported by the most recent data from the Crown Prosecution Service.[36] The CPS reports that the average hearing time per case in the Crown Court was 10.17 hours for fraud offences in 2018-2019. However, in some regions the average is significantly higher, as result of lengthy conspiracy to defraud cases. For example, the average in Southampton was nearly 5 times higher than the national average, due to a five-month conspiracy to defraud trial. The Ministry of Justice found that practitioners agree that it would be difficult to assess overall resource savings, but that a significant increase in guilty pleas, simplification of the offences and investigation of fraud indicate a productive use and considerable saving of resources. Data from the Crown Prosecution service show the considerable time savings in the Crown Court resulting from an increase in guilty plea rates. The average hearing time for a case with a guilty plea is just two hours, compared to 25 hours for a not guilty or no plea case. As noted above Ministry of Justice crime statistics reported in 2009[37] show that the percentage of guilty pleas for fraud offences in the Crown Court increased from 71% in 2005 to 81% in 2009 indicating that the introduction of the Fraud Act may have had a significant impact on plea rates and correspondingly reduced hearing times and associated costs.	
Outcome: the Act reduced the number of appeals.	The (Home Office, 2004) reported in its regulatory impact assessment prior to the introduction of the Act that the Serious Fraud Office expected a reduction in the scope for legal argument and appeals on technicalities	

[36] Statistics reported on the Crown Court dashboard available at https://www.judiciary.uk/crown-court-information/.
[37] Statistics reported in https://www.gov.uk/government/statistics/criminal-statistics-annual-report-ns. The statistics relating to fraud offences include trials relating to conspiracy to defraud.

	under the proposed legislation. It was anticipated that this would lead to a saving of court and prosecution time. (Virgo, 2017) supports this conclusion, observing that in comparison to the contemporaneous enactment of the Serious Crime Act 2007 the Fraud Act 2006 has resulted in very few appellate decisions, "in part due to the simple structure and clear language used".	
Outcome: the implementation of the Act led to a reduction in the cost to businesses and individuals associated with fraud and deception.	There does not appear to be strong evidence to support this assumption. Rather, there is a perception that costs to businesses and individuals associated with fraud and deception are increasing as offences become more common, particularly online. The (Chartered Institute of Public Finance and Accounting, 2017) observes however that this is not the result of a defective legal framework for prosecuting offences but rather a lack of attention and resource dedicated to prevention and the absence of a co-ordinated approach among counter-fraud agencies.	

CC2f: The Fraud Act brought the law on fraud and dishonesty into an up-to-date code reflecting modern norms		
Test	**Finding**	
Outcome: the Act ensures that UK law fulfils international obligations under Article 7 of ECHR.	There was some debate on this issue when the Act was first introduced. Critics raised concerns that findings on the general offence of fraud will rely on the jury's interpretation of dishonesty and so could contravene Article 7.[38] However, the Home Secretary and the Attorney General affirmed the compatibility of the legislation with Article 7 stating that the new general offence of fraud is not a general dishonesty offence. Instead, a component of the test as to whether an offence has occurred is a test of dishonesty. The Joint Parliamentary Committee on Human Rights agreed, concluding that the general offence would be compliant with Article 7.[39]	
Outcome: the Act allows for the prosecution of modern acts of fraud which were not clearly covered under previous legislation.	According to the (Ministry of Justice, 2012), prosecutors have indicated that the Act provides a comprehensive suite of offences for a diverse range of cases. For example, the CPS has successfully used section 6 of the Act to prosecute offenders for recording films in cinemas, which has avoided the need to amend the criminal law to introduce offences to target that specific misconduct. Further, COLP reported that the Act is being considered as a means to prosecute a wide range of criminal activity including wine scams, land banking - a development scam in which investors are sold worthless plots of land, investment fraud, data theft and charity scams.	

Conclusion

[38] As reported in (Summers, 2008).
[39] As reported in (Virgo, 2017).

Ensuring the law on fraud is simple, modern, fair and effective is vital to citizens and the economy of England and Wales. Approximately one in 17 adults are victims of fraud in England and Wales[40] resulting in annual losses to the economy of £4.7 billion.[41] The costs to businesses and the public sector are estimated to be even greater, with the (Centre for Counter Fraud Studies, 2016) estimating that annual UK fraud losses could be £193 billion.

Overall, the Law Commission's work to reform the law on fraud appears to have been successful in achieving its objectives of codifying, clarifying and modernising the law. These changes have facilitated legislative action from investigation through to prosecution, as law enforcement officers in England and Wales seek to tackle increasingly complex and costly fraudulent activities.

[40] (Home Office, 2018) "The Scale and Nature of Fraud: A Review of the Evidence.", page 11.
[41] (Home Office, 2018) "The economic and social costs of crime." Research Report 99, page 7.

Adult Social Care Law

Background

In June 2008 the Law Commission announced the inclusion of the adult social care project in its Tenth Programme of Law Reform, sponsored by the Department of Health. Adult social care is the care and support provided by local social services authorities to adults who need extra support. Most citizens will need adult social care services at some time in our lives, either for ourselves or for a family member or friend. Data for 2017 reports that the adult social care workforce in England is 1.6 million people[42] and £21.2 billion is spent annually by the UK government on adult social care.

The overall aim of the project was to provide a clearer, modern and more cohesive framework for adult social care. It was widely recognised that the legislative framework for adult residential care, community care, adult protection and support for carers was inadequate. Prior to the Law Commission's intervention, it remained a confusing patchwork of conflicting statutes enacted over a period of 60 years. There was no single, modern statute to which service providers and service users could look to understand whether (and, if so, what kind of) services can or must be provided.

The Law Commission published a scoping report in November 2008 followed by a consultation paper in February 2010. This paper set out provisional proposals to reform the law and received 231 written responses. The Final Report published July 2011 made a series of recommendations for consolidation and reform including:

- *Establishing a unified statute with a new three-level structure for adult social care*. The first level would set out core duties and powers for local social services; the second level would outline regulations made by the Secretary of State/Welsh Ministers providing greater detail where necessary; and the third level would contain a code of practice, ie government issued consolidated guidance on the new statute.
- *A new statute to establish the overarching purpose of adult social care to promote or contribute to the well-being of the individual.* Individual well-being was identified as the basis for all decisions made and actions carried out under the statute. The statute would not provide a precise definition of well-being but would set out a checklist of factors that must be considered before a decision is made in relation to an individual.
- *The provision of adult social care services at two levels.* The first, a universal level, would encompass the provision of universal services to the wider community to help prevent or delay the need for more targeted social care interventions. The second level would be targeted social care services, provided following a community care assessment. The new statute for example would set out a single, clear duty to assess a person.

As well as setting out the legal framework for the provision of care and support, the recommended reforms also defined the duties and powers of local authorities to safeguard adults from abuse and neglect.

The Care Act 2014 implemented Law Commission recommendations in England. It set out a new legal framework for the provision of care and support services to older and disabled people, and their carers, and established duties for safeguarding vulnerable adults from abuse and neglect**.** It came into force in April 2015. The Social Services and Well-being (Wales) Bill, implemented Commission's recommended reforms in Wales, and was laid before the National Assembly for Wales January 2013.

[42] (Institute for Government, 2018)

Adult Social Care Legislation Objectives

Several objectives behind the new legislation were set out in the Law Commission's Final Report. These are broadly summarised as follows:

(A) Simplification

The recommendations sought to replace the existing patchwork of laws with a clearer and more cohesive legal framework for adult social care. This would simplify the legal requirements on local social services authorities, make the law easier to use and clarify the rights held by service users and carers.

(B) Consistency

The Law Commission's recommendations aimed to establish greater consistency in adult social care law. A consolidated adult social care statute would make sure that adult social care was no longer based on a series of piecemeal and inconsistent Acts of Parliament. It would streamline the duties and powers on local social services authorities and ensure that the legal framework could accommodate the current and future direction of policy.

(C) Transparency

The reforms were intended to make the law easier to understand so that service users could be clear about how local authorities make their decisions about service provision. Transparency in the law would help ensure service users are aware of their rights and local authorities understand their responsibilities. It was posited that this in turn could make it easier to enforce the legislation.

(D) Modernisation

The recommended reforms aimed to bring the law in line with modern understandings of disability. They were intended to remove the use of discriminatory and stigmatising concepts in adult social care law and to develop legislation that is more consistent with equality and human rights law.

(E) Resource neutrality

The recommended new legal structure was intended to provide a framework for decision making about the allocation of resources dedicated to adult social care and to work at any level of funding. The system would allow the relevant policy makers to make separate policy decisions on the rationing of available resources.

Theory of Change and Applicable Themes

The general theory of change framework set out in section 2 is applied to the Law Commission's examination of the law on adult social care in the diagram below. This illustrates the potential causal pathways from the Law Commission's work to wider impacts in England and Wales.

The key themes corresponding to these causal pathways are as follows:

Wellbeing improvement – The recommended reforms intended to assign local authorities a broader role in ensuring prevention services and the provision of information, advice and assistance regarding adult social services. At its very core was the statutory principle that individual well-being must be the basis for all decisions made and actions carried out under the statute.

Harm prevention – The new legislation expressly sought to protect adults with care and support needs from neglect and abuse.

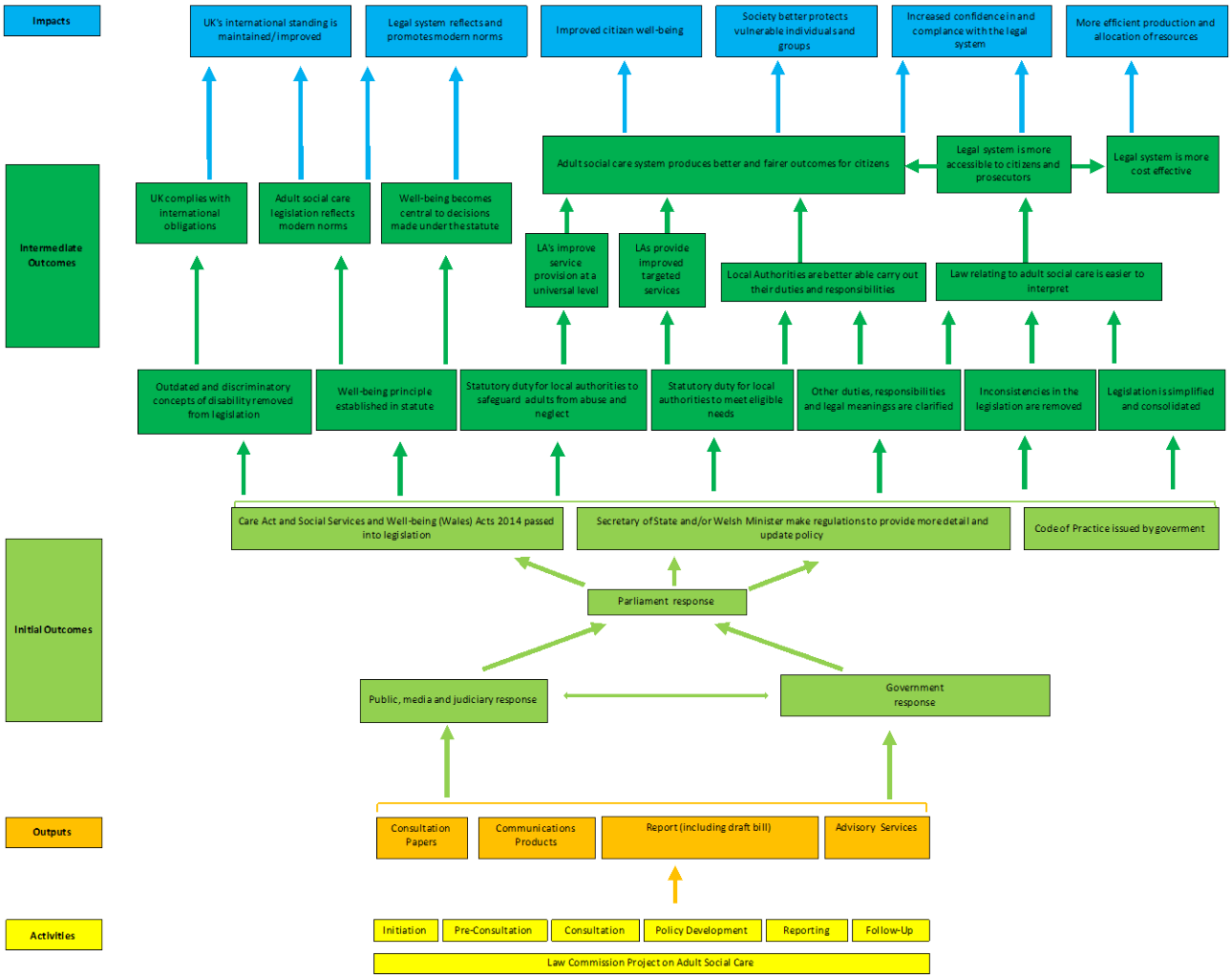
Access to justice – The recommendations intended to provide clarity for local authorities, service users and carers on legal entitlements, as well as a new social care appeals tribunal. This would make challenging decisions easier.

Rule of law – The new legislation aimed to consolidate and reform the existing adult social care legal framework to establish a single adult social care statute. It had been noted that previously the government relied on guidance to introduce changes (some of which conflicted with the law); the intention behind the legal framework was to ensure changes take place within the legal framework.

Modernising the legal system – The recommended reforms looked to remove discriminatory and stigmatising concepts previously in usage in adult social care legislation.

Efficiency gains – Simplifying the legislation was expected to result in cost savings in terms of reducing the amount of time social workers and others spend dealing with legal issues, reducing the volume of complaints and reducing local authorities' legal costs.

Reform of Adult Social Care Law Theory of Change Diagram



Contribution Claims

As set out in Section 2 above, the next step is to examine whether the Law Commission's outputs have been effectively realised, resulting in the outcomes predicted by the theory of change. The first claim to assess is whether the Law Commission's recommendations were successfully implemented:

CC1: The Law Commission made a difference to the passage of the Care Act 2014 and Social Services and Well-being (Wales) Act 2014.

The second claim to assess is whether the implementation of the Law Commission's recommendations made a difference as predicted.

CC2: The Care Act 2014 and Social Services and Well-being (Wales) Act made a difference to government, citizens and social care practitioners in England and Wales.

CC2a: The 2014 Acts facilitated improved adult social well-being in England and Wales.
CC2b: The 2014 Acts reduced the risk of neglect and abuse experienced by adults with care and support needs in England and Wales.
CC2c: The 2014 Acts led to improved access to justice for service users and carers in England and Wales.
CC2d: The 2014 Acts contributed to improved perceptions of the rule of law in England and Wales.
CC2e: The 2014 Acts brought the legislation on adult social care in England and Wales up-to-date to reflect modern norms and international obligations.
CC2f: The 2014 Acts reduced costs for those involved in adult social care litigation in England and Wales.

Findings

To assess the strength of the contribution claims the validity of the outcomes and assumptions necessary to establish the claims must be considered. The findings in relation to each of the contribution claims in this case are as follows:

Contribution Claim 1: The Law Commission made a difference to the passage of the Care Act 2014 and Social Services and Well-being (Wales) Act 2014.

Test	**Finding**	
Assumption: the Government engages with and responds to the Law Commission's review findings.	The Government's response to the Law Commission's report on Adult Social Care – taking forward the recommendation for new legislation – supports the assumption that the Government is committed to engagement on this issue.	
Assumption: the Law Commission's report motivates the Government to change the Law.	In the Department of Health's response to the Law Commission's report it affirmed that "The work of the Law Commission has laid the foundations for the legal framework which is set out in the draft Care and Support Bill."[43] This appears to support the assumption that the Law Commission's work was instrumental to the introduction of the Care and Support Bill. In particular, the introduction of section 1 of the Bill.	
Risk: the Government decides not to implement the Law Commission's recommendations or to substantially modify them.		

[43] (Department of Health, 2012)

Alternative explanation: based on its own work the Government would have proposed the Act without intervention from the Law Commission.	Equally, the Care and Support Bill contained several additional proposals that were not put forward by the Law Commission. These were the outcome of other work the Government completed and/or commissioned in this area.[44] Consequently, when assessing the contribution (CC2) of the 2014 Acts, the focus will be on the impact of the sections relating to the Law Commission's work (Part 1 of the Bill).	
Assumption: Parliament supports the proposals to reform legislation on adult social care.	Overall, the passage of the Acts appears to support this assumption. Some modifications were made as the Acts received their readings in the Houses of Parliament, however, these changes do not appear to have significantly or altered undermined the key recommendations and principles behind the Law Commissions recommendations. Law Commission staff estimate that over 90% of the Care Act was based on the recommendations in their report.	
Risk: Parliament makes substantial alterations to the Care Bill before it is enacted.		

Contribution Claim 2: The Care Act 2014 and Social Services and Well-being (Wales) Act made a difference to government, citizens and social care practitioners in England and Wales.

<table>
<tr><td colspan="2">CC2a: The 2014 Acts facilitated improved adult social well-being in England.</td><td></td></tr>
<tr><td>Test</td><td colspan="2">Finding</td></tr>
<tr><td><u>Outcome:</u> the well-being principle is enshrined in legislation.</td><td colspan="2">The passage of the 2014 Acts established the well-being principle in legislation: the first line of the Care Act 2014 sets out the general duty of a local authority, in exercising a function under this Part in the case of an individual, to promote that individual's well-being.</td><td></td></tr>
<tr><td><u>Outcome:</u> decisions made by local authorities take greater account of individual wellbeing.

Assumption: the well-being principle becomes embedded in local authorities' culture and processes.</td><td colspan="2">The passage of the 2014 Acts into legislation has compelled local authorities to take greater account of individual well-being.

Some barriers to the full implementation of the well-being principle have been identified, such as limited funding for adult social care, but overall the passing of the Act appears to have led to a greater consideration of individual wellbeing in decision making processes.</td><td></td></tr>
<tr><td><u>Outcome:</u> Service users' wellbeing increases.

Assumption: local authorities' taking individual welfare into account leads to decisions which directly increase individual well-being.</td><td colspan="2">It is extremely difficult to evaluate this outcome, independently of the wider changes in adult social care provision, particularly in relation to funding which has been significantly reduced since the introduction of the 2014 Acts.

Looking at adult social care outcomes in general, information from the annual adult social care survey reveals changes from 2012-2013 to 2017-2018 which are suggestive of improvements in service users' welfare:

<table><tr><th>Response</th><th>12-13</th><th>17-18</th></tr><tr><td>Extremely/very satisfied with care and support received</td><td>62%</td><td>65%</td></tr></table></td><td></td></tr>
</table>

[44] Including the Francis Inquiry and the Dilnot Commission.

Quality of life very good or so good it could not be better	27%	31%	
Able to spend time doing things I value and enjoy	33%	40%	
Yes care and support services help me to have a better quality of life	89%	92%	
Overall quality of life score (out of 24)	18.8	19.1	

These perceptions are not necessarily shared by all (for example a recent report by the Kings Fund[45] reports that satisfaction among adult carers in England has decreased in recent years) and further research is necessary to establish exactly how well-being has been affected by the passage of the Act.

However, initial indications are that the Law Commission reforms are likely to have positively benefitted service users' well-being.

CC2b: The 2014 Acts reduced the risk of neglect and abuse experienced by vulnerable adults in England and Wales.

Test	**Finding**
Outcome: the safeguarding duties recommended by the Law Commission are enshrined in legislation.	The passage of the 2014 Acts established the safeguarding duties in legislation. Part 1 of The Care Act 2014 sets out the responsibilities of local authorities for safeguarding adults in sections 42-47. This includes the requirement that local authorities establish Safeguarding Adults Boards for their areas.
Outcome: Local authorities begin to take a more proactive approach to protecting adults at risk. Assumption: Local authorities have and make available the resources to take action.	A report from the National Network for Chairs of Safeguarding Adult Boards in 2017 assessed the effect of the implementation of the Care Act 2014 on SABs.[46] The results were indicative of the Act having made a difference, with 91% of respondents stating that the Care Act had an impact on safeguarding practice. The report did however highlight some issues with the implementation including the need to determine the appropriate funding level and to enhance collaboration and integration with other relevant bodies.
Outcome: Incidences of neglect and abuse are reduced and vulnerable adults are rescued more quickly. *Alternative explanations:* external factors (e.g. political climate, other government initiatives) are	Information from the annual adult social care survey reveals the following changes from 2011-2012 to 2017-2018:

Response	**12-13**	**17-18**
I feel as safe as I want to	65%	70%
Do not feel safe/less than adequately safe	7%	6%

[45] (Kings Fund, 2018)
[46] (National Network for Chairs of Safeguarding Adult Boards, 2017)

the driving force behind reductions in vulnerability.	These results are indicative of some reduction in vulnerability, although it is not possible to establish whether this is a direct effect of the legal reforms in the 2014 Acts.	

CC2c: The 2014 Acts led to improved access to justice for service users and carers in England and Wales.		
Test	**Finding**	
Outcome: The 2014 Acts provided clear guidance on duties/responsibilities for local authorities, service users and carers in England.	The passage of the 2014 Acts established the duties and responsibilities in relation to adult social care. This was accompanied by extensive statutory guidance from the Department of Health.	
Outcome: Information relating to the provision of adult social care is more readily available.	The annual adult social care survey asks respondents: "In the past year, have you generally found it easy or difficult to find information and advice about support, services or benefits?" **Response** / **12-13** / **17-18** Very easy or fairly easy / 74.0% / 73.2% Very difficult or fairly difficult / 26.0% / 26.8% The results are not indicative of any increase in the availability of information following the passage of the 2014 Acts. However, the difference is marginal and further research would be necessary to establish exactly how the 2014 Acts affected the availability of information relating to adult social care.	
Outcome: Adult social care legislation is easier to interpret and apply.	The passage of the Act created a single legal framework for social care provision for the first time in over 50 years so would in theory directly make legislation easier to interpret and apply. Further research would be necessary to understand how the changes affected understanding and interpretation of adult social care law.	
Outcome: Decisions relating to service provision are made more transparently and applied more consistently.	Further research would be necessary to obtain the information required to evaluate this outcome.	

CC2d: The 2014 Acts contributed to improved perceptions of the rule of law in England.		
Test	**Finding**	

Outcome: The 2014 Acts provided clear guidance on duties/responsibilities for local authorities, service users and carers in England.	The passage of the 2014 Acts established the duties and responsibilities in relation to adult social care. This was accompanied by extensive statutory guidance from the Department of Health.	
Outcome: The 2014 Acts remove discriminatory/stigmatising concepts.	The passage of the 2014 Acts set out a new legal framework for the provision of care and support services to older and disabled people and their carers, replacing earlier statutes which used language now deemed outdated and inappropriate (eg "vulnerable adults" and "handicapped").	
Outcome: Decisions relating to service provision are perceived to be fairer.	The LGO report on complaints for 2017-2018 found that complaints and enquiries about adult social care have increased by 169% since 2010-11.[47] However, it is also possible that the increase in complaints is the result of clearer law where people can more easily understand their legal rights.	
Outcome: Public confidence in legal protections for adults with care and support increases.	The British Social Attitudes survey found that in 2017, satisfaction with social care services was 23 per cent (7 percentage points lower than in 2012), and dissatisfaction with social care services increased by 6 percentage points in 2017 to 41 per cent (Robertson et al 2018).[48] However, this may at least in part, be due to the ongoing political controversy over social care funding.	

CC2e: The 2014 Acts brought the legislation on adult social care in England and Wales up-to-date to reflect modern norms and international obligations.		
Test	**Finding**	
Outcome: The 2014 Acts removed discriminatory/stigmatising concepts and modernise the legislation on adult social care to reflect prevailing social norms.	The passage of the 2014 Acts set out a new legal framework for the provision of care and support services to older and disabled people and their carers, replacing earlier statutes which used language now deemed outdated and inappropriate (eg "vulnerable adults" and "handicapped").	
Outcome: The 2014 Acts ensures that UK law fulfils international obligations under the UN Convention on the Rights of Persons with Disabilities (UNCRPD) and European Convention on Human Rights (ECHR).	There has been considerable discussion as to how well the Care Act aligns with Article 19 of the UNCRPD on independent living, especially in the wake of welfare reforms and local authority budget cuts. This debate was brought to media attention in the case of Davey v Oxfordshire County Council (2017)[49] in which submissions discussed the domestic legal status of Article 19 CRPD, and how effectively independent living is realised by the Care Act 2014. The Government expressed its position as follows: "The wellbeing principle is intended to cover the key components of independent living, as expressed in the UNCRPD (in particular, Article 19 of the Convention). Supporting	

[47] (Local Government and Social Care Ombudsman, 2018)
[48] (Kings Fund, 2018)
[49] EWCA Civ 1308

	people to live as independently as possible, for as long as possible, is a guiding principle of the Care Act."[50] The Court of Appeal ruled that government had acted lawfully in the Davey case and not in contravention to the UK's obligations under the UNCRPD.	

CC2f: The 2014 Acts reduced costs for those who regularly encounter legal issues relating to adult social care in England and Wales.		
Test	**Finding**	
Outcome: The 2014 Acts significantly simplify and clarify the law on adult social care.	The 2014 Acts for the most part provided a single reference point for adult social care legislation in England and Wales, removing the need for reference to multiple sources. While some previous Acts remain in force in England – for example, the NHS and Community Care Act 1990, section 47 (but in much reduced circumstances) and the Carers (Recognition & Services) Act 1995, section 1 the 2014 Acts (but only in very limited circumstances) do appear to have significantly consolidated the law on Adult Social Care.	
Outcome: The time spent / costs associated with interpreting the law on adult social care and litigating are reduced. *Assumption:* The savings outweigh the increased costs associated with new legal training for practitioners.	In the absence of a follow-up review with practitioners it is difficult to assess the extent to which this has occurred. Potential savings were estimated by the Government to amount to over £12 million per year, with costs associated with training costs of £6.3 million over two years and an opportunity cost of £39.25 million in total. Further research is necessary to establish whether such savings were achieved in practice.	
Outcome: The time spent / costs associated with complaints arising from mistakes in adult social care legal decisions are reduced.	In its initial impact assessment, the Law Commission estimated that Local Authorities would witness a 10% reduction in direct complaints and a 5% reduction in complaints to the Local Government Ombudsman (LGO) with corresponding savings of up to £2 million. However, the LGO report on complaints for 2017-2018 found that complaints and enquiries about adult social care have increased by 169% since 2010-11.[51] The Ombudsman notes that this does not necessarily mean outcomes have worsened as "Rising numbers of complaints may be a positive by-product of people feeling able to speak up and raise concerns". It does however suggest that costs for local authorities associated with complaints are unlikely to have declined.	
Impact: More efficient production and allocation of resources in the economy.	In the absence of additional information on the costs incurred by local authorities in relation to complaints and litigation in relation to adult social care it is not possible to draw a firm conclusion on this impact.	

[50] See (Carter & Turner, 2017)
[51] (Local Government and Social Care Ombudsman, 2018)

Conclusion

The passage of the Care Act 2014 and Social Services and Well-being (Wales) Act 2014 marked a significant development in the legislation governing adult social care in England and Wales set in motion by the Law Commission's investigation. The Acts materially clarified and simplified the law on adult social care, removing the need to refer to multiple sources, and updated the legal framework to eliminate outdated and inappropriate language.

In line with the Law Commission's recommendations the Acts established key principles and duties in legislation. These include the well-being principle and safeguarding duties, ensuring local authorities have a duty to promote the well-being of the individuals they work with and a responsibility to protect them. While the extent to which local authorities have been willing and able to fully implement these duties in practice is complex to evaluate, their very existence is a powerful indicator of the role that is expected of care services in our society today.

Insurance Law

Background

The Law Commission conducted an extensive review into UK Insurance Law starting in 2006. The Joint Insurance Contract Review was conducted with the Scottish Law Commission. It was a complex project, comprising a broad range of issues. In all it produced 10 Issues Papers, 3 consultation papers, 2 reports and 2 Acts of Parliament.

In this case study we focus on two key areas of investigation: pre-contract disclosure in consumer insurance and damages for late payment.

Consumer Disclosure

Background

The consumer insurance industry is typically divided between general insurance and long-term insurance. Both are important parts of the UK economy and a significant expenditure for UK households. The Association of British Insurers reports that households spent, on average, £16.30 a week on general insurance in 2016, and a further £21.50 a week on pensions and life assurance products. This equates to approximately £1966 a year per household, and £53 billion in total.[52]

The law under the Marine Insurance Act 1906 imposed a duty on consumers to tell insurers anything which would "influence the judgment of a prudent insurer" in fixing the premium or deciding whether to take the risk. The problem with this duty was that consumers often have little idea of what might influence a prudent insurer and the penalties for failure to disclose information to insurers were severe.

Policyholders could be denied claims even when they had acted honestly and reasonably or had made a mistake. Moreover, proposal forms sometimes stated that the answers "form the basis of the contract". In law, this meant that if any statement is incorrect, the insurer may refuse all claims, even if the mistake is unimportant. This system could disproportionately affect vulnerable groups of consumers such as the elderly or those suffering from a serious illness.

Recommendations for reform were made for many years, as far back as 1957. The most recent joint Law Commissions' project began with the first of three Issues Papers published in September 2006 followed by a consultation paper in July 2007 which received 105 written responses and strong support for reform.

These included observations that the existing law is complex and confusing. To mitigate the harshness of the 1906 Act, consumer insurance had been the subject of an array of industry codes, Financial Services Authority ("FSA") rules and Financial Ombudsman Service ("FOS") discretion. These various rules were overlapping and inconsistent adding to the complexity and costs for those involved in a dispute.

Consumers could seek justice from the FOS, if they were subject to unreasonable penalties but the FOS had limits on the damages that could be awarded. Yet if the consumer took the case to court, the court must apply the 1906 Act.

In December 2009 the two Commissions presented to Government a report that included its recommendations and a draft Bill designed to implement them. The Bill:

- Abolished the consumer's duty to volunteer material facts. Instead, consumers must take reasonable care to answer their insurer's questions fully and accurately.

[52] (Association of British Insurers, 2018)

- Prescribed the insurer's remedies where they have been induced by a misrepresentation to enter into an insurance contract.
- Abolished "basis of contract" clauses, bringing the law into line with recognized good practice.

The Law Commissions' recommendations were accepted by the Government May 2011. The Consumer Insurance (Disclosure and Representations) Bill was introduced in the House of Lords immediately using the special procedure for uncontroversial Law Commission Bills. It came into force in 2013.

Objectives of the Consumer Insurance Law Recommendations

Several objectives behind the new legislation were set out in the Law Commission's Final Report. These are broadly summarised as follows:

(A) Simplification

The aim of the recommendations was to deliver coherent, clear and understandable law so that insurance providers and consumers know what their rights and obligations are. The new legislation would help consumers understand their duty to take reasonable care in completing an application and assist insurers in determining the claims that they must pay.

(B) Consistency

The Law Commission's recommendations aimed to establish greater consistency in consumer insurance law and policy. They would bring the law into line with accepted good practice, as set out in the ABI Code of Practice and applied by the Financial Ombudsman Service.

(C) Compliance

The recommended legislation was aimed at improving compliance with established good practice, by encouraging both consumers and insurers to know what is expected of them. This would reduce the vulnerability of consumers entering into contracts with insurers.

(D) Confidence

The Law Commission's recommendations sought to increase trust and confidence in the insurance industry. Reducing the amount of confusion and negative publicity over unfair claims could increase consumer confidence in the industry and in turn boost sales.

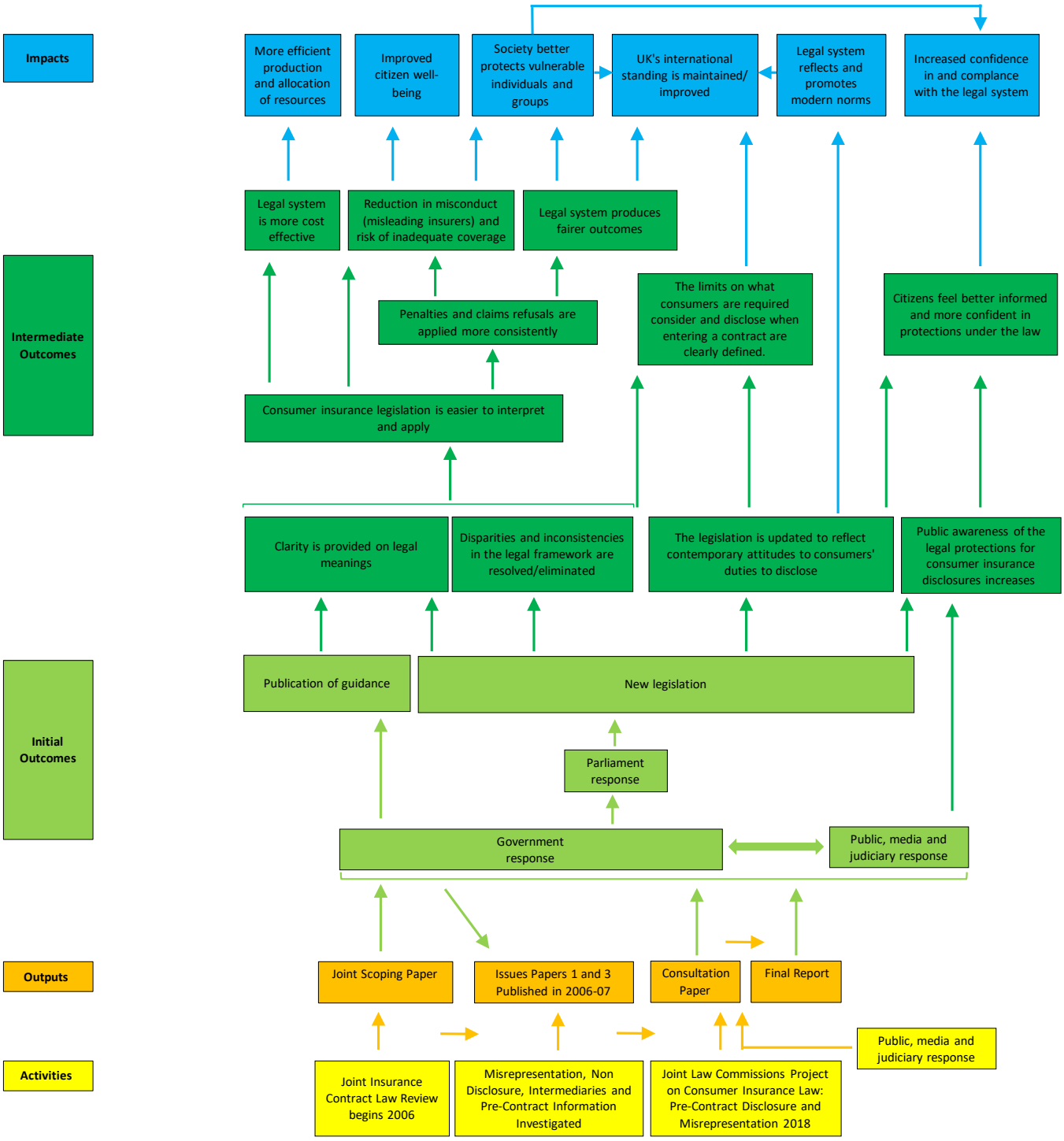
(E) Effectiveness

The final objective of the recommendations was to improve the effective functioning of the UK insurance market. The recommendations aimed to encourage the full and efficient exchange of relevant information between insurer and insured so that an insurer can price the insurance based on a proper understanding of the risk and ensure that insurance cover is less subject to unanticipated failures.

Theory of Change and Applicable Themes

The general theory of change framework set out in section 2 is applied to the Law Commission's examination of consumer insurance law in the diagram below. This illustrates the potential causal pathways from the Law Commission's work to wider impacts in England and Wales.

Consumer Disclosure Theory of Change



The key themes corresponding to these causal pathways are as follows:

Harm prevention – The recommended legislation was intended to protect consumers from arbitrary dismissals of the full pay-out of an insurance claim.

Access to justice – The Consumer Insurance Bill aimed to ensure consumers would be able to obtain fair treatment under the law. It would also provide consumers with a proportionate response should they have made a mistake.

Efficiency gains – The legislation sought to improve the effective functioning of the insurance market and reduce the numbers seeking recourse from the authorities to uphold insurance claims. It also sought to increase confidence in the insurance industry and so promote industry growth.

Rule of law – The Consumer Insurance Bill aimed to help consumers understand their duty to disclose when completing insurance applications and to feel confident in the protections provided under the law.

Modernising the legal system – The recommended legislation aimed to update the law to better reflect the way we live now. It aimed to ensure what was already recognised as good practice was enshrined in the legal system.

Contribution claims

As set out in Section 2 above, the next step is to examine whether the Law Commission's outputs have been effectively realised, resulting in the outcomes predicted by the theory of change. The first claim to assess is whether the Law Commission's recommendations were successfully implemented:

CC1: The Law Commission made a difference to the passage of the Consumer Insurance Disclosure and Representations ("CIDR") Act 2012.

The second claim to assess is whether the implementation of the Law Commission's recommendations made a difference as predicted.

CC2: The CIDR Act 2012 made a difference for consumers, insurers and the general population of England, Wales and Scotland.

CC2a: The passing of the CIDR Act 2012 reduced the risks of harm to vulnerable citizens engaging in consumer insurance contracts.
CC2b: The passing of the CIDR Act 2012 led to improved access to justice for consumers and their insurers.
CC2c: The passing of the CIDR Act 2012 contributed to improved perceptions of the rule of law in the UK.
CC2d: The passing of the CIDR Act 2012 resulted in more efficient production and allocation of resources.
CC2e: The passing of the CIDR Act 2012 resulted in the laws on consumer insurance being brought up-to-date to reflect modern norms.

Findings

To assess the strength of the contribution claims the validity of the outcomes and assumptions necessary to establish the claims must be considered. The findings in relation to each of the contribution claims in this case are as follows:

Contribution Claim 1: The Law Commission made a difference to the passage of the Consumer Insurance Disclosure and Representations Act 2012.

Test	**Finding**	
Assumption: The Government engages with and responds to the Law Commission's review findings.	The Government's response to the Law Commissions' Final Report – taking forward the recommendations for a legislative change – support the assumption that the Government was committed to engagement on this issue.	
Risk: The Government is unresponsive or slow to respond.		
Assumption: The Government proposes new legislation as recommended by the Law Commissions.	The Consumer Insurance (Disclosure and Representations) Bill was introduced by the Government in response to the Law Commissions' report.	
Assumption: Parliament supports proposals to reform legislation.	The legislation was deemed to be uncontroversial and so was passed through the expedited Parliamentary process.	
Assumption: The public, media and judiciary will be broadly supportive of the Law Commission's recommendations.	Contemporaneous media reports and academic commentary indicate general support for the recommendations.[53] The Association of British Insurers did initially raise objections to some clauses of the legislation but by the time the Bill had reached the House of Lords these had been resolved.[54]	

Contribution Claim 2: The CIDR Act 2012 made a difference for consumers, insurers and the general population of England, Wales and Scotland.

CC2a: The passing of the CIDR Act 2012 reduced the risks of harm to vulnerable citizens engaging in consumer insurance contracts.		
Test	**Finding**	
Outcome: Penalties and claims refusals are applied more consistently.	A full assessment of this outcome would require detailed analysis of complaints data, Financial Ombudsman decisions and court rulings relating to misrepresentation and disclosure in consumer insurance cases. This is outside the scope of this short case study. However, since the CIDR Act came into force, research carried out by the Chartered Insurance Institute and confirmed by discussion with the FOS	

[53] See for example (Tyldesley, 2010)

[54] See ABI Memorandum contained in (House of Lords Special Public Bill Committee, 2011)

Assumption: Clarifying the legislation causes insurers to change their behaviours.

indicates that consumer disputes involving questions of misrepresentation have become rarer.[55]

An initial assessment of FOS ombudsman decisions relating to insurance complaints about disclosure also shows a reduction in both the number of complaints and the proportion of complaints of this type being upheld.

Prior to the implementation of the CIDR 2012 the FOS received around 1000 complaints per year about non-disclosure and representation which went to the ombudsman, with approximately 50% being upheld.[56] Estimates based on the FOS complaints decisions database indicate that the number of complaints reduced significantly following the implementation of the Act with ombudsman decisions numbering under 300 from 2013 onwards.

The FOS issued just 241 decisions relating to disclosure in 2018, with 41% of those being upheld.

Year	Number of Complaints	Proportion of Complaints Upheld
2013	221	63%
2014	292	56%
2015	227	50%
2016	107	44%
2017	152	39%
2018	231	41%

Source: FOS Website – analysis of insurance complaints decisions including keyword "disclosure".[57]

Fewer complaints being upheld could be an indicator that claims and refusals being applied more appropriately although more detailed analysis is required to verify this assertion.

Outcome: The risk of claims refusals and unfair penalties is reduced, especially for vulnerable groups. Consumers experience less stress as a result.

Risk: Increased contracting out, removing some of the benefits of the reform.

Similarly, a detailed analysis of the data insurance claims and penalties would be necessary to evaluate this outcome. Consumer experiences could also be assessed with the use of consumer surveys.

However, an illustrative example is used here to indicate the type of analysis that could be conducted. The largest insurance company in the UK, Aviva, publishes claims data for consumer protection products (the area anticipated to be most affected by the CIDR 2012).

These report that in 2011, 0.3% of life insurance claims, and 1% of critical illness claims were declined due to non-disclosure/misrepresentation.

In 2018, 0.4% of life insurance claims and 1% of critical illness claims were declined due to non-disclosure/misrepresentation.

These results are not indicative of a substantive change in the rate of claims refusals on the basis of non-disclosure. This is consistent with expectations at the time of implementation as the Law Commission, among others, noted that wrongful rejections of insurance claims had been falling as insurers were

[55] (Hertzell, 2016)
[56] (HM Treasury, 2011), Para 64
[57] This search process may overstate the number of complaints relating to consumer non-disclosure and misrepresentation.

	increasingly following the rules of the Financial Services Authority and Financial Ombudsman Service.	

CC2b: The passing of the CIDR Act 2012 led to improved access to justice for consumers and their insurers.		
Test	**Finding**	
Outcome: Consumers are better able to obtain fair treatment under the law.	A full assessment of these outcomes would require detailed analysis of case outcomes following the introduction of the Act. Commentary following the introduction of the Act appears however to support the assertion that access to justice improved. As one legal firm reported "The new Act redresses what has long been considered an imbalance in the pre-contractual burden imposed on insurance consumers".[58]	
Outcome: Insurers take a proportionate response if consumers make a mistake.		

CC2c: The passing of the CIDR Act 2012 resulted in more efficient production and allocation of resources.		
Test	**Finding**	
Outcome: Improved perceptions of the insurance industry in turn promote investment and growth including for overseas buyers.	The Law Commission's impact assessment posited that were the CIDR 2012 to improve perceptions of the insurance industry, this could help to improve coverage for UK consumers and sales for insurers. Taking critical illness sales as an example, Swiss Re reports that UK sales of new policies to individuals have increased from 446,000 in 2013 to 526,000 in 2018.[59] However, further research is required to determine whether there is a link between increased sales and improved perceptions. Moreover, it is extremely difficult to isolate the direct impact of the CIDR 2012 on perceptions of the insurance industry given the multiplicity of factors affecting consumer views and feelings.	
Outcome: fewer disputes among insurers and policyholders and a reduction in the number of fraudulent claims. Assumption: Making law easier to understand will lead to increased compliance by policyholders with pre-contractual duties and conditions in the policy.	As noted above David Hertzell reports that since the CIDR Act came into force, research carried out by the Chartered Insurance Institute and confirmed by discussion with the FOS indicates that consumer disputes involving questions of misrepresentation have become rarer. The Law Commission's impact assessment estimated the savings from the reduction in disputes to be between £3.62 and £7.25 and the savings from the reduction in fraudulent claims to be £5.25 million. Additional research would be required to assess the extent to which the observed reduction in disputes led to savings of this magnitude.	

[58] (Clyde & Co, 2013)
[59] (Swiss Re, 2018)

Outcome: Fewer complaints are made to the FOS.	HM Treasury's impact assessment estimated the savings to be £700,000 per year in complaint handling costs based upon a cost to firms of £1,800 per case in fees and internal costs and there being 250 fewer cases per year. Prior to the implementation of the CIDR 2012 the FOS received around 1000 complaints per year about non-disclosure and representation, with approximately 50% being upheld.[60] As noted above, estimates based on the FOS complaints decisions database indicate that the FOS issued just 241 decisions relating to non-disclosure in 2018, with 41% of those being upheld.	
Outcomes: Insurance purchase will be more efficient, and policies will be more accurately priced based on a proper understanding of the risk.	A thorough assessment of this outcome would require detailed analysis of insurance pricing trends which is outside the scope of this report. Notably the Association of British Insurers and the Law Commission predicted that the recommendations would only have a limited impact on those insurers who already observe good industry practice.	

CC2d: The passing of the CIDR Act 2012 contributed to improved perceptions of the rule of law in the UK.		
Test	**Finding**	
Outcome: The CIDR 2012 helped consumers feel more confident in the protections provided under the law.	As mentioned in relation to CC2c there are indications that sales of insurance to consumers have increased following the implementation of the Act. However, further research is required to determine whether there is a link between increased sales and improved perceptions. It is extremely difficult to isolate the direct impact of the CIDR 2012 on perceptions of the insurance industry given the multiplicity of factors affecting consumer views and feelings. One option would be to conduct a consumer survey analysis to observe the effects of the change in legislation on trust in legal protections against claims refusals.	

CC2e: The passing of the CIDR Act 2012 resulted in the laws on consumer insurance being brought up-to-date to reflect modern norms.		
Test	**Finding**	
Outcome: Legislation is updated to reflect modern attitudes to duties to disclose.	During their review the Law Commissions compared UK law on disclosure and warranties with New York, Australia, New Zealand, Ireland, Germany, France and Norway. All had default rules which were more "insured friendly" than UK law prior to the introduction of CIDR 2012. As noted above, commentary following the implementation of CIDR 2012 supported the Act on the basis that it redressed the imbalance between the insured and insurer.	

[60] (HM Treasury, 2011), Para 64

Conclusion

The Law Commission's recommendations were instrumental in bringing insurance legislation from 1906 up-to-date with the passing of the the Consumer Insurance (Disclosure and Representations) Act 2012. This brought the law on consumer insurance into line with other global insurance markets, helping to ensure the UK consumer insurance industry, worth £53 billion, remains competitive.

This legislative change appears to have made a material difference to consumers seeking to purchase insurance. Preliminary analysis shows a dramatic reduction in insurance complaints to the Financial Ombudsman Service relating to non-disclosure following the implementation of the Bill. There are also indications that sales of insurance policies which rely on clear disclosure principles (such as critical illness) have increased following the implementation of the Act.

Insurance Contract Law: Late Payment

Background

The second area of focus for this case study is damages for late payments. Late payments occur where an insurer has unreasonably refused to pay a claim or paid it only after unreasonable delay. Late payment is a significant cost to business; it can strain cash flow, increase costs, reduce potential for investment opportunities and fuel uncertainty. In some cases, it can lead to insolvency. The main group affected is small and medium businesses (SMEs), who employ between 10 and 250 staff. This group is especially vulnerable to late payment and lacks the market power to demand payment from insurers. In 2018 there were 245,000 SMEs in England and Wales, employing over 7 million staff, with over £1,000 billion annual turnover.[61]

At the time of the Joint Review, the existing law in England and Wales (unlike Scotland and most major common law jurisdictions) did not provide any entitlement to damages for loss suffered as a result of an insurer's unreasonable actions. The legal position in England and Wales was anomalous and out of step with general contractual principles.

The Law Commission's initial views on damages for late payment were set out in Issues Paper 6 published in March 2010. Proposals were updated in response to feedback and published in Consultation Paper in December 2011.

Consultation responses revealed widespread agreement that the law on damages for late payment in England and Wales should be reformed. Over 80% of respondents agreed that insurers should be under a contractual obligation to pay claims within a reasonable time and that breach should trigger a liability to pay damages for any foreseeable losses which result. There was also majority support for reform among insurance companies and insurance trade bodies. Out of the 14 insurers and insurance organisations who responded, 11 agreed that insurers should be under a contractual obligation to pay claims within a reasonable time.

It was also noted that the issue of late payments could be particularly critical at certain points in the insurance cycle. During a 'soft' period in the cycle, as during the Law Commission's investigation, premiums are low, conditions are favourable to the insured and competition is high. However, when the market 'hardens'[62] competition is low, premiums increase and insurance conditions become less favourable to the insured. In this environment, insurers would be expected to be more likely to delay making payments in the event of a claim.

In July 2014 the Law Commission recommended to the Government:

- An implied term in every insurance contract that the insurer will pay sums due within a reasonable time. Breach of that term should give rise to contractual remedies, including damages.
- In Scotland, a statutory provision would serve to confirm and clarify the position already established in common law.
- Guidance to be published on the factors to be taken into account when considering what constitutes a "reasonable time".
- Insurers should not be liable for delays caused by genuine disputes.

These recommendations were implemented with the passage of the Enterprise Act in May 2016. Specifically, this brought Section 13A into the Insurance Act 2015. This section provides that it is an implied term of every insurance contract that an insurer must pay sums due under it within a reasonable period of time (which will

[61] (Rhodes, 2018), table on page 5.
[62] When a crisis period is reached, usually precipitated by a significant loss to the industry such as a natural disaster, which causes firms to exit the market.

include a "reasonable time" to investigate and assess the claim). A breach of the implied term will provide grounds for insureds to claim for usual contractual remedies, including damages.

Objectives of the Recommendations on Late Payments

The main objectives of the Law Commission's recommendations on penalties for late payments were as follows:

(i) To bring the law in line with ordinary contract principles

In English law policyholders are not entitled to damages for an insurer's failure to pay an insurance claim within a reasonable time. This rule is out of line with ordinary contract principles and differs from the law in Scotland and most major common law jurisdictions. The Law Commission's recommendations were intended to rectify this position by providing for limited compensation to be payable by an insurer where a policyholder suffers additional loss because of the insurer's unreasonable delay in payment.

(ii) To make the legislation on late payments fairer

The Law Commission considered that a policyholder should have a remedy where an insurer has acted unreasonably in delaying or refusing payment. The recommended legislation therefore sought to give policyholders, especially small and medium sized businesses most vulnerable to exposure to late payments, a legal right to enforce prompt payment of insurance claims. This would bring the law into line with the approach taken by the Financial Ombudsman Service which provides avenues for redress for consumers and micro businesses.

(iii) To improve the effectiveness of the insurance process

The recommendations aimed to ensure that the law incentivises insurers to make payments within a reasonable time. This would in turn reduce the costs to businesses associated with chasing payments, the risk of business interruption costs while awaiting payment, and the risk of businesses being forced into administration due to late payments.

(iv) To increase confidence in the UK insurance industry

It was reported that the existing position acted as a disincentive to international policyholders from seeking cover under English-law-governed contracts. The recommended reforms, together with the reforms contained in the Insurance Act 2015, aimed to increase confidence in UK law in an international market place, leading to additional investment and increased use of UK based insurance.

Theory of Change and Applicable Themes

The general theory of change framework set out in section 2 is applied to the Law Commission's examination of the law regarding penalties for late payments in the diagram below. This illustrates the potential causal pathways from the Law Commission's work to wider impacts in England and Wales.

The key themes corresponding to these causal pathways are as follows:

Efficiency gains – The legislation sought to reduce the costs and risks to firms arising from late payments.

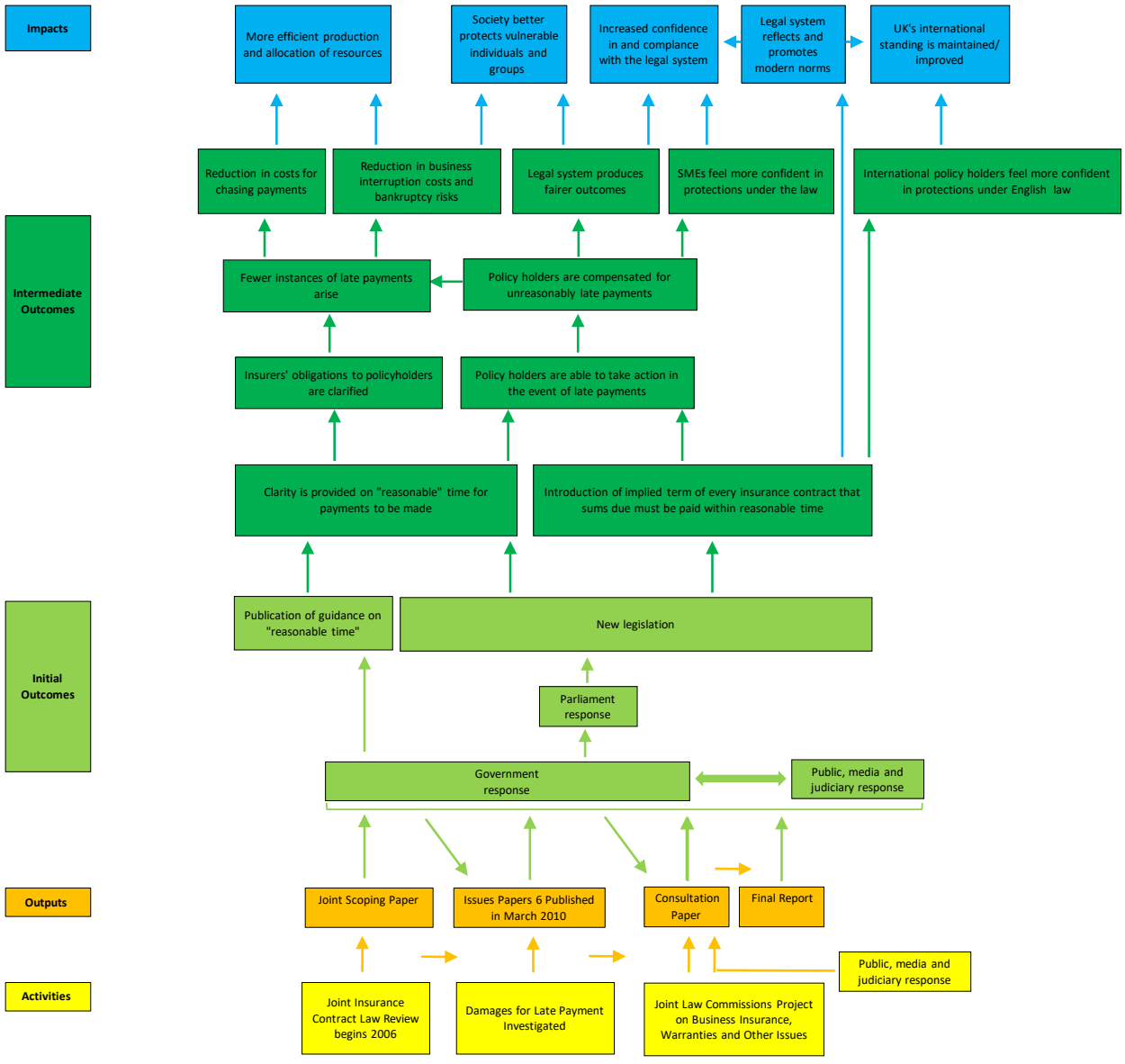
Access to justice – The new legislation looked to provide contractual remedies where insurers fail to pay sums within a reasonable time. This change would allow small and medium sized businesses recourse which was already available to consumers and microenterprises.

Harm prevention – The legislation seeks to reduce the occurrence of loss from late payments, and where losses occur provides for damages to be paid.

Rule of law – The recommendations sought to bring the law into line with ordinary contract principles.

Modernising the legal system – The recommended reforms sought to bring the law in England and Wales in step with Scotland and to make it consistent with the position in other common law jurisdictions. They also aimed to bring the legislation up-to-date with the modern norms concerning fair contracts with insurers.

Late Payments Theory of Change



Contribution claims

The next step is to examine whether the Law Commission's outputs have been effectively realised, resulting in the outcomes predicted by the theory of change. The first claim to assess is whether the Law Commission's recommendations were successfully implemented:

CC1: The Law Commission made a difference to the passage of section 13A of the Insurance Act 2015.

The second claim to assess is whether the implementation of the Law Commission's recommendations made a difference as predicted.

CC2: The passage of section 13A of the Insurance Act 2015 made a difference for businesses, insurers and the general population of England, Wales and Scotland.

CC2a: The passing of the section 13A resulted in more efficient production and allocation of resources.
CC2b: The passing of the section 13A led to improved access to justice for SMEs in England and Wales.
CC2c: The passing of the section 13A reduced the risks of harm to businesses arising from late payments.
CC2d: The passing of the section 13A contributed to improved perceptions of the rule of law in the UK.
CC2e: The passing of the section 13A resulted in insurance legislation being brought up-to-date to reflect modern norms and international obligations.

Findings

To assess the strength of the contribution claims the validity of the outcomes and assumptions necessary to establish the claims must be considered. The findings in relation to each of the contribution claims in this case are as follows:

Contribution Claim 1: The Law Commission made a difference to the passage of section 13A of the Insurance Act 2015.

Test	**Finding**	
Assumption: The Government engages with and responds to the Law Commission's review findings.	The Government's response to the Law Commissions' Final Report – taking forward the recommendations for a legislative change – support the assumption that the Government was committed to engagement on this issue.	
Risk: The Government is unresponsive or slow to respond.		
Assumption: The Government proposes new legislation as recommended by the Law Commissions.	The recommendations were implemented with the passage of the Enterprise Act 2016. Specifically, this brought Section 13A into the Insurance Act 2015. Notably the provisions were not included in the Government's original Insurance Act Bill as strong opposition from insurance bodies meant that the bill could not be categorised as "uncontroversial" without the removal of the provision. This did not however prevent the implementation of the recommendations at a later date.	
Assumption: Parliament supports proposals to reform legislation.	Section 13A was ultimately supported by Parliament, with the proviso that a limitations period be set on the timing for bringing claims against insurers for late payments.	
Assumption: The public, media and judiciary will be broadly supportive of the Law Commission's recommendations.	Contemporaneous media reports and academic commentary indicate general support for the recommendations. However, as noted above, insurance bodies voiced strong opposition. Some concerns were also expressed among commentators about uncertainties regarding the	

	application of the legislation such as the interpretation of "reasonable time" and whether insurers could contract out of obligations under section 13A.	

Contribution Claim 2: The passage of section 13A of the Insurance Act 2015 made a difference for businesses, insurers and the general population of England, Wales and Scotland.

CC2a: The passing of the section 13A resulted in more efficient production and allocation of resources.		
Test	**Finding**	
Outcome: insurers improve claims handling processes.	It is difficult to isolate the effects of the passage of section 13A on processes in the insurance industry given the myriad changes affecting insurers in the Insurance Act 2015 and the broader changes to industry practice, for example in response to changing technologies. Review of the available research does not provide strong support for this outcome. For example, the Institute of Customer Satisfaction's survey of 10,000 UK customers found that the insurance sector was the only sector not to improve its score in the six months leading to July 2017. However, further research (for example, a survey of SME experiences with claims handling) is necessary to test this outcome.	
Outcome: businesses that would not have taken out insurance in England and Wales opted to do so following the introduction of section 13A.	It is difficult to isolate the effects of the passage of section 13A on insurance take-up when there are many reasons why businesses choose not to purchase insurance. For example, (Allianz, 2019) reports that 40% of UK SME businesses lack adequate business interruption cover and that the reasons for this include: lack of understanding of the risks or cover necessary, no legal requirement to purchase the insurance and cost cutting initiatives. An initial review has not uncovered any research to suggest that the late payment provisions have encouraged insurance take-up or lessened these issues. Further research is necessary to evaluate this outcome.	
Outcomes**:** costs to businesses arising from late payments fell following the introduction of section 13A; fewer businesses went into administration as a result of late payments following the introduction of section 13A.	It is likely too early to observe the effects of section 13A on businesses' experiences with late payments as the changes came into force recently and the impacts of late payments can take several years to transpire. At a later date, additional research, such as a survey of SME experiences with claims handling would be useful for investigating this outcome.	

CC2b: The passing of the section 13A led to improved access to justice for SMEs in England and Wales.		
Test	**Finding**	
Outcome: policyholders obtained the right to take action in the event of late payments.	The introduction of the implied term in every contract that an insurer must pay sums due under it within a reasonable period of time provided this entitlement. Specifically, a breach of the implied term does now provide	

	grounds for insureds to claim for usual contractual remedies, including damages.	
Outcome: where unreasonably late payments occurred, policyholders were able to obtain compensation.	It is currently too early to assess the extent to which policyholders have been able to claim compensation in the event of late payments. However, commentary suggests that those most likely to be able to utilise the late payment provisions are SMEs experiencing business interruption costs.	

CC2c: The passing of the section 13A reduced the risks of harm to businesses arising from late payments.		
Test	**Finding**	
Outcome: the incidence of late payments fell following the introduction of section 13A. Assumption: insurers respond to the new legislation by improving timely payment rates. Risk: policyholders experience substantial increases in premiums following the introduction of Section 13A.	In order to evaluate this outcome, it would be necessary to conduct an empirical analysis of the incidence of late payments. This could then be compared to the Law Commission's research undertaken in 2011. In particular, the survey of brokers cited by the Law Commission found that 60% of brokers said they had experience of unreasonable delay. Notably, the Law Commission's findings suggest that if the legislation did reduce the incidence of late payments, this would only affect the minority of cases. In their research two thirds of all brokers who had experienced delays stated that they occurred in less than 10% of cases, and almost half (47%) stated that they occurred in less than 5% of cases. However, for some of the SMEs that do experience late payments, the impact could be significant.	
Outcome: where unreasonably late payments occurred, businesses were able to obtain compensation. Assumption: businesses are not overly deterred from taking legal action by the associated risks. Risk: insurers would be forced to pay unmeritorious claims. Risks: businesses are not able to claim as a result of contracting out.	It is currently too early to assess the extent to which policyholders have been able to claim compensation in the event of late payments. However, commentary among legal firms following the introduction of the provisions suggested that, given the burden of proof placed on the insured to demonstrate the loss incurred, policy holders were unlikely to bring a large number of cases for damages.[63] A similar conclusion was drawn in the impact assessment completed for the legislation. Commentary has also noted that experience from other jurisdictions that already have a similar system for damages for late payment indicates that it is not often used in practice.[64] It has been observed though that the impact on the property and business interruption insurance sector could be more significant as the application of the provisions is likely to be more straightforward in these cases.[65]	

CC2d: The passing of the section 13A contributed to improved perceptions of the rule of law in the UK.	

[63] See for example, (Herbert Smith, 2018) which states "it seems unlikely the Act will lead to a flood of damages claims for late payment".
[64] See for example, (Clyde & Co, 2016)
[65] See for example, (Clyde & Co, 2016)

Test	Finding	
Outcome: Section 13A brought the law on late payments by insurers into line with ordinary contract principles.	This outcome was achieved with the passing of section 13A into legislation. The implied term in every insurance contract that payments will be made in a reasonable time is now in line with ordinary contract principles.	
Outcome: confidence among businesses in their ability to obtain compensation where necessary increases.	Again, it is likely too early to observe the effects of section 13A on businesses' experiences with late payments as the changes came into force recently and the impacts of late payments can take several years to transpire. At a later date, additional research, such as a survey of SME experiences with claims handling would be useful for investigating this outcome.	

CC2e: The passing of the section 13A resulted in insurance legislation being brought up-to-date to reflect modern norms and international obligations.		
Test	**Finding**	
Outcome: Section 13A brought the law on late payments into line with the position in other common law jurisdictions.	The passing of Section 13A into legislation did bring the law on this point into line with other common law jurisdictions.	
Outcome: international perceptions of the insurance industry in England and Wales improve.	It is difficult to assess the impact of the provisions on perceptions on the insurance industry as the changes are relatively recent and have taken place in the context of other significant policy changes, most notably the UK's exit from Europe. The (Allianz, 2019) risk barometer – evaluating the key risks to businesses around the world – found changes in legislation and regulation was the most significant risk for UK businesses in 2019. The report states: "Uncertainty around Brexit, along with the increase in the regulatory burden and global trade disputes, has made confidence fragile." However, in this context, having an up-to-date domestic law on insurance is likely to be important in maintaining confidence in the industry in England and Wales. Further research would however be necessary to establish the significance of the effect of Section 13A on perceptions overall.	

Conclusion

The Law Commission's work on late payments was successful in bringing about legislative change to bring the law up-to-date and in line with other common law jurisdictions. It made the legal position fairer, giving policyholders, especially small and medium sized businesses most vulnerable to exposure to late payments, a legal right to enforce prompt payment of insurance claims.

While it is difficult to assess the quantitative impact of the reform at this stage, as the legislative changes are relatively recent and have taken place in the context of other significant policy changes, indications are that the effects are likely to be most significant for claims in the property and business interruption insurance sector.

Welsh Legislation

The Form and Accessibility of Law Applicable in Wales

Background

In 2013 The Welsh Advisory Committee was established to advise the Law Commission on the exercise of its statutory functions in relation to Wales, to help it identify the law reform needs of Wales within both the devolved and non-devolved areas and to identify and consider specific Welsh issues in all of its law reform projects.

In response to the Commission's public consultation on its Twelfth Programme of Law Reform the Welsh Advisory Committee along with the Welsh Government's Office of Legislative Counsel proposed a project on the form and accessibility of the law applicable in Wales.

In Wales, as in England, the sheer volume of primary and secondary legislation and the frequency with which it is amended makes it difficult to find out what the law is. In Wales these difficulties have been compounded by the incremental development of devolution.

In July 2015 the Commission published its consultation paper setting out concerns about the inaccessibility of the law and asked questions about how both the quality of the law and access to it could be improved. The consultation paper received 47 written consultation responses and a further 28 responses to the questionnaire on the impact of inaccessibility.

In June 2016 the Law Commission published its Final Report with recommendations for a new approach to law-making in Wales and ways to make the existing law applicable in Wales clearer, simpler and easier to access. The recommended package of reforms included consolidation and codification of legislation. Legislation relating to areas such as education, housing, health and planning (as it applies in Wales) could be brought together into codes, creating one easily accessible piece of primary legislation to cover each subject.

The report looked at existing practices for drafting and interpreting bilingual legislation and made recommendations to help the Welsh Government and the judiciary develop and apply law made in the Welsh language. The Welsh Government was encouraged to consider introducing an Interpretation Act to clarify the meaning and use of Welsh legal terminology.

As part of increasing the availability of legislation the Commission recommended that the Welsh Government and National Archives bring up to date the Welsh legislation on www.legislation.gov.uk and recommended developing the existing Cyfraith Cymru/Law Wales website into a portal for all sources of law in Wales.

The Welsh Government responded in July 2017 and agreed in principle with the majority of the recommendations, stating that "a sustained, long term programme of consolidation and codification of Welsh law would deliver societal and economic benefits, and is necessary to ensure that the laws of Wales are easily accessible."

The Welsh Government subsequently introduced the Legislation (Wales) Bill in December 2018 with the express purpose of making Welsh law more accessible, clear and straightforward to use. It makes provision about the interpretation and operation of Welsh legislation and requires the Counsel General and the Welsh Ministers to take steps to improve the accessibility of Welsh law. The resulting Act received Royal assent on 10 September 2019, following detailed consideration by the Assembly.

Separately, the Welsh Government has been considering simplifying and consolidating planning legislation in Wales. These developments are discussed in the case study below.

Objectives of the Form and Accessibility Recommendations

(A) More accessible law

The Law Commission's recommendations aim to make the legislation on each major topic available in one place, rather than being available in a patchwork of legislation that is difficult to trace. The intention is that the reforms would also make the law itself more accessible, through a combination of consolidation, codification, improved legislative standards, a Code Office reviewing the overall health of the law, an up to date database of legislation highlighting law applicable in Wales and a legal website for Wales.

(B) Increased availability of legislation

The recommendations seek to make legislation available online, free of charge at the point of use, in an up to date form, clearly identifying the territorial application of the legislation. It is intended that the Welsh Government would develop the website into a portal through which the law – not limited to legislation – is available by subject matter, including primary and secondary legislation, statutory and non-statutory guidance and other sources of law, such as forms, along with details of where to seek further information.

(C) Greater visibility of Welsh language

The reforms seek to ensure Welsh and English versions of legislation are available to view side by side, encouraging readers to consult the Welsh language version of the legislation. The Welsh Government would be formally recognised as being responsible for standardisation of Welsh language terminology, establishing a panel to determine terms.

Theory of Change and Applicable Themes

The general theory of change framework set out in section 2 is applied to the Law Commission's examination of the form and accessibility of the law applicable in Wales in the diagram below. This illustrates the potential causal pathways from the Law Commission's work to wider impacts.

The key themes corresponding to these causal pathways are as follows:

Access to justice – The recommendations aim to clarify the law and makes it easier for all users to navigate. They also recommend that Welsh law be available in Welsh and online, free of charge at the point of use in an up to date form. It is intended that this will further improve accessibility for the public and make it less difficult to identify the applicable legislation.

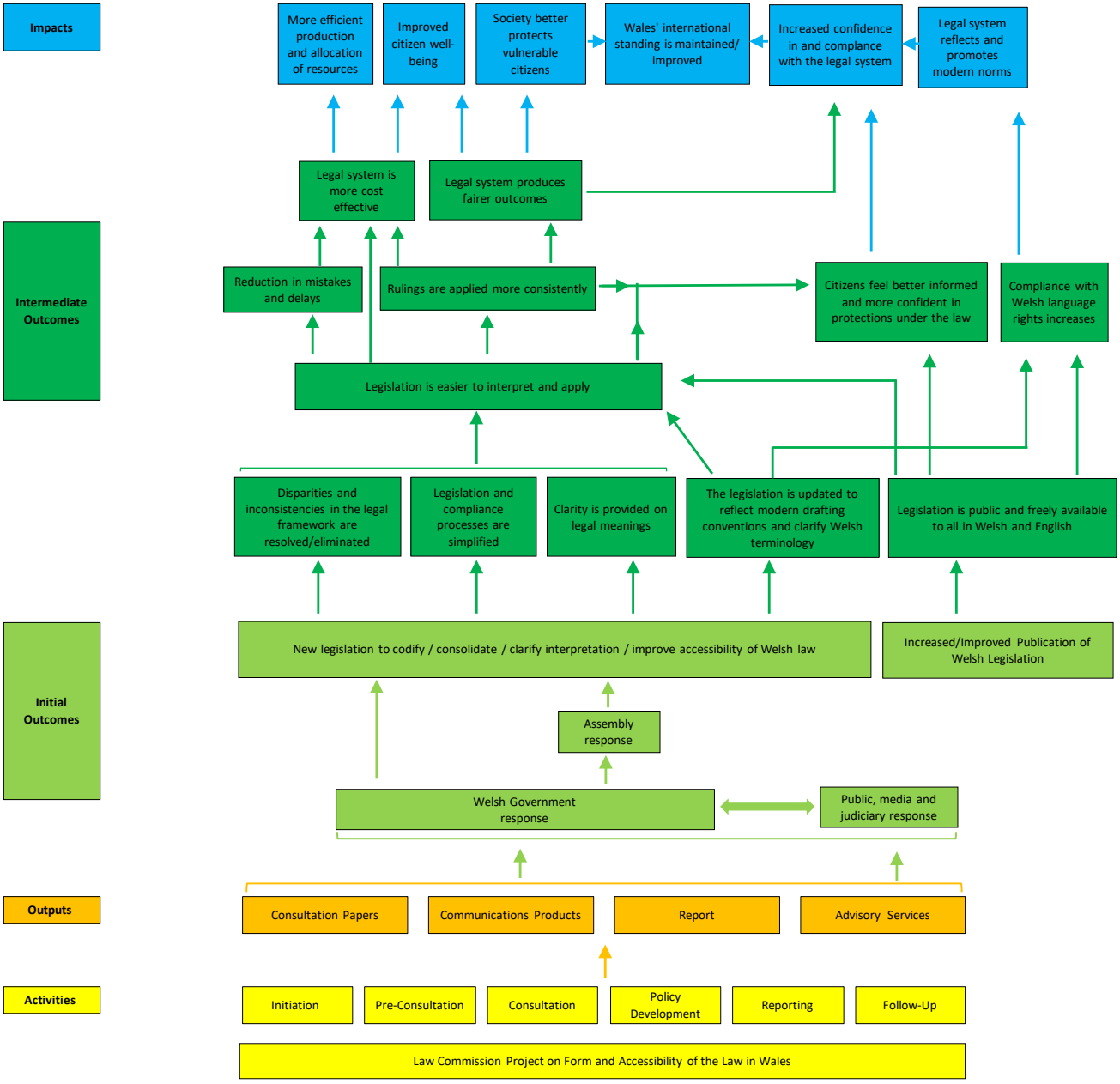
Rule of law – The recommendations are intended to give citizens greater confidence that the correct law is being relied on and to provide improved means for them to hold the government and public bodies to account.

Harm prevention – The recommendations aim to reduce the risk of delays and mistakes in the legal process by providing increased clarity on the legal position on various topics.

Modernising the legal system – The recommendations aim to ensure legislation is drafted in line with modern drafting convention. They also seek to contribute to the wider use of the Welsh language and to upholding the status of the Welsh language in the courts as set out in section 22 of the Welsh Language Act 1993.

Efficiency gains – The recommendations aim to reduce the time spent by users in trying to find the correct law and to de-clutter the statute book making it easier for users to navigate, potentially without recourse to expensive advice.

Form and Accessibility Project Theory of Change



Contribution claims

The next step is to examine whether the Law Commission's outputs have been or will be effectively realised, resulting in the outcomes predicted by the theory of change. The first claim to assess is whether the Law Commission's recommendations will be successfully implemented:

CC1: The Law Commission's work will result in reform to the form and accessibility of legislation in Wales.

The second claim to assess is whether the implementation of the Law Commission's recommendations will make a difference as predicted:

CC2: The Law Commission's review and recommendations will make a difference for Welsh citizens, practitioners in the legal and public sectors and the Welsh Government.
CC2a: The recommendations will lead to improved access to justice for Welsh citizens.
CC2b: The recommendations will contribute to improved perceptions of the rule of law in Wales.
CC2c: The recommendations will reduce the risks of harm to vulnerable citizens arising from the legal process.
CC2d: The recommendations will result in more efficient production and allocation of resources.
CC2e: The recommendations will result in Welsh legislation being brought up-to-date.

Findings

To assess the strength of the contribution claims the validity of the outcomes and assumptions necessary to establish the claims must be considered. The findings in relation to each of the contribution claims in this case are as follows:

Contribution Claim 1: The Law Commission's work will result in reform to the form and accessibility of legislation in Wales.

Test	**Finding**	
Assumption: The Welsh Government engages with and responds to the Law Commission's review findings. *Risk:* The Welsh Government is unresponsive or slow to respond.	The Welsh Government's response to the Law Commission's Final Report – agreeing with many of the recommendations – supports the assumption that it is committed to engagement on this issue.	
Assumption: The Welsh Government proposes new legislation as recommended by the Law Commission.	The Welsh Government introduced the Legislation (Wales) Bill in December 2018 with the express purpose of making Welsh law more accessible, clear and straightforward to use.	
Assumption: The National Assembly supports proposals to reform legislation.	The Bill was the subject of detailed consideration by the Assembly, and gained Royal assent on 10 September 2019, in spite of concerns raised by the Solicitor General and the Secretary of State for Wales.	

Contribution Claim 2: The Law Commission's review and recommendations will make a difference for Welsh citizens.

CC2a: The recommendations will lead to improved access to justice for Welsh citizens.		
Test	**Finding**	
Outcome: Legislation is publicised and made freely available to all in Welsh and English.	The *UK Open Government National Action Plan 2019-21* includes a series of commitments by the Welsh Government, including its intention to "help citizens understand the law applicable in Wales, by making information easier to find and by providing bilingual searching services and content."[66] In	

[66] See (Office of the Chief Digital Officer, 2019)

	particular, the Welsh Government sets out its commitments to expand and improve the information available on the Cyfraith Cymry / Law Wales website and on legislation.gov.uk by March 2021.	
Outcome: Legislation is easier to access, interpret and apply for citizens, practictioners and government officials. Assumption: The absence of a free, up-to-date database creates and/or exacerbates problems of accessibility. Outcome: Legislation is easier to interpret and apply. Assumption: The volume of primary and secondary legislation and frequency of amendment creates problems of accessibility. Assumption: The divergence of the law between England and Wales exacerbates accessibility issues for Welsh citizens.	The Legislation (Wales) Act is expressly designed to achieve this outcome. It has now obtained Royal assent, more or less in the form in which it was first introduced into the Assembly. Specifically: Section 1 of the Act places a duty on the Counsel General to keep the accessibility of Welsh law under review. Section 2 requires the Welsh Ministers and the Counsel General to develop a programme of action designed to improve the accessibility of Welsh law for each Assembly term. Each programme should make provision for measures that are intended to consolidate and codify Welsh law, to maintain codified law, to promote awareness and understanding of Welsh law, and to facilitate use of the Welsh language. Sections 6 to12 deal with the meaning of words and expressions used in Welsh legislation. Section 6 introduces Schedule 1 which includes a table of words and expressions. The terms listed in that Schedule are ones that are expected to be used in Welsh legislation and to have a consistent meaning. The Act has received Royal assent following detailed consideration by the Assembly, and in spite of concerns raised by the UK Government. It remains to be seen whether it will have the intended effects on Welsh citizens' access to justice. The assumptions underlying this outcome were strongly supported by the responses to the Law Commission's consultation. Respondents provided numerous examples of situations in which it was difficult to find freely available information clearly identifying the legislation applicable in Wales. For example, in some cases specialist legal resources such as WestLaw are needed to access planning regulations but these resources are not available to all planning officers.	

CC2b: The recommendations will contribute to improved perceptions of the rule of law in Wales.		
Test	**Finding**	
Outcome: Citizens feel better informed and more confident in protections under the law.	The Legislation (Wales) Act is expressly designed to help citizens access information to feel better informed about the legislation applicable in Wales. As mentioned above, the Welsh Government, in its contribution to the *UK Open Government National Action Plan 2019-21* has emphasised its commitment to improve the availability of information online to help citizens understand the law applicable in Wales. It remains to be seen whether these measures will be implemented successfully and whether they achieve the ambition to improve citizen knowledge and confidence.	

Assumption: A lack of clarity on the legal position in Wales undermines confidence in the rule of law.	This assumption was strongly supported by the responses to the Law Commission's consultation. In particular, the Welsh Government affirmed the "fundamental requirement of the rule of law that the law itself is as accessible and as understandable as possible". The Association of London Welsh Lawyers emphasised the importance of freely available information stating, "It is intolerable that the public should be expected to respect the rule of law, and to commit to compliance with the law, when they are not able to access an authoritative and up to date version of the law that they are expected to obey". [67]	

CC2c: The recommendations will reduce the risks of harm to vulnerable citizens arising from the legal process.		
Test	**Finding**	
Outcome: rulings are applied more consistently. Outcome: reduction in mistakes and delays.	As noted above the Legislation (Wales) Act is expressly designed to improve access to information about the legislation applicable in Wales and to codify and consolidate existing legislation. This in turn would be expected to lead to more consistent rulings and a reduction in mistakes and delays. It remains to be seen whether the Act, as passed , will have these intended effects.	
Assumptions: The complexity and lack of clarity on the applicable legislation in Wales causes inconsistent rulings and delays and mistakes.	These assumptions were supported by the responses to the Law Commission's consultation. Respondents provided examples of incorrect advice and decisions (actual and potential) across a range of sectors.	

CC2d: The recommendations will result in more efficient production and allocation of resources.		
Test	**Finding**	
Outcome: Legal costs are reduced.	As noted above the Legislation (Wales) Act is expressly designed to improve access to information about the legislation applicable in Wales and to require the codification and consolidation of existing legislation. This in turn is expected to reduce the legal costs associated with the existing system. The Law Commission estimated that the annual savings in legal professionals' time alone from the recommendations for more accessible law would be £23.56 million. It remains to be seen whether the Act, as passed, will have the intended effects on legal costs.	

[67] See analysis of consultation responses in (Law Commission, 2016).

Assumption: Inaccessible law is costly for both legal practitioners and the general public.	This assumption was strongly supported by the responses to the Law Commission's consultation. For example, the Welsh Government outlined the benefits of time savings for the public sector, the private sector and the voluntary sector. Other respondents highlighted a range of costs arising from the existing system including additional search time, the cost of mistakes, the effect of residual doubt preventing lawyers from giving clear advice, and the lack of shared understanding among practitioners.	

CC2e: The recommendations will result in Welsh legislation being brought up-to-date.		
Test	**Finding**	
Outcome: The law applicable to Wales is made available in Welsh. It is correspondingly compliant with Welsh Language rights under the Welsh Language Act 1993.	As noted above, the Welsh Government commitments that form part of the *UK Open Government National Action Plan 2019-21* state its intention to provide bilingual searching services and content on Welsh Government websites. Provisions in the Legislation (Wales) Act are also intended to achieve this outcome. Specifically, section 2(3) requires that the programme of action for each term to improve the accessibility of Welsh law must include activities intended to facilitate use of the Welsh language in the law, in public administration and more generally. And section 5, introduced as the Bill was going through the National Assembly, emphasised that the Welsh language text and the English language text have equal status for all purposes.	
Assumption: A key component of bring Welsh law up-to-date is ensuring it is provided in bilingual format.	This assumption was strongly supported by the responses to the Law Commission's consultation. For example, Dame Rosemary Butler AM (then Presiding Officer (Llywydd) of the National Assembly) commented: I believe it is urgent that we in Wales move to make up-to-date, bilingual, versions of the law applicable in Wales, in all devolved fields, available to the citizen free of charge and in one place".[68]	

Conclusion

The Law Commission's work has had a demonstrable effect having been instrumental in the introduction of the Legislation (Wales) Bill in December 2018. The Bill was the subject of detailed consideration by the Assembly, and gained Royal assent on 10 September 2019. Indications are that as the Act is implemented it will succeed in making Welsh Law simpler, clearer and easier to access.

This conclusion is supported by the extensive consultation conducted by the Law Commission which is extremely useful for ascertaining the likely public response to the implementation of the Law Commission's recommendations and the potential impacts of the project.

[68] See analysis of consultation responses in (Law Commission, 2016).

Planning Law in Wales

Background

As part of the twelfth programme of law reform the Law Commission was asked by the Welsh Government to examine the operation of the development management system. This also followed the report on The Form and Accessibility of the Law Applicable in Wales described above. Planning law exists to regulate how the various procedures are operated; who may get involved; what consents are required; the policy basis on which decisions are to be made; and what happens if something goes wrong.

The planning system plays a vital role for the economy, regulating where developers can build and how land is put to use. The value of the planning system in Wales has been estimated at £2.35bn in 2016-2017.[69] The largest component of this figure is the rise in land values as a result of planning permissions or public spending, estimated to amount to £2,205m over the year.

During this review stakeholders shared concerns regarding the state of Welsh planning legislation. Concerns were raised about the increasing difficulty of identifying the legislation currently applicable in Wales. The legislation has not been consolidated since the Town and Country Planning Act 1990, and that has been amended and supplemented by a succession of piecemeal legislation in the succeeding 30 years.

In June 2016 the Commission published a Scoping Paper setting out its views as to a possible codification and simplification exercise. It then considered in more detail possible technical reforms to the legislation, to improve the operation of the system works in practice, and in November 2017 published a Consultation Paper proposing 186 possible technical reforms. Following an extensive programme of engagement with stakeholders throughout Wales, the Commission received written responses from 165 bodies, groups, practitioners, and other stakeholders.

The Law Commission's Final Report, published in November 2018, set out its recommendations.

Two broad categories for action were identified:

- Consolidation – bringing together in one place all the primary legislation relating to planning and associated topics, as it applies in Wales. This is expected to facilitate major improvement, comparable in scope to the exercise that led to the 1990 consolidation of planning legislation.

- Technical reforms – the Final Report sets out numerous potential reforms, highlighting existing legislation to be restated, with some minor clarifications; obsolete and unnecessary provisions to be omitted; existing legislation to be adjusted to accord with current practice; and secondary legislation and guidance to be simplified or done away with.

The recommendations formed part of the evidence base for the Welsh Government to consider in its drive to consolidate and simplify planning legislation in Wales. The Welsh Government provided its interim response to the report in May 2019 affirming that "simplified and consolidated planning legislation will produce real practical benefits to all stakeholders in the planning system". It stated its commitment to take the project forward and confirmed that work has already begun on a Planning Consolidation Bill. A detailed response will be provided towards the end of 2019.

Objectives of the Planning Law Review

(A) To bring together into one coherent code all planning law applicable in Wales

[69] Planning Law in Wales Impact Assessment, (Law Commission, 2018) page 10.

The review sought to identify the existing statutory provisions that should be included in a new consolidation Bill, and where appropriate to specify how their structure, language or format could be improved, and possible ways in which they could most helpfully be presented.

(B) To clarify the existing law, remove anomalies, and incorporate case law

The review noted possible changes that could remove ambiguity, fill in gaps in the legislation, resolve inconsistencies, correct anomalies, amend existing definitions or introduce new ones.

(C) To remove legislation that is redundant or unnecessary

The review identified provisions that have not been used for many years, or at all, and which seem most unlikely to be revived in practice (such as planning inquiry commissions and simplified planning zones), which could be removed.

(D) To simplify the law, and bring it into line with current practice.

The review also highlighted possible reforms to further simplify the law and ensure consistency with the way in which the system is being operated in practice.

Theory of Change and Applicable Themes

The general theory of change framework set out in section 2 is applied to the Law Commission's examination of planning law in Wales in the diagram that follows. This illustrates the potential causal pathways from the Law Commission's work to wider impacts.

The key themes corresponding to these causal pathways are as follows:

Efficiency gains – The recommendations aim to simplify the operation of planning policy and development control in Wales. It is envisaged that for many professional firms the revised legislation will save unnecessary time, work and expense for their clients and themselves.

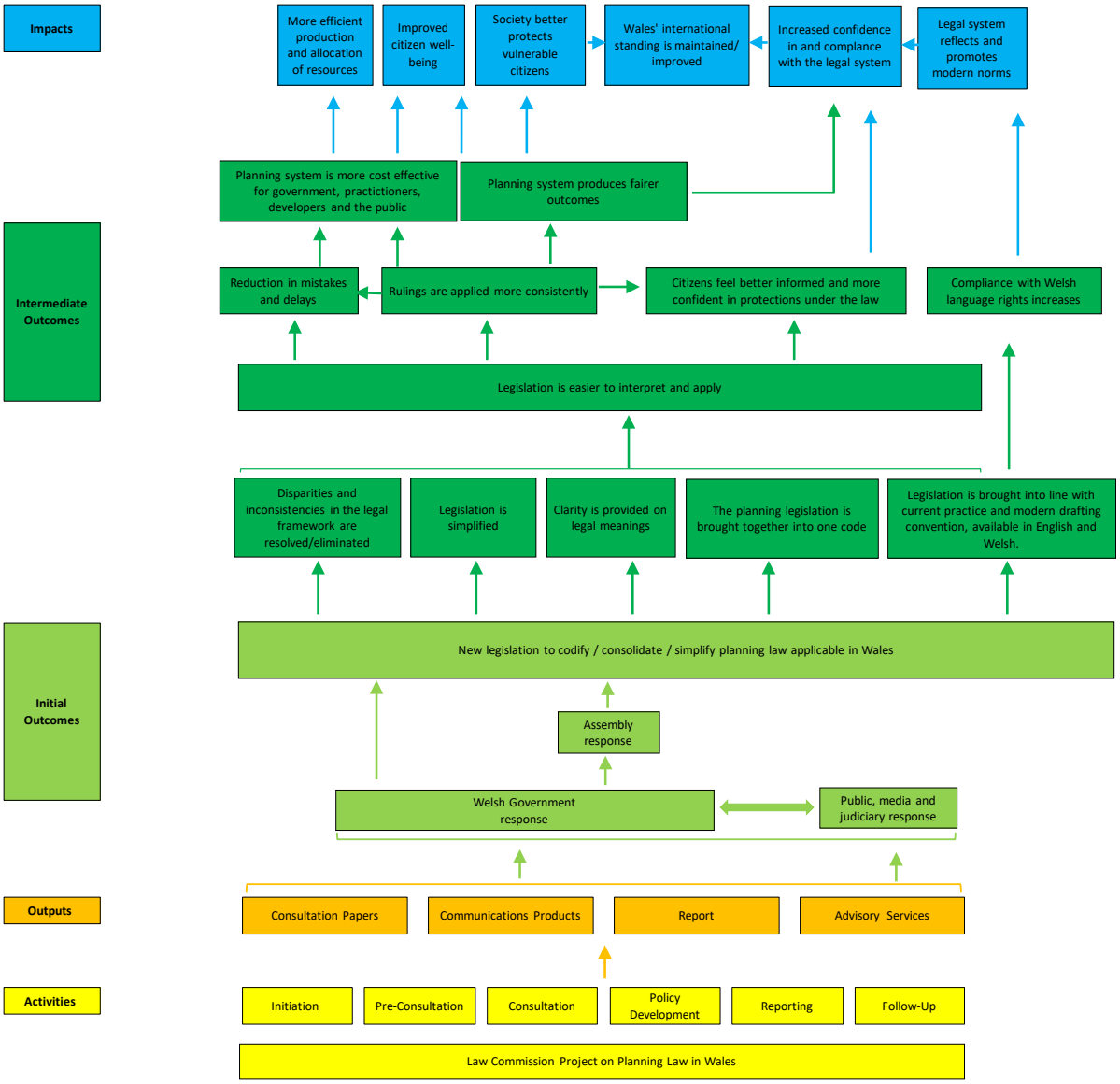
Access to justice – The Commission's recommendation for the creation of a single code containing all the relevant primary legislation rather than the plethora of different Acts is intended to make it easier for users to navigate the legislation.

Harm prevention – The proposed planning code would reduce the risk of delays imposed by the operation of the planning system. The new, simplified legislation will reduce the time spent checking and understanding the law and would reduce the risk of missing important points.

Modernising the legal system – The Law Commission's recommendations for consolidation and technical reform aim to ensure the resulting legislation is drafted in line with modern drafting convention and is available in Welsh as well as English.

Rule of law – The recommendations are intended to give citizens greater confidence that the correct law is being relied on and provide improved means to hold the government and public bodies to account.

Planning Law in Wales Review Theory of Change



Contribution claims

The next step is to examine whether the Law Commission's outputs have been or will be effectively realised, resulting in the outcomes predicted by the theory of change. The first claim to assess is whether the Law Commission's recommendations will be successfully implemented:

CC1: The Law Commission's work will result in reform to the planning legislation in Wales.

The second claim to assess is whether the implementation of the Law Commission's recommendations will make a difference as predicted:

CC2: The Law Commission's review and recommendations will make a difference for Welsh citizens, practitioners in the legal and public sectors and the Welsh Government.

CC2a: The recommendations will result in more efficient production and allocation of resources.

CC2b: The recommendations will lead to improved access to justice for Welsh citizens.

CC2c: The review and recommendations will reduce the risks of harm to citizens arising from the legal process.

CC2d: The recommendations will result in Welsh legislation being brought up-to-date.

CC2e: The recommendations will contribute to improved perceptions of the rule of law in Wales.

Findings

To assess the strength of the contribution claims the validity of the outcomes and assumptions necessary to establish the claims must be considered. The findings in relation to each of the contribution claims in this case are as follows:

Contribution Claim 1: The Law Commission's work will result in reform to the planning legislation in Wales.

Test	**Finding**	
Assumption: The Welsh Government engages with and responds to the Law Commission's review findings. *Risk:* The Welsh Government is unresponsive or slow to respond.	The Welsh Government's interim response to the Law Commissions' report – stating its commitment to take the project forward – supports the assumption that the Government is committed to engagement on this issue.	
Assumption: The Welsh Government introduces new legislation as recommended by the Law Commission.	The Welsh Government confirmed in its interim response to the Final Report that work has already begun on a new Planning Bill. It remains to be seen how this new legislation progresses.	
Assumption: The National Assembly supports proposals to reform legislation.	To be determined – the Welsh Government has not yet introduced the new Planning Bill into the Assembly.	

CC2: The Law Commission's review and recommendations will make a difference for Welsh citizens, practitioners in the legal and public sectors and the Welsh Government.

CC2a: The recommendations will result in more efficient production and allocation of resources.		
Test	**Finding**	
Outcomes: The planning legislation is brought together into one code; clarity is provided on definitions and other technical points; disparities in the existing	The Welsh Government has confirmed in its interim response that work has already begun on a new Planning Bill. It remains to be seen how this new legislation progresses.	

framework are eliminated and legislation is simplified.		
Outcome: Time (and associated cost) savings are made for professional firms and their clients.	It is too early to evaluate this outcome as the Welsh Government's Planning Bill is still being drafted.	
Assumption: Inaccessible planning legislation is costly for both legal and other practitioners and the general public.	This assumption was strongly supported by the responses the Law Commission received from stakeholders. Several planning authorities commented on delays to their work caused by the over-complicated planning system and landlords associations, architects and other practitioners all submitted evidence of the costs they incurred as a result of complex or defective processes and legislation. These observations are also supported by the findings of the Killian Review[70] which reported substantial delays in planning processes and decision in the UK. It concluded that these problems can have a wider impact, including damaging the UK's ability to compete internationally for new inward investment.	

CC2b: The recommendations will lead to improved access to justice for Welsh citizens.		
Test	**Finding**	
Outcomes: Planning legislation will be easier to interpret, and will be applied more consistently by the courts.	It is too early to evaluate this outcome as the new Planning Bill is still being prepared. But the Bill will be drafted to incorporate recent decisions, where appropriate, and current practice.	
Assumptions: The complexity and lack of clarity on the applicable legislation in Wales create problems of accessibility.	These assumptions were supported by the responses to the Law Commission's consultation on *Planning Law in Wales*. In parts. proposals to do away with obsolete provisions were strongly supported. These assumptions are also supported by the findings of the Killian Review, which recommended a range steps that the government and local planning authorities should take to improve the accessibility of information and advice for all users of the planning system.	

CC2c: The recommendations will reduce the risks of harm to vulnerable citizens arising from the legal process.		
Test	**Finding**	
Outcome: There is a reduction in mistakes and delays and the	It is too early to evaluate these outcomes as the new Planning Bill is still in preparation. But simplifying legislation as far as possible is likely to reduce problems.	

[70] (Communities and Local Government on behalf of the Killian Pretty Review, 2008)

planning system produces fairer outcomes.		
Assumptions: The complexity and lack of clarity on the applicable legislation in Wales causes inconsistent rulings and delays and mistakes.	This assumption is also supported by the findings of the Killian Review[71], which reported substantial delays in planning processes and decision in the UK.	

CC2e: The recommendations will result in Welsh legislation being brought up-to-date.		
Test	**Finding**	
Outcome: Legislation is brought into line with current practice and modern drafting convention, available in English and Welsh.	It is too early to evaluate these outcomes as the new Planning Bill is still in progress; but the preparation of the new Bill will enable the legislation to brought into line with modern conventions.	
Assumption: A key component of bring Welsh law up-to-date is ensuring it is provided in bilingual format.	This assumption was strongly supported by the responses to the Law Commission's consultation on *The Form and Accessibility of the Law Applicable in Wale*s. For example, Dame Rosemary Butler AM (then Presiding Officer (Llywydd) of the National Assembly) commented: I believe it is urgent that we in Wales move to make up-to-date, bilingual, versions of the law applicable in Wales, in all devolved fields, available to the citizen free of charge and in one place".[72]	

CC2e: The recommendations will contribute to improved perceptions of the rule of law in Wales.		
Test	**Finding**	
Outcome: Citizens feel better informed and more confident in protections under the law.	It is too early to evaluate these outcomes as the Welsh Government's Planning Consolidation Bill is still in progress.	
Assumption: A lack of clarity on the legal position undermines confidence in the rule of law.	As noted above this assumption was strongly supported by the responses to the Law Commission's consultation on *The Form and Accessibility of the Law Applicable in Wales*. Those responses implicitly (and in some cases explicitly) included planning law in Wales.	

Conclusion

The Welsh Government confirmed in its interim response to the Law Commission's report that it is committed to taking the project forward and has already begun work on a Planning Consolidation Bill. While it remains to be seen how this new legislation progresses, indications are that there is scope for the Bill to make a

[71] (Communities and Local Government on behalf of the Killian Pretty Review, 2008)
[72] (Law Commission, 2016)

considerable difference to those that use the planning legislation, helping to reduce the delays and costs associated with the inaccessibility of the current system.

Home Ownership

Event Fees in Retirement Properties[73]

Background

Each year thousands of older people consider moving to specialist retirement properties. These homes are almost always sold on a leasehold rather than freehold basis. Many of these leases require the owner to pay a fee on certain events – such as sale, sub-letting or change of occupancy. These are known as "event fees".

In 2013, the Office of Fair Trading investigated the use of transfer fees (a type of event fee). They found that terms in leases imposing this type of event fee were potentially unfair. Event fees were also surrounded by uncertainty, which was potentially holding back investment in retirement housing. As a result, in 2014 the then Department for Communities and Local Government asked the Law Commission to investigate.

The Law Commission's research – involving a review of the law, a series of meetings, open public consultation and a mystery shopping exercise – identified major problems with event fees. It found:

- event fees can be hidden in complex leases
- leaseholders may have to pay event fees in unexpected circumstances – for example, when their spouse or carer moves into the property
- event fees are often disclosed too late in the process for the consumer to take the fee into account
- even if consumers do spot event fees, they may fail to appreciate their financial consequences

The ageing population means that the number of people likely to be affected by event fees on retirement properties is likely to increase.

The Law Commission concluded there was an urgent need to protect older consumers, who are often vulnerable, from event fees that are unfair or imposed in unfair circumstances. The Law Commission proposed that event fees should be regulated via the introduction of a new code of practice which would:

- Limit when an event fee can be charged, and, in some situations, the amount that can be charged; and
- Impose stringent obligations on landlords to provide a consumer, early in the purchase process, with transparent information about the event fees payable. This information will be in a standardised format, and will enable a consumer to see and take account of:
    - Information about the event fee – how it is calculated, who receives the fee, and what a consumer receives in exchange for the fee; and
    - How much the event fee is likely to be dependent on changes in the property's value.

The Law Commission recommended that the code of practice should be approved by the Secretary of State under a statutory process[74] and that it should be supported by an amendment to the Consumer Rights Act 2015 so that it can be enforced by consumers.

Event fees can make specialist housing affordable by deferring part of the payment for services until they come to sell. The Law Commission did not therefore call for event fees to be abolished, because of the benefits they can offer consumers.

[73] Previously known as Transfer of Title and Change of Occupancy Fees in Leaseholds
[74] Leasehold Reform, Housing and Urban Development Act 1993, s 87.

The Law Commission published its Final Report and recommendations on 31 March 2017. The Ministry of Housing, Communities and Local Government has welcomed the report and confirmed in its March 2019 reply that the majority of the Law Commission's recommendations will be implemented.

Objectives of the Recommendations on Event Fees

The objectives of the recommendations on event fees are to:

1. Protect consumers by
    a. Limiting the situations when event fees can be charged;
    b. Imposing obligations on landlord/operators to provide transparent information about event fees to consumers at an early stage in the purchase process; and
    c. Making it easier for consumers to challenge unfair event fee terms.
2. Clarify the legal status of event fees to facilitate more investment in retirement housing.

Theory of Change and Applicable Themes

The general theory of change framework set out in section 2 is applied to the Law Commission's examination of the law on event fees in the diagram that follows. This illustrates the potential causal pathways from the Law Commission's work to wider impacts.

The key themes corresponding to these causal pathways are as follows:

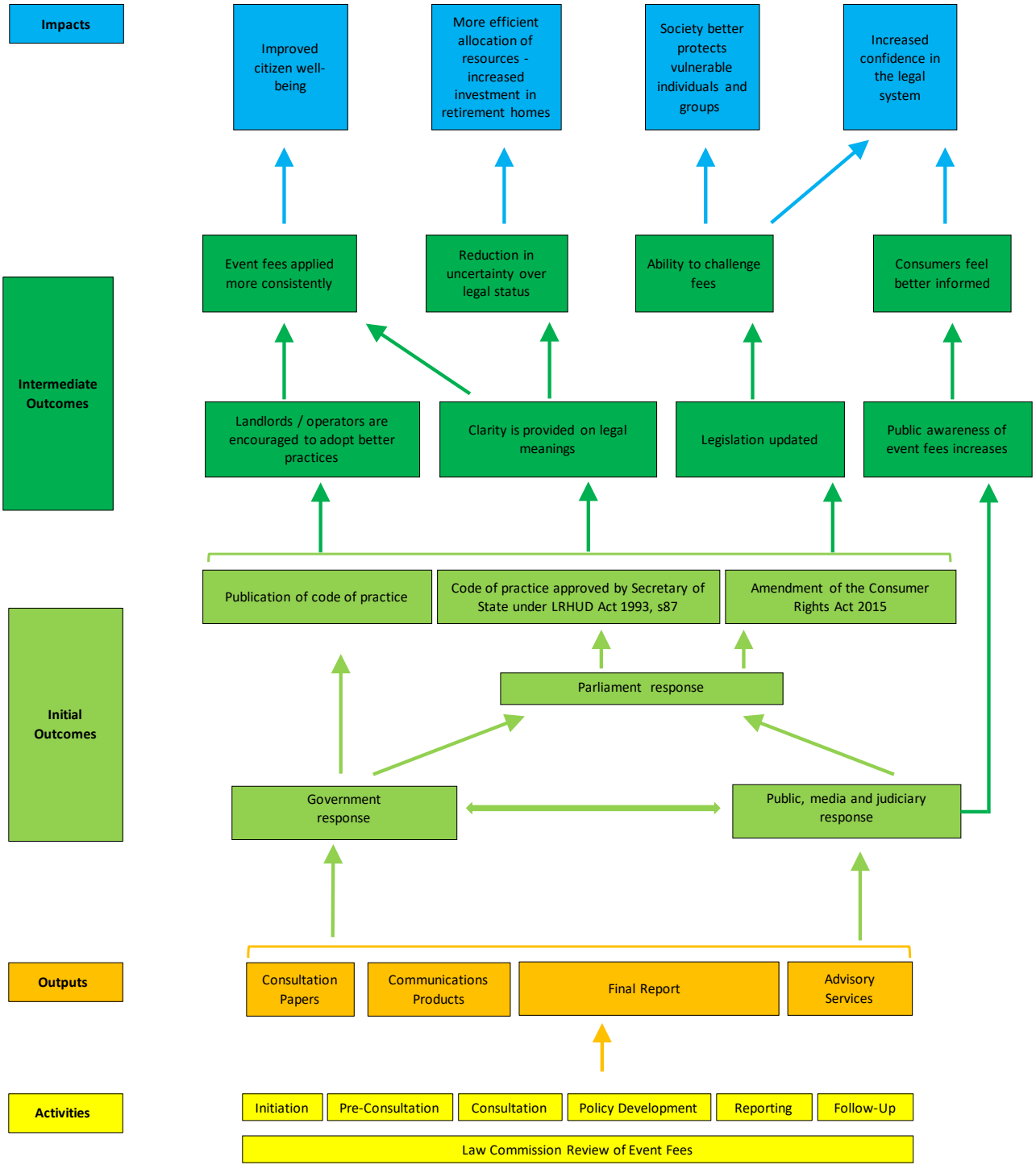
Harm prevention – By limiting the situations were event fees can be charged, the proposed code of practice is intended to protect consumers from uncertainty arising from unexpected financial charges.

Rule of law – The code of practice will require landlords/operators to provide transparent information, helping consumers to understand their rights and to feel confident in the protections provided under the law.

Access to justice – The amendment to the Consumer Rights Act 2015 will enable the code of practice to be enforced directly by consumers.

Efficiency gains – The reforms are intended to increase transparency in fees and reduce the uncertainty surrounding the legal status of event fee terms. The reforms are expected to unlock greater investment in the retirement housing. This in turn could enable greater movement in the wider housing market and free up housing stock.

Event Fees Theory of Change



Contribution Claims

The next step is to examine whether the Law Commission's outputs have been or will be effectively realised, resulting in the outcomes predicted by the theory of change. The first claim to assess is whether the Law Commission's recommendations will be successfully implemented:

CC1: The Law Commission's work will result in reform to event fees in England and Wales.

The second claim to assess is whether the implementation of the Law Commission's recommendations will make a difference as predicted:

CC2: The Law Commission's review and recommendations on event fees will make a difference, for citizens (especially retirees) and developers in England and Wales.
CC2a: The review and recommendations will contribute to reduction in the risks of harm to vulnerable citizens in England and Wales.
CC2b: The review and recommendations will improve the rule of Law.
CC2c: The review and recommendations will improve access to justice.
CC2d: The review and recommendations will result in efficiency gains.

Findings

To assess the strength of the contribution claims, the validity of the outcomes and assumptions necessary to establish the claims must be considered. The findings in relation to each of the contribution claims in this case are as follows:

Contribution Claim 1: The Law Commission's work will result in reform to event fees in England and Wales.

Test	**Finding**	
Assumption: The Government engages with and responds positively to the Law Commission's review findings.	The Government's final response in March 2019[75] welcomed the Law Commission's Event Fees report and planned to "implement the report's recommendations, with exception of two issues" which the department will be exploring in further detail. The Government said it will commission research on how best to establish an online database to provide information to prospective buyers. It also said it will also consider the recommendation for spouses' and live-in carers' succession rights to stay at a property without payment of an event fee. The Government's positive response to the Law Commission's report confirms the assumption that the Government is committed to reforming event fees.	

CC2: The Law Commission's review and recommendations on event fees will make a difference for citizens (especially retirees) and developers in England and Wales.

CC2a: The review and recommendations will contribute to reduction in the risks of harm to vulnerable citizens in England and Wales.		
Test	**Finding**	
Outcome The proposed code of practice will protect those living in retirement properties from uncertainty arising from unexpected financial charges.	Providing greater clarity around event fees, and thereby reducing uncertainty, has been a key objective behind the Law Commission's recommendations. The assumption is logically consistent and uncontroversial. The outcome however can only be evaluated oncethe proposed code of practice is in place.	

[75] (Ministry of Housing, Communities and Local Government, 2019)

Assumption: greater clarity around event fees reduces the risk of unexpected charges.		
Impact: Citizen well-being improves and vulnerable citizens are better protected.	Currently too early to assess impacts. The impacts can only be evaluated after the changes have been implemented.	

CC2b: The review and recommendations will contribute to improved perceptions of the rule of law in England and Wales.		
Test	**Finding**	
Outcome: Consumers will better understand their rights in relation to event fees and feel confident in the protections provided under the law. *Assumption*s: The code of practice (enforceable through the amended Consumer Rights Act 2015) will require landlords/operators to provide transparent information. The information will help consumers to understand their rights and to feel confident in the protections provided under the law.	Outcome to be determined. The assumptions are logical, but difficult to assess at this stage, before the proposed code of practice and amendment to the Consumer Rights Act are in place. However, the assumptions that underpin the outcome appear well founded and consistent.	
Impact: Confidence in and compliance with the legal system in general increases.	Currently too early to assess. The impacts can only be evaluated after the changes have been implemented.	

CC2c: The review and recommendations will lead to improved access to justice		
Test	**Finding**	
Outcome: The code of practice, supported by an amendment to the Consumer Rights Act 2015 will enable the code of practice to be enforced. *Assumption:* The Government will take forward the recommendations in relation to	The Government has responded positively to the recommendations and plans to implement them. The assumption is therefore well evidenced, while the outcome is still to be determined.	

the code of practice and amendment to the Consumer Rights Act 2015.		

CC2d: The review and recommendations will result in efficiency gains.		
Test	**Finding**	
Outcome: Efficiency gains Assumptions: The reforms are intended to increase transparency in fees and reduce the uncertainty surrounding the legal status of event fee terms.	To be determined. This assumption is logical and consistent with the aims of the proposals, but its potential impact is difficult to assess at this stage.	
Assumption: The reforms are expected to unlock greater investment in retirement housing. Alternative assumption: Other factors are affecting investment in retirement housing.	During the consultation over event fees the Law Commission heard evidence that investors have been reluctant to lend on the security of an event fee income stream, given the perceived risk that such terms may be found to be unfair (and therefore unenforceable) following the OFT's 2013 investigation. Evidence from eight developers suggested that with the reforms, private investment of £3.2bn could be forthcoming in the next decade, and the supply of specialist retirement housing expanded significantly, depending on the investment climate. Following consultation with industry, the Law Commission's best estimate was that the recommended reforms could unlock over £800m of this investment. There is therefore some evidence to support the claim that the reforms could unlock greater investment in retirement housing, although it is difficult to validate the overall size and extent, given the inherent uncertainties and range of other factors likely to affect such investments. However, the Law Commission's proposals are likely to remove or significantly reduce the legal uncertainty that remained following the outcome of the OFT's investigation.	

Conclusion

Intervention over event fees will give the industry clarity about how to act within the law and allow consumers a clear remedy if landlord/operators do not act within the law.

Residential Leasehold and Commonhold

Background

In England and Wales, properties can either be owned as freehold or as leasehold. Leasehold is a form of ownership where a person owns a property for a set number of years (typically, 99 or 125 years) on a lease from a landlord, who owns the freehold. There are estimated to be at least 4 million leasehold properties in England alone. However, the law which applies to leasehold is regarded as far from satisfactory.

The UK Government has said that leasehold has "far too many problems including disproportionate costs to extend leases; poor value property management; and a slow and costly sales process". The Welsh Government has also noted "widespread criticism of poor practice in the use of leasehold". Respondents to the consultation on the Law Commission's 13th Programme of Law Reform also identified numerous problems with residential leasehold law.[76]

The Law Commission has been jointly tasked by the Ministry of Housing, Communities and Local Government ("MHCLG") and the Welsh Government with improving leasehold and commonhold law, and with providing greater fairness and transparency for leaseholders. The work is currently underway, involving three sub-projects:

- leasehold enfranchisement- improving the regime which enables leaseholders to buy the freehold or extend their lease
- the right to manage (RTM)- facilitating access to, and improving the process for acquiring, the RTM – the right of leaseholders to form a RTM company and take over the management of their building from their landlord
- commonhold – resolving legal problems with commonhold (which provides an alternative form of ownership to residential leasehold) which are currently preventing its uptake.

During 2018-19 the Law Commission undertook separate consultation exercises on each of the sub-projects and is currently analysing the responses and developing its policy conclusions. A Final Report about reforming the price ("premium") that leaseholders must pay to exercise enfranchisement rights will be published in October 2019. Final Reports on all other aspects of enfranchisement reform, as well as RTM and commonhold, are expected to be published in February 2020.

Policy objectives

The policy objectives for the work, as set out in the terms of reference[77] agreed with MHCLG and the Welsh Government, include:

Generally

• to promote transparency and fairness in the residential leasehold sector;

• to provide a better deal for leaseholders as consumers;

Enfranchisement

• to simplify enfranchisement legislation;

[76] (Residential Leasehold and Commonhold Webpage, Current)
[77] Terms of Reference, (Law Commission, 2019).

• to consider the case to improve access to enfranchisement and, where this is not possible, reforms that may be needed to better protect leaseholders, including the ability for leaseholders of houses to enfranchise on similar terms to leaseholders of flats;

• to examine the options to reduce the premium (price) payable by existing and future leaseholders to enfranchise, whilst ensuring sufficient compensation is paid to landlords to reflect their legitimate property interests;

• to make enfranchisement easier, quicker and more cost effective (by reducing the legal and other associated costs), particularly for leaseholders, including by introducing a clear prescribed methodology for calculating the premium (price), and by reducing or removing the requirements for leaseholders (i) to have owned their lease for two years before enfranchising, and (ii) to pay their landlord's costs of enfranchisement;

Commonhold

• to re-invigorate commonhold as a workable alternative to leasehold, for both existing and new homes.

Right to manage

• to facilitate and streamline the exercise of the right to manage.

Theory of Change and Applicable Themes

The general theory of change framework set out in section 2 is applied to the available information about Law Commission's examination of residential leasehold and commonhold law in the diagram that follows. This illustrates the potential causal pathways from the Law Commission's work to wider impacts.

The key themes corresponding to these causal pathways are as follows:

Rule of law – The review of leasehold and commonhold aims to simplify and clarify the complex body of existing residential property law, to enable consumers to understand and exercise their rights more effectively.

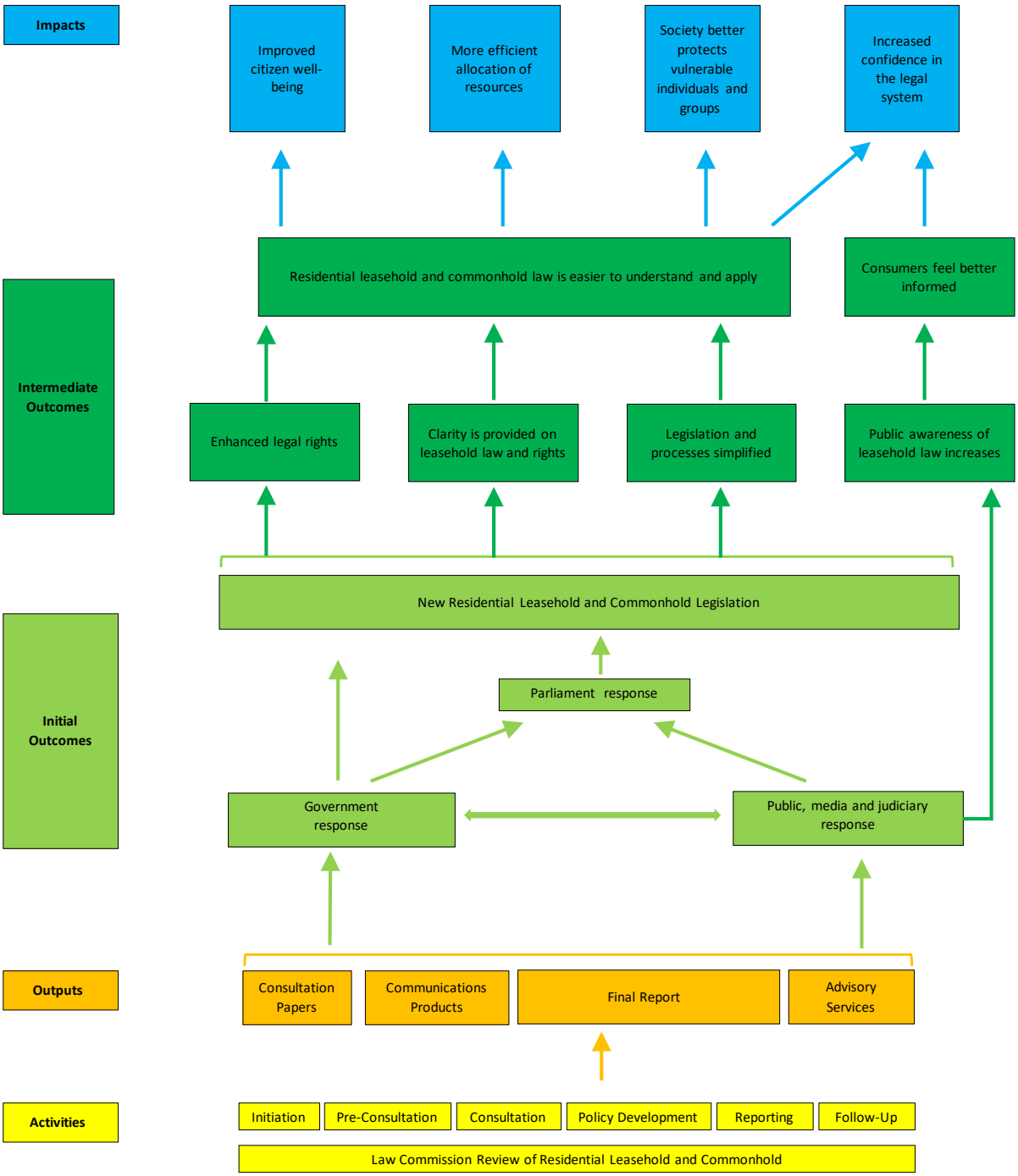
Access to justice – Clarifying residential property law makes it easier for all users to navigate and will potentially avoid future legal costs and give greater protection to potentially vulnerable individuals and groups. In addition to clarifying and simplifying the existing law, any reform recommendations that improve or extend rights will potentially enable people who did not previously qualify to now qualify for rights and new protections.

Efficiency gains – The review objectives aim to give consumers a better deal, including making enfranchisement easier, quicker and more cost effective by reducing the legal and other associated costs.

Well-being improvement – the review provides an opportunity to address concerns of leaseholders that leasehold does not deliver the benefits associated with home ownership.

Modernising the legal system –Modernisation is a significant aspect of the work on enfranchisement and of developing a law that enables commonhold to be a workable alternative to the leasehold system.

Residential Leasehold and Commonhold Theory of Change



Contribution Claims

The following simplified contribution claims have been drawn up for the residential leasehold and commonhold work, reflecting the current (post consultation) status of the project.

CC1 The Law Commission's review of residential leasehold and commonhold will promote transparency and fairness in the residential leasehold sector and provide a better deal for leaseholders as consumers in England and Wales.

CC2 The Law Commission's review will make a difference to (current and future) residential leaseholders and commonholders in England and Wales.

Findings

The findings in relation to each of the contribution claims in this case are as follows:

Contribution Claim 1: The Law Commission's review of residential leasehold and commonhold will promote transparency and fairness in the residential leasehold sector and provide a better deal for leaseholders as consumers in England and Wales.

Test	**Finding**	
Assumption: The Law Commission will complete its review and publish its recommendations.	The Law Commission's final recommendations are due to be published in October 2019 and February 2020. Given the Law Commission's proven expertise in consulting with stakeholders on proposed legal reforms, there seems little reason to doubt the review will be completed and published.	
Assumption: The Law Commission recommendations will promote transparency and fairness in the residential leasehold sector and provide a better deal for leaseholders	It is not possible to evaluate the assumed outcome ahead of Law Commission completing its review and publishing its recommendations. However, the work carried out to date feeding into the process is supportive. The evidence put forward by the Law Commission in the consultation exercises set out clearly the issues that had been identified with current leasehold legislation and the Law Commission's provisional proposals to address them, including issues of transparency and fairness. The Law Commission's recommendations will build upon the provisional proposals and be informed by further analysis, following the consultation exercise.	
Assumption: The Law Commission recommendations will be broadly supported and accepted.	It is not possible to evaluate this assumption ahead of Law Commission completing its review and publishing its recommendations. However, the Government has made clear that there are far too many problems with current leasehold arrangements and that significant legal reform is required, suggesting a high degree of commitment to reform. Responses to the consultation exercises, which will provide an initial indication of broader stakeholder views, are currently being analysed by the Law Commission. These will enable an initial assessment of support to be determined.	

CC2 The Law Commission's review will make a difference to (current and future) residential leaseholders and commonholders in England and Wales.

Test	Finding	
Assumption: The Law Commission's review of residential leasehold will make a difference.	Considering the number of persons potentially affected and the widespread recognition that the present system is complex, convoluted and costly, then reform (assuming acceptance by Government) is highly likely to exert a positive effect. However it is difficult to evaluate potential impact prior to the Law Commission producing its final recommendations. It is possible to consider what evidence could be gathered to enable a future assessment to be undertaken of the impact of the Law Commission's proposals. For example, the Terms of Reference contain a number of specific objectives, including "to make enfranchisement easier, quicker and more cost effective (by reducing the legal and other associated costs)" Collecting such data would enable before and after measurements to be made, to assess the impact against the stated objective. The initial consultation papers identify issues with the existing leasehold arrangements, together with provisional proposals to address them. Using a theory of change approach, the relationship between the identified problems and how the proposals will address them can be examined in order to identify the assumed underlying mechanisms and how these work through outputs to outcomes and ultimately to wider impacts.	

Conclusion

Given the widespread recognition of problems with current leasehold arrangements, the Law Commission's review of leasehold and commonhold has the potential to generate significant changes in the law and benefit leaseholders in England and Wales. The stated objectives and theory of change approach suggest that some of the immediate potential benefits to leaseholders, such as savings in costs associated with enfranchisement, should be readily quantifiable through before and after comparisons. In addition to lowering costs, clarifying and improving rights for leaseholders may also generate wider, though less easily quantified benefits, such as reduced uncertainty and enabling wider access to enfranchisement or RTM.

Hate Crime Legislation

Background

A substantial number of hate crime incidents take place in England and Wales each year. The police recorded 94,000 hate crimes in 2017/18 while the Crime Survey for England and Wales estimated that there are as many as 180,000 per year.

Hate crimes are those in which an element of the offence involves a harm or wrong done to someone on the basis of their protected characteristic. There are five characteristics protected under hate crime laws in England and Wales: (i) race, (ii) religion, (iii) sexual orientation (iv), disability, and (v) transgender status. However, the criminal law does not treat each of these protected characteristics equally. For example, a higher maximum penalty will apply where there is a conviction for a racist assault, compared with that which would apply for a an assault on a person with a disability.

In March 2012 the Government's published its Hate Crime Action Plan. This set out three core principles underlying the Government's approach to hate crime: (i) prevention, (ii) increasing reporting and access to support, (iii) improving operational responses. As part of this plan the Ministry of Justice asked the Law Commission to look at whether the hate crime offences should cover all five characteristics equally.

The criminal law responds to hate crime in three ways:

- "Aggravated" offences with longer sentences in the Crime and Disorder Act 1998 if an offender demonstrated hostility or was motivated by hostility based on race or religion.
- Prohibiting conduct that is likely to stir up hatred on grounds of race, or intended to do so on grounds of religion or sexual orientation in the Public Order Act 1986.
- Enhanced sentencing under sections 145 and 146 of the Criminal Justice Act 2003 if hostility is motivated by any of the five protected characteristics.

Currently offences motivated by hostility based on sexual orientation, transgender identity or disability do not become aggravated offences and transgender identity and disability are not covered by the stirring up offences.

The Law Commission looked at whether aggravated offences and stirring up of hatred offences should be extended to apply equally to all five protected characteristics. The Final Report, "Hate Crime: Should the Current Offences be Extended?" was published in May 2014 and recommended a full-scale review of aggravated offences and the enhanced sentencing system to see if they should be retained in their current form or amended. In absence of such a review the recommendations were for:

- Extension of the aggravated offence regime to include disability, sexual orientation and transgender identity
- New guidance from the Sentencing Council on the sentencing approach in hate crime cases.
- When enhanced sentencing is applied, it should be recorded on the offender's criminal record.
- Not extending the stirring up offences on grounds of disability or transgender identity (as these offences are rarely prosecuted).

The government never formally responded to these recommendations. However, in October 2018 the Government tasked the Law Commission with undertaking the wide-ranging review it recommended in 2014. Building on the previous work, the project will review the adequacy and parity of protection offered by the law relating to hate crime and to make recommendations for its reform. It will also consider whether additional characteristics (for example gender or age) deserve enhanced protection in criminal law and on what basis.

A separate, but related review will also consider the findings of the Law Commission's scoping report on abusive and offensive online communications published in November 2018.

The Law Commission will publish a Consultation Paper in early 2020 and plans to publish a Final Report in early 2021.

Objectives

While the wider review is still at the pre-consultation stage, many of the key objectives from this review have been articulated in the Law Commission's previous work on hate crime legislation and recently published background to the review. These aims can be broadly summarised as:

a. Improve the consistency and effectiveness of hate crime protections

An improved response to hate crime arising from the review's findings would directly benefit victims and could deter hate crime offending.

b. Increase confidence in justice system among members of protected groups

Setting out clear principles for the selection of protected characteristic and ensuring that complexities in the legislation (such as the hostility test) are improved or simplified wherever possible could help to ensure an improved and updated response across protected characteristics and increase confidence in the fairness of the system.

c. Make the current system work more efficiently

Setting out clear principles and resolving unnecessary complexity, practical difficulties and uncertainties in the current regime could save resources expended in revisiting these topics time and again.

d. Ensure the law is compliant with domestic and international legislation

The review will consider the implications of the Equalities Act and human rights obligations under Articles 10 (freedom of expression) and 14 (prohibition of discrimination) for hate crime legislation and reform. For example, when determining the appropriate protections and punishments it will be necessary to ensure an appropriate balance between permitting freedom of expression and protecting vulnerable groups from discrimination.

Theory of Change and Applicable Themes

The general theory of change framework set out in section 2 is applied to the Law Commission's examination of the law on hate crime in the diagram that follows. This illustrates the potential causal pathways from the Law Commission's work to wider impacts.

The key themes corresponding to these causal pathways are as follows:

Harm Prevention: the review seeks to identify options which will extend protections under the law for citizens/groups who are or might become victims of hate crime.

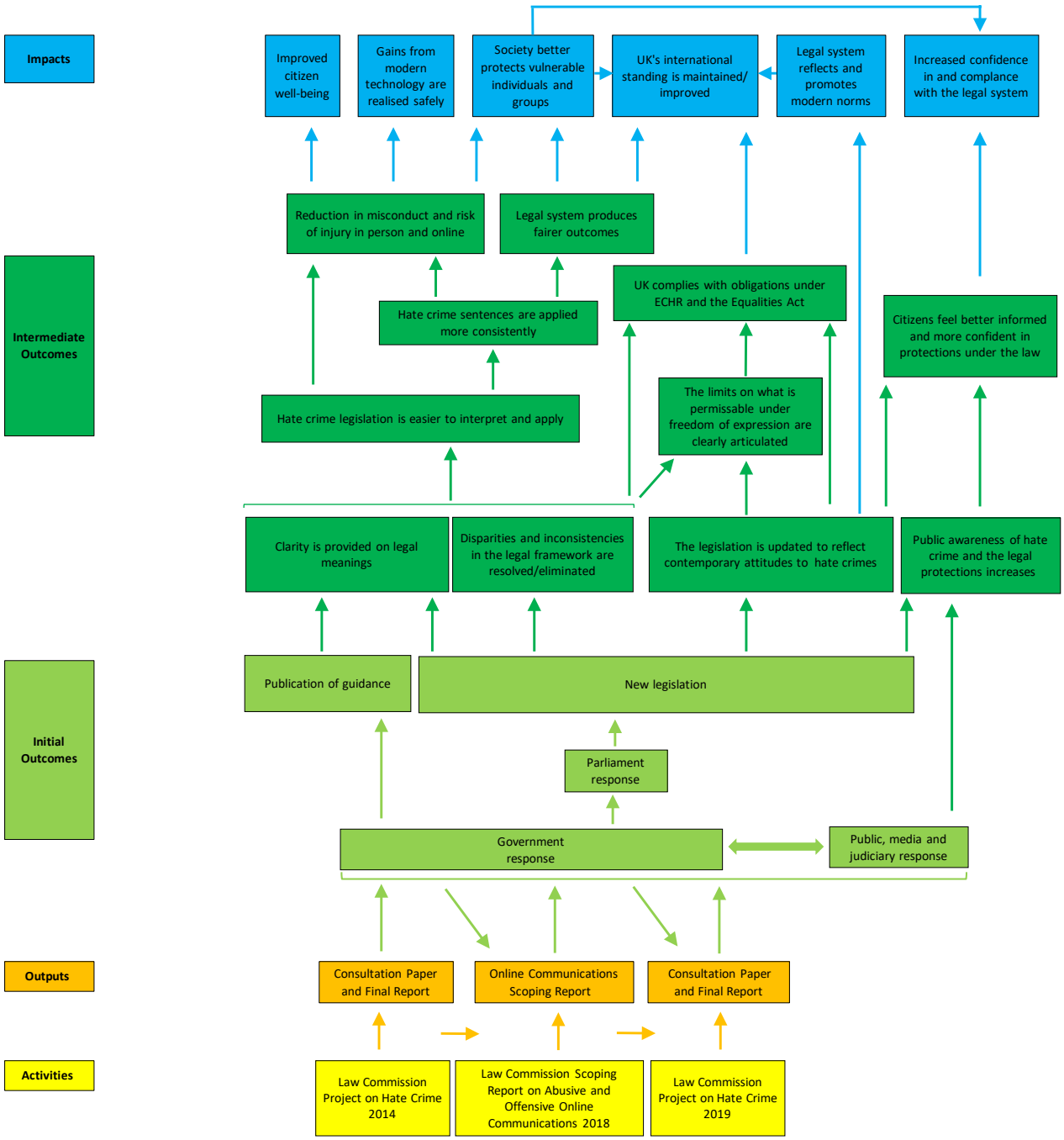
Rule of Law: the Law Commission's work on hate crime legislation aims to increase public confidence in the criminal justice system and its ability to hold hate crime offenders to account.

Access to Justice: the review will examine ways to ensure victims find that the hostility they have suffered is recognised by the justice system and that the system is accessible to all participants in cases involving hate crimes.

Modernising: the Law Commission's work will look to update the existing framework to reflect the current understanding of hate crimes. It will also seek to address concerns about the compliance of the existing system with discrimination laws such as ECHR and the Equalities Act 2010.

Efficiency gains: the Law Commission's review will seek to improve the efficiency of the existing system. This could lead to savings, if for example the number of appeals is reduced as a result. However, equally the Law Commission's recommendations may also require some additional expenditure. At this stage therefore, while the review is ongoing, we will not explore this potential theme in detail.

Hate Crime Project Theory of Change



Contribution Claims

The next step is to consider whether the Law Commission's outputs will be effectively realised, resulting in the outcomes predicted by the theory of change. The first claim to assess is whether the Law Commission's recommendations will be successfully implemented:

CC1: The Law Commission's work will result in reform to the hate crime legislation in England and Wales.

The second claim to assess is whether the implementation of the Law Commission's recommendations will make a difference as predicted:

CC2: The Law Commission's review and recommendations will make a difference for citizens, businesses and government in England and Wales.
CC2a: The review and recommendations will contribute to improved perceptions of the rule of law in England and Wales.
CC2b: The review and recommendations will lead to improved access to justice for participants in cases involving hate crime offences.
CC2c: The review and recommendations will reduce the risks of harm to vulnerable citizens from hate crime.
CC2d: The review and recommendations will result in the laws on hate crime being brought up-to-date to reflect modern norms and international obligations.

Findings

To assess the strength of the contribution claims the validity of the outcomes and assumptions necessary to establish the claims must be considered. The findings in relation to each of the contribution claims in this case are as follows:

Contribution Claim 1: Will the Law Commission's work result in reform to the hate crime legislation in England and Wales?

Test	**Finding**	
Assumption: The Government engages with and responds to the Law Commission's review findings.	The Government's response to the 2014 report on Hate Crime – taking forward the recommendation for a full review of the law on hate crime – supports the assumption that the Government is committed to engagement on this issue.	
Risk: The Government is unresponsive or slow to respond.	The existence of the protocol with the Lord Chancellor limits this risk. However, as the response time in the protocol was not met for the 2014 report there is a potential risk that a response for the 2019 review will also not be forthcoming within one year.	
Assumption: The Sentencing Council will commit the resources needed to draft and publish revised guidance.	The Sentencing Council has not yet published revised guidance on the sentencing approach across the different types of hate crime offences. However, in 2018 the Sentencing Council published a public consultation on public order offences guidelines, in which it proposed to clarify the position on stirring up hatred, stating "given the recent social climate and an enhanced focus on this type of offending, the Council considers it would be	

	useful for sentencing officials to be equipped with guidance on sentencing these offences."[78]	
Assumption: The Government is committed to reforming hate crime legislation.	The Government's willingness to support the Law Commission to conduct the review, along with its ongoing plans to tackle hate crime in the UK are positive indicators. Equally, at this stage, without the specific recommendations of the review, it is difficult to evaluate the Government's likely commitment to the suggestions arising from it.	
Assumption: Parliament will support proposals to reform legislation on hate crime.	Similarly, it is difficult to evaluate this assumption without the specific recommendations of the review. However, there are indications that Parliament would favour legislative change. For example, the Home Affairs Committee published a report on hate crime online in 2017 which recommended that the Government "should review the entire legislative framework governing online hate speech, harassment and extremism and ensure that the law is up to date."[79] Equally, historically there has been some resistance in Parliament to the extension of hate crime offences. For example, the extension of the stirring up offences to include religion and sexual orientation received substantial modification in the Parliamentary process which reduced the circumstances in which the offences could apply.[80]	
Assumption: The public, media and judiciary will be broadly supportive of the Law Commission's recommendations to reform legislation on hate crime.	Again, without the specific recommendations of the review, it is difficult to evaluate this assumption. Media reactions to the announcement and project information paper appear to be mixed, and the subject matter potentially divisive. However, it will not become clear until the review is completed whether or not reactions are generally supportive.	

Contribution Claim 2: Will the Law Commission's review and recommendations make a difference, and for whom?

CC2a: The review and recommendations will contribute to improved perceptions of the rule of law in England and Wales.		
Test	**Finding**	
Outcome: Public awareness and reporting of hate crime offences in England and Wales increases. *Assumption:* The Law Commission's work contributes (alongside other factors) to heightened awareness and reporting of hate crime.	This outcome can only be evaluated when the Law Commission's recommendations have been published and implemented. Even at this stage it will be difficult to isolate the impact of the Law Commission's work from other factors influencing public awareness. For example, reports of hate crime offences have more than doubled since 2012.[81] Some commentators have suggested that this rise is partially explained by improved reporting, with individuals feeling more confident to	

[78] (Sentencing Council, 2018), section 7, page 49.
[79] (Home Affairs Committee, 2017), paragraph 56.
[80] See, for example the explanatory note on the Criminal Justice and Immigration Bill, (House of Lords, 2008), paragraph 655
[81] See Hate Crime statistics webpage (Home Office, 2018).

	come forward. [82] However, the rise in recorded offences has also been attributed to improvements in police recording and increased criminal activity following the EU Referendum decision and the terrorist attacks in 2017.	
Outcome: Public confidence in legal protections for hate crime offences increases. *Assumption*: Increased public awareness of legal protections, and the introduction of wider/more effective protections leads to increased confidence in the ability of the legal system to tack hate crime. Impact: Confidence in and compliance with the legal system in general increases.	This outcome can only be evaluated when the Law Commission's recommendations have been published and implementation decisions have been made. In particular, as the assumption underlying this outcome indicates, it will likely be significantly affected by whether the Law Commission opts to extend protections under hate crime legislation and to which groups of people. Similarly, wider impacts on confidence and compliance with the legal system are likely to be influenced by whether the recommendations are perceived to be necessary and effective.	

CC2b: The review and recommendations will lead to improved access to justice for participants in cases involving hate crime offences.		
Test	**Finding**	
Outcomes: The new legislation and/or guidance provides clarity and removes inconsistencies in the legal framework. Hate crime legislation is easier to interpret and apply. Hate crime sentences are applied more consistently.	These outcomes can only be evaluated when the Law Commission's recommendations have been published and decisions have been made regarding implementation. In particular, if the Law Commission opts to change the law to extend protections under hate crime legislation it would be necessary to examine how well understood these new protections are among legal practitioners and the public and the extent to which new regulations are consistent with other aspects of the criminal justice system including other offences and sentencing practices.	

CC2c: The review and recommendations will reduce the risks of harm to vulnerable citizens from hate crime.		
Test	**Finding**	
Outcome: extended protections lead to a reduction in hate crime offences covered by the protections. *Assumption:* reductions in offending are (in part) a direct	The likelihood of this outcome and the strength of the underlying assumptions can only be assessed when the specific recommendations are put forward. However, there is some research to suggest that extending protections can lead to reductions in hate crime offences.	

[82] See for example the reported comments of (White, 2019) in the June 2019 Guardian Article.

result of the extended protections. *Alternative explanations:* external factors (e.g. political climate, other government initiatives) are the driving force behind reductions in offending. Impact: Citizen well-being improves, internet users are safer and vulnerable citizens are better protected.	For example, the University of Sussex notes a correlation between the enactment of the aggravated offences legislation and a significant reduction in the number of racist hate crimes. (A 28% reduction the year after CDA was enacted.) Similar patterns have also been observed elsewhere in the world. Levy (2016) found a clear correlation between the implementation of hate crime laws in US states and decreases in hate crime.	

CC2d: The review and recommendations will result in the laws on hate crime being brought up-to-date to reflect modern norms and international obligations.		
Test	**Finding**	
Outcome: the reforms will comply with international obligations, including ECHR.	Until the specific recommendations of the review are published it is difficult to evaluate this outcome. However, the Law Commission has expressly stated that the review will ensure that any recommendations comply with, and are conceptually informed by, human rights obligations, including under articles 10 (freedom of expression) and 14 (prohibition of discrimination) of the European Convention on Human Rights.	
Outcome: the legislation will clearly articulate the limits on what is permissible under freedom of expression. *Assumption:* the reforms will not inhibit freedom of expression	There has been some debate on this point in the commentary around reform of hate crime legislation. In the Law Commission's 2014 consultation, respondents held differing views as to how freedom of expression should be protected in any new offences applying to disability or transgender hatred.	
Outcome: the recommended reforms are representative of prevailing norms across society *Assumption:* the consultation process on which the recommendations are built receives sufficient engagement to be successful in establishing prevailing norms.	The likelihood of this outcome and the strength of the underlying assumptions can only be assessed when the project has been completed. However, the Law Commission has expressed its intention to meet with a wide range of stakeholders over 2019-2020, to organise events across England and Wales to gather views and to conduct at least one formal consultation.	

Conclusion

At this stage it is not possible to draw firm conclusions - the likelihood of the potential outcomes from the review and the strength of the underlying assumptions can only be assessed when the specific recommendations are put forward.

However, there are indications that the Government is committed to engagement on issues related to hate crime legislation and that the Law Commission recommendations, if implemented, could significantly impact the treatment of hate crime offences in England and Wales.

Legal Framework for Automated Vehicles

Background

The Centre for Connected and Autonomous Vehicles (CCAV) asked the Law Commission of England and Wales and the Scottish Law Commission to undertake a far-reaching review of the legal framework for automated vehicles, and their use as part of public transport networks and on-demand passenger services[83].

Automated vehicles (AV) refer to vehicles that are capable of driving themselves without being controlled or monitored by an individual for at least part of a journey. While it is difficult to predict the future pace and impact of new technology, one recent study suggested AV could add over £62bn pa to the UK economy by 2030.[84] The Law Commission[85] is considering issues arising at the boundary between self-driving vehicles and widely used driver assistance technologies such as cruise control.

This is the first time that the Law Commission has been asked to recommend how the law should be adapted to circumstances that (in the main) do not yet exist, but are in prospect. This requires the Law Commission to anticipate what might happen. The challenge is to regulate appropriately and at the right time. Premature intervention could stifle innovation, while late intervention could jeopardise safety. The Law Commission is therefore undertaking a series of consultations to test ideas and respond to developments over the next three years.

1. In November 2018 the Law Commission launched a three-month consultation on safety assurance and legal liability. An analysis of responses and interim findings was published in June 2019.
2. A second consultation paper on automated road passenger services will be published later this year, covering the regulation of remotely operated fleets of automated vehicles and their relationship with public transport.
3. A third consultation, in 2020, will draw on responses to both previous papers to formulate overarching proposals on the way forward.
4. Final recommendations will be published in 2021.

Objectives

Currently the Law Commissions' proposals for AV are still in development. The preliminary consultation paper identified the following objectives:[86]

a. The key objective is assuring safety.

Secondary objectives are:

b. to provide a clear allocation of responsibility and liability; (both civil and criminal law)
c. To remove any remaining blocks which might otherwise delay the benefits of driving automation, expected to arise through improvements in mobility and productivity. Driving automation technologies can enable new ways for those with visible and non-visible disabilities to get around.

Additional objectives may emerge from work on subsequent stages of the AV review.

[83] Law Commission Automated Vehicles Webpage
[84] (Frost & Sullivan, 2019)
[85] For the AV review case study, the term "the Law Commission" refers to the joint work being carried out by the Law Commission for England and Wales and the Scottish Law Commission.
[86] See (Law Commission, 2018) section 1.3.

Theory of Change and Applicable Themes

The general theory of change framework set out in section 2 is applied to the Law Commission's examination of the law on hate crime in the diagram that follows. This illustrates the potential causal pathways from the Law Commission's work to wider impacts.

The potential key themes arising in this project are as follows:

Harm prevention –The key objective of the Law Commissions' review of the legal framework around automated vehicles is to ensure safety in the use of AV. The technology offers the potential to reduce the number of road accident fatalities and injuries that result from human error. More efficient driving, leading to reductions in vehicle emissions, would also bring additional environmental and human health benefits.

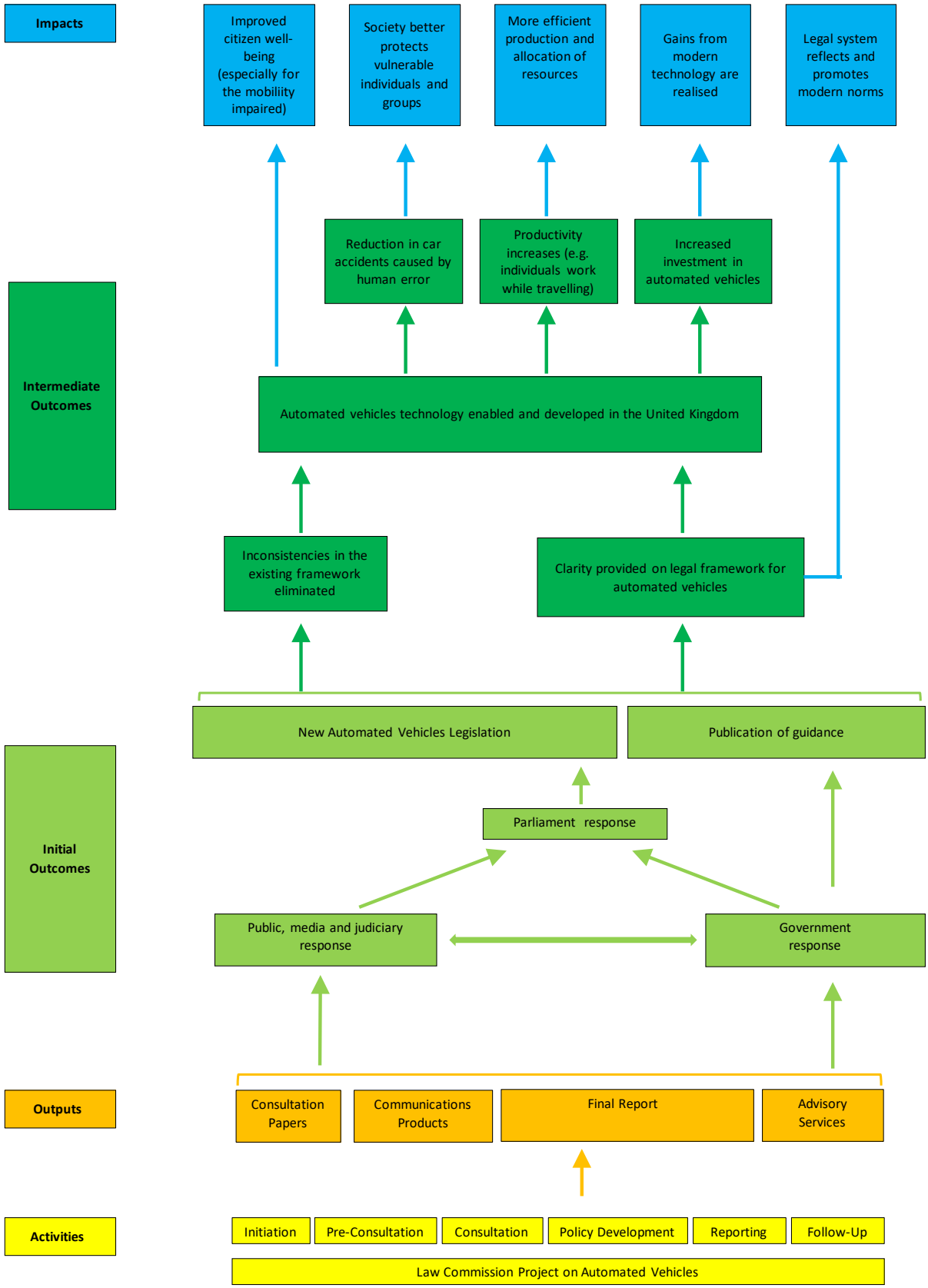
Well-being improvement – the development of AV offers the potential opportunity for enhanced mobility for those with disabilities.

Efficiency gains- the development of AV offers the potential to increase productivity. eg through the ability to work while travelling in the vehicle and to free up resources for alternative uses. The potential scale of opportunity of downstream impacts arising from AV appears substantial.

Technology driven growth –Having a responsive legal system that keeps up to date with technology enables wider gains from technology to be realised, encouraging UK investment. The introduction of appropriate "future proofed" AV legislation, following extensive consultation, should make suppliers more confident about investing in AV related technology and products and increase the UK's standing as a hub for technology development. Early adoption potential brings advantages to UK economy through first mover advantage.

Modernising the legal system – Updating the legal system to keep it up-to-date with technological norms can help to ensure that the legal system remains relevant and appropriate.

Automated Vehicles Project Theory of Change



Contribution Claims

The next step is to consider whether the Law Commission's outputs will be effectively realised, resulting in the outcomes predicted by the theory of change. The first claim to assess is whether the Law Commission's recommendations will be successfully implemented:

CC1 The Law Commissions' review of AV will result in greater legal clarity over use of AV in England and Wales.

The second claim to assess is whether the implementation of the Law Commission's recommendations will make a difference as predicted:

CC2 The Law Commissions' review and recommendations on AV will make a difference to citizens of England and Wales.

CC2a: The review and recommendations on AV will contribute to harm prevention in England and Wales through the scope to improve road safety.
CC2b: The review and recommendations on AV contribute to well-being improvement through the potential opportunity for enhanced mobility for those with disabilities.
CC2c: The review and recommendations on AV offers potential efficiency gains-by clarifying the law which reduces legal uncertainties and may encourage development of AV, potentially increasing productivity.
CC2d: The review and recommendations on AV offers greater potential for technology driven growth.
CC2e: The review and recommendations on AV modernise the legal system.

Findings

The findings in relation to each of the contribution claims in this case are as follows:

Contribution Claim 1: The Law Commissions' review of AV will result in greater legal clarity over use of AV in England and Wales.

Test	**Finding**	
Assumption: The Law Commission will complete its review and publish its recommendations.	The Law Commissions' review is due to be published in 2021. Results for from the preliminary consultation were published in June 2019. Given the Law Commissions' proven expertise in consulting with stakeholders on proposed legal reform, there seems little reason to doubt the review will be completed and published.	
Assumption: The Law Commission proposals will provide greater legal clarity over AV	At this early stage and without the Law Commissions' final recommendations to review, it is difficult to evaluate this assumption. However, the preliminary consultation strongly supported the view that the Law Commission has carefully considered the legal issues raised by AV in its work on the topic to date, outlining ways in which the law could be amended to provide greater legal clarity over issues of AV safety assurance, regulation and criminal and civil liability. The on-going process of consultation undertaken by the Law Commissions is extremely valuable for bringing together and seeking the views of a wide range of stakeholders. The complexity and interconnectedness of AV issues, and the importance of the Law Commissions' work for obtaining legal clarity	

	is also evident in the recently produced Zenzic UK Connected and Automated Mobility Roadmap to 2030.[87]	
Assumption: The Law Commission proposals will be broadly supported and accepted.	It is not possible to evaluate this assumption ahead of Law Commission completing its review and publishing its proposals. However, the central finding from the preliminary consultation obtained strong support, namely that the Government could begin work to establish a safety assurance scheme, building on its existing work in the Code of Practice, to allow for the commercial deployment of highly automated driving systems. The safety assurance scheme is required to prohibit unauthorised systems and to support the implementation of the Automated and Electric Vehicles Act 2018. Stakeholders strongly support its creation before automated vehicles reach the market. While the Government has yet to respond to the preliminary findings, Government policy (eg DoT's Future of Mobility Urban strategy) makes clear the government's desire to see the UK embrace the future opportunities arising from innovative transport technology. While it therefore seems likely that the Law Commissions' proposals, when published, will be well evidenced, broadly supported and are likely to be accepted, it is currently too early to evaluate this assumption.	

Contribution Claim 2: The Law Commissions' review and recommendations will make a difference to citizens of England and Wales.[88]

Test	**Finding**	
Assumption: legal clarity over AV will increase the opportunities for the benefits from AV to be realised.	At this early stage, without the Law Commissions' final recommendations to review, it is difficult to evaluate the potential impact of Law Commissions' work on AV and how it may affect the speed or nature of future AV development. However, there is a large potential opportunity from developing AV technology. Providing legal clarity offers a way to help unlock these benefits, or advance their timing. In addition, having a clear UK legal framework in place could potentially attract global research and funding for the development of the technology associated with AV to the UK, together with bringing forward benefits to users in terms of road safety, greater mobility (particularly for the disabled), and wider benefits in terms of increased productivity and reduced pollution.[89] While such benefits are difficult to estimate, a recent study by Mckinsey[90] predicted that, if readily adopted, the benefits of autonomous vehicles could exceed $800bn pa in the US alone:	

[87] (Zenzic, 2019)
[88] At this early stage, the key themes have been considered together under the single heading of contribution claim 2.
[89] (KPMG, 2019)
[90] (McKinsey, 2019)

	• Nearly one-third of the benefit was estimated to arise from the public sector's redevelopment of unnecessary parking spaces into more productive commercial or residential property. (For context, the amount of land taken up by car parking in Los Angeles is more than 17 million square meters—equivalent to nearly 1,400 soccer fields[91]. • About 15 percent would accrue annually to workers in the form of more productive commuting time. Further, McKinsey anticipated a yearly benefit of about one-half of 1 percent (somewhat less than $4 billion) in the form of reduced environmental damage, since, for example, more efficiently utilized vehicles idle less than others do. • Finally, more than half of the benefits would stem from safer roadways and the avoidance of the millions of fatal and nonfatal accidents caused each year by human error. A comparable analysis of Germany found that by 2040, self-driving vehicles could save the country €1.2 billion a year through lower costs for hospital stays, rehabilitation, and medication alone. It is difficult to assess the contribution of the Law Commissions' work on AV, since the current review is at an early stage and the Commissions' proposals, which have still to be developed, will apply to a rapidly developing area that could potentially revolutionise the future of travel. The Law Commissions' review is intended to provide a clear legal framework and thus be an important enabler for AV, since in the right conditions, transport experts predict AV has the capacity to grow rapidly and offer significant and widespread benefits.	

Conclusion

The Law Commissions are currently in the process of developing proposals around AV. Assessing the potential outcomes is especially difficult, given the prospective nature of the work, dealing with a new and rapidly developing technology. However, as a result of detailed consideration of the issues and the extensive ongoing process of consultation, the Law Commission will seek to develop well evidenced recommendations that provide a clear legal framework for AV that ensures public safety without stifling innovation, to enable the considerable potential benefits of AV to develop.

[91] See (Peters, 2017)

Case Study	Key groups affected / scale of relevant sector	Law Commission contribution to legal reform	Legal reform contribution to England and Wales							Overall
			Efficiency Gains	Technology Driven Growth	Harm Prevention	Well-being Improvement	Rule of Law	Access to Justice	Modernising the Legal System	
Child Law	80,000+ children in care in England and Wales									
Fraud Legislation	1/17 adults in England and Wales, facing £4.7bn annual loss									
Law on Adult Social Care	1.8 m service users, 1.6m workforce, £21.2bn annual spend									
Consumer Insurance Law	UK households £53bn annual spend on insurance									
Penalties for Late Payments	245,000 businesses with over £1,000bn annual turnover									
Form and Accessibility	Welsh population of over 3 million people									
Planning Law	Planning system £2.35bn value per yr to Welsh economy									
Event Fees	£3.2bn potential investment in retirement housing									
Residential Leasehold and Commonhold	4 million leasehold properties in England alone									
Hate Crime Legislation	94,000+ hate crimes annually in England and Wales									
Automated Vehicles	Market worth estimated at £62bn to UK by 2030									

Split colour boxes indicate case studies yet to report or be implemented, where evidence enabled some findings to be made on the underlying assumptions, (first part of box) but not on impacts.

Findings largely supportive | Mixed findings | Findings largely unsupportive | Insufficient information available / too early to say | Not considered in relation to this case study

5. Conclusions and Recommendations

This report considered the value of law reform in the context of the work of the Law Commission of England and Wales, looking at the ways in which law reform projects affect individuals and groups in society and can contribute to a wide range of social and economic outcomes both domestically and internationally.

The work focussed on three key research questions:

RQ1 – How do the Law Commission's projects make a difference, and for whom?

RQ2 – What are the indicators that can be used to assess the impacts of the Law Commission's projects?

RQ3 – Have the Law Commission's projects generated these impacts?

Contribution analysis was used as a framework to examine the Law Commission's work, with case studies providing greater detail. The contribution analysis involved outlining the logical steps (or theory of change) from inputs to outputs to outcomes to impacts, in order to outline and then assess the evidence to support the narrative of how the Law Commission's work could be expected to bring about changes to the legal system and to the wider economy and society.

Examination of the work of the Law Commission identified potential indicators to measure project outputs and initial outcomes. Case studies were used to illustrate and examine outcomes, assumptions and impact pathways.

Summary of findings

The Law Commission's projects showed high estimated benefits. The estimated benefits of the five Law Commission projects with reports published in the last five years with the highest estimated net present values have combined estimated benefits amounting to just under £3 billion over ten years.

The research found that changes resulting from Law Commission projects could arise in many different ways, with the processes varying considerably from one project to another. Reviewing the existing literature on the impact of legal reforms and discussions with Law Commission staff identified seven key themes to describe the main mechanisms by which law reform projects contribute to the wider range of impacts: efficiency gains, technology driven growth, harm prevention, well-being improvement, rule of law, access to justice and modernising the legal system.

The key findings are set out below, following the stages of the logic chain (from inputs to outputs to outcomes to impacts):

Key findings from the Law Commission's work: inputs, activities and outputs:

- An extensive body of project work has been accomplished by the Law Commission since its inception.
- Law Commission consultations receive substantial and substantive engagement from stakeholders.
- The additional research materials and support provided by the Law Commission in communications products and advisory services is considerable.

Key findings from Law Commission's work: outputs to initial outcomes:

- Two-thirds of the recommendations made in Law Commission Final Reports have been implemented in whole or in part.

- The Government has mostly responded to Law Commission reports, although 8% remain pending.
- In general, both House of Parliament have accepted the bills proposed based on a Law Commission recommendation, albeit with some amendments.
- Law Commission reports see extensive coverage in the media.
- Law Commission reports are cited in crucial judgements in the higher courts.

Key findings related to outcomes and impacts, tested in the case studies:

- The potential gains to the economy from the implementation of Law Commission recommendations are significant and accrue to groups across society including government, citizens and businesses.
- The potential effects of the implementation of Law Commission recommendations extend to groups across society.
- There is some existing analysis examining the key themes but in general there is a lack of evidence-based research into the widespread impacts of law reform projects.

Conclusions

The evidence and findings support the following conclusions:

(1) The Law Commission's projects make a difference in myriad ways, broadly summarised in the seven outlined key themes: efficiency gains; technology driven growth; harm prevention; well-being improvement; rule of law; access to justice and modernising the legal system. These key themes provide a potential blueprint for evaluating the impact of future law reform initiatives.

(2) The potential beneficiaries of Law Commission projects are widespread and diverse.

(3) The potential social and economic impacts of Law Commission projects are significant, although complex to quantify. The key themes provide a means to consider potential impacts. Improved understanding of such impacts through post- implementation evaluation will improve understanding and raise the chances of benefits being replicated in future projects.

(4) Case study analysis illustrates the importance of the Law Commission's work in increasing confidence in the legal system and citizen expectations of fair treatment under the law. Such benefits are however difficult to quantify.

(5) Case study analysis suggests that the unintended consequences of the Law Commission's projects have been limited, while showing good evidence to support the project assumptions in many of the implemented cases.

(6) Carefully worded legislation will continue to be critical to ensure the legal system can respond to the challenges raised by new and emerging technologies.

(7) Government support is critical to the effective realisation of the potential benefits of law reform projects. The Law Commission makes recommendations and is not responsible for the implementation of recommended policy/legislation.

Recommendations for future research

Two key recommendations for future research have arisen from this report:

- **More extensive data collection post-implementation** – the case study analysis has highlighted an evidence gap for research and statistics that can be used to inform post-legislative assessments.

- **The development of systematic evidence based post-legislative assessments** – if the necessary information is collected post-implementation, the methodology set out in this report could be used to conduct regular post-legislative assessments. To improve the comparability across Law Commission projects, with the additional information, the traffic-light system could be developed into a numerical scale reflecting both the strength of the evidence and scale of impacts evaluated.

References

Aldashev, G. (2009). Legal Institutions, Political Economy and Development.

Allianz. (2019). *Allianz Risk Barometer.* Retrieved August 2019, from https://www.agcs.allianz.com/content/dam/onemarketing/agcs/agcs/reports/Allianz-Risk-Barometer-2019.pdf

Association of British Insurers. (2018). *UK Insurance and Long Term Savings - State of the Market.* Retrieved September 2019, from https://www.abi.org.uk/globalassets/files/publications/public/data/abi_bro4467_state_of_market_v10.pdf

Attorney General. (2006). *The Fraud Review Final Report.* Retrieved August 2019, from https://webarchive.nationalarchives.gov.uk/20070222120000/http://www.lslo.gov.uk/pdf/FraudReview.pdf

Auckland, C., & Goold, I. (2019). Parental Rights, Best Interests and Significant Harms: Who Should Have the Final Say over a Child's Medical Care? *The Cambridge Law Journal, 78*, 287-323.

Australian Law Reform Commission. (2018). *Annual Report 2017-2018.*

Beck, T., Maksimovic, V., & Demirgüç-Kunt, A. (2004). Financial and Legal Institutions and Firm Size. *World Bank Policy Research Working Paper No. 2997*.

Berg, L.-A., & Desai, D. (2013). *Overview on the Rule of Law and Sustainable Development for the Global Dialogue on Rule of Law and the Post-2015 Development Agenda.*

Button, M., Blackbourn, D., & Tunley, M. (2015). 'The Not So Thin Blue Line After All?' Investigative Resources Dedicated to Fighting Fraud/Economic Crime in the United Kingdom. *Policing, 9*, 129-142.

Cadle, J., Paul, D., & Turner, P. (2014). *Business Analysis Techniques: 99 Essential Tools for Success.*

Cappelletti, M., & Garth, B. (1978). Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective. *Articles by Maurer Faculty*.

Carter, R., & Turner, A. (2017). *Service user group intervenes in 'Care Act breach' court appeal.* Retrieved September 2019, from communitycare.org.uk: https://www.communitycare.co.uk/2017/08/16/service-user-group-intervenes-care-act-breach-court-appeal/

Centre for Counter Fraud Studies. (2016). *Annual Fraud Indicator.* Retrieved August 2019, from http://www2.port.ac.uk/media/contacts-and-departments/icjs/ccfs/Annual-Fraud-Indicator-2016.pdf

Centre for Counter Fraud Studies. (2016). *The Fraud 'Justice Systems': A Scoping Study on the Civil, Regulatory and Private Paths to 'Justice' for Fraudsters.*

Chartered Institute of Public Finance and Accounting. (2017). *The Fraud Act: ten years on.* Retrieved August 2019, from https://www.cipfa.org/services/counter-fraud-centre/support-and-resources/blog/the-fraud-act-ten-years-on

Citizens Advice Wales. (2016). *Accessing and paying for social care in Wales.* Retrieved August 2019, from https://www.citizensadvice.org.uk/Global/CitizensAdvice/Wales/Social%20care%20in%20Wales/Accessing%20and%20paying%20for%20social%20care%20in%20Wales.pdf

Clyde & Co. (2013). *The Impact of the Consumer Insurance (Disclosure and Representations) Act 2012 on private yacht and pleasure craft insurance.* Retrieved September 2019, from https://www.clydeco.com/uploads/Files/Publications/2013/CC002976_The_impact_of_consumer_ins_4_4_13.pdf

Clyde & Co. (2016). *Insurance Act 2015 Shaking up a century of insurance law.* Retrieved September 2019, from https://www.clydeco.com/uploads/Files/Admin/CC010256_Insurance_Act_2015_26-07-16-web.pdf

Cobb, J. (2015). Seen but not heard? *Family Law*.

Commission, L. (2018). *Reinvigorating commonhold: the alternative to leasehold ownership.* Retrieved August 2019, from https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2018/12/181207-Commonhold-CP-WEB-VERSION.pdf

Communities and Local Government on behalf of the Killian Pretty Review. (2008). *Planning applications: A faster and more responsive system.* Retrieved September 2019, from https://webarchive.nationalarchives.gov.uk/20120919202659/http://www.planningportal.gov.uk/uploads/kpr/kpr_final-report.pdf

Crown Prosecution Service. (2018). *Hate Crime Annual Report 2017-2018.*

Crown Prosecution Service. (Current). *Jurisdiction Guidance*. Retrieved August 2019, from https://www.cps.gov.uk/legal-guidance/jurisdiction

Delahunty, J. (2019). The 30yth anniversary of the Children Act 1989: is it still fitf for purpose? *Family Law*, 641-653.

Department for Transport. (2019). *Future of mobility: urban strategy.* Retrieved August 2019, from https://www.gov.uk/government/publications/future-of-mobility-urban-strategy

Department of Education. (2014). *Volume 1: statutory guidance about court orders and the roles of the police and the Children and Family Court Advisory and Support Service.* Retrieved August 2019, from https://www.gov.uk/government/publications/children-act-1989-court-orders--2

Department of Health. (2001). *The Children Act Now: Messages from Research.*

Department of Health. (2012). *Reforming the law for adult care and support. The Government's response to Law Commission report 326 on adult social care .*

Department of Health. (2012). *Reforming the law for adult social care and support: the Government's response to Law Commission report 326 on adult social care.* Retrieved September 2019, from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/216888/2900021-Reforming-the-Law-for-Adult-Care_ACCESSIBLE.pdf

Department of Health and Social Security. (1985). *Review of Child Care Law: Report to Ministers of an Interdepartmental Working Party.*

Department of Health and Social Security. (1987). *The Law on Child Care and Family Services.* London: HMSO.

Economic Development and Institutions. (2016). *At the Intersection: A Review of Institutions in Economic Development.*

Education Committee. (2012). *Fourth Report - Children First: the child protection system in England.* Retrieved August 2019, from https://publications.parliament.uk/pa/cm201213/cmselect/cmeduc/137/13702.htm

Elliott, L. (2017). *Child Support and the Human Rights Act 1998.* Retrieved from Child Support Laws: http://www.childsupportlaws.co.uk/child-support-children-act.html

Family Justice Review Panel. (2011). *Family Justice Review Final Report.*

Frost & Sullivan. (2019). *Connected and Autonomous Vehicles Report.* Retrieved September 2019, from https://www.smmt.co.uk/wp-content/uploads/sites/2/SMMT-CONNECTED-REPORT-2019.pdf

Gilbert, C. (2017). *The Care Act: The wellbeing principle promises to transform social services.* Retrieved from socialcareinnovation.com: https://socialcareinnovation.com/the-care-act-2014-the-wellbeing-principle-promises-to-transform-social-services-e0bc918ab106

Government Office for Science. (2019). *Future of Mobility.* Retrieved August 2019, from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/780868/future_of_mobility_final.pdf

Haggard, S., MacIntyre, A., & Tiede, L. (2008). The Rule of Law and Economic Development. *Annual Review of Political Science, 11*(1), 205-234.

Hale, D. B. (2000). In Defence of the Children Act. *ADC, 83*(6), 463-467.

Hammond, G. (2015). *The Legislative Implementation of Law Reform Proposals.*

Heather Wheeler. (2019, March). *Event Fees Final Response from the Government.* Retrieved from https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2017/03/Letter-from-Mrs-Heather-Wheeler-MP.pdf

Herbert Smith. (2018). *Insurance and Reinsurance Disputes 2017 Review.* Retrieved September 2019, from file:///C:/Users/vdw73k/Downloads/2852E%20Insurance%20Annual%20Review%202017_d6.pdf

Herring, J. (1999). The Human Rights Act and the welfare principle in family law – conflicting or complementary? *Child and Family Law Quarterly*.

Hertzell, D. (2016). Reforms to UK Insurance Law: overview of key changes. In *Thomson Reuters' Practical Law Insurance and Reinsurance Global Guide 2016.* Retrieved September 2019, from https://uk.practicallaw.thomsonreuters.com/6-615-6445?transitionType=Default&contextData=(sc.Default)&firstPage=true&bhcp=1#co_anchor_a464531

HM Government. (2018). *Action Against Hate: The UK Government's plan for tackling hate crime – 'two years on'.*

HM Government. (2018). *Law Commission Triennial Review: Part One.* Retrieved August 2019, from https://www.gov.uk/government/publications/law-commission-triennial-review-stage-one-report

HM Treasury. (2011). *Consumer Insurance (Disclosure and Representations) Impact Assessment.* Retrieved September 2019, from https://www.parliament.uk/documents/impact-assessments/IA12-001.pdf

HM Treasury. (2011). *The Magenta Book - Guidance for Evaluation.* Retrieved August 2019, from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/220542/magenta_book_combined.pdf

HMICFRS. (2019). *Fraud: Time to Choose - An inspection of the police response to fraud.* Retrieved August 2019, from https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/fraud-time-to-choose-an-inspection-of-the-police-response-to-fraud.pdf

Holt, K., & Kelly, N. (2015). Access to justice: the welfare of children and their families – lost in a target focused and cost driven system. *Family Law, 45*(2), 167-174.

Home Affairs Committee. (2017). *Hate crime: abuse, hate and extremism online, Fourteenth Report of Session 2016-2017.* Retrieved September 2019, from https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/609/609.pdf

Home Affairs Committee. (2017). *Hate crime: abuse, hate and extremism online, Fourteenth Report of Session 2016-2017.*

Home Office. (2004). *Fraud Bill - Regulatory Impact Assessment.* Retrieved August 2019, from https://webarchive.nationalarchives.gov.uk/20080305205832/http://www.homeoffice.gov.uk/documents/cons-fraud-law-reform/Fraud_Bill_RIA.pdf?view=Binary

Home Office. (2018). *Hate Crime England and Wales 2017-2018*. Retrieved from https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2017-to-2018

Home Office. (2018). *Hate Crime, England and Wales 2017/18 – Statistical Bulletin.* Retrieved August 2019, from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/748598/hate-crime-1718-hosb2018.pdf

Home Office. (2018). *The economic and social costs of crime.* Research Report 99. Retrieved August 2019, from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/720772/scale-and-nature-of-fraud-review-of-evidence.pdf

Home Office. (2018). *The Scale and Nature of Fraud: A Review of the Evidence.* Retrieved August 2019, from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/720772/scale-and-nature-of-fraud-review-of-evidence.pdf

Home Office. (2019). *Historical Crime Data.* Retrieved August 2019, from https://www.gov.uk/government/statistics/historical-crime-data

House of Commons Social Services Committee. (1984). *Report of the Social Services Committee on Children in Care.* London: HMSO.

House of Lords. (2008). *Criminal Justice and Immigration Bill Explanatory Note.* Retrieved September 2019, from https://publications.parliament.uk/pa/ld200708/ldbills/016/en/08016x-j.htm

House of Lords Special Public Bill Committee. (2011). *Consumer Insurance (Disclosure and Representations) Bill [HL].* Retrieved September 2019, from https://publications.parliament.uk/pa/ld201012/ldselect/ldspbc/219/219.pdf

Institute for Government. (2018). *Adult Social Care Performance Tracker.* Retrieved August 2019, from https://www.instituteforgovernment.org.uk/publication/performance-tracker-2018/adult-social-care

Justice Committee. (2011). *Sixth Report - Operation of the Family Courts.* Retrieved August 2019, from https://publications.parliament.uk/pa/cm201012/cmselect/cmjust/518/51802.htm

Justice Committee. (2018, July 17). *Letter to the Secretary of State for Justice.* Retrieved August 2019, from https:// www.parliament.uk/documents/commons-committees/Justice/correspondence/law-commission-sos.pdf

Keehan, J. (2018). Reflections of a Judge of the Family Division. *Family Law*, 1514-1526.

Kings Fund. (2018). *Key challenges facing the social care sector in England.* Retrieved August 2019, from https://www.kingsfund.org.uk/sites/default/files/2018-12/Key-challenges-facing-the-adult-social-care-sector-in-England.pdf

Kinsey, K. (2002). Deterrence and Alienation Effects of IRS Enforcement: An Analysis of Survey Data. In J. Slemrod, *Why People Pay Taxes: Tax Compliance and Enforcement* (pp. 259-285). The University of Michigan Press.

KPMG. (2018). *Autonomous Vehicles Readiness Index.* Retrieved August 2019, from https://home.kpmg/xx/en/home/insights/2018/01/2018-autonomous-vehicles-readiness-index.html

KPMG. (2019). *Autonomous Vehicles Readiness Index.* Retrieved September 2019, from https://home.kpmg/xx/en/home/insights/2019/02/2019-autonomous-vehicles-readiness-index.html

Kumar, K., Rajan, R., & Zingales, L. (2001). *What determines firm size? NBER Working Paper 7208.*

La Porta, R., Lopez-De-Silanes, F., Shleifer, A., & Vishny, R. (1997). Legal Determinants of External Finance. *The Journal of Finance, 52*(3), 1131-1150.

Laming, L. (2003). *The Victoria Climbie Inquiry.* HMSO.

Laming, L. (2009). *The Protection of Children in England: A Progress Report.* HMSO.

Law Com No 321. (2010). *Protocol between the Lord Chancellor (on behalf of the Government) and the Law Commission.*

Law Commission. (1985). *Family Law Review of Child Law: Guardianship; Working Paper Number 91.* London: HMSO.

Law Commission. (1989). *Annual Report.*

Law Commission. (2002). *Fraud - Report on a reference under section 3(1) (e) of the Law Commissions Act 1965.*

Law Commission. (2010). *Law Com No 321 - Protocol between the Lord Chancellor (on behalf of the Government and the Law Commission).* Retrieved September 2019, from https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/06/lc321_Protocol_web.pdf

Law Commission. (2016). *Form and Accessibility of the Law Applicable in Wales Consultation Analysis.* Retrieved September 2019, from https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2016/09/cp223_form_and_accessibility_wales_analysis_of_consultation.pdf

Law Commission. (2017). *Event Fees in Retirement Properties.*

Law Commission. (2017). *Event Fees in Retirement Properties Summary.*

Law Commission. (2018). *Automated Vehicles: A joint preliminary consultation paper .*

Law Commission. (2018). *Automated Vehicles: Summary of the Preliminary Consulation Paper.* Retrieved September 2019, from https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2018/11/6.5066_LC_AV_Final-summary_061118_WEB.pdf

Law Commission. (2018). *Automated Vehicles: Summary of the Preliminary Consultation Paper.*

Law Commission. (2018). *Leasehold home ownership: buying your freehold or extending your lease (Consultation Paper on leasehold enfranchisement reform) .*

Law Commission. (2018). *Planning Law in Wales Impact Assessment.* Retrieved September 2019, from https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2018/12/PLW-Impact-Assmt-Final-.pdf

Law Commission. (2019). *Automated Vehicles Webpage*. Retrieved from https://www.lawcom.gov.uk/project/automated-vehicles/

Law Commission. (2019). *Hate Crime: Background to our review.*

Law Commission. (2019). *Leasehold home ownership: exercising the right to manage .*

Law Commission. (2019). *Residential Leasehold Terms of Reference.* Retrieved September 2019, from https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2019/01/Residential-leasehold-terms-of-reference.pdf

Law Commission. (n.d.). *Commonhold Webpage*. Retrieved from https://www.lawcom.gov.uk/project/commonhold/

Law Commission. (Current). *Automated Vehicles Webpage*. Retrieved September 2019, from https://www.lawcom.gov.uk/project/automated-vehicles/

Law Commission. (Current). *Law Commission Papers on Event Fees*. Retrieved from https://www.lawcom.gov.uk/project/event-fees-in-retirement-properties/

Law Commission. (n.d.). *Law Commission Residential Leasehold and Commonhold Webpage*. Retrieved from https://www.lawcom.gov.uk/project/residential-leasehold-and-commonhold/

Law Commission. (n.d.). *Leasehold Enfranchisement Webpage*. Retrieved from https://www.lawcom.gov.uk/project/leasehold-enfranchisement/

Law Commission. (n.d.). *Residential Leasehold Terms of Reference*. Retrieved from https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2019/01/Residential-leasehold-terms-of-reference.pdf

Law Commission. (n.d.). *Right to Manage Webpage*. Retrieved from https://www.lawcom.gov.uk/project/right-to-manage/

Local Government and Social Care Ombudsman. (2018). *Review of Adult Social Care Complaints 2017-2018.* Retrieved from Review of Adult Social Care Complaints 2017-2018

Lorenzani, D., & Lucidi, F. (2014). The Economic Impact of Civil Justice Reforms.

Lorizio, M., & Gurrieri, A. R. (2013). Efficiency of Justice and Economic Systems.

Mant, J. (2019). Litigants' experiences of the post-LASPO family court: key findings from recent research. *Family Law*, 300-303.

Masson, J. (2008). Controlling Costs and maintaining services - the reform of legal aid fees for care proceedings. *CFLQ*.

Masson, J. (2018). Understanding the current use of s20. *Family Law*, 1289-1295.

McDavid, J. C., & Budhwani, S. (2017). Contribution Analysis: Theoretical and Practical Challenges and Prospects for Evaluators. *Canadian Journal of Program Evaluation, 32*(1). doi:10.3138/cjpe.31121

McKinsey. (2019). *The trends transforming mobility's future.* Retrieved August 2019, from https://www.mckinsey.com/industries/automotive-and-assembly/our-insights/the-trends-transforming-mobilitys-future?reload

McKinsey. (2019). *The trends transforming mobility's future.* Retrieved September 2019, from https://www.mckinsey.com/industries/automotive-and-assembly/our-insights/the-trends-transforming-mobilitys-future?reload

Ministry of Housing Communities and Local Government. (2017). *Tackling Unfair Practices in the Leasehold Market.* Retrieved from https://www.gov.uk/government/consultations/tackling-unfair-practices-in-the-leasehold-market

Ministry of Housing, Communities and Local Government. (2019). *Letter from Mrs Heather Wheeler MP.* Retrieved September 2019, from https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2017/03/Letter-from-Mrs-Heather-Wheeler-MP.pdf

Ministry of Justice. (2009). *Criminal Statistics Annual Report*. Retrieved August 2019, from https://www.gov.uk/government/statistics/criminal-statistics-annual-report-ns

Ministry of Justice. (2012). *Post-legislative assessment of the Fraud Act 2006 - Memorandum to the Justice Select Committee.* London: HMSO. Retrieved August 2019, from https://www.justice.gov.uk/downloads/publications/corporate-reports/MoJ/2012/post-legislative-assessment-fraud-act-2006.pdf

Ministry of Justice. (2019, January to March). *Criminal Court Statistics Quarterly Report*. Retrieved August 2019, from https://www.gov.uk/government/statistics/criminal-court-statistics-quarterly-january-to-march-2019

Ministry of Justice. (2019). *Tailored Review of the Law Commission of England and Wales.*

Munby, S. J. (2019). A matter for the parents? A matter for the judge? Thoughts on 30 years of the Children Act and the revival of the inherent jurisdiction. *Family Law*, 264-277.

Munro, J. (2011). *The Munro Review of Child Protection: Final Report.*

Nadler, J. (2005). Flouting the Law. *Texas Law Review, 83*, 1399-1441.

National Audit Office. (2017). *Online Fraud – Report by the Comptroller and Auditor General.*

National Network for Chairs of Safeguarding Adult Boards. (2017). *Auditing the impact of becoming statutory.* Retrieved August 2019, from https://www.local.gov.uk/sites/default/files/documents/Safeguarding%20Adults%20Boards%20audit_August%202017.pdf

NHS Digital. (2018). *Adult Social Care Survey 2017-2018.* Retrieved August 2019, from https://digital.nhs.uk/data-and-information/publications/statistical/personal-social-services-adult-social-care-survey/2017-18

OECD. (2016). *Understanding Effective Access to Justice.*

Office of National Statistics. (2018). *Fraud and Computer Misuse Statistics for England and Wales.* Retrieved August 2019, from https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/overviewoffraudandcomputermisusestatisticsforenglandandwales/2018-01-25

Office of the Chief Digital Officer. (2019). *UK Open Government National Action Plan 2019-2021 - Welsh Government Commitments.* Retrieved from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/

803677/Office_of_the_Chief_Digital_Officer_-_UK_Open_Government_National_Action_Plan_2019_-_2021_-_Welsh_Government_Commitments.pdf

Ormerod, D. (2007). The Fraud Act 2006 - criminalising lying? *Criminal Law Review*(193), 193-219.

Oto-Peralias, D., & Romero-Avila, D. (2017). *Legal Reforms and Economic Performance.* World Bank.

Peters, A. (2017). *See just how much of a city's land is used for parking spaces.* Retrieved September 2019, from https://www.fastcompany.com/40441392/see-just-how-much-of-a-citys-land-is-used-for-parking-spaces

Planning Portal. (n.d.). *KPR Final Report*. Retrieved from https://webarchive.nationalarchives.gov.uk/20120919202659/http://www.planningportal.gov.uk/uploads/kpr/kpr_final-report.pdf

Pyle, D. (1989). The Economics of Crime in Britain. *Economic Affairs, 9*(6-9). doi:10.1111/j.1468-0270.1989.tb01100.x

R (Davey) v Oxfordshire County Council, EWCA Civ 1308 (Court of Appeal 2017).

R v Greig (EWCA Crim 1183 2010).

R v Nimley (EWCA Crim 2752 2010).

R v Silverman (EWCA Crim 3 1987).

Residential Leasehold and Commonhold Webpage. (Current). Retrieved from https://www.lawcom.gov.uk/project/residential-leasehold-and-commonhold/

Rhodes, C. (2018). *Business Statistics Briefing Paper.* Retrieved September 2019, from file:///C:/Users/vdw73k/Downloads/SN06152.pdf

Rt. Hon. Sir Andrew McFarlane. (2018). Key Note Address: "Crisis; What Crisis?". *Association of Lawyers for Children Conference 2018.*

Sales, P. (2008). Law Reform Challenges: The Judicial Perspective. *Statute Law Review, 39*(3), 229-243.

Sentencing Council. (2018). *Public Order Offences Guidelines Consultation .* Retrieved September 2019, from Sentencing Council – Public Order Offences Guidelines Consultation, May 201

Speight, N., & Wynne, J. (2000). Is the Children Act failing severely abused and neglected children? *ADC, 82*(3), 192-196.

Summers, B. (2008). The Fraud Act 2006 Has it Had any Impact. *Amicus Curiae, 75*, 10-18.

Swiss Re. (2018). *Term and Health Watch 2018.* Retrieved September 2019, from https://www.protect-association.org.uk/wp-content/uploads/2018/06/Swiss-Re_Term-and-Health-Watch-2018_FINAL.pdf

Taylor, R. (2016). Putting children first? Children's interests as a primary consideration in public law. *Child and Family Law Quarterly, 28*(1), 45-66.

The Association of Directors of Children's Services Ltd. (2018). *Safeguarding Pressures Phase 6 - Summary Report.*

The Centre for Social Justice. (2010). *Every Family Matters, An in-depth review of family law in Britain.*

The Commonwealth Secretariat. (2017). *Changing the Law.*

Thierer, A. (2016). *Global Innovation Arbitrage: Driverless Cars Edition.* Retrieved August 2019, from The Technology Liberation Front: https://techliberation.com/2016/08/22/global-innovation-arbitrage-driverless-cars-edition/

Thorlby, R., Starling, A., Broadbent, C., & Watt, T. (2018). *What's the problem with social care, and why do we need to do it better?* Retrieved August 2019, from https://www.health.org.uk/sites/default/files/NHS-70-What-Can-We-Do-About-Social-Care.pdf

Trowler, I. (2018). *Care Proceedings in England: The Case for Clear Blue Water.* The University of Sheffield.

Trowler, I. (2019). Clear blue water: care proceedings in England. *Family Law*, 395-398.

Tyldesley, P. (2010). Consumer Insurance Law - Reform at Last? *Amicus Curiae*(81), 1-3. Retrieved September 2019, from https://www.escholar.manchester.ac.uk/api/datastream?publicationPid=uk-ac-man-scw:156480&datastreamId=POST-PEER-REVIEW-PUBLISHERS.PDF

Tyler, T. (2006). Psychological Perspectives on Legitimacy and Legitimation. *Annual Review of Psychology, 57*, 375-400.

Tyler, T. (2011). *Why People Cooperate.* Princeton University Press.

UK Open Government National Action Plan 2019 - 2021. (n.d.). Retrieved from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803677/Office_of_the_Chief_Digital_Officer_-_UK_Open_Government_National_Action_Plan_2019_-_2021_-_Welsh_Government_Commitments.pdf

UNDP. (2004). *Access to Justice Practice Note.*

UNICEF. (2012). *The UN Convention on the Rights of the Child: a study of legal implementation in 12 countries.*

United Nations. (2019). *Access to Justice Webpage*. Retrieved August 2019, from https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/

University of Sussex. (2017). *Hate Crime and the Legal Process – Options for Law Reform.*

University of Sussex. (2018). *The Sussex Hate Crime Project Final Report.*

Van de Walle, S., & Raine, J. (2008). *Explaining attitudes towards the justice system in the UK and Europe.* Ministry of Justice Research Series 9/08.

Virgo, G. (2017). The Fraud Act 2006 - Ten Years On. *Archibold Review*(10).

Welbourne, P. (2017). Parents' and children's rights and good practice: section 20. *Family Law*, 80-87.

Welsh Assembly. (2019). Retrieved from http://senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=23311

White, J. (2019). *Homophobic and Transphobic Hate Crimes Surge in England and Wales.* Retrieved from https://www.theguardian.com/world/2019/jun/14/homophobic-and-transphobic-hate-crimes-surge-in-england-and-wales

Withey, C. (2007). The Fraud Act 2006 - Some Early Observations and Comparisons with the Former Law. *The Journal of Criminal Law, 71*(3), 220-237.

Yeo, N. (2007). Bull's Eye (2). *The New Law Journal, 157*(7265).

Zenzic. (2019). *UK Connected and Automated Mobility Roadmap to 2030.* Retrieved September 2019