



**Law
Commission**
Reforming the law



Value of Law Reform

Update

February 2024

Chair's Foreword

Introduction

In 2019 the Law Commission published a report, “Value of Law Reform”, which measured the economic and other benefits flowing from the recent work of the Commission. The report was prepared by two independent economists. The results clearly highlighted the value that good law reform can deliver in terms of the overall financial benefits, access to justice and the wellbeing of individuals. Key findings included that the predicted economic gains from the five highest-value projects in recent years exceed more than £3 billion over ten years, and that the projects assessed had positively affected the lives of more than 27 million individuals in the UK.

We carried out the 2019 exercise to establish the value of good law reform and to demonstrate that the work of the Commission amounted to an exceptionally effective use of public funds. But we also conducted this exercise to learn more about how to prioritise our work to maximise public benefit. We resolved then to repeat the exercise in a few years' time. In 2022, in the aftermath of the COVID crisis, we once again instructed an independent economist to perform a comparable analysis.

Sir Peter Fraser,

Chair of the Law Commission,
February 2024

The Key Findings

The report establishes that the Law Commission's projects make a difference in myriad ways: efficiency gains, technology driven growth, harm prevention, well-being improvement, rule of law, access to justice, modernising the legal system and thought leadership.

Key individual findings include:

1. The estimated economic gains from the five highest value projects completed since 2019 is about £670 million over 10 years.¹
2. Law reform can lead to positive impacts for significant numbers of people; two projects considered indicated a potential impact on 5.3 million people, and another project could positively impact 78 percent of households.
3. Within the four-year period, two of the five projects used as case studies have had their recommendations implemented in whole or in part.
4. The average annual number of reports published during the considerable disruption of the global pandemic was 5.8, which is higher than the Law Commission's historic average of 4.5 final reports per year.
5. A new key theme was identified in assessing the benefit of the Law Commission's work: the thought leadership offered by the Commission in national and international law reform.

Two recent examples serve to highlight the varied benefits flowing from Law Commission work.

Case Study 1: Electronic Trade Documents

International trade is worth about £1.266 trillion per year to the UK economy. Billions of documents are generated each year to enable goods to be moved across borders. The Law Commission recommended reform to allow for legal recognition of trade documents in electronic form to be used in the same way as their paper counterparts. The government's economic impact assessment established that the benefit of this reform over the course of 10 years would exceed £1 billion.

The Government introduced the Electronic Trade Documents Bill, based very closely on the Law Commission's draft. This became law as the Electronic Trade Documents Act 2023.

The key benefits are increased technology-based growth, lower operational costs and a modernised legal system. Instantaneous transmission of electronic documents removes delays caused when documents have to be posted or couriered and a reduction in documentation errors which tend to arise through manual processing.

¹ This is a conservative estimate as it does not include an additional £1.1 billion in net benefits to UK businesses from the Electronic Trade Documents Act, one of our case studies, a figure that was independently calculated by other Government analysts.

Case Study 2: Celebrating Marriage

In 2019 around 220,000 marriages occurred in England and Wales. Under existing law couples have to make a choice between a religious or a civil ceremony, with no option for a ceremony reflecting other beliefs. The Law Commission recommended comprehensive reform, an entirely new scheme to govern weddings based on regulation of the person conducting the ceremony rather than the venue.

The key benefits are a modernised and improved system that offers couples greater flexibility over the form their ceremony will take. Couples will be able to get married in a wider variety of locations, including outside, in more affordable local venues, such as community centres and village halls, as well as in their own homes.

The principal rationale for this project was not economic; the object of the project was to increase consumer choice and happiness. Nonetheless, the estimated net benefits of the Celebrating Marriage project of £525 million over 10 years are substantial.



The Law Commission's Outputs

Publishing Reports

Over 250 reports have now been published by the Law Commission since its establishment in 1965. Around 25 of these reports were published from January 2019 to September 2023. Some have already been implemented in whole or in part or will be implemented by the time this report is published. Examples include the recommendations in the Protection of Official Data (2020) and Modernising Communication Offences (2021) reports. At the time of publication of this report Government is proposing to implement important recommendations from seven Law Commission projects in the fourth session of Parliament 2023-2024.

Conducting Consultations

Responses to the Law Commission's consultations in the period since the publication of the 2019 report indicate that the quality and engagement levels of the Law Commission's consultation processes remain high. Those with the highest consultation response rates were the Hate Crime project (2473 responses) and the Celebrating Marriage project (1600 responses).

Implementation of the Commission's Recommendations

Close to two thirds of Law Commission Final Reports published since its inception have had their recommendations implemented in whole or in part.



The Benefits of Law Reform

A Theory of Change was presented in the initial report. It found that the sequence of law reform projects ultimately produced societal impacts that fit within key themes.

The seven existing themes are as follows:

Efficiency gains

Streamlining and clarifying the law and eliminating ineffective systems can reduce uncertainty and cost, and result in a more efficient allocation of resources. Legal reforms can lead to savings for groups across society.

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. For example, the Digital Assets recommendations will help to provide legal certainty in growing areas of finance involving digital assets, such as the tokenised securities markets; this will facilitate the development of these markets.

Harm prevention

Legal reforms can be used to help protect the public and valuable resources that might otherwise be at risk. By identifying ineffective laws and extending or improving protections to those at risk, law reform projects have the potential to protect the public from potential harm, reducing the risk of injury, ill-health and death.

Well-being improvement

Legal reforms can lead to direct improvements in public well-being. Putting public well-being at the centre of the legal system can help ensure that rulings and decisions are made with a view to directly improving individuals' lives.

Rule of law

Ensuring that the law is simple and clear, and eliminating ineffective systems, can maintain the integrity of the legal system, increase confidence in that system and so facilitate the rule of law. For example, the Intimate Image Abuse project recommendations clarify the legal position and provide consistent, comprehensive coverage of the range of behaviours that comprise the non-consensual taking and sharing of intimate images.

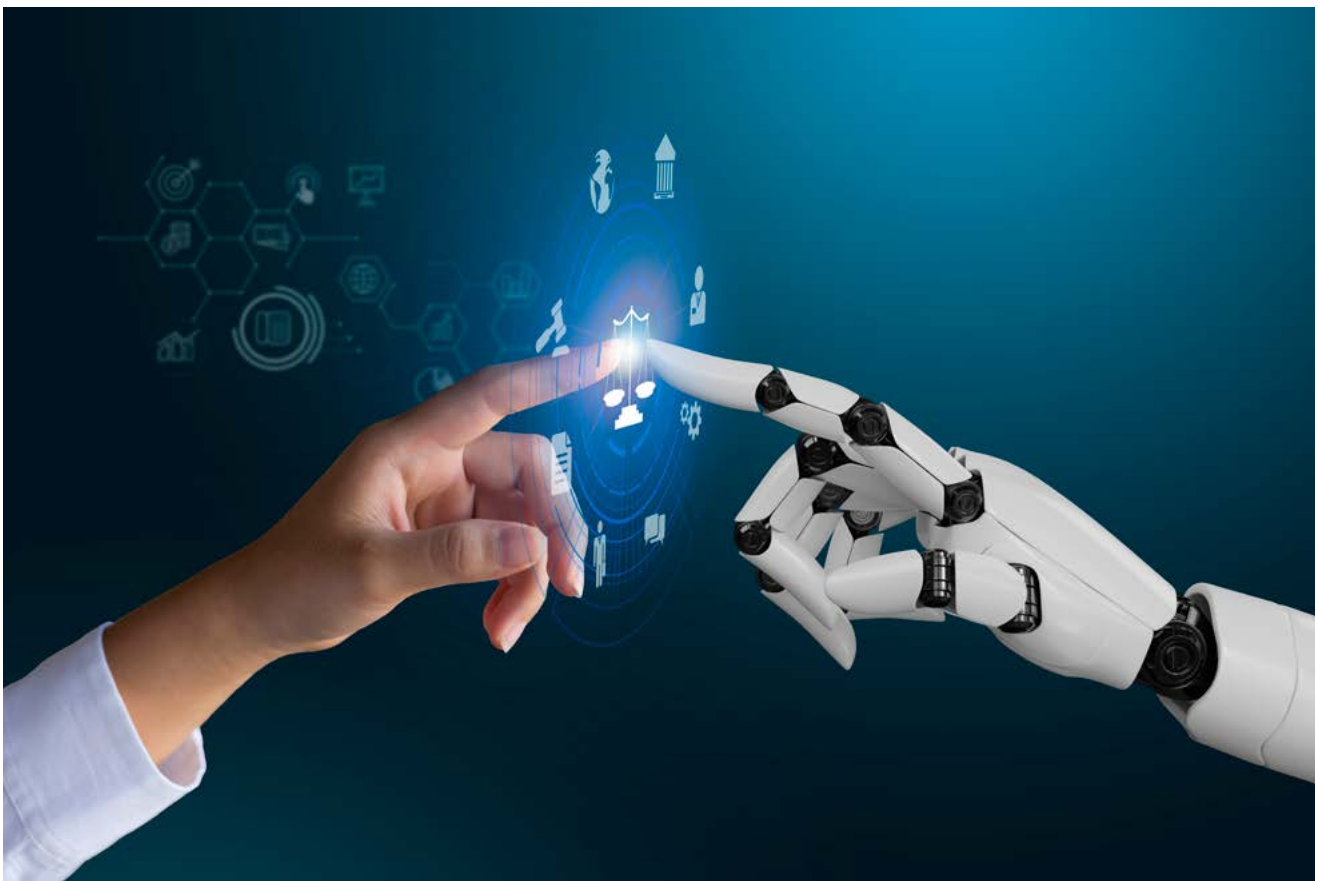
Access to justice

Legal reform projects can help to promote access to justice, leading to improvements in public well-being. Projects that enable the public to have their voice heard, exercise their rights, challenge discrimination or hold decision-makers accountable can all improve access to justice.

The original themes were reviewed to explore whether any adjustments were needed to ensure that they accurately reflected the process by which the Law Commission has made, and is expected to make, an impact in England and Wales.

As a result, in addition to the existing seven themes a further theme of “thought leadership” was introduced. The rationale is that the Law Commission’s activities can generate and contribute to substantive public discourse. For example, the Law Commission’s project on Hate Crime contributed to the development of a Private Members’ Bill on public harassment.

A core component of this theme is the Law Commission’s standing as an organisation that is respected by stakeholders and decision-makers. This standing is in part due to the Law Commission’s extensive consultation process, identification, and selection of contemporary and relevant projects. The Minister of State of the Ministry of Justice, The Rt Hon Edward Argar MP, observed in March 2023 of the Law Commission: *“Its independence and commitment to open consultation is a key asset when trying to build consensus on sensitive issues across a broad range of different interests”*.



Measuring the Impact of the Law Commission's Reforms

This updated report applies the previously used methodology of contribution analysis. This approach provides a framework 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.

The impact of the Law Commission's reforms

Potential economic gains are estimated in the first instance in the Law Commission's impact assessments. These estimates indicate that the potential gains from certain Law Commission projects are sizeable. For example, the Law Commission's 2022 Report on celebrating marriage identified cost inefficiencies within the existing regime; it was estimated that adopting the Law Commission's recommendations could result in cost savings of £535 million over 10 years. See Table 1 below providing net present value estimates derived from impact assessments produced at the Law Commission.

Table 1: Five Law Commission projects with the highest net present value, 2019-2023²

Year	Project	Estimated Net Present Value (adjusted benefits minus implementation costs) over 10 years
2023	Building Families through Surrogacy	£24 million
2022	Confiscation of the Proceeds of Crime Act after Conviction	£73 million
2022	Celebrating Marriage	£535 million
2020	Simplification of the Immigration Rules	£30 million
2019	Anti-Money Laundering: the SARS regime	£6 million

² Electronic Trade Documents have been excluded from this table which reports only the calculations produced at the Law Commission. However, Department for Digital, Culture, Media and Sport analysts estimated benefits from the Act to UK business over 10 years of £1.1bn.

Law reform projects have the capacity to effect much wider changes in England and Wales than direct economic gains, and can contribute to far reaching social, technological, ethical, political and legal impacts which may not be captured in these estimates.

In addition to examining the original conclusions of the Value of Reform (2019) report, the case studies in the initial report were revisited to explore whether developments in the intervening period have affected the predicted outcomes. Many of the Law Commission's recommendations in each of these cases have been accepted, some have been implemented and others are in the process of implementation.



Impact on Groups in Society

The Law Commission examines areas of law which have the potential to impact millions of people’s lives, affecting businesses, households and individuals across England and Wales. Table 2 illustrates how some of the projects undertaken in the last few years have had the potential to affect sizeable groups within society.

Table 2: Largest groups that could be affected by law reform

Project	Largest group which could be affected	Scale (upper limit)
Celebrating Marriage	Couples who wish to marry	4.1 million over 10 years (410,000 per year)
Automated Vehicles	Households who own a car or van	78% of all households in the UK
Hate Crime	Victims of hate crime	1.2 million over 10 years (125,000 per year)

Recommendations for Further Research

The report made two key recommendations addressing the need for greater evidence through more comprehensive data collection at different points in the policy development process. This would inform a better understanding of the impact of law reform initiatives. Further, it might be helpful to explore the scope and scale of the impacts arising from the Law Commission's role as a thought leader domestically and internationally to ensure continued investment into work that equips the Law Commission to maintain this role.

Case study 3: Intimate Image Abuse

1 in 14 adults in England and Wales has experienced threats to share intimate images or videos. That is the equivalent of 4.4 million people.

The law Commission recommended a new tiered framework of offences covering various aspects of intimate image abuse such as sharing without consent, causing distress, seeking sexual gratification and threatening to share.

The UK government has already acted by implementing recommendations related to the sharing and threatening to share intimate images in the Online Safety Act 2023.

Three key benefits of reform are stronger legal protection for victims, a deterrent to potential offenders and enhanced privacy rights in a digital age.

Case study 4: Coal Tip Safety in Wales

In 1966 a coal tip in Aberfan, Wales slipped onto a primary school, killing 144 people. There is potential for significant harm to be caused to communities by disused coal tips.

The Welsh Government established a Coal Tip Safety Task Force in 2020 to deliver a programme of work to address the safety of coal tips in Wales. As part of this programme, the Welsh Government tasked the Law Commission with this project.

The Law Commission recommended a robust regulatory framework with key elements including the creation of a coal tips register, rigorous risk assessments and maintenance agreements.

The key benefits are to establish consistent safety standards, proactive management practices and reduced risks associated with coal tips.

