EVERSHEDS SUTHERLAND

Horizon scanner
Litigation and Dispute Resolution

March 2022

EVERSHEDS SUTHERLAND

RISK RATING

Immediate impact

Short-term impact

On the horizon

Immediate Impact

Legal risk	Links	Action required
Class actions While class actions, US style, have not been part of the legal landscape in Europe, many jurisdictions are developing their own form of collective action. In particular, they are starting to take root in England and Wales via existing legal mechanisms: (1) Group Litigation Orders; (2) Representative claims under CPR 19.6 (although claimants are still processing the impact of the Supreme Court's decision in Lloyd v Google); and (3) Collective proceedings in the Competition Appeal Tribunal. Class actions have already been seen in relation to financial regulation breaches and credit card fees.	Eversheds Sutherland briefing - Merricks v Mastercard	Monitor developments and remain vigilant as regulatory breaches in particular, could lead to class actions in the future (e.g. financial mis-selling). We anticipate that COVID-19 may also lead to an increase in class actions in the UK. Note that the Competition Appeal Tribunal authorised the Merricks v Mastercard case to proceed: the claim has been brought on behalf of over 46 million card holders and is worth over £14bn. In November 2021 the Supreme Court handed down its decision *Lloyd v Google*. The overall impact of that decision has been to curtail the risk of large-scale "opt-out" class actions following data breaches in England and Wales.
Data disputes The increased use of data has led to a growth in the number and severity of cyber-attacks and data security issues. The multiplicity of issues arising can be distilled into three key themes: (1) Group litigation (which has been curtailed partly by the Supreme Court's decision in Lloyd v Google); (2) Individual privacy claims; and (3) Corporate data disputes.	Eversheds Sutherland briefing - Warren v DSG Retail Limited	While the impact of the Supreme Court's November 2021 decision in *Lloyd v Google* was to restrict the use of large-scale "opt-out" data class actions in England and Wales, you should remain alert to the risks around "opt-in" group claims and corporate data disputes (for example, disputes with outsourcers regarding responsibility for a data breach).
Climate litigation Climate litigation cases are on the rise globally, with a substantial increase over the last decade as regulators and lawmakers focus on disclosures and reporting, and governments and corporates are held to account. Investors, customers, employees and the wider public are also paying close attention to company performance and delivery against decarbonization targets, and sustainability and climate commitments. Governments are now imposing	Eversheds Sutherland ESG hub for Financial Services	Although there have been no cases of note in the UK to date, consideration should be given to proactive action to avoid litigation and regulatory intervention. Cases are often driven by activists with the intention of holding companies and governments to account where climate pledges are not adhered to or where they are perceived to have caused damage to the claimant, for example, polluting or 'greenwashing'.

Legal risk	Links	Action required
and enforcing specific obligations on foreign investors to comply with local environmental protection measures. These factors make regulatory enforcement action and litigation or arbitration proceedings, with the associated reputational risks, a very real issue.		
Reforming witness evidence Since 6 April 2021, a new Practice Direction (PD57AC) and Appendix apply to the preparation of trial witness statements in the Business & Property Courts (B&PCs). The rules represent a significant change to current practice and are increasing the time and cost spent on witness statements. As well as changing the procedure for the preparation of trial witness statements, the rules also have ramifications for the way in which potential witnesses to an emerging dispute are proofed.	127th PD Update (includes PD57AC and Appendix) Eversheds Sutherland Briefing	The rules have been in place for almost a year and there continues to be caselaw considering interpretation and compliance with the PD. Litigation teams should continue to familiarise themselves with the rules and caselaw to ensure compliance. Whilst the rules are applicable only in the B&PCs, they may be adopted more widely in the future.
Disclosure Pilot Scheme The Disclosure Pilot Scheme was introduced for qualifying cases in the B&PC from 1 January 2019. For cases within the pilot, there are significant changes to the disclosure process. Paragraph 20 of PD51U sets out the range of sanctions available to the court if a party has failed to comply with its obligations. These include adjournment of a hearing, adverse costs orders or an order that any further disclosure by a party be conditional on matters specified by the court. Depending on the outcome of the pilot, the scheme may be extended beyond the B&PC.	PD 51U 136th PD Update 137th PD Update	Continue to monitor changes to the rules and relevant case law. It is a living pilot and we expect further changes to be implemented this year. The pilot is due to finish at the end of 2022 but it seems unlikely that the B&PC will revert to the rules under CPR Part 31. The latest round of amendments came into force in November 2021 and include: • the creation of a simplified 'Less Complex Claims' regime together with a simplified version of the DRD and guidance notes • recognition that disclosure in multi-party claims is likely to need a bespoke approach from the court • changes to the DRD and guidance notes in relation to lists of issues • clarity that guidance can be given without a hearing.

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Vulnerable witnesses and parties in civil proceedings The CPR's overriding objective was amended in April 2021 (via a new PD 1A) to make clear that dealing with a case justly includes ensuring that parties can participate fully and that parties/witnesses can give their best evidence. The court (with the assistance of the parties) should try to identify vulnerability of parties or witnesses at the earliest possible stage and to consider whether a party's participation, or quality of evidence, is likely to be diminished by reason of vulnerability and, if so, whether it is necessary to make directions as a result. Additionally, there is a new CPR 44.3(5)(f) which states that "costs incurred are proportionate if they bear a reasonable relationship to any additional work undertaken or expense incurred due to the vulnerability of a party or any witness".	Practice direction 1A CJC report CJC – The resolution of small claims	Consider the new rules and ensure compliance with them in order to avoid costs sanctions/reputational damage. As well as considering whether any opponents have any vulnerabilities, also consider whether any witnesses have vulnerabilities. The Civil Justice Council as part of its review into the resolution of small claims (see separate entry), expressed concern that some of the recommendations regarding vulnerable parties and witnesses had not been progressed by HMCTS. Consequently, it was recommended that HMCTS undertake an urgent review of progress in respect of the report's recommendations.
Impact of Brexit on cross-border litigation The post-Brexit trade deal did not cover civil judicial co-operation. Cross-border litigation involving EU or EFTA states is likely to take more time and be more costly going forward. The Hague 2005 Convention, applicable to exclusive jurisdiction agreements, goes some way to fill the void but is not a complete solution. The Government attempted to accede to the Lugano Convention in April 2020 but all signatories, including the EU, need to agree. The EU Commission rejected the UK's application to join. The final decision on whether the EU will consent to the UK's application rests with the Council of the EU. Denmark is also yet to give consent.	Eversheds Sutherland briefing: Focusing on dispute management Eversheds Sutherland briefing: Making sense of Brexit Eversheds Sutherland briefing: How will the UK and EU courts treat jurisdiction and enforcement	There is currently no timetable for the Council's decision as regards Lugano. In the absence of a comprehensive regime, such as Lugano, there are a number of issues to consider before initiating or becoming involved in proceedings against a counterparty based in the UK or an EFTA state. See linked briefings for further information. Separately, the European Commission had adopted a proposal for the EU to accede to the 2019 Hague Judgments Convention. If the EU accedes to the Convention and the UK does too (the UK has not made its position clear), then it could streamline the enforcement of judgments between the EU and the UK (and other non-EU countries) particularly given the UK is not currently able to accede to Lugano.
Online courts There are now a number of ways in which claims may be brought and progressed online (e.g. PD 51R, PD 51S and PD 51ZB). Whilst the current processes are largely targeted	Judicial Review and Courts Bill Judicial Review and Courts Bill factsheet	Monitor the changing processes for bringing and defending claims online. In respect of the online civil money claims pilot (PD 51R), HMCTS reported that in 2021, there were

Legal risk	Links	Action required
at lower value claims, it is changing the way litigation is progressed and in October 2021, HMCTS reported in that over 426,000 people had used the online services to bring claims. The changes are arguably the start of the Master of the Rolls intention to commence a "fundamental generational reform of the civil justice system…where all claims will begin online, creating a single transferable data set, allowing vindication of legal rights either within the online space or, for the most intractable cases… by the most efficient possible judicial resolution process". Related to these reforms, the Judicial Review and Courts Bill provides for procedural improvements for the court system. The Bill creates an Online Procedure Rules Committee, established to make online procedure rules to govern the conduct of proceedings online.	Master of the Rolls speech	6,526 claims per month on average and the average time to get a settlement was just under one month, compared with over three months using non-reformed services. In 2022, HMCTS intends to expand the service to allow legal representatives to issue and respond to claims. The Civil Procedure Rules Committee has announced that County Court Online Pilot under PD 51S is due to be discontinued (likely to happen soon with the 141st PD Update). Claims will be able to be brought under CPR 51 ZB instead. From Spring 2022, all damages claims under PD 51 ZB must be issued online.
Remote/hybrid hearings During the COVID-19 pandemic, most civil court hearings were held remotely (via telephone or video conference). Some hearings were conducted in a hybrid fashion. In December 2021, HMCTS published an evaluation of remote hearings during the COVID-19 pandemic. HMCTS is using the evaluation findings to develop its services. Some of the findings have already been addressed by the new Video Hearings service that will replace the Cloud Video Platform (CVP) during 2022. The evaluation also recommended more support for vulnerable users and increasing awareness of the support available to public users when attending a remote hearing. The decision to hold a remote hearing remains at the discretion of a judge who will decide if it is in the interests of justice. HMCTS will continue to support the judiciary to conduct hearings using their choice of remote and in-person hearings.	HMCTS evaluation findings Law society view and recommendations Berkeley research group report	Note that remote hearings must not be recorded unless the court has granted permission. It is also unlawful to take photographs/screen-shots of a remote hearing. Further real time transcription, other than by the official court service, is only allowed with permission of the court and access links to remote hearings must not be forwarded to third parties (the court needs to know who is present on remote platforms). Failure to follow the rules may result in sanctions/contempt of court. Judges may also refer solicitors/barristers in breach to the Solicitors Regulatory Authority/the Bar Standards Board.

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Mandatory (alternative) dispute resolution (ADR) Generally the court has no jurisdiction to force parties to settle claims, although courts actively encourage ADR. The Civil Justice Council (CJC) published a report following a request from the Master of the Rolls that the CJC analyse the legality and desirability of compulsory ADR. The report concluded that mandatory ADR is compatible with Article 6 of the Convention for Protection of Human Rights and Fundamental Freedoms and is, therefore, lawful and that a compulsion to mediate could be a desirable and effective development. The report does not provide detailed proposals for reform but is likely to have a significant impact on the future use of ADR and feed into wider considerations as to the post-pandemic court system.	CJC report Call for Evidence Law Society response Civil Mediation Council response	The Ministry of Justice issued a Call for Evidence calling for input from all interested parties. The Call for Evidence closed on 31 October 2021 and feedback is currently being analysed – next steps are awaited. The Law Society has responded to say that whilst it continues to support alternative, non-litigation methods of resolving disputes, it urges caution when it comes to making these compulsory. The Civil Mediation Council however, has welcomed the report, calling it a "significant development" and called for ADR to be put "at the centre of the civil justice process".
Costs recovery Fixed recoverable costs (FRC) will be extended to the majority of money claims worth up to £100,000. Whilst FRC provide certainty as to the amount a losing party will need to pay to the winner, the amount that can be reclaimed may not cover the actual costs of the case. Aggressive measures will also be introduced to encourage settlement: • a 35% uplift where a Part 36 offer is beaten • a 50% uplift where a party is deemed to have behaved unreasonably. A voluntary pilot of capped costs for cases up to £250,000 ended in January 2021. The pilot applied to cases valued up to £250,000 in the Chancery, Circuit Commercial and Technology and Construction Courts in Leeds and Manchester and the London Circuit Commercial Court, with an overall cap of £80,000 (excluding VAT, court fees, wasted costs and costs of enforcement).	Consultation response Law Society Response CPRC November meeting minutes Eversheds Sutherland briefing	The Government will now work with the Civil Procedure Rules Committee (CPRC) to advance the reforms and draft the rules. Minutes from the November 2021 meeting of the CPRC, confirm the intention to redraft CPR 45 and to implement the extension of FRC in October 2022. As regards the Capped Costs Pilot, although it has come to an end, it has been acknowledged that the broad aims of the pilot remain as current as ever and there is a need for schemes of this kind for the efficient despatch of medium value claims. As such, further schemes may be considered in the context of post COVID-19 recovery and new ways of conducting business litigation. Separately, the Master of the Rolls gave a speech at the Association of Costs Lawyers Conference setting out his intention that the Civil Justice Council look more broadly at the costs budgeting regime because too much court time is being taken up with disputes about budgets. Further news is awaited but it will not delay the extension of FRC.

Short-term Impact

Legal risk		Action required
Review of pre-action protocols (PAPs) In December 2021, the Civil Justice Council (CJC) published an interim report for consultation on PAPs. The purpose of the report is to consider the role that PAPs should play in the civil justice system, including their role in an increasingly digitalised system. The proposals could result in significant front loading of work and costs. Key reform options canvassed include: • introducing a good faith obligation to try to resolve or narrow the dispute pre-action • introducing a requirement to complete a joint stocktake report/list of issues as a final step before starting proceedings • expanded powers for the courts and new processes for raising compliance issues to facilitate a more robust, consistent and timely approach to non-compliance • creating a new general PAP with more concrete time frames and disclosure standards for pre-action letters of claim and replies.	PAP interim report Law Society response	The report is an interim report only and the Working Group has not made any recommendations at this stage. The consultation closed on 21 January 2022. We understand that the final report is expected by late spring 2022. It will then be for the Civil Procedure Rules Committee to consider whether to implement any of the recommendations. The Law Society has responded to the consultation and does not believe that now is a suitable time to reform PAPs because many other areas of civil justice are being reformed and it considers that the PAPs work reasonably well in general. Proposals to move formal disclosure obligations to the pre-action stage could cut across the aims of the Disclosure Pilot in the Business and Property Courts.
Official judgment portal In 2021, the Ministry of Justice (MoJ) announced an arrangement with the National Archives to create the first comprehensive and free online repository of court judgments from E&W. The long-term aim is for all court judgment publications to migrate onto the National Archives site, rather than being in multiple places. This will support the development of AI tools to analyse judgments.	MoJ announcement BAILII announcement	Nearly 50,000 court judgments have been set up to be posted online in the first phase of the plan. The new website, hosted by the National Archives is due to go live by April 2022 when the MoJ's contract with the British and Irish Legal Information Institute (BAILII) expires. The first batch of judgments will be the decisions of the senior courts from 2003. Separately, BAILII has confirmed that it will continue its own service providing free legal information for England and Wales and other jurisdictions, including Scotland, Northern Ireland and the Commonwealth.

Short-term Impact

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Review of small claims The process for small claims is changing. In January 2021 a working group of District Judges was formed by the Master of the Rolls to look at the resolution of small claims. In June 2021, the working group published an interim report which recommended issues for further consideration by an enlarged working party. These have now been considered and the key recommendation (if implemented) is a new procedure for claims up to £500, which includes: compulsory mediation after the defence has been filed, the ability for the court to decide the case remotely or on the papers (without requiring consent from the parties), a final hearing (of no more than one hour in length) and a restricted right of appeal. Other recommendations include relaxing current restrictions on the use of preliminary hearings set out in CPR 27.6(1) so that they can be used more flexibly. The working group refrained from recommending that dispute resolution hearings be listed as a matter of practice (as the Birmingham and Hereford County Courts do) until more data is obtained as to their effectiveness.	CJC interim report CJC final report CPRC 3 December 2020 Minutes	The recommendations could mean an entirely new process for small claims up to £500 and will now be considered by the Civil Procedure Rule Committee (CPRC). Timescales are awaited. Separately, the CPRC recently resolved to introduce a small claims paper determination pilot. The pilot would enable the court to direct that a small claim (up to the value of £1,000) be determined on paper (without a hearing) without requiring the agreement of all parties, as is currently required under CPR 27.10. Participating county courts will include Cardiff, Bedford, Luton, Guildford and Manchester. It is intended that the pilot Practice Direction be drafted for inclusion in the next PD update, as part of the April 2022 common-commencement cycle. It was also resolved that CPR 27.10 be reviewed in more detail in due course.
Reforms to judicial review The government introduced the Judicial Review and Courts Bill in July 2021, following a review by the Independent Review of Administrative Law and a government consultation on judicial review reforms. The Bill makes significant changes to the remedies available following a successful case, and what can be challenged in a judicial review. Key changes include: • giving the courts the power to award suspended and prospective-only quashing orders, which will be subject to a statutory presumption • reversing the judgment in *R(Cart) v The Upper Tribunal* so that decision of the Upper Tribunal are no longer eligible for judicial review.	Independent review of administrative law - report Judicial Review and Courts Bill Judicial review reform - consultation Law Society briefing FRC Consultation response HoL constitution committee report	The House of Lords' constitution committee published a report recently which suggested that peers should consider whether the Bill *"achieves the correct balance between providing courts with discretion and placing a presumption on how they should act".* Separately, the Civil Procedure Rules Committee is looking at amending the rules or practice directions on judicial review to stop parties submitting excessive judicial review claims. As part of the Fixed Recoverable Costs consultation (see separate entry), the government has also proposed costs budgeting for all 'heavy' judicial review cases (where the costs of a party are likely to exceed £100,000). The court would have the

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Notably the Law Society strongly opposes both the introduction of prospective-only quashing orders and the inclusion of the statutory presumption. It also opposes the proposal to reverse the judgment in *R(Cart) v The Upper Tribunal*.		discretion to make a costs management order, either on its own or on the application of a party.
Extension of Civil Restraint Orders (CRO) A CRO restrains a party from bringing proceedings or making applications in proceedings without the permission from the court. They are usually given when a person's claim or application is refused but they will not accept the judge's decision. The orders last for two years but can be extended by a further two years. Some vexatious litigants are using the two year period to make repeated applications for permission to proceed by way of exception to the CRO whilst awaiting expiry of the two year period. It was therefore proposed, and the Civil Procedure Rules Committee (CPRC) has resolved to increase the duration of a CRO from two years to three years.	CPRC 3 December 2020 Minutes	The CPRC will now draft the amendment and it will likely be incorporated into the next Practice Direction update, as part of the April 2022 common-commencement cycle.

On the horizon

Legal risk	Links	Action required
Simplifying the CPR The CPRC has been looking at ways to simplify the CPR. The latest consultation concentrates on CPR 7 (how to start proceedings – the claim form) and CPR 8 (alternative procedure for claims). Changes focus on drafting amendments, rather than substantive changes.	Consultation	The consultation closes on 24 March 2022. Any changes would be expected to be implemented shortly thereafter. The overall task of simplifying the CPR is taking place in a phased approach and is likely to take another 12-18 months to complete. The last consultation concerned simplifying CPR 2 (application and interpretation of the rules), CPR 3 (the court's case management powers) and CPR 4 (forms). That consultation closed on 11 February 2022.
Digital assets – Law Commission (LC) Digital assets are increasingly important in modern society and can be used as means of payment for goods and services or to represent other rights. Digital assets are generally treated as property by market participants and although English law recognises that a digital asset can be property and can be owned, it does not recognise the possibility that a digital asset can be possessed, because the concept of possessed is currently limited to physical things. This has consequences for how digital assets are transferred, secured and protected under law. In light of this, the LC was asked by the Government to make recommendations for reform and to consider whether digital assets should be possessable. The LC published a call for evidence in April 2021. The call for evidence did not make proposals for law reform but was an opportunity for stakeholders and market participants to provide their input. Any reforms could have consequences for future litigation involving digital assets.	Law Commission- Call for evidence Law Commission interim update	The call for evidence closed on 30 July 2021 and the LC published an interim update in November 2021. The LC is currently in the process of preparing a consultation paper, which will make proposals for law reform. The consultation is due to be published in mid-2022.
Conflict of laws and emerging technology – Law Commission (LC) The LC's work on smart legal contracts, digital assets and electronic trade documents has identified several conflict of laws issues, including ascertaining the law applicable to a dispute, and determining whether a particular court will have jurisdiction to hear a dispute in relation to a smart legal contract or digital asset. Consequently, the LC will be	LC project Lord Frost statement	Maintain a watching brief. A statement by Lord Frost includes an update, namely: the substance of 'retained law' and its status in law. The LC intends to put forward proposals in the spring of 2022, and legislate as soon as parliamentary time allows.

Legal risk	Links	Action required
starting a project on conflict of laws and emerging technology in the first part of 2022. The LC's work will aim to set out the current rules on private international law as they may apply in the digital context and, if appropriate, make recommendations for reform to ensure that the law in this area remains relevant and up to date.		
Legal status and enforceability of smart legal contracts (SLC) Smart contracts can be used to define and perform the obligations of a legally binding contract. The Law Commission (LC) advised the government that the current legal framework in England and Wales is able to facilitate and support the use of smart legal contracts, without the need for statutory law reform. The LC noted that further work is needed to understand how the law of deeds and private international law (jurisdiction) can support the use of smart contract technology.	UKJT statement Law Commission call for evidence Electronic signature report Smarter Contracts report	The LC will be starting a project on conflict of laws and emerging technology in the course of 2022 (see separate entry). Other updates include: • The Smarter Contracts report has been published and shows how smart contracts and blockchain are being used • The Industry Working Group on Electronic Signatures published its interim report in February 2022 which points the way forward for widespread adoption of digital signing A report by the LC and draft Bill on electronic transferable trade documents are due to be published in May 2022.
Cryptoasset tracing rules The Master of the Rolls has said that litigation concerning cryptoassets and smart contracts is increasing significantly. Cases prove complex because of the difficulty of applying historic analogue rules to the digital environment. In practice "there are no national barriers and unlawfully obtained cryptoassets can be difficult to trace". Consequently, rules regarding the grounds on which proceedings can be served out of the jurisdiction will be reviewed and amended/expanded. Under current case law, third party disclosure applications cannot easily be served outside the jurisdiction, even if one can serve out orders requiring a third party to disclose documents relating to the account of someone who can be shown to be prima facie responsible for a fraud.	Master of the Rolls - speech	A sub-committee of the Civil Procedure Rules Committee is due to consider the position. Further news is awaited. The Master of the Rolls hopes that developments in the court's rules will make it generally easier to litigate issues that arise in relation to on-chain transactions and the tracing of cryptoassets

On the horizon

Legal risk	Links	Action required
Singapore Convention on Mediation Following Brexit, the EU Directive on Mediation, is no longer applicable between the UK and the EU member states. The Directive allowed parties to convert cross-border mediated settlement agreements to a court order by consent to help with enforcement. The strong culture of mediation in the UK means that parties rarely renege on mediated settlement agreements, but it was nevertheless a useful tool should the counter-party seek to backtrack. The Singapore Convention on Mediation may fill the gap. The Convention provides a global regime for the enforcement of mediated settlement agreements. Modelled on the New York Convention of the Recognition and Enforcement of Foreign Arbitral Awards, the new convention will give the same status as the NY Convention gives to arbitral awards.	Singapore convention Consultation	The Singapore Convention came into force on 12 September 2020. It currently has 55 signatories and nine parties have ratified it. Following Brexit, the UK can now sign in its own right. Recently, the government launched a consultation seeking views on whether the UK should sign the Convention. The consultation closes on 1 April 2022.
HMCTS Reform Programme HMCTS is currently in the process of delivering a significant programme of reform to courts and tribunals intended to modernise and upgrade the justice system. The COVID-19 pandemic has had a significant effect on the modernisation of the courts, with technology now a key part of the system.	HMCTS: information on court reform HMCTS 5th Annual public user event Possession Project Reform update HMCTS hearing lists update	At its 5th annual public user event, HMCTS provided an update on what its reform project has delivered so far and what the future will be like. Of note, HMCTS is due to commence a Possession Reform project in early 2022, which will automate and streamline the possession process from start to finish. HMCTS is also developing a new service to improve how members of the public, the media and legal professionals find court and tribunal hearing lists. The service is currently being tested but should be made available to a small number of courts from Spring 2022 and then expanded throughout 2022.
Future of justice for Wales The Senedd Cymru can legislate on various matters which are not reserved to the UK Parliament. Examples of areas that are reserved and therefore not devolved include the single legal jurisdiction of England and Wales (the UK Government has previously rejected a recommendation by	Law Society – Future of Wales Independent Commission information	In October 2021, the Welsh Government announced the objectives of the newly formed Independent Commission on the Constitutional Future of Wales, which include developing options for fundamental reform of the constitutional structures of the United Kingdom.

Legal risk	Links	Action required
the Thomas Commission that Wales be a separate legal jurisdiction). In February 2021, the Law Society launched its Future of Justice for Wales Manifesto. Key recommendations include continuing to implement the recommendations of the Thomas Commission and engaging in constructive dialogue with the UK government to ensure Wales' distinctive needs are recognised and maintaining and developing a shared regulatory system to accommodate English and Welsh practice and avoid barriers to cross-border working for practitioners.		The Commission is expected to procedure an interim report by the end of 2022 and a full report with recommendations by the end of 2023. The UK government has indicated that it will provide evidence to the Commission if it is invited to do so.
Review of the Human Rights Act 1998 (HRA) The establishment of the Independent Human Rights Act Review was announced in December 2020. The panel considered options for amending the HRA and invited views in a call for evidence. The panel's report was published in December 2021 and overall concluded that the HRA had been a success and radical change was not needed. Despite this, the Ministry of Justice published a consultation in December 2021 on reforming the Human Rights Act 1998 and replacing it with a Bill of Rights. Views on a wide range of topics is sought, including: • the duties on courts to take account of case law from the European Court of Human Rights and to interpret legislation compatibly with Convention rights • extending the use of declarations of incompatibility to secondary legislation and introducing suspended and prospective quashing orders • introducing a permission stage for human rights (HR) claims • extraterritorial application • how rights are balanced against each other.	Consultation Law Society comments	The consultation closes on 8 March 2022. The Law Society has expressed the view that the consultation goes much further than the review's remit and some of the proposals involve drastic change which require careful consideration. The government's commitment to remaining a party to the European Convention on Human Rights is welcomed.

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