



**Law**  
**Commission**

Reforming the law

# Consultation on Twelfth Programme of Law Reform

ALBA Conference  
King's College Cambridge  
27 July 2013



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**Lord Justice Lloyd Jones -  
Chairman**

**Frances Patterson QC –  
Commissioner, Public Law Team**



# How to help us create the best programme

- To help you to help us...
- Information to assist you in providing proposals that are
  - more likely to be accepted for the 12th Programme
  - more likely to lead to successful law reform proposals
  - given the best chance of implementation

# How will we select projects?

- Importance
  - Scale of problem? Urgency? Benefits of reform?
- Suitability
  - Having regard to our non-political, independent status
- Resources
  - Expertise needed?
  - What are the costs/benefits in economic terms?
  - Is the project likely to attract funding?
  - Duration?

# The Protocol

- Law Commission Protocol under 2009 Act
  - Will the Government give an undertaking that there is “serious intention” to take forward law reform in this area?
  - What degree of Departmental support is available?

# Recent news in implementation 1

- The Consumer Insurance (Disclosure and Representations) Act 2012 came into force on 6 April 2013.
- The Trusts (Capital and Income) Act 2013 received the Royal assent on 31st January 2013.
- The Statute Law (Repeals) Act 2013 received the Royal assent on 31st January 2013.
- The Crime and Courts Act 2013 abolished the offence of scandalising the court.
- The Inheritance and Trustees' Powers Bill
- Third Parties (Rights against Insurers) Act 2010

# Recent news in implementation 2

- The Care Bill implements in England our report on **Adult Social Care**.
- The Consumer Rights Bill implements reports on **Unfair Contract Terms, Consumer Redress for Misleading and Aggressive Practices and Remedies for Faulty Goods**.
- The Social Services and Wellbeing (Wales) Bill implements in Wales our report on **Adult Social Care**.
- The Welsh Government has announced its intention to implement our report on **Renting Homes**.



# “England and Wales”

- The Law Commission has always ensured that its consultations on law reform projects extend throughout Wales.
- In conjunction with the Welsh Government, we have requested the Secretary of State for Wales to make a transfer of functions order pursuant to section 58, Government of Wales Act, 2006 so as to permit Welsh Ministers to refer to the Commission matters which fall within the devolved area of responsibility.
- Newly established Law Commission Welsh Advisory Committee
- Some joint projects with Scotland and some tripartite

# What are the prospects?

- How many proposals?
  - In consultation for the 11th Programme we received over 200 proposals
- How many projects?
  - Initially accepted 14 projects for the 11th Programme

# Scope of Public Law work

- Interaction with government departments
  - Cabinet Office
  - Department for Environment, Food and Rural Affairs
  - Ministry of Justice
  - Department for Transport
  - Department of Health
  - Department for Communities and Local Government

# Project 1 – Adult Social Care

- 10<sup>th</sup> Programme of Law Reform
- Supported by Department of Health
- Way of working:
  - Feb 2010: four month consultation
  - May 2011: final report
  - July 2012: Government response
  - May 2013: Queen’s Speech - Care Bill

# Project 2 – Regulation of Healthcare Professionals

- Reference by Department of Health
- UK-wide project; first tripartite Law Commission project
- Purpose – deregulation but with accountability
- Mid Staffs implications
- Report and draft Bill – Feb 2014



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Q & A

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The **Law Commission** is the statutory independent body created by the Law Commissions Act 1965 to keep the law under review and to recommend reform where it is needed. The **aim of the Commission** is to ensure that the law is:

- fair
- modern
- simple
- as cost-effective as possible

**Updates**

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## Latest news

- **Consultation for our 12th Programme of Law Reform opens**, 2 July 2013
- **Consultation opens on our Hate Crime project**, 27 June 2013
- **Care Bill, implementing our recommendations for reform of adult social care law**, introduced into the House of Lords 9 May 2013
- **Patents, Trade Marks and Design Rights: Groundless Threats consultation opens** 17 April 2013
- **Unfitness to Plead consultation responses published** 10 April 2013
- **Interim statement on Taxis and Private Hire Vehicles** 9 April 2013
- **Renting Homes in Wales report published** 9 April 2013
- **Consultation opens on Conservation Covenants** 28 March 2013
- **Fiduciary Duties of Investment Intermediaries new project started** 26 March 2013



## 12th Programme of law reform We want to hear from you



### Hate crime – should the aggravated and stirring-up hatred offences be extended?

We have opened a consultation asking whether there is a case for reforming the law so that existing hate crime offences apply in the same way to sexual orientation, transgender identity and disability as well as race and religion. At present these offences do not extend to cover all five characteristics. Under the Public Order Act 1986 there are offences of stirring up hatred against people on grounds of race, religion or sexual orientation but not transgender identity or disability.

Under the Crime and Disorder Act 1998 it is possible to prosecute some offences as "aggravated offences" if the offender demonstrates racial or religious hostility at the time of the offence, or has been motivated to commit the offence by racial or religious hostility. But, if the hostility relates to disability, sexual orientation