



November 2018

The appointment of two Law Commissioners: 2020

Dear colleague,

I am writing to inform you that the Law Commission will be seeking to recruit two new Commissioners with effect from the start of 2020. Details of the posts are set out in the attached documents and more information is available on our website. It is anticipated that the formal appointment process will commence in early 2019.

In advance of that process I would like to take this opportunity to explain to you a little about who we are and what sort of persons we will be looking for and to explain how we are setting up an informal scheme whereby those who might be interested in applying can find out more about the role in an informal way.

What the Law Commission does

The Law Commission is an impartial statutory body set up by the Law Reform Act 1965.

Our statutory task is (broadly) to keep under review all of the law in England and Wales with a view to its systematic development and reform. Every few years we draw up a programme of law reform and agree this with Government. In the 13th Programme, published in 2017, we identified 14 projects. In addition, we take on projects referred to us by Government which address some of the biggest and most complex issues of the day. We have recently taken on hate crime, on-line abusive communications and marriages, in this way.

In recent years the Government has implemented a very high percentage of our law reform proposals. At present we are working on a total of nearly 20 projects. Illustrations of current projects include, the creation of a Sentencing Code in crime, search warrants, money laundering, confiscation of proceeds of crime, official secrets, surrogacy, automated vehicles, and planning law in Wales. In the commercial field we are undertaking a scoping project on smart contracts. We are also working on leasehold enfranchisement and the right to manage. These are all projects with high social and/or economic significance. Our work is often cutting edge and can make a real difference.

Our aim is to produce recommendations or proposals which attract the widest possible consensus. We do this by proactive engagement with those affected before we even publish a consultation paper. Having consulted widely we then gather in comments and responses and analyse them and prepare a report. In some cases, our remit is to consult and in a report put forward options for reform to Government. In such cases Government will then select the preferred option and may then revert to the Commission to provide either draft legislation or

implementation support. In other cases, we may be tasked from the outset with producing a report and draft Bill.

The “selling point” of the Commission is its vigorous objectivity and independence coupled to the thoroughness and intellectual rigour that we bring to each project. This is essential in that it enables our work to be trusted by Government and Parliamentarians of all persuasions as well as by all those whose lives or businesses might be affected by legislation we propose. We are sometimes seen as the best way in which a workable solution to a difficult social or commercial problem might be found.

What Law Commissioners do

Law Commissioners are instrumental in leading law reform in England & Wales. Each Commissioner is appointed for a five-year term. But this may be subject to reappointment for a further five-year term. In consequence a Commissioner may serve for up to ten years.

Given the centrality of the role of a Commissioner to legal reform our two new appointments can be expected to play an important and influential part in the evolution of the law in England & Wales during a period of potentially unprecedented change.

A more detailed overview is attached. You will see that the role of a Law Commissioner is not confined to the academic task of drafting reports; indeed, much of the actual drafting is performed by your team of lawyers and researchers under your supervision. It is a much bigger job than just that. You will be directly involved in discussions with Ministers and officials and with Parliamentary Counsel and you will play an active role in the process of steering legislation through Parliament. You will take a leading role in engaging with the public and the press and media in relation to your projects at seminars, roundtables, conferences, during one to one meetings and on social media. You will liaise with the senior judiciary. You will participate in shaping the future strategy of the Commission. You will participate in “peer review” exercises whereby all the Commissioners and the Chair discuss and agree the key policy issues arising out of each project; it is an important feature of our work that all Commission reports are published as the work of the Commissioners and the Chair collectively.

You will also be good with people. Each Commissioner works closely with a Team Manager, a senior lawyer who provides direction and support to the team of lawyers and research assistants, who in turn make up the individual teams working on each project. You will be closely involved in leading a body of exceptionally bright and talented lawyers and researchers who will look to you for on-going direction and support. The atmosphere within the Commission is collegiate.

Who are you?

We are anxious to look to as broad and diverse a pool of talent as we possibly can to find our new appointments. It might be a statement of the obvious but our work, over the next few years, will take place in a challenging constitutional, technical, economic and social climate. The Law Commission must keep abreast of developments and remain relevant. You will be central to that endeavour.

You will be a person of exceptional academic ability. You may well have particular area of experience and expertise but equally important is that you will be intellectually curious and

enthusiastic about turning your abilities to issues and topics which you might not be so familiar with. You will undoubtedly have (and will need) a good sense of humour.

Traditionally, Law Commissioners have been senior Professors, judges, top QCs or leading partners in law firms.

But I wish to emphasise that I am anxious that in *this* appointment process we will also look well beyond our traditional recruiting grounds and I wish to encourage those who might never have considered themselves to be “Law Commission” material to apply. You might be in Government or in a non-university academic setting. You might be someone on the cusp of senior status in your profession or in your academic institution but who wishes to change the direction of your career. You might be none of the above but nonetheless have the abilities and drive that we are looking for.

Please do not be deterred if the process of law reform is unfamiliar to you. There will be few candidates who can demonstrate existing abilities and competences in this area and we do not expect applicants to have existing experience in law reform. We are looking for individuals with potential, who will relish the experience of learning new skills on the job.

Your particular skills: The modern lawyer

As for the skills we are looking for, the two new appointments are to replace Professor David Ormerod QC, a specialist in criminal law, and Stephen Lewis, a commercial law specialist. The Commission must be able to continue to cover these areas but we are not setting out to appoint on a like for like basis. In the future the big issues of the day might centre around the social and economic implications of bioethics, cybercrime, “big data”, security and privacy, artificial intelligence (AI) and the digital economy. You might have a variety of traditional legal skills but be interested in these sorts of issues. If you are this sort of a “modern” lawyer and you can help us to navigate what will be a complex and novel future legal environment, then we are interested in you.

Ways of working

A word on ways of working. The work is London based and Commissioners are frequently out and about in England and Wales attending events, but there is often the scope to work from home. There is flexibility in how you would work.

Getting to know the Law Commission

To help you get to know us better, I am putting in place an informal scheme whereby those who wish to consider applying and would like to find out more about the Law Commission can speak to me, or to one of the existing Commissioners, or with a senior team lawyer. We will be flexible about how we achieve this. We can arrange telephone calls, face to face meetings here in London, or with Commissioners and their teams as and when they are out of London at the many events they attend.

We might also be able to arrange shadowing exercises, for example, when you would spend some time with a Commissioner or attend a Peer Review meeting. We will have to match our necessarily limited human resources with demand but we wish to find a way to speak to as

many of you as possible in a more relaxed and direct manner. Details of this are also set out in the accompanying materials.

And finally ...

Can I just say that from my perspective as Chairman (having been in post now for only a few months), it is apparent to me that the role of a Commissioner is not only a genuinely important and influential one but it is also exciting, fascinating and great fun.

If you are interested please do get in touch.

A handwritten signature in black ink, appearing to read "Nicholas Green".

Sir Nicholas Green