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Practice Areas

Arbitration: a beginner's guide	p.63
Banking and finance	p.66
Capital markets	p.68
Competition/antitrust	p.70
Construction	p.72
Corporate/M&A	p.74
Crime	p.76
Employment	p.78
Environment	p.80
Family	p.82
Government and public policy	p.84
Human rights and immigration	p.86
Infrastructure and PPP	p.88
Insurance	p.90
Intellectual property	p.93
Litigation	p.95
Pensions	p.98
Personal injury	p.100
Private client and charities	p.102
Private equity and investment management	p.104
Projects and energy	p.106
Real estate	p.108
Restructuring and insolvency	p.110
Shipping	p.112
Sports, media and entertainment	p.114
Tax	p.117
Tech, telecoms and outsourcing	p.119

Arbitration: a beginner's guide

A growing convention

What would you do with \$50 billion? It sounds like an awful lot of money even for a corporate mega-merger; for a dispute resolution settlement, it's mind-boggling. But in the largest ever award resulting from international arbitration, the Russian Federation was ordered to pay more than \$50 billion to former shareholders of the Yukos Oil Company after it had destroyed the corporation and appropriated its assets – the \$64.2 million in additional fees the Russians were ordered to pay out now seems like pocket money. The award can now be enforced across the 157 states enrolled in the New York Convention, the 1958 UN resolution that paved the way for cases like this one to play out.

Put (relatively) simply, arbitration is a method of dispute resolution between two or more parties who agree to have their cases heard and settled by an independent tribunal through a pre-determined procedure. The arbitrators weigh up both sides' arguments and determine an appropriate award for one, which can be enforced across the world through the New York Convention and have wide-reaching implications beyond the discrete case. Various different arbitral institutions exist: the largest are the International Court of Arbitration of the International Chamber of Commerce (ICC) based in Paris; the London Court of International Arbitration (LCIA); and the International Centre for Dispute Resolution (ICDR), headquartered in New York.

“It puts the dispute in a neutral arena, so neither party involved will have any ‘home-field’ advantage.”

Globalisation is changing how the world operates in more ways than anybody could hope to keep track of, and as multinational businesses expand into hitherto unexplored jurisdictions and have to contend with the unique legal frameworks of each, avoiding domestic litigation is a fruitful avenue to explore. International arbitration courts are fast becoming the battlegrounds on which the world's largest companies and sovereign states alike are fighting to protect their interests.

Quinn Emanuel arbitration partner Mark McNeil pins down the process's appeal as twofold: *“It puts the dispute in a neutral arena such that neither disputing party has the ‘home-field’ advantage in its domestic court system; and once a party secures an award in arbitration it can automatically be enforced in more than 150 countries across the world without the need to go through litigation proceedings anywhere else.”* The discipline's cheerleaders have

argued that arbitration also appeals as a cheaper, quicker means of dispute resolution than litigation, though Herbert Smith Freehills international arbitration specialist Andrew Cannon suggests: *“It can be, given the scope for procedural flexibility, but for large commercial matters the current wisdom is that's no longer the case.”* Bodies including the ICC have published expedited procedure rules for smaller claims as a counter-measure to this perceived slow-down.

Long time coming

The roots of international arbitration stretch back further than you might expect. Evidence suggests arbitration was a method of domestic dispute resolution for the ancient Egyptians, Greeks and Romans, who chose arbitrators based on their esteem within the community. International arbitration as a concept was dreamed of at least as early as 1306, when a royal advocate in Normandy proposed the Crusader states use arbitration as a means of establishing peace throughout Europe before setting off for the Holy Land.

“The number-one trend is growth into new jurisdictions and a wider geographical dispersement.”

It took until at least the late 19th century for something akin to international arbitration as we know it today to formulate, and things really kicked into gear in the 1920s with the establishment of both the ICC and ICDR (the LCIA, founded in 1892, was ahead of the curve). The practice has grown and evolved steadily since. *“Even ten years ago this was an area of law very much in the ascendancy,”* explains Skadden arbitration and litigation partner David Edwards, *“and we were still having to explain to clients what international arbitration was and why it could benefit them.”* Now, though, it's becoming the *méthode du jour* for big cross-border matters throughout its birthplace in Europe and beyond. The practice's evolution has *“slowed down in relative terms, there's now a mature system which can be enforced across the world and which represents an industry in its own right.”*

What does the future hold? Edwards points to *“a shift towards Asia; there has been a host of major Indian arbitration decisions recently and there's been a big movement to properly root trade arbitration into Singapore.”* Mark McNeil agrees: *“The most pronounced long-term trend has to be the wider geographical adoption of arbitration as the standard means of resolving cross-border commercial disputes, particularly in Asia and Africa. Once upon a time Chi-*

na did not accept investment arbitration, but that has now changed as a result of China becoming a major capital exporter. Korean and Japanese companies are also embracing international arbitration more frequently than before." As the arbitration love spreads, international law firms are following the money. Herbert Smith Freehills may hold pole position in the region for now (they've got nine offices including Jakarta, Bangkok and Kuala Lumpur, and are the only firm to get a top-tier international arbitration ranking in *Chambers Asia-Pacific*) but other contenders like Allen & Overy, Freshfields Bruckhaus Deringer and King & Spalding are hot on their heels.

ISDS, TPP, TTIP... WTF?

It's not all been high-fiving, though. As with any area of law, international arbitration has thrown up its fair share of controversies – not least ISDS. Investor-state dispute settlement is a process through which companies can sue nations which they believe have discriminated against them in some way, and have thus hurt their profit margins. The appeal of ISDS for governments is that commercial disputes can be resolved in a theoretically neutral arena without direct conflict with another state, and that they can attract more investment from overseas companies with this safeguard in place. Critics, however, argue that ISDS grants too much power to companies and allows them to challenge the policies of elected governments. In perhaps the most famous example of this, tobacco giant Philip Morris controversially sued multiple countries over laws prohibiting smoking or the promotion of it.

It's easy to envision private companies that pursue ISDS as greedy villains attacking the public good for profit, but Mark McNeil, who's acted on both sides of such cases, paints a more nuanced picture. "The reality is that states often sign up for these investment agreements without fully understanding their implications," he explains. "A number of governments feel that ISDS has gone too far, and are seeking to scale back the protections they are willing to offer in their investment treaties and investment agreements."

International trade deals typically include a method through which ISDS can be initiated. Chapter 11 of the North American Free Trade Agreement (NAFTA) between Canada, the USA and Mexico allows for companies to bring international arbitration proceedings against any of the three countries; an ISDS clause was also established in the Trans-Pacific Partnership. The USA's proposal to include a similar clause in the much-criticised Transatlantic Trade and Investment Partnership (TTIP) with the EU was a major stumbling block in negotiations. Some have argued that throwing the door open to ISDS would allow American private healthcare companies to sue European countries, including the UK, where publicly funded healthcare is the norm. If globalisation is to progress full

steam ahead, however, processes like ISDS are unlikely to go away. Andrew Cannon points out: "The number of investor-state cases has increased steadily over the last 20 or 30 years. For a long time they were largely brought against emerging market countries, but now an increasing number of developed states are on the receiving end. These states have added to the calls for changes to be made to protect their rights to legislate in the public interest." A tough nut to crack.

Brexit wounds?

We'd love to have got through at least one article without dropping the B-bomb, but London is, after all, held in high esteem from Greenland to Antarctica as a leading global arbitral seat (admittedly, we're yet to hear of any polar bears or penguins calling for arbitration proceedings). There have been many hours of debate over whether or not companies could bring ISDS claims against the UK or EU when the divorce has taken place, depending on the settlement between the two.

"London is in many ways the dispute resolution capital of the world."

All things considered, though, Brexit's impact on international arbitration is unlikely to be felt immediately. Withdrawing from the European Union will have no effect on Britain's membership of the New York Convention, the foundation for international arbitration that's entirely independent of the EU. Mark McNeil explains: "London is in many ways the dispute resolution capital of the world, and it won't lose its major strengths post-Brexit. English law will continue to govern many commercial contracts, parties will continue to trust their disputes to the English courts, and London will continue to be chosen as the legal seat for many arbitrations." Regardless of the future relationship between Britain and the EU, the ability to pursue international arbitration and enforce its results will be unaffected from a legal perspective. The potential change in commercial fortunes for either side is a different matter – if business slows down, the number of arbitration cases brought forward could rise or dip depending on a whole host of factors. Overall though, the message to take away is Brexit may mean Brexit, but it doesn't mean a whole lot in an international arbitration context.

Getting your foot in the door

On the rise though it may be, international arbitration remains a relatively niche discipline compared to litigation. Not all of the firms included in the *Chambers Student* guide, even those placing an emphasis on dispute resolution, offer an arbitration seat, and many others will roll it together with litigation, so it can be difficult to know how much experience you'll get in either – read the True Picture of the firm you're interested in to find out where

the land lies. It's clear though, that cross-border arbitrations and their exclusivity appealed to our trainee interviewees: an Allen & Overy source told us: *"It was definitely an exciting department to be part of, particularly when the case went to hearing. As a trainee I was doing everything from preparing bundles and exhibits to drafting pleadings."* A similarly enthusiastic Skadden trainee recounted: *"By my second week I was in court on a billion-dollar arbitration case. To say I was thrown in would be an understatement!"* Skadden's David Edwards confirms: *"We try and push junior lawyers and trainees as far as we can; if they have the aptitude they'll get responsibility over a whole area of the case."*

It's never too early to begin prepping. Universities like King's College London and the University of Westminster offer international dispute resolution LLMs with optional modules dedicated to commercial arbitration, and both the ICC and LCIA offer a couple of internships a year, though competition for all of these is understandably fierce and Andrew Cannon tells us: *"Such qualifications are not necessary to start your career. What matters above*

all is demonstrating an interest." General dispute resolution experience is valuable too, and a little (or a lot of) practice in moot courts and other debate forums can go a long way. It's also crucial to stay in the know not only about international arbitration specifically, but what's going on in the wider commercial and political world – in a practice area defined by its globalist context, it's not enough to have a good understanding of UK law. Keep an eye on trends affecting international law and some of the big arbitration cases hitting the headlines – as well as on the Chambers Student website and newsletter, of course.

Finally, don't go too far down the rabbit hole – international arbitration remains a niche area of law. Andrew Cannon advises *"applying for a seat in arbitration if you have that opportunity, but it's important to keep an open mind as over the two years of a training contract you'll see all the other different areas the firm has to offer, and views can change during that time."*

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Allen & Overy
Ashurst
Baker McKenzie
Bryan Cave Leighton
Paisner
Clifford Chance

Clyde & Co
CMS
Cooley
Debevoise & Plimpton
DLA Piper
Freshfields Bruckhaus

Deringer
Gibson, Dunn & Crutcher
Herbert Smith Freehills
Hogan Lovells
Latham & Watkins
Linklaters

Norton Rose Fulbright
Skadden, Arps, Slate,
Meagher & Flom (UK)
Stephenson Harwood
White & Case

Banking and finance

In a nutshell

Banking and finance is a giant sector internationally, intersecting with various industries and overlapping with multiple other practice areas. Banking and finance lawyers may work in any one of the specialist areas described below, but all deal with the borrowing of money or the management of financial liabilities. Their task is to negotiate and document the contractual relationship between lenders and borrowers, and to ensure that their clients' best legal and commercial interests are reflected in the terms of loan agreements. It is a hugely technical, ever-evolving and jargon-heavy area of law.

- **Straightforward bank lending:** a bank lends money to a borrower on documented repayment terms.
- **Acquisition finance:** a loan made to a corporate borrower or private equity sponsor for the purpose of acquiring another company. This includes leveraged finance, where the borrower uses a very large amount of borrowed money to meet the cost of a significant acquisition without committing a lot of its own capital (this is called a leveraged buyout or LBO).
- **Real estate finance:** a loan made to enable a borrower to acquire a property or finance the development of land and commonly secured by way of a mortgage on the acquired property/land.
- **Project finance:** the financing of long-term infrastructure and public services projects, where the amounts borrowed to complete the project are paid back with the cash flow generated by the project.
- **Asset finance:** this enables the purchase and operation of large assets such as ships, aircraft and machinery. The lender normally takes security over the assets in question.
- **Islamic finance:** Muslim borrowers, lenders and investors must abide by Shari'a law, which prohibits the collection and payment of interest on a loan. Islamic finance specialists ensure that finance deals are structured in a Shari'a-compliant manner.
- **Financial services regulation:** lawyers in this field ensure that their bank clients operate in compliance with the relevant financial legislation.

What lawyers do

- Meet with clients to establish their specific requirements and the commercial context of a deal.
- Carry out due diligence – an investigation exercise to verify the accuracy of information passed from the borrower to the lender or from the company raising finance to all parties investing in the deal. This can involve on-site meetings with the company's manage-

ment, so lawyers can verify the company's credit profile.

- Negotiate with the opposite party to agree the terms of the deal and record them accurately in the facility documentation. Lenders' lawyers usually produce initial documents (often a standard form) and borrowers' lawyers try to negotiate more favourable terms for their clients. Lawyers on both sides must know when to compromise and when to hold out.
- Assist with the structuring of complicated or groundbreaking financing models and ensure innovative solutions comply with all relevant laws.
- Gather all parties to complete the transaction, ensuring all agreed terms are reflected in the loan and that all documents have been properly signed and witnessed. Just as in corporate deals, many decisions need to be made at properly convened board meetings and recorded in written resolutions.
- Finalise all post-completion registrations and procedures.

Realities of the job

- City firms act for investment banks on highly complex and often cross-border financings, whereas the work of regional firms generally involves acting for commercial banks on more mainstream domestic finance deals. If you want to be a hotshot in international finance, then it's the City for you.
- Lawyers need to appreciate the needs and growth ambitions of their clients in order to deliver pertinent advice and warn of the legal risks involved in the transactions. Deals may involve the movement of money across borders and through different currencies and financial products. International deals have an additional layer of difficulty: political changes in transitional economies can render a previously sound investment risky.
- Banking clients are ultra-demanding and the hours can be long. On the plus side, your clients will be smart and dynamic. It is possible to build up long-term relationships with investment bank clients, even as a junior.
- Working on deals can be exciting. The team and its counterparty are often working towards a common goal, usually under pressure and with heavy time constraints. Deal closings bring adrenaline highs and a sense of satisfaction.
- You need to become absorbed in the finance world. Start reading the *Financial Times* or the City pages in a broadsheet newspaper for a taster.

Current issues

- At the time of writing, the full impact of the 2020 lockdown on the banking world remains unclear. Long-term effects will depend on how long the Covid-19 pandemic lasts, the severity of it (i.e. what measures are needed to mitigate its spread) and the ability for governments to balance public health with economic concerns.
- The crisis means that 2020 has been the most challenging year for the banking and finance sector since the 2008 crash, with global economies suffering downturns which will inevitably plague the banking and finance sectors. In the UK, roughly £38 billion worth of loans by government-backed schemes were dispersed to help nearly a million businesses and avoid catastrophic levels of job losses.
- Most major banks have put billions aside to cover the shortfall caused by loan losses, the result of slower or defaulted credit payments caused by unemployment and businesses closing. There are also concerns that small to medium-sized businesses, required to start paying back the government-backed loans by 2021, may struggle to do so should the virus endure at similar levels into the next year.
- Credit rating agency Fitch predicts that sovereign debt held by EU banks will increase significantly as a result of the pandemic, with central governments scrambling to cover losses in the private sector. This is likely to remain the case in the coming years, as alleviating the debt more quickly would require harsh austerity measures or potentially unpopular tax rises.
- Brexit remains a consideration for the banking and finance sector, with the future for banks and financial services not much clearer now than when the referendum result was announced. A significant portion of banking activity within Europe is made possible by EU legislation, and Brexit will affect the legal environment in which organisations operate. International financial institutions are less likely to view London as an appropriate place to conduct European business, but it is unclear what the overall impact will be on the City's prestigious financial sector. A recent report by the London School of Economics predicts business conditions will deteriorate in the wake of Brexit, providing a double blow on top of the impact of the Covid-19 pandemic.
- Supporters of Brexit have heralded a stronger UK-US economic relationship as a positive result of leaving the European Union. For the banking and finance sector, that would mean dealing with the market volatility associated with the Donald Trump administration and the protectionist 'America First' policies that have led to fears of a trade war with China and could have a detrimental effect on the global economy. Notable economists have warned that such trade conflicts and increasing tariffs could lead to a recession.
- The Bank for International Settlements introduced Basel III in 2019. This group of measures is designed to strengthen regulation and minimise risk in the banking sector internationally. The process hasn't been entirely smooth: the US and European members of the Basel committee disagreed over the models used to assess the risk that banks have, which delayed the implementation of the rules. Over the next few years, law firms will be kept busy providing advice and guidance to the banking sector on how to stick to the new rules.

Read our True Pictures on...

Addleshaw Goddard	Cripps Pemberton Greenish	Howes Percival	Ropes & Gray
Allen & Overy	Debevoise & Plimpton	Irwin Mitchell	Shearman & Sterling
Ashfords	Dechert	Kirkland & Ellis International	Skadden, Arps, Slate, Meagher & Flom (UK)
Ashurst	Dentons	Latham & Watkins	Slaughter and May
Baker McKenzie	DLA Piper	Linklaters	Squire Patton Boggs
Birketts	DWF	Macfarlanes	Stevens & Bolton
Brabners	Eversheds Sutherland	Mayer Brown International	TLT
Bryan Cave Leighton	Foot Anstey	Michelmores	Travers Smith
Paisner	Freshfields Bruckhaus	Mills & Reeve	Ward Hadaway
Burges Salmon	Deringer	Muckle	Weil, Gotshal & Manges
Charles Russell Speechlys	Gateley Legal	Norton Rose Fulbright	White & Case
Cleary Gottlieb Steen & Hamilton	Gowling WLG (UK)	Osborne Clarke	Womble Bond Dickinson UK
Clifford Chance	Herbert Smith Freehills	Pinsent Masons	
CMS	Hogan Lovells	Reed Smith	

Capital markets

In a nutshell

The world's capital markets are trading floors (either real or virtual) on which cash-hungry businesses obtain funding by selling a share of their business (equity) or receiving a loan (debt) from lenders. Capital markets lawyers advise companies ('issuers') and investment banks ('underwriters') on these complex transactions. Here are some of the terms you'll encounter.

Equity capital markets: where a private company raises capital by making its shares available to the public by listing itself on a stock exchange and executing an initial public offering (IPO), as a result of which it becomes a public company (or plc). The London Stock Exchange (LSE) and New York Stock Exchange (NYSE) are the most prestigious exchanges, but companies may list on many other exchanges worldwide. Once listed, a company's shares can be bought and sold by investors at a price determined by the market.

Debt capital markets: where borrowers raise capital by selling tradable bonds to investors, who expect the full amount lent to be paid back to them with interest.

Structured finance: this area can get gloriously complicated, but its aims are simple – to increase liquidity and limit or trade on risk, which in turn offers up extra funding for borrowers.

Derivatives: financial instruments used by banks and businesses to hedge risks to which they are exposed due to factors outside of their control. The value of a derivative at any given time is derived from the value of an underlying asset, security, index or interest rate.

What lawyers do

- Carry out due diligence on issuers and draft prospectuses which provide information about the company and its finances, as well as past financial statements.
- Negotiate approval of a listing on the stock exchange. This involves the submission of documentation, certifications and letters that prove the client satisfies the listing requirements. As soon as a company undergoes an IPO, it will be subject to all the rules and requirements of a public company, so the necessary organisational structure must be in place before then.
- Work with underwriters and issuers to draw up the structure of a security and help the parties negotiate the terms of the structure. The underwriter's lawyers draft most documents related to a bond issue. An issuer's lawyers will comment on them and negotiate changes.

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- With derivatives, lawyers communicate back and forth with the client discussing legal issues and risks related to various possible structures for the product, as well as suggesting ways to resolve or mitigate those problems and issues.
- Issuer's and underwriter's counsel work together with a team of bankers, accountants, insurers and an issuer's management to get securities issued.

Realities of the job

- Capital markets lawyers are mostly based in the City of London. The biggest firms have specialist departments focused on capital markets or one of its sub-groups, while mid-size firms may lump capital markets work in with corporate.
- Clients can be very demanding and lawyers work very long hours. On the plus side, large law firms usually have strong and close relationships with investment bank clients and financial institutions, meaning that trainees and NQs can get frequent client contact.
- Lawyers have to gauge the needs and personality of the company they're working with and require an aptitude for responding to and resolving issues as they arise.
- Capital markets lawyers feel all the highs and lows of market forces – if you're trying to get a deal done market conditions often matter more than the willingness of the parties involved. Even if a deal has been organised, unpredictable market conditions can mean it falls through.

Current issues

- Just eight companies listed in London in the first half of 2020, five on the LSE and three on AIM. This significant drop was a direct result of the Covid-19 crisis, the concomitant oil price fall and worldwide lockdowns. In the same period last year, 21 companies listed in London. It is worth noting that last year's numbers were in their own right the worst since 2009: the result of Brexit uncertainty, which may have continued to have an impact on 2020's numbers too.
- Investors have experienced a turbulent 2020 due to Covid-19 with stock markets crashing on a global scale before recovering somewhat once infection and death rates stabilised or restrictions were eased. The UK experienced a double whammy of a lack of investor confidence as a result of the yet-to-be-resolved Brexit. Investment Association figures show that £1.2 billion were pulled from UK-focused investment funds in July 2019 alone, with a further £700 million pulled in

- August. There is hope that once Brexit is resolved and Covid-19 is brought under control, investors may return to the UK stock market in greater numbers.
- Despite market volatility, experts are hopeful that housing is a sector that will thrive thanks to discounts for first-time buyers and changes to planning permissions. Companies providing online services are also expected to do well even in the wake of lockdown conditions.
 - The increasing awareness and subsequent behavioural change around climate change means more and more people are recycling, reusing and reselling consumer goods; clothes have seen a particularly large uptick. The US second-hand clothing group ThredUp predicts this market to reach \$64 billion in five years. On the other hand, investment funds that rely heavily on fossil fuels are likely to suffer, while those focused on green initiatives are expected to boom.
 - The wellness industry is going from strength to strength and the sector is expected to continue to perform well. *The Times* suggests that mindfulness tech “may be the next fintech boom.”
 - On the subject of fintech, the intersection between a host of new regulatory measures and the innovation and growth of the industry is likely to keep law firms that specialise in capital markets busy. Reports by capital market commentators described AI, tech, automation and data mining as integral to the future of capital markets, but noted that security concerns have prompted regulations requiring stricter standards of data use including GDPR.
 - Any further trade wars between two of the world’s biggest economies, China and the US, are likely to have widespread impact on capital markets. The initial skirmishes depressed several markets worldwide: the FTSE 100 went down by more than 2%, Germany’s DAX dropped by more than 3%, France’s CAC 40 index by 3.6%, the Dow Jones dipped by 98 points, and Japan’s Nikkei closed 2.1% down. The rise of protectionist policies in the US and elsewhere has led some to consider it an existential threat to the trend of globalisation.

Read our True Pictures on...

Addleshaw Goddard	Davis Polk & Wardwell	Linklaters	Sidley Austin
Allen & Overy	Dentons	Macfarlanes	Simmons & Simmons
Ashurst	DLA Piper	Mayer Brown International	Skadden, Arps, Slate, Meagher & Flom (UK)
Baker McKenzie	Eversheds Sutherland	Memery Crystal	Slaughter and May
Bird & Bird	Freshfields Bruckhaus	Morgan, Lewis & Bockius	Squire Patton Boggs
Bryan Cave Leighton	Deringer	Morrison & Foerster (UK)	Stephenson Harwood
Paisner	Gowling WLG (UK)	Norton Rose Fulbright	Sullivan & Cromwell
Charles Russell Speechlys	Herbert Smith Freehills	Osborne Clarke	Taylor Wessing
Cleary Gottlieb Steen & Hamilton	Hogan Lovells	Paul Hastings (Europe)	Travers Smith
Clifford Chance	K&L Gates	Pinsent Masons	Watson Farley & Williams
CMS	Kirkland & Ellis International	Reed Smith	Weil, Gotshal & Manges
Covington & Burling	Latham & Watkins	Ropes & Gray	White & Case
		Shearman & Sterling	

Competition/antitrust

In a nutshell

It's the job of the UK and EU regulatory authorities to ensure that markets function effectively on the basis of fair and open competition. The rules in the UK and EU are substantially similar, but UK bodies concentrate on those rules that have their greatest effect domestically, while EU authorities deal with matters affecting multiple member states. Of all areas of law in the UK, competition law is – at present – most closely intertwined with the EU. While most competition rules are enshrined into domestic law, the changing relationship between domestic and European competition authorities as Brexit takes effect is likely to cause much head-scratching among businesspeople, Eurocrats and lawyers alike.

On 1 April 2014, the Competition and Markets Authority (CMA) was established as the UK government's main regulatory body, adopting many of the functions of the Office of Fair Trading (OFT) and the Competition Commission (CC). The CMA works closely with industry-specific regulatory bodies, such as Ofcom for the media and telecoms industry. With a higher budget and greater resources available than ever before, the CMA was created in order to strengthen business competition in the UK and crack down on anti-competitive activities.

Competition authorities have extensive investigative powers – including the ability to carry out dawn raids – and can impose hefty fines. The CMA continues to become more proactive and litigation-minded, and the European Commission – the regulator dealing with matters also affecting other EU countries – readily doles out big fines where necessary.

What lawyers do

- Negotiate clearance for acquisitions, mergers and joint ventures.
- Advise on the structure of commercial or cooperation agreements to ensure they can withstand a competition challenge.
- Deal with investigations into the way a client conducts business.
- Bring or defend claims in the Competition Appeal Tribunal (CAT).
- Advise on cross-border trade or anti-dumping measures (preventing companies exporting products at a lower price than normally charged in the home market).
- Regulators investigate companies, bring prosecutions and advise on the application of new laws and regulations.

Realities of the job

- You won't get much independence; junior lawyers work under the close supervision of experienced partners. In the early days, the job involves a great deal of research into particular markets and how the authorities have approached different types of agreements in the past.
- You need to be interested in economics and politics.
- The work demands serious academic brainpower twinned with commercial acumen.
- As a popular area of practice it's hard to break into. Work experience with a regulator or at the European Commission in Brussels will enhance your prospects.
- Advocacy is a relatively small part of the job, though you could end up appearing in the High Court or the CAT.
- Working at an international law firm you will travel abroad and may even work in an overseas office for a while, perhaps in Brussels. Fluency in another language can be useful. There is also a trend for lawyers to switch between private practice and working for the regulators.

Current issues

- Brexit continues to be a big topic here, with the UK remaining subject to the EU state aid regime until the transition period ends. Merger control in the UK predates that on an EU level, so complete separation from the EU may not have a large direct impact on the UK merger regime. However, companies could lose their ability to request merger clearance under both jurisdictions simultaneously – separate submissions may have to be made to both UK and EU regulators, driving up costs for businesses.
- There will probably be a need for the UK to establish its own domestic state aid authority post-Brexit, according to a report from the House of Lords' EU Committee. The CMA is being considered for this role. In the transition period, it's likely EU state aid rules will remain in place; however, it isn't clear whether new measures would have to be sent to the European Commission for approval during this time. Generally, the EU restricts a government's ability to offer support to specific companies if it would give a company an advantage over its competitors. Exceptions can also be made if the aid in question is shown to be important to general economic development.
- Covid-19 has and will continue to raise interesting questions for antitrust lawyers. Commentators note that while current competition laws have proved malleable enough to address many a crisis, adjustments are having to be made. The European Commission has adopted a 'temporary framework' to enable member

- states to utilise the ‘full flexibility foreseen under state aid rules’ to best mitigate the economic fallout from the pandemic. The Commission hopes the move will ensure sufficient liquidity is accessible to all businesses.
- Adjustments are similarly being made in the UK: the British government has relaxed certain competition laws in relation to essential products and services. In March, competition laws regarding the sharing of stock level data, distribution depots, delivery vans, and staff pooling between supermarkets were relaxed to allow retailers to collaborate in their Covid response.
 - In March, the CMA announced the creation of a dedicated Covid-19 taskforce to address the potential harming effects of anti-competitive behaviours on consumers and the market more generally. Key areas of focus include holding firms to account through warnings and subsequent actions for exploiting the circumstances surrounding the pandemic through unjustifiable prices and misleading claims; taking enforcement action if companies not only breach consumer law, but subsequently fail to heed warnings they’ve done so; and advising the government on balancing competition law and necessary measures implemented to protect public health and the supply of essential goods.
 - The National Audit Office believes the CMA has made large strides in tackling the failings of previous competition regulators and that enforcement is now more coherent than before, but that the regulator could still increase the volume of successful enforcement cases it brings and improve business awareness of competition law. After facing criticism for its action on cartels, the CMA launched a ‘stop cartels’ campaign and hotline. Following a five-year investigation, the European Union issued a €1.07 billion fine to Barclays, Citigroup, J.P. Morgan, MUFG and the Royal Bank of Scotland for manipulating the foreign exchange market. Traders formed two cartels to rig the market by swapping trading information on chatrooms between 2007 and 2013.
 - Globally, Big Data and the monopolisation of it by tech giants continues to remain an area of concern. The new heads of the European Commission have the industry’s big players firmly in their sights, with regulations being sought to curtail the influence of these behemoths. Primary concerns are the use of data collection; the (potential for the abuse of) power algorithms have on global markets, specifically concerning pricing decisions; and the growing global trends of ‘killer acquisitions,’ whereby tech giants swallow up smaller start-ups, acquiring their technology, and effectively removing competitors.
 - The European Commission has launched consultations on its upcoming Digital Services Act, a two decades-later follow up to the Electronic Commerce Directive 2000. The aims for the new legislation include helping smaller innovative online businesses flourish in a market that’s increasingly controlled by large data holders; provide clearer rules and responsibilities for companies holding data on their customers; and preventing the dominant forces in the market from acting as ‘gatekeepers’.
 - 2020 also witnessed the continuing trend of prosecution in the financial services sector. Following the fallout from the 2008 financial crash and LIBOR scandal, antitrust authorities are now seeking to remedy the “historic under-enforcement” in the sector. As such, a new statutory provision enables the UK’s Financial Conduct Authority to exercise existing competition law enforcement powers with focus on financial services. In its first formal decision under these new competition enforcement powers, the FCA found that three asset management firms had breached competition law for disclosing strategic information prior to one IPO and one placing in a 2019 finding.

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 Allen & Overy
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 Bryan Cave Leighton
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Hamilton
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 CMS
 Dentons
 DLA Piper
 DWF
 Eversheds Sutherland
 Freshfields Bruckhaus
 Deringer
 Gibson, Dunn & Crutcher

Gowling WLG (UK)
 Herbert Smith Freehills
 Hogan Lovells
 Kirkland & Ellis
 International
 Latham & Watkins
 Linklaters
 Macfarlanes
 Mishcon de Reya
 Norton Rose Fulbright

Osborne Clarke
 Pinsent Masons
 RPC
 Shearman & Sterling
 Simmons & Simmons
 Slaughter and May
 Squire Patton Boggs
 TLT
 Travers Smith

Construction

In a nutshell

Construction law can broadly be divided into non-contentious and contentious practice. The first involves lawyers helping clients at the procurement stage, pulling together all the contractual relationships prior to building work; the second sees them resolving disputes when things go wrong. In the past the relatively high monetary stakes involved and the industry trend for recovering building costs through the courts made construction a litigation-happy practice. However, since the 1990s most new contracts have contained mandatory procedures to be adopted in case of dispute. Adjudication of disputes has become the industry norm and these tend to follow a swift 28-day timetable (although parties can agree to extend this period.) Others are resolved through mediation or arbitration; however, some disputes are so complex that the parties do still choose to slug it out in court.

What lawyers do

Procurement

- Negotiate and draft contracts for programmes of building works. Any such programme involves a multitude of parties including landowners, main contractors, sub-contractors, engineers and architects.
- Work in conjunction with property lawyers if the client has invested in land as well as undertaking a building project. Together, the lawyers seek and obtain all the necessary planning consents as well as local authority certifications.
- Where the developer does not own the land, liaise with the landowner's solicitors over matters such as stage payments, architects' certificates and other measures of performance.
- Make site visits during development.

Construction disputes

- Assess the client's position and gather all related paperwork and evidence.
- Extract the important detail from huge volumes of technical documentation.
- Follow the resolution methods set out in the contracts between the parties.
- Where a settlement is impossible, issue, prepare for and attend proceedings with the client, usually instructing a barrister to do the advocacy.

Realities of the job

- Drafting requires attention to detail and careful thought.
- It's essential to keep up to date with industry standards and know contract law and tort inside out.
- People skills are fundamental. Contractors and sub-contractors are generally earthy and direct; structural engineers live in a world of complicated technical reports; corporate types and in-house lawyers require smoother handling. You'll deal with them all.
- Most lawyers prefer either contentious or non-contentious work, and some firms like their construction lawyers to handle both, so pick your firm carefully.
- A background in construction or engineering is a major bonus because you'll already have industry contacts and will be able to combine legal know-how with practical advice.

Current issues

- Construction work in the UK is highly dependent on EU migrant workers, and it's concerning to note in the wake of Brexit that around two-thirds of UK construction materials are imported from the EU. According to a 2018 report by the Office for National Statistics, 33% of the construction workforce in London are migrants from EU countries. Terms must be drawn up as part of the withdrawal process either maintaining the status quo or putting an equivalent in place; otherwise, construction output could be seriously diminished.
- The UK construction industry as a whole enjoyed five years of consecutive growth from 2013. In spite of Brexit uncertainty, a forecast by the CPA (Construction Products Association) predicted a small dip in the growth rate in 2018 but another increase thereafter, driven in part by large infrastructure projects including HS2 and nuclear power station Hinkley Point C. Boris Johnson's government has prioritised 'levelling up' the UK's infrastructure, suggesting construction will be a priority over the next five years.
- Large growth-driving projects have however been hit by the Covid-19 crisis, with Hinkley Point C's main concrete supplier being shut down after an outbreak of the virus in July 2020. Sites are working whilst observing social distancing and the Construction Leadership Council has recommended the use of face coverings for construction workers.
- Despite many predicting a long-term decline in travel and commuting that is sure to worry developers, the HS2 construction process has powered through the crisis using social distancing measures to continue construction. You can learn more about HS2 and infra-

structure projects in a dedicated feature on our website.

- Sajid Javid launched a new national housing agency, Homes England, at the start of 2018, before his short-lived appointment as Chancellor. The new body aims to deliver an average of 300,000 homes per annum by the mid 2020s, primarily on brownfield sites. However, the government fell under their annual target in 2019 by almost 100,000 properties.
- July 2019 saw Sadiq Khan quash plans for the 'Tulip' skyscraper in the City of London, despite the project having been approved by the City of London Corporation three months earlier, as the tower would have not provided many public benefits.
- ADR and arbitration will probably be a vital growth area for the UK after Brexit. London remains one of the world's leading arbitral centres, as English law still governs many cross-jurisdictional contracts – agreements that span the Middle East, Africa and the rest of Europe. According to an Arcadis report, the length of time to resolve a dispute in the UK has increased by 28% since 2018, taking just over a year. Good news though, this is still the shortest time across all recorded jurisdictions, whilst the average cost of resolving disputes in the UK nearly halved between 2018 and 2019.
- At the end of 2018, the government announced it was investing £72 million in a Core Innovation Hub which will fund the development and use of technologies including virtual reality, digital design and offsite manufacturing. This is part of a broader industrial strategy, targeting job creation. The Hub is currently focusing on a design approach that allows buildings to be erected quicker and in a more environmentally friendly way. They're also working on creating more Covid-19-friendly manufacturing processes and products.
- The coronavirus crisis saw many buildings repurposed in a way the UK has never seen. The most prolific of these are the Nightingale Hospitals in London, Birmingham and Manchester, all of which were converted from conference venues to hospitals in a matter of days.

Read our True Pictures on...

Addleshaw Goddard	CMS	Hogan Lovells	Stephenson Harwood
Akin Gump Strauss Hauer & Feld	Cripps Pemberton Greenish	K&L Gates	Stevens & Bolton
Allen & Overy	Dentons	Kennedys	Taylor Wessing
Ashfords	DLA Piper	Macfarlanes	TLT
Ashurst	DWF	Mayer Brown International	Trowers & Hamlins
Baker McKenzie	Eversheds Sutherland	Michelmores	Vinson & Elkins RLLP
Bevan Brittan	Fladgate	Mills & Reeve	Ward Hadaway
Birketts	Foot Anstey	Muckle	Watson Farley & Williams
Brabners	Freshfields Bruckhaus	Norton Rose Fulbright	Wedlake Bell
Bryan Cave Leighton Paisner	Deringer	Osborne Clarke	White & Case
Burges Salmon	Gateley Legal	Pinsent Masons	Winckworth Sherwood
Charles Russell Speechlys	Gowling WLG (UK)	Reed Smith	Womble Bond Dickinson UK
Clifford Chance	Herbert Smith Freehills	Simmons & Simmons	
Clyde & Co	Hewitsons	Slaughter and May	
	HFW	Squire Patton Boggs	

Corporate/M&A

In a nutshell

Corporate lawyers provide advice to companies on significant transactions affecting their activities, including internal operations, the buying and selling of businesses and business assets, and the arrangement of the finance to carry out these activities.

Mergers and acquisitions (M&A) involve one company acquiring another by way of a takeover (acquisition), or two companies fusing to form a single larger entity (merger). The main reasons for a company to execute an M&A transaction are to grow its business (by acquiring or merging with a competitor) or add a new line of business to its existing activities. Mergers are also a means of strengthening two or more existing companies facing financial trouble, and companies going into administration can be snapped up in so-called pre-pack deals. M&A can either be public (when it involves companies listed on a stock exchange) or private (when it concerns companies privately owned by individuals).

Corporate restructuring involves changes to the structure of a company and the disposal of certain assets, either because the company wants to concentrate on more profitable parts of its business, or because it is facing financial difficulties and needs to free up liquidity.

What lawyers do

- Negotiate and draft agreements – this will be done in conjunction with the client, the business that is being bought or sold, other advisers (e.g. accountants) and any financiers.
- Carry out due diligence – this is an investigation to verify the accuracy of information passed from the seller to the buyer. It establishes the financial strength of the company; the outright ownership of all assets; whether there are outstanding debts or other claims against the company; and any environmental or other liabilities that could reduce the value of the business in the future.
- Arrange financing – this could come from banks or other types of investors. They will wish to have some kind of security for their investment, e.g. participation in the shareholding, taking out a mortgage over property or other collateral.
- Gather all parties for the completion of the transaction, ensuring all assets have been properly covered by written documents that are properly signed and witnessed. Company law requires that decisions are made at properly convened board meetings and recorded in written resolutions.

- Finalise all post-completion registrations and procedures.

Realities of the job

- The type of clients your firm acts for will determine your experiences. Publicly listed companies and the investment banks that underwrite deals can be extremely demanding and have a different attitude to risk than, say, rich entrepreneurs, owner-managed businesses (OMBs) and small to medium-sized enterprises (SMEs). To deal with such clients, a robust and confident manner is required and stamina is a must.
- Corporate transactions can be large and complicated, with many different aspects of the company affected in the process. Lawyers need to be conversant in a variety of legal disciplines and know when to refer matters to a specialist in, say, merger control (competition), employment, property or tax.
- Corporate deals involve mountains of paperwork, so you need to be well organised and have good drafting skills. Above all, corporate is a very practical area of law, so commercial acumen and a good understanding of your clients' objectives is a must.
- Corporate work is cyclical and therefore the hours lawyers work can vary depending on the general state of the market and the particular needs of the clients, whose expectations have risen even further since the widespread use of instant modes of communication. It's fair to say there can be some very late nights.
- The most junior members of a deal team normally get stuck with the most boring or unrewarding tasks. The banes of a corporate trainee's life are data room management (putting together and caretaking all the factual information on which a deal relies) and bibling (the creation of files containing copies of all the agreed documents and deal information). More challenging tasks quickly become available to driven junior lawyers.
- You need to become absorbed in the corporate world. If you can't develop an interest in the business news then choose another area of practice pronto.
- A sound grounding in corporate finance makes an excellent springboard for working in-house for major companies. Some lawyers move to banks to work as corporate finance execs or analysts. Company secretarial positions suit lawyers with a taste for internal management and compliance issues.

Current issues

- Brexit remains a talking point. While the UK formally departed the EU on 31st January 2020 – officially ending the uncertainty surrounding its departure – future negotiations, likely to be exhaustive and forensic in de-

tail, still raise significant concerns for the foreseeable future and may continue the postponement of deals. In a potentially ominous sign of what's to come, M&A in the UK almost halved in 2019, falling to £154 billion from £302 billion recorded during Q1-Q3 in 2018.

- The coronavirus pandemic was predictably catastrophic for the mergers and acquisitions market, with companies focusing on protecting their existing assets and cashflow. The first few months of 2020 were the slowest for M&A in seven years, and the figures for summer will very possibly turn out even worse. Occasional opportunistic takeovers happened where cash-rich investors bought out companies whose equity had plummeted due to the recession.
- Commentators like Goldman Sachs have identified similar patterns to previous M&A down cycles. An initial wave sees involuntary deals, as companies facing trouble generate liquidity through the selling of assets or bankruptcy sales. A second wave – known as 'near-in M&A' – sees potential combinations and joint ventures explored by companies as means of mitigating and/or reducing transaction risks. A third wave will see a return to pre-existing patterns, with transactions designed to stimulate growth through acquiring non-core business or through cross-border transactions.
- With many deals postponed rather than cancelled completely, private equity-backed transactions are expected to lead the charge in the acquisition market in any kind of recovery. 2019 marked the strongest annual period for private equity deals in the last decade – 27.5% of all global transactions had private equity firms on both sides – with many expected in the latter half of 2020 and early 2021 as a continuation of this growth.
- Protectionism and threats of tariff impositions by world leaders including President Trump have threatened the previously unstoppable trend of globalisation. In 2019, cross-border deals plummeted 25% compared to 2018, a trend continuing in 2020 as domestic governments consolidate and adopt greater protectionist strategies. Accordingly, foreign investment reviews are increasing, with the EU now reconciling foreign investment with national security implications as part of its regulatory scope.
- The British government – like other national governments – has prioritised tightening merger control. Last year saw the CMA issue its first unwinding order to payments provider Bottomline in its acquisition of the payments gateway Experian. The EU has similarly adopted a harder enforcement line, with the proposed merger between Siemens AG and Alstom SA blocked by the Commission over concerns the deal would smother train-equipment market competition. An EU probe into a potential mega tie-up between Peugeot and Fiat Chrysler – currently suspended while both car-makers provide requested data – is another example of tighter regulatory enforcement.
- Companies will increasingly seek to pivot away from carbon-intensive practices as climate change creates headlines and regulation on the worst emitters becomes more distinct and punitive. Royal Dutch Shell's unsuccessful bid for Dutch renewable company Eneco in 2019 was a landmark moment; the likelihood of higher prices and/or a tax on carbon will aim to incentivise energy giants to alter their models. On the other hand, green energy is likely to be an increasing fixture of the M&A scene in the coming years.

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Allen & Overy

Ashfords

Ashurst

B P Collins

Baker McKenzie

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Paisner

Burges Salmon

Charles Russell Speechlys

Cleary Gottlieb Steen &

Hamilton

Clifford Chance

Clyde & Co

CMS

Cooley

Covington & Burling

Cripps Pemberton Greenish

Dechert

Dentons

DLA Piper

DWF

Eversheds Sutherland

Farrer & Co

Fladgate

Foot Anstey

Fox Williams

Freshfields Bruckhaus

Deringer

Gateley Legal

Gowling WLG (UK)

Harbottle & Lewis

Herbert Smith Freehills

Hewitsons

Hogan Lovells

Howes Percival

Irwin Mitchell

K&L Gates

Latham & Watkins

Lewis Silkin

Linklaters

Macfarlanes

Mayer Brown International

Memery Crystal

Michelmores

Mills & Reeve

Mishcon de Reya

Muckle

Norton Rose Fulbright

Osborne Clarke

Pinsent Masons

Reed Smith

RPC

Shearman & Sterling

Simmons & Simmons

Skadden, Arps, Slate, Mea-

gher & Flom (UK)

Slaughter and May

Squire Patton Boggs

Stephenson Harwood

Stevens & Bolton

Sullivan & Cromwell

Taylor Vinters

Taylor Wessing

TLT

Travers Smith

Trowers & Hamlins

Ward Hadaway

Watson Farley & Williams

Weil, Gotshal & Manges

White & Case

Womble Bond Dickinson UK

Crime

In a nutshell

Criminal solicitors represent defendants in cases brought before the UK's criminal courts. Lesser offences are commonly dealt with exclusively by solicitors in the magistrates' courts; more serious charges go to the Crown Courts, which are essentially still the domain of barristers. Everyday crime is the staple for most solicitors – theft, assault, drugs and driving offences.

Fraud is the preserve of a more limited number of firms, and the cases require a different approach from, say, crimes of violence. Criminal practice is busy, often frantic, with a hectic schedule of visits to police stations, prisons and courts meaning plenty of face-to-face client contact and advocacy. The area is also known for having the lowest pay in the legal profession.

What lawyers do

- Attend police stations to interview and advise people in police custody.
- Visit prisons to see clients on remand.
- Prepare the client's defence using medical and social workers' reports.
- Liaise with witnesses, probation officers, the CPS and others.
- Attend conferences with counsel (ie barristers).
- Represent defendants at trial or brief barristers to do so.
- Represent clients at sentencing hearings, explaining any mitigating facts or circumstances.
- Fraud solicitors need a head for business as they deal with a considerable volume of paperwork and financial analysis.

Realities of the job

- The hours are long and can be disruptive to your personal life. Lawyers who are accredited to work as duty solicitors will be on a rota and can be called to a police station at any time of the day or night.
- Confidence in dealing with the characters you are likely to meet (your clients, law officers and your fellow lawyers) is essential.
- If you choose to enter into general crime, you'll have a large caseload with a fast turnaround, meaning plenty of advocacy.
- The work is driven by the procedural rules and timetable of the court.
- Your efforts can mean the difference between a person's liberty or incarceration. You have to be detail-conscious and constantly vigilant.

- You'll encounter horrible situations and difficult or distressed people. As well as victims, you will deal with defendants accused of murder, rape, drug dealing, fraud and paedophilia – if you have the ability to look beyond the labels, recognise any given individual's right to representation, and see them as clients deserving of your best efforts, then you've picked the right job. It can be disheartening to see clients repeat the same poor choices and return to court again and again.
- The public funding of criminal defence through legal aid means that the sector comes with more than its fair share of bureaucracy. It also means you'll earn very little, especially in your first few years of practice.
- Trainees in fraud find the early years provide minimal advocacy and masses of trawling through warehouses full of documents. Caseloads are usually of the smaller variety, but cases can run for years.

Current issues

- Violent crime has risen year on year since 2014. Alongside the simultaneous cuts to policing, these are taking their toll on the criminal justice system. Home Office statistics show that officer numbers fell by more than 20,000 between 2010 and 2018. Newly installed prime minister Boris Johnson vowed to recruit 6,000 more police officers by the summer of 2019, and a total of 20,000 over the next three years.
- The UK's criminal justice system has taken a battering recently. Chief of all its woes are swingeing cuts to legal aid. Funding for law centres decreased from £12 million to £7 million between 2011 and 2019; there was also a drastic drop in the number of local areas offering free legal services. The number of areas has halved in five years, from 94 in 2014 to 47 in 2019.
- The Covid-19 pandemic has had huge ramifications, including a shortage of defence lawyers and a huge number of trials being postponed; some have been pushed back as far as 2022. With trials suspended, criminal courts have implemented the use of digital hearings, turning the concept of open justice court on its head. A whopping 550,000 or so cases currently await court time.
- During the lockdown period, domestic violence crime has increased globally, described as a "shadow pandemic" alongside Covid-19 by the UN. In the UK, charges and cautions for domestic violence rose by 24% with victims trapped at home with their abuser. A domestic abuse bill is now due a date for the second reading in parliament: it contains clauses requiring domestic abusers to take polygraph tests on release and regulations to ban perpetrators from cross-examining victims during family court proceedings. The bill would

also introduce the first-ever statutory government definition of domestic abuse to include economic abuse and controlling and manipulative non-physical abuse.

- A more positive result of lockdown was that crimes such as burglary, shoplifting, robbery and theft have all experienced rapid declines as people have had to stay in their homes.
- Police forces around the world have come under intense public scrutiny as a result of the Black Lives Matter movement and killings by police officers. Protesters have highlighted the disproportionate use of police force against black men in the UK, along with stop and searches and deaths in custody. Stop-and-search use in London rose 40% in lockdown; police data also shows that coronavirus fines have been given to disproportionately high numbers of black and Asian people.
- In response to ongoing criticism of the CPS's handling of rape and sexual assault cases, the CPS is facing a judicial review into what CrowdJustice deemed 'covert policy changes'. In a further blow to the CPS, the government-appointed Victims' Commissioner publicly attacked the police in a Twitter statement claiming that rape victims' phones are searched for evidence that could be used to discredit them. In an unusual move, the CPS responded to the claims with a public statement rejecting "misleading and inaccurate" reports about the handling of rape cases.
- Considering Brexit, one of the main concerns is the future of European bodies like Europol. If the UK keeps free movement, multi-state policing will be crucial. However, depending on the deal that is struck, the UK may have little input as to how these organisations are run.
- UK police leaders recently announced a plan of action to address racial inequalities in the criminal justice system: the NPCC aims to address concerns over stop and search, the use of force and under-representation of black and ethnic minority officers. The plan is being drawn up by the CPSO – it is expected to be completed in July 2020. The announcement came a day after a former police officer told MPs that racism was "alive and kicking" in British policing.
- If crime is your passion (and even if it's not) we'd strongly recommend that you go and watch a trial in progress. The Old Bailey's probably the most exciting, and you can just turn up on the day.

Read our True Pictures on...

Ashfords
Birketts
Blaser Mills Law
Brabners

Hodge Jones & Allen
Solicitors Limited
Irwin Mitchell
Kingsley Napley

Peters & Peters Solicitors
Russell-Cooke

Employment

In a nutshell

Employment lawyers guide their clients through workplace-related legislation and are intimately involved in the relationship between employers and employees. The divide between employers' and employees' lawyers is often clear-cut so bear this in mind when you pick your firm. Most will work either largely for employers or largely for employees; a few will straddle both sides of the fence. Usually, the job includes both advisory work and litigation.

Disputes are almost always resolved at an Employment Tribunal, or before reaching one, and appeals are heard at the Employment Appeal Tribunal (EAT). The grievances leading to litigation fall into the following broad categories: redundancy, unlawful dismissal, breach of contract, harassment and discrimination. This last type of claim can be brought on the grounds of race, religious or philosophical belief, gender, sexual orientation, disability and age.

There are also employment-related cases with a commercial tint to them, such as rows over team moves between major businesses. These are heard in the courts rather than the Employment Tribunals.

What lawyers do

Employees' solicitors

- Advise clients on whether they have suffered unlawful or unfair treatment and establish the amount to be claimed. This will either be capped or, in the case of discrimination, can include additional elements to cover loss of earnings, injury to feelings and aggravated damages.
- Gather evidence and witnesses to support the claim.
- Try to negotiate a payment from the employer or take the matter to tribunal. If there is a breach-of-contract element to the claim, it might be heard in a court rather than a tribunal.
- If the matter does reach tribunal, the solicitor may conduct the advocacy.

Employers' solicitors

- Defend or settle the sorts of claims described above.
- Negotiate employment contracts or exit packages for senior staff.
- Negotiate with unions to avoid or resolve industrial disputes.
- Formulate HR policies and provide training on how to avoid workplace problems.

Realities of the job

- You quickly develop an understanding of human foibles. By their very nature employment cases are filled with drama.
- Clients may assume your role is to provide emotional support as well as legal advice, so you need to take care to define your role appropriately.
- Solicitors who want to do their own advocacy thrive here, although barristers are commonly used for high-stakes or complicated hearings and trials.
- The work is driven by the procedural rules and timetable of the tribunals and courts.
- The law is extensive and changes frequently. You'll read more than your fair share of new rules and regulations.

Current issues

- To prevent mass waves of unemployment as a result of Covid-19 and the subsequent lockdown, the government rolled out The Coronavirus Job Retention Scheme (CJRS) in March 2020. The government supported registered employers by providing furloughed employees with financial support of up to 80% of their salary, up to a maximum of £2,500 per month per employee. As of August 16, there were 9.6 million jobs furloughed with the total value of claims made at £35.4 billion.
- Employees of small and micro-sized employers were more likely to have been furloughed than those working for medium-sized and large employers: 57% of employments at employers with 5 to 9 employees had been furloughed against just 19% at employers with 250 or more employees according to polling by YouGov. They also found that the accommodation and food services sectors had the highest proportion of employers furloughing at least some staff, at a massive 87%.
- Anticipating a potential huge wave of redundancies as the CJRS scheme comes to an end in October, the government has announced its Job Retention Bonus scheme, offering a one-off payment of £1,000 to UK employers for every furloughed employee who remains continuously employed through to the end of January 2021.
- Brexit could potentially still have a big impact on employment law, as many employee protections derive from the European Union. However, EU employment rules do not apply to the UK directly. Instead they are part of UK law either through secondary legislation or Acts of Parliament. They have often been adapted to the UK context too. For example, the well-known Working Time Directive, which grants EU citizens a statutory right to 20 days of paid leave, in the UK provides for 28 days of leave (including bank holidays). Legal experts believe that such laws are too deeply embedded in

statute to be easily rewritten, which in turn sets a pretty high political barrier to repealing them.

- As of January 2021, the UK will introduce a points-based immigration system, marking the end of free movement as dictated by the terms of EU membership. To be eligible for a visa, applicants must have 70 'points'. These are determined by various criteria: for example, speaking English 'to the required level' is worth 10 points, and a salary of £25,600 or above merits 20 points.
- The gender pay gap has dominated employment press in the last few years: reporting for companies of over 250 people began in 2016 as a result of the Equality Act 2010. April 2018 was the initial deadline for private sector employers, and figures showed more than three-quarters of UK companies pay men more on average than women.
- Similar measures came into effect from early 2019 regarding top earners. Large UK-listed companies are now required to declare the pay disparity between executives and average employees, disclosing ratios, and justifying stakeholder interests when declaring pay.
- As debates continue to swirl surrounding zero-hours and flexible contracts, the government's Good Work Plan seeks to safeguard and strengthen employment rights. Set out in December 2018, the extensive and wide-ranging reforms include proposals such as: the right for an employee to request a more predictable contract after 26 weeks of employment; more substantive fines for malicious employers; and the right for employees to know details of their work-based rights from the first day in the job. Coupling this, workers could receive compensation for cancelled shifts when on zero-hours or flexible contracts. The introduction of legislation had been delayed by the Brexit process.
- There could be huge implications for the gig economy as Uber's five-year battle determining whether its workers are entitled to basic employment protections reached the Supreme Court in summer 2020. If unsuccessful, the company could be forced to pay out millions in compensation and restructure their entire business model. Stay tuned.
- Faced with increasing uncertainty surrounding profits and staff layoffs, online-only media organisations are beginning to unionise. Led by outlets such as BuzzFeed and Vice UK, growing encouragement for the industry at large to follow suit are intensifying as precarious working conditions plague online journalism.

Read our True Pictures on...

Addleshaw Goddard	Clyde & Co	Hogan Lovells	Reed Smith
Allen & Overy	CMS	Irwin Mitchell	Simmons & Simmons
Ashfords	Cripps Pemberton Greenish	Kingsley Napley	Slaughter and May
B P Collins	Dechert	Leigh Day	Squire Patton Boggs
Baker McKenzie	Dentons	Lewis Silkin	Stephenson Harwood
Bates Wells	DLA Piper	Linklaters	Stevens & Bolton
BDB Pitmans	DWF	Macfarlanes	Taylor Vinters
Bevan Brittan	Eversheds Sutherland	Mayer Brown International	Taylor Wessing
Bird & Bird	Farrer & Co	Michelmores	TLT
Birketts	Foot Anstey	Mills & Reeve	Travers Smith
Brabners	Fox Williams	Mishcon de Reya	Trowers & Hamlins
Bryan Cave Leighton Paisner	Freshfields Bruckhaus Deringer	Muckle	Ward Hadaway
Burges Salmon	Gateley Legal	Norton Rose Fulbright	Winckworth Sherwood
Charles Russell Speechlys	Gowling WLG (UK)	Osborne Clarke	Withers
Clifford Chance	Herbert Smith Freehills	Pinsent Masons	Womble Bond Dickinson UK

Environment

In a nutshell

Environment lawyers advise corporate clients on damage limitation and pre-emptive measures, and they defend them from prosecution. In other words, the majority of private practitioners work for, rather than stick it to, big business. Opportunities do exist at organisations like Greenpeace and Friends of the Earth, but these jobs are highly sought after. Another non-commercial option is to work for a local authority, a government department such as the Department for Environment, Food and Rural Affairs (Defra) or a regulatory body like the Environment Agency. However, be aware that hiring freezes and spending cuts have decreased the number of opportunities in the public sector.

Environment law overlaps with other disciplines such as property, criminal law, corporate and EU law. Environmental issues can be deal breakers, especially in the modern era of corporate social responsibility. However, the small size of most law firms' environment teams means there are few pure environmental specialists around.

What lawyers do

Lawyers in private practice

- Advise on the potential environmental consequences of corporate, property and projects transactions.
- Advise on compliance and regulatory issues to help clients operate within regulatory boundaries and avoid investigation or prosecution.
- Defend clients when they get into trouble over water or air pollution, waste disposal, emission levels, or health and safety. Such cases can involve criminal or civil actions, judicial reviews and even statutory appeals. They may also be subject to damaging media coverage

Lawyers with local authorities

- Handle a massive variety of work covering regulatory and planning issues plus waste management and air pollution prosecutions.
- Advise the authority on its own potential liability.

Lawyers working for Defra

- Are responsible for litigation, drafting of subordinate legislation, advisory work and contract drafting on any of Defra's varied mandates.
- Work in a team of lawyers including Government Legal Service trainees.

Lawyers working for the Environment Agency

- Prosecute environmental crimes – this involves gathering evidence, preparing cases and briefing barristers.
- Cooperate with government lawyers on the drafting and implementation of legislation.
- Work in Bristol and six regional bases, and are responsible for protecting and enhancing the environment. They also regulate corporate activities that have the capacity to pollute.

Realities of the job

- In this competitive and demanding field, all-round skills are best complemented by experience in a specific area. The way in which environmental law spans disciplines requires commercial nous and a good understanding of corporate structures.
- Excellent academics are essential to help wade through, extrapolate from and present research and complex legislation. You also need sound judgement, pragmatism and the ability to come up with inventive solutions.
- A basic grasp of science helps.
- If you want to change environmental laws or crusade for a better planet, then stick to the public or non-profit sectors. The sometimes uncomfortable realities of private practice won't be for you.
- Client contact is key and relationships can endure over many years. Environmental risks are difficult to quantify and clients will rely on your gut instincts and powers of lateral thinking.
- With visits to waste dumps or drying reservoirs and a workload that can span health and safety matters, corporate transactions and regulatory advice all in one day, this is neither a desk-bound nor a quiet discipline.
- Research constantly advances, and legislation is always changing in this field, so you'll spend a lot of time keeping up to date.

Current issues

- We now know the facts of the climate crisis. Addressing the issue and adopting environmentally sustainable policies are fundamental to many major businesses now, meaning law firms are increasingly required to trumpet their sector expertise. Western governments are now collectively implementing legal frameworks to honour experts' recommendations; a major example of this is the UK government's pledge to bring all greenhouse gas emissions to net zero by 2050.
- The pandemic has caused plans for the 2020 UN climate summit in Glasgow to be pushed back till November 2021, with lockdown measures making an international conference this year not possible. Christiana

Figueres, the UN climate chief, stated: *“Emissions must peak this year if we want to limit warming to 1.5C and the Paris agreement set the Cop26 summit as the moment when all countries would ramp up their targets in line with the steep emissions decline we need to see in this decisive next decade.”*

- Fracking was effectively banned in the UK following a government moratorium in November 2019. Environmental protesters and legal challenges had made defending the practice very difficult in the run-up to this; the High Court had ruled in March that then-current guidelines surrounding fracking were unlawful because they ran contrary to scientific evidence.
- Nuclear energy also remains a hot topic. The development of a nuclear power plant at Hinkley Point in Somerset has been marred with delays and increasing cost estimates, with one estimating the project will cost consumers £50 billion, but involved parties remain confident it will go ahead. Other planned sites in the UK have been cancelled after the withdrawal of Japanese investor Hitachi. Law firms are currently helping companies to negotiate the minefield of regulations as they prepare applications for nuclear development opportunities.
- A no-deal Brexit will inevitably result in a loss of influence over EU environmental policy for the UK, but the potential domestic effect is more difficult to gauge. EU member states have historically been more willing to tackle environmental issues collectively, due to the reduced risk of businesses being undercut by competition from fellow European states. Leaving could therefore reduce the incentives for the UK to maintain its current level of environmental regulation – especially in the event of any economic downturn – though this in turn is likely to depend on the trade deal the UK strikes with the EU.
- A coalition of leading UK and international campaign groups (including Greenpeace, WWF and the National Trust) constructed a manifesto demanding that the government continues to cooperate with the EU on energy and climate change, while also introducing policies and investment to create new farming and fishing industries. Some 194 MPs from across the UK’s political parties have pledged their support.
- If there’s a positive to take from the Covid-19 pandemic, it’s the limitations that lockdown has placed on travel and consumption; the UK has seen a dramatic drop in greenhouse gases and air pollutants during the lockdown. Covid-19 has caused a drop of 1,048 million tonnes of CO₂ in just the first four months of 2020. The International Energy Agency (IEA) report that globally, humans will use 6% less energy this year – the equivalent to the entire energy demand of India. On the flip side, some scientists describe the lasting effects of the lockdown on climate change as minimal – the real impact of the coronavirus crisis on climate, some say, depends on government choices on the economy and how much they will continue to use fossil fuels.
- In June 2020 Denmark passed one of the strongest laws surrounding climate change as of yet. The new law could make climate change illegal; the law involves legally binding targets for the Danish government to meet. Denmark have agreed to reach 70% below its 1990 emissions in the next 11 years and aims for carbon neutrality by 2050.
- There has been talk of a new law to end deforestation in supply chains. The Global Resource Initiative submitted their recommendations to the UK government in March 2020; the new law would make it illegal for UK companies to create products from violating ecosystems and breaking local regulations around tree logging. Destruction of trees and land is currently responsible for 11% of global greenhouse gas emissions.
- Climate protests – Extinction Rebellion foremost among them – have drawn greater attention to environmental concerns, sometimes through potentially criminal acts. Just as legislation to counter climate change is likely to increase in the coming years, so too will laws surrounding how far members of the public can go to draw attention to the crisis.
- Keep on top of changes in environmental law using websites like www.endsreport.com. You can enhance your CV and prime yourself by joining organisations such as the Environmental Law Foundation (ELF) and the UK Environmental Law Association. The charity ELF provides a referral service for members of the public, organises lectures in London and produces regular newsletters for members.

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Allen & Overy
B P Collins
Baker McKenzie
Birketts
Bryan Cave Leighton
Paisner
Burgess Salmon
Clifford Chance

Clyde & Co
CMS
Dentons
DLA Piper
Eversheds Sutherland
Foot Anstey
Freshfields Bruckhaus
Deringer
Gowling WLG (UK)

Herbert Smith Freehills
Latham & Watkins
Leigh Day
Linklaters
Norton Rose Fulbright
Osborne Clarke
Pinsent Masons
Reed Smith

Squire Patton Boggs
Stevens & Bolton
TLT
Travers Smith
Womble Bond Dickinson UK

Family

In a nutshell

Lawyers are involved with almost every aspect of family life, from the legal mechanics and complications of marriage and civil partnerships to divorce, disputes between cohabitants, inheritance disputes between family members, prenuptial and cohabitation agreements, and all matters relating to children. Whether working in a general high-street practice with a large caseload of legally aided work, or for a specialist practice dealing with big-money divorces, complex child custody cases or international matters, family solicitors are in court a good deal and are fully occupied back in the office.

There is effectively a division between child law and matrimonial law, with many practitioners devoting themselves exclusively to one or the other; others plant a foot in each. Unfortunately, family law is an area that has been seriously affected by legal aid cuts.

What lawyers do

Matrimonial

- Interview and advise clients on prenuptial agreements, cohabitation arrangements, divorce and the financial implications of separation. This can involve issues like inheritance and wills, conveyancing, welfare benefits, company law, tax and trusts, pensions and even judicial review.
- Prepare the client's case for divorce and settlement hearings, including organising witnesses and providing summaries of assets/finances, which will require dealing with accountants and financial and pensions advisers.
- Attend conferences with barristers.
- Represent clients in hearings or brief barristers to do so.
- Negotiate settlements and associated financial terms.

Child law

- In private cases: interview and advise clients on the implications of divorce with regard to child custody and residence. In some instances this will result in court action. Deal with disputes between parents or other family members over care and contact with children.
- In public cases: represent local authorities, parents, children's guardians or children themselves on matters such as children's care proceedings or abuse in care claims. Social workers, probation officers, psychologists and medical professionals will also be involved in cases.

Realities of the job

- When it comes to relationships and families, no two sets of circumstances will ever be the same. You will encounter a real mix of clients: some at a joyful moment in their lives, others facing deeply traumatic times. A good family law practitioner combines the empathetic, sensitive qualities of a counsellor with the clarity of thought and commercial acumen of a lawyer. You need to remain detached and unflappable to achieve the results your clients need.
- Tough negotiating skills and a strong nerve are vital as your work has immediate and practical consequences. The prospect of telling a client that they've lost a custody battle does much to sharpen the mind.
- A pragmatic and real-world outlook is useful; however, you'll also need to spend time keeping abreast of legal developments.
- On publicly funded matters you'll face your share of bureaucracy, and it certainly won't make you rich.
- Matrimonial law is strongly affected by court decisions, which can sometimes take a surprising turn.
- The chances to do advocacy are more plentiful than in many areas of law.

Current issues

- Parting ways with your significant other may have just got a whole lot easier. Moving away from the requirement of proving one of five fault-based claims, the 'blame game' could come to an end following the introduction of the 2019 Divorce, Dissolution and Separation Bill. The new legislation, which gained Royal Assent in June 2020, legalised the concept of a 'no fault' divorce (likely to become possible in autumn 2021), introduced an option for a joint divorce petition, and allowed for a 26-week notice period in place of the current two or five-year separation. The government will also review the £550 court fee for the divorce application with the implementation of an online divorce system, cutting the cost of administration for the courts.
- People can now apply for divorce and probate online, which is said to have made the process more efficient and decreased the number of errors. The average time it takes for a digital divorce application is just over 20 weeks, but paper-based or 'traditional' applications take nearly 67 weeks according to law firm Boodle Hatfield. Government statistics indicate that about 40% of divorces applications were made digitally.
- The jury's out on the effect of Covid-19 and the subsequent lockdown on divorce rates in the UK. Co-op Legal Services saw a 42% increase in divorce queries between March and May compared to 2019; on the other hand, a YouGov poll that asked over 1,000 UK divorcees

whether they would go ahead with a divorce during the pandemic found that 28% of respondents would probably refrain from doing so.

- According to the Office for National Statistics, the divorce rate among opposite-sex couples fell to its lowest rate in 46 years in 2018 – a decrease of more than 10% compared with the previous year. The drop is even more dramatic when you consider a backlog in processing divorces accounts for a chunk of the 2018 figures. Divorcing couples had been married for an average 12 and a half years when they finalised their separation; the most commonly cited ground was ‘unreasonable behaviour’.
- Dating apps are of course all the rage, but there’s now also a divorce app operating in the UK. Amicable, which launched in 2016, was created by family counsellor Kate Daly and IT consultant Pip Wilson; it’s not intended to replace the services of divorce lawyers, but to help separating couples manage childcare and other priorities.
- In 2018, the Supreme Court ruled that civil partnerships between heterosexual couples were legal, meaning the option is now available to all couples.
- A High Court judge had previously ruled that Islamic marriages can be recognised as a marriage within English law in a case where Nasreen Akhter, a solicitor, petitioned for divorce. This is something that was previously an issue for the large proportion of Muslim women whose marriages were ‘nikah-only’ rather than being recognised by a civil ceremony. In 2020, however, the Appeals Court ruled that such ceremonies were *not* valid legal arrangements in the UK, overturning the previous decision. Lawyers have predicted that legislation to address this issue is likely to follow.
- The ‘call for evidence’ project, initiated by the government in the summer of 2019, established an expert panel to gather evidence from individuals and organisations on their experiences of how the family courts protect them and their children in private family law proceedings. The evidence gathering spanned three months, concluding on 26 August. As well as shining a spotlight on child safety, health and wellbeing in the current system, the project will consider the impact of continued contact with historically abusive parents.
- The number of teenagers in care has risen by 25% in four years, according to the latest Stability Index. The increase, driven by a growing number of teenagers (with more complex and expensive needs) in the system is threatening its overall stability. Issues that are most commonly flagged up by social workers include child sexual exploitation (now six times more likely than five years ago) and trafficking (a staggering 12 times more likely) as well as drug misuse, involvement in gangs and going missing from home. Findings within the Stability Index report show that, over a three-year period, more than half of children in care moved home once or more and one in ten moved four or more times, reflecting the instability inherent to the lives of children in the care system.
- Family law no longer qualifies for legal aid, except in cases involving domestic violence or child abuse. Family law organisation Resolution points to two marked trends since 2012’s Legal Aid, Sentencing and Punishment of Offenders Act: there has been a decrease in the number of agreements reached after mediation, and a significant increase in the number of litigants without representation. Resolution has been pushing for the planned review of legal aid to take place, but the Justice Minister decided to postpone the review in March 2018. Following the Covid-19 pandemic, the MOJ announced it was investing £3 million in support of people representing themselves in court, including in family courts.

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Ashfords	Burges Salmon	Kingsley Napley	TLT
B P Collins	Charles Russell Speechlys	Michelmores	Ward Hadaway
BDB Pitmans	Collyer Bristow	Mills & Reeve	Wedlake Bell
Birketts	Cripps Pemberton Greenish	Mishcon de Reya	Withers
Blaser Mills Law	Farrer & Co	Russell-Cooke	
Boodle Hatfield	Harbottle & Lewis	Stevens & Bolton	
Brabners	Irwin Mitchell	Taylor Vinters	

Government and public policy

In a nutshell

Centred on the Administrative Court, public law relates to the principles governing the exercise of power by public bodies. Those which most often appear as respondents in the High Court include government departments, local authorities, the prison service and NHS trusts. Often the headline cases are challenges to central government policies like terror suspect control orders, the extradition of failed asylum seekers, secret courts and the giving of evidence anonymously. Lawyers specialise in statutory appeals, regulatory disputes and freedom of information issues.

The most important process in public practice is judicial review: the Administrative Court may order that any decision made unlawfully be overturned or reconsidered. Decisions are often reviewed on the basis of the Human Rights Act 1998. Other big-ticket work comes from public inquiries: the Independent Inquiry into Child Sexual Abuse and the Grenfell Tower Inquiry are two ongoing examples. However, for every (in)famous case reported in the media, there are hundreds relating to daily decisions taken by public bodies on immigration, welfare, planning and school places.

Some firms also involve themselves on the policy side of issues. At top firms, teams may consist of lawyers who are experts in the above, as well as some people who aren't lawyers by profession. *"They have worked within the civil service and understand how machinery of government works in practice as opposed to simply in theory."* Hogan Lovells regulatory lawyer Charles Brasted explains. *"It's marrying those two things together that makes the most effective teams."*

What lawyers do

- *"We help the government make better decisions by sharing the knowledge of our clients who are absolute experts in their fields. That could mean anything from post-Brexit trade negotiations to the future of digitalisation."*
- Bring and advise on judicial review claims.
- Inform government decisions, drawing on the knowledge of firm clients: *"It could cover anything from post-Brexit trade negotiations to the future of digitalisation."*
- Analyse select committee hearings for issues relevant to clients.
- Research what parliament or specific MPs have said on an issue.
- Examine complex legislation surrounding the legislation of a particular sector.

- As associates become more senior, the role becomes more about the advocacy and long-term strategic thinking. *"You need to understand what the client wants to achieve and analyse that in the context of the current regulatory, policy and political environment, and then develop a solution that is commercially, legally and politically credible."*
- Being experts in a complex academic field, senior lawyers will often contribute to research journals and provide thought leadership.

Realities of the job

- A real interest in academic law is a prerequisite. Complex arguments are more common than precise answers, so public policy lawyers need a genuine interest in the legislative process and fundamental laws of the land.
- While legal intellect is vital, public law's real-world issues demand a practical outlook and an ability to stand back from the issue in question.
- Clients tend to be in innovative and disruptive sectors, such as tech and life sciences, where innovation outpaces regulatory responses.
- *"If you're doing a simple thing in a well-established way then there aren't going to be big policy questions you need to engage the government on,"* we heard. *"However, if you're doing something innovative that isn't contemplated by existing legislation, that is when you need to be able to engage effectively with government – to illustrate both the challenge and the potential win for government and business."*
- Brasted confirms *"it's a niche area and not easy to make a career in. It's also the sort of job where you're unlikely to switch off completely because there is always something whirring at the back of mind."*
- A sensitivity of audience and top-notch communication skills are absolutely essential. *"Sometimes our audience is a Supreme Court bench; sometimes it's a special advisor in DCMS; sometimes it's a group of backbench MPs. Your core pitch might be the same, but the way you articulate it can be very different. That comes with experience but it's also something you have to have innately."*

Current issues

- In one of the most well-publicised public law cases in recent memory, the Supreme Court determined that the government could not trigger Article 50 to withdraw from the EU without first passing an Act of Parliament. The case represented a major test of government prerogative and the role of Parliament in foreign affairs, and set an important precedent. Over 50 barristers were involved in the case.

- As the threat of a no-deal Brexit looms large, serious questions are being raised over the future of the union, particularly between the UK and Scottish governments.
- Brexit is likely to affect a host of public law fields including immigration, human rights, environment, planning and data protection. That said, while many existing rules emanate from the EU, a good chunk have been incorporated directly into UK law. The government has stated it intends to leave the jurisdiction of the European Court of Justice, so it can no longer hear English cases on appeal. The UK will remain part of the European Court of Human Rights in Strasbourg, however, as this is part of the Council of Europe not the EU.
- Following through on one of their 2019 manifesto promises, in July 2020 the government launched an independent panel to re-evaluate judicial reviews. Among various objectives, the review is specifically looking at whether the terms of judicial review should be written into law and whether certain executive decisions should be decided on by judges.
- An increasing number of government decisions are being automated, employing the use of algorithms to make decisions on things such as welfare and criminal justice. Most recently, the government's decision to use an algorithm to allocate A-level results attracted widespread criticism, prompting a U-turn.
- After being stripped of her citizenship by then Home Secretary Sajid Javid in 2019, the Supreme Court is set to rule on whether Shamima Begum should be allowed to return to the UK. Her case has become central to the question of how government deals with returning jihadists, and the concept of statelessness.
- Legal issues related to counterterrorism measures and data/surveillance have both been in the news. A case brought by Labour deputy leader Tom Watson established in early 2018 that the government's mass digital surveillance regime was unlawful, with judges ruling that the Data Retention and Investigatory Powers Act was 'inconsistent with EU law'. The appointment of Huawei to help build the UK's 5G mobile network provoked fresh concerns: the company's connections to the Chinese government led some to fear it could be involved in 'spying' and espionage, and the leaked plans led to the resignation of Gavin Williamson as defence secretary.
- The relationship between politics and social media remains cloudy. Vote Leave received a fine of £61,000 for breaking electoral spending laws; many have concerns over the organisation's links to the Cambridge Analytica scandal, which resulted in Facebook being fined \$5 billion as a penalty for not sufficiently ensuring users' privacy.

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Clifford Chance
CMS
Covington & Burling
DLA Piper
DWF
Eversheds Sutherland
Freshfields Bruckhaus
Deringer

Herbert Smith Freehills
Hodge Jones & Allen Solicitors Limited
Hogan Lovells
Irwin Mitchell
Kingsley Napley
Leigh Day
Mills & Reeve

Pinsent Masons
Trowers & Hamlins
Winckworth Sherwood
Womble Bond Dickinson UK

Human rights and immigration

In a nutshell

Human rights lawyers protest injustice and fight for principles at the point of intersection between the state's powers and individuals' rights. Cases usually relate in some way to the UK's ratification of the European Convention on Human Rights (ECHR) through the Human Rights Act and crop up in criminal and civil contexts, often through the medium of judicial review - a key tool in questioning the decisions of public bodies. Civil contexts include claims regarding the right to education or community care under the Mental Health Act, cases of discrimination at work and even family issues. Criminal contexts could relate to complaints against the police, prisoners' issues, public order convictions following demonstrations or perhaps extradition on terror charges.

Immigration lawyers deal with both business and personal immigration matters. The former is the more lucrative of the two areas, and sees lawyers assist highly skilled migrants in obtaining residency or leave to remain in the UK and helping non-nationals secure visas for travel abroad. Lawyers also work with companies that need to bring in employees from overseas. Personal immigration lawyers represent individuals who have fled persecution in their country of origin. They also take on cases for people whose right to stay in the UK is under threat or indeed entirely absent. All facets of immigration law are likely to see complex changes in the wake of the UK's decision to leave the EU.

What lawyers do

Business immigration lawyers

- Advise and assist businesses or their employees in relation to work permits and visas. Lawyers need to be up to speed on all current schemes, such as those for highly skilled migrants and investors.
- Prepare for, attend and advocate at tribunals or court hearings, where necessary instructing a barrister to do so.

Personal immigration lawyers

- Advise clients on their status and rights within the UK.
- Secure evidence of a client's identity, medical reports and witness statements, and prepare cases for court hearings or appeals. Represent clients or instruct a barrister to do so.
- Undertake an immense amount of unremunerated form filling and legal aid paperwork.

Realities of the job

- The competition for training contracts is huge. Voluntary work at a law centre or specialist voluntary organisation, or other relevant experience, is essential.
- A commitment to and belief in the values you're fighting for is essential in this relatively low-paid area. Work in the voluntary sector or taking on important cases pro bono can provide the greatest satisfaction.
- Because much of the work is publicly funded, firms do not usually offer attractive trainee salaries or sponsorship through law school.
- Sensitivity and empathy are absolutely essential because you'll often be dealing with highly emotional people, those with mental health issues or those who simply don't appreciate the full extent of their legal predicament.
- Strong analytical skills are required to pick out the legal issues you can change from the socio-economic ones beyond your control.
- In the battle against red tape and institutional indifference, organisational skills and a vast store of patience are valuable assets.
- Opportunities for advocacy are abundant, which means that knowledge of court and tribunal procedures is a fundamental requirement. Often cases must pass through every possible stage of appeal before referral to judicial review or the Supreme Court.
- If working within a commercial firm, the clients will be businesses and public sector organisations. As such there will be less of a campaigning element to the work and you will not necessarily feel you are 'on the side of the angels'.
- As should be obvious, this area can become heavily politicised, probably more than any other area at the moment. Lawyers should have a thick skin.

Current issues

- Human rights and immigration law could be one of the areas most affected by the UK's decision to leave the EU. There is an atmosphere of uncertainty as regards the future of the free movement of people between EU member states and the UK; controls on immigration from the EU are likely to be introduced. Employment law protections and free movement could be stripped from domestic legislation, although it remains to be seen what will be carried over as part of the country's future relationship with the bloc. Some have feared that British government talk of deregulation will weaken the rights of workers and immigrants to the UK.
- Brexit has generated serious concern among foreign nationals living in the UK about their ability to remain in the country long-term. In 2016 92,000 permanent resi-

dence applications were received, with a sharp spike recorded shortly after the June referendum. In a bid to stem the flood of applications, the Home Office asked prospective residency applicants to sign up for email alerts that would inform them if they needed to take action. The run-up to Britain's full withdrawal will probably see an increase in this trend, with British expatriates continuing to apply for permanent residency in their adopted nations.

- Controversy continues to emerge from the Windrush scandal, which erupted in 2018 after it emerged that more than 80 people (at least) were wrongly detained and threatened with deportation. The scandal led to the resignation of then-Home Secretary Amber Rudd and prompted more widespread concern about UK immigration authorities' practices.
- The Home Office Immigration Unit continues to draw criticism, with Priti Patel under fire for a more hardline approach to movement of people than previous Home Secretaries. The lack of diversity within the senior ranks of the Home Office not only risks a repeat of the Windrush scandal, but leaves the government open to criticism as it draws up post-Brexit criteria for immigration to the UK.
- It's unclear for now what effect the UK's new immigration rules will have on the numbers of migrants coming to the country. Government officials have signalled (directly or otherwise) an aim for numbers to come down, but plans in the early days of the post-2010 Conservative government for immigration in the 'tens of thousands' were officially axed by Boris Johnson in 2019. It's likely that immigration from outside the EU will make up a larger proportion of the total numbers than before Brexit, as a more 'level' playing field is introduced.
- As refugees and asylum seekers make their way to the UK, the Home Office has repeatedly promised resettlement as swiftly as possible. A recent case hit the headlines in which planned flights were cancelled due to concerns of the legality of the matter. The rushed affair brought to light figures that the Home Office has spent approximately £1 million deporting just 285 people, during the Covid-19 pandemic.
- Lockdown plans during the coronavirus crisis have in turn prompted questions of human rights. Concerns have been voiced from both sides of the political spectrum, with lawyers and commentators arguing that Covid-19 restrictions should not infringe unnecessarily on human rights or be imposed beyond a particular time period. Former Supreme Court justice Lord Sumption has been an especially vocal critic of lockdown measures and their infringement of civil liberties.
- The situation in Hong Kong has been another focal point in 2020. With China introducing new security laws that threaten the former British colony's special status, the UK government has responded with various proposals including Hong Kong residents ultimately becoming able to apply for British citizenship. This could affect up to 3 million people.
- The issue of human rights in the digital sphere continues to draw public attention, particularly with regard to the controversial Investigatory Powers Act. It requires telecoms providers to record users' data for twelve-month periods and allows government agencies – ranging from HM Revenue & Customs, the Competition and Markets Authority, the National Crime Agency and the Food Standards Agency – to access that information. After a 2018 ruling that the Act violates EU law, the government introduced The Data Retention and Acquisition Regulations 2018 to address the ruling: this tightened the requirements for accessing data, requiring suspicion of a serious crime.

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Bates Wells
Birketts

Hodge Jones & Allen
Solicitors Limited
Irwin Mitchell

Kingsley Napley
Leigh Day
Lewis Silkin

Mishcon de Reya
Squire Patton Boggs
Stevens & Bolton

Infrastructure and PPP

What are PPPs?

In simple terms, public-private partnerships, also known as P3s, are long-term cooperative agreements between the public and private sectors that are created to design, finance and operate large infrastructure projects. This compares to conventional procurement processes where private contractors might be involved in the building of an asset, but where the public sector provides the finance. The best known of these are PFIs (Private Finance Initiatives), which were popularised by the UK in the 90s. In this structure, the private party provides the upfront payment for a project through raising finance from debt and equity providers.

The government then reimburses them in annual payments over a long-term period, typically between 20 to 30 years. *“Having a government-backed income is attractive for investors,”* CMS infrastructure and projects partner Ailsa Ritchie explains. She adds that *“today many people use PPP and PFI interchangeably, but there a huge range of different models across the market. For example, a PPP can just be a partnership without a private finance element.”* In Scotland, NPDs (Non-Profit Distributing) were developed to replace the traditional PFI model. Similarly, Wales also has its own initiative: the Mutual Investment Model or MIM.

The arguments for and against

According to YouGov, PPPs have delivered £56 billion of private sector capital investment in over 700 UK infrastructure projects: *“These include new schools, hospitals, roads, housing, prisons, and military equipment and accommodation.”* PPPs have typically been viewed as an attractive option for governments reluctant to rely on public borrowing to fund infrastructure projects. Many also highlight the advantage they have in transferring risks away from government bodies, as well as being able to harness the skills and innovation offered by the private sector. While PPP projects have certainly helped deliver a range of infrastructure projects across the UK, they have also been a magnet for controversy, with many citing a poor return on investment and the risk of the public losing operational control. Though quantifying the exact economic benefits of using PFI can be difficult, one report by the House of Commons Committee of Public Accounts found that ‘the cost of private sector borrowing can be as much as 2% to 3.75% more expensive than the cost of government borrowing.’

One project that attracted significant criticism revolved around plans to upgrade large parts of the London Un-

derground Network in the late 90s. Eschewing calls for further privatisation to deliver the upgrades, the incumbent Labour government initiated a PPP to modernise the network, which included the refurbishment of over 30 stations and additional track works on the Victoria and Northern lines. Although the project delivered some successes – 23 stations were modernised – ultimately TfL was forced to step in and take over the project due to escalating costs between 2003 and 2007, citing poor financial control by one of the project’s private contractors, Metronet. Estimates of the loss to the taxpayer have been put at between £170 and £410 million. *“It’s fair to say that PPP has had some bad press; PFIs in particular have fallen out of popularity in the last decade,”* Ritchie concedes.

More recently, the collapse of construction giant Carillion once again brought PFIs to the forefront of political debate. When it went into liquidation in January 2018, the firm had over 400 public sector contracts, many of which needed to be rescued at a cost of over £150 million to the taxpayer. Despite the bad press, a report by the National Auditing Office in 2018 pointed out that more than 700 PFI and PF2 deals are in operation today, totalling around £60 billion in value. 2016-17 alone saw £10.3 billion charged in these projects, and even if they were to cease today, future projects would run up to 2040 and require £199 billion of funding. Ailsa Ritchie questions how *“the prime-minister’s rhetoric to level up the country and ‘build build build,’”* will be reconciled with the reality *“that public coffers have been significantly diminished as a result of spending on the pandemic. If it means there is less capital for capital projects to be funded, will there be a move for revenue funded projects?”*

In the wider international arena, many organisations including UN agencies such as the United Nations Economic Commission for Europe are exploring the potential role PPPs could have helping lower-income countries develop their economies in a way that is compatible with the UN’s Sustainable Development Goals. Recognising the inadequacy of the traditional PPP model, ideas of ‘People-first Public-Private Partnerships’ are receiving attention. As well as aiming to promote social justice and platforming people’s wellbeing, these would be designed around the highest standards of environmental sustainability.

What lawyers do

Law firms typically represent private companies through a ‘special purpose vehicle’ (SPV) established to build, own and operate the end result of the project. The project company is a joint venture between various ‘spon-

sor' companies. An SPV could also be partly owned by a government body or banks. One report by the European Services Strategy Unit likened an SPV to "a spider sitting at the centre of a web of contracts. It is the body through which loans for the PFI project are raised and through which the service providers under the PFI contract are secured."

"In a typical PFI deal, you will be advising funders on the associated risks of the project," Ritchie tells us. "However, as a lawyer, your role in a typical deal can vary greatly depending on who you are representing. For example, you could be advising the public sector on the whole procurement process and helping them to appoint a private sector partner who, if their bid is successful, with design build and operate a particular facility or piece of infrastructure. If acting for the private sector, you will be supporting your client as they bid competitively to win the deal. If acting for the funders, you'll be advising on the associated risks of the project."

While trainees and junior associates will typically remain generalists, "the more you progress the more you will develop expertise in a particular sector," Ritchie explains. "In terms of PFI or PPP, that could be specialist knowledge in

transport – road or rail infrastructure, expertise in the health sector – building and operating hospitals, or other areas such as defence or waste. You end up having expert knowledge on the risks associated with that area."

Like corporate, it's a very transactional area of law. "However, unlike an M&A deal which might operate over short bursts of time, PFI/PPP deals typically operate over much longer time tables," Ritchie explains. She adds that "good team building skills are essential as you will be negotiating with a range of different parties over extended periods." There's also a huge amount of documentation involved so a "deep understanding of the key contracts and the relationship between documents is also key." For more information on Projects Law, please see our practice area overview page.

On chambersstudent.co.uk....

- We take an in-depth look at HS2, one of the most controversial infrastructure projects in recent years.

Read our True Pictures on...

Allen & Overy
Ashurst
Clifford Chance
CMS

Dentons
DLA Piper
Freshfields Bruckhaus
Deringer

Herbert Smith Freehills
Hogan Lovells
Latham & Watkins
Linklaters

Norton Rose Fulbright
Osborne Clarke
Pinsent Masons
White & Case

Insurance

In a nutshell

Insurance is the practice of hedging against financial risk; the practice and its fallout require a lot of legal work. Insurance and reinsurance (even insurers are vulnerable to financial risk and they transfer part of their risk on to reinsurers) are practised by a significant number of specialist law firms and general commercial outfits across the UK. Insurance can be split into many sub-specialisms (see below), and firms may offer all or some of these services. Personal injury and clinical negligence (including public liability, employers' liability, accident-at-work claims, etc) are also insurance-related practice areas. Maritime insurance was the first type to exist: read our practice area overview on shipping law for more.

It's possible to insure pretty much anything against almost any eventuality. Put differently, insurance is taken out to cover risks including human error, accidents and natural disasters. The most common types of insurance which lawyers deal with are: insurance against the destruction of tangible assets (eg property); insurance against the loss of intangible assets (eg revenue streams); and insurance against mistakes made by professionals (professional indemnity – the insurance-related bit of professional negligence). Insurance lawyers work on cases related to property damage, product liability, fraud, insolvency, directors' liabilities (D&O), aviation, business interruption, mortgage losses, political events, technology, energy, environment, construction, finance... the list goes on. Disputes arise between the insured policyholder and the insurer; between the insured plus the insurer and another party; or between the insurer and the reinsurer.

Some lawyers specialise in the transactional aspects of the insurance industry, advising on tax, regulations, restructurings, drafting insurance policies, and M&A activity between insurance companies.

What lawyers do

Professional indemnity

- Represent professionals accused of malpractice and their insurers. The professions most often affected include engineers, architects, surveyors, accountants, brokers, financial advisers and solicitors as well as GPs, dentists, surgeons, etc.
- Investigate a claim, assess its authenticity and look into the coverage of a given insurance policy to determine an insurer's degree of liability.
- Take advice from experts on professional conduct.
- Draft letters in response to claims.

- Prepare documents for court or out-of-court settlements.
- Attend pre-trial hearings, case management conferences and trials if a case goes to court.
- Attend joint-settlement meetings, arbitrations or mediations in out-of-court cases.

Commercial insurance disputes

- Work on claims related to things as varied as properties damaged by flood or fires, oil rigs destroyed by hurricanes, or gold mines nationalised by socialist governments.
- Work on disputes between insurers and the insured over insurance payouts and what insurance coverage consists of, or act for the insurer and the insured together in litigation with a third party.
- Assess coverage and the insurer's liability.
- Interview witnesses to find out how events occurred.
- Value the claim and build up the case for what the client feels is an adequate settlement.
- Attend court or mediations/arbitrations in order to come to a settlement.

Transactions

- Broadly similar to the work of a general transactional lawyer. There are extra rules and regulations governing insurance transactions which lawyers need to take into account.

Realities of the job

- While several legal practice areas fall under the insurance umbrella, the insurance industry itself is a distinct, single block within the City and the UK as a whole. There are a few big well-known insurance companies out there, but over 400 are registered with the famous insurance market Lloyd's of London.
- London is the global centre for insurance and reinsurance and has been ever since Lloyd's of London was founded over 300 years ago. The industry is extremely well established and has its own rules, traditions and obscure terminology. Businesses based overseas will often be insured with a London firm, and the biggest disputes often have an international angle to them.
- The insurance industry has a reputation for being a bit dull; however, the legal side kicks in when calamities occur, making it quite eventful, as any 'wet' shipping lawyer will tell you. It is also home to plenty of colourful characters, and big companies organise many events, lectures and conferences for like-minded insurance-ophiles to rub shoulders.
- Insurance is a complex and technical area and insurance policies are not the lightest reading material

you'll ever come across. Stints in insurance seats are challenging for trainees, even those who have taken an insurance law elective on the LPC.

- Insurance lawyers are known for their precise and fastidious working style. Good organisational skills are crucial, because lawyers are often dealing with a host of claims at various different stages. There are often daily deadlines and clients need to be kept constantly informed.
- Lawyers have to pay special attention to potentially fraudulent claims or parts of claims.
- Insurance cases range from huge international disputes to small local squabbles. Trainees might run a small case themselves, but only work on a component of a large high-value dispute. Lower-value work is usually done by small or mid-sized regional and national firms, while the largest disputes are the preserve of City outfits.
- Many firms regularly act for both insurance companies and insured policyholders. There is a trend towards firms specialising in either policyholder or insurer work.
- The insurance industry is regulated by the Financial Conduct Authority.

Current issues

- Many consumers have been left in indefinite uncertainty regarding their travel insurance. With destinations being taken on and off the quarantine list unpredictably, consumers and insurers alike are finding claims difficult to make or assess.
- Care homes have seen their insurance premiums rise dramatically, sometimes almost tenfold, in light of the Covid-19 crisis, with many fearing the increase could put them out of business. Care England has called on the UK government to step in and help out, but no scheme had been announced by the time we went to press.
- The unprecedented number of unfortunate excess deaths in such a short space of time has led to a massive rise in life insurance payouts, with £90 million being paid from 1 March to 31 May 2020 alone.
- To combat lockdown and social distancing measures, many establishments and eateries have changed their layouts and business plans to adapt to the current climate. Similarly, many food manufacturers have turned their hand to helping out for the greater good, such as BrewDog using its factories to produce hand sanitiser in April 2020. However, companies could find themselves in breach of their insurance policies if they stray too far from the path, making it difficult for them to get cover or payouts in the future.
- Though Covid-19 initially seemed to be a nightmare for the insurance industry, investors have predicted there are long-term gains to be made by insurers. Reinsurance broker Willis Re estimated a total of \$13 billion was invested into insurance companies in the first six months or so of the pandemic. The thinking behind this? Covid-19 can be used as justification for hiking up new policy prices, swelling insurance company profits once the virus begins to come under control and payouts decrease.
- New risks to insure against are surfacing all the time: lately, insuring companies against cyber attacks has gathered steam. However, this type of insurance sometimes doesn't protect against some of the worst effects of data breaches and hacking efforts: declines in share price; regulatory compliance problems; and the company in question getting a sticky bad rep.
- In 2019, the UK government shook up what the insurer's role is in paying out after an accident. Good news for laypeople – the lump sum payouts are now higher. However, it's bad news for insurers, who are now forced to give out much larger amounts of money – many have speculated that their premiums will rise as a result. This will also affect personal injury, clinical negligence, employment and many other areas of law in which companies are liable for accidents.
- Technology is affecting the way that insurance is bought and sold. Digital servicing has increased the demand by customers for immediate servicing of their needs, with young people in particular expecting instantaneous communication from insurers when they're making a claim.
- Telematics is a growing area in car insurance. A device in a car can track the driver's behaviour and send that info to the insurance company, which will charge premiums accordingly based on that driver's risk of accident. Many leading auto insurers in the UK are now using 'black box' technologies, including Admiral, Hastings Direct, Direct Line, Co-op, Tesco and the RAC. Some research has found telematics has also been part of a decline in RTAs for those using it – also good news for insurers.
- The insurance market is also being reshaped by new players – in 2017 Amazon launched its 'Protect' insurance offering to safeguard customers against issues arising from the purchases they make on the site. Previously a smaller presence in the UK, Allianz recently completed two acquisitions that has catapulted it into being one of the market's biggest players: they gobbled up Legal & General's insurance branch and over 50% of LV's insurance practice too.
- The scandal of mis-sold payment protection insurance (PPI) has dragged on for years and continues to generate headlines; the industry has already shelled out £40 billion in compensation. Some claims date back to the 1980s, making compound interest a significant factor. August 2019 saw the supposed final day people could no longer make any claims – though in 2020, new court rulings have opened the door for even more new claims.
- The increase in celebrity scandal in recent years has led to a rise in celebrity 'disgrace' insurance, giving

companies a payout when their beloved stars get cancelled. The payouts could cover re-creating materials the celebrity appears in and reimbursing the cost of the celebrity's contract.

Read our True Pictures on...

Addleshaw Goddard	Cooley	HFW	Reed Smith
Allen & Overy	Covington & Burling	Hogan Lovells	RPC
Ashurst	Debevoise & Plimpton	K&L Gates	Sidley Austin
BLM	DLA Piper	Kennedys	Simmons & Simmons
Bryan Cave Leighton Paisner	DWF	Linklaters	Skadden, Arps, Slate, Meagher & Flom (UK)
Clifford Chance	Eversheds Sutherland	Mayer Brown International	Slaughter and May
Clyde & Co	Freshfields Bruckhaus Deringer	Mishcon de Reya	Stephenson Harwood
CMS	Herbert Smith Freehills	Norton Rose Fulbright	
		Pinsent Masons	

Intellectual property

Intellectual property

In a nutshell

Copyright lawyers, patent attorneys and trade mark attorneys work to protect their clients' intellectual property assets. Technical solutions to technical problems are deemed to be inventions, usually protectable via **patents** that provide their proprietor with the exclusive right to stop others working in the claimed area for a period of usually up to 20 years. Preparing a patent specification is a highly specialised task requiring particular scientific/technical expertise and knowledge combined with an understanding of the complex application procedures.

Trade marks used to sell goods or services are protectable by way of a registration procedure and provide a potentially perpetual monopoly right. The aesthetic shape and way a product is designed is also protectable via registered design protection for a limited period of time. Unregistered rights also exist for a time for various designs of products. **Copyright**, on the other hand, lasts during the lifetime of the creator and for a period after their death, and arises automatically on the creation of such products as music, artwork, works of literature or reference, databases, and web pages.

A single product (e.g. a mobile phone) will be protected by several different forms of IP in countries all around the world. For would-be competitors wanting to make or sell something similar, a first costly hurdle is simply finding out what these rights are and who owns them. In the worst-case scenario, getting it wrong or overlooking an IP right might result in being on the wrong end of a court injunction or costly damages (fearsomely so in the US), and ignorance is no defence! The work of an IP lawyer is not only specialist in itself, but increasingly it requires close collaboration with other specialists in areas such as IT, media, competition, telecommunications, life sciences and employment.

What lawyers do

- Search domestic, European and international registers of patents, trade marks and registered designs to establish ownership of existing rights or the potential to register new rights.
- Take all steps to protect clients' interests by securing patents, trade marks and registered designs; appeal unfavourable decisions; attack decisions that benefit others but harm the lawyer's own client.
- Write letters to require that third parties desist from carrying out infringing activities or risk litigation for damages and an injunction.
- Issue court proceedings and prepare cases for trial by taking witness statements, examining scientific or technical reports and commissioning experiments and tests. Junior lawyers may find themselves conducting consumer surveys and going on covert shopping expeditions.
- Instruct and consult with barristers. Solicitor advocates can appear in the Intellectual Property Enterprise Court; the advantages of having a specialist IP barrister for higher court hearings are obvious.
- Draft commercial agreements between owners of IP rights and those who want to use the protected invention, design or artistic work. The most common documents will either transfer ownership or grant a licence for use.
- Work as part of a multidisciplinary team on corporate transactions, verifying ownership of IP rights and drafting documents enabling their transfer.

Realities of the job

- Lawyers must be able to handle everyone from company directors to inventors. Clients come from manufacturing, the hi-tech sector, engineering, pharmaceuticals, agrochemicals, universities and scientific institutions, media organisations and the arts.
- A degree in a relevant subject is common among patent lawyers. Brand and trade mark lawyers need a curiosity for all things creative and must keep up with consumer trends. Both need a good sense for commercial strategy.
- Attention to detail, precision and accuracy are all important. You must be meticulous, particularly when drafting, as correct wording is imperative. Every aspect has a time limit. In trade mark, design filings and prosecution, you will live by deadlines.
- In patent filing, procurement and strategy, you'll need to work seamlessly with a patent attorney. There are hardly any solicitors who are also patent attorneys (and vice versa).
- The volume of information and paperwork involved can be huge on patent matters, though on the plus side you could get the opportunity to visit research labs or factories to learn about production processes etc.
- The stakes can be high. Commercial research and development in the pharmaceutical sector is motivated by profit, not philanthropy. The investment involved will have been colossal, and even a day's loss of sales can be eye-watering. Success or failure in litigation can dramatically affect a company's share price.
- Manufacturing, pharmaceutical and research companies usually employ patent specialists and there tend to be in-house legal teams at all the larger companies.

In the media, major publishers and television companies employ in-house IP lawyers.

Current Issues

- During a recession, research and development budgets are slashed as companies hunker down and take their eyes off their ambitions. This means fewer products will need patenting, licensing and copyrighting. However, the tech sector is looking resilient during this recession; if anything the pandemic has been something of a heyday for the tech sector. And the pandemic has naturally generated life sciences patenting work.
- Post Brexit, the UK is required to follow EU IP regulations until the transition period ends at the end of 2020. IP protections will remain for both regions irrespective of whether or not the UK is able to make a deal with the EU. The UK Intellectual Property Office (UKIPO) plans to clone existing EU trade marks that are held by British inventors. Applicants are being encouraged to send matching requests to both the UKIPO and the European Union Intellectual Property Office.
- In July 2019, the UK Intellectual Property Office approved a multimedia trade mark for the first time in its history. Toshiba registered the 'motion mark', which shows origami-style polygons appearing and disappearing around its logo. The UK updated trade mark legislation in 2020 to include moving images, holograms and sound.
- The Digital Economy Act increased the maximum sentence for copyright infringement from two to ten years in prison. Enforcement so far seems to be more targeted at copyright infringement for commercial purposes rather than personal use.
- According to the World Intellectual Property Organization (WIPO), at the end of 2018 China had filed the most patent applications of any country: the circa 1.5 million applications it filed accounted for more than half of all filings.
- Intellectual property disputes don't only concern commercial businesses. In 2012, the Welsh Government became embroiled in a copyright clash over two pictures of the poet Dylan Thomas that were used in Visit Wales promotions, which a former BBC journalist claims copyright ownership of. With the case ongoing, the government has been criticised by Plaid Cymru for spending more than £700,000 of public money in legal fees so far.
- The Court of Justice of the European Union (CJEU) recently ruled against Nestlé's bid to register its four-finger KitKat as a trade mark after an objection by Cadbury, which raised interesting questions in the IP circuit about whether a product's shape alone could distinguish it enough to justify a trade mark.

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Addleshaw Goddard
 Allen & Overy
 Arnold & Porter
 Ashfords
 Baker McKenzie
 Bird & Bird
 Brabners
 Bristows
 Burges Salmon
 Charles Russell Speechlys
 CMS

Dentons
 DLA Piper
 DWF
 Eversheds Sutherland
 Freshfields Bruckhaus
 Deringer
 Gateley Legal
 Gowling WLG (UK)
 Harbottle & Lewis
 Herbert Smith Freehills
 Hewitsons

Hogan Lovells
 Lewis Silkin
 Linklaters
 Mills & Reeve
 Mishcon de Reya
 Muckle
 Norton Rose Fulbright
 Osborne Clarke
 Pinsent Masons
 Reed Smith
 RPC

Simmons & Simmons
 Slaughter and May
 Stephenson Harwood
 Stevens & Bolton
 Taylor Vinters
 Taylor Wessing
 TLT
 Ward Hadaway
 Wedlake Bell
 Wiggin
 Womble Bond Dickinson UK

Litigation

In a nutshell

Litigation solicitors assist clients in resolving civil disputes. Disputes can concern anything from unpaid bills or unfulfilled contract terms to problems between landlords and tenants, infringement of IP rights, construction-related claims, the liabilities of insurers, shipping cases, defective products, media and entertainment industry wrangles... the list is endless. And that's just in the commercial sphere. The most common types of litigation involving private individuals are discussed at length in our personal injury overview.

If disputes are not settled by negotiation, they will be concluded either by court litigation or by an alternative form of dispute resolution. The most common other methods are arbitration and mediation. The former is often stipulated as the preferred method in commercial contracts, and is essentially a private court, while the latter is generally achieved through structured negotiations between the parties, overseen by an independent mediator. These methods can still be problematic: arbitration is almost as expensive as litigating, mediation is not necessarily adequate for complex matters, and some argue that opponents can use alternative dispute resolution as a means of 'bleeding' money from each other or as covert interrogation.

Confusingly, there are two divisions of the High Court dealing with civil cases – the Chancery Division and the Queen's Bench Division (QBD) – and each hears different types of cases. For instance, the Chancery Division handles matters relating to trusts, probate, insolvency, business and land law, while the QBD hears various contract law and personal injury/general negligence cases.

What lawyers do

- Advise claimants on whether they have a valid claim, and defendants on whether to settle or fight a claim made against them.
- Gather evidence and witnesses to support the client's position; develop case strategies.
- Issue court proceedings or embark on a process of alternative dispute resolution if correspondence with the opposition does not produce a satisfactory result.
- Represent clients at pre-trial hearings and case management conferences.
- Attend conferences with barristers and brief them to conduct advocacy in hearings, trials and arbitrations.
- Attend trials, arbitrations and mediations with clients; provide assistance to barristers.

Realities of the job

- Work is driven by procedural rules and the timetable of the courts. Good litigators understand how best to manoeuvre within the system while also developing winning case strategies.
- The phenomenal amount of paperwork generated means that young litigators spend much of their time sifting through documents, scheduling and copying them in order to provide the court and all other parties with an agreed bundle of evidence.
- Litigators need to express themselves succinctly and precisely.
- Unless the claim value is small, the solicitor's job is more about case preparation than court performance. Solicitor advocates are gaining ground, and once properly qualified they can appear in the higher courts. Nonetheless, barristers still dominate court advocacy and the performance of some solicitor advocates has been criticised by the judiciary.
- Trainee workloads largely depend on the type of firm and the type of clients represented. Big City firms won't give trainees free rein on huge international banking disputes – they might not even go to court during their training contract – but they will be able to offer a small contribution to headline-making cases. Firms handling much smaller claims will often expect trainees to deal with all aspects of a case, from drafting correspondence and interim court applications to meetings with clients and settlement negotiations.
- There are a number of litigation-led law firms that handle cases of all sizes, and these present the best opportunities for a litigation-heavy training contract. The competition for litigation jobs at NQ level is fierce, so concentrate on litigation-led firms if you are certain of your leanings.
- The Solicitors Regulation Authority (SRA) requires all trainee solicitors to gain some experience working on disputes. People tend to learn early on whether they are suited to this kind of work. At big City firms, the SRA's Practice Skills Standards can be fulfilled by a litigation crash course. Experience in specialised areas, like real estate litigation and employment, can also satisfy the requirement.
- Despite a few firms starting up in-house advocacy units, the courts remain dominated by barristers, who are felt to have the edge when it comes to the skills and expertise needed to advocate. If you are determined to become both a solicitor and an advocate, certain areas of practice have more scope for advocacy – for example, family, crime, employment and lower-value civil litigation.

Current issues

- Many businesses have turned to law firms for advice as the effects of the pandemic – supply chain disruption, weaker cashflow increasing creditor risk – have left many unable to fulfil the obligations laid out in their contracts. This includes renegotiating contracts and invoking any ‘force majeure’ clauses. A major question increasingly being asked is whether the outbreak or its consequences amount to a force majeure event, that is, an unforeseeable circumstance that prevents someone from fulfilling a contract.
- Litigation on both sides of the Atlantic is increasing as asset values drop and cashflow is put at risk. Research from Freshfields has shown that sectors with the largest decline in market capitalisation include commercial aerospace, air and travel, oil and gas, banks, insurance, and automotive assembly.
- Practitioners operating in the litigation and dispute resolution sector can expect to see some fairly significant changes to the constitutional landscape in the wake of the EU referendum. Wholly domestic court processes are unlikely to be affected, but litigation and other forms of dispute resolution with cross-border facets are directly affected by the EU legal framework. If, post-Brexit, the UK’s legislation were to conflict with that of the EU, there would be a marked drop in efficiency, parallel proceedings might produce conflicting judgments, and the enforcement of decisions could also prove problematic. Litigators may also decide that the risk of pursuing cross-border disputes with EU counterparties is commercially unjustifiable.
- London has long been a popular forum for international litigation and arbitration, but in recent years a number of other financial centres, including Singapore, Dubai and Qatar, have been setting up English-speaking commercial courts staffed by British and international judges in an effort to challenge London’s dominance. London’s reputation as a hub of sophisticated financial markets and legal systems might be at risk if the conclusion of the Brexit process sees Europe’s financial centre migrate towards the continent, taking its disputes and the legal services with it.
- The threat to London grew after Singapore announced its UN-backed mediation convention in 2019. Signed by 46 countries including China, the US, India and South Korea, the proposals provide for enforcement of mediated agreements across borders and currently exclude the EU and UK.
- Artificial intelligence is shaking up various legal practice areas, not least litigation. According to a Consilio survey, legal professionals predict that litigation analysis will be the second most heavily impacted legal task affected by AI after e-discovery. The key drivers for AI in UK litigation are managing data and litigation costs, the challenge of doing more higher-risk work with less resources, and judicial support for predictive coding and other tech measures. The key uses of AI in UK litigation include disclosure document review, predicting judgments and analysing data. If you haven’t jumped on the tech bandwagon, now is as good a time as any.
- Cybersecurity is one of the fastest-growing sectors for litigation.
- Today’s corporations are much more mindful of their non-legal obligations and public perception than their predecessors. Future litigation is increasingly likely to take into consideration that a legal or fiscal win might not be viewed as a victory if it’s publicly deemed to be conducted in an ugly manner.
- The same research points out that while litigation born out of the 2008 crisis has centred on allegations of fraud, negligence and bad faith, litigation emerging from the pandemic will instead centre on issues of allocation and assumption of risk.
- Many anticipate a sharp rise in the number of class action filings in many countries around the world in the form of consumer claims, securities litigations, mass employment claims and insurance claims. In the UK, recent procedural and legislative changes have also made it easier to initiate class actions.
- The 2008 crisis showed that some instances of litigation born out of crisis can take years to resolve their many issues. For example, litigation revolving around the collapse of Lehman Brothers in 2008 is still continuing today.

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Addleshaw Goddard	Clifford Chance	HFW	Reed Smith
Akin Gump Strauss Hauer & Feld	Clyde & Co	Hogan Lovells	RPC
Allen & Overy	CMS	Howes Percival	Simmons & Simmons
Ashfords	Cripps Pemberton Greenish	Irwin Mitchell	Skadden, Arps, Slate, Meagher & Flom (UK)
Ashurst	Debevoise & Plimpton	Kingsley Napley	Slaughter and May
B P Collins	Dechert	Latham & Watkins	Squire Patton Boggs
Baker McKenzie	Dentons	Lewis Silkin	Stephenson Harwood
BDB Pitmans	DLA Piper	Linklaters	Stevens & Bolton
Birketts	DWF	Macfarlanes	Taylor Vinters
Brabners	Eversheds Sutherland	Mayer Brown International	TLT
Bryan Cave Leighton	Foot Anstey	Michelmores	Travers Smith
Paisner	Freshfields Bruckhaus	Mills & Reeve	Trowers & Hamlins
Burges Salmon	Deringer	Mishcon de Reya	Ward Hadaway
Charles Russell Speechlys	Gateley Legal	Muckle	White & Case
Cleary Gottlieb Steen & Hamilton	Gowling WLG (UK)	Norton Rose Fulbright	Womble Bond Dickinson UK
	Herbert Smith Freehills	Osborne Clarke	
	Hewitsons	Pinsent Masons	

Pensions

In a nutshell

Pensions law revolves around long-term management of large sums of money. Pensions lawyers advise on the creation, structuring and funding of pension schemes, their management and the resolving of any associated disputes. Often created under the form of a trust, pensions are highly regulated and governed by a vast amount of complex and ever-changing legislation. Solicitors typically advise employers, trustees of pension funds and pension providers.

There are several different types of pension scheme that individuals may buy into; broadly these can be divided into 'occupational pensions' and 'personal' or 'individual' pensions. All employers will soon be required to offer their employees membership of a pension scheme – roll-out of this system began in October 2012 with the biggest employers. An overwhelming majority of individuals who contribute to this form of retirement saving will be members of an employer-sponsored occupational pension scheme.

Most pensions are subject to specialist tax regimes, which makes them very attractive as long-term investments. Members are entitled to tax relief on contributions and a tax-free allowance applies to pension income. Solicitors structure pension funds to take maximum advantage of the tax regime and advise on compliance with the law and regulations in this area.

Pensions teams also work very closely with a firm's employment and corporate departments. Mergers and acquisitions of businesses may involve the movement of employees from one company to another, alongside the assets of the target company. This change of ownership will have implications regarding who has responsibility for funding the pension schemes, and raise questions over which employees (old or new) can become members of a scheme and whether the target company's pension scheme will even continue to exist or if it will be merged into or amended to mirror that of the bidding company.

Pension funds need to be well funded, managed and invested for the money to grow enough to support the fund's members in their retirement. Pensioners are living longer than had been predicted or planned for, and some companies are struggling to find the resources to keep paying members' pensions for longer periods of retirement alongside funding the scheme for current employees. Such issues affect the public sector just as much as private enterprise – for example, Royal Mail was relieved of its £38 billion pension deficit by the government in

2012. Pensions lawyers help companies with restructuring and re-funding their pension schemes where there is such a shortfall and advise on the particular issues arising where companies collapse. Public sector occupational pensions are also subject to the will of the government, and lawyers have to be able to anticipate and negotiate amendments to schemes.

Most pension schemes are set up in the form of a trust and therefore strict rules apply to those in charge of administering the money. Trustees often seek legal advice on the discharge of their duties and litigation frequently occurs where they or other parties have failed to administer the funds diligently.

What lawyers do

- Draft documentation relating to the creation, amendment, closure or freezing (closing funds to new members) of pension funds.
- Advise employers on their obligations towards members and pension funds.
- Advise on who can become a member of a pension fund and when to pay out of a fund.
- Advise on restructuring or securing pension funds which are underfunded or in financial difficulties, including on issues associated with the Pension Protection Fund.
- Advise on regulatory and legislative compliance with tax regimes.
- Handle disputes and litigation related to pension schemes.
- Advise trustees of pension funds on their duties.
- Advise companies, pensions providers and trustees on their interactions with the Pensions Regulator, which regulates UK work-based pension schemes.
- Assist the corporate teams on M&A deals by undertaking due diligence on potential liabilities.
- Negotiate amendments to pension plans with clients.

Realities of the job

- If you're working to corporate deal timetables then the hours can be long.
- Pensions law is technical, highly regulated and often closely intertwined with tax law, which means a lot of time spent reading and interpreting complex statute books. A keen eye and ability to understand very technical information is essential.
- Pensions lawyers need to think long-term and anticipate what policy decisions and legislative proposals the government may make in the area.

- Contentious negotiations with employee/trade union representatives often arise over proposed amendments to employees' pension plans (especially in the public sector).
- Clients call every day for advice on small issues such as when to pay funds out of a pension scheme.
- Pensions lawyers need to be personable and able to explain complex law in layman's terms.

Current issues

- While a large amount of the UK's pensions legislation has its roots in the EU, the majority of this is written into UK law and will still apply post-Brexit. Broader economic developments as a result of Brexit are also likely to have an effect on pension legislation after the UK officially withdraws from the EU: if the market crashes, so do many people's pensions.
- The government is currently facing a huge deficit in pensions. Superfunds aren't regulated by the Prudential Regulation Authority but instead by The Pensions Regulator – this means they won't face solvency requirements at all. There's understandably much consternation over superfunds, both politically and financially, as the delay in reaping what you sow is very long.
- The compulsory retirement age of 65 has been abolished, and from 2019 the state pension age (SPA) will increase for both men and women to 66 by October 2020. The government is planning further increases, which will raise the SPA to 67 between 2026 and 2028 and then to 68 between 2037 and 2039. The SPA is going to be kept under review and could change again in future.
- The above ruling led to a class action court case brought by a group of public sector workers. The workers won the case that stated the changes to their pension schemes were classed as age discrimination. The ruling also found that this is in theory true for all public sector pension schemes, putting the government £4 billion out of pocket to cover the pensions.
- The equalisation of SPA came into force in November 2018, two years earlier than initially planned, and brings women's retirement age in line with men's. The move has drawn fierce criticism from several quarters because the change coincides with the SPA raise for both sexes, meaning women will see their pension age increase faster than that of their male peers. Many women affected by the change (it will predominantly hit those born between 1953 and 1955) have complained they were not properly informed of the accelerated timetable and will subsequently be left thousands of pounds worse off as a result. Despite protests, October 2019 saw a High Court ruling that it does not constitute discrimination.
- Pension liberation scams have become increasingly prevalent since the pension freedoms were introduced in April 2015. Scammers target individuals with offers of one-off investments, higher returns or the ability to access their pension pot before the age of 55. A report published by the University of Portsmouth in 2020 found that pension fraud scams cost pension schemes £6 billion a year on average.
- Gig economy workers such as Uber, Deliveroo and Hermes drivers have historically been considered self-employed and thus ineligible for company pension contributions, but this could change in the near future following a court ruling that Hermes couriers should be classified as workers rather than self-employed. Although, as of 2020, there was no word on their pension scheme, Hermes did pay its gig workers if they had to self-isolate, indicating a move to more robust employee benefits. Various businesses may need to start setting aside money for pensions if this trend continues.
- The Supreme Court ruling that heterosexual couples can form civil partnerships will have an impact on pensions going forward, as pension schemes provide survivor benefits to those who outlive their partners. Arranging this could be simpler in future for couples who live together but do not wish to marry.
- In 2018, the European Court of Justice determined that a trans woman should be able to access her state pension at age 60 despite not having annulled her marriage.
- A long-term effect of interest rates being kept low to stimulate the economy during the coronavirus crisis will be pensions being worth a lot less than people assume they'll be getting. This exacerbates the already difficult problem of the retirement savings gap, leaving people with less than they need to survive in old age.

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Linklaters
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Osborne Clarke
Pinsent Masons
Reed Smith
Simmons & Simmons

Slaughter and May
Squire Patton Boggs
Stephenson Harwood
TLT
Travers Smith
Womble Bond Dickinson UK

Personal injury

In a nutshell

Personal injury and clinical negligence lawyers resolve claims brought by people who have been injured, either as a result of an accident or through flawed medical treatment.

The claimant lawyer usually acts for one individual, but sometimes a claim may be brought by a group of people – this is a class action or multiparty claim. The defendant lawyer represents the party alleged to be responsible for the illness or injury.

In most PI cases the claim against the defendant will be taken over by the defendant's insurance company, which will then be the solicitor's client. Local authorities are common defendants in relation to slips and trips, while employers usually end up on the hook for accidents in the workplace. In a majority of clinical negligence cases, the defendant will be the NHS, although private medical practitioners and healthcare organisations are also sued.

What lawyers do

- Manage the progress of a case over a period of months, even years, following an established set of procedural rules.
- Attempt to settle the claim before trial or, if a case goes to trial, brief a barrister and shepherd the client through the proceedings.

Claimant solicitors

- Determine the veracity of their client's claim and establish what they have suffered, including income lost and expenses incurred. The value of the claim (so-called 'quantum') will be based on this.
- Examine medical records and piece together all the facts. Commission further medical reports.
- Issue court proceedings if the defendant doesn't make an acceptable offer of compensation.

Defendant solicitors

- Try to avoid liability for their client or resolve a claim for as little as possible.
- Put all aspects of the case to the test. Perhaps the victim of a road traffic accident (RTA) wasn't wearing a seatbelt? Perhaps the claimant has been malingering?

Realities of the job

- Personal injury work is driven by the procedural rules and timetables set out in the Civil Procedure rules, which are strictly enforced by the courts.

- There is a mountain of paperwork, including witness statements and bundles of evidence.
- Claimant lawyers have close contact with large numbers of individuals and need good people skills.
- Defendant lawyers need to build long-term relationships with insurance companies. Clin neg defendant lawyers need to be able to communicate well with medical professionals and health sector managers.
- PI lawyers have large caseloads, especially when dealing with lower-value claims.
- There is some scope for advocacy, although barristers are used for high-stakes or complicated hearings and trials. Solicitors appear at preliminary hearings and case management conferences.

Current issues

- In an attempt to limit fraudulent claims, the government will be cutting personal injury claim compensation from April 2021 onwards. The reform proposes fixed tariff compensation awards for soft-tissue injuries that take less than two years to heal, which is significantly less than current estimated average damages. For example, for injuries lasting 18 to 24 months, current estimated average damages are £4,750 – the proposed fixed tariff compensation award is £3,910.
- Claims under £5,000 for road traffic accidents or under £2,000 for other accidents will now be handled by the small claims court (which previously dealt with matters under £1,000). This means more serious injuries will now be handled in small claims court. It is important to note that solicitors can't recover legal costs from defendants in small claims court, which means these cases will no longer be cost-effective for law firms, making it more difficult to get legal representation.
- The Ministry of Justice proposed a new claims portal, to be developed by insurers, for claimants in low-value PI claims. This would run alongside an existing portal, currently accessible only by claimant lawyers. 'Official Injury Claim' – the portal – will be for those looking to make a personal injury claim of up to £5,000. The idea is to make the process simple and accessible, especially to those without legal help. Claimants, representatives and compensator organisations have been able to register with the site since January 2020; it's currently set to go ahead from April 2021.
- The Legal Aid, Sentencing and Punishment of Offenders Act of 2012 (also known as LASPO or the Jackson reforms) withdrew legal aid for most clinical negligence claims, placed a ban on referral fees in personal injury cases, and ruled that successful claimants can no longer recover success fees or after-the-event insurance premiums from the losing party. As a result,

the legal sector has become more competitive, with some 3,500 firms in 2016 competing for the same population of claims according to PwC, and larger PI firms have been diversifying into related areas like clinical negligence. Mergers have been the only option for some firms, further adding to the trend for consolidation in the legal market. Law firms are also investing more time and money in marketing strategies in order to target clients directly.

- The NHS paid out £2.36 billion in clinical negligence damages in 2018-19, an increase of almost 50% on the previous year. The NHS Confederation, a lobby group for the service, proposed measures including setting fixed recoverable legal costs for low-value cases of compensation up to £25,000 and a voluntary alternative compensation scheme for birth injury cases. In 2019-20, total payments decreased by 1.5% to £2.32 billion, despite the NHS actually receiving more new clinical negligence claims (a 9.4% increase from 2019 to 2020). The use of alternative dispute resolution such as mediation has also increased, a welcome development for many.
- The coronavirus pandemic prompted the creation of the Coronavirus (Covid-19) Personal Injury Protocol, which was launched in March 2020 and lasted until 30 June 2020. A total of 155 law firms and insurance companies signed up to it with the idea of mitigating the impact of Covid-19 on access to justice for injured claimants. Under the new protocol, organisations agreed to freeze all limitation dates in personal injury cases and implement a hotline which covers failure to comply with the freeze.
- NHS Resolution launched the Clinical Negligence Scheme for Coronavirus in order to support changes in provisions of care that arise from the Covid-19 pandemic. It is expected that claim numbers could increase again in the aftermath of coronavirus.
- 2020's lockdown period resulted in a dramatic decline in the number of personal injury claims being filed: the Compensation Recovery Unit recorded 94,733 claims in the second quarter of the year, a 35% decline compared to the same period in 2019.

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Private client and charities

In a nutshell

You have money. You need to know how best to control it, preserve it and pass it on: enter the private client lawyer. Solicitors advise individuals, families and trusts on wealth management. Some offer additional matrimonial and small-scale commercial assistance; others focus exclusively on highly specialised tax and trusts issues, or operate predominantly in wills and probate.

Charity lawyers advise on all aspects of the activities of non-profit organisations, including the defence of legacies bequeathed to a charity in a will. These specialists need exactly the same skills and knowledge as private client lawyers, but must also have the same kind of commercial knowledge as corporate lawyers.

What lawyers do

Private client lawyers

- Draft wills in consultation with clients and facilitate their implementation after death. Probate involves the appointment of an executor and the settling of an estate. Organising a house clearance or even a funeral is not outside the scope of a lawyer's duties.
- Advise clients on the most tax-efficient and appropriate structure for holding money and assets. Lawyers must ensure their clients understand the foreign law implications of trusts held in offshore jurisdictions.
- Advise overseas clients interested in investing in the UK and banks whose overseas clients have UK interests.
- Assist clients with the very specific licensing, sales arrangements and tax planning issues related to ownership of heritage chattels (individual items or collections of cultural value or significance).
- Bring or defend litigation in relation to disputed legacies.

Charities lawyers

- Advise charities on registration, reorganisation, regulatory compliance and the implications of new legislation.
- Offer specialist trusts and investment advice.
- Advise on quasi-corporate and mainstream commercial matters, negotiate and draft contracts for sponsorship and the development of trading subsidiaries, manage property issues and handle IP concerns.

Realities of the job

- An interest in other people's affairs is going to help. A capacity for empathy coupled with impartiality and absolute discretion are the hallmarks of a good private client lawyer. You'll need to be able to relate to and earn the trust of your many varied clients.
- Despite not being as chaotic as other fields, the technical demands of private client work can be exacting and an academic streak goes a long way.
- A great deal of private client work is tax-based, particularly involving income and estate tax. Specialists in this area also need their corporate tax knowledge to be up to scratch as it's not unusual for the families they work for to have multimillion-dollar businesses to their names.
- The stereotype of the typical 'country gent' client is far from accurate: lottery wins, personal injury payouts, property portfolios, massive City salaries and successful businesses all feed the demand for legal advice.
- If you are wavering between private clients and commercial clients, charities law might offer a good balance. Charities range from small voluntary organisations to large, global behemoths.
- Your charity clients may have more worthy goals than those of your friends working for big business, but they'll need advice on many of the same issues: from how to incorporate, to supply contracts, to the duties of management and trustees.
- Charities law still conjures up images of sleepy local fund-raising efforts or, alternatively, working on a trendy project for wealthy benefactors. The wide middle ground can incorporate working with a local authority, assisting a local library or school to establish an after-school homework programme, or rewriting the constitution of a 300-year-old church school to admit female pupils. Widespread international trust in English charity law means that you could also establish a study programme in Britain for a US university or negotiate the formation of a zebra conservation charity in Tanzania.

Current issues

- The Covid-19 pandemic prompted a general increase in will and power of attorney enquiries. Many firms have made increased use of phone calls and videoconferencing to cope with the rise in demand while maintaining safe practice. Mental assessments of clients whose capabilities are compromised are usually recorded in person by an adviser – in the wake of Covid-19, this became impossible. Where medical assessments are needed, some private medical practices are conducting doctor's reports over videoconferencing apps.

- Tax residencies have also been in the news, due to the current restrictions on travel. Civilians are having to spend additional time within a country they did not intend on staying in – possibly making them a tax-eligible resident. Chancellor Rishi Sunak wrote to the Treasury Select Committee on 20 April 2020 putting forward changes to the current legislation; the alterations would mean that days spent in the UK between 1 March and 1 June 2020 will not count towards the residency test.
- Since the UK voted to leave the EU there has been much speculation about the impact on the private client and charity sector. Some have suggested that the UK should become a tax haven to attract business post-Brexit (and a lot of wealthy individuals) – more likely is an eventual rise in income and inheritance tax, and certain tax-relief payments may be restricted.
- In 2018 legislation was passed which will force shell companies investing in UK property to list their beneficial owners from 2021. This is aimed at stopping criminality, but there's the possibility that certain publicity-shy clients will choose to invest their money by other means.
- HMRC has previously outlined its aim to process 100 prosecutions of wealthy individuals and corporations per year by 2020. Two years prior it brought just over 1,000 prosecutions against individuals alone, partly a result of the new software program 'Connect' to analyse data and spot suspicious behaviour, as well as heightened access to offshore accounts following the implementation of the Common Reporting Standard in 2018, which increases the use of data sharing between participating countries.
- Away from financial structuring, some private client lawyers are also in the business of reputation management, and the spectre of #MeToo has presented a new (and welcome) stick with which to beat those who abuse their wealth and power. Michael Cohen, Trump's former personal lawyer, may not be the best example of a loyal counsel, but his general troubleshooter role gives an idea of how a different breed of private client lawyers are called upon in times of need.
- In June 2018, the Solicitors Regulation Authority (SRA) reported that sexual harassment and misconduct claims against UK lawyers had increased by 58% since 2017. The International Bar Association (IBA) has in its own right stated that, worldwide, one-third of female lawyers have experienced sexual harassment. IBA president Horacio Bernardes Neto described the insidious problem being down to "*male-dominated leadership and an inherently hierarchical power structure, with lower-level employees largely dependent on superiors for advancement.*" Firms have stated they are taking the necessary steps to tackle harassment in the workplace, with the hashtag #ThatsNotCool encouraging staff to report offensive language and behaviour.
- The areas of charity and private wealth have long been intertwined – a huge amount of disputes concern sums of money left in wills to charities – but the super-rich are taking this to a new level. Bill Gates and his wife Melinda formed what is now the world's largest private charity – The Gates Foundation – and over the years have given away tens of billions of dollars. The multibillionaire is also, alongside investment guru Warren Buffett, a founder of the Giving Pledge, an initiative which aims to spur philanthropic-minded billionaires to part with half of their total wealth. You may also remember how, before the Cambridge Analytica scandal unfurled, Mark Zuckerberg and his wife Priscilla Chan made the quite extraordinary pledge to donate 99% of their Facebook shares.
- The rise of social enterprises (commercial organisations with social or charitable, rather than simply monetary, objectives) has blurred the lines between commercial and charities law. Many are structured as companies listed by guarantee, and don't have shareholders (which can make attracting investment difficult), but a range of legal structures exists for these enterprises to make use of, including charitable trusts, cooperatives and Community Interest Companies (profit-making enterprises that must reinvest their income for the benefit of social objectives).
- The Law Commission review on will making was initially launched in 2017. The Law Commission consulted on laws including the minimum age for making a will and whether it should be lowered from 18 to 16. Another proposal is enabling courts to dispense with current will formality requirements where it is clear what the deceased intended. Proposals aimed to take into account conditions such as dementia and new technologies.

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Taylor Wessing LLP

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Wilsons

Winckworth Sherwood

Withers

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Private equity and investment management

In a nutshell

Private equity and investment firms operate funds that pool the investments of anybody prepared to part with their money for a sustained period of time. Private equity firms use investors' cash (equity) in combination with money raised from banks (debt) to buy companies or other assets with the goal of selling them on at a profit. When the targeted company's assets are used as leverage and a significant amount of bank debt is employed, the transaction is known as a leveraged buyout (LBO).

Venture capital is a subset of private equity that sees investors put money into startup companies or small businesses in the hope they will be sold to a private equity firm or taken public. Although this typically entails high risk for the investor, it has the potential for above-average returns. This high risk is typically offset by investing smaller amounts over a shorter timespan.

Investment management is the professional management of various securities (shares, bonds, etc) and assets in order to meet specified investment goals. Investment management lawyers advise on the structuring, formation, taxation and regulation of all types of investment funds.

A **hedge fund** is a private, actively managed investment fund. It aims to provide returns to investors by investing in a diverse range of markets and financial products, regardless of whether markets are rising or falling. Using the derivatives market helps hedge funds achieve this.

A **mutual fund** is a collective investment vehicle that pools money from many investors to purchase securities. The term is most commonly applied to collective investments that are regulated and sold to the general public.

A **real estate investment fund/trust** is a publicly traded investment vehicle that uses investors' money to invest in properties and mortgages.

Both hedge funds and mutual funds generally operate as **open funds**. This means that investors may periodically make additions to, or withdrawals from, their stakes in the fund. An investor will generally purchase shares in the fund directly from the fund itself rather than from the existing shareholders. This contrasts with a **closed fund**, which typically issues all the shares it will issue at the outset, with such shares usually being tradable between investors thereafter.

What lawyers do

- Advise private equity firms on how to structure new funds.
- Help private equity firms negotiate the terms on which investors contribute their money.
- Act for private funds when they buy and sell investments.
- Assist clients throughout the fund-raising process. This includes the preparation of offer materials and partnership agreements, advising on and documenting management and compensation arrangements, and closing fund formation transactions.
- Conduct diligence and negotiate contracts.
- Draft the numerous organisational documents necessary to form an investment fund. The private placement memorandum is key – it's a prospectus detailing the terms of the investment, minimum investor requirements, risk factors, who the investment manager is, and the strategy to be employed by the fund. If the fund is a limited partnership, it will need a limited partnership agreement, and if it's a limited liability company, it will need an operating agreement, as well as an investor subscription agreement.
- Inform and advise clients on the constantly changing regulatory and compliance issues arising under UK and international securities and tax law.
- Provide day-to-day advice with respect to issues such as performance and advertising and brokerage and portfolio trading practices.

Realities of the job

- Small teams mean that trainees can get high levels of responsibility and client exposure rather than being stuck doing more mundane tasks. You can expect to be involved in drafting key documents and reviewing transfer agreements and to play a part in large-scale negotiations that could involve hundreds of parties at the same time.
- Structuring funds requires an intimate familiarity with the relevant securities and investment company rules. Understanding and being able to apply knowledge of key financial legislation is a vital skill.
- Setting up funds also requires a significant amount of tax and general finance industry knowledge. Funds lawyers often work in close collaboration with their tax and finance colleagues.
- Good people skills and a tough attitude are a must. Private equity lawyers work closely with clients to offer advice on a wide range of areas and need to be able to explain the constantly evolving private fund markets to them as well as understanding the time-sensitive nature of fund organisation. Fortunately, clients are en-

trepreneurial and tend to have a good understanding of the world of business, meaning they can pick up on issues quickly.

Current issues

- Following the economic fallout from the Covid-19 pandemic, private equity houses will need to make provisions. PwC noted that they and the companies they back will need to understand available sources of liquidity, and whether a sponsor can be the provider of liquidity. Commentators suggest that funding is likely to be directed towards infrastructure and technology companies.
- The 2020 lockdown slowed down transactional markets of all kinds, and private equity was no exception. City AM recorded investments in the UK falling by 17% in the first half of 2020, with a 27% decline compared to the same period in 2019. As in prior periods of uncertainty, investors primarily dedicated their time to the needs of existing portfolios as opposed to new ventures.
- Prior to the pandemic, commentators predicted 2020 would be the year of a 'take-private boom,' with the gap between private and public company valuations shrinking and private equity ownership becoming widely more accepted.
- Brexit continues to shape the investment landscape. In a recent report, PwC found that six out of ten financial investors surveyed saw the UK's exit from the EU making the UK "less attractive for private equity investments." In its place, Germany is set to become the hub for European private equity houses, with 46% of respondents seeing it as the most attractive country for PE-backed investments.
- On a global scale, the growth of private equity was only increasing prior to Covid-19: 5,102 PE-backed buy-out deals were completed in 2019, with 2,515 company acquisitions and sales with private participation taking place in Europe. 27.5% of all global transactions in 2019 had private equity involvement on both sides.
- Private equity investors are paying ever closer attention to emerging markets, like the BRICS (Brazil, Russia, India, China and South Africa), but also countries you might not immediately think of, such as Mexico and Colombia. In 2018, emerging markets attracted a record \$9.4 billion in private equity investment.
- The EU and the Financial Conduct Authority (FCA) have both been making efforts to extend the rules governing banks and investment firms to private equity houses. The FCA has been keen to highlight the benefits of aligning UK policy with that of the European and international norms, so Brexit negotiations in this area may run somewhat smoothly. PRIIPS regulations (which amplify the standards of protection to insurance-based investment products) came into effect in January 2018 and have since come in for some hefty criticism: in 2020 the European Fund and Asset Management Association (EFAMA) wrote to the European Commission calling for urgent review of the regulations.

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Ashfords	Debevoise & Plimpton	Kirkland & Ellis International	Skadden, Arps, Slate, Meagher & Flom (UK)
Ashurst	Dechert	Latham & Watkins	Squire Patton Boggs
Baker McKenzie	Dentons	Linklaters	Stephenson Harwood
Bird & Bird	DLA Piper	Macfarlanes	Taylor Vinters
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Burges Salmon	Freshfields Bruckhaus Deringer	Norton Rose Fulbright	Travers Smith
Charles Russell Speechlys	Fried, Frank, Harris, Shriver & Jacobson	Orrick, Herrington & Sutcliffe	Weil, Gotshal & Manges
Cleary Gottlieb Steen & Hamilton	Goodwin	Osborne Clarke	White & Case
	Gowling WLG (UK)	Pinsent Masons	

Projects and energy

In a nutshell

Projects lawyers work hand in hand with finance and corporate lawyers to enable complex construction, re-development and infrastructure projects to come to fruition. A few City firms and the largest US practices dominate the biggest international projects, but there's work countrywide. Many projects relate to the energy sector (see below), while road, rail and telecoms infrastructure projects are also big business. UK lawyers also work on overseas natural resources and mining projects, while domestically waste and utilities projects provide work for many regional firms. The Private Finance Initiative (PFI) – an aspect of Public Private Partnerships (PPP) – has also been an important source of work. PFI introduced private funding and management into areas that were previously public sector domains.

Some law firms consistently represent project companies, usually through a 'special purpose vehicle' (SPV) established to build, own and operate the end result of the project. Often the project company is a joint venture between various 'sponsor' companies. An SPV could also be partially owned by a government body or banks. Other firms consistently represent organisations which commission projects. Then there are the firms that act purely on the finance side for banks, guarantors, export credit agencies, governments and international funding agencies.

If a firm has an **energy** practice, most of its work will likely be based around oil and gas. This breaks down into upstream and downstream work. Upstream refers to the locating and exploiting of oil and gas fields. Downstream refers to everything related to transport, processing and distribution – pipelines, refineries, petrol stations, etc. Many firms that do energy work trumpet their renewable energy and climate change expertise, and while this is a growing area of practice it remains relatively small. Power and utilities, and environment/regulatory are two other areas which are often considered to fall under the energy/projects umbrella.

What lawyers do

- The work of an energy or projects lawyer mirrors that of a corporate lawyer – drafting, due diligence, getting parties to sign agreements – with several added layers of complexity.
- There are several components to any project: financing, development and (often) subsequent litigation. Lawyers usually specialise in one of these areas, although they do overlap.

- The field also encompasses specialists in areas like construction, real estate, planning, telecoms, healthcare and the public sector.
- The financing of a project is riskier for lenders than other transactions are, as there is no collateral to act as security for the loan. For this reason risk is often spread across several stakeholders including the SPV, shareholders, the contractor, supplier, etc. The agreements which govern the relationship between the parties are the primary domain of lawyers acting for the project company.
- Lawyers who act for lenders check over all project documentation, paying attention to the risks the lender is exposed to. Site visits and meetings on location are common.
- Internationally, energy lawyers work on the contracts and licences agreed between international energy companies, governments and local companies. The upstream component of energy work often involves governments as they have the exclusive rights to certain natural resources.
- Domestically, lawyers often interact with the Department for Business, Energy & Industrial Strategy. Energy is a highly regulated sector, and there are government programmes and stimuli to encourage certain types of energy projects. EU regulations also frequently come into play.
- Some energy lawyers work on energy infrastructure projects, but usually an energy lawyer is someone who works on contracts and agreements over (oil and gas) resources already being tapped. For example, they might produce so-called Production Sharing Agreements, which detail which proportion of profits go to different parties.
- Because energy companies have very deep pockets, many energy financings happen without the need for a loan (this is called 'off-balance-sheet financing').
- Disputes in the energy sector are often resolved through arbitration, particularly when they have an international element to them (which is often).

Realities of the job

- Projects can run for years, involving multidisciplinary legal work spanning finance, regulatory permissions, construction, employment law and much more. This practice area requires lawyers who enjoy the challenge of creating a complex scheme and figuring out all its possibilities and pitfalls.
- The value of transactions can vary from a few million pounds for projects to build domestic waste plants to deals worth billions to exploit massive oil fields. You have to get your head around these big numbers and

understand what they actually mean: often the sum of money involved is the (potential) value of a joint venture or natural resource deposit. One of the things projects lawyers like about their job is that the product of their deal-making is tangible: they can usually watch a mine, bridge or oil refinery being built before their eyes.

- The world's energy resources have helpfully positioned themselves in some of the world's most politically unstable or dubious countries (Venezuela, Russia, Saudi Arabia, Iraq, Iran, Nigeria etc.). This adds an extra layer of interest and intrigue to many transactions. For example, the due diligence on building a diamond mine in West Africa might involve consideration of how many AK-47s and armoured personnel carriers the mine will need to operate.

Current issues

- Post-lockdown, transport secretary Grant Shapps announced that approximately £2 billion of fresh funding has been allocated to infrastructure projects across the UK to boost the market. The fund will help towards upgrading roads and railways as well as emphasising cycling and walking.
- In the early days of Covid-19, the offshore industry was hit hard with the drop in oil's value and the price war. Estimates suggested up to 20% of the offshore workforce could be laid off and staffing cuts may remain in place until 2021. The Oil and Gas Authority has signed off on a southern North Sea gas project that will see the development of 410 billion cubic feet of gas reserves across six southern North Sea gas fields. Homing in on the industry's five-year target, a few oil and gas projects are in the works: the Mariner Project, Fawley Refinery, Western Isles Project and the Rosebank Project. The \$7 billion Mariner Project is on the larger side and is expected to produce more than 300 million barrels of oil over the next 30 years. Production started in August 2019 in the North Sea, providing jobs to more than 700 people onshore and offshore.
- Current large-scale rail projects in the UK include Crossrail and High Speed Two (HS2). Both have faced numerous delays and their final costs are set to come

in far above their initial budgets: at the time of publication, Crossrail's full line opening looked to be delayed until 2023. Check out our website for a full evaluation of HS2 as an example of projects law in action.

- The gradual revival of the UK's solar energy market has included the planning approval of a 350-megawatt solar project on Cleve Hill in Kent. Completion is set for 2022, with construction beginning in spring 2021, and the development is being managed by Hive Energy and Wirsol. Despite being notorious for grey skies, the UK has experienced an increase in sunny days between 2013 and 2017.
- The government's plans ease planning legislation, announced in July 2020, pave a smoother path to construct large batteries to store renewable energy from solar and wind farms across the UK. This change comes at a great time to aid projects such as Cleve Hill, which may involve a considerable amount of battery storage. Minister for Energy and Clean Growth Kwasi Kwarteng noted that *"removing barriers in the planning system will help us build bigger and more powerful batteries, creating more green-collar jobs and a smarter electricity network."* This is yet another development towards achieving the 2050 target; plus, the enhancement of the UK's electricity grid and integration of low-carbon power could save the energy system up to £40 billion.
- Nuclear projects were on the up as of 2019 but the market now faces not only rising costs and cheaper renewables, but domestic opposition and rocky relations between London and China which have affected the progression of certain projects. At present, only the Hinkley Point C project looks set to go ahead.
- The UK's last deep coal mine, Kellingley Colliery in North Yorkshire, closed just before Christmas of 2015. Since then, the proportion of the UK electricity generated by coal has dropped considerably. In 2017 more electricity was generated by renewable and nuclear sources than by coal and gas for the first time, and the UK set a record coal-free run in 2020 after going two months without burning any coal for energy production.

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Burgess Salmon
Clifford Chance

Clyde & Co
CMS
Dentons
DLA Piper
DWF
Eversheds Sutherland
Freshfields Bruckhaus Deringer
Gowling WLG (UK)
Herbert Smith Freehills
Hogan Lovells

Latham & Watkins
Linklaters
Mayer Brown International
Memery Crystal
Mills & Reeve
Norton Rose Fulbright
Orrick, Herrington & Sutcliffe
Osborne Clarke
Pinsent Masons
Shearman & Sterling

Simmons & Simmons
Slaughter and May
Squire Patton Boggs
Stephenson Harwood
Sullivan & Cromwell
TLT
Trowers & Hamlin
Vinson & Elkins RLLP
Watson Farley & Williams
White & Case
Womble Bond Dickinson UK

Real estate

In a nutshell

Property lawyers, like their corporate colleagues, are essentially transactional lawyers; the only real difference is that real estate deals require an extra layer of specialist legal and procedural knowledge and there aren't quite so many pesky regulatory authorities. The work centres on buildings and land of all types, and even the most oblique legal concepts have a bricks-and-mortar or human basis to them. It is common for lawyers to develop a specialism within this field, such as residential conveyancing, mortgage lending and property finance, social housing or the leisure and hotels sector. Most firms have a property department, and the larger the department the more likely the lawyers are to specialise. Note that 'property' and 'real estate' are entirely interchangeable terms.

What lawyers do

- Negotiate sales, purchases and leases of land and buildings and advise on the structure of deals.
- Record the terms of an agreement in legal documents.
- Gather and analyse factual information about properties from the owners, surveyors, local authorities and the Land Registry.
- Prepare reports for buyers and anyone lending money.
- Manage the transfer of money and the handover of properties to new owners or occupiers.
- Take the appropriate steps to register new owners and protect the interests of lenders or investors.
- Advise clients on their responsibilities in leasehold relationships and on how to take action if problems arise.
- Help developers get all the necessary permissions to build, alter or change the permitted use of properties.
- Manage property portfolio investments and advise real estate funds.

Realities of the job

- Property lawyers have to multi-task. A single deal could involve many hundreds of properties, and your caseload could contain scores of files, all at different stages in the process. You'll have to keep organised.
- Good drafting skills require attention to detail and careful thought. Plus you need to keep up to date with industry trends and standards.
- Some clients get antsy; you have to be able to explain legal problems in lay terms.
- Despite some site visits, this is mainly a desk job with a lot of time spent on the phone to other solicitors, estate agents, civil servants and consultants.
- Most instances of solicitor negligence occur in this area of practice. There is so much that can go wrong.

- Property departments are known for offering trainees plenty of independent responsibility: often you'll be dealing with 20 or 30 small property files (sales, leases, licences to assign) at the same time.
- Your days will be busy, but generally the hours are more sociable and predictable than in other transactional practices.

Current issues

- Property practice has always followed and will always follow the market. In an economic downturn, especially a global one, there's less demand for properties and new developments, so values drop and conventional bank lending becomes increasingly hard to find.
- Despite the Covid-19 pandemic continuing to loom over us, we've seen recent market activity that has bucked the trend for recession conditions: the UK's housing market has in fact been performing well. The March lockdown prompted several predictions of a fall in house prices, but the unusually busy summer season saw a continuity in rising prices and activity. The Financial Times reported stats from both Zoopla and Nationwide that respectively showed that in August 2020 sales were 76% above their five-year average and that UK house prices were at an all time high for that month. So why are we witnessing this boom? Well, the property market's short-term immunity has been created by mortgage payment and stamp duty holidays as well as furlough schemes and bans on repossession. But the negative impact won't be on standby for long.
- Once these measures are removed, the Centre for Economic and Business Research (CEBR) has reported that house prices will drop by around 14% by early 2021. However, chancellor Sunak's £3.8 billion stamp duty holiday is due to come to an end in March 2021, so we may see a short-term rise for those rushing to benefit from the reduction. CEBR's analysis nonetheless suggests that *"average house prices are forecast to be 13.8% lower in 2021 than in 2020."*
- The Big Smoke seems to be the only place in the UK which has resisted the impact of the stamp duty reduction. Not even Rishi Sunak can battle those high prices in the capital!
- Brexit's effect on the property market is dependent on the effect it has on the economy as a whole. The housing market is mainly influenced by wages and interest rates, and a large number of economists expect that Brexit will suppress wages. But the actual effects of Britain's exit from the EU will depend on how the negotiations go.
- Renting still remains difficult for many – especially in the nation's capital – due to soaring prices. In part this

has been attributed to investment from abroad, with overseas buyers snapping up apartments and town-houses as investments guaranteed to make a profit. Many of these properties are reportedly kept empty after purchase, making this trend doubly contentious in the current housing climate.

- Unaffordable housing and a national housing crisis are contributing factors to the nation's increasing homelessness figures. Figures from the Department for Communities and Local Government show that the number of rough sleepers is exponentially rising across the UK.
- Renters affected by Covid-19 will continue to receive support from the government throughout the harsh winter. Housing secretary Rt Hon Robert Jenrick MP
- Social change is creating interest in alternative investment opportunities. The UK's ageing population, for example, makes the retirement living sector a good bet. Student accommodation has also attracted investors due to the numbers of international students coming to the UK. If a no-deal Brexit occurs, Jonathan Harris of mortgage broker Forensic Property Finance says: "Logic suggests that a fall in sterling would bring an up-tick in overseas buyers."

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Addleshaw Goddard	CMS	Hewitsons	Pinsent Masons
Allen & Overy	Collyer Bristow	Hogan Lovells	Reed Smith
Ashfords	Cripps Pemberton Greenish	Howes Percival	Russell-Cooke
Ashurst	Dechert	Irwin Mitchell	Sidley Austin
B P Collins	Dentons	K&L Gates	Simmons & Simmons
Baker McKenzie	DLA Piper	Kingsley Napley	Slaughter and May
Bates Wells	DWF	Linklaters	Squire Patton Boggs
BDB Pitmans	Eversheds Sutherland	Macfarlanes	Stephenson Harwood
Bevan Brittan	Farrer & Co	Maples Teesdale	Stevens & Bolton
Birketts	Fladgate	Mayer Brown International	Taylor Vinters
Blaser Mills Law	Foot Anstey	Memery Crystal	Taylor Wessing
Boodle Hatfield	Fox Williams	Michelmores	TLT
Brabners	Freshfields Bruckhaus Deringer	Mills & Reeve	Travers Smith
Bryan Cave Leighton Paisner	Gateley Legal	Mishcon de Reya	Trowers & Hamlins
Burges Salmon	Gibson, Dunn & Crutcher	Muckle	Ward Hadaway
Charles Russell Speechlys	Goodwin	Norton Rose Fulbright	Wedlake Bell
Clifford Chance	Gowling WLG (UK)	Osborne Clarke	Winckworth Sherwood
Clyde & Co	Herbert Smith Freehills	Paul Hastings (Europe)	Womble Bond Dickinson UK

Restructuring and insolvency

In a nutshell

Insolvency law governs the position of businesses and individuals who are in financial difficulties and unable to repay their debts as they become due. Such a situation may lead to insolvency proceedings, in which legal action is taken against the insolvent entity and assets may be liquidated to pay off outstanding debts to banks and creditors. Before a company or individual gets involved in insolvency proceedings, they will probably be involved in a restructuring or an out-of-court arrangement with creditors to work out alternative repayment schedules. The work of lawyers in the field can therefore be non-contentious (restructuring) or contentious (insolvency litigation), and their role will vary depending on whether they act for debtors or their creditors. What follows are some of the terms you'll come across in this practice area.

Debtor: an individual or company that owes money.

Creditor: a person or institution that extends credit to another entity on condition that it is paid back at a later date.

Bankruptcy: a term used in the US to describe insolvency procedures that apply to companies, but not in the UK, where the term applies to individuals only.

Restructuring: a significant modification made to the debt, operations or structure of a company with its creditors' consent. After a restructuring, debt repayments become more manageable, making insolvency proceedings less likely.

Insolvency proceedings: generic term that covers a variety of statutory proceedings aimed at rescuing or winding up an insolvent company.

Insolvency proceedings include the following actions:

Company voluntary arrangement (CVA): if it is clear that a business could survive if debt repayments were reduced, it can enter a CVA agreement with its creditors. Under this legally binding agreement, a struggling company is allowed to repay some, or all, of its historic debts out of future profits, over an agreed period of time.

Administration: when in administration, a company is protected from creditors enforcing their debts while an administrator takes over the management of its affairs. If the company is fundamentally sound, the administrator will implement a recovery plan aimed at streamlining the business and maximising profits. If it is apparent that the

company has no future then it can be sold or liquidation can commence.

Receivership: unlike administration, this is initiated by the company's creditors, not the company itself. A receiver is appointed by the court and must look to recover as much money as possible in order to settle the claims made by creditors. Under receivership, the interests of the creditors clearly take precedence over the survival of the company.

Liquidation: procedure by which the assets of a company are placed under the control of a liquidator. In most cases, a company in liquidation ceases to trade, and the liquidator will sell the company's assets and distribute the proceeds to creditors. There are two forms: voluntary liquidation brought about by the company itself or compulsory liquidation brought about by court order.

Distressed M&A: the sale of a portion or all of an insolvent business is an efficient way to preserve going-concern value and avoid the potential for substantial loss of value through a piecemeal liquidation.

Pre-pack sale: refers to a deal made with an interested buyer to sell the insolvent company's business and assets, negotiated before an administrator is appointed and completed immediately on appointment. Such schemes are becoming increasingly popular and more frequently used in the current economic climate.

What lawyers do

Debtors' lawyers

- Meet with clients to assess the gravity of the situation, highlight the available options and advise on the best course of action to follow. In a restructuring, advise the insolvent company on the reorganisation of its balance sheet (such as closing down unprofitable businesses or refinancing its debt) and assist in negotiations with creditors.
- Assist in insolvency filings, and once proceedings have commenced, work closely with the insolvency officeholders (that is, those appointed as administrators, receivers or liquidators) and accountants to achieve the goals set for the insolvent company.
- Provide advice to directors of insolvent companies, explaining their duties to creditors. Advise on the sale of assets or mergers and acquisitions of troubled companies.

- Assist clients in insolvency litigation and appeals. Provide preventive advice to debtor clients on liability management and ways to avoid insolvency proceedings.
- Restructuring and insolvency situations are understandably tense for both debtors and creditors, and lawyers sometimes need to deal with difficult people, so they must be able to hold their ground and show they are not easily shaken or intimidated.

Creditors' lawyers

- Meet with creditor clients to assess the validity of their security over the insolvent company, the strength of their position in the creditors' pool and the best course of action to ensure full recovery.
- Assist in negotiations with debtors and insolvency of ficeholders.
- Represent clients in insolvency litigation and appeals.
- Assist in the tracing and valuation of debtors' assets.
- Provide training to their clients on how to deal with insolvent companies.

Realities of the job

- Large City firms deal almost exclusively with large-scale corporate restructurings and insolvencies, and the representation of creditor groups in these matters. Smaller regional firms mostly assist on smaller corporate and personal insolvency cases.
- Corporate insolvency as a practice area is extremely varied, as proceedings affect every aspect of the insolvent company. Lawyers therefore need to be conversant in a variety of legal disciplines or know when to refer matters to specialists in employment, banking, property, litigation, corporate, etc.
- When financial difficulties arise in companies, the rapid deployment of a legal team is necessary to provide immediate assistance. This area of law is extremely fast-paced and lawyers are often asked to deliver solutions overnight.
- Insolvency and restructuring involves mountains of paperwork, so lawyers need to be organised and able to prioritise their workload, particularly when dealing with multiple assignments. With so much at stake, attention to detail is paramount when drafting asset sale agreements or documents to be filed at court.
- Covid-19 has created a boom in this area and some growth in junior lawyer headcount. Accordingly, June 2020 saw the UK government introduce the Corporate Insolvency and Governance Act.
- The Act, considered to be the most far-reaching and fundamental shift in UK insolvency law in generations, has introduced new measures to assist companies in financial turmoil due to the pandemic. One such measure gives businesses more space and time to restructure by placing a stay on creditors' rights. The UK has also introduced new restructuring regimes in the education sector, which aim to support higher education providers at risk of insolvency.
- The UK's restructuring and insolvency legislation is not taken from EU regulations, so leaving the EU will have little effect on domestic cases. Brexit will, however, complicate the processes for implementing cross-border restructurings and insolvencies, leaving some to suggest that the UK's reputation and attractiveness as a location for international restructuring and insolvency will be undermined as a result. International companies may increasingly seek to commence proceedings in an EU member state rather than the UK, in order to ensure automatic recognition across the EU.
- The EU introduced a new directive (2019/1023) in June 2019 to reduce the likelihood of insolvency and the need to place companies into administration. The directive puts several preventive measures in place to, among other reasons, provide access to information and early warning to at-risk companies.

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Akin Gump Strauss Hauer & Feld	Dentons	Latham & Watkins	Slaughter and May
Allen & Overy	DLA Piper	Linklaters	Squire Patton Boggs
Ashfords	DWF	Mayer Brown International	Stephenson Harwood
Ashurst	Eversheds Sutherland	Michelmores	Stevens & Bolton
BDB Pitmans	Foot Anstey	Mills & Reeve	Sullivan & Cromwell
Birketts	Freshfields Bruckhaus Deringer	Norton Rose Fulbright	Taylor Wessing
Bryan Cave Leighton Paisner	Gateley Legal	Osborne Clarke	TLT
Burges Salmon	Herbert Smith Freehills	Paul Hastings (Europe)	Ward Hadaway
Charles Russell Speechlys	Hogan Lovells	Pinsent Masons	Weil, Gotshal & Manges
Clifford Chance	Howes Percival	Sidley Austin	White & Case
CMS	Irwin Mitchell	Simmons & Simmons	Womble Bond Dickinson UK

Shipping

In a nutshell

If you've ever been online shopping, (as most of us did during lockdown), there's a good chance your parcel will have travelled to you by ship. In fact, shipping accounts for 90% of all global trade; more than 50,000 ships registered in over 150 countries make up the world fleet and are responsible for keeping international trade *afloat*.

Shipping lawyers deal with the carriage of goods or people by sea, plus any and every matter related to the financing, construction, use, insurance and decommissioning of the ships that carry them (or are arrested, sunk or salvaged while carrying them). Despite being the preserve of specialist firms, or relatively self-contained practice groups within larger firms, the discipline offers varied challenges. The major division is between 'wet' work relating to accidents or misadventure at sea, and 'dry' work involving the land-based, commercial and contractual side. In extension, disputes or litigation relating to contracts mean there is also a contentious side to dry work. While some lawyers in the area may be generalists, it is more common to specialise.

What lawyers do

Wet lawyers

- Act swiftly and decisively at a moment's notice to protect a client's interests and minimise any loss.
- Travel the world to assess the condition of ships, interview crew or witnesses and prepare cases.
- Take witness statements and advise clients on the merits of and strategy for cases.
- Handle court and arbitration appearances, conferences with barristers and client meetings.

Dry lawyers

- Negotiate and draft contracts for ship finance and shipbuilding, crew employment, sale and purchase agreements, affreightment contracts and the registration and re-flagging of ships.
- May specialise in niche areas such as yachts or fishing, an area in which regulatory issues feature prominently.
- Handle similar tasks to wet lawyers in relation to contractual disputes but are less likely to jet off around the world at the drop of a hat.

Realities of the job

- Wet work offers the excitement of international assignments and clients, so lawyers need to react coolly to sudden emergencies and travel to far-flung places to offer practical and pragmatic analysis and advice.

- Despite the perils and pleasures of dealing with clients and instructions on the other side of the world, the hours are likely to be steady beyond those international rescue moments.
- Non-contentious work touches on the intricacies of international trade, so it's as important to keep up with sector knowledge as legal developments.
- Dealing with a mixed clientele from all points on the social compass: you'll need to be just as comfortable extracting a comprehensible statement from a Norwegian merchant seaman as conducting negotiations with major financiers.
- Contentious cases are driven by the procedural rules and timetable of the court or arbitration forum to which the matter has been referred. A solid grasp of procedure is as important as a strong foundation in tort and contract law.
- Some shipping lawyers do come from a naval background or are ex-mariners, but you won't be becalmed if the closest comparable experience you've had is steering Tommy Tugboat in the bath as long as you can show a credible interest in the discipline.
- Old superstitions thought it bad luck to have women aboard a ship. Though not an all-boys club, parts of the shipping world are still male-dominated; women lawyers and clients are more commonly found on the dry side.
- In the UK, shipping law is centred around London and a few other port cities. Major international centres include Piraeus in Greece, Hong Kong and Singapore. Some trainees even get to work in these locations.

Current issues

- Analysts originally thought the escalating trade war between the US and China (which many feared would cause another recession) is unlikely to affect the shipping industry. However, in response to mainland China's new national security law, the US ended its extradition treaty and 30-year-old reciprocal tax exemptions on shipping income with Hong Kong in August 2020. As a result, US shipping companies will now have to pay taxes in both the US and Hong Kong, while Hong Kong-based shipping companies will be subject to gross income tax when sending cargo to the US. The US had been Hong Kong's second biggest trading partner, with China taking first place. More than six other countries, including the UK, have so far ended their extradition agreements with Hong Kong.
- Uncertainty around Brexit continues to affect the outlook for many industries and shipping is no different. In the last year, the UK fleet decreased by over 30% as a result of Brexit-related concerns. A worst-case

scenario for UK companies would be likely to include tariffs on trade with the EU, potentially resulting in a shortage of fresh produce and rising food prices. Brexit could also give rise to disputes if contracts drafted pre-Brexit make vague reference to the EU or presume the existence of UK membership in the EU.

- Cruise ships proved to be instrumental in identifying how the Covid-19 virus spread and gave indications of its severity and presence in those without symptoms. In February 2020, a passenger who had been aboard the 'Diamond Princess' in Hong Kong tested positive for the virus. The ship was quarantined in Japan, where officials carried out 3,000 tests: some people were tested multiple times to analyse how the virus spread over time. More than 700 of the 3,711 passengers and crew members tested positive, with 18% having no symptoms. Analysts used data from the ship to show that the case fertility rate in China was just over 1%, despite the WHO's estimate of 4%.
- The UK classified seafarers as key workers during the pandemic, but international lockdown restrictions prevented crew changes and meant that roughly half a million seafarers were stuck at sea. Since the outbreak of the virus, only 25% of crew changes actually took place. Following the UK's International Maritime Summit, 13 countries agreed to allow crew changes.
- Tensions between Iran and the UK flared up after the UK seized a tanker transporting Iranian oil off Gibraltar in July 2019, following suspicions it was carrying oil to Syria against EU sanctions. Despite UK warships shadowing British oil tankers through the Strait of Hormuz, Iran's Revolutionary Guard then arrested the British-flagged 'Stena Impero' oil tanker and held it for two months for allegedly breaking maritime law by turning off its tracking devices. The UK and the US joined forces to protect ships travelling through the area, further increasing tensions. The Iranian vessel was held in Gibraltar for six weeks, before reportedly setting sail for Greece. It was renamed 'Adrian Darya 1'.
- The climate crisis is having a significant impact on the shipping industry. It is now mandatory for ships to use a new environmentally friendly fuel, which has reportedly impacted the ability of many ships to run profitably. On another note, Google shipped hardware rather than flying it in 2018, which reduced its per-unit, transport-related emissions by 40%. The company aimed for its delivery of hardware to customers to be carbon-neutral by 2020. In addition, several Japanese companies have teamed up to produce the world's first zero-emission tanker by 2021. In August 2019, the UK government said that from 2025 all new ships it ordered must be fitted with zero-emission technology. The latest International Maritime Organization Greenhouse Gas Study indicated that despite a 40% increase in sea trade between 2008 and 2018, CO2 emissions from the shipping sector fell by more than 10%. The organisation also revealed it's on track to halve emissions by 2050.
- China has signed a \$1.1 billion deal with Sri Lanka to take control of its deep-sea port at Hambantota – a move that reflects its 'One Belt, One Road' initiative to increase trading links to Europe.

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Birketts
Clyde & Co

HFW
Kennedys
Norton Rose Fulbright

Pinsent Masons
Reed Smith
Stephenson Harwood

Watson Farley & Williams

Sports, media and entertainment

In a nutshell

Advertising and marketing lawyers offer advice to ensure a client's products or advertisements are compliant with industry standards, plus general advice on anything from contracts between clients, media and suppliers, to employment law, corporate transactions and litigation. Entertainment lawyers assist clients in the film, broadcasting, music, theatre and publishing industries with commercial legal advice or litigation. Sports lawyers represent organisations and individuals active in the industry, and can operate in a broad range of practice areas such as finance, IP, telecommunications, negligence and privacy. Reputation management lawyers advise clients on how best to protect their own 'brand', be this through a defamation suit or an objection to invasion of privacy.

What lawyers do

Advertising and marketing

- Ensure advertising campaigns comply with legislation or regulatory codes set out by the Advertising Standards Authority (ASA) or Ofcom.
- Advise on comparative advertising, unauthorised references to living persons and potential trademark infringements.
- Defend claims against allegations that their work has infringed regulations or the rights of third parties.
- Bring complaints against competitors' advertising.

TV and film

- Advise production companies on every stage of the creation of programmes and films.
- Assist on the banking and lending transactions which ensure financing for a film, as well as tax exemption rules for UK films.
- Help engage performers, negotiate a multitude of ancillary contracts, and negotiate distribution and worldwide rights.

Music

- Advise major recording companies, independent labels and talent (record producers, songwriters and artists).
- Advise on contracts, such as those between labels and bands, or between labels and third parties.
- Offer contentious and non-contentious copyright and trademark advice relating to music, image rights and merchandising.
- Offer criminal advice when things get old-school rock 'n' roll.
- Assist with immigration issues.

Theatre and publishing

- Advise theatre and opera companies, producers, agents and actors on contracts, funding and sponsorship/merchandising.
- Advise publishing companies and newspapers on contractual, licensing, copyright and libel matters.
- Assist with immigration issues.

Sports

- Assist with contract negotiations, be they between clubs and sportspeople, agents and players, sporting institutions and sponsors, broadcasters and sports governing bodies.
- Handle varied employment and immigration issues.
- Defend sportspeople accused of doping offences or other unsporting behaviour.
- Advise on corporate or commercial matters like takeovers, public offerings, debt restructuring and bankruptcy, or the securing and structuring of credit.
- Enforce IP rights in the lucrative merchandise market and negotiate on matters affecting a sports person's image rights.
- Work on regulatory compliance issues within a sport or matters relating to the friction between sports regulations and EU/national law.
- Offer reputation management and criminal advice.

Reputation management (defamation and libel)

- Claimants' lawyers advise individuals – commonly celebrities, politicians or high-profile businesspeople – on the nature of any potential libel action or breach of privacy claim, usually against broadcasters or publishers, before it either settles or goes to court.
- Defendants' lawyers advise broadcasters or other publishers on libel claims brought against them. With the burden of proof on the defendant, the lawyers must prove that what was published caused no loss to the claimant or was not libellous.
- Help clients stay out of hot water by giving pre-publication advice to authors, editors or production companies.

Realities of the job

- Advertising lawyers must have a good knowledge of advertising regulations, defamation and IP law.
- Many advertising disputes will be settled via regulatory bodies but some, particularly IP infringements, end in litigation.
- Entertainment lawyers need to be completely immersed in their chosen media and have a good grasp of copyright and contract law.

- Reputation management lawyers need a comprehensive understanding of libel and privacy laws and an ability to think laterally. Individual claimants will be stressed and upset, so people skills, patience and resourcefulness are much needed.
- Working in media, entertainment or sports is often assumed to be a glamorous affair. However, lawyers operating in these areas are preoccupied with the legal issues arising from them, leaving little time for hobnobbing with celebrities.
- Landing a job as a media, libel, sports or entertainment lawyer is extremely tricky. While many have an interest in the field, the number of vacant positions is severely limited. Successful candidates usually have previous experience in a relevant sector, but even this will only get you so far; previous legal experience is also a must.
- maintaining compatible systems comes with commercial advantages.
- In a deal of unparalleled size and impact in TV and film history, 2019 saw Disney close its \$71 billion acquisition of 21st Century Fox. Sparking international concern surrounding potential antitrust infringements, the Department of Justice cleared the vertical merger, leaving Disney with an estimated 40% control over the pre-Covid-19 global theatrical box office.
- The US National Women's Soccer Team has been embroiled in a long-running legal battle over equitable pay. Despite being a far more decorated outfit than their male counterparts – ranked first in the world, with four World Cup trophies under their belt – the debate concerning equitable pay continues. In part due to sponsorship and advertising deals, the team reportedly earn six times less in bonuses than the men's side, prompting the USWNT to file a lawsuit against US Soccer seeking to remedy the monetary chasm.

Current issues

- Social media and digital marketing make up a larger portion of advertising than ever before. Web-based interactive and data-driven targeted advertising is throwing up all kinds of data protection, privacy and commercial concerns, especially as regulators continue to adjust to the specific issues raised by digital marketing. After damning evidence emerged surrounding Facebook's involvement with Cambridge Analytica – a third-party data-mining company which covertly harvested users' data for electoral purposes – the Federal Trade Commission (FTC) ordered Zuckerberg's company to pay a staggering \$5 billion fine for deception of its users in July 2019.
- With the upcoming 2020 US presidential election, social media policies relating to political advertising will once again be in the limelight. Controversially, Facebook's current policy sees that politicians are exempt from the platform's third-party fact-checking programme. Other platforms have banned political advertising altogether, and Twitter took the first step in flagging several of Donald Trump's tweets for "violating Twitter Rules about civic and election integrity" but kept them up as "it may be in the public's interest for the Tweet(s) to remain accessible."
- In both traditional and social media, calls for the ASA to crack down on adverts deemed harmful or misleading have increased in recent years. This has resulted in the ASA banning adverts deemed to objectify the body – such as Protein World's 'beach body ready' ad – or to reinforce gender stereotypes, like Gap's little scholar/social butterfly ad.
- Following the UK's decision to leave the EU, the media sector will have to make adjustments to the way it operates. Cross-border licensing arrangements will have to be reassessed, while the laws surrounding IP, data protection, cyber risk and e-commerce may also change as the UK disentangles itself from the body of EU legislation. It is, however, likely that the UK will implement laws that reflect existing EU legislation, as
- Another seminal sporting decision emerged recently when the IAAF ruled that Caster Semenya, South African 800m Olympic champion, will be required to medically reduce her testosterone levels in order to continue competing on the world stage. Semenya lost her appeal against the IAAF after challenging what she believed to be "discriminatory" new regulations that required female athletes with DSDs (differences in sexual development) to chemically alter levels of testosterone through the use of hormones.
- Covid-19 and the subsequent lockdown measures had an unprecedented impact on the sports sector. The English Premier League, Football League and Scottish FA each decided to suspend matches, and with that comes the question as to whether these circumstances release an organisation from its various contractual obligations. Deloitte predicted that the impact on the Premier League's revenues would amount to around £1 billion.
- The pandemic also resulted in significant growth in subscriptions to streaming services such as Netflix, Disney+ and NOW TV. According to Ofcom, an estimated 12 million users acquired access to a new streaming subscription during lockdown. Due to the timing of the launch of Disney+ (coinciding with the start of UK lockdown), there was an increased take-up in it, making it the third most subscribed service behind Netflix and Amazon Prime Video. The demand for news broadcasters also increased, making up 58.8% of TV broadcast viewing.
- Many film and production companies were forced to suspend production as a result of Covid-19. Eventually, the UK government pledged £500 million to a scheme aimed at restarting film and TV production, which will be available to films spending 50% or more of their budget in the UK.

Media Defence:

online we catch up with the lawyers protecting journalists from oppressive regimes.

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Brabners	Farrer & Co	Mishcon de Reya	Taylor Wessing
Bristows	Foot Anstey	Northridge Law	Wiggin
Bryan Cave Leighton	Gowling WLG (UK)	Osborne Clarke	Womble Bond Dickinson UK

Tax

In a nutshell

Tax lawyers are a permanent feature in almost every industry, but they are most in demand (and most highly paid) when it comes to transactional and regulatory matters for corporate clients. Private client lawyers also increasingly have to be tax experts when advising high net worth individuals on how to structure their wealth. Navigation of this highly analytical and complex practice area often necessitates a degree of proficiency in mathematics and an interest in accountancy.

Tax lawyers in the private sector ensure that clients structure their business deals, assets or day-to-day operations in such a way that they take advantage of legal breaks and loopholes in tax legislation. A public-sector tax lawyer is primarily employed to provide advice and assistance regarding regulations, but also works on investigations, audits and prosecutions of tax-evading organisations. Although this is predominantly an advisory practice area, on occasion matters can veer into litigation territory.

What lawyers do

- Ensure that clients take advantage of legal breaks and loopholes permitted by tax legislation.
- Handle tax planning for clients, making sure they understand the financial ramifications of purchases.
- Address the ownership and disposal of assets, including advising on structuring corporate portfolios in the most tax-efficient way.
- Offer transactional advice when working with corporate lawyers on M&A deals, joint ventures and property portfolio acquisitions.
- Deal with investigations or litigation resulting from prosecution by Her Majesty's Revenue & Customs (HMRC, sometimes referred to as 'the Revenue'). This litigation is always conducted against or brought by the government.
- Work alongside private client lawyers on matters of private wealth.

Realities of the job

- This is an intellectually rigorous, rather cloistered area of law and is ideally suited to the more academic practitioner.
- Corporate tax lawyers are very well paid, treated with reverence by their colleagues and find intellectual stimulation in their work.
- Lawyers must not only have the ability to translate and implement complex tax legislation, but must also be able to advise on how to structure deals in a legitimate

and tax-efficient way to avoid conflict with, and potential penalties imposed by, HMRC.

- If you don't already wear specs, expect to after a couple of years of poring over all that black-letter law. The UK has more pages of tax legislation than almost any other country, and there are new changes implemented every year.
- In time extra qualifications, such as the Chartered Tax Adviser exams, will be useful.
- Don't expect to be on the side of the angels: you may end up spending your time advising big businesses on how to avoid paying tax without breaking the law.

Current issues

- Covid-19 sent shockwaves through the tax world as much as it did anywhere else. The enormous level of public spending required to keep the economy together during the 2020 lockdown has prompted fears of tax hikes in the future. At the time of writing, sources within the government were suggesting there would be no "horror show of tax rises," but some changes will surely be necessary to address what is now a £2 trillion national debt.
- The dramatic events of 2020 have also intensified calls for increased transparency surrounding tax havens and corporates avoiding paying tax in the UK (through technically legal but morally dodgy methods). The Finance Bill 2020-21 aims to take action against those who promote and market tax avoidance schemes.
- With the housing market having ground to a halt during lockdown, the Treasury attempted to rocket-boost a recovery via a temporary increase in the residential stamp duty land tax (SDLT) nil rate band for the period of 8 July 2020 to 31 March 2021. The threshold in England and Northern Ireland has been increased from £125,000 to £500,000.
- The Digital Services Tax (DST) came into effect on 1 April 2020, despite rumours to the contrary. This represents a 2% tax levied on UK digital services revenues including social media services, internet search engines and online marketplaces. Targeted against internet giants, the tax only affects large businesses which have annual global revenues of more than £500 million and more than £25 million attributable to UK sales.
- It's no surprise that businesses affected by the DST have attempted to get around the problem, with Amazon making a move to increase seller fees in September 2020, essentially passing the 2% levy down the chain.
- Taxation of giant tech companies looks likely to be one of the most contentious points in the negotiation of a

- UK-US trade deal post-Brexit, with most of the targeted tech firms based in America.
- On Brexit more broadly, many cross-border facets of the UK's VAT and corporate transactions are regulated by EU law. For example, the EU currently offers tax relief for cross-border mergers, so UK businesses may find themselves incurring greater tax costs as a result of leaving the EU. Double tax treaties will still be in place with many countries as the UK leaves the EU and enters the transition period, but many aspects of tax legislation will be open to adaptation. Boris Johnson's new 'free ports' idea is similar to that of Singapore's: having ports where goods can come through with little-to-no import taxes and an easier time of things regulatory-wise.
 - Britain's social care crisis has only got worse in recent years. Over-40s in the UK may be expected to pay more tax to contribute towards the cost of care later down the line. This is currently being examined by the Department of Health and Social Care, but finances surrounding social care are a touchy subject, as demonstrated when Theresa May's 2017 proposal to alter how care is paid for drew widespread criticism and prompted a swift U-turn.

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Addleshaw Goddard	CMS	Kirkland & Ellis International	Simmons & Simmons
Akin Gump Strauss Hauer & Feld	Dentons	Latham & Watkins	Skadden, Arps, Slate, Meagher & Flom (UK)
Allen & Overy	DLA Piper	Linklaters	Slaughter and May
Ashfords	DWF	Macfarlanes	Squire Patton Boggs
Ashurst	Eversheds Sutherland	Mills & Reeve	Stephenson Harwood
Baker McKenzie	Foot Anstey	Norton Rose Fulbright	Travers Smith
Brabners	Freshfields Bruckhaus Deringer	Osborne Clarke	Weil, Gotshal & Manges
Bryan Cave Leighton Paisner	Gateley Legal	Peters & Peters Solicitors	White & Case
Burgess Salmon	Gowling WLG (UK)	Pinsent Masons	Withers
Clifford Chance	Herbert Smith Freehills	RPC	Womble Bond Dickinson UK
	Hogan Lovells	Sidley Austin	

Tech, telecoms and outsourcing

In a nutshell

Technology, telecoms and outsourcing lawyers distinguish themselves from general commercial advisers because of their specific industry know-how. They combine a keen understanding of the latest advances in various technologies with a thorough knowledge of the ever-changing law that regulates, protects and licenses them. As forms of media and new technologies converge, clients have come to rely on technology lawyers' innovation and imagination in offering rigorous legal solutions to maximise and protect income and ideas.

The majority of the top 50 firms possess dedicated groups of tech lawyers. There are also specialists within smaller commercial firms and a number of niche firms. At some firms work related to technology and outsourcing might be grouped with areas like IP and contracts under a general 'commercial' umbrella.

What lawyers do

- Advise on commercial transactions and draft the requisite documents. There is a heavy emphasis on risk management.
- Assist in the resolution of disputes, commonly by arbitration or other settlement procedures as this is a court-averse sector. Many disputes relate to faulty or unsatisfactory software or hardware.
- Help clients police their IT and web-based reputation and assets. Cybersquatting, ownership of database information and the Data Protection Act are common topics.
- Give clients mainstream commercial, corporate and financial advice.
- Specialised outsourcing lawyers represent customers and suppliers in the negotiation and drafting of agreements for the provision of IT or other services by a third party.

Realities of the job

- You need to be familiar with the latest regulations and their potential impact on your client's business. Does a website need a disclaimer? What measures should your client take to protect data about individuals gathered online?
- You need a good grasp of the jargon of your chosen industry, firstly to write contracts but also so you can understand your clients' instructions. Read trade journals like *Media Lawyer* and *Computer Weekly* or magazines such as *Wired* or *New Scientist*.
- In this frontier world, gut instinct matters. One in-house lawyer made what looked like a risky move from BT to

little-known internet auction site eBay. Six years later he moved to head up Skype's legal team.

- The ability to think laterally and creatively is a must, especially when the application of a client's technology or content throws up entirely new issues.
- High-end private sector outsourcing involves complex, high-value and increasingly multi-jurisdictional work. Mostly, it is the larger law firms that handle such deals. In the public sector, deals involve UK government departments, local authorities and the suppliers of services to those entities.

Current issues

- Digital tech currently contributes around £150 billion to the UK economy and in 2019 grew six times faster than any other sector. There have been concerns about a North-South divide since London attracts a large amount of talent, leaving companies in Manchester and Leeds in need of employees. That said, in 2019 Manchester was the fastest growing city in Europe in terms of tech investment: investment increased 277% between 2018 and 2019, from £48 million to £181 million. It's been argued that this growing reputation for the UK being a technology leader could help protect the economy in the event of a no-deal Brexit.
- Tech has been one of the few sectors to continue to see rising investment in throughout the Covid-19 pandemic. Between 23 March 2020 and 27 April 2020, the level of investment in UK tech startups increased by 34% compared to the same period in 2019.
- The prospect of Brexit still causes concern in terms of recruiting talent – opting out of EU free movement will further limit the accessible talent pool. Brexit could also have a major effect on data laws and investment, though how this will pan out will depend heavily on the UK's future relationship with the EU.
- The European Commission is currently pushing what it refers to as the Digital Single Market, a wide-ranging raft of measures designed to unify regulations and business practices in tech-related industries and services. In addition to the abolition of mobile roaming charges in 2017, the Commission plans to implement 5G across the whole of Europe by 2025. In the first significant divergence from EU law as a result of Brexit, the UK decided not to implement the new EU copyright law reforms known as the EU Copyright Directive, which aimed to give content creators more rights and more control over where their material appears online.
- According to Deloitte, 5G is set to "become the connectivity technology of choice in the next decade or two." It has had a staggered launch in the UK since May 2019. Although it was the last network provider in the UK to

launch 5G, O2 was the only company to do so without using the controversial telecoms company Huawei. Conspiracy theories surrounding 5G have grown dramatically during the Covid-19 pandemic, leading to vandalism of 5G masts and general infrastructure that has affected mobile coverage.

- The ensuing irony was that following Covid-19 lockdown measures, there was a significant increase in the need for digital connectivity and an increase in demand on telecoms companies. In response, major players introduced various measures such as more proactive monitoring of traffic. Netflix, for example, cut streaming quality in Europe for 30 days in order to lessen the demand on internet bandwidth.
- In response to concerns over privacy, the EU created the General Data Protection Regulation (GDPR), which came into force on 25 May 2018. It places much more onerous restrictions on organisations that process data, requiring that records be kept of all personal data, that organisations gain and be able to prove active consent before collecting data, as well as being able to show what it's used for, who it goes to, and the protections in place to ensure it does not fall into unintended hands. Non-compliance can mean a maximum fine of €20 million or 4% of a company's global turnover if it's higher. Following complaints by privacy advocates in France – filed the day GDPR legislation came into effect – Google was fined a record €50 million by the French regulator for failing to sufficiently inform users about how Google collected personal data to tailor adverts. Meanwhile, the ICO issued a £180 million fine – the biggest to date – to British Airways following 2018's hacking scandal.
- The first month of GDPR saw a sharp rise in the number of complaints to regulators across Europe, signifying public interest in the new regulations. Between 2017/18 and 2018/19, the number of data protection complaints received by the ICO nearly doubled, standing at 41,661.
- Information harvested by data consultant Cambridge Analytica from Facebook was allegedly used to influence both the US presidential election and the EU referendum. The scandal has since led to the closure of Cambridge Analytica, while Facebook was fined £5 billion by the Federal Trade Commission, the largest fine ever imposed by the US regulator.
- In mid-2019, the Competition and Markets Authority launched its new Digital Markets Strategy, which aims to better regulate anti-competitive behaviour and enforce consumer protection in the technology marketplace.

Read our True Pictures on...

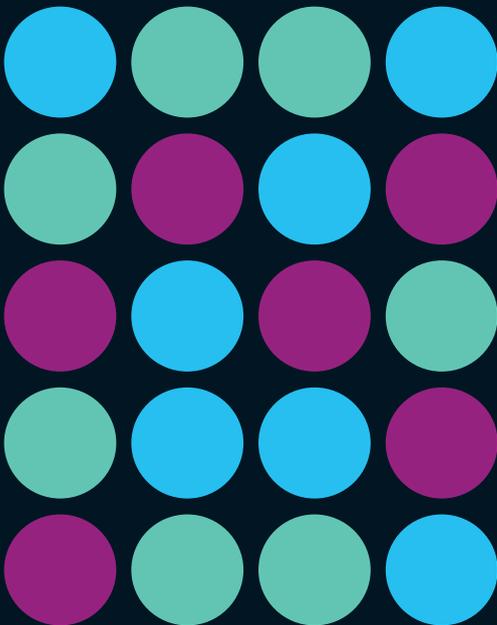
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