



**Law
Commission**
Reforming the law

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Dear Ms Compton,

Thirteenth Programme of Law Reform: Second sift

We wrote to you earlier in the year to confirm that your suggestions for law reform projects on commercial and residential leasehold law, and bills of exchange had passed the first sift stage. Additionally, a scoping project investigating the potential modernisation of various aspects of trust law was being considered by Commissioners, although this would not consider mistake and *Hastings Bass/Pitt v Holt* for reasons explained in our earlier letter. We are sorry for not contacting you sooner but, as you can imagine, the calling of a general election has led to delay in confirming the 13th Programme.

As you may recall, when considering whether to include a project in the 13th Programme, the Law Commission assesses each proposal against the following selection criteria:

- (1) Importance: the extent to which the law is unsatisfactory (for example, unfair, unduly complex, inaccessible or outdated), and the potential benefits of reform.
- (2) Suitability: whether the independent, non-political Commission is the most suitable body to conduct the project.
- (3) Resources: whether the necessary resources, including project-specific funding, are available to enable the project to be carried out effectively.

Commissioners considered nearly 70 projects for final inclusion in the Programme. I am delighted to be able to confirm that Commissioners have agreed that a project on residential leasehold and commonhold law, and an initial scoping study investigating the potential modernisation of various aspects of trust law will both be included in the 13th Programme. Consultees suggested that we should examine numerous issues in residential leasehold law. Our project will commence with a

review of leasehold enfranchisement, commonhold, and managing agent regulation. Further issues raised by consultees may be considered at a later stage of the project.

However, we are sorry to have to tell you that the Commission is unable to take forward projects on commercial leasehold and bills of exchange. As you may know, for any project the Commission wishes to undertake we must have support from the Government under our statutory Protocol. This states that the Government must have a serious intention to take forward law reform in the relevant area of work. In the case of both commercial leasehold and bills of exchange, the Commission was unable to secure Protocol support from Government at this time. However, work on commercial leasehold law has been referred to in the Programme as a potential project which may be undertaken if it is supported by Government in the future.

The Programme has now been approved by the Lord Chancellor. It is available on our website: <https://www.lawcom.gov.uk/>.

We should say that this Programme represents a significant body of work and it is unlikely the Commission will be able to initiate all of it during the normal three-year Programme cycle. The intention behind such a varied and substantial Programme is two-fold.

First, the Commission is operating in uncertain times. We may need to respond swiftly, either to undertake Brexit-related work or, more generally, help support policy objectives which colleagues in Whitehall may not be able to undertake as they focus their energies on Brexit.

Second, this Programme of law reform focuses predominantly on those projects which will need to be funded from the Commission's core budget, provided by the Ministry of Justice. In line with most of Government, the Commission has experienced significant budget reductions over the last few years. This is set to continue over the course of the Programme. The consequence is that the Commission needs to source and undertake more income-generating projects, not only now, but throughout the lifetime of the Programme. Such projects tend to arrive as high priority references from Government Ministers and usually have to start immediately and operate to very tight timescales.

On the basis of receiving funding from the sponsoring Government Department, we expect to start work on residential leasehold immediately.

However, the pressure to commence a greater number of income-generating projects quickly, together with the uncertain environment, may result in core-funded projects, such as the trust law scoping study, being delayed, possibly for some years. This is in no way a reflection of the priority the Commission attaches to these projects. The Commission hopes that, by including a substantial number of potential core-funded projects in the Programme, we will have flexibility to determine independently which projects can be undertaken, as and when resources allow.

Thank you again for taking the time to suggest these areas of work for inclusion in our 13th Programme of law reform.

Yours sincerely,

Sent on behalf of
Sir David Bean,
Chair of the Law Commission