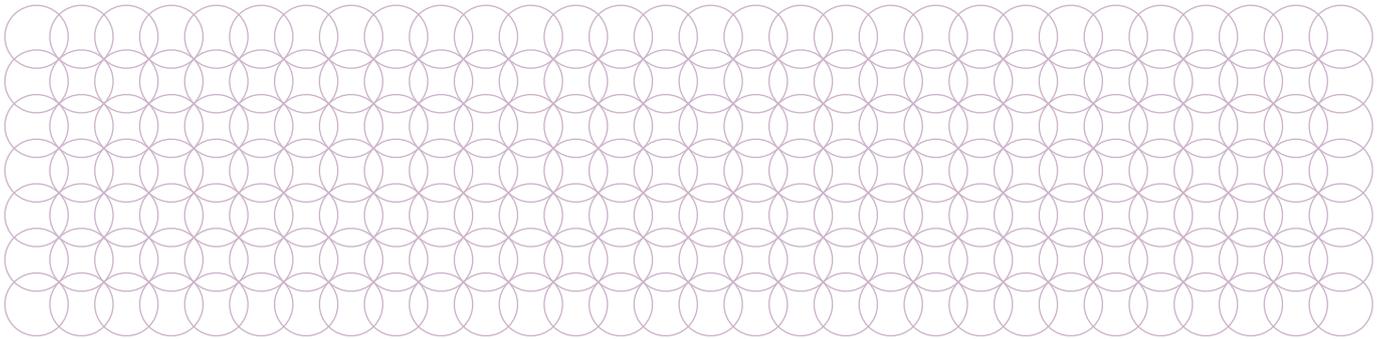




Ministry of
JUSTICE



Justice for Business

Ministry of Justice Supporting Business and
Encouraging Growth

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Ministerial Foreword



I am keen to ensure that the Ministry of Justice makes its contribution to support business and encourage growth.

This country can lay claim to be the world focus of legal services, with the law of England & Wales providing the legal framework for most international commercial transactions; while most of the litigation before courts in the UK involves at least one foreign party. Also, there are virtually no barriers for international law firms wishing to enter the UK market, making London the home of more than 200 foreign law firms.

This freedom to operate and the high international regard for law in the UK leads to confidence in our legal system and this confidence has helped make UK legal services so important to our economy. Legal Services contributed around £19.3bn to the UK economy in 2010, approximately 1.3% of GDP. Legal services exports for 2010 totalled £3.6bn in 2010. We offer a trusted and experienced judiciary operating out of efficient courts and our legal practitioners are of outstanding quality in every area of expertise.

Britain is, we believe, the best place to negotiate your contracts and litigate, arbitrate or mediate your disputes. It is vitally important that the country builds on this strength to support the recovery.

Making the courts and justice system more efficient and modern, increasing the legal services market or, where necessary, reducing spending can't just be driven from Whitehall. Rather, these depend critically on the decisions of thousands of people up and down the country – both those working in the public sector, and those employed in legal services.

This document sets out how my department's work to transform justice is contributing to supporting business and encouraging growth. It also describes progress against the MoJ/UKTI Action Plan for Growth in the Legal Services Sector, which was published last May.

If we are to make social and economic progress, we need to continue to ensure that we have a legal system that supports UK competitiveness, one that the public and business can rely on.

Working in partnership with the judiciary, legal practitioners and other government departments, my hope and belief is that legal services will go from strength to strength.

A handwritten signature in black ink, which appears to be 'K. Clarke'.

The Rt Hon Kenneth Clarke QC MP
Lord Chancellor and Secretary of State for Justice

The Government's Plan for Strong, Sustainable and Balanced Growth

The Growth Review

The Government's economic policy objective is to achieve strong, sustainable and balanced growth, more evenly shared across the country and between different industries.

The Growth Review, led by HM Treasury (HMT) and the Department for Business, Innovation & Skills (BIS) initiated an ambitious and relentless focus across the lifetime of the Parliament on the role government can play to drive growth; ensuring support and enabling the right conditions for businesses to thrive and achieve strong, sustainable and balanced growth.

The Government wants to create the right conditions for businesses to succeed, removing barriers that are preventing them from performing to their full potential.

The Growth Review calls on business and industry to challenge Government departments on the measures they are taking to allow the private sector to flourish.

The Government aims to promote growth in all parts of the United Kingdom and continues to work closely with the devolved administrations to achieve this aim.

The Plan for Growth was published alongside the Budget in March 2011, following the initial phase of the Growth Review, introducing a package of 137 measures, with the aim of achieving four overarching ambitions:

- to create the most competitive tax system in the G20
- to make the UK the best place in Europe to start, finance and grow a business;
- to encourage investment and exports as a route to a more balanced economy; and,
- to create a more educated workforce that is the most flexible in Europe.

The Government is tackling the deficit and restoring economic confidence and stability and it has made clear that growth will be driven by the private sector. By working closely with industry, the Government is making sure that Britain is open for business.

Ministry of Justice support to business and economic growth

Contributions of reform to the justice system to growth

The Ministry of Justice is currently engaged in an ambitious programme to transform the justice system which will lead to it being more effective, less costly and more responsive to the public. As part of this work we will implement changes to the civil justice system including streamlining processes, to the regulation of legal services and to burdens imposed on business through our tribunals system. Many of these reforms will make it easier for business to operate, and increase flexibility. These initiatives form our contribution to the Prime Minister's call to move on from cutting public spending, to concentrate on reducing bureaucracy and barriers to business.

A summary of some of these key reforms is set out here.

Alternative Business Structures

The Ministry of Justice is supporting increased competition and growth within the UK legal sector by implementing Alternative Business Structures (ABS).

In October 2011 we commenced legislation enabling the creation of ABS; this provided for non-lawyers to partially or fully own or control firms providing legal services and for ABS to be funded by equity capital. By relaxing the historical restrictions on law firm structure and ownership, we are opening up the legal services market for lawyers and other professionals to work together as a single entity to operate and deliver services in new and more innovative ways, while maintaining robust regulatory safeguards.

ABS provides the impetus for growth by stimulating innovation and expansion in the legal services market, which can help the wider economy, particularly due to the flexible nature of the new business structures.

Potential customers will find legal services become more accessible, more efficient and more competitive. Other benefits include:

- More choice for consumers in how and where they access legal service providers;
- Legal firms will be able to receive outside investment for the first time, with greater opportunities for international investment into the UK legal services sector;
- Opportunity for economic growth in the industry and a chance to raise the profile of the UK as a first class legal services market.

Over 100 bodies have already expressed an interest in establishing an ABS. To date six licences have been granted, five of which have been issued by the Solicitors Regulation Authority, the regulatory arm of the Law Society and one of which has been issued by the Council of Licensed Conveyancers.

For more information on Alternative Business Structures please visit:

<http://www.legalservicesboard.org.uk/Projects/abs/index.htm>

Jackson Reforms to Civil Litigation Funding and Costs

We are working to ensure that costs for participants in civil court cases are proportionate; and that unnecessary or speculative cases are deterred, helping business and other defendants who currently have to spend too much time and money dealing with avoidable legislation, real or threatened.

To this end, we are taking forward a programme of work to reform civil litigation funding and costs, implementing many of Lord Justice Jackson's recommendations in his recent review of this area. Measures include ending the recoverability of success fees for Conditional Fee Arrangements and after the event insurance premiums, and also banning referral fees in personal injury claims.

Through this work we will ensure that the costs of civil litigation are shared more proportionately between claimants and defendants; moving away from the current unfair costs often faced by businesses and other defendants, while ensuring that parties who have a valid case are able to bring them.

These reforms will be enabled by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 which has recently completed its passage through Parliament and has received Royal Assent.

For information on the reform of civil litigation costs and fees please see the Government's response to its consultation on this area, available at: www.justice.gov.uk/downloads/consultations/jackson-report-government-response.pdf

Employment Tribunal Reforms

The Ministry of Justice is moving towards implementing fees for employment tribunals. This will ensure that tribunals are able to focus on genuine claims and help to avoid business being faced with unnecessary or unfair costs.

As with changes to civil litigation these measures are not intended to restrict access to justice, but rather to encourage potential claimants to think carefully about the validity of their case - leading to more realistic expectations for individuals and greater certainty for employers, and getting the users of the system to bear some of the costs. We have

undertaken a public consultation on two options for introducing fees, which has now closed. We will be publishing our response shortly.

For more information on the introduction of employment tribunal fees please see:

<https://consult.justice.gov.uk/digital-communications/et-fee-charging-regime-cp22-2011>

We are also supporting the Department for Business, Innovation and Skills in their work to simplify and streamline case management in employment tribunals to increase efficiency and avoid vexatious claims, and as a result, reduce the costs imposed on business.

Reform of County Courts and Dispute Resolution

We are taking forward measures to reform the civil justice system, helping individuals and businesses resolve disputes quicker and in a streamlined fashion, and will improve the enforcement of court decisions.

The Ministry of Justice is implementing a range of measures which will benefit businesses by making dispute resolution quicker and less arduous. These include proposals to speed up the process of resolving small claims. The small claims limit will be increased from £5000 to £10,000. In future more cases will be referred to a Small Claims Mediation Service, rather than having to go through to a small claims hearing. We are also proposing to modernise and streamline the county court system. We are planning to redesign the back office processes, to ensure that cases are handled, and outcomes are secured by participants, including businesses, in a less burdensome way.

In addition to speeding up court processes we are also working to improve the enforcement that underpins these. We are ensuring that the courts will have stiffer powers to ensure that creditors receive the money they are owed, and fewer debtors default on their court fines.

Taken together, our proposals aim to protect access to justice, encourage earlier and more efficient solving of civil disputes, and reduce cost and disproportionate risk. The objective is to give people and businesses (not least smaller businesses) access to quicker and cheaper justice without a reduction in the service available for more complex and high-value cases

For more detail on these proposals on dispute resolution and reform of the county courts, please see: https://consult.justice.gov.uk/digitalcommunications/county_court_disputes

Dispute Resolution Commitment

Last year we re-launched the ADR Pledge, rebranded as the Dispute Resolution Commitment, this encourages government departments and their agencies to commit to using ADR techniques such as mediation before considering court or tribunal .

Together with a number of professional and business organisations such as ICAEW, the Civil Mediation Council, the British Chamber of Commerce and the Federation of Small Businesses, we have been working to create a similar Dispute Resolution Commitment for Local Authorities and Business. We hope to be able to launch that Commitment later in the year and encourage business to resolve disputes in a less costly and quicker way.

Better Regulation

The Department is working actively to review, and where appropriate remove, the burdens that it imposes on businesses. By taking away or simplifying relevant regulations, where possible, we will reduce the burden of red tape, helping business, and the wider economy, to grow.

We are firmly committed to reducing the burden on business through removing unnecessary regulation and legislation. The Department is equally committed to ensuring that it assesses, to the best of its ability, the impact on business when it develops and implements policy.

The Department will be putting key regulations it owns through the Red Tape Challenge process in May, and we will be actively engaging with stakeholders and legal sector businesses to ensure that the regulatory frameworks it is responsible for are proportionate, and that any regulations which impose undue burden can be identified and scrapped where there is no evidence base for retaining them.

For information on the Red Tape Challenge, please see:

<http://www.redtapechallenge.cabinetoffice.gov.uk/home/index>

Ministry of Justice as a Partner

As well as taking forward reforms to the justice system, we are working directly with a wide range of private sector firms to provide justice services to the public. Through our competition strategy, reforms to our procurement processes and our prisons industries programme, we are working to increase the scale of interactions with the private sector, and to make doing business with the Department simpler and more transparent.

Competition Strategy

We are undertaking an unparalleled, multi-billion pound, programme of competition around offender management services, offering private sector providers the opportunity to bid to run a range of key public services on behalf of Government.

Our offender management competition strategy is designed to allow a range of public and private sectors to compete to run prisons, prisoner escort and community payback in the most efficient and effective way possible, while guaranteeing the provision of high quality services to the public. Through our recent and current tranches of competitions, we are offering the private sector to build on their portfolio and /or expand into new markets. Since May 2010, we have already completed the competition for four prisons, and are currently undertaking competition for a further nine.

Additionally, our competition strategy is providing opportunities for business to enter into joint ventures with public sector providers, such as the venture between HM Prison Service and the outsourcing firm MITIE in the current phase of the prison competition programme.

For more information on the competition of offender management services, please visit: www.justice.gov.uk/downloads/publications/moj/2011/competition-strategy-offender-services.pdf

Procurement

Our procurement function is undertaking a range of work to support growth, and specifically to improve the levels of the Department's procurement spend that can be accessed by Small and Medium Enterprises (SMEs).

We have significantly improved the transparency of opportunities to do business with the Ministry of Justice by publishing all tender opportunities of £10,000 and over on Contracts Finder, the new government portal for business opportunities. In the period April 2011 to February 2012 a total of 460 contracts, with a total value of £499m, have been awarded to SMEs. Since June 2011 we have also published details of forthcoming tender opportunities on the MoJ website. This is intended to provide SMEs with an early sight of forthcoming tender opportunities to both help them plan and where appropriate to either form consortia or join with prime contractors in order to be in a much stronger position to bid for the business.

The Department has also streamlined its procurement processes in a number of areas to make it easier for small businesses to bid. We have completely removed what was considered to be a bureaucratic pre-qualification process for all procurements below £100,000. We are also in the process of implementing LEAN standard operating procedures that will ensure that we undertake all but the most complex procurements within the Government's new 120 day target. Where possible we will also eliminate the use of the Competitive Dialogue competition procedure unless it can be demonstrated that it delivers value for money. Our procurement projects will, instead, be undertaken using the EU Open Procedure.

This will give prospective suppliers an early sight of the actual requirement being tendered thus providing them an opportunity to choose to bid for opportunities they are best placed to deliver.

Overall, these procedures emphasise the importance of early and extensive market engagement, using outcome based specifications and breaking large contracts into smaller easier to bid for “lots”. Together, we believe that these measures will encourage innovation, broaden the scope of businesses eligible to respond to our requirements and ensure that at least 25% of procurement spend can be accessed by SMEs. The Ministry of Justice has also appointed a SME Champion from within the Procurement Directorate to oversee the implementation of these measures.

Our intention is to give suppliers, both prime and those within the supply chain, the confidence to invest for the future and compete on a level playing field.

For more information please visit:

www.justice.gov.uk/about/procurement-and-commercial

Prison Industries

We are expanding opportunities for businesses to participate in our Working Prisons programme, making it easier for firms to access labour and manufacturing facilities at competitive prices.

The Ministry of Justice is expanding our Working Prisons programme, which offers businesses the chance to take advantage of the opportunities on offer by working within prisons. This helps offenders to gain valuable experience of work which will aid their rehabilitation on release. It also helps British business to save on its costs, without threatening jobs (our officials work closely with participating business to ensure that this is the case), and helps keep manufacturing industry in the UK.

Across all prisons there are some 400 work shops employing around 10,000 prisoners each week day in a range of disciplines both for the internal prison markets and for commercial customers. Many businesses, ranging from small local firms to larger companies are already taking advantage of the opportunities offered through prison industries. A large number of other prisoners are also employed in cooking meals, cleaning and general maintenance.

As part of the Government’s drive to increase the number of prisoners working a full working week, we are actively looking for new opportunities to work in partnership with the private sector. We have re-launched prison industries as ONE3ONE Solutions. This re-launch will also include a revised on-line presence as well as guidance to Governors - which will be supported by a programme of engagement events with business.

For more information on prisons industries please see:

<http://www.justice.gov.uk/about/hmps/prison-industries>

The Rolls Building

The largest specialist centre for the resolution of financial, business and property disputes anywhere in the world was formally opened by Her Majesty The Queen on 7 December 2011.

Located off Fetter Lane in the City of London, the Rolls Building brings under one roof the expertise of the Chancery Division of the High Court, the Admiralty and Commercial Court and the Technology and Construction Court.

The state of the art court complex covers more than 16,000 square metres, houses 31 courtrooms, 11 hearing rooms and 55 consultation rooms. It is equipped with the latest IT facilities and three 'super courts' able to handle the most complex and multi-party trials.

The UK has long been considered as a centre for legal excellence and the launch of the new, world class court facilities will help make it the destination of choice for global businesses in the 21st century, leading to sustainable, long term growth.

More international and commercial arbitrations take place in London under English law than in any other city in the world. Ninety per cent of commercial cases handled by London law firms now involve an international party.

The judicial expertise available in the Rolls Building includes asset recovery, banking, commodities, company law, construction, finance, fraud, insolvency and reconstruction. It also covers information technology, insurance, intellectual property (including patents), international trade, mining, oil and gas, partnership, property, public procurement, regulation, shipping, tax and trusts.

The European Union Single Market

The EU Single Market is essential to the UK's prosperity and the Government recognises the importance of creating an effective framework around which businesses and individuals can have legal certainty and confidence that cross-border disputes can be resolved as quickly and as cost effectively as possible.

A key element will be the agreement in the coming months of the revision to Brussels I, the Regulation which creates the foundation for all EU civil justice measures in the area of recognition and enforcement of judgments across borders.

The European Commission is also aware of the important role that justice plays in boosting growth. The Government will support any proposals in this area where there is proper evidence of need, effective impact assessments which detail the effect on both businesses and the State and adequate safeguards for parties.

Action Plan for Growth 2011

In May 2011 we published a Plan for Growth in the legal services sector¹ jointly with UK Trade and Industry². The development of the plan included participation from the Law Society, the Bar Council and TheCityUK.

The Action Plan described the extent to which the legal services sector contributes to the economy (including through related services and knock-on effects), the extent to which it is already internationalised, and what the UK has to offer as a “global centre of excellence” in legal services .

Progress Report

All of the Government led actions have now been completed and we continue to work with our government and legal services industry partners to promote UK legal services and the law of England and Wales. This success demonstrates the excellent working relationships between the UK government and its partners and the collective determination to work together to promote UK’s world-leading legal services and law on the international advice; encourage international use of UK law; encourage international business to use UK lawyers; promote the benefits of UK legal education; and encourage foreign law firms to set up in the UK.

We have actively promoted the UK’s legal expertise and services through overseas visits and during inward visits from international delegations. We have also been working with UKTI to make sure trade and investment advisors in British Embassies and High Commissions have the right material to promote UK legal services.

The ‘sector-led campaign’ referred to in our Action Plan for Growth has been developed to help promote the UK’s dispute resolution services to businesses both at home and abroad. This campaign, entitled ‘Unlocking Disputes’³, was launched at the Rolls Building on 27 October 2011

The campaign has been developed and funded by a consortium of partners comprising TheCityUK, the Bar Council, the Law Society and PwC, with additional financial support coming from a number of law, arbitration and mediation firms.

¹<http://www.justice.gov.uk/downloads/publications/corporate-reports/Moj/legal-services-action-plan.pdf>

²UK Trade & Investment (UKTI) is the government department that helps UK-based companies succeed in the global economy. It also help overseas companies bring their high quality investment to the UK’s economy – acknowledged as Europe’s best place from which to succeed in global business. UKTI offers expertise and contacts through its extensive network of specialists in the UK, and in British embassies and other diplomatic offices around the world. It provides companies with the tools they require to be competitive on the world stage. For more information visit:

<http://www.uktradeinvest.gov.uk/>

³www.unlockingdisputes.co.uk

Targeting international business leaders, the campaign highlights and promotes the UK's unrivalled professional expertise, the quality of English law, the independence of our judiciary and the world-class facilities now offered through the Rolls Building to cement the UK's position as a world leader, attract new clients and maintain existing clients.

We believe that this approach of marketing the totality of the UK's offer is the key to success; while our courts are an important part of the picture, they are only one of the reasons why international businesses bring their legal business to the UK.

International dispute resolution continues to grow. The number of disputes resolved through arbitration and mediation in the UK reached 34,541 in 2009, up from 19,384 in 2007. There are now in England hundreds of mediators experienced in all types of disputes, both domestic and international.

Some examples of activity related to the Action Plan for Growth include:

- Alternative Dispute Resolution event in India in May 2011
- English Law Week in Russia in June 2011
- Justice Secretary's India Visit in September 2011
- International Bar Association Conference in October 2011
- Launch of 'Unlocking Disputes' campaign – 27th October 2011
- Launch of MoJ's 'Plan for Growth' group on the online professional networking site, LinkedIn – 31st October 2011
- Lord Mayor's Banquet – 14th November 2011
- Formal opening of the Rolls Building – 7th December 2011
- City Reception at Mansion House (celebrating Rolls Building) – 16th February 2012
- Other MoJ and UKTI Ministerial visits throughout the year

Further Opportunities for Collaboration

Law is a central part of the Government's plan to put the UK on a path to sustainable, long-term growth.

London now provides the largest concentration of judicial expertise for finance, business and property anywhere in the world. A decision from a UK court carries a global guarantee of impartiality, integrity and enforceability. The integrity and incorruptibility of our judges, along with new, world class business court facilities and the sheer quality of our legal profession, makes the UK the destination of choice for global businesses in the 21st century.

We look forward to continue to work closely with UKTI, the Bar Council, the Law Society and TheCityUK and the Lord Mayor of the City of London on a joint approach to encouraging growth in the legal sector and to help to cement the UK's position as a world leader in dispute resolution.