

Market landscape in 2020

23 November 2020

‘Organisational life as we know it has been altered – some changes will be permanent. There is simply no going back to life as we knew it pre-Covid-19.’ Chartered Management Institute¹ [#n1]

Introduction

This has been a year of disruption and accelerated change for everyone, largely because of the Covid-19 pandemic and Brexit. Times of change bring risks and challenges for all businesses and consumers, not least because of the high levels of uncertainty. As with all other businesses, law firms need to be ready to adapt quickly.

We research and monitor the legal market to help us to achieve our regulatory objectives. We summarise below how Covid-19 and Brexit have affected the legal market and some of the potential longer-term effects. It will take some time before the implications are fully understood, so we, like others, will continue to monitor developments and share our understanding with the profession.

These wider market issues will inevitably affect the risks your firm is facing and your own risk assessments.

‘The outlook for the UK and global economies remains unusually uncertain. It will depend critically on the evolution of the pandemic, measures taken to protect public health, and how governments, households and businesses respond to these factors.’ Bank of England Monetary Policy Committee, 2020² [#n2]

Covid-19

The measures taken by government to control Covid-19 have affected many aspects of people’s lives, as well as the economy and wider political considerations. The main impacts include:

- The first national lockdown forced many people and businesses to quickly adjust, such as working remotely, which changed consumer demand and behaviour.
- An economic downturn, partly deferred by the furlough scheme, which has already included the sharpest quarterly downturn on record.³ [#n3] This could lead to a prolonged and unusually severe recession.⁴ [#n4]
- Some commentators suggest negative interest rates might be introduced by the Bank of England.

It is possible that many of the measures will continue well into the future. And the impacts could be felt for much longer, for example, because of the:

- uncertainty felt by consumers and firms, making it difficult to plan ahead and meaning people with disposable income are saving rather than spending⁵ [5]
- changes in consumer behaviour – such as reduced commuter and foreign travel – which has shifted demand from city centre and high street businesses to local and online businesses
- responses of law firms and other businesses, such as office closures, adopting new working practices and redundancies
- additional stress and effects on many people's wellbeing, including solicitors and consumers.

Our guidance on your regulatory obligations during Covid-19 has a list of useful resources. And, there is guidance and advice from the Courts and Tribunals judiciary on the effects of Covid-19 [<https://www.judiciary.uk/coronavirus-covid-19-advice-and-guidance/>] .

Brexit

The UK's transition process for leaving the European Union has also increased uncertainties for many people and businesses. The government has new rules for people, businesses and travel.⁶ [6]

By the start of 2021, we should know the immediate outcome of Brexit. The economic impacts of that outcome will become clearer throughout the year.

Knowing the outcome, whether it includes an agreed trade deal or not, could boost the economy and some uncertainty will fade. This might help people and businesses to plan, and invest or spend, for the future. However, there is still likely to be some continued uncertainty throughout 2021.

Our information on how Brexit might affect those we regulate has a list of resources.

How has the legal market been affected?

'Covid-19 is impacting law firms all around the world in an unparalleled way. Client and team meetings are now virtual and so are most courts and tribunals. The standard way of running a small law firm has changed, possibly forever.' LexisNexis⁷ [7]

The effects of Covid-19 and Brexit can be seen in four areas:

- economic
- legal and regulatory
- consumer behaviour and expectations
- market and firm behaviour.

Not all changes in these areas can be attributed to Covid-19 and Brexit. Some already existed as part of longer-term trends with other causes.

Economic

Current considerations

This year has seen the sharpest fall in the economy on record.⁸ [n8] The turnover and employment in many law firms was affected in 2020, for example:

- In our social media polling in September 2020, some firms reported that Covid-19 had led to an increase in turnover and others reported a decrease.
- Conveyancing transactions fell initially because the first lockdown stopped many people from moving house. The stamp duty land tax (SDLT) holiday and lockdown lifting helped conveyancing rebound quickly, but temporarily.⁹ [n9]
- Fewer people travelling and working in their offices meant there were less accidents, which reduced personal injury (PI) claims.
- City centre businesses still see very subdued trading, with many having to close. Commercial conveyancing work reduced in the same way as residential work.
- The government's financial support helped many businesses to keep operating and the furlough scheme reduced the rise in unemployment by initially limiting the need for redundancies.

Future developments

The economy might not return to its pre-lockdown position for some time yet.¹⁰ [n10] The exact shape of the recovery is uncertain too. It is widely recognised that the following might be seen:

- Continued business difficulties because of further lockdowns and a recession.¹¹ [n11] It is possible that the travel sector might never return in the same way.¹² [n12]
- Conveyancing transactions are likely to fall again. This happened at the end of the 2008 SDLT holiday.¹³ [n13] The current SDLT holiday ends in March

2021.

- Unemployment is likely to rise through 2021.¹⁴ [n14] And, inflation rates could increase. These will both affect the legal needs of people and businesses, and their ability to afford legal services.
- Negative interest rates, which would encourage lending but might mean that people and firms have to pay to hold savings.¹⁵ [n15] This will affect money held in client accounts and could also mean more people look for alternative, potentially high-risk, investments.
- Lenders and insurers are more cautious during uncertain times, which leads to higher insurance costs, including professional indemnity insurance (PII). They are likely to remain cautious until risks in the market are clearly falling and there is a return to growth.
- The end of the government's financial support schemes could affect many consumers and businesses, including law firms and their staff – often with support staff the most affected.

Regulatory and legal

Current considerations

Virtual courts have allowed the judicial system to continue in a limited way, therefore protecting some access to justice. There are still difficulties for consumers, for example:

- Court backlogs have increased, with some people waiting over a year for their case to get to court.
- Some prisoners are waiting months to see their solicitor. And, access to a solicitor for some of those detained by the police is also difficult and delayed.
- The backlog in employment tribunal claims grew by 25% between March and August 2020, with some cases waiting two years to be heard.¹⁶ [n16] Immigration tribunal courts are similarly affected.
- People who have limited access to digital devices or services are disadvantaged.
- There have been concerns about fairness and confidentiality, as well as about the reduced attention spans of jurors when working from a screen.¹⁷ [n17]

Firms should consider how they can help consumers, adapt to people's needs and keep people informed about possible outcomes and timescales. Our reforms aim to help the legal market respond to consumer needs and there are signs of positive impacts in the current situation:



- Consumers find the information on firms' websites helpful when finding and comparing solicitors.¹⁸ [#n18]
- Our Standards and Regulations give solicitors more flexibility in how they can offer services, which is an advantage in times of change.

We have also been pragmatic and flexible where appropriate. For instance, we have:

- helped law students and new entrants by waiving the need to take a pre-admission professional skills course and allowing alternative assessment arrangements [<https://www.sra.org.uk/sra/news/coronavirus-questions-answers/>] and a form of online assessment invigilation called 'remote proctoring'
- made sure that firms unable to secure professional indemnity insurance because of Covid-19 could prolong the extended indemnity period by agreement
- taken a proportionate approach to delays, such as in preparing an accountant's report.

We have eased the transition to registered foreign lawyer (RFL) status for registered European lawyers (RELs) and have published guidance about this.

Future developments

The end of some of the government's measures to protect the economy and population could increase demand for solicitors. For example:

- The end of the furlough scheme and mortgage repayment holiday could increase evictions, redundancies and business closures. The planned Job Support Scheme gives less financial support than the furlough scheme, so the risks of evictions and business closures will remain.
- The end of the ban on evictions could also increase the number of people with housing difficulties.

Some of the main regulatory and legal changes ahead are:

- Local and national lockdowns look set to continue and might be unpredictable.
- Increased scrutiny of economic crime and money laundering.
- Changes to allow wider use of digital identity verification.
- Court and justice delays will continue until the backlog can be cleared. Any ongoing disruptions from Covid-19 will delay this process.

- The road accident claims reforms in April 2021 will have a limited impact, as PI firms, insurers and lenders have already needed to plan for these.

Consumer behaviour and expectations

Current considerations

The first national lockdown changed how consumers access services across many sectors, including legal services. For instance, the demand for services in cities fell across many sectors and there are already some signs of people moving out of cities.¹⁹ [#n19]

With services increasingly moving online, people without internet access are disadvantaged more than ever. Digitally excluded people are disproportionately older or disabled. Asylum seekers and homeless people also often have limited access to digital services. Therefore, although the increase in digital legal services maintains access to justice for the majority, it often does not help some very vulnerable people. So, there needs to be a combination of online and offline innovations to widen access to legal services.

The Covid-19 pandemic has had worse impacts on women and on people from poorer and minority ethnic backgrounds. For example, there are differences in the proportions of different groups of people:

- suffering adverse outcomes following infection
- affected by changes to childcare and education
- working in roles that can be done from home or are more likely to be furloughed or made redundant.²⁰ [#n20]

This has hindered some of the progress in equality and diversity across society and in many sectors, highlighting and exacerbating inequalities²¹ [#n21]

This year will leave many consumers in a worse financial situation and many will be more vulnerable to crime. For instance:

- There are more targets for cybercrime as more people now depend on IT for all their work, their shopping and their social lives. But, some crimes, such as burglaries, are likely to remain low while more people are at home.²² [#n22]
- People seeking safer investments or better returns from their savings might be more vulnerable to questionable investment schemes.²³ [#n23]

Future developments

As the long-term effects of Covid-19 and Brexit become clearer, consumers' plans will be influenced by their experiences during 2020. For instance:

- The trend of people moving away from city centres is likely to continue, particularly as the economy recovers and if remote working becomes permanent.²⁴ Remote working will also mean that accidents and injuries remain low.
- Consumers will have formed new spending and service-use habits during the lockdowns. This means that preferences for local or online businesses are likely to continue.
- If the equality gaps are not closed, we might see more social unrest and political divides, in addition to the divisiveness caused by Brexit.

Market and firm behaviour and strategy

Current considerations

The effects on the economy, regulatory and legal landscape, and consumer behaviour all impact on law firms. Firms have worked to keep the legal system functioning, helping to make sure that many consumers still have access to justice.²⁵ Legal services can more easily adapt to remote working than some other sectors, but the lockdowns forced a sudden and accelerated pace of change.

The recession and uncertainties have caused financial difficulty for many firms. For example:

- Sectors such as conveyancing, criminal law, PI or immigration have been particularly affected.
- With a significant fall in claims, large PI firms have bought case-holdings from struggling firms.
- Some compliance officers have increased the time they spend on fee earning rather than compliance tasks. It is important that this does not lead to issues and that law firms maintain compliance and keep their systems and controls in check. This is likely to affect small firms more.

Many people's mental health has also been affected this year, including the users of legal services and staff working across the sector:

- Many people reported an increase in problems with mental health during the first full lockdown, with many finding the isolation challenging.²⁶
- Consumers' mental health can affect solicitors' work and wellbeing too.
- The move to remote working has reduced the stress levels for some solicitors.²⁷

And, many law firms are small businesses, which are more likely to feel the impact of staff being absent from work due to illness or furlough. Stress and mental health can lead to mistakes and poor choices, so firms need to have support systems for their staff. This Risk Outlook includes information about the support we have put in place and where firms and their staff can get help.

Future developments

Many firms locate their office close to their consumers as they share confidential information and it is easier to build trust with face-to-face interactions. Technology will help firms to balance this with any permanent moves to remote working. The following might be seen:

- Online and high street businesses are likely to continue to benefit, while those dependent on city centre trade will decline. Commercial conveyancing might benefit from businesses seeking to reduce their office space.
- Remote working, virtual and/or hybrid legal services and court hearings will become increasingly normal.
- Consolidation of parts of the legal market sector is likely to speed up, as more firms make decisions about whether to exit or expand.
- With lenders and insurers remaining cautious, it could be harder for new and innovative businesses to obtain funding until the economy begins to recover.

The responses of firms – and the legal market as a whole – drive some of the changes in the priority risks set out in this Risk Outlook.

Notes

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