

Consultation Response

Invest 2035: the UK's modern
industrial strategy

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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.



Questions

- 1. How should the UK government identify the most important subsectors for delivering our objectives?*
2. How should the UK government account for emerging sectors and technologies for which conventional data sources are less appropriate?
- 3. How should the UK government incorporate foundational sectors and value chains into this analysis?*
- 4. What are the most important subsectors and technologies that the UK government should focus on and why?*

The legal sector is one of Scotland's most competitive, with almost 1,200 law firms operating and offering quality legal advice. That sector is a diverse one, from global, multi million pound businesses to a network of smaller practices operating on the high streets of our villages and towns the length and breadth of the country. More and more Scottish solicitors are choosing to live and work, not just in other parts of the UK but across the world, retaining their Scottish qualification as a proud badge of professional excellence.

As a whole, the legal sector sits at the very heart of the Scottish economy. It accounts for tens of thousands of high quality jobs. It makes a contribution to the Scottish economy of over £1.5 billion each year. It also supports the sectors on which Scotland's economic success depends - oil and gas, financial services, bioscience, food and drink and more.

Ultimately legal services is a sector that doesn't just deliver jobs in for itself, but can support economic growth across a wide range of sectors of the economy.

- 5. What are the UK's strengths and capabilities in these subsectors?*
- 6. What are the key enablers and barriers to growth in these subsectors and how could the UK government address them?*

The Scottish legal profession benefits greatly from those who choose to study here. We want those talented people to stay to help grow the Scottish legal sector.

Every year there are a number of 'international' (i.e. non-UK) students aiming to qualify as solicitors in Scotland, having graduated from the Scots Law LLB. To qualify as a solicitor in Scotland, those LLB graduates would then need to undertake a postgraduate Diploma in Professional Legal Practice, at an accredited university, and then complete a two year training contract with a law firm. The postgraduate qualification is largely unproblematic, as it could be completed under a student visa. However, completing the two year traineeship is often a challenge.



The main issue that is faced by these students is the strict two year window of the graduate visa; the visa being valid from completion of an academic course. In order for that to be a viable option, any graduate would have to complete the Diploma, move from their student visa across to the graduate visa and start a traineeship, immediately, with the two years of the traineeship perfectly lining up with the two years of the graduate visa. Logistically, this has proved to be a barrier for graduates. This can be due to a number of factors such as the time that it can take to secure a traineeship, the usual recruitment cycles of hiring firms and the uncertainty of the timescales around securing any new visa.

Due to this issue, it is much more likely that any international students looking to complete their training in Scotland would need to switch to a Skilled Worker visa during the course of a traineeship (i.e. once the graduate visa that they were on ran out). However, this is on the presumption that employment as a trainee would be sufficient to allow someone to be successfully granted a Skilled Worker visa.

Unfortunately, the salary threshold that comes with this visa is entirely out of touch with legal traineeship salaries in Scotland. There are only a small number of large multinational firms in Scotland that might be able to pay the current threshold. The Law Society of Scotland would view the following as risks because of the current system:

1. Top international talent is available only to big firms that can afford big salaries, therefore not to the whole Scottish market. In some sectors and geographic areas, some firms struggle to hire high quality trainees or newly-qualified solicitors, and this talent pool will never be available to them.
2. Talent is lost from the Scottish jurisdiction as a whole, as frequently we know from anecdotal evidence that individuals will move to London or New York in pursuit of a path to qualification that is easier to navigate as an international graduate.

7. What are the most significant barriers to investment? Do they vary across the growth-driving sectors? What evidence can you share to illustrate this?

In terms of a statistical view of the current problem, our numbers suggest to us that although international students are asking the Law Society how they can



reasonably qualify into Scotland, they simply do not progress through this route at all.

The Law Society asks accredited universities to provide it with annual data on student numbers (and the picture is relatively consistent). Of the students who commenced the LLB in the 2018/19 academic year around 50% commenced the Diploma, four academic years later, in 2022/23. This is similar to the current five year average that we hold, which states that around 46% of students who commence a Scots Law LLB at an accredited university will go on to commence the Diploma in Professional Legal Practice.

The equivalent figure for international students was only 9%.

8. Where you identified barriers in response to Question 7 which relate to people and skills (including issues such as delivery of employment support, careers, and skills provision), what UK government policy solutions could best address these?

In relation to the above issues, the two things that we currently think would go some way to fixing them are:

- Some flexibility around the current two year “window” for graduate visas; and
- An acknowledgement of regional salary disparities. Having a non-London salary threshold that is lower than the present amount could (depending on the number that is landed on) open up job opportunities at a wider range of employers across Scotland. Presently only large multinationals would be able to accommodate the current salary threshold for international students and even then, for many, it’s not realistic.

9. What more could be done to achieve a step change in employer investment in training in the growth-driving sectors?

10. Where you identified barriers in response to Question 7 which relate to RDI and technology adoption and diffusion, what UK government policy solutions could best address these?

11. What are the barriers to R&D commercialisation that the UK government should be considering?

12. How can the UK government best use data to support the delivery of the Industrial Strategy?



13. *What challenges or barriers to sharing or accessing data could the UK government remove to help improve business operations and decision making?*
14. *Where you identified barriers in response to Question 7 which relate to planning, infrastructure, and transport, what UK government policy solutions could best address these in addition to existing reforms? How can this best support regional growth?*

See Question 8

15. *How can investment into infrastructure support the Industrial Strategy? What can the UK government do to better support this and facilitate co-investment? How does this differ across infrastructure classes?*
16. *What are the barriers to competitive industrial activity and increased electrification, beyond those set out in response to the UK government's recent Call for Evidence on industrial electrification?*
17. *What examples of international best practice to support businesses on energy, for example Purchase Power Agreements, would you recommend to increase investment and growth?*
18. *Where you identified barriers in response to Question 7 which relate to competition, what evidence can you share to illustrate their impact and what solutions could best address them?*
19. *How can regulatory and competition institutions best drive market dynamism to boost economic activity and growth?*
20. *Do you have suggestions on where regulation can be reformed or introduced to encourage growth and innovation, including addressing any barriers you identified in Question 7?*
21. *What are the main factors that influence businesses' investment decisions? Do these differ for the growth-driving sectors and based on the nature of the investment (e.g. buildings, machinery & equipment, vehicles, software, RDI, workforce skills) and types of firms (large, small, domestic, international, across different regions)?*
22. *What are the main barriers faced by companies who are seeking finance to scale up in the UK or by investors who are seeking to deploy capital, and do those barriers vary for the growth-driving sectors? How can addressing these barriers enable more global players in the UK?*
23. *The UK government currently seeks to support growth through a range of financial instruments including grants, loans, guarantees and equity. Are there additional instruments of which you have experience in other jurisdictions, which could encourage strategic investment?*



24. *How can international partnerships (government-to-government or government-to-business) support the Industrial Strategy?*

Cross-border trade is essential to the legal sector. Many of the law firms operating in Scotland work and offer legal services internationally. We also have a growing number of Scottish solicitors who work in-house in other countries, offering valuable expertise and legal knowledge to the companies and organisations they serve. A consistent need ask from our firms is government facilitation of network building. Developing links with other firms and the introductions to clients that come from this can come from any number of environments, but DBT/MoJ led delegations have proved useful.

Building upon these networks by establishing a commercial presence in a country can help in the long term often this is only something of interest after a firm knows there are clients in a market. Therefore short-term mobility enabling firms to network and meet clients combines the need to follow clients around the globe is central to developing business. key.

It is for this reason that the Law Society have prioritised the need to secure legal professional privilege in markets where Scottish solicitors do not have and to secure preferential fly-in-fly-out provisions and, where it is right to do so.

The impact of trade agreements on services trade is almost entirely derived from the work done after the signing of the deal so we would welcome anything that supports that work. It is vital that deals are not simply treated as 'complete' once signed. It is still very early to judge the relative success of the new deals that have been signed but if they are to be successful they will continue to need promotion and support from Government. For instance, the work of the Australia-UK Legal Services Dialogue which was established as part of the UK-Australia FTA needs a secretariate to function.

On the issue of professional qualification agreements specifically we would caution against using the UK-Switzerland Recognition of Professional Qualifications Agreement as a model and prefer to create dialogues such as that in the Australia FTA as they leave control in the hands of the UK's legal regulators.

Lawyers from overseas can come to Scotland to practice international law (and indeed any other aspects of law that aren't reserved to Scottish Solicitors) as they are entitled to do without registering with or requalifying as a Scottish Solicitor. We are keen to welcome those who do but we would not want to go down the path of creating a bespoke route to qualification for each nation/territory that has a small number of applicants as this would create a significant administrative burden.

25. **Which international markets do you see as the greatest opportunity for the growth- driving sectors and how does it differ by sector?**



The legal services sector is a huge economic enabler for international trade. Whether on financial services; Scotland's thriving food and drink sector; travel and tourism; or oil, gas and renewables, solicitors help to facilitate trade globally.

This includes contract negotiations for the provision of goods or services, and also advice on matters such as entry requirements and intellectual property protection. Businesses of all types are increasingly international in focus and global in reach and Scottish solicitors must be able to provide their services accordingly.

Furthermore, trade agreements create legal rights and obligations. It is therefore imperative that individuals and business have access to legal advice to allow them to exercise those rights and meet the requirements of their obligations.

There were a number of areas of work that drive overseas expansion specifically. In alphabetical order these were:

- Disputes settlement
- Energy
- Legal tech
- Project management and consultancy work

Our members operate across the globe in around 50 nations and territories but the major markets that our firms trade with are:

EU

Europe remains a key market for many of our large firms and though many of the short-term issues arising from Brexit have been resolved it is worth noting from the start that whilst the EU-UK Trade and Cooperation Agreement (TCA) is helpful from a services perspective the deal is largely focused on trade in goods. There are however a number of helpful aspects, including a specific section on legal services not always found in a trade agreement.

There is still a sense that fly in fly out work is overly complicating and confusing. It is hoped that some of these issues can be improved during the upcoming review of the UK-EU Trade and Cooperation Agreement.

The upcoming review process presents an opportunity for the UK to raise concerns about the operation and content of the TCA. Whilst we expect the majority of the review process to focus on implementation rather than renegotiation there are areas of the Agreement that can be improved with support. For instance, article 145 commits both sides to transparency around procedures and requirements for entry and temporary stay of people. Migration is reserved to EU member state national governments which means there are often different requirements for each member state. Furthermore, the fragmentation resulting from this plethora of different requirements is in itself a barrier to trade as businesses need to understand the impact on their business in each separate jurisdiction, rather than being able to rely on a uniform understanding of the rules.



A number of members and firms have expressed some concern that it is still not always clear what is and is not permissible under the current arrangements. Whilst (as we acknowledge) some of this can be put down to the relatively new nature of the TCA there is still clearly room for improving the information provided by member states about what is allowed in each country.

Secondly, article 126 commits both sides to review a number of issues including permitted activities for short term business visitors so long as it is in both sides interest. The mobility of professionals has been severely reduced as a result of withdrawal from the EU. Almost all our firms and members would welcome more flexibility for cross-border working, which has positive impacts for individuals and the economy. There is widespread agreement from our members that adding legal services to the list of permitted activities would be beneficial for Scottish solicitors and for the UK more generally. It is worth noting that whilst currently other professions can still provide advice (such as parts of the finance sector) solicitors need both the right to enter a country (covered by the 90 day restriction which can be problematic in some cases), the right to practice and legal professional privilege. Competition and arbitration are both areas of practice which would benefit from this change. Whilst there may be other issues that cannot be solved by the TCA (insurance for instance) any steps to reduce the regulatory burden would be welcome.

The GCC

The middle east and in particular UAE and Saudi Arabia are clearly a key market for many firms. In practical terms, an efficient business visa systems which allow solicitors to enter a country for the purposes of meeting their clients face-to-face is key. If a solicitor has to wait a long time for a business visa to be authorised this could act as practical barrier to provision of legal services. Evidence from our members who have worked in the GCC suggests that these are often time consuming and bureaucratic.

USA

The USA is a significant though well-developed market. The maturity of the market means that it can be a challenge to operate in but is lucrative.

26. Do you agree with this characterisation of clusters? Are there any additional characteristics or dimensions of cluster definition and strength we should consider, such as the difference between services clusters and manufacturing clusters?

27. What public and private sector interventions are needed to make strategic industrial sites 'investment-ready'? How should we determine which sites across the UK are most critical for unlocking this investment?



28. How should the Industrial Strategy accelerate growth in city regions and clusters of growth sectors across the UK through Local Growth Plans and other policy mechanisms?

29. How should the Industrial Strategy align with devolved government economic strategies and support the sectoral strengths of Scotland, Wales, and Northern Ireland?

The promotion of English and Welsh law must not become the exclusive promotion of the legal services firms of England and Wales. Scotland has a highly skilled (legal services market, with particular specialism in energy, financial services, and food and drink.

We believe that a whole-of-governance approach should be taken when conducting trade negotiations. This is particularly relevant where international agreements bind domestic legislatures to effect changes in domestic law. We therefore support the Scottish Parliament and Scottish Government having a role in the setting of objectives and scrutiny of trade deals.

30. How can the Industrial Strategy Council best support the UK government to deliver and monitor the Industrial Strategy?

31. How should the Industrial Strategy Council interact with key non-government institutions and organisations?

The forums and engagement mechanisms that DBT employ for international trade negotiations have proved useful and could be used for the industrial strategy.

We would caution that whilst it is clear that these meetings do need to, at times, be covered by non disclosure agreements to allow a frank and open discussion to take place we would encourage these to be used as sparingly as possible since they often make it harder to engage with the profession on the relevant issues.

32. How can the UK government improve the interface between the Industrial Strategy Council and government, business, local leaders and trade unions?

33. How could the analytical framework (e.g. identifying intermediate outcomes) for the Industrial Strategy be strengthened?

34. What are the key risks and assumptions we should embed in the logical model underpinning the Theory of Change?

35. How would you monitor and evaluate the Industrial Strategy, including metrics?



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