

Brexit: A threat or an opportunity for UK lawyers and legal London?

The one great principle of the English law is, to make business for itself

Charles Dickens, *Bleak House*

Alas, many lawyers have sighed, if only Dickens were right and it were possible to drum up business *ex nihilo*. Instead, the practice of law remains dependent on people and events. Construction lawyers on new buildings. Personal injury lawyers on accidents. Insurance lawyers on earthquakes. Divorce lawyers on attractive colleagues. Criminal lawyers on baddies. And so on.

Brexit, we are told, will affect everything from medicine stocks to loggerhead turtles, but it will not transform the way Brits behave. Bad drivers will continue driving badly, wandering eyes will carry on wandering and the law and its servants, far from retreating, will step in to resolve and profit. In this sense, Brexit will not affect UK lawyers.

More prosaically, the great Brexit threat is economic. Like every UK business, the health of legal services is linked to the economy at large. Higher GDP, employment and wages equals good; lower GDP, employment and wages equals bad. Transactional lawyers who rely on a strong deal flow will suffer most in a downturn.

The future is particularly acute for the behemoth of London corporate law. A “Brexodus” of financial services would take the legal business with it. A nervous economy is already making the dealmakers think twice, and doubts over the mutual enforcement of UK and EU judgments could push English law – the lifeblood of international dispute lawyers’ practice – below the Premier League in our list of greatest exports.

The obvious problem with Brexit predictions though is that at the time of writing nobody quite knows its substance. Parliament appears set to reject the Prime Minister’s agreement with the European Union, opening up a spectrum of eventual outcomes from no-deal to no-Brexit. Even if Parliament submits, the future trading relationship remains to be negotiated.

The pithy summary of “the only certainty is uncertainty” reflects a state of limbo that is slowly turning normal. Given the political deadlock, who is to say that Brexit, rather than a swift political withdrawal, will not end up a decades-long toing and froing over a seemingly unresolvable question. If this situation comes to pass, business will deplore the collective lack of conviction and waste of parliamentary time. It may be death by suffocation rather than beheading.

It is difficult to envisage many opportunities in this scenario for UK lawyers, beyond Brexit-related advice. On the other hand, a Brexit which, to borrow a phrase, takes back control, could be managed to create attractive prospects for the legal profession. Here are three such Brexit policies that would boost the UK legal market.

First - Bring in The Business. With the relationship with our largest trading partner now severed to a degree, the UK government should toss carrots at foreign investors. Cutting corporation tax to undercut the EU is an obvious measure, but more important is the availability of skilled labour. An immigration clampdown would be self-harming and unpopular - instead, a smoother visa process for all nationalities, better tax reliefs for investors and entrepreneurs, and government investment in key industries such as technology, would send a signal of confidence to the corporate world. Whether or not we imitate Hong Kong or Singapore, pro-business policies would be a boon to corporate law firms.

Second: Strengthen The Rule of Law. This was the conclusion of a 2017 report by the law firm Linklaters, which described Brexit as a “once in a generation opportunity to make material improvements”. The clarity and predictability of English law underpin its popularity worldwide; a virtue unfortunately muddied by EU law’s attempt to harmonise language and legal system. An apple may be *une pomme* or *ein Apfel*, but to the lawyer a contract is not quite *un contrat* nor *ein Vertrag*. If Brexit leaves the UK with autonomy over its laws, a prudent government would iron out the EU imported vagaries to cement English law’s status as the go-to choice for international contracts.

Third: End Legal Austerity. It is undeniable that the cuts over the past decade to the courts' and the legal aid budgets have restricted access to justice. Given the campaign for Brexit was built on the appeal to sovereignty and control of our laws, it would be correct for the government to honour this de facto mandate for improving our legal system by reintroducing assistance for the less well-off, perhaps through the Brexit "dividend". If direct investment is not viable, a cut to, or zero-rating of, VAT for legal services to individuals would at least improve the affordability of fees, in turn increasing business for law firms.

Reticence has featured rarely during the debate on Brexit, so it feels weak to conclude that Brexit is still too ill-defined and too unpredictable for a blunt categorisation as a threat or opportunity to UK lawyers and legal London. Never before has a country withdrawn from such a political union, we must remember. This intensity of uncertainty, this scope for differing interpretations, has turned Brexit into a debate on national self-perception – like the ambiguous duck-rabbit, what image of ourselves do we see reflected in the mirror? So, it is fair to ask, what do *I* see?

Let us return to Dickens. He portrayed a self-serving and sclerotic legal profession. Sadly today, many Brits today still recognise this depiction. For a country whose nations throughout history have done more than any others to promote the rule of law, our legal system does not reflect our lofty reputation. Are we more likely to improve this system by ceding more powers to a supranational organisation, or by taking those powers back? Whilst conscious of the threats of Brexit, I favour the second option. It presents, as I see it, a great long-term opportunity for UK lawyers and the country. But then, only time will tell if I am right.

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