

Murray Etherington - Opening of legal year speech, 26 September 2022

Good morning Lord President and honoured guests.

It is a privilege to be here at today's Opening of the Legal Year.

This year we're gathered at a particularly significant moment in our history – the death of Her Majesty has been a time of sadness and reflection for the country and well beyond.

Respect and affection has come from around the world – we were pleased for example to receive condolences from International Bar Association President Sternford Moyo among others in the past few weeks.

This moment in history has a unique significance to the legal profession because of the key role the Monarch plays in our justice system – Queen Elizabeth II gave assent to more than 3,200 Acts of primary UK legislation during her reign, and over 310 Acts of the Scottish Parliament – those are quite astounding numbers and testament to Her Majesty's commitment to her country.

We now wish King Charles III well for a long and prosperous reign, as he takes on those important constitutional duties as Sovereign at what remains a time of such uncertainty both here and abroad.

A lot more has changed in the past 12 months of course – we're now living for the most part in a post pandemic world, though Covid-19 will of course remain with us along with many of the profound changes it's brought. For example, the courts backlog is being slowly reduced, but remains an enormous challenge.

That's placed even more pressure on Scotland's desperately under resourced legal aid system.

Legal aid remains in crisis – that's no exaggeration with practitioners leaving the profession in disturbing numbers. That's why we continue to engage with the Scottish Government on finding short and long-term solutions to this problem.

Despite the challenges the solicitor profession has for the most part weathered the storm of the past few years, though any optimism has to be tempered by the wider picture of the ongoing war in Ukraine and the cost of living crisis at home.

But there are some encouraging signs that our profession remains on the right path to succeed and prosper.

One indicator is trainee solicitor numbers – they are after all the literal future of our profession.

Last year was a record-breaking year but we're on track to well and truly exceed the 744 traineeships registered last year. It's a good sign of confidence among employers, and demand for legal skills.

At the start of this month the Scottish Government released its Programme for Government and there is progress on a number of priority areas for the legal profession.

The legal announcement that gained the most attention of course was the news that Scotland's famous three verdicts system is to be abolished.

The Society recognises that there's widespread community support for abolishing the not proven verdict, seemingly on the basis that it will increase the conviction rate particularly for sexual crimes.

Whilst we support many of the proposed measures to support complainants of sexual offences, for example the automatic right to anonymity, trying to engineer our justice system to influence conviction rates is a dangerous path to take – we can't support a change that risks an increase of miscarriages of justice.

If this change occurs it must be very carefully managed, particularly with how it interacts with the other moving parts of our criminal justice system.

The Programme for Government also announced that priority will be given to a new bill to reform the regulation of legal services.

Now we've been "watching this space" as the saying goes for what feels like a very long time, so we were pleased to see this announced and are even more keen to see some detail.

What I can say is change is clearly needed. Much of the current legislation is more than 40 years old – before mobile phones, the internet, social media or ABS licences.

That makes it unfit for Scotland's modern legal sector and the international markets in which we now compete.

The current system for handling legal complaints in particular is too slow, too complex, too expensive and needs urgent overhaul.

New legislation is the opportunity we need to make real improvements which better protect consumers while also allowing the legal profession to thrive.

It will of course also be important that any changed system is soundly based, recognising the importance of the independence of the legal profession and the judiciary's role and purpose in upholding it.

Our approach to regulation is a good example of how the Law Society tries always to be forward thinking, to ensure the solicitor profession is set up to succeed not just now but for many decades in the future.

In terms of those longer-term priorities, you'll all be able to get a better sense of what those are for the Society next month when we launch our next 5 Year Strategy.

I won't spoil the surprise too much, but one thing I can tell you is contained in that document is a clear focus on the importance of sustainability, and the legal sector doing its part to get Scotland to net zero.

Last week we announced the creation of a new Sustainability Committee to pursue that aim, building on the success of our work in the lead-up to COP26.

Our new committee is not just about how the Law Society operates, but more importantly it's also about leading the profession as a whole to prepare for and do its part to reduce the impacts of climate change.

Of course, solicitors are already involved in advising clients and employers on matters related to climate change, while considering the impact on themselves. We need to understand the challenges which are ahead, and ensure we are prepared for opportunities to influence and inform policy and legislative development in this area.

We want a profession that is sustainable in every sense of the word – that's why it must also reflect the communities it serves and nurture and protect the wellbeing of the people working in it.

We've come such a long way from this time a year ago. I know the legal profession will continue to be defined not by the challenges we face but by how we respond to them.