LEGAL SERVICES IN THE UNITED KINGDOM
I. OVERVIEW OF THE UK LEGAL PROFESSIONS

• Three jurisdictions: England and Wales, Scotland and Northern Ireland

• Two distinct branches in each jurisdiction: solicitors in all three, and barristers (E&W and NI) or advocates (Scotland)

• Regulation: there are different regulators for each profession, and each jurisdiction has its own regulatory regime
1. A) THE ROLE OF SOLICITORS

- ‘Front line’ professionals providing legal advice and representation, including representation in court

- Most solicitors work in private practice in a partnership of solicitors who offer services to clients. A growing number of solicitors also work as ‘in-house’ advisers for corporations and government bodies

- Law firms range from sole-practitioners and small ‘high street’ firms offering general services to the public, to mid-size firms or niche specialist in certain practice areas, or full-service commercial law firms and multinational practices with offices across the globe

- If their clients then have to be represented in the higher courts, the solicitor will normally instruct a barrister/advocate to conduct the case in court
I. B) THE ROLE OF BARRISTERS / ADVOCATES

• Individual specialist legal advisers and courtroom advocates
• Majority self-employed
• Referral profession, so are ‘instructed’ - mainly by solicitors/law firms
• Specialise in advocacy and represent their clients in the higher courts
• In addition, provide written advice/opinions and negotiation and mediation services
• Senior barristers/advocates are appointed as Queen’s Counsel (called QCs) and they lead the most important and complex court cases.
1. C) UK - REGULATION OF TITLE

- The UK approach is to protect and regulate the professional title as opposed to the activity.
- However, the title is defined by the exclusive right to practise the ‘reserved activities’, which include: conveyancing, wills and probate, rights of audience, conduct of litigation and drawing up court documents.
- Thus foreign lawyers can offer legal advice and representation (in some tribunals) on non-reserved matters.
- However, fraudulently holding oneself out to be a solicitor/barrister/advocate is a criminal offence.
- There is otherwise no equivalent to the US concept of ‘unauthorised practice of law’.
### 1. D) THE UK’S LEGAL PROFESSIONS AND BODIES

<table>
<thead>
<tr>
<th>England and Wales</th>
<th>Number of Solicitors</th>
<th>Regulatory body</th>
<th>No of barristers/ advocates</th>
<th>Regulatory body</th>
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<tbody>
<tr>
<td>c191,000 on the Roll, of which c146,000 with 2018 practising certificate</td>
<td>Legal Services Board (LSB) is the oversight regulator. The Law Society (TLS) is the front line regulator – with regulatory functions delegated to Solicitors Regulation Authority (SRA)</td>
<td>c16,400 with practising certificates in 2017</td>
<td>Legal Services Board (LSB) is the oversight regulator. The Bar Council is the front line regulator - with regulatory functions delegated to Bar Standards Board (BSB)</td>
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<tr>
<td>Scotland</td>
<td>c.14,000, of which 11,758 with practising cert at 31 Oct 18</td>
<td>The Law Society of Scotland</td>
<td>432 practising Advocates</td>
<td>The Faculty of Advocates (delegated by the Court of Session in terms of the Legal Services (Scotland) Act 2010)</td>
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<tr>
<td>Northern Ireland</td>
<td>c.2800</td>
<td>The Law Society of Northern Ireland</td>
<td>650</td>
<td>The Bar Council of Northern Ireland</td>
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2. US ATTORNEYS IN THE UK - OVERVIEW

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<th>FIFO</th>
<th>Temporary court appearance - <em>pro hac vice</em></th>
<th>Establishment (FLC in the US)</th>
<th>Requalification (licensing in the US)</th>
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<td>England and Wales</td>
<td>✔</td>
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<td>Northern Ireland</td>
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2. A) US ATTORNEYS IN THE UK

There are c100 US law firms in London, employing more than 5,000 solicitors.

In the UK, US attorneys can:

• fly in and fly out
• provide advice on their home law, international law and in non-reserved matters of UK law (slight variations between jurisdictions)
• establish law firms including partnerships, limited partnership, Limited Liability Partnerships (LLPs), joint ventures and in England and Wales, alternative business structures (ABS)
• practise in-house
• employ and be employed by solicitors
• enter into partnership with solicitors (in Scotland as an RFL in a multinational practice)
• requalify
## 2. B) REQUALIFICATION

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<th>Solicitors</th>
<th>Barristers/advocates</th>
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</table>
| **England and Wales** | Qualified Lawyers Transfer Scheme (QLTS)  
  (equivalent to direct access to bar exam in the US) | Bar Transfer Test without need for further study  
  (equivalent to direct access to bar exam in the US) |
| **Scotland**  | At present 12 core subjects, diploma and at least one year of training contract  
  (exemptions on a case by case basis) but new process to be introduced shortly -  
  Qualified Lawyers Assessment (QLA) | Applications considered on a case by case basis in line with Faculty admission rules  
  (which allow for exemptions to be granted from the steps in the general pathway) |
| **Northern Ireland** | Eight core subject areas for entry to the Institute of Professional Legal Studies course  
  and undertake the IPLS course with a one year apprenticeship | Application on a case by case basis in line with Bar’s rules of admission  
  (which allow for exemptions to be granted from the steps in the general pathway) |
2. C) REGIONAL VARIATIONS

In England and Wales, it is also possible to:

• employ and be employed by barristers and enter into partnership with them
• instruct barristers directly
• appear in court by permission (pro hac vice)

In England and Wales, barristers work in groups in offices known as ‘chambers’

In Scotland and Northern Ireland:

• advocates/barristers work on the basis of a library system made up of self-employed individual practitioners, so no partnership
• US attorneys may instruct advocates directly depending on type of work (in Scotland cannot instruct advocates to conduct court cases)
### 3. UK LAWYERS IN THE US - OVERVIEW

<table>
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<tr>
<th>Jurisdictions with Foreign Legal Consultant (FLC) status</th>
<th>Jurisdictions with FLC rules explicitly permitting Foreign Lawyer temporary practice (FIFO)</th>
<th>Jurisdictions that permit Foreign Lawyer Pro Hac Vice</th>
<th>Jurisdictions that permit Foreign In-House Counsel</th>
<th>Jurisdictions that permit non-US law school graduates to take bar exam</th>
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<td>33</td>
<td>11</td>
<td>18</td>
<td>23</td>
<td>32</td>
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*of 51 jurisdictions (50 state level jurisdictions, plus Washington DC).
3.A) FOREIGN LEGAL CONSULTANTS

UK would like to see:

• explicit rules in all US states to allow all UK lawyers to be able to provide advice on UK law, international law and any third country law in which they are qualified (licensed) as foreign legal consultants

• recognition of UK qualifications regardless of route to qualification

• no minimum post qualification requirement for eligibility to be FLC

• temporary practice (both fly-in, fly-out and, of increasing importance, digital provision) in all US jurisdictions

• establishment in all US jurisdictions and ability to partner with local lawyers
In terms of requalification, we would like to see:

• full recognition of the UK solicitor and barrister/advocate qualifications and thus the ability to take US state bar exams in all US states

• without the following restrictions:
  • inflexible requirement for formal study at a US university
  • route to qualification
  • age or number of years prior practice
4. CONCLUSION

• We welcome this opportunity for dialogue
• Long track record of close collaboration and interaction between UK and US legal professions to support substantial cross-border business and family/private client ties
• UK and US government ambition to deepen UK-US trade further through a new free trade agreement – our legal professions will be key to supporting this
• Respect for commonalities in legal heritage and shared reputation for world-class legal professions
• But recognition of our distinct histories and approaches to legal regulation
• Real desire to continue the conversations with a view to deepening further the collaboration and dealing with any remaining frictions