

**International Trade Select Committee inquiry on the Agreement with Gulf Co-
operation Council**

**Written evidence from the Law Society of England and Wales
28 January 2022**

Introduction

1. The Law Society of England and Wales (the Law Society) is the independent professional body that works globally to support and represent 200,000 solicitors, promoting the highest professional standards and the rule of law.
2. We are making this submission because a free trade agreement (FTA) with the Gulf Co-operation Council (GCC) has the potential to provide many opportunities to solicitors and law firms of England & Wales. Over 1,200 of the Law Society's 11,000 members that are permanently based overseas are based in the GCC countries.
3. In this submission we have focused on the elements of the Committee's call for evidence in which we feel we have most to offer; as such, we have not answered every question from the call for evidence.

The chapters or content the Government should seek to include in a free trade agreement with the GCC, and the considerations which should be given to each

4. In general, there are three key areas of particular benefit for UK law firms which the UK government should seek to include in their negotiating position with the GCC:
 - a. Recruitment;
 - b. Transparency; and
 - c. Establishment.
5. The changes which we are proposing in the recommendations below are entirely consistent with the rights currently afforded to overseas lawyers in England & Wales.

Recruitment

6. Firms are struggling to find the right expertise locally. Hiring locally is a lengthy process and some regions grant additional rights to nationals that prevent dismissal. In addition, the inability to compete on a level playing field can place international firms at a disadvantage when trying to retain local talent.
7. At the same time, the difficult visa processes hamper firms' ability to bring in the right talent from abroad to fill positions and help upskill the local market.
8. Qualification can also be difficult in some countries where a law degree is required for the working visa to be a legal adviser, as a law degree is not required for qualification in England and Wales.
9. In addition, requirements such as post-qualification experience and costly renewal processes create an additional and unnecessary administrative burden.

10. The Law Society understands that non-nationals are not entitled to the same level of free movement between GCC members as citizens, requiring a new visa to visit other branches or clients (and often several single-visit visas for lengthy cases).
11. **Recommendation:** In negotiations with the GCC, the UK Government should seek an easing of regulatory and administrative burdens currently facing foreign firms, in particular requirements on local partnerships, employment, and mandatory local continuing professional development (CPD) courses.

Transparency

12. Within each jurisdiction, procedures vary in transparency and administrative burden. Often, laws are drafted in uncertain terms that create inconsistencies in interpretation, despite being publicly available.
13. Laws can be amended by government without consultation, leading to a climate of uncertainty for businesses.
14. Reports suggest that the procedures for licensing of law firms by the local ministry of justice can lack transparency in practice.
15. Similarly, a lack of safeguards, such as a mechanism for enforcement of legislation, can provide a disincentive to entry, alongside large upfront costs, and difficulties in attracting talent.
16. It has also been reported that the lack of a publicly accessible register or Companies House equivalent makes it difficult to obtain information about company ownership, management, and financial information.
17. **Recommendation:** In negotiations with the GCC, the UK Government should seek to promote transparency in laws and their application, including information on company history for anti-money laundering purposes.

Establishment

18. Law firms seek the ability to open offices without overly burdensome administrative requirements.
19. In many regions, including Saudi Arabia, UAE, and Oman in particular, foreign law firms must meet local employment ratios (hiring a certain number of nationals for each foreign employee). This creates difficulties where the right talent is not available locally.
20. Firms welcome low tax or tax-free periods when starting up (such as in the Dubai International Financial Centre (DIFC)).
21. **Recommendation:** In negotiations with the GCC, the UK Government should seek to encourage GCC members to adopt streamlined processes for establishment and mobility in all GCC member states.

The extent to which a free trade agreement with the GCC could offer benefits to UK businesses

22. The legal services industry plays an essential role in facilitating international trade, bringing benefits for businesses in all sectors and helping the wider UK economy to build back better after the pandemic. Therefore, smoother trade in legal services will have additional positive benefits for many other sectors.
23. Law firms advise clients on transactions that take place right across the economy, and so the legal services sector has a wider positive impact on economic output across all sectors of the economy. When the legal services sector grows by 1%, it creates 8,000 new jobs and adds another £379 million to the wider economy.
24. Our legal services sector is a big hitter on the international stage too. The sector is a net contributor to the UK's balance of trade, with net exports of £4.29 billion in 2017.
25. The legal sector will of course benefit enormously from increased and easier trade with the GCC. Currently, most UK law firms and practitioners are based primarily in the UAE so an FTA with the GCC offers the legal sector the chance to gain access to the other five markets in the GCC with which it currently has limited interactions.

The extent to which a free trade agreement with the GCC could support the Government's levelling-up agenda

26. The unique features of the legal services sector, and the way it works with clients across the economy and society, mean it is ideally placed to spread opportunity throughout the country, and empower people, businesses and communities. Legal services can thus play a central part in achieving the Government's ambition of levelling up the UK, and expanding opportunities for UK legal services to trade with other jurisdictions, such as the members of the GCC, will enable the legal services sector to increase its contribution to levelling up.
27. There are three concrete ways in which the legal sector contributes to the levelling up agenda.
28. **First, legal services provide the hidden wiring that underpins local economies.** Running a business involves dealing with a vast number of issues where access to expert legal advice is vital. Whether supporting the day-to-day work of businesses, by protecting their intellectual property or ensuring the validity of contracts, or dealing with serious problems on their behalf, such as resolving a dispute with a customer or supplier or recovering a debt, legal services provide the foundation on which UK businesses can flourish.
29. **Second, legal services create high-paying, professional jobs in areas outside the traditional metropolitan hubs.** Much has been said about how the big cities attract the best talent from smaller towns and rural areas; the legal services sector however offers people a chance to build rewarding careers in the places they grew up. There are over 73,000 solicitors working outside of London in England and Wales, and this number is growing, having increased by more than 16% in the ten years between 2009 and 2019.
30. **And third, legal services empower local people to take control of their communities and resolve those issues that blight their lives.** Almost everyone will find themselves at the centre of a legal problem at some point in their life – indeed,

research from 2019 found that 64% of adults in England and Wales had experienced a legal problem in the past four years. When a legal problem rears its head – be it a dispute with a rogue landlord, a breach of their employment rights, or a confrontation with an abusive partner – it is a solicitor to whom people turn for professional advice, support and resolution. Being able to access legal advice in the local area can help people to resolve troublesome issues quickly and efficiently before they escalate into serious impediments to their life chances and their ability to realise their potential.

The extent to which a free trade agreement with the GCC could support the Government's broader commitment to 'build back better'

31. Due to the central role that the legal services industry plays in sustaining and growing other parts of the economy, we believe that legal services has a critical role in helping the UK economy to build back better after the pandemic.
32. Law firms advise clients on transactions that take place right across the economy, and so the legal services sector has a wider positive impact on economic output across all sectors of the economy. When the legal services sector grows by 1%, it creates 8,000 new jobs and adds another £379 million to the wider economy.
33. The strength of the UK's legal services sector, the second largest in the world after the USA, underpins the country's prosperity and the economy's competitiveness and will to a great extent decide the success or failure of programmes designed to revitalise the economy in a post-pandemic world.

The extent to which a free trade agreement with the GCC could further the UK's foreign policy goals, including regional defence, security, and resilience objectives, and address human rights concerns

34. The Law Society believes that respect for the rule of law goes hand in hand with economic stability and prosperity.
35. Human rights challenges do not necessarily mean that the UK should not trade with a particular country at all or that unreasonable restrictions should be placed on such trade.
36. It is noted that several stakeholders have suggested that separating human rights and legal access discussions is required for constructive dialogue on trade.
37. There are significant and well-reported challenges in various jurisdictions in the region, especially regarding women's and LGBT+ rights, rights of foreign workers, rights to freedom of assembly, freedom of expression, and freedom of association, as well as the right to liberty and security of person. These should not be ignored in negotiations for an FTA with the states of the GCC.

Considerations the Government should give to the red lines it should seek to establish, privately or publicly, to frame the bounds of negotiations

38. Our legal services sector is an economic powerhouse, contributing £60 billion to the UK economy and supporting the employment of 552,000 people, or 1.1% of the UK labour force. The UK legal services market is the second largest in the world, and the sector is a net contributor to the UK's balance of trade, with net exports of £4.29 billion in 2017.

39. Unfortunately, legal services are often overlooked in the services section of many trade negotiations. Yet the fact remains that the legal sector has an enormous practical role in greasing the wheels of international trade, facilitating foreign direct investment and supporting UK businesses to reach international markets. In this respect, legal services embody the vision of Global Britain.
40. The strength of the UK's legal services sector thus underpins the country's prosperity and the economy's competitiveness. Over the years ahead legal services will be central to building back better and delivering economic growth.
41. For these reasons, it is imperative that legal services are considered in the negotiations.

Considerations the Government should give to tailoring its negotiating approach to account for the political divergences between constituent states of the GCC

42. The different regions across the GCC provide different levels of market access for law firms. The World Bank's Ease of Doing Business rankings show this variance, ranging from UAE (16 of 190) to Kuwait (83 of 190).

Market presence of UK firms

43. **UAE:** Currently, many firms consider the UAE to be the most mature market in the Gulf region for legal services and therefore it is often used as a regional hub given the stability this provides. The maturity of the UAE economy has allowed it to weather recent economic downturns better than other GCC jurisdictions. The market is also eager to liberalise areas of trade internationally, creating an impetus for change within the government.
44. **Saudi Arabia:** Other GCC markets are also of growing interest to firms. Saudi Arabia, for example, contains significant opportunities as the country looks to invest in infrastructure across a range of sectors. Its economic size, pace of development and its growth is noteworthy. Saudi Arabia represents a market opportunity to many firms as it invests more in infrastructure and liberalisation initiatives.
45. **Qatar:** Qatar hosts a significant number of English & Welsh solicitors and UK headquartered law firms. An increasing number of international firms are moving into Qatar through the separate regulatory framework provided by the Qatar Financial Centre (QFC) which is also attracting opportunities.
46. **Oman:** Despite its smaller size, several UK firms have also established offices in Oman. Commercial and energy (oil) work are key sectors in this country, while it also boasts a large domestic working-age population. The UK has a strong historical relationship with the country.

Recognition

47. The **UAE**, for example, alone hosts several jurisdictions and regulatory systems. These consist of seven emirates, the primary onshore areas of which being Abu Dhabi and Dubai, as well as two financial "free zones". Regulatory inconsistency between these

jurisdictions create difficulties for foreign investors and multiple licensing requirements are an unnecessary administrative burden.

48. A further example of lack of coordinated approach is in the pan-GCC approach to VAT, which is based on the European model. This is beginning to be implemented but has not yet been uniformly adopted and may lead to difficulties until it functions symmetrically across the GCC.

Transparency

49. Laws can be amended by government without consultation, leading to a climate of uncertainty for businesses. For example, the **Dubai** Decree No. 34 of 2021 was issued and came into effect in September 2021. This change had a significant impact on the drafting of contracts in the region and the Law Society understands that it came into effect with limited business consultation and warning.
50. Similarly, reports suggest that the procedures for licensing of law firms by the local Ministry of Justice can lack transparency in practice (such as **Oman, Dubai, Qatar**, the **Qatar Financial Centre** (QFC), and **Saudi Arabia**).
51. It has also been reported that the lack of a publicly accessible register or Companies House equivalent makes it difficult to obtain information about company ownership, management, and financial information. Such information is relevant in many situations, particularly for the legal sector when seeking to take on new clients given the strict anti-money laundering requirements in the region and especially in **Dubai**.

Restrictions on establishment

52. Law firms seek the ability to open offices without overly burdensome administrative requirements. Currently, law firms wishing to establish in the region generally must seek a licence for establishment that is then used to sponsor work visas for individual lawyers. Several regions require or strongly encourage firms to open with a local partner, such as **Oman, Qatar** and **Saudi Arabia**. A notable exception is within the **UAE**, where foreign firms can open branch offices without a partner. However, public sector clients also often require a local presence to award work.
53. Other common licensing requirements include training plans and employment quotas. In **Abu Dhabi**, foreign firms must provide a draft business plan that demonstrates the intention to invest and grow in the country such as by training local law school graduates. In many regions, including **Saudi Arabia, UAE**, and **Oman** in particular, foreign law firms must meet local employment ratios (hiring a certain number of nationals for each foreign employee). This creates difficulties where the right talent is not available locally (discussed further below). Both **Oman** and **Saudi Arabia** impose an additional requirement to demonstrate the number of nationals who will be assigned to the project for public tender work.
54. Proposed legislation in **Saudi Arabia** drafted in 2020 may have alleviated some of these issues. However, discussions around these proposals appear to have stalled. Firms report it is practically impossible for an international firm to operate without a local partner, even if they do not practise local law. Arbitration must be undertaken in Saudi Arabia, irrespective of client preference.

55. In **Dubai**, the regulation and licensing of all lawyers and law firms – both foreign and Emirati – is the responsibility of the **Dubai** Government's Legal Affairs Department (LAD). International firms can open offices in the **UAE** provided they successfully apply to the LAD for a firm licence. A firm must meet additional criteria, including having at least two branch offices in other jurisdictions. This often means only larger international firms will be granted a licence (though very occasional exceptions are made).

Recruitment

56. Qualification can be difficult in some countries where a law degree is required for the working visa to be a legal adviser, as a law degree is not required for qualification in England & Wales where there is equivalent training or education. Many GCC countries will not provide rights of audience in local courts to foreign lawyers (such as **UAE, Qatar, Oman, and Dubai**), nor provide a route to requalification without nationality requirements. Local qualification can be difficult due to limited exam sittings (such as in **Oman**).