



## BAR COUNCIL NEWS UPDATE – MONDAY 10 APRIL 2017

### Brexit

[New Law Journal](#) writes about the Great Repeal Bill, stating that “The Court of Justice of the European Union (CJEU) will continue to influence British law long after Brexit has occurred”, as the Bill may preserve the supremacy of pre-Brexit EU law over pre-Brexit UK law. Trevor Tayleur, associate professor at the University of Law, said: “if a conflict arises between two pre-Brexit laws, one EU-derived and one not, then the EU-derived one will continue to take precedence. When it comes to interpreting EU-derived UK law, decisions of the CJEU will have the same binding status as decisions of the Supreme Court.”

In another article, [New Law Journal](#) warns that contingency plans are required, in the event of not achieving a deal with the EU by the end of the negotiation period. The cross-party Exiting the EU Committee, chaired by Hilary Benn MP, called for an economic and legal assessment of the situation should the UK fall back on World Trade Organisation (WTO) rules. Its report, “[The government’s negotiating objectives: the White Paper](#)”, states that the government’s assertion that “no deal is better than a bad deal” is unsubstantiated.

### Probate fee rises

[The Gazette](#) reports that the Law Society is pressing the government to retreat on huge probate fee rises, after a parliamentary committee accused embattled lord chancellor Liz Truss of ‘overstepping her powers’. In a highly critical report, the joint committee on statutory instruments said last week that there is ‘doubt’ over whether the proposals are intra vires and urged both houses of parliament to look into the matter.

## Judicial diversity

[Legal Cheek](#) reports that the top black judge who said ‘racism is alive and well’ among the judiciary was reprimanded over ‘inappropriate’ comments. Judge Peter Herbert gave a public speech in 2015 slamming the Election Commissioner’s decision to void Lutfur Rahman’s Tower Hamlets mayoral victory. Addressing onlookers, the part-time recorder and employment tribunal judge said: “Racism is alive and well and living in Tower Hamlets, in Westminster and, yes, sometimes in the judiciary”. The Judicial Conduct Investigations Office (JCIO) has now taken action against Herbert, who is also a barrister, political activist and chair of the Society of Black Lawyers. In a statement published on its website, the watchdog said that his comments were: “inappropriate and put the reputation of the judiciary at risk, which amounted to misconduct.”

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