

BUSINESS PLAN

2008-2009

NORTHERN IRELAND LAW COMMISSION

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Introduction

This is the second business plan for the newly established Northern Ireland Law Commission. It sets out the background to the setting up of the Commission and describes its statutory position and its remit, and the broad approach to law reform that the Commission intends to adopt. It also sets out our strategic objectives and the work which the Commission intends to undertake in the year 2008-2009 in pursuance of those objectives. This work is described in our business objectives, which have associated key targets.

The last business plan covered the period September 2007 - March 2008 and reflected the early development stage of the Commission. During that period although the Chairman, Chief Executive and legal and administrative staff had been appointed the Commissioners were not in place.

Three of the four Commissioners were appointed on 14 March 2008. These are Professor Sean Doran, Mr Neil Faris and Mr Robert Hunniford. The fourth Commissioner, Dr Venkat Iyer, was appointed on 8 September 2008.

The Commission has just launched a consultation on the contents of its first work programme with a closing date for responses of 21 November 2008. It is expected that the process for drawing up the programme and agreeing its contents with government will be completed by January 2009.

Extent of Business Plan

This business plan is therefore an interim one reflecting the fact that a work programme is not yet in place. When a work programme is agreed the Commission will be in a position to draw up its corporate three year plan. In the absence of the latter the strategic objectives set out in last year's business plan will continue to provide the strategic framework for this plan. It is intended to amend the business plan in due course to take account of the agreed programme and the Commission's corporate plan.

Background to setting up of Commission

The Commission was established under the Justice (Northern Ireland) Act 2002 following the recommendations of the Criminal Justice Review Group (2000). The purpose of the Commission is to keep the law of Northern Ireland under review and make recommendations for its systematic development and reform.

The Act requires the new Commission to consider any proposals for the reform of the law of Northern Ireland referred to it. The Commission must also submit to the Secretary of State programmes for the examination of different branches of the law with a view to reform. The Secretary of State must consult with the Lord Chancellor, the First and deputy First Minister and the Attorney General before approving any programme submitted by the Commission.

VISION FOR THE NORTHERN IRELAND LAW COMMISSION

The Government's aim

The overall aim of the Government is to secure a lasting peace, based on the Good Friday Agreement, in which the rights and identities of all traditions in Northern Ireland are fully respected and safeguarded and in which a safe, stable, just, open and tolerant society can thrive and prosper. The delivery of a fair and impartial system of justice to the community in Northern Ireland and the delivery of effective and efficient justice are key elements of the Government's overall aim (Criminal Justice Review Group Report).

Mission Statement of the NILC

The establishment of an independent Law Commission is part of the exciting and optimistic peace process that is underway in Northern Ireland. The central aim of the Commission is directly linked to the aim of the government as set out above. In taking forward this aim the Commission recognises that a fundamental premise of a modern system of justice is that each citizen has rights and duties under the law. The Commission – alongside other bodies responsible for developing aspects of the law – will respect, safeguard and promote those rights and duties by providing for Northern Ireland an effective means of simplifying and modernising the law and making it accessible to the people.

The Commission intends to establish itself as a body that puts forward robust, workable and timely proposals for improving the law and its practice in Northern Ireland. This emphasis on achieving practicable outcomes will be an important value defining the work of the Commission.

Working with government

Although the Law Commission has a statutory duty to keep all of the law of Northern Ireland under review, responsibility for law reform is not a monopoly of the Commission. Most of the Northern Ireland Departments and the NIO are involved at the instances of Government with the reform and amendment of substantial and important areas of the law. Ways of coordinating their efforts with those of the Commission and other law reform agencies, to ensure the most efficient use of resources and the orderly and systematic review of those branches of the law, will be an important aspect of the Commission's considerations.

Around the world independent Law Reform Commissions have a special status in the legislative and administrative regimes in the jurisdictions within which they operate. The matters with which the Commissions are concerned are often technical and non controversial. That can properly impact on the process of implementation of recommendations. It is hoped

that the Northern Ireland Law Commission can establish itself as a valued part of the constitutional structures of Northern Ireland and that its reform proposals will carry weight and will be handled expeditiously by Government. To this end the Commission will develop a Memorandum of Understanding with Government in which respective responsibilities are clearly articulated. The MOU will be developed to take account of any changes introduced as a result of any further devolution settlement.

Choosing projects for a programme of work

Issues referred to the Law Commission for consideration as projects of work are equally assessed against agreed criteria - namely importance, suitability and resources, and are rated accordingly.

Government has now referred two related topics to the Commission. At its inception in April 2007 the Commission was requested by the Department of Finance and Personnel to take on the reform of aspects of land law and more recently the Minister for that Department has requested the Commission to undertake a review of the ground rents legislation. The work on the first referral is well underway and we expect to publish a consultation paper on the subject in January 2009. The aim of this project is to reform and modernise Northern Ireland's antiquated land law and conveyancing law and practice. The work in relation to ground rents is being factored in to this wider land law reform project. The Commission is receiving substantial resource support from the Northern Ireland Land Registry for the land law project. It is intended that the land law reform will complement the separate work within the Land Registry to examine the technical requirements for the introduction of electronic processes and for reform of the land registration system.

It is intended to include at least two other topics in the Commission's first Programme of Law Reform. One of these is likely to be the continuation of work commenced by the Commission's predecessor, the Law Reform Advisory Committee (LRAC).

The Commission has just launched a consultation on the contents of its First Programme. The consultation paper provides a list of 7 topics that are candidates for inclusion in the programme. Comments are invited on these and suggestions for other topics are welcomed.

Working methods

The Commission wishes to create a centre of law reform excellence for Northern Ireland. This will mean being able to recruit talented legal and support staff and providing them with relevant training and challenging work. It also means valuing our staff highly and creating a supportive, productive and intellectually creative working environment. The staff structure of the Commission will be a combination of experienced lawyers supported by research assistants. We envisage the latter being post graduate law students who will have shown research potential and who will benefit from a stint with the Commission at the same time contributing to the research excellence culture.

A legal team headed by a Commissioner will be created for each project. The Commissioner will have responsibility for providing the strategic project leadership along with a level of detailed legal and policy work commensurate with his or her part-time commitment. Teams will be encouraged to exchange information freely across the project boundaries and governance mechanisms will ensure that Commissioners have a degree of involvement across all projects. The aim of such mechanisms will be to build a corporate policy approach for the Commission and to ensure that any inter-dependencies or linkages between projects is recognised and reflected in the Commission's considerations.

The standard process by which the Commission will deliver its recommendations will be through a Consultation Paper published for public consultation (in some cases this may be preceded by the publication for consultation of an Issues paper). This Paper will set out the law as it

currently stands, will discuss the perceived weaknesses/defects in the law and its operation and set out possible options for reform. The responses to the public consultation will be analysed and the Commission will take account of this analysis as part of its final considerations. A Report with recommendations and draft legislation, where appropriate, will be drawn up and presented to government.

At this stage there are three project teams in operation relating to land law; bail and vulnerable witnesses in civil cases respectively. The work on bail and vulnerable witnesses involves initial scoping work on the subject matter; these areas will not be confirmed as Commission projects unless and until they are included in the work programme and approved by the Secretary of State in accordance with the statutory requirements. Work on a fourth topic is about to begin. This is a review of a number of environmental law areas (consolidation of aspects of environmental law, rationalisation of enforcement powers and avenues of appeal, a civil penalties regime and an environmental permitting regime); the purpose of this review is to assess which of the topics under consideration is suitable for adoption as a full project by the Commission.

Training and development

Law reform is in some ways a specific legal specialism in that it combines legal analysis with policy development. This is different to the general experience of most other legal professionals. It requires the lawyers to look at legal issues in the wider social, political and economic context. The law reformer must then develop workable legal reforms that reflect an effective degree of public participation. The Commission will put an emphasis on appropriate training to develop a high level of law reform skills within the organisation.

Stakeholder communication

The Commission recognises that it must develop good communication with its stakeholders whether they be in government, business, the voluntary community, the legal professions or the general public. A variety of means including seminars, stakeholder interviews, news releases and web technology will be used to ensure that those with a stake in the outcome of the Commission's recommendations will have an opportunity to express their views. The Commission will put an emphasis within its analytical process on careful consideration of the views of stakeholders.

STRATEGIC OBJECTIVE 1:

TO ESTABLISH AND MAINTAIN A CENTRE OF LAW REFORM EXCELLENCE FOR NORTHERN IRELAND WITHIN THE RESOURCES PROVIDED BY GOVERNMENT

BUSINESS OBJECTIVES

1.1 To build and maintain effective governance and working practices in accordance with the rules and guidance governing NDPBs.

In year targets:

- Continue to develop NILC financial systems to ensure compatibility with NIO systems and which comply with NIO audit requirements by end of March 2009.
- Prepare and publish Annual Report and Accounts for the 2007/08 financial year by end of August 2008.
- To develop a risk register by end of January 2009.
- Memorandum of Understanding with Government to be agreed by end of March 2009.

1.2 To take forward a Training and Development Plan

In year targets:

- Personal Performance Agreements (PPAs) and Personal Development Plans (PDPs) to be drafted and agreed in line with DFP Core Competence Framework by 30 June 2008.
- Draft and agree a one year Training and Development Plan for all staff by end September 2008.

1.3 To recruit the legal staffing complement

In year targets:

- To recruit 3 legal researchers and have in post by end October 2008
- To recruit a lawyer for the environment project and have in post by October 2008
- Subject to agreement with NIO on project funding to recruit a lawyer for the bail project and have in post by January 2009

1.4 To establish a Communications Strategy

In year targets:

- To develop a Communications Strategy by March 2009

STRATEGIC OBJECTIVE 2:

TO TAKE FORWARD A PROGRAMME OF LAW REFORM FOR NORTHERN IRELAND

BUSINESS OBJECTIVES

2.1 To draw up the Commission's First Programme of Law Reform

In year targets:

- Publication of consultation paper on website 23 August 2008
- Deadline for responses 21 November 2008
- First Programme to be sent to the Secretary of State for approval December 2008
- First Programme published on website January 2009

2.2 To review the law relating to certain aspects of land holding/ownership

In year targets:

- Land Law Conference preparation April-September 2008
- First draft of chapters circulated to focus groups September 2008
- Land Law Conference 3 October 2008
- Publication of consultation paper January 2009
- Consultation with stakeholders February-April 2009

2.2.1 To review the law and practice relation to the redemption of ground rents

In year targets:

- First draft of consultation paper March 2009

Resources relating to the project: (April 08-March 09):¹

SPLO x 0.8 (LRNI Funded)	-	(£61k)
PLO x 0.8 (LRNI Funded)	-	(£41k)
PLO x 1 (NILC)	-	£52k
Professor Wylie (12 Months)	-	£25k
Chairman 1 day per month	-	£ 8k
Conference & Consultation	-	<u>£12k</u>
Total	-	£97k

¹ The costs set out against this project and the others below reflect the main readily definable costs associated with the project(s). They do not take into account the costs of administrative support to the project team or the costs of the input from the Chief Executive or the Chairman (except in the land law project) across all of the areas.

2.3 To carry out initial scoping work on the law relating to bail

In year targets:

- First draft of Issues paper February 2009

Resources relating to the project (April 08-March 09):

Commissioner (2 days/wk less corporate responsibility time) ²	- £ 39k
Commissioner (1 day/wk less corporate responsibility time)	- £ 17k
PLO (Full-time)	- £ 52k
Legal researcher (Nov 2008)	- £ 8k
Total	- £116k

2.4 To carry out initial scoping work on the law relating to vulnerable witnesses in civil cases.

In year target:

- Meetings with key stakeholders Nov- Dec 2008
- Commence drafting consultation paper January 2009

Resources relating to the project (October 08-March 09):

Commissioner (1 days/wk less corporate responsibility time)	- £ 9k
Legal researcher x 2 (Nov 2008)	- £16k
Total	- £25k

2.5 To carry out scoping work in relation to a number of areas of environmental law.

In year target:

- To complete scoping paper March 2009

Resources relating to the project (September 08-March 09):

Commissioner (2days/week less corporate responsibility time)	- £23k
Project lawyer (7 months)	- £40k
Legislative Counsel as consultant	- £25k
Total	- £88k

Judena Goldring
Chief Executive Officer
8 September 2008

² One day per month of Commissioner's time is set aside for the Commission's corporate affairs