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Introduction

I am sure we have all endured at some time, our friends and family entertaining themselves with their jokes about the negative public perception of lawyers. For example, have you heard how many lawyers it takes to change a light bulb? The answer is Fifty one:

- one to argue;
- two to research precedents;
- one to dictate a letter;
- one to stipulate;
- five to turn in their time sheets;
- two to depose;
- one to write interrogatories;
- two to settle;
- one to order a secretary to change the bulb; and
- twenty-eight to bill for professional services.

But at the Northern Ireland Law Commission, it is our avowed aim to challenge this image by seeking to ensure that the law is as straightforward, transparent, fair and cost-effective as possible.

Immediately you see then that law reformers are lawyers with a mission.

So what do we do? As Northern Ireland's independent law reform body, it is our job to keep the law of Northern Ireland under review and to make recommendations to the Department of Justice as to how the existing law can be simplified, modernised and made more accessible to the people.

History

I will give you a little potted history of law reform in NI. By comparison with our neighboring jurisdictions, the concept of independent law reform took considerably longer to take hold in Northern Ireland. In 1965 the Law Commission was set up in England and Wales and in the same year the Scottish Law Commission was established followed in 1975 by the Irish Law Commission . These were independent law reform bodies. In Northern Ireland however, the idea of an independent law commission must have been considered too advanced and perhaps a little dangerous. Instead in 1968 the Office of the Director of Law Reform - an office which was within the Department of Finance - was established.

And at this point I am torn between on one hand a reluctance to reveal too much about my age and on the other shameless boasting about my law reform credentials - which go back some way! My first job after qualifying in 1987 was within the Office of Law Reform. Even then our way of working seems a lifetime away . Desk PCs had just been introduced . Letters were cogitated on, typed up by our secretary, put in an envelope and posted. The reply came back - hopefully within two weeks. We took time to reflect on the reply. Composed a response and so on. Today in the age of ultra fast

communication and the tyranny of the email we may think this approach quaint. But, having worked in policy and legislation for over 20 years I am not at all convinced that speed is always of the essence... during this period a lot of rushed and consequently poorly thought out legislation has been put on the statute book.

Our previous speaker, First Legislative Counsel Mr George Gray, listed his pet hates and top of the list was : officials who try to draft clauses- often with the appeasing line ..perhaps Mr Gray something along these lines might work? Well, the first letter I wrote as a new recruit to the OLR in 1987 (feeling terribly professional and official in my new job) involved instructions to George Gray for a provision in the Minors Contracts legislation. Having described the desired policy, I thought I would help the draftsman to further understand our thinking. So ... I drafted a possible clause. I am not sure if I wrote "*Mr Gray - perhaps something along these lines?*" I very well could have . George's reply - as always - was polite but clear. That was the first and last time I tried to draft a legislative clause.

Then the Law Reform Advisory Committee, was established in 1989 as an independent body . I became its founding Secretary for a number of years (We have another ex Secretary of the Law Reform Advisory Committee here today - Clare Irvine - who is also now with the Law Commission so clearly it's a life long condition!) . Mr Justice Carswell, now Lord Carswell, was the first Chairman of that body. I remember that time fondly. The Committee met in a wood paneled room deep in the Law Courts building. After the long meetings which Mr Justice Carswell would chair with consummate ease and authority the routine was that he and I would move to the kitchen

where he would wash the coffee cups and I would dry. In this domestic postscript to the meeting we would often plan the implementation of law reform ideas.

In the years that followed Lord Carswell proved a great champion of law reform in Northern Ireland and indeed down through the years I have found his professional support invaluable.

In 1993 I was appointed the Director of Law Reform and I held that post until 2000. During that time I also worked with Mo Mowlam. There are many interesting anecdotes to be told about working with her – she was often unorthodox in her approach as Secretary of State – not least related to the fact that she was a female Secretary of State in an otherwise profoundly male political environment. One of the areas of law reform that Mo Mowlam supported strongly was domestic violence law and during her term in office the Office of Law Reform brought forward domestic violence legislation that was internationally recognised as best practice .

The Law Reform Advisory Committee continued until 2007, although the Committee had a minuscule budget and its mandate was limited to making recommendations in relation to civil law, this law reform experiment proved to be very successful and a number of its reports resulted in legislation. Its success paved the way for the establishment of NI Law Commission.

Criminal Justice Review

It was against the backdrop of devolution and the growing acceptance of the importance of access to justice on the political

agenda, that the Criminal Justice Review Group in 2000 recognised that there was both scope and a need for an independent law reform agency in Northern Ireland. Thus in Spring 2007, on the back of the Criminal Justice Review Group's recommendations, the Northern Ireland Law Commission was established.

Composition

The Commission comprises a Chairperson who is a high court judge and four Commissioners drawn from the bar and solicitors professions, and from legal academia. There is also a lay Commissioner. The CEO is a legal post although a lot of my work is management and governance related and there is a staff of legal and administrative personnel. Our complement is around 9 legal and 4 admin staff.

CHAIR

The Honourable Sir Declan Morgan was appointed in April 2007 and served as the Commission's first Chairman for two years, before stepping down to assume his new position as the Lord Chief Justice of Northern Ireland. In November 2009 he was succeeded by the Commission's second Chairman, the Honourable Mr Justice Mc Closkey.

COMMISSIONERS

The Commissioners bring a variety of legal expertise to their respective role. Mr Neil Faris and Professor Sean Doran, are from

the Solicitor and Bar professions respectively, Dr Venkat Iyer is a legal academic and Mr Bobby Hunniford is the lay Commissioner.

Each Commissioner is assigned to lead a law reform project – team - or as in the case of the bail team two Commissioners lead. The Commissioners vary between one and two days per week with the Commission.

Our lawyers and legal researchers carry out research, draft papers and consult with stakeholders. They bring a wide variety of areas of legal expertise to the Commission.

Law Reform and its importance

Continuing with the light-bulb theme, I shall now try and shed light on why we consider independent law reform to be so important.

It is a fundamental of a democracy that its legal system is built on the basis of participation, consultation and representation.

SETTING THE AGENDA

Before we set our law reform agenda, we consult widely with members of the public, civic society, business, the voluntary sector, NI departments, the Law Commissions in neighboring jurisdictions and the legal professions. This helps us to understand the nature and extent of problems relating to the practical operation of the current law in Northern Ireland.

From this consultation process and its own reflections the Commission selects a number of topics for inclusion in its work

programme. We try and ensure that this programme comprises a good mixture of legal topics and that the work is suited to the expertise within the Commission and the resources available for the completion of this work. The work programme is then submitted to the Department of Justice for approval.

HOW WE WORK

When the project teams have researched their area, carried out preliminary consultation with key stakeholders and formulated initial policy proposals, we publish a consultation paper. Our consultation papers are, we hope, an authoritative description of the law . In addition to stating the law , the consultation paper sets out the perceived deficiencies in the area and puts forward possible options for reform. The analysis goes much wider than just an examination of the legal issues and covers the social, economic and regulatory context. This forms the basis for an extensive public consultation exercise. The responses received subsequently directly inform the recommendations that we make to the Department of Justice.

The responses to our consultation papers are almost always sensible and informative. Although I do recall in a previous law reform project on the physical punishment of children, one respondent wrote " may you all burn in hell " on a postcard and posted it to the office . Dangerous work law reform...

So how, you might ask, does this independent law reform process differ from the policy development process which takes place within NI departments?

Having worked for a number of years leading a policy and legislation Division within a Department, I can say that in many ways our process of analysis and formulation of policy proposals and consultation does not differ from that which takes place within Departments. The research, the public consultation, the formation of proposals for change. But there are real differences in what I might call the constitutional environment within which the Commission works and these differences are what provide the added value which an independent law reform body brings to the development of the law.

At the Law Commission we develop our research and proposals away from the pressures of front line politics. Good law making almost always takes time and patience. And these are often not available to departmental officials or politicians who are subject to the pressures of a political agenda.

Politicians for many reasons often have to take a short term view of issues. The role of the independent Law Commission is to be able to take a more thoughtful, more long term view of legal policy - away from the immediate pressures of party politics and constituency demands.

It is also the case that often politicians will want certain law and policy matters to be dealt with by an expert body which is not swayed by party political doctrine of any persuasion.

That is not to say that in law reform we are oblivious to or insensitive in any way to political considerations. On the contrary the law

reformer must have acute political awareness. However, our independence from the NI Executive and the political system means that our proposals are in fact - and also are perceived to be impartial.

This independent role is important in our efforts to facilitate and encourage participation in the law-making process. In carrying out our work the Commission provides a direct, impartial and effective link between the citizen and the policy makers.

Project work

Each project team comprises a Commissioner, Project Lawyer and one or two Legal Researchers. The Commissioners oversee the research, drafting and stakeholder work within the project participating fully - sometimes drafting and always engaging with stakeholders.

Where possible legal staff are assigned to an area in which they have particular expertise. Its devotion of time and resources to in-depth research, including comparative work means that the Commission is in a strong position to make informed recommendations for law reform.

The lawyers in this kind of work develop legal research and policy development skills. This includes developing writing skills and the ability to write about the law and its practice in a way that is easily understood by the general public - a very particular skill. And this is a good stage at which not to hide our light under the bushel - recently our bail team was awarded a commendation at the

Commissioner for Children and Young People Awards for the work done in involving young people in the bail law reform project.

Good stakeholder engagement is also central to the work of the law reformer. The ability to communicate easily and confidently with a wide range of people with different perspectives and the important ability listen carefully are the skills needed here.

INTERESTING WORK

Because of this wider context -the social, economic and political considerations as well as the legal, and the stakeholder participation, the work is always interesting and challenging. For the law reform lawyer there is the very satisfying sense of ones work having practical outcomes. The long and often challenging process of developing ideas into policy and legislation gives law reformers a good sense that they are contributing to the better governance of Northern Ireland and towards improving the experience of those using the law.

The Commission prides itself on the level of expertise it can bring to legal policy. I certainly feel privileged to work with such a talented group of people - our Chairman, Commissioners and staff. .

Work to date

The Commission's First Programme of Law Reform has run from June 2009 to date. During this time the Commission has produced a steady stream of publications which included:

- A consultation paper, supplementary consultation paper and Final Report on Land Law (with draft legislation attached)
- Consultation Papers and Final Reports (with draft legislation attached) on the areas of Business Tenancies and Vulnerable Witnesses in Civil Proceedings; and
- A Consultation Paper on Bail Law. It is envisaged that the Final Report (with draft legislation attached) for this project will be published in mid-2012.

Our Second Programme of Reform is still going through the political approvals process - a process that has proved to be much more lengthy and eventful than we originally envisaged. As always lessons to be learnt!

Throughout the course of our second programme the Commission shall remain committed to sustaining its high level of productivity. It is envisaged that Consultation Papers and Final reports shall be published, during this time, on addressing important areas such as Multi-Unit Developments, the law relating to Landlord and Tenant.

In addition to producing consultation documents and reports, the Commission has been actively involved in building relationships with important stakeholders. Just last week as I mentioned the Commission's Bail Team received a commendation from the Northern Ireland Commissioner for Children and Young People for its extensive and high-quality consultative work.

The Commission has also hosted a number of conferences and events such as:

- The launch of the Land Law project at Linum Chambers in 2008;
- The Bail conference at the Inn of Court in September 2009;
- A presentation of the Commission's work at the Long Gallery in Parliament Buildings November 2009; and
- A conference on the issue of the law relating to Coroners and Inquests in September 2011.

CONCLUSION

In summary we consider that the Commission is an important part of our constitutional and democratic systems. By encouraging and facilitating participation in the law-making process, the Commission's work serves to safeguard the rights of citizens and supports the objective of creating a safe, stable and prosperous society.

Our independence is our strength as it enables us to approach law reform from an impartial, fair and just place. We are proud of the work that we have produced to date and we are hopeful for the work that is to come.

Thank you for your attention and I hope that this discussion has been illuminating!