

Annual Report

for the year ended 31 March 2013



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For the year ended 31 March 2013

Laid before the Northern Ireland Assembly by the Department of Justice under Section 52(2) of the Justice (Northern Ireland) Act 2002 (as amended by paragraph 10 of Schedule 13 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010).

January 2014

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**THE NORTHERN IRELAND
LAW COMMISSION**

ANNUAL REPORT 2012- 2013

**Foreword – Dr Venkat Iyer
Commissioner**

I am pleased to present this sixth Annual Report of the Northern Ireland Law Commission covering the period from 1 April 2012 to 31 March 2013.

**Dr Venkat Iyer
Commissioner**

Chief Executive's Report

Introduction

During this period the Commission has substantially brought forward work on its Second Programme. Preparation work for a Third Programme began during the period of this report and positive contributions were received from Northern Ireland Departments to the initial call for law reform proposals.

In September 2012 the Commission published its final Report on reform of the law relating to bail. The Report was well received and is now being taken forward by the Department of Justice. The Department has indicated that it expects that bail legislation, based on the Commission's recommendations, will be introduced in the Northern Ireland Assembly in 2016.

A Consultation Paper on Unfitness to Plead was published in June 2012. There was an excellent response to the Paper. Some 10 consultees provided detailed, informed and thoughtful views on the issues raised. Their opinions greatly assisted the Commission in its deliberations. The Commission's final Report on Unfitness to Plead in Criminal Cases was submitted to the Department of Justice and was subsequently published in July 2013.

In November 2012 the Commission published a consultation paper on the law and practice relating to apartment ownership. (The Commission's final Report on this subject was published in May 2013.) There was a strong and favourable response to the Consultation Paper. Some 29 consultees put forward their views to the Commission and these views greatly assisted the

Commission's deliberations and its final recommendations.

In December 2012 the Commission provided advice papers to the Department of Justice on reform of the law relating to initiation of criminal prosecutions and the availability and scope of the defence of insanity to an accused person.

In April 2012 the Consultation Paper on the Regulation of health care professionals was published jointly by the Law Commissions for England and Wales and Scotland and the Northern Ireland Law Commission. This was the first such joint project. It proved a successful venture in collaborative working and one which we are already repeating with the tri-lateral electoral law project. Such collaborative working has many benefits and we hope to continue to build on its initial success.

During the period of this report the Commission began its work alongside the other UK Commissions, on the tri-lateral electoral law project. Electoral law is an excepted matter under the Northern Ireland Act 1998. It is not, therefore a matter, within the legislative competence of the Northern Ireland Assembly.

Departmental review

During the period of this Report the Commission underwent a departmental review as required under Department of Finance and Personnel guidance for all NDPBs. The outcome of this review is under consideration by the Department of Justice.

Who we are

The Northern Ireland Law Commission (the Commission) was established in April 2007 under the Justice (Northern Ireland) Act 2002 (as amended by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010) referred to hereon as the 2002 Act (as amended) following on from the recommendations of the Criminal Justice Review Group. The Review Group reported in March 2000: *Review of the Criminal Justice System in Northern Ireland*.

The Commission was set up as an independent advisory body whose aim is to consider the law of Northern Ireland with a view to making proposals for the law's systematic reform. The 2002 Act (as amended) provides for the appointment of a Chairman and four Commissioners. The Chairman must hold the position of a judge of the High Court of Northern Ireland and three of the Commissioners must be drawn from academia and the legal professions respectively. The fourth must be a non-lawyer. Four Commissioners were appointed during 2008.

The Commission is not regarded as the servant or agent of the Crown or enjoying any status, immunity or privilege of the Crown.

Our main task is to review areas of the law and to make recommendations for change. The Commission seeks to ensure that the law is as simple, accessible, fair, modern and cost-effective as possible. A number of specific types of reform are covered by the provisions in the 2002 Act (as amended):

- Simplification and modernisation
- Codification

- The elimination of anomalies
- The repeal of legislation which is no longer of practical utility
- The reduction of the number of separate legislative provisions

Devolution of justice functions

On 12 April 2010, justice functions in Northern Ireland were devolved to the Northern Ireland Assembly (NIA) and the Department of Justice (DOJ) came into existence as a new Northern Ireland Department. From this date, the Commission became an independent advisory non-departmental public body (NDPB) of the DOJ.

The 2002 Act (as amended) provides that the Commission consider any proposals for the reform of the law of Northern Ireland referred to it and submit to the DOJ programmes for the examination of different branches of the law with a view to reform. The DOJ must consult the Attorney General for Northern Ireland before approving any programme submitted by the Commission.

Under the 2002 Act, the annual report of the Commission for the year ended 31 March 2013 will be laid in the Northern Ireland Assembly.

What we do

The Northern Ireland Law Commission will provide the DOJ and the Northern Ireland Executive with independent and well-researched proposals and advice on law reform. The Commission supports the premise that in a modern system of justice each citizen has rights and duties under the law. The Commission – alongside other bodies responsible for developing our laws -

will respect, safeguard and promote those rights and duties.

Developing our programme of law reform work

The Commission submitted its First Programme of Law Reform proposals to the Secretary of State for Northern Ireland in 2009. The Secretary of State laid the programme before each House of Parliament (following devolution of justice matters this role falls to the Minister of Justice and the programme is laid before the Northern Ireland Assembly only). The Commission also submitted the First Programme to the Office of the First Minister and deputy First Minister. The Programme was laid before the Northern Ireland Assembly in December 2009.

The Commission's Second Programme was approved by the Minister of Justice and laid before the Northern Ireland Assembly in July 2012.

Working Methods

A legal team headed by a Commissioner or Commissioners is created for each project. The Commissioner(s) 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 are encouraged to exchange information freely across the project boundaries and our governance mechanisms ensure that Commissioners have a degree of involvement across all projects. The Chief Executive Officer sits on each of the project Steering Groups. The aim of such mechanisms is to build a corporate policy approach for the Commission and ensure that any inter-dependencies or linkages between projects is recognised

and reflected in the Commission's considerations.

Law reform projects may begin with a scoping paper or a consultation paper. The purpose of a scoping paper is to consider how extensive the project should be, find out the key issues as seen by others, and identify interested parties. This early process can involve considerable work with stakeholders. This is followed by publication of a consultation paper. In the Consultation Paper the law as it currently stands is set out, the perceived weaknesses/defects in the law and its operation are discussed and possible options for reform are set out.

During the consultation period we actively seek out interested parties and engage with them in meetings either on their own or with other stakeholders. We try to hold meetings across Northern Ireland so as to ensure we have a balance of views and to facilitate and encourage stakeholder engagement from outside Belfast.

The responses to the public consultation are analysed and the Commission takes careful account of these responses as part of its final considerations.

A Report with recommendations and, where appropriate, draft legislation, is presented to the DOJ and is published. It is then for the DOJ and the Northern Ireland Administration to decide whether it accepts the recommendations and to introduce any necessary Bill in the Northern Ireland Assembly.

Collaborative working

The Commission hopes to continue to build on its well-established relations with the Law Commissions for England and Wales, Scotland and Ireland. Joint projects and good exchange of ideas

and information will help promote law reform throughout these jurisdictions.

Financial Statements

From the 2011/12 financial year onwards, the Comptroller and Auditor General is not required to examine, certify and report on the Law Commission's statement of accounts in accordance with Section 102 of the Justice Act (Northern Ireland) 2011.

However, there is a continuing requirement for the Commission to prepare accounts in accordance with a direction issued by the DOJ in accordance with paragraph 6 (2) of Schedule 9 to the Justice (Northern Ireland) Act 2002 as amended by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010.

The Law Commission's accounts are therefore now incorporated within the DOJ Sponsor Departments Annual Accounts from 2011-12 onwards.

A summary overview statement of the Commission's running costs for the period is shown on page 26.

Membership of the Commission Board

Chairman and Commissioners

The Commission's Chairman (Mr Justice McCloskey) was appointed on 2 November 2009 by the Secretary of State after consultation with the Lord Chancellor, the First Minister and deputy First Minister, and the Attorney General for Northern Ireland. The appointment was for a period of 3 years and ended on 30 September 2012.

Three Commissioners (Professor Sean Doran, Mr Robert Hunniford and Mr Neil Faris) were appointed on 10 March 2008 by the Secretary of State after consultation with the then Lord Chancellor, First Minister and deputy First Minister, and the Attorney General for Northern Ireland. The fourth Commissioner (Dr Venkat Iyer) was appointed following a similar process on 8 September 2008.

In line with their original terms of appointment, Professor Doran, Mr Hunniford and Mr Faris were re-appointed by the Minister of Justice after consultation with the First Minister, deputy First Minister and the Attorney General for Northern Ireland for a further period of two years.

Their appointments ended on 8 March 2013. Mr Faris resigned with effect from 24 June 2012.

Dr Iyer's re-appointment was for a period of up to four years until 31 August 2015.

Commissioners' posts are subject to performance management procedures.

Chief Executive and Accounting Officer

Ms Judena Goldring was appointed as the Chief Executive and Accounting Officer in August 2007. The Chief Executive Officer post is a direct recruitment permanent appointment, and is subject to performance management procedures and arrangements. The Chief Executive of the Commission must be legally qualified.

During the period from April 2012 to September 2012, the Chief Executive undertook work for the Department of Justice. During this period the temporary staff substitution services of Mr Ken Millar were retained.

A list of the full staffing of the Commission during 2012-13 is shown on page 8.

Full Membership of the Commission during 2012/13

COMMISSION BOARD

Chairman

The Honourable Mr Justice McCloskey (up to 30 September 2012)

Commissioners

Professor Sean Doran - Barrister-at-Law (up to 8 March 2013)

Mr Neil Faris - Solicitor (resigned 24 June 2012)

Mr Robert Hunniford - Lay Commissioner (up to 8 March 2013)

Dr Venkat Iyer - Law Academic

Chief Executive

Ms Judena Goldring MA, Solicitor

Acting Chief Executive

Mr Ken L Millar (up to 28 September 2012)

PROJECT LAWYERS

Ms Imelda McAuley LL.B., LL.M.

Ms Katie Quinn LL.B., MSc

Mrs Sarah Witchell LL.B, Solicitor

Ms Clare Irvine LL.B., Solicitor

Mrs Rebecca Ellis LL.B., (Hons), Solicitor

Mrs Diane Drennan LL.B, M Phil, Solicitor

Ms Angela Kelly, LL.B., (Hons), Solicitor (*temporary*)

LEGAL RESEARCHERS

Mr John Clarke, LL.B.

Miss Sara Duddy, LL.B., LL.M., Solicitor

Mrs Patricia MacBride BA, LL.M, JD, Attorney-at-law (New York)

Dr Catherine O'Dwyer BA (Hons), M.A., PhD

Ms Nicola Smith BA (Int), LL.B., LL.M.

LEGISLATIVE DRAFTSMAN

Mr Ronan Cormacain LL.B., LL.M. (*External professional services*)

BUSINESS SUPPORT TEAM

Mr Derek Noble – Business Manager

Mrs Cathy Lundy - Communications & HR Manager

Ms Paula Martin - Personal Secretary to Chairman and Chief Executive

Miss Joanne Kirk - Administrative Officer

Note: Not all members of staff were employed for the full financial year.

Business Review

First Programme of Law reform

The Commission's First Programme of Law reform was approved by the Secretary of State for Northern Ireland in accordance with statutory requirements in October 2009.

The Commission's First Programme contained the following projects:

1. Reform of aspects of land law (*completed December 2010*).
2. Business tenancies law (*completed March 2011*).
3. Vulnerable witnesses in civil cases (*completed July 2011*).
4. Bail law (*completed September 2012*).
5. The law and procedures relating to apartments (*completed May 2013*).

Progress

The objectives of the carried over remaining two projects (4 and 5) and the broad progress up to 31 March 2013 are set out below. Detailed targets and achievements within each law reform project are described in the Management Commentary, from page 20.

Bail law

There is no specific legislation which comprehensively governs the grant or refusal of bail. Rather, the law on bail in this jurisdiction is derived from a range of common law and statutory sources, usually specific to the person or authority tasked with granting or

refusing bail in a particular context. This disjointed and ad hoc approach to bail law creates unnecessary complexity and the potential for inconsistency across the various bail decision makers. Following the close of the consultation period on the Commission's bail consultation paper, the bail team carried out further equality work in relation to the Commission's bail proposals.

A second equality screening of the proposals was conducted, drawing on both qualitative and quantitative data, and a decision was taken to screen them in for a full Equality Impact Assessment. The bail team liaised closely with the Equality Commission NI during the preparation of the Equality Screening exercise and was commended for demonstrating evidence of best practice.

During the course of the preparation of the Equality Impact Assessment (EQIA), the Commission identified a number of information gaps and, following discussions with the Equality Commission, undertook to gather further data on which to consult and base decisions. In particular, it was decided that additional information may be required in relation to the following section 75 groupings:

- Racial group: Ethnic minorities
- Disability: mental health and/or learning difficulties
- Multiple identity grouping: young men

The final report and the accompanying draft legislation were submitted to the Minister of Justice in September 2012 and published. The Department is carrying out a further consultation on the Commission's recommendations with a view to introducing bail legislation in the new Mandate in 2016.

Apartments – a review of the law and practice

The construction of apartments increased rapidly in Northern Ireland during the period of the mid 1990s - 2007. This increase was due to a number of factors: there was a move towards higher density living in urban areas; a demand for greater choice in housing provision; a demand for affordable housing by first-time buyers; an increase in the buy-to-let market and the development of more sophisticated forms of apartment living with enhanced amenities.

However, people in Northern Ireland are not culturally familiar with the concept of living in apartment blocks nor are they accustomed to shared ownership of any kind, being more used to traditional forms of housing with largely separate facilities. In addition, since 2007, when the property market reached its height, the economic climate has become less favourable and the construction sector has declined. This has created a challenging situation for owners and occupiers of apartments who are faced with increasing financial pressures as well as problematic issues relating to property management and the provision of services.

The Commission's Apartments Project evolved out of the Multi-Unit Developments Project which commenced within the First programme of Law Reform and continued into the Second Programme. The Multi-Unit Development Project was restructured and reconfigured at the end of July 2012 to become the Apartments Project. The new focus was to concentrate specifically on the ownership and management of apartments and other properties with elements of shared ownership, such as open spaces.

From July 2012 the project team considered it a priority to propose the provision of solutions for people currently owning and living in apartments and other properties with elements of shared ownership. The project team also saw it as important to concentrate on putting forward proposals to ensure that the same problems do not arise again in the future.

The overarching aim of the project was to address by the most appropriate means the problems experienced in practice relating to the ownership and management of apartments.

The Consultation Paper on apartments was published in November 2012. It considered the issues which affect apartments themselves as well as the structure of buildings and common areas in the developments, both internal and external. The project team took the view that a comprehensive range of solutions had to be considered. It raised broad questions on potential ways forward and sought responses from consultees in order to canvas opinions as extensively as possible.

Consultation with stakeholders and other interested parties formed an important part of the project. The project team ensured that it engaged with and consulted extensively with a wide range of stakeholders throughout the project.

After the consultation period closed at the end of January 2013 the responses were collated and analysed. The responses received were generally very supportive of the proposals made and indicated that the Commission was on the right track with the solutions proposed. Many of the proposals were very popular with consultees and in the responses were almost unanimous or overwhelmingly in favour of the suggested reforms.

During and after the consultation period the Commission also held meetings with representatives from a number of organisations including Belfast Building Control, Association of Apartment Owners of Northern Ireland (AANI), Brackenwood Property and Estate Management, CSM Estate Agents, Charterhouse Property Management Limited, Property One, the Construction Employers Federation, Law Society of Northern Ireland, Royal Institution of Chartered Surveyors, Housing Rights Service, the Northern Ireland Ombudsman, the Northern Ireland housing Executive, Land and Property Services.

By request the project team appeared before the Committee for Finance and Personnel at the Northern Ireland Assembly on 13 March 2013.

In formulating its recommendations for the final Report the project team has been open-minded and recognised that there may be a range of options which can offer effective solutions to the problems. The project team took the views of consultees and stakeholders into account in reaching its conclusions and formulating its recommendations.

Although some of the problems may be addressed by the introduction of legislation, there are also other more practical ways to produce more immediate and effective results.

The project team recognises that the funding and resourcing of any new schemes is an important factor, so it has aimed to be pragmatic and realistic in its approach. It has sought to put forward ideas that are low-cost and have the potential to be implemented without long delays.

The project team looked at the problems in the context of home ownership, rather than landlord and tenant situations. It is conscious that homeowners feel there is a deficit of

services available to them when they encounter difficulties or have a dispute and there is a perception that there is a greater range of support services for tenants, whether in social or private housing.

Second Programme Projects

The Unfitness of an Accused Person to Plead

The Unfitness of an Accused Person to Plead is one of the three referred projects received from the Department of Justice and accepted by the Commission. This project involved a review of the current law and practice in all criminal courts, with the exception of Youth Courts and examined in particular the current operation of the “Pritchard” test, which prescribes the criteria governing the determination of whether an accused person is fit to plead.

The principle of orality states that witnesses are required to give their evidence in proceedings orally, in person and before the court which is open to the public. A number of departures have been made from this principle in relation to criminal proceedings in order to protect certain witnesses who may experience particular difficulties in court. “Special measures” have been made available in the criminal trial process to children, witnesses with a mental disorder or a significant mental impairment of intelligence or social functioning, a physical disability, and those who are suffering fear and distress in connection with giving their evidence to the court. These special measures include the use of screens and live television link.

In its consultation paper the Commission explores whether similar special measures should be afforded to vulnerable witnesses in civil proceedings.

The Consultation Paper was published on 16 July 2012 and the final Report, together with draft instructions for Legislative Counsel, was delivered to the Department of Justice in February 2013. (The Report was subsequently

laid before the Northern Ireland Assembly in July 2013.)

The Defence of Insanity in Criminal Trials

The Defence of Insanity in Criminal Trials is the second of the three referred projects. This entailed an initial review of the use of the defence of insanity in criminal trials, including the arrangements for medical examination and opinion, the appropriate court procedures and stigmatisation arising out of the use of the term “*insanity*”. The Commission examined the MacNaghten Rules, which date from 1843. Human rights issues will also be examined. A scoping paper on the topic was undertaken.

As a result of this work the Commission provided an Advice Paper to the Department of Justice in December 2012. The advice was to the effect that the defence whilst perhaps outdated, caused little problem in practice and was rarely used in Northern Ireland.

The Law Commission for England and Wales is planning to carry out a similar review in 2014 of the operation of the defence in that jurisdiction. The progress and findings of the review in England and Wales in what is a little used area of law, will assist the Northern Ireland Law Commission in deciding whether to proceed further with the project.

The Commission will continue to liaise with the Law Commission in England and Wales and will consider the scope in due course for a joint project with that Commission.

The Initiation of Criminal Prosecutions

The Commission carried out an initial review of the law and practice around initiation of criminal prosecutions and wider developments in this area. The Criminal Justice Inspection Northern Ireland (CJINI) was also working on this topic as part of its overall investigation into delays in the criminal justice system and the potential for adopting reasonable and proportionate measures designed to eliminate or reduce avoidable delay.

The Commission provided the Department with an Advice Paper, the substance of which was that there was no evidence to suggest that a root and branch review of the law and practice relating to the initiation of criminal prosecutions in Northern Ireland was necessary. The Commission concluded that the work being carried out by CJINI was likely to address any procedural weaknesses in the system.

The Regulation of Health Care and Pharmaceutical Professionals in NI

This project forms part of the Second Programme of Law Reform which is being undertaken by the Northern Ireland Law Commission. It is the first project which has been taken forward on a tri-lateral basis by the Law Commissions of England and Wales, Scotland and Northern Ireland.

The review of the regulation of healthcare professionals includes a number of regulatory bodies, including the General Medical Council, General Dental Council, Nursing and Midwifery Council and the Pharmaceutical Society of Northern Ireland.

The regulatory bodies operate within a broad variety of legal frameworks, which have evolved over time to create a complex legislative landscape, which

contains a number of inconsistencies in the powers, duties and responsibilities of regulators.

The aim of the project is to enhance the autonomy of the professional regulators, whilst ensuring that the regulators are subject to certain safeguards, including a duty to protect, promote and maintain the health, safety and wellbeing of the public by ensuring proper standards for safe and effective practice by registrants.

The project covers all the main functions of the professional regulators, including establishing and maintaining a register, approving and setting standards for education, and the investigation and adjudication of fitness to practise cases.

A Consultation Paper was published on 1 March 2012. The Commission made substantive policy contributions and in particular covered the law and practice relating to Northern Ireland. The Commission ensured that any specific Northern Ireland policy perspectives were taken account of in the Consultation Paper.

A final Report is expected to be published in late 2013 or early 2014.

Electoral Law

The Electoral Law Project aims to simplify and modernise electoral administration law. The law in this area has developed in an ad hoc way in response to the variety of different types of elections and their administrative requirements. It has become complex and unwieldy and has given rise to inconsistencies and unjustifiable differences in practice between different elections and different parts of the UK.

The scope of the Project is limited to technical aspects of electoral law

governing the administration of elections and will not include issues such as the voting system or who can vote.

Owing to its status as an excepted matter under the Northern Ireland Act 1998, any review of the law on elections and referendums must be on a UK-wide basis. Consequently this project is operating on a tri-lateral basis in conjunction with the Law Commissions of England and Wales and Scotland. The Law Commission of England and Wales will act as the lead Commission.

As electoral law is not a devolved matter in Northern Ireland, the Northern Ireland Assembly has no legislative competence in this area. However, the Commission will be ensuring that Northern Ireland interests are represented in the course of the project.

This project is split into three phases, with review points between phases. The first phase is the scoping exercise, which was completed in December 2012.

The next phase involves formulating substantive law reform proposals, with a Consultation Paper due to be published in summer 2014.

The final phase will produce a Final Report and draft Bill to implement the recommendations. The aim will be to complete the final phases before the end of February 2017.

Aspects of landlord and tenant law

In the Commission's recent report on Land Law, major reforms of the basic principles of land law were recommended but, primarily for reasons of resources, the topic of landlord and

tenant law was not then included.¹ This report, instead, concentrated on areas concerning Feudal tenure; Estates in land; Easements; Future interests; Settlements and Trusts; Concurrent interests; Mortgages; Contracts for the sale of land and Conveyances. The extensive and comprehensive review by the Northern Ireland Commission (2010) of the areas outlined was the first part of what had been intended as an overhaul of Northern Ireland's antiquated land law.²

Previously, major reforms of the law concerning Landlord and Tenant had also been proposed by the Land Law Working Group, (who published its Final Report in 1990).³ These proposals were also not implemented and as a result the law in this area in Northern Ireland had remained largely unchanged for over a hundred years. Reform, accordingly, of landlord and tenant law is therefore necessary.

In addition the Commission has received a consultation response to the Second Programme Consultation Paper suggesting that sections 10 and 18 of the Landlord and Tenant Law Amendment Act (Ireland) 1860 (known as 'Deasy's Act') should be repealed. These sections prescribe the ways in which a landlord's consent (where required under a lease) for assignment and a landlord's consent (where required under a lease or letting in conacre) for sub-letting must be exercised.

¹ See Northern Ireland Law Commission, 'Consultation Paper Land Law' (*NILC*) 2 (2009), para 1.22, p. 7-8.

² The Commission has recently published a report concerning Business Tenancies (*NILC*) 9 (2011) but this is limited to specific issues, particularly, as to whether and to what extent it should be permissible to 'contract out' of the legislation which regulates business tenancies in Northern Ireland.

³ Office of Law Reform, 'Land Law Working Group Belfast' *HMSO* (1990), part 3.

The submission to us is that in practice these provisions cause delay and unnecessary procedural complexity to transactions. Substantial delays are caused especially where the landlord is resident outside the jurisdiction.

The Commission considers that, examination of these particular provisions should take place in the wider context of the proposed overall review of Northern Ireland's landlord and tenant law.

The reform of landlord and tenant law is proposed as a necessary next step in the overhaul of the land law of Northern Ireland.

Preparation for Third Programme

During the period of this Report the Commission commenced work on the preparation of a Third Programme of Law Reform. The Commission made a law reform proposal call to all Northern Ireland Departments. A number of potential law reform projects were put forward by Departments. These proposals are under consideration by the Commission.

Corporate governance

Commission Board

During the period of this report the Commission's Board met approximately on a monthly basis.

Progress on each of the various law reform projects were discussed at these meetings.

The Chief Executive is the Accounting Officer for the Commission. In accordance with the Relationship Document and associated Financial Controls agreed between the Commission and the DOJ, the Chief Executive has particular leadership responsibilities for:-

- ensuring the efficient and effective use of staff and other resources;
- ensuring high standards of propriety;
- ensuring that the Minister of Justice and the sponsor team are kept informed of any changes or developments within the organisation;
- ensuring that any statutory or administrative requirements for the use of public funds are complied with; that the office operates within the limits of its remit and any delegated authority agreed with the sponsor Department, and in accordance with any other conditions relating to the use of public funds; and
- demonstrating high standards of corporate governance at all times.

The Commission Board meetings were a forum where the Chief Executive on a regular basis provided assurance information to the Chair and Commissioners on how she/he was taking forward the above responsibilities.

The corporate governance procedures and arrangements for the Commission, including finance and accountancy arrangements were operated in accordance with both DOJ and DFP requirements.

Expenditure and decision making during the period was carried out in accordance with these governance arrangements.

The Commission has throughout the period once again contained overall expenditure within the funding resources made available from our Sponsor Department.

Savings Delivery Plan

The Commission continues to successfully implement its Savings Plan drawn up in response to the budget reductions required under the Comprehensive Spending Review 2010.

The Commission has restructured a number of posts which changed the profile of the original Savings Delivery Plan (SDP); however, savings targets have been met.

The Commission has also reviewed its publications policy with a consequent reduction in the numbers of printed Papers and Reports. The travel and accommodation budget has been reduced and Board members and staff are encouraged to make greater use of video conferencing in preference to

travelling. Any proposal involving international travel is carefully examined.

Relations with DoJ Sponsor Branch

In accordance with the Relationship Document, quarterly review meetings were held between the Commission and the Sponsor Branch.

An annual Business Plan for the period was drawn up and agreed with the Department.

Equality Scheme

The Equality Scheme sets out how the Commission proposes to fulfil its statutory duties and was drawn up in accordance with Section 75 and Schedule 9 of the Northern Ireland Act 1998 and The Equality Commission guidelines. Section 75 of the Northern Ireland Act 1998 (the Act) requires public authorities, in carrying out their functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity and regard to the desirability of promoting good relations across a range of categories outlined in the Act.

The Commission drew up a new Equality Scheme based on the revised guidance issued by the Equality Commission and which was submitted to the Equality Commission in November 2011 in compliance with the timeframe set by the Equality Commission.

A public consultation exercise on the new Scheme from 27 June 2011 for a period of 15 weeks ensured that all relevant parties were provided the opportunity to contribute to the final version.

The Commission re-submitted a revised Equality Scheme together with its Equality Action Plan to the Equality Commission in October 2012. The Scheme sets out how NILC proposes to fulfil its statutory duties and was drawn up in accordance with Section 75 and Schedule 9 of the Northern Ireland Act 1998 and Equality Commission guidelines. Section 75 of the Northern Ireland Act 1998 (the Act) requires public authorities, in carrying out their functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity and regard to the desirability of promoting good relations across a range of categories outlined in the Act.

The Commission's Equality Scheme was subsequently approved by the Equality Commission in April 2013.

Equality of Opportunity

The Commission is fully committed to the promotion of equality and good relations, as set out in Section 75 of the Northern Ireland Act 1998. The Commission takes into account equality issues throughout its Law Reform Projects and Internal Services.

Law Reform Projects

The Commission introduces equality considerations at the beginning of each law reform project and builds up its understanding of these issues through effective consultation throughout the course of the project - particularly working with groups representing the nine categories of Section 75. In this way the Commission can be confident that its law reform recommendations, and any draft legislation presented to the DOJ, are fully equality proofed and tested on the need to build good

relations between persons of differing beliefs, political opinion or racial group.

Recruitment

Recruitment of staff to the Commission adheres to Northern Ireland Civil Service (NICS) and HR Connect recruitment policies and procedures. These take full account of equal opportunities statutory obligations and best practice. All Commission recruitment panel members are given up to date recruitment and selection interview standards and legislation training in line with the NICS.

Public procurement of services

The Commission procures its services through public tender exercises assisted by DFP Central Procurement Directorate (CPD) where necessary. The Commission adheres to the guidelines and procedures set down by CPD. These take full account of equal opportunities statutory obligations and best practice. Commission procurement panel members are given relevant equal opportunity training.

Employee Involvement

The Commission strongly encourages consultation and exchange of information within the Commission. This is affected through regular staff team meetings. The team meetings include the CEO reporting back from the meetings of the Commission's Board.

Register of Interests

All members of the Commission's Senior Management Board are required to provide information on personal and business interests that may be perceived to influence their judgement in the exercise of their public duty. The Commission maintains a Register of Interests which is available for inspection at the Commission's offices at Linum Chambers, 2 Bedford Square, Bedford Street, Belfast, BT2 7ES.

Personal data related incidents

During the financial year 2012-13, the Northern Ireland Law Commission reported no incidents of personal data related incidents.

Commitment to Environmental, Social and Community Matters

The Commission's core aim is to work alongside other bodies responsible for developing aspects of the law, in providing for Northern Ireland an effective means of simplifying and modernising the law and making it accessible to people.

The Commission, despite its small size, is concerned to ensure that it minimises its environmental impact. The Commission has continued its commitment to reducing waste, recycling waste paper, cardboard and spent printer cartridges. In addition, our modern office premises incorporates an extensive range of energy saving systems, including automatic zoned sensor lighting, zoned air conditioning, and a fresh water piped filter system.

Publications 2012-13

Title	Published
Consultation Paper: Unfitness to Plead NILC 13 (2012)	July 2012
Second Programme of Law Reform NILC 11 (2012)	July 2012
Report: Bail in Criminal Proceedings NILC 14 (2012)	September 2012
Consultation Paper: Apartments Law NILC 15 (2012)	November 2012
Annual Report 2011-12	December 2012

These publications are available for download from the Commission's website www.nilawcommission.gov.uk.

Management Commentary

The Commission's business plan for 2012-13 sets out the key objectives for that period.

Progress against these strategic and business objectives is described below.

The Commission has two overarching strategic aims:

1. To develop and maintain a centre of law reform excellence for Northern Ireland within the resources provided by government.
2. To take forward the Commission's Second Programme of Law Reform for Northern Ireland.

STRATEGIC AIM 1:

To develop and maintain a centre of law reform excellence for Northern Ireland within the resources provided by government.

STRATEGIC OBJECTIVES

1.1 To build and maintain effective governance and working practices that effectively support the objectives of the Commission, are in accordance with the statutory obligations, rules and guidance governing NDPBs and specifically the DOJ/NILC Relationship document governing the Commission.

In year targets:

- Continue to develop the Commission's financial control systems to ensure continuing compatibility with DOJ accounting systems, including facilitating smooth migration to AccountNI payments system in July 2012 and comply with audit requirements for the period ending 31 March 2013.
Target Achieved
- Publish an Annual Report for 2011/12 by 31 October 2012.
Draft report prepared by October 2012 - Published December 2012.

- Prepare and publish an Annual Business Plan for 2012/13 by 30 June 2012.
Publication held back to September 2012 until after approval and publication of Second Programme of Law Reform.

- Conduct an annual review of NILC overarching risk register by end of January 2013.
Target Achieved

Take account of the EC comments on the NILC draft Equality Scheme, and re-submit to the Equality Commission for approval by 1 November 2012

Target Achieved

1.2 To take forward an effective Training and Development Plan that accords with the Commission's objectives and business plans.

In year targets:

- Staff Personal Performance Agreements (PPAs) and Personal Development Plans (PDPs) to be drafted and agreed in line with NICS Core Competence Framework by 30 June 2012.

Target Achieved

- Ensure appropriate Commissioner and staff development opportunities are identified and developed into a one year Training and Development Plan by 30 June 2012.

Target Achieved – Additional governance/financial training for Commissioners as part of a planned away day postponed until after approval of Second Programme

1.3 To build an effective legal staff within the terms of the Commission's resources.

In year target:

- To put in place an open recruitment exercise for Principal Legal Officers by June 2012.

Target Achieved

- To fill initial arising Principal Legal Officer vacancy by October 2012.

Post filled December 2012

STRATEGIC AIM 2:

To take forward the Commission's Second Programme of Law Reform for Northern Ireland.

We do this by reviewing areas of the law and making recommendations for change. We seek to ensure that the law is as simple, accessible, fair, modern and cost-effective as possible.

STRATEGIC OBJECTIVES

2.1 To reform the law relating to bail.

In year targets:

- Publication of Final Report and draft legislation by July 2012.
Report completed in July 2012 and published September 2012

2.2 To reform the law and procedures relating apartments.

In year targets:

- To publish a consultation paper by 15 November 2012.
Target Achieved
- To receive consultations and commence drafting of final report.
Target Achieved

2.3 To contribute to the Northern Ireland perspective to the English Law Commission project on regulation of the medical profession.

In year targets:

In line with needs of the Law Commission of England and Wales to include:

- Publication of the consultation paper by end of May 2012.
Target Achieved
- Continued work as required with local stakeholders.
Target Achieved

2.4 To reform the law relating to Unfitness to plead.

In year targets:

- Publish a consultation paper by June 2012.
Published in July 2012
- Publish a final report by 31 March 2013.
Draft Report completed in February 2013 and Final Report published in July 2013

2.5 To reform the law relating to the defence of insanity.

In year targets:

- Produce a scoping paper for consideration with DOJ by 10 October 2012.
Scoping paper submitted December 2012. On the basis of the scoping work the decision was taken to defer this project until the Law Commission for England and Wales commenced its equivalent enquiry, and if appropriate with a view to a joint project with that Commission.

2.6 To reform the law relating to the initiation of criminal proceedings.

In year targets:

- By July 2012 initiate research into relevant materials and other jurisdictions.
Target Achieved
- By November 2012 establish reference group.
Target reconsidered - Stakeholder discussions took place and it was decided not to proceed with forming a reference group.
- By 30 December 2012 produce a scoping paper setting out the key issues.
Target Achieved

2.7 To reform the law relating to certain aspects of Landlord and Tenant law.

In year targets:

- To initiate research and scope project by 31 March 2013.
Target reconsidered - It was decided not to proceed with this project until after development of the Commission's Third Programme.

2.8 To contribute the Northern Ireland perspective to the English Law Commission project on electoral law (working alongside the Scottish Law Commission in a tri-partite project).

- To agree ToR with the DoJ and achieve Ministerial approval for the project by 30 November 2012.
Target Achieved
- To contribute as necessary to the development of the consultation paper.
Target Achieved

Forward look to 2013-14

The resources of the Commission during the next year (2013-14) will be focused on taking forward the remainder of the projects contained within the Second Programme of Law Reform and the development of a Third Programme.

The work involved will be a combination of stakeholder engagement, desk research, policy analysis and the publication of consultation and report papers.

The Commission's second priority during this period will be the implementation of the conclusions of the DOJ Departmental review of the Commission.

The Commission's running costs during 2012-13

The Northern Ireland Law Commission is funded by the Department of Justice.

Expenditure	Year to 31 March 2013
	£k
Staffing Salary Costs (including national insurance contributions and superannuation payments)	657
Accommodation (including rent, rates, service charges, maintenance, contracted out services)	161
Other managed professional legal services	17
Other non staff running costs (including general office expenditure, printing, training, travel and subsistence and library subscriptions)	38
Total	873



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