

Annual Report

for the year ended 31 March 2023

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 2024

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THE NORTHERN IRELAND LAW COMMISSION

ANNUAL REPORT 2022-2023

Chair's Report

This is the tenth Annual Report of the Northern Ireland Law Commission (NILC), covering the period from 1 April 2022 to 31 March 2023.

The NILC was established in 2007, but it has not been operational since April 2015, following a decision by the then Minister of Justice to stand down the Commission due to financial pressures facing the Department of Justice (DoJ) and the need to secure front-line services. This remained the position when I was appointed Chair in June 2021 and the difficulties facing public finances have only deepened in 2022-23.

It remains the case that the Commission does not receive any funding from the DoJ and exists without any other commissioners, staff, premises or budget. As a result, the Commission is unable to carry out in a meaningful way its key statutory function to keep the law of Northern Ireland under review and to make recommendations as to its development and reform. However, the legislation which established the Commission (the Justice (Northern Ireland) Act 2002) has not been repealed, meaning that the Commission continues on a statutory footing.

Despite these challenges, I remain a strong advocate for a functioning Law Commission in this jurisdiction. As I have outlined previously, independent economic analysis of law reform projects undertaken by the Law Commission of England and Wales

demonstrates the significant social and economic outcomes and benefits of such work. Certainly, there is substantial potential benefit in Northern Ireland of having a body dedicated to law reform which could support the delivery of key outcomes in future Executive Programmes for Government and deliver legal frameworks which are simple, fair, modern, accessible and fit for purpose.

I remain concerned that, in the continuing absence of a law reform commission, Northern Ireland may get left behind compared to our nearest neighbours, particularly in areas concerning emerging technologies. While I continue to engage with colleagues in Great Britain and Ireland on a range of law reform issues – with recent examples being the Review of the Arbitration Act 1996 and Immigration Consolidation – the Law Commission of England and Wales cannot, by statute, recommend reform which would cover the entirety of the UK without a functioning Law Commission here.

I have, however, been able to develop a project in 2022-23 to support some limited law reform. A doctoral student at Queen's University Belfast began a funded studentship in partnership with NILC and DoJ, undertaking research into an issue of administrative law in Northern Ireland. As part of that work, supported by legal academics and myself, a research report and consultation paper is being formulated in relation to the specific issue of the distinction between criminal and civil judicial review proceedings and related matters. I hope that work will be completed in 2023-24, with recommendations made to the new Justice Minister, should one be in post; and that this project will provide a modest indication of the benefits which

a properly funded independent law
reform commission could bring.

SIR DAVID SCOFFIELD
Chair
Northern Ireland Law
Commission

Summary of running costs during 2022-23

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

From the 2011-12 financial year onwards, the Comptroller and Auditor General has not been 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.

There was no expenditure or general running costs in 2022-23.