

¹⁸ Historic first as neighbourhood plan is voted in by community. Department of Communities and Local Government March 2013 <https://www.gov.uk/government/news/historic-first-as-neighbourhood-plan-is-voted-in-by-community>

¹⁹ <https://www.gov.uk/government/policies/giving-people-more-power-over-what-happens-in-their-neighbourhood>

²⁰ Shining a light on council spending could save up to £450 per household Department of Communities and Local Government, June 2011. <https://www.gov.uk/government/news/shining-a-light-on-council-spending-could-save-up-to-450-per-household>

²¹ <http://www.data.gov.uk/> and Open Data White Paper: Unleashing the Potential. HM Government. June 2012. http://www.data.gov.uk/sites/default/files/Open_data_White_Paper.pdf

²² <http://www.data.gov.uk/apps/car-park-finder-uk>

²³ <http://www.guardian.co.uk/news/datablog+politics/government-data>

²⁴ Lights, Cameras, Democracy in action. Department of Communities and Local Government. June 2013. <https://www.gov.uk/government/news/lights-camera-democracy-in-action>

Biography

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Northern Ireland Legal Material Since Devolution: a Practical Guide

Abstract: Alison Lorrimer, who works at the Departmental Solicitor's Office Library in Belfast, reflects on how the sources of legal information have been affected by the changing political landscape in Northern Ireland.

Keywords: legal systems; government; legal information; Northern Ireland

INTRODUCTION

“Northern Ireland is of the United Kingdom but distinct from it”. This sentence caught my attention recently as it appeared to be an apt description of the legal system of Northern Ireland. The United Kingdom comprises England, Wales, Scotland and Northern Ireland. Articles on the legislative process and legal research in Northern Ireland have been published in previous issues of *Legal Information Management* so I intend to highlight some of the changes which have affected legal information management in practice since 1998.^{1–3}

Power was transferred to the Northern Ireland Assembly under the Northern Ireland Act 1998. Since

1998 it has become clear that devolution of political power is a continuous evolutionary process.

NORTHERN IRELAND EXECUTIVE

The current Northern Ireland Executive has twelve government departments:

- Department of Agriculture and Rural Development (<http://dardni.gov.uk/>)
- Department of Culture, Arts and Leisure (<http://www.dcalni.gov.uk/>)
- Department of Education (<http://www.deni.gov.uk/>)

- Department for Employment and Learning (<http://www.delni.gov.uk/>)
- Department of Enterprise, Trade and Investment (<http://www.doeni.gov.uk/>)
- Department of the Environment (<http://www.doeni.gov.uk/>)
- Department of Finance and Personnel (<http://www.dfpni.gov.uk/>)
- Department of Health, Social Services and Public Safety (<http://www.dhsspsni.gov.uk/>)
- Department of Justice (<http://www.dojni.gov.uk/>)
- Department for Regional Development (<http://www.drdni.gov.uk/>)
- Department for Social Development (<http://www.dsdni.gov.uk/>)
- Office of the First Minister and Deputy First Minister (<http://www.ofmdfmi.gov.uk/>)

The Belfast Gazette published on Tuesday, June 7, 1921 carried a Notice which established the Departments and Appointment of Ministers of Northern Ireland to the first Stormont Parliament. There were seven departments consisting of the Department of the Prime Minister of Northern Ireland and Ministries of Finance; Home Affairs; Labour; Education; Agriculture and Commerce for Northern Ireland.

In ascertaining the law of Northern Ireland as it is in force today, it is sometimes necessary to go back to the 1921 assignment of functions to departments and to work out the legislative trail as the functions and structures of government changed over the intervening period.

Theodore Huckle QC, the Welsh government's Counsel General described the law of Wales thus, 'The existing body of law is an interconnected patchwork of legislation, some of which is decades, or in some cases even centuries, old. Devolution has added to the complexity of statute law.' That also seems to be a fair comment on the law of Northern Ireland.

In common with other jurisdictions, it is relatively easy to find current government papers through departmental websites and TSO (The Stationary Office). The management of these resources to ensure future access to these documents is more difficult. Within the Northern Ireland Civil Service (NICS) group of government libraries each library has assumed responsibility for checking certain departmental websites for new publications and creating links to the electronic version of the document within the NICS e-library catalogue. These links are monitored on a regular basis to check that they are still 'live'.⁴ How access to these documents can be future proofed is still under consideration.

PRONI

The Public Records Office for Northern Ireland (PRONI) has launched a project whereby a selection of websites

from across the Northern Ireland web estate will be harvested from the World Wide Web and stored in a web archive. This web archive will not attempt to collect all of Northern Ireland's websites but using agreed criteria, will select those that it considers are of significance, have long-term research value and which will reflect the content and variety of information published in this way.

The selection criteria for websites that PRONI capture must be about:

- (a) Northern Ireland
- (b) A subject that is of social, political, cultural, religious or economic significance and relevance to Northern Ireland.

PRONI will also consider websites that have:

- (a) A finite lifespan, e.g. websites that are due to close
- (b) Been set up to cover a specific event in time, e.g. websites that have been set up to cover public enquiries or those set up to cover significant events of national importance.

PRONI has entered into a contract with Internet Memory Research, which will see a selection of Northern Ireland websites harvested remotely using a web crawler. The majority of snap shots will be taken three times a year although this schedule can be changed when the need arises to take more frequent shots if major issues should be reflected. Likewise if the website remains reasonably static then the schedule can be arranged accordingly. It is intended that the archived websites will be available to view on the PRONI website in the near future.⁵

Under the recent Legal Deposit Libraries (Non-Print Works) Regulations 2013, Statutory Instrument No.777, the British Library will harvest all government websites once a year. Access will be restricted to legal deposit libraries.

LEGAL ENVIRONMENT

In terms of the legal environment in Northern Ireland, the decision to transfer policing and criminal justice matters from Westminster to the NIA under the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 was significant. Legislating on policing and criminal justice matters had been a reserved matter. This transfer of powers may be seen as an expression of confidence in the stability of the power sharing executive. The practical implications of this transfer were wide ranging. The Department of Justice (DOJ) was established. The Northern Ireland Court Service became the Northern Ireland Courts and Tribunals Service, an agency of the DOJ.

With the devolution of justice responsibilities on 12 April 2010, the Justice (Northern Ireland) Act 2002 was enacted which established a new post of Attorney General for Northern Ireland. John Larkin, QC was appointed to the post. The main responsibilities of the Attorney General are:-

- Chief legal adviser to the Northern Ireland Executive for both civil and criminal matters that fall within the devolved powers of the Northern Ireland Assembly
- Protect the public interest in matters of law
- The Executive's most senior representative in the courts
- Oversee the legal work of the in-house legal advisers to the Northern Ireland Executive and its departments
- Participate in the proceedings of the Assembly to the extent permitted by its standing orders but not vote in the Assembly
- Appointment of the Director and Deputy Director of the Public Prosecutions Service for Northern Ireland

The position of the Attorney General is statutorily independent of the First Minister and Deputy First Minister, the Northern Ireland Executive and the Northern Ireland Departments. A recruitment competition for a part-time librarian for the Office of the Attorney General was run but the position was not filled.⁶

The Northern Ireland Law Commission was established in 2007 following the recommendations of the Criminal Justice Review Group. The Commission is established under the Justice (Northern Ireland) Act 2002 (As amended by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010). The main task of the Commission is to review areas of the law and to make recommendations for reform. 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;
- Repeal of legislation which is no longer of practical utility;
- Reduction of the number of separate legislative provisions;

The Commission staff use the DSO Library for research.⁷

The fact that criminal justice legislation is being drafted by government lawyers working in Belfast instead of Westminster has made a difference to the enquiry work within DSO. We now receive more *Pepper v Hart*⁸ type enquiries as lawyers seek to find out why NI criminal justice legislation has diverged from GB legislation in certain respects. Both the Hansards of the Northern Ireland Parliament and of Westminster need to be checked to see whether the legislation was the subject of parliamentary debate. The Stormont Papers: 50 years of Northern Ireland Parliamentary Debates are available

online. This website offers access to the Parliamentary Debates of the devolved government of Northern Ireland from June 7, 1921 until Stormont was prorogued on 28 March 1972. This resource has been available since October 2006.⁹

The provision of a library and information service to the newly formed Department of Justice within the Northern Ireland Civil Service has not been clearly defined. The existing Criminal Justice Library within the Northern Ireland Office which could have expanded to become the library serving the Department of Justice closed. Some of the staff who transferred to DOJ from the Northern Ireland Court Service use the Judges' Reference Library within the Northern Ireland Courts and Tribunals Service. The lawyers who work in the Criminal Justice Division of DOJ are on secondment from DSO so use our library service. I get the impression that a large number of staff in DOJ who require a library service for research and policy making have been left without a formal library service and are assumed to be able to find everything they need using Google. We offer a current awareness service to DOJ staff but staffing and budgetary constraints mean that the service we can offer to DOJ staff is limited.

LEGAL PUBLISHING

The publishing world has experienced many changes in recent years influenced in part by developments in electronic publishing and also by the economic downturn. The economic viability of publishing legal material pertaining solely to Northern Ireland has always presented a challenge. This gap was filled by SLS Legal Publications (NI) based at Queen's University and jointly sponsored by the Northern Ireland Courts & Tribunals Service, the Law Society and the Inn of Court of Northern Ireland. SLS produced the main current awareness tool for local lawyers, the *Bulletin of Northern Ireland Law* as well as textbooks and journals relating to Northern Ireland law. The announcement that SLS was closing on 31 December 2012 after 32 years shocked both lawyers and librarians.

The Law Society of Northern Ireland has taken over the publication of journals such as *Folio*. The remaining book stock moved to the Law Society Library from where it may be purchased.¹⁰ Textbooks which were ready for publication have been published by either the Law Society of Northern Ireland or by Queen's University. Another SLS publication, the *Guidelines for the Assessment of General Damages in Personal Injury Cases in Northern Ireland* compiled for the Judicial Studies Board for Northern Ireland, previously published in hard copy has been updated to the fourth edition and published online. It is free to download.¹¹

The last TSO (The Stationery Office) Bookshop in the United Kingdom was situated in Belfast. I doubt that I am the only person to miss the convenience of the city centre location and the friendly and knowledgeable local staff.

The transition to electronic publishing has undoubtedly had many benefits but some useful publications have ceased for which I have not found an online equivalent. One such is the Index to the Statutory Rules & Orders, Northern Ireland which is no longer prepared by the Statutory Publications Office and published by TSO. I found this index invaluable as a subject guide to Northern Ireland legislation. The information is supposed to be contained in the legislation.gov.uk website but although it is a very useful free site it does not carry all legislation which is in force in NI. In some instances legislation is inaccurately described as extending to NI.

Two annual tables – The Chronological Table of the Statutes, Northern Ireland and The Chronological Table of Statutory Rules, Northern Ireland - are prepared by the Statutory Publications Office and published annually by TSO.

Northern Ireland legislation has not been available on any of the commercial databases until Westlaw took the decision to include Northern Ireland. Westlaw took 2000 as its starting point for Northern Ireland legislation but has worked retrospectively back to increase its coverage to 1991. It is very useful to find consolidated primary and secondary NI legislation on Westlaw but it does come with a health warning. Serious errors relating to the status of legislation in two areas were pointed out to me recently. I advised the solicitors concerned to contact the editorial team at Westlaw as one of the bonuses of modern publishing is the ease of communication between suppliers and customers.

LexisNexis does not carry Northern Ireland law unless it is contained in a Westminster Act which relates wholly or in part to NI. Justis reproduces NI Orders in Council which are published as part of the Statutory Instrument series.

Cedrec.com/subscription services cover the specialist areas of environmental and health & safety law in Northern

Ireland. The Department for Social Development maintain an excellent updated database of the law relating to Social Security, Child Support, Housing & Charities in Northern Ireland. This database can be found under the Law & legislation heading on their website.¹²

The most reliable source of information for Northern Ireland is the All law of Northern Ireland CD by Barry Valentine which is updated twice a year. It is available to purchase from the Law Society of Northern Ireland.

The BAILLI (British & Irish Legal Information Institute) website and the Northern Ireland Courts and Tribunals websites are excellent free sources for case law from 2000 onwards. Accessibility to tribunal decisions has improved greatly.^{13,14}

LexisNexis in association with the Council of Law Reporting for Northern Ireland publish the Northern Ireland Law Reports and the Northern Ireland Judgments Bulletin series. LexisNexis have a database of reported and unreported Northern Ireland judgments.

Whilst the drive to implement European regulations has led to more standardisation across the United Kingdom in many areas of law, devolution has also given more scope for regional variation on other areas. In Northern Ireland the headlines from today's press clippings include debates about same-sex couple adoption; same-sex marriage; libel laws and a report on the possibility of devolving more fiscal powers. There is demand from local business leaders to lower the rate of corporation tax in Northern Ireland as the lower rate in the Republic of Ireland is said to create an unfair advantage when attracting new investment.

I hope that this snapshot helps to explain the somewhat piecemeal nature of Northern Ireland legal information sources. Enquiry work in the DSO Library certainly helps to keep what Hercules Poirot describes as 'his little grey cells' active.

Footnotes

¹ The legislative process in the Northern Ireland Assembly by George Woodman. *Legal Information Management* 2001, 1(1), 43–45

² Researching the law of Northern Ireland by Heather Semple. *Legal Information Management* 2012, 12(4), 262–266

³ The uniqueness of Northern Ireland public law by Gordon Anthony *Legal Information Management* 2012, 12(4), 262–266

⁴ <http://library.nics.gov.uk>

⁵ www.proni.gov.uk

⁶ www.attorneygeneralni.gov.uk/

⁷ www.nilawcommission.gov.uk/

⁸ *Pepper v Hart* notes. Where the effect or application of legislation is not clear the annotations make reference to, and reproduce extracts of the Parliamentary Debates (Hansard) to provide context for the reader when determining parliamentary intention. After the case of *Pepper v Hart* [1993] A.C. 593 it became possible to cite Hansard in court. The citations to Hansard direct the user to the parliament website, where more information about a specific column or issue can be obtained

⁹ <http://stormontpapers.ahds.ac.uk/stormontpapers/index.html>

¹⁰ www.lawsoc-ni.org/

¹¹ <http://www.jsbni.com/Publications/personal-injury-guide/Documents/Green%20Book.pdf>

¹² <http://www.dsdni.gov.uk/>

¹³ www.baillii.org/

¹⁴ www.courtsni.gov.uk/

Biography

Alison Lorrimer's career path in librarianship has moved from the general nature of work in branch libraries in Belfast Public Libraries to the more specific work of a busy reference department in Belfast Central Library and from there to the very specific niche of Departmental Solicitor's Office Library in 1995. As she freely admits, "Perhaps my career path is not so much a straight trajectory as a case of 'ever decreasing circles'!"

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An Emerging Welsh Legal Identity: a Brief Overview of the Information Landscape

Abstract: "Wales, it has to be said, has come a very long way in a short time." was the opening line by Sir David Lloyd Jones in his speech on, "The Law Commission and Law Reform in a Devolved Wales" to the Wales Governance Centre Annual Lecture in Aberystwyth in March 2013.¹ This brief overview by Lillian Stevenson attempts to discuss this statement using selected documents published after the 2011 referendum in which the people of Wales voted in favour of extending the law making powers of the National Assembly.

Keywords: devolution; legal information; Welsh law

BACKGROUND

The Government of Wales Act 1998 (GOWA) established the National Assembly for Wales but it was generally seen as having limited legislative powers in that its competence was restricted to the power to make subordinate legislation in certain areas under the Transfer of Functions Order. However Marie Navarro presents research which "shows that having been given subordinate legislative powers the Assembly exercised them in a way which was quite different to that of the Welsh Office prior to devolution and to that made in England post-devolution."² Osian Rees states "When one considers the fact that, as has been emphasized, the law-making powers of the Assembly were limited under the 1998 Act, some of the developments that came about between 1999 and 2006 were quite remarkable."³ From the very start it seems the National Assembly grasped the nettle and used the powers devolved to it.

GOWA 1998 was followed by GOWA 2006 and under Part III of the Act, the National Assembly was able

to make primary legislation for Wales, known as Measures, in certain designated areas. This was extended following the 2011 referendum which brought Part IV of GOWA 2006 into force, thereby allowing the National Assembly to pass primary legislation, known as Acts, in 20 designated areas as detailed in Schedule 7 of the Act, as qualified by the exceptions and restrictions in that Schedule and in s. 108.

To quote Sir David Lloyd Jones again, "The recent implementation of Part 4, Government of Wales Act 2006 means that, for the first time in over 450 years, it is meaningful to speak of Welsh law as a living system of law. The law of Wales is now made in Brussels, Westminster and in Cardiff Bay – but the fact that a democratically elected National Assembly now possesses direct legislative powers in certain specified subjects means that Wales has some laws which are peculiarly its own, as Professor Thomas Glyn Watkin puts it. Welsh law in this sense extends to England and Wales – it is part of the law of England and Wales – but it applies only in relation to Wales inevitably, in the years to come