



Newsletter

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If you would like to join CALC, use our [online registration form](#).



CALC President's Report—September 2020



President
Commonwealth Association of Legislative Counsel

Dear CALC family

COVID-19 pandemic



As the world continues to battle COVID-19, the contribution of legislative drafters to facilitate the responses that governments throughout the Commonwealth and elsewhere consider necessary to deal with the health, social and economic effects of the pandemic is usually unacknowledged. The results of our work – the many pages of statutes and other legislative instruments – are made public, but rarely attributed to the drafters and their support teams (including legislative editors) working feverishly very much behind the scenes in legislative drafting offices. We are more used to receiving brickbats than bouquets, as the quote below from the *Report of the Special Commission of Inquiry into the Ruby Princess* attests.

A recent exception is an item published in the *Australian Law Journal*, referenced below. While the item is about legislative drafters in Australia, the sentiments in it are equally applicable to legislative drafters throughout the world.

Challenges to legislation enacted to deal with a pandemic are not new. In 1905, the Supreme Court of the United States was asked to rule on the validity of a Massachusetts statute providing for compulsory vaccination ([*Jacobson v. Massachusetts* 197 U.S. 11 \(1905\)](#)). This *Newsletter* outlines a number of challenges to measures enacted to deal with the coronavirus pandemic. This highlights the difficulties faced by legislative drafters in advising on the legal and constitutional validity of the measures we draft.

CALC virtual event planned for November/December 2020

With the 2 regional CALC conferences, previously scheduled for Canberra in April and Cardiff in June this year, now cancelled, your Council has been looking at whether we can hold a virtual event later this year instead. A number of other organisations have already held or are holding virtual events instead of physical conferences, such as the current Canadian Institute of Judicial Administration online conference in September/October 2020. Your Council is therefore planning to hold a virtual event in November or December this year. The format of the event has yet to be determined, and details will be made available in due course.

CALC biennial conference in 2021



In the previous *CALC Newsletter*, I reported that the working groups formed by the CALC Council to organise and deliver your 2021 CALC conference in The Bahamas had been making good progress to

date. I also noted that the current circumstances mean that this work had paused while members of the working groups devoted their attention to more urgent matters.



Since then, your Council (at a virtual meeting) agreed that the Council should continue to explore arrangements for a physical conference in 2021, but should also investigate an online option. The circumstances that will exist in 2021, especially with respect to international travel, are obviously impossible to predict, and remaining flexible with respect to conference arrangements seems the best approach at this stage

Appointment of Brenda King as Northern Ireland Attorney General

I congratulate Brenda King, our Immediate Past President, on her appointment as Northern Ireland Attorney General. More details are set out below. As this appointment shows, legislative drafters have many talents, and this is yet another chapter in Brenda's extraordinarily varied and illustrious career.

Best wishes to all of you

Finally, I thank your Secretary, Ross Carter, for once again collecting many interesting items for this latest *Newsletter*.

My very best wishes to all of you and your loved ones, friends and colleagues at this very difficult time.



Geoff Lawn

CALC President, September 2020



COVID-19 — drafters' contribution recognised

Graeme Johnson & Sascha Kouvelis Lawyers, Sydney, say in (2020) 94 *Australian Law Journal* 315 at 322:

“The legislative drafters around Australia should be congratulated for what they do on a regular basis and in particular for what they have done and continue to do during this time of national uncertainty.”

Although Australian-centric, this is equally applicable to legislative drafters worldwide.

COVID-19 — legislative responses, online seminars

As notified at www.calc.ngo:

- **Legislative responses to COVID-19:** See links at <http://www.calc.ngo/legislative-responses-covid-19>:
- **Online seminars on The Impact of COVID-19 on the Rule of Law** – The first 3 seminars in a Commonwealth Secretariat online series were on 28 July 2020, 18 August 2020, and 8 September 2020. The rest will be held on 29 September 2020, 20 October 2020, and 10 November 2020. For more details, see: <https://thecommonwealth.org/media/event/event-rule-law-webinar-series>.

COVID-19 — effect on legislatures – article

An article in *The Theory and Practice of Legislation* looks at the challenge posed by the 2019 novel coronavirus to legislatures, the vital organ of democracy.

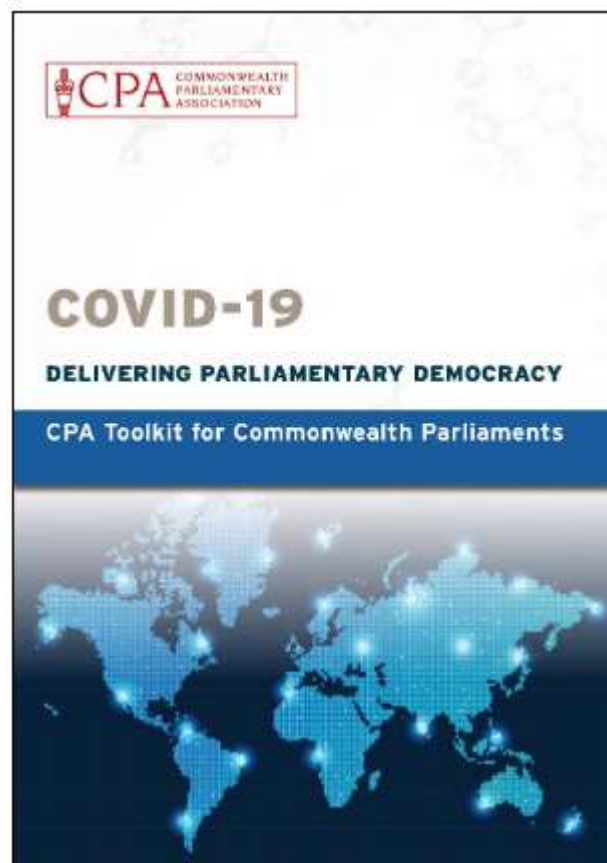
This article develops a comprehensive analysis of the multiple ways in which the pandemic challenges legislatures and their operation, drawing on illustrative examples from various countries around the world. It argues that covid-19 poses a unique and complex challenge for legislatures; resulting from the characteristics of this pandemic and the ways they interact with the fundamental institutional features of legislatures; the typical demographic traits of legislators; the psychological biases that can prejudice legislatures' ability to evaluate the risk; and the effects of emergencies on legislatures. The article then delves into an in-depth case study analysis of Israel to analyze how the pandemic particularly challenges parliaments in countries where covid-19 coincides with a pre-existing political crisis. By understanding the complex challenges posed by covid-19 on parliaments, we can help ensure that parliaments, and perhaps ultimately democracy itself, would not become casualties of covid-19.

Ittai Bar-Siman-Tov (2020) Covid-19 meets politics: the novel coronavirus as a novel challenge for legislatures, *The Theory and Practice of Legislation*,
<https://www.tandfonline.com/doi/full/10.1080/20508840.2020.1800250>

COVID-19 – CPA Toolkit for Parliaments or Legislatures

The Commonwealth Parliamentary Association (CPA) Headquarters Secretariat has conducted research amongst its membership of 180 Commonwealth Parliaments and Legislatures to synthesise a forward-looking '**CPA Toolkit for Commonwealth Parliaments and Legislatures on the COVID-19 (Coronavirus) pandemic and delivering parliamentary democracy**'. This toolkit provides various measures and recommendations that can be adopted by both Parliaments and Parliamentarians in order to continue to deliver on the Legislatures' role of scrutinising legislation and delivering democracy during a global pandemic.

[Click here](#) to download a copy of the CPA Toolkit for Commonwealth Parliaments and Legislatures on the COVID-19 (Coronavirus) pandemic and delivering parliamentary democracy.



See also <https://www.politicshome.com/thehouse/article/coronavirus-how-are-parliaments-worldwide-working-during-the-pandemic> and https://www.hansardsociety.org.uk/publications/proposals-for-a-virtual-parliament?utm_source=hootsuite&utm_medium=social&utm_campaign=post



UK House of Commons @HouseofCommons · Apr 17

MPs are set to be able to question ministers remotely for the first time in the House of Commons 700-year history.

MPs will vote on this on 21 April, when the House returns.

Read more here: parliament.uk/business/news/...



House of Commons takes historic first step towards virtual proceedings

<https://t.co/cmoxTQuo47>



<https://www.prospectmagazine.co.uk/other/coronavirus-parliament-sunset-clauses-legislation>



[Public Health \(Corona Virus and COVID-19\) \(Prevention, Containment and Management\) Rules, 2020](#)



COVID-19 – Public Health Legislation in The Time of a Pandemic

Michele Forzley, with Coauthors Jobin V George, Urvi Patel, Lauren McGee, Matthew Shevlin, and Alisha Dwivedi

The world has been faced with a pandemic of unprecedented proportions since the beginning of 2020 and that countries are struggling to effectively confront. And scientists are predicting that new diseases will emerge with increasing frequency and ferocity. Countries have had varying success in dealing with COVID-19 depending on the public health laws and practices each had in place before the pandemic started. Good public health practices are supported by a legal architecture that enables disease detection, prevention, and a rapid response during a pandemic. The primary body of normative public health law is the World Health Organization International Health Regulations (IHR) which were revised in 2005. Since the changes, many Member States have revised their laws to be in line with the IHR, but in light of COVID-19 and even after extensive revisions, questions remain as to whether public health legislation is fit for purpose or if there is a need to finely tune public health legislation to address pandemic situations such as COVID-19 or others that may arise.

Over the past several months, five students from New England Law | Boston under the supervision of Michele Forzley considered this question. During the project, the legal systems and pandemic responses of Commonwealth member countries were surveyed to inform an answer to the question the article poses. The work focused on four elements of the public health known best practices; testing, vaccination, surveillance, and reporting, all of which are essential factors to detect and prevent disease outbreaks among others.

Based upon the survey conducted through digital searches, it appeared that results varied across and within countries and that success was aligned with public health laws that empowered and authorized not only testing, surveillance, reporting, and vaccination, the subjects of this paper but specific aspects of each which the article explores along with the reasons for their importance.

The article in the forthcoming 2020 next issue of [The Loophole](#), concludes with recommendations based on the survey and review and names what elements of law would be desirable and effective during this and the next pandemic. Additionally, given the importance of this information, the students have compiled a database of the resources and laws of the Commonwealth countries that they have researched and other publications of interest that add value to inform the answer to the question the article presents. The authors are pleased to deliver the content of this database to Commonwealth law makers to who may be considering changing or making new public health laws and to assist in the review of public health legislation.

Michele Forzley, JD, MPH is the Director of [Forzley & Associates](#) a global public health legal advisory firm and is the corresponding author. She may be reached at michele@micheleforzley.com.

Co-authors George, Patel, McGee, Shevlin and Dwivedi are students at [New England Law, Boston](#), USA.

COVID-19 — Australia – New South Wales



Quote from [*Report of the Special Commission of Inquiry into the Ruby Princess*](#), Bret Walker SC, Commissioner, para 1.43 – (thanks to CALC member, Paul O'Brien, for drawing this to our attention):

“The legislative drafting is, unfortunately, touched with the puzzle-making flair that is a part of our national legal genius.”

1.43 As the body of the Report exhaustively sets out, the governmental powers and responsibilities brought to bear on the matter of responding to the threat of COVID-19 on board the Ruby Princess on 18-19 March 2020 are by no means straightforward to describe. The legislative drafting is, unfortunately, touched with the puzzle-making flair that is a part of our national legal genius. And, above all, the scheme (if it deserves that label) is explicitly an essay in co-operative federalism – Commonwealth and State officials all playing a part in an overall combined endeavour. At the outset, it is worth remembering that procedures for protecting us from health risks when passengers disembark from cruise ships are a very good example of useful and sensible co-operative federalism: because quarantine, overseas trade and immigration are Commonwealth powers and intrinsically national (quarantine, not only national), and because health regulation in the territory of a State is, naturally, among the most pressing of the so-called police powers (constitutional, not constabulary) of the State. In any event, this Commission sees no reason to deprecate the concurrent operation, in particular, of the Commonwealth's *Biosecurity Act 2015* and the State's *Public Health Act 2010*.

COVID-19 – Jersey – drafting work

Matthew Waddington Retweeted



Legislative Drafting Office, Jersey @JerseyLDO · Jul 17

Some more numbers on our drafting work for Covid-19 -

By this time last year we were up to the 58th in our "Regulations & Orders" series - R&O.58/2019 jerseylaw.je/laws/enacted/P...

This year we are already up to R&O.100/2020, passed by @StatesAssembly today - jerseylaw.je/laws/enacted/P...

R&O-100-2020	Limited Partnerships (Continuance) (Jersey) Regulations 2020
R&O-099-2020	Public Employees (Pension Scheme) (Miscellaneous Amendments) (No. 2) (Jersey) Regulations 2020
R&O-098-2020	Public Employees (Contributory Retirement Scheme) (Miscellaneous Amendments) (No. 2) (Jersey) Regulations 2020
R&O-097-2020	Road Traffic (No. 64) (Jersey) Regulations 2020
R&O-096-2020	Covid-19 (Control of Testing) (Jersey) Regulations 2020
R&O-095-2020	Covid-19 (Rates) (Jersey) Regulations 2020
R&O-094-2020	States of Jersey (Transfer of Responsibilities and Functions) (Patents and Registered Designs) (Jersey) Order 2020
R&O-093-2020	States of Jersey (Transfer of Responsibilities and Functions) (Competition, Unregistered Rights and Trade Marks) (Jersey) Order 2020



2

5



COVID-19 – Scotland – Coronavirus Bill



NatRecordsScot @NatRecordsScot · Apr 7

Our conservators are responsible for adding the Great Seal of Scotland to Acts of the Scottish Parliament - an essential step in the process. The Coronavirus Act 2020, which recently received royal assent, is "Something New" for #Archive30, with an older photo of pouring beeswax.



COVID-19 – New Zealand – 2020 Act, judicial reviews

Matthew Waddington Retweeted



DR DEAN KNIGHT @drdeanknight · Jun 11

A couple of submitters before the F&E committee yesterday said that the Covid19 Public Health Response Act 2020 granted the most extraordinary powers ever seen on New Zealand's statute book.

Hmmm. I guess they've never picked up the Bubonic Plague Prevention Act 1900?



See also [Final Report of the Finance and Expenditure Committee, Inquiry into the operation of the COVID-19 Public Health Response Act 2020 \(27 July 2020\)](#).

Matthew Waddington Retweeted



DR DEAN KNIGHT @drdeanknight · Apr 23

NZ's first judicial view on the legality of the lockdown – in an unsuccessful application for habeas corpus (from a person serving sentence of home detention): *A v Arden* [2020] NZHC 796.



Courts of NZ @CourtsofNZ · Apr 23

Te Kōti Matua – High Court

High Court delivers decision on application for habeas corpus as a result of COVID-19 "Alert level 4 lockdown"

bit.ly/3cCk0T9

COVID-19 – New Zealand – judicial reviews (cont.)

See also the decisions at <https://www.courtsofnz.govt.nz/judgments/covid-19-related-judgments/>, and especially *Borrowdale v Director-General of Health* [2020] NZHC 2090, a judicial review of orders made under the Health Act 1956, and of governmental announcements, related to COVID-19.

For commentary and reaction, see—

- <https://ukconstitutionallaw.org/2020/04/27/andrew-geddis-and-claudia-geiringer-is-new-zealands-covid-19-lockdown-lawful/>
- <https://ukconstitutionallaw.org/2020/05/11/dean-r-knight-and-geoff-mclay-is-new-zealands-covid-19-lockdown-lawful-an-alternative-view/>
- <https://www.rnz.co.nz/national/programmes/checkpoint/audio/2018745408/was-covid-19-lockdown-legal-professor-claudia-geiringer-explains>
- <https://www.rnz.co.nz/news/national/416123/new-law-on-way-to-enforce-rules-for-level-2>
- <https://www.rnz.co.nz/news/national/422147/legality-of-lockdown-case-government-like-every-person-is-ruled-by-the-law>
- <https://www.rnz.co.nz/news/national/422289/lockdown-legality-case-decision-reserved-on-final-day>
- <https://ukhumanrightsblog.com/2020/08/21/challenge-to-legality-of-lockdown-succeeds-in-new-zealand/>
- <https://www.odt.co.nz/star-news/star-national/part-lockdown-unlawful-justified-court-rules>
- <https://www.beehive.govt.nz/release/attorney-general-responds-court-judgment-legality-health-orders-0>
- <https://ukconstitutionallaw.org/2020/07/23/hanna-wilberg-lockdowns-the-principle-of-legality-and-reasonable-limits-on-liberty/>
- Hickman, Tom, The use and misuse of guidance during the UK's coronavirus lockdown (September 4, 2020). Available at SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3686857

COVID-19 – New Zealand – secondary legislation

New Zealand's Regulations Review Committee (RRC) has presented these two reports:

- [Final report Examination of orders made under section 11 of the COVID-19 Public Health Response Act 2020 \(2 September 2020\)](#):
- [Activities of the Regulations Review Committee in 2020 \(10 August 2020\)](#) which, at pp 16 and 17, explains the RRC's briefing, four interim reports, and one final report, to review secondary legislation made in response to the outbreak of COVID-19.

In that final report, RRC made these three final recommendations to the Government:

- (1) All departments with responsibility for secondary legislation should involve experts in legislative drafting and the constitutional principles underpinning the design of secondary legislation when designing secondary legislation.
- (2) The Government should make greater use of Standing Order 318(2) to refer draft secondary legislation to the Regulations Review Committee for consideration.
- (3) The Government should facilitate an all-of-government examination of COVID-19 secondary legislation (and powers to make that legislation) to seek ways of improving the quality of secondary legislation in future emergencies.

COVID-19 – South Africa – lockdown declared unlawful

[De Beer and Others v Minister of Cooperative Governance and Traditional Affairs \(21542/2020\) \[2020\] ZAGPPHC 184 \(2 June 2020\)](#)
<https://ukhumanrightsblog.com/2020/06/04/south-african-lockdown-rules-declared-unlawful/>

COVID-19 – Effect of emergency laws on democracy

On 10 September 2020, the Institute of Advanced Legal Studies (IALS) at the University of London and Westminster Foundation for Democracy held a digital conference entitled: "Are Emergency Measures in Response to COVID-19 a Threat to Democracy? Fact and Fiction." The conference programme is available [here](#). It includes a presentation by CALC member Daniel Greenberg entitled: "COVID in Context – Emergency Measures as a Chapter in the Development of the Rule of Law." The 25 research papers from the conference are expected to be published soon in the [European Journal of Law Reform](#).

COVID-19 – UK commentary and judicial reviews



Legislating for the relaxation of the lockdown

Sir Stephen Laws

By Sir Stephen Laws - May 8, 2020

This paper examines what lessons can be learned from the first stage of the coronavirus crisis and applied to legislating for the next stage. The focus will be on the aspects of the legislative response that have had the greatest impact on the largest number of people – the so-called “lockdown” rules.

<https://policyexchange.org.uk/wp-content/uploads/Legislating-for-the-relaxation-of-the-lockdown.pdf>

Matthew Waddington Retweeted

 **Rich Greenhill** @RichGreenhill · Jun 4

On 21 May, Mr Justice Swift refused a 19 May application for an interim order suspending the coronavirus regulations “so far as they prohibit attendance at Friday prayers at Barkerend Road Mosque” before the end of Ramadan (ie by Friday 22 May)

 **Lee Marsons** @LeeGTMarsons · Jun 4

A case I didn't catch at the time - a judicial review against the English coronavirus regs on the basis of their consequences for places of worship

bailii.org/ew/cases/EWHC/...

[Show this thread](#)

[Hussain, R \(on the application of\) v Secretary of State for Health & Social Care \(Rev 1\) \[2020\] EWHC 1392 \(Admin\) \(21 May 2020\)](#)

In a recent decision of the England and Wales High Court on a challenge to those countries’ COVID-19 response, where the Court declined leave to commence a judicial review on the grounds that it would serve no practical purpose: [Dolan v Secretary of State for Health \[2020\] EWHC 1786](#).

But see also https://static.crowdjustice.com/group_claim_document/Court_of_Appeals_Order_-_4_August_2020.pdf and <https://www.thejusticegap.com/crowd-funded-challenge-to-lockdown-restrictions-receives-green-light/>. The EWCA hearing is reportedly to occur on 28 September 2020.

COVID-19 – UK judicial reviews (Cont.)

Joshua Rozenberg Retweeted



Francis Hoar @Francis_Hoar · Sep 4

I have been instructed in a judicial review of the International Travel (quarantine) Regulations. The Crowd Funding site is here:

crowdjustice.com/case/end-the-q...

The Grounds are here: [static.crowdjustice.com/case_documents....](https://static.crowdjustice.com/case_documents...)

@JoshuaRozenberg has written about this here:

rozenberg.substack.com/p/new-challeng...



End the Quarantine

I am a solicitor and UK businessman and have chosen to remain anonymous in order to protect the identity of my children in this legal ...

crowdjustice.com

[https://static.crowdjustice.com/case_documents/R+\(AB+Others\)+v+SoS+-+Grounds+FINAL_Redacted.pdf](https://static.crowdjustice.com/case_documents/R+(AB+Others)+v+SoS+-+Grounds+FINAL_Redacted.pdf)

<https://rozenberg.substack.com/p/new-challenge-to-travel-restrictions>

Australia – WA – Clive Palmer disputes – Act, cases

Western Australia's Parliament passed recently the [Iron Ore Processing \(Mineralogy Pty. Ltd.\) Agreement Amendment Act 2020](#). The legislation has been described as extraordinary, since its purpose is to ensure that the State has no liability connected with specified matters in dispute with mining magnate Clive Palmer, who is also in dispute with the WA government over COVID-19 border closures:

- <https://www.theaustralian.com.au/commentary/our-clive-palmer-law-will-save-taxpayers-billions/news-story/5e48bed33e6d58ee220747221f97339e>
- <https://theconversation.com/how-clive-palmer-could-challenge-the-act-designed-to-stop-him-getting-30-billion-145098>
- <https://theconversation.com/federal-court-finds-border-closures-safest-way-to-protect-public-health-in-clive-palmer-case-145038>
- <https://auspublaw.org/2020/08/border-closures-and-s-92-clive-palmers-quest-to-enter-wa/>
- <https://www.abc.net.au/news/2020-08-25/wa-loses-bid-for-fresh-trial-in-clive-palmer-hard-border-battle/12592524>

Western Australia

Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Act 2020



Jersey – News from Jersey LDO

Playing our part with COVID-19

Like everywhere else, recent drafting activity in Jersey has been dominated by legislating for the Covid Crisis. Between March and the end of August we drafted 65 pieces of secondary legislation as well as a Law that enabled us to do so without the need for further primary legislation. Taking the lead on the drafting was deputy head of office, Matthew Waddington, with legislation editor, Heather Mason, ably managing the workflow. As you would expect most of the drafting had to be done at short notice and a careful eye had to be kept on the various dates when restrictions needed to be extended if they were not to expire.

Brexit and children drafting

Meanwhile other work has continued apace. Anna Powick is Jersey's lead drafter on Brexit matters and is facing the challenge of continuing uncertainty in the UK position. There is a lot happening in many areas of work with affected by the Brexit aftermath.



This pre-Christmas photo from before social distancing was taken when former Jersey drafter Karen Stephen-Dalton met the new recruits for 2019. Karen still works for Jersey as a consultant drafter and we love it when she visits, especially when she brings rum cake. From left to right: trainee drafter Jackie Harris, Karen Stephen-Dalton and new drafters Anna Powick and Zoe Rillstone. Zoe has settled in now too, majoring on tax drafting and guinea pig rearing.

Also of huge importance to Jersey - whose Government has pledged to put children first - is the work being done by one of Jersey's longest serving drafters, Jacquie Miller, our children legislation lead. Jacquie is engaged in a large reform of children-related legislation for Jersey as well as giving effect to the need to consider the UN Convention on the Rights of the Child in all future legislation.

As a result of Jacquie and Anna being ring-fenced for their lengthy projects, Jersey is currently looking for 2 experienced drafters to join them for a year or so, as was recently advertised through CALC.



Farewell to April - in August

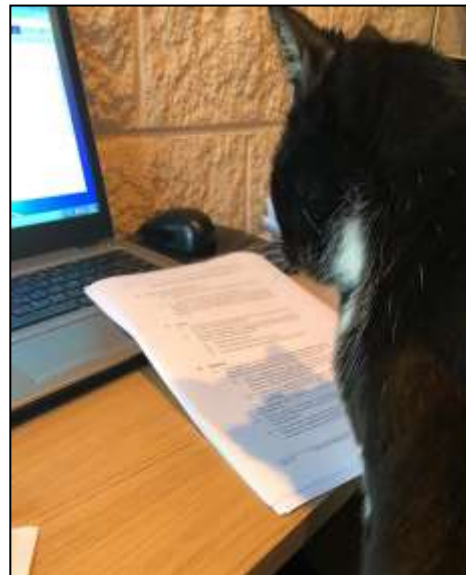


Jersey was delighted to have had the services of April Eisner from New South Wales for 20 months in total. We did worry about how she would ever get back there, with the current travel restrictions, but we've heard she's made it. She will be sadly missed, and we hope she has a big welcome back to work in Sydney after the ordeal of uncertain flights and 2 weeks' quarantine.

We gave April - and her husband Gary who worked in the same office as a Scrutiny Officer - a socially distanced send-off on the beach. Lucy's dog Marnie gave a rousing speech.

Jersey loves its editorial team

Jersey has moved from having the services of just one amazing legislation clerk/assistant editor, Anita Le Monnier (who has now been in post over 20 years), to having a small editorial team. Joining Heather (below left) and Anita is a second assistant editor to share Anita's heavy load. With the appointment of Brenda De Louche, the engine room of Jersey's drafting office is fully functional. We cannot overstate the huge value to the drafters in having a team of people to review drafts, provide final versions and consolidate existing legislation so the www.jerseylaw.je website displays current law. Thank you, ladies (and your feline companions).



Someone needs to remind Heather that now Brenda has arrived, even when Anita is on holiday, she need not delegate reviewing drafts to Jill the cat any more!

Editors are very much a fact of life in Canada, Australia, New Zealand and some of the Caribbean jurisdictions, but Heather was a first for the Europe region, we believe. Still supporting the team as Jersey continues to implement the innovations outlined in Lucy Marsh-Smith's recent Loophole article, is Kate Hannah, Legislative Services Consultant, based in Amsterdam, who brings a wealth of experience from her time in New South Wales. We regret that she hasn't been able to visit Jersey this year and bring us Dutch stroopwafels (thin waffles stuck together with syrup).



It was a Jersey initiative to encourage editors and translators to join CALC to provide a forum for sharing ideas across the jurisdictions. CALC's objects, as set out in its constitution, specifically include Commonwealth-based editors and translators amongst those eligible for full membership. The larger jurisdictions may encourage networking or hold their own conferences (certainly Australia does) for those engaged in the non-drafting side of the work, but there is nothing that operates cross-jurisdictionally to provide networking, especially for those in smaller jurisdictions where there is a sole editor. Heather was fortunate to be trained and mentored by Kate. The Jersey office is hoping to reach out to editors elsewhere via CALC, so please encourage your editors to join CALC. It's free after all. Jersey has a dwindling proportion of its legislation still in French, but a number of Commonwealth jurisdictions produce legislation bilingually. We think some of the challenges, including in relation to formatting and production of legislation in more than one language, might be common to a number of jurisdictions, so we would hope to provide a voice for translators through CALC as well. The first mention of this initiative was overshadowed by Covid, so we are reminding offices again. Please contact Ross.Carter@pco.govt.nz, CALC's secretary, about membership or contact K.Hannah@gov.je if you want to discuss the possibility of an editors' forum.



States of Jersey
Legislative Drafting Office

Turning policies into Jersey law



Australia – NSW – Annette O’Callaghan profiled

New South Wales Parliamentary Counsel Annette O’Callaghan is profiled in the 24 September 2019 LSJ online : <https://lsj.com.au/articles/the-life-of-a-drafter/>

The life of a drafter



BY FLOYD ALEXANDER-HUNT - SEP 24, 2019 4:24 PM AEST

With a wealth of experience across multiple jurisdictions, Annette O’Callaghan offers a fresh perspective and leads with inclusivity, openness and collaboration.

As Parliamentary Counsel, no two days are the same. During a sitting week, O’Callaghan’s attention is on Parliament, but when it’s not in session, she can be found drafting legislation in her office.

In the early stages of her career, O’Callaghan found the solitude of drafting particularly isolating, and she’s now working to change this culture.

“People attracted to this work are generally introverts and not necessarily people who like to spend a lot of time with other people,” she says.

Northern Ireland – CALC Immediate Past President Brenda King appointed Attorney General

Northern Ireland's new Attorney General Brenda King sworn in at Belfast's Royal Courts of Justice



Brenda King, Attorney General for Northern Ireland.

Alan Erwin

August 18 2020 04:22 PM

Northern Ireland's new Attorney General was sworn in today at the Royal Courts of Justice in Belfast.

Brenda King formally took office as chief legal adviser to the Stormont Executive at a ceremony overseen by Lord Chief Justice Sir Declan Morgan.

Ms King succeeds John Larkin QC, who stepped down in June after serving in the post for 10 years.

After taking the oath she said: "I'm honoured to take up this role and looking forward to continuing to provide legal advice."

Ms King's legal career has involved roles as First Legislative Counsel in the Executive and as a former President of the Commonwealth Association of Legislative Counsel.

Educated at Queen's University in Belfast, the University of South Carolina and Cambridge University, she started in private practice as a solicitor and also spent time in the diplomatic service.

With over 25 years' experience drafting legislation in Northern Ireland and other jurisdictions, she was appointed Attorney General by the First and Deputy First Ministers.

Ms King's new role involves responsibility for protecting the public interest in legal matters, and being the Executive's most senior representative in the courts.

She can also participate in proceedings at the Assembly.

Only a handful of people were able to attend the swearing-in due to Covid-19 restrictions.

But Sir Declan told those present that Ms King is "extremely well-qualified" for the role.

"She obviously had enormous experience in terms of her legislative background in Northern Ireland," the Lord Chief Justice said.

Belfast Telegraph



Official Report (Hansard)

Tuesday 16 June 2020
Volume 129, No 2

Attorney General: Vacancy

8. Mr Gildernew asked the First Minister and deputy First Minister whether they plan to fill any vacancy for Attorney General through open competition. (AQO 444/17-22)

Mrs Foster: I thank the Member for his question. Before I proceed, I would like to take this opportunity to place on record the thanks of the Executive to Mr John Larkin QC, who has served as Attorney General for 10 years. The role of Attorney General is extremely important, and Mr Larkin fulfilled that role in an exemplary fashion.

As set out in our written statement yesterday, Mr Larkin's term of office — his second term of office, actually — ends on 30 June 2020. It is our intention to identify and appoint a successor through an open competition based on the principles that apply to public appointments. We have tasked officials to look into that process to take it forward. We have agreed that Ms Brenda King, First Legislative Counsel, will discharge the functions of Attorney General in the interim.

Mr Gildernew: I welcome the fact that the recruitment process to replace the outgoing Attorney General will be through open competition, as is appropriate.

Ba mhaith liom fáilte mhór a chur roimh Brenda King. I sincerely welcome Brenda King as a interim Attorney General. She serves the Executive as chief legislative adviser, and has done for the past decade. She is an experienced and respected lawyer, including as a former president of the Commonwealth Association of Legislative Counsel. It is very welcome to increasingly see more women occupying positions at the highest levels of public life, alongside yourself, First Minister, and Michelle O'Neill, as joint heads of Government. If I may, I would like to say that I hope that Ms King does not experience a frosty reception as she must have done when she completed her work in the Arctic Circle. I also hope —

Mr Deputy Speaker (Mr Beggs): Have you a question?

Mr Gildernew: — that the cold winds of change continue to blow along the corridors of male power and privilege.

So, my question is: do the Executive intend to review the remit of the future Attorney General given that it is a decade since the original Attorney General was appointed?

Mrs Foster: I thank the Member for his comments, in particular on behalf of Ms King. I think that she will provide a good service to us in the interim. She has been an excellent First Counsel and I think that she will continue to do that and provide us with excellent advice.

Given that the Attorney General's office was established 10 years ago, and Mr Larkin served during those 10 years, it is now prudent to review the terms of reference of the office and the terms and conditions of the post holder. However, we do not want to unduly delay the process of appointing a new Attorney General. I advised the Advocate General for Northern Ireland today, as I should, that we are going to an open process and have appointed Ms King in the interim, because it is important that Ms Braverman is aware that we have made that appointment as well. This is an opportunity, as the Member said, to see what the terms of reference are for the office and look at the post holder's terms and conditions.



Attorney General for Northern Ireland



Welcome to the website of the Office of the Attorney General for Northern Ireland

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.

As Attorney General my main responsibilities 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

My responsibilities and role are exercised independently of any other persons. As Attorney General I am statutorily independent of the First Minister and deputy First Minister, the Northern Ireland Executive and the Northern Ireland Departments.

Brenda King
Attorney General for Northern Ireland



Matthew Waddington @mattwadd · Jun 17

Delighted to see this well deserved news for Brenda.



Legislative Drafting Office, Jersey @JerseyLDO · Jun 17

Congratulations to Brenda King who is to be interim Attorney General for Northern Ireland. Brenda heads NI's legislative drafting office & is well known to drafters everywhere as former president of the Commonwealth Association of Legislative Counsel.

belfasttelegraph.co.uk/news/northern-...



Andy Beattie @CPCandyb · Jun 17

Fabulous to see Brenda King, First Legislative Counsel in Belfast and former President of the Commonwealth Association of Legislative Counsel, appointed as interim Attorney General for Northern Ireland - congrats Brenda!



Belfast Telegraph @BelTel · Jun 17

Brenda King appointed interim Attorney General for Northern Ireland
belfasttelegraph.co.uk/news/northern-...