

JERSEY LAW COMMISSION



**Annual Report
2020**

ANNUAL REPORT

The Jersey Law Commission

The Jersey Law Commission was set up by a Proposition laid before the States of Jersey and approved by the Assembly of the States of Jersey on 30 July 1996. It was established to carry out research and conduct consultations with a view to:

- identifying:
 - anomalies in Jersey legislation; and
 - obsolete or redundant legislation; and
- making recommendations to simplify and modernise the law of Jersey.

A more detailed statement of the purposes for which the Jersey Law Commission was established is set out in Appendix A to this Report.

2020 is the 24th year during which the Jersey Law Commission has been carrying out its functions.

The Commissioners during 2020 were:

Mr Clive Chaplin, Solicitor (Chairman)
Mr Jonathan Walker, Solicitor
Advocate Barbara Corbett
Professor Claire de Than
Dr Elina Steinerte
Advocate Mark Dunlop
Mr Timothy Hart, Solicitor

A brief biography of each Commissioner may be found on the [Who We Are](#) page of the [Jersey Law Commission's website](#)

The Secretary is: Cairistiona Annan

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The Jersey Law Commission

Annual Report 2020

Foreword

To the Chief Minister of the States of Jersey

I have the honour to present to you, on behalf of the Jersey Law Commission, pursuant to the Proposition to establish the Jersey Law Commission approved by the States of Jersey on 30 July 1996, our Annual Report covering the activities of the Jersey Law Commission in the calendar year 2020.

Signed for on behalf of the Jersey Law Commission

Signed: 

Professor Claire de Than, Chair

PART I – 2020 OVERVIEW

The year in perspective

2020 has been a good year for the Jersey Law Commission overall, characterised by developments in several fields. The year has seen us responding in a number of ways to the progress being made by the government with plans to improve administrative redress and the creation of an ombudsman service, on which the Jersey Law Commission published a major report in 2018. More detail on this is provided in Part II – ACTIVITIES of this Annual Report. Our work has advanced on surrogacy and related topics, also reported on in more detail in Part II below and a variety of themes are developing in the criminal law sphere.

Progress has been made in clarifying the relationship of the Jersey Law Commission with government. In times when resources are constrained and with a reformed government machine, it is important that clear lines of communication are established. This is particularly so in connection with procedures for approving topics for the Jersey Law Commission to review and projects that it undertakes and approving the costs involved in undertaking those reviews and producing reports. Clearer and more regular contact between the Jersey Law Commission and the Government should also avoid any duplication of work and, where the work of the Jersey Law Commission complements government initiatives, to ensure that timetables are coordinated. In this context we hope that a written memorandum of understanding may be in place shortly, providing a practical way forward, whilst ensuring the independence of the Jersey Law Commission.

Finally, the Jersey Law Commission has been raising its profile, not only through more frequent communication on social media, but also by involving ourselves in international initiatives, such as those relevant to smaller jurisdictions and an environmental crimes conference held in Jersey in October 2020. In July the Jersey Law Commission was the host of the annual meeting (held online) of the four neighbouring law commissions of England & Wales, Scotland, Ireland and Jersey. The Proceedings of the *Joint Annual Conference of the Four Neighbouring Law Commissions 2020* can be found on the website of the Jersey Law Commission.

As with so many aspects of the lives of all of us, the Jersey Law Commission was affected through the greater part of 2020 by the Covid-19 pandemic and continues to be during this year, 2021, when this Report of our activities in 2020 is being made. Although we continued to meet, via Zoom, discussions with government stalled as government departments and the Chief Minister's Office rightly concentrated on safeguarding Jersey's population. The pandemic also called for the attention of the Jersey Law Commission: in particular, we were concerned that appropriate procedures be followed in relation to enacting emergency legislation introduced to combat the pandemic and that that legislation is and remains a strictly necessary and proportionate response to the emerging situation. Respect for the rule of law must remain intact at all times.

Commissioners

There were no changes to the body of Commissioners serving during 2020 but the process for recruiting additional Commissioners was underway to maintain the strength of the Jersey Law

Commission in view of the impending conclusion of the terms of office of some of the current Commissioners, including the Chairman.

Premises

Whilst the Jersey Law Commission was able to hold physical meetings during 2020, the Tribunal Service in Jersey provided facilities to the Jersey Law Commission to meet at International House in The Parade, St Helier. The Commissioners express their thanks to the Tribunal Service for this provision.

Support

Ms Cairistiona Annan is Secretary to the Jersey Law Commission.

Communications and Media

The website for the Jersey Law Commission sets out information about all of the Jersey Law Commission's current and past projects and publications. The Commission also makes use of social media (Twitter: @JsylawComm) to publicise its activities including consultations and progress on projects and to comment on matters relevant to its activities. Tweets have covered the publication by the Jersey Law Commission of documents relating to its work and a range of subjects in which the Jersey Law Commission is interested. These have included:

- legislative responses to the pandemic as it affected Jersey and elsewhere;
- administrative justice in Jersey and elsewhere and responses by the Government in Jersey to challenges in this field;
- human rights implications of questions relating to access to justice;
- many aspects of family law and the rights of children;
- criminal law reform;
- the law relating to surrogacy and parenthood;
- reform of the law of contract in Jersey;
- the review of Legal Aid provision in Jersey;
- environmental law

and much more.

Consultations, Topic Reports and Projects

The issues considered by the Jersey Law Commission during 2020 and projects undertaken by it are described in Part II - ACTIVITIES.

PART II – ACTIVITIES

Topic Reports and other issues considered by and projects undertaken by the Jersey Law Commission during 2020

A list of publications by the Jersey Law Commission from the date of its establishment in 1996 until and including the year of this Annual Report is set out in Appendix C.

Completed Projects with ongoing involvement of the Jersey Law Commission

Improving Administrative Redress in Jersey

In October 2017, the Jersey Law Commission published its Topic Report, **Improving Administrative Redress in Jersey**. This ambitious project led by former Commissioner Professor Andrew Le Sueur, looked across the whole administrative justice landscape in Jersey, including internal complaint handling by public bodies, Jersey’s tribunal system, the States of Jersey Complaints Panel, the role of the Royal Court through administrative appeals and applications for judicial review, and the use of alternative dispute resolution.

Although this annual report, strictly speaking, covers the activities of the Jersey Law Commission only for the period January to December 2020, to understand its work on this topic during that period and as it continues, it is necessary to look across a wider timeframe.

It was noted in the Jersey Law Commission’s **Annual Report 2018** that, on 2 January 2018, the then Chief Minister had presented a report to the States Assembly. The Chief Minister’s report stated that:

“The Chief Minister, Senator Ian Gorst and Chair of the Legislation Advisory Panel, Senator Sir Philip Bailhache have welcomed the publication of the Topic Report by the Jersey Law Commission. It is an important and substantial piece of work which aims to contribute to the wider project of building trust and confidence in the processes for complaining about public administration” (para 6, **Jersey Law Commission Report Improving Administrative Redress in Jersey: Initial Response**).

The Chief Minister’s response to the Jersey Law Commission’s Topic Report recognised that:

“reviewing and, if agreed, delivering and implementing the recommendations made in the Topic Report will be a significant piece of work”

and involve several different stakeholders (para 12). The Chief Minister requested that the Legislation Advisory Panel, in its advisory role to the Chief Minister, should consider the Jersey Law Commission’s recommendations.

The Government of Jersey’s initial response to the Jersey Law Commission’s Topic Report on **Improving Administrative Redress in Jersey** was folded into a broader package of work responding to the findings and recommendations of the Independent Jersey Care Inquiry (IJCI) – in particular the IJCI’s Recommendation 7: The Jersey Way. A project timetable was set out for

“scoping exercise and planning” in respect of projects including “administrative redress and the administrative justice system by September 2018”.

The Jersey Law Commission continues to be concerned that there has been no formal response by the Government on the wide range of recommendations in our **October 2017 Topic Report**, especially in relation to internal complaints, reform of the tribunal system and administrative appeals to the Royal Court.

Internal Complaints

In our **2017 Topic Report**, we were concerned about the quality of internal complaints handling across a range of public bodies (not just the Government of Jersey). We recommended a legal duty on the Chief Minister to issue guidance to public bodies about fair and effective handling of complaints (Recommendation 2.1). This recommendation has been superseded by the decision to establish a scheme for a Public Services Ombudsman, which we expect to have an influential role in standard-setting for internal complaints systems.

We also recommended that legislation should create a ‘right to good administration’, based on models developed in some other jurisdictions (Recommendation 2.5). It is unclear whether the Government accepts or rejects this.

Tribunals

Our 2017 Topic Report, **Improving Administrative Redress in Jersey**, looked in detail at the composition and operation of administrative appeals tribunals in Jersey. We made 16 specific recommendations, with the overarching recommendation that the confusing array of tribunals should be amalgamated into a single tribunal – the Jersey Administrative Appeal Tribunal (JAAT).

The proposed JAAT would consolidate the following current tribunals into a single body: Commissioners for Appeal for Taxes; Social Security Tribunal; Social Security Medical Tribunal; Income Support Medical Appeal Tribunal; Mental Health Review Tribunal; Health and Safety Appeal Tribunal; Data Protection Tribunal; and Rate Appeal Boards. A Charity Tribunal has been established under the Charities (Jersey) Law 2014 to hear appeals against decisions of the Jersey Charity Commissioner; this too could be consolidated in the JAAT.

Many rights of appeal against administrative decisions that currently must be heard by the Royal Court should, we proposed, be heard instead by the JAAT. We set out proposals to improve processes for appointing tribunal members and making the procedures used by tribunals more transparent and user-friendly.

The creation of the JAAT would also avoid the problem reported to States Members in P.82/2019, which noted that the vacancy for the chairman of the Health and Safety Appeal Tribunal ‘has been

advertised in the Jersey Evening Post on several occasions over the past 2 years, none of which generated any applications’.

A Public Services Ombudsperson for Jersey

A specific strand of the Commission’s work relating to administrative redress concerns the creation of a Public Services Ombudsperson. The project, led by Professor Andrew Le Sueur, developed a detailed blueprint for an ombudsperson scheme suitable for a small jurisdiction.

The Jersey Law Commission’s 2017 Topic Report, Improving Administrative Redress in Jersey, reviewed the effectiveness of the States of Jersey Complaints Panel. The overarching finding was that, despite previous attempts at reforms, several serious problems persisted with the remit of the Panel, the framework within which it operates, the procedures it uses, and the high proportion of cases where Ministers rejected its findings and recommendations (para 5.29). The Jersey Law Commission made clear that the criticisms were not (and are not) directed at the individuals (past and present) who contribute their time without remuneration to service on the Panel.

The Jersey Law Commission therefore recommended in 2017 that the Complaints Panel should be replaced by a Public Services Ombudsman. Alternatively, a range of detailed proposals to improve the operation of the Complaints Panel were set out in the 2017 Topic Report if the Government of Jersey and the States Assembly decided to keep the Panel.

In March 2018, shortly before the general election, the States Assembly voted in favour of a Proposition (P.32/2018) brought by Senator Philip Ozouf, agreeing in principle to establish an Ombudsman scheme, subject to further research. The Jersey Law Commission were commissioned by the Government to carry out that research, which we did through a project led by Professor Le Sueur with colleagues from the University of Essex and the UK Administrative Justice Institute (UKAJI). The research was part-funded by a grant to the research team from the Economic and Social Research Council Impact Acceleration Account.

The Jersey Law Commission published a 238-page Topic Report **Designing a Public Services Ombudsman for Jersey** in November 2018, which provided comprehensive analysis and policy options for the Government of Jersey and the States Assembly.

The Government of Jersey ran a public consultation exercise from July to October 2019 seeking views on proposals for the establishment of an independent public services ombudsman set out in a **consultation document**. While much in the document reflected proposals made by the Jersey Law Commission, it also contained an alternative model that would in effect have maintained a role for the Complaints Panel, assisted by caseworkers, and renaming this an “Ombudsman scheme”. In its **submission to the consultation**, the Jersey Law Commission argued that this alternative model would not meet minimum international standards for public service ombudsman schemes.

The Government Plan 2020-2023, referring to the work of the Jersey Law Commission, echoed its findings and recommendations that an Ombudsman scheme was needed

- To drive public service improvement
- For reputational reasons, saying “it is proposed that the Jersey Public Services Ombudsman will meet international best practice standards for transparency, accountability and fair treatment of complaints”
- To drive trust and confidence
- Because the current Complaints Panel service is not satisfactory, noting that “Board processes fall significantly short of good practice standards (e.g. complainant must make their ‘case’ as opposed to the Board pro-actively investigating)”. (Government Plan 2020-2023, page 31)]

Following the general election 2022, the new Government of Jersey announced in October 2022 that legislation will be introduced to create an ombudsperson in Jersey [[link](#)]. We look forward to reviewing the draft law.

Current Projects

Parentage, Donor Conception and Surrogacy

During 2019 a substantial piece of work was completed on behalf of the Law Commission by Marisa Allman, barrister at 36 Family Chambers in London. Initially the remit had been to consider the law relating to surrogacy in Jersey, or rather the complete lack of any such law. It became clear, however, that the issues that needed addressing were much wider than simply the law relating to surrogacy.

The law in Jersey relating to parentage generally is significantly behind that of many other nations in the world. This is of particular concern because the Government of Jersey has been keen to promote civil partnerships and more recently same sex marriage and has legislated accordingly. Despite such legislation confirming the right of same sex couples to marry and found a family, the law has not, in fact, achieved the equality it appeared to set out to do. There is, for example, no provision in Jersey to register the parents of a child as being anything other than one female mother and one male father. Further, although heterosexual couples both gain parental responsibility for a child born to them, same sex couples do not. This, together with the significant progress that has been made in respect of assisted reproduction generally, which the law has not kept pace with, has resulted in significant anomalies.

The report deals with all these matters and suggests possible considerations for reform using international comparisons and drawing on the positive and negative experiences of different jurisdictions.

The Law Commission report was picked up by policy officers but unfortunately, due to COVID during 2020, no work was undertaken in respect of preparing instructions to the law drafters, civil servant’s time being fully occupied with dealing with the COVID legislation. This report has had more consideration during 2021 and 2022.

Criminal Appeals

The Jersey Law Commission reviewed the law relating to appeals against criminal convictions in Jersey with a view to making recommendations as to whether and how the grounds for appeals against criminal convictions should be reformed. For the purposes of the review the Jersey Law Commission published a Consultation Scoping Paper, Criminal Appeals Against Conviction (Consultation Paper No.2/2016/CP), in July 2016 that asked a series of ‘scoping’ questions.

Reflecting the responses received by it to its paper, Criminal Appeals Against Conviction, the Jersey Law Commission submitted reform proposals to the Department for Community and Constitutional Affairs as part of that department’s Review Of Draft Legislation On New Criminal Procedure to enable the reform proposals to be considered by the States Assembly.

None of the responses received to the consultation carried out by the Jersey Law Commission favoured preserving the existing law in relation to appeals against criminal convictions. Respondents to the consultation identified two factors in particular that created risks of miscarriages of justice:

- (i) the wording of Article 26(1) of the Court of Appeal (Jersey) Law 1961, specifically the *proviso* that even if an appellant may succeed on a point raised in the appeal, the appeal may be dismissed if the court considers that there has been no substantial miscarriage of justice; and
- (ii) judicial reluctance to overturn jury verdicts notwithstanding scientific and academic research on jury fallibility for reasons that equally apply to the decisions of jurats

Reflecting these concerns, the Jersey Law Commission has proposed replacing existing grounds of appeal with a single ground allowing the Court of Appeal to quash a conviction when it “*has a serious doubt about the verdict*”. In conjunction with this reform, guidance should be issued to explain that the legislative intention is to give a broad ground for allowing an appeal (even where there is no fresh evidence or fresh legal argument) and that there are many factors which can lead to a serious doubt about a conviction. The power to order a retrial should remain.

In its summary of the responses to the consultation it had carried out, Response to the Criminal Procedure Consultation, the Department for Community and Constitutional Affairs noted the reform proposals made by the Jersey Law Commission. It is hoped that the proposed reforms will be taken forward in 2021. Jersey’s criminal appeals legislation continues to risk miscarriages of justice due to its anachronistic nature.

Criminal Code

Work began in 2017 on the Criminal Code project, with the first publication expected in 2021. The first stage of the project comprises two brief and accessible documents stating:

- (i) the customary and common law offences under Jersey's criminal law, their scope and elements, and
- (ii) applicable defences under Jersey's criminal law.

These are to be made available on the website of the Jersey Legal Information Board. Each document contains worked examples so that members of the public will have, for the first time, a clear explanation of each of these offences. In this way concerns about legal certainty and the principle of legality will be addressed. Short papers proposing amendments to some customary offences will be produced in 2021. Significant progress has been made towards a full draft Criminal Code. A great deal of interest has been shown in this project by researchers and reform bodies in other jurisdictions.

Open Justice

A short project assessing the current approach to open justice, reporting restrictions and contempt of court in Jersey is underway. This builds on issues and opportunities previously highlighted in response by Professor de Than to the Consultation on the then Draft Criminal Procedure Law. Rapid changes in online justice in 2020 are drawing attention to previously unnoticed access, equality and reporting issues, as well as those which are well-known in all comparable jurisdictions.

Human rights

In a project led by Commissioner Professor Andrew Le Sueur (reappointed in 2021), the Commission has started work to review the efficacy of the Human Rights (Jersey) Law 2000, which came into force in 2006. The project will seek to understand how the Law has been used in the island's courts and tribunals and by the States Assembly and whether any amendments are required. It is anticipated that a consultation report will be published in Spring 2023.

Future Projects

The Jersey Law Commission has a varied and wide-ranging set of projects under consideration for future review.

Maintenance and Champerty

A report is due to be prepared in 2020 on maintenance and champerty. These are medieval legal concepts designed to prevent, on grounds of public policy, a trade in legal claims. The effect of them, however, could call into question the increasingly popular arrangements for contingent fees and certain types of arrangements entered into by litigation funding investment companies. Some Anglo-Saxon jurisdictions have abolished the concept, so as to make a trade in litigious claims lawful, whereas others have retained it. The report will consider the current position and options for reform.]

Légitime

The Jersey Law Commission has sought feedback from the Legislation Advisory Panel as to whether there is governmental appetite for reform in respect of the field of *légitime*, the subject of

a recent report by the Law Officers' Department (see [Légitime Reform: Lessons From Different Systems Of Protection From Disinheritance](#) and [Légitime Reform: Where To Go?](#)), a two-part article by Dennis Dixon in the Jersey and Guernsey Law Review). In carrying out any such work, the Jersey Law Commission would aim to complement any work being undertaken by government in this field of law reform.

Electronic Signatures

With the greater use of technology, more contracts are being concluded without the use of traditional "wet-ink" signatures and are being signed electronically. Indeed, the use of electronic signatures has been particularly helpful for signatories when faced with the travel and social distancing requirements of COVID-19. It is therefore an area of immediate and topical concern. The aim of the work would be to consider the current legal position concerning the validity of electronic signatures under Jersey law and whether there are any recommendations to be made for reform.

Prescription and Limitation

A proposal was prepared during the course of 2019 for a [review of the law in Jersey relating to prescription and limitation](#) and submitted for budgetary approval to enable it to proceed. Prescription and limitation are distinct but linked areas of the law relating to how legal rights may be acquired and may expire. These are issues that affect individuals and corporations alike in fundamental ways but the law in Jersey has developed in a piecemeal fashion. It has been influenced by a variety of sources with the result that the law is unclear and afflicted by anomalies and inconsistencies. The courts have in various ways attempted to clarify the law in these areas but it remains difficult to determine and to apply. This causes problems in courts both locally and overseas and reform is *required*. [No response to the request for budgetary approval to enable the project to proceed had, however, been received by the end of 2020 and the wait for budgetary approval continued during 2021.

PART III – COST

The cost of the Jersey Law Commission

The Government of Jersey makes resources available to the Jersey Law Commission through the Department for Strategic Policy, Performance and Population (formerly resources were provided through the Department for Community and Constitutional Affairs). No fixed budget is available from or agreed with the government, but expenses likely to be incurred are agreed in advance with the Department and, once incurred, payment is made directly by the Department to the person owed. The Jersey Law Commission does not itself receive or hold any funds. As outlined above in Part I – 2020 OVERVIEW, discussions are under way with the Department with a view to formalising these arrangements in a memorandum of understanding

The principal costs relating to the Jersey Law Commission are incurred in respect of consultations it carries out and Topic Reports it issues. During the year covered by this Annual Report the total costs of running the Jersey Law Commission have amounted to just over £13,000].

Pursuant to arrangements with the Department for Community and Constitutional Affairs, the Secretary to the Jersey Law Commission from time to time is remunerated on an agreed hourly

rate basis. The total annual cost of the Secretary's services was £1440 in 2020 and is unlikely to exceed £2,000 in 2021.

PART IV – IMPACT

Responses to the work of the Jersey Law Commission

During the period covered by this Annual Report, legislation has been enacted or proposed on the following matters on which the Jersey Law Commission has issued Topic Reports and made recommendations.

Administrative Redress and a Public Services Ombudsman

In relation to issues of administrative redress and the establishment of a Public Services Ombudsperson scheme, a description of the substantial impact of the important work of the Jersey Law Commission is set out above in PART II – ACTIVITIES under the heading **Completed Projects with ongoing involvement of the Jersey Law Commission.**]

Parentage, Donor Conception and Surrogacy

Advocate Barbara Corbett has spoken on issues relating to parentage, donor conception and surrogacy in the media and arranged for Ms Allman to speak on the issues at the Jersey International Family Law Conference in October 2019. The challenge now is to encourage the Government of Jersey to include law reform in respect of assisted reproduction and parentage in all its forms in the near future.

The report on parentage, donor conception and surrogacy has been submitted to the Government of Jersey but no progress was made during 2019. It is hoped that in 2020 the Jersey Law Commission and the Government of Jersey will be able to work together to achieve progress in this area.

Divorce Reform

It is very disappointing that although it is now several years since the Law Commission report on divorce reform was produced, there has still been no reform of the law. During 2018 a consultation was undertaken which concluded in February 2019. Unfortunately, no action was taken during the year and no date has been fixed for any progress to be made in this important area]

Criminal Law During 2019, work began on a number of joint research projects with other bodies conducting research about law reform. This includes a project with two UK universities on Defences in Criminal Law, funded by the British Academy. A conference will take place in 2021 once restrictions allow, and two articles have already been published as a result of the project.]

Environmental Law

In 2019 the Jersey Law Commission partnered with The Common Good Foundation and The Resolution Centre to run a successful conference on Environmental Crimes. An open access academic journal has been created and will be hosted on the website of the [Jersey Legal Information Board](#). The first edition comprises articles from academic and practitioner authors

from many different jurisdictions, with themes relevant to Jersey. Jersey Law Commissioners act as a Review Board for submissions to the journal. A second conference took place in October 2020.

Small JurisdictionsThe Jersey Law Commission has had further international impact through work on a Small Jurisdictions Project led by Professor de Than, which has gained substantial support from a wide range of stakeholders, and through work with bodies in the Isle of Man who seek to learn from the experiences of Jersey and other small jurisdictions. These links and projects will continue in 2020 and beyond.

APPENDIX A

ROLE

The role of the Jersey Law Commission

The Jersey Law Commission is a body established by the States of Jersey. It works in consultation with the Legislation Advisory Panel and the Department for Community and Constitutional Affairs but the Jersey Law Commission is an independent body whose reports will be made available, in the form determined by the Jersey Law Commission, to the public.

The role of the Jersey Law Commission is defined in its terms of reference, which are set out as follows in the Proposition of the States of Jersey by which the Jersey Law Commission was established:

It shall be the duty of the Commission to identify aspects of Jersey law which it considers should be examined with a view to their development and reform, including in particular the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernisation of the law, and to those ends:

- (a) to receive and consider any proposals for the reform of the law which may be made or referred to them;*
- (b) to prepare and submit to the Legislation Advisory Panel from time to time programmes for the examination of different branches of the law with a view to reform; and*
- (c) to undertake, pursuant to any such recommendations approved by the Legislation Advisory Panel, the examination of particular branches of the law, such consultation thereon as the Commission shall think fit, and the formulation by means of draft bills or otherwise of proposals for such reform.*

APPENDIX B

METHOD

The working method of the Jersey Law Commission

Upon accepting a topic for review the Jersey Law Commission appoints one of its members to act as the Topic Commissioner to conduct and co-ordinate all of the Jersey Law Commission's work on that topic. On his or her recommendation the Jersey Law Commission seeks expert support from lawyers practising in the field or academics learned in the subject as Topic Practitioner to assist him or her generally and to ensure that the work of the Jersey Law Commission remains relevant to the issues actually arising in relation to the topic. The Topic Commissioner is not paid in respect of the work undertaken for the Jersey Law Commission unless also acting as Topic Practitioner. The Jersey Law Commission typically agree a fee with the Topic Practitioner who then recovers that fee direct from the States of Jersey. Requisite legal research may be carried out by others: either by professional researchers under contract or by experts willing to give their time as a public service.

The procedure for the review of each topic will commonly fall into the following steps:

- 1 finding out whether there is a problem, and if there is, defining exactly what it is;
- 2 researching and summarising the existing law relevant to the topic;
- 3 suggesting how the relevant law might be changed to solve the problem;
- 4 preparing and publishing a consultation document based on items 1, 2 and 3;
- 5 receiving and discussing representations made in response to the consultation document;
- 6 preparing and publishing a final report.

APPENDIX C

Topic reports and other issues reported on by the Jersey Law Commission

From its establishment in 1996 until the end of 2020 (the year covered by this Annual Report) the Commission has issued the following reports. All papers published by the Jersey Law Commission can be found on the Jersey Law Commission's website under [Publications](#)

Consultation papers (seeking input into the reform process)

2016 Consultation (Phase 1) on Criminal Appeals Against Conviction

2016 Improving Administrative Redress In Jersey

2015 Divorce Reform

2010 Voisinage

2010 Bankruptcy (Désastre) (Jersey) Law 1990 "Social Désastre"

2009 Topic report on Corroboration Of Evidence In Criminal Trials

2008 Prescription And Limitation

2008 The Jersey Law Of Partnership

2006 The Prohibition On Trusts Applying Directly To Jersey Immovable Property

2006 Security On Immoveable Property

2006 The Jersey Law Of Charities (revised)

2004 The Jersey Law Of Charities

2002 The Jersey Law Of Real Property

2002 The Jersey Law Of Contract

2002 The Law Of Tutelles

1999 Best Evidence Rule In Civil Proceedings

1998 Dégrèvement

1998 The Rights Of Beneficiaries To Information Regarding A Trust

Final topic reports (containing recommendations)

2020 Topic Report on The Law Relating to Parentage, Donor Conception and Surrogacy: Considerations for Reform

2018 Topic Report on Designing A Public Services Ombudsman For Jersey

2017 Topic Report on Improving Administrative Redress in Jersey

2015 Topic report on Divorce Reform

2011 Topic report on Voisinage

2011 Topic report on Bankruptcy (Désastre) (Jersey) Law 1990 “Social Désastre”

2010 Topic report on The Jersey Law Of Partnership

2009 Topic report on Corroboration Of Evidence In Criminal Trials

2009 Topic report on The Jersey Law Of Charities

2008 Topic report on Security On Immoveable Property

2004 Topic report on The Law of Contract

2002 Topic report on The Best Evidence Rule In Civil Proceedings

2002 Topic report on The Law Of Tutelles

1999 Topic report on Dégrèvement

1998 Topic report on The Rights Of Beneficiaries To Information Regarding A Trust

Other publications

2020 The Proceedings of the Joint Annual Conference of the Four Neighbouring Law Commissions

2020 The Resolution Journal: Environmental Crimes 2019

2019 Comments on the Draft Access to Justice (Jersey) Law 201- (Proposition 23-2019)

2019 Proposal for a review of the law in Jersey relating to prescription and limitation

2019 Response to a consultation by the Government of Jersey on establishing a Jersey Public Services Ombudsman

2019 The Appointment and Removal of the Head of Government of the Kiribati Republic, a report by the Jersey Law Commission and others for Daphne Caine MHK

2019 Comments on proposals for reform of the Jersey law of contract

2019 Comments on proposals for reform of the Jersey law of contract

Professor de Than also made regular media appearances as an expert, including Radio 4, Radio 5 and BBC News, an interview by Kathy Lette, and contributions to a range of documentaries.

She writes a monthly newspaper column on legal issues, and is a regular conference speaker. Her Keynote speeches in 2020 included:

October, Loveabilities conference, keynote on the human right to have fun

October, Environmental Crimes Conference, 'Leading the way on lead pollution'

July, Annual Meeting of the Law Commissions, paper on emergency legislation and human rights.

June, National Mental Capacity Forum, paper on capacity and Covid.

June, Supported Loving webinar on learning disabilities and human rights.

June, briefing for governments on COVID, disability and rights.

February, two mental capacity conference keynotes on autonomy rights.

Steven Pallot, shortly to become a member of the Commission, published:

- 2019 Issue 3 "Whatever happened to Promulgation" https://www.jerseylaw.je/publications/jglr/PDF%20Documents/JGLR1903_ShorterPallotAndMcLellan.pdf
- 2018 Issue 2 [The Assembly Of Governor, Bailiff And Jurats: Rise And \(Near\) Demise \(jerseylaw.je\)](https://www.jerseylaw.je/publications/jglr/PDF%20Documents/JGLR1802_TheAssemblyOfGovernorBailiffAndJuratsRiseAndNearDemise.pdf)
- Also 2019 Issue 2 [The Role Of The Attorney General As Partie Publique In Civil Cases \(jerseylaw.je\)](https://www.jerseylaw.je/publications/jglr/PDF%20Documents/JGLR1902_TheRoleOfTheAttorneyGeneralAsPartiePubliqueInCivilCases.pdf) Robert McCrae kindly added a closing footnote [17]: *I am very grateful to Advocate Steven Pallot for his significant contribution to this article.*

All papers published by the Jersey Law Commission can be found on the Jersey Law Commission's website under [Publications](#)