

**JERSEY LAW COMMISSION**



**Annual Report  
2023**

## ANNUAL REPORT OF 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.

2023 is the 27th year during which the Jersey Law Commission has been carrying out its functions.

The Commissioners during 2023 were:

Advocate Barbara Corbett

Professor Claire de Than (Chair)

Advocate Mark Dunlop (until March 2023)

Advocate Emma German

Mr Timothy Hart, Solicitor

Advocate Steven Pallot

Dr Elina Steinerte

Professor Andrew Le Sueur

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

The address of the Jersey Law Commission is:

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## **The Jersey Law Commission**

### **Annual Report 2023**

#### **Foreword**

*To the Chief Minister of the Government 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 2023.

**Signed for on behalf of the Jersey Law Commission**

Signed: \_\_\_\_\_



**Professor Claire de Than, Chair**

**PART I – 2023 OVERVIEW**

2023 was a year of considerable progress for the Jersey Law Commission with its new and existing projects, including the publication of two major Consultation Papers: Parish Assemblies, and Prescription and Limitation. More detail on this is provided in Part II – ACTIVITIES.

During 2023 there was further progress in improving the relationship of the Jersey Law Commission with the Government of Jersey, but the Memorandum of Understanding has still not been signed by 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, approving the costs involved in undertaking those reviews and producing reports, and clarity on whether the Government accepts or rejects the Commission’s recommendations. There is now clearer and more regular contact between the Jersey Law Commission and the Government, and it is hoped that this will persist. We continue to press for our written memorandum of understanding to be signed by the Government, since this would provide a practical way forward, whilst ensuring the independence of the Jersey Law Commission.

In the States Assembly, the Legislation Advisory Panel (LAP) has responsibility to review “reports received from the Jersey Law Commission ... on aspects of Jersey law which the Commission considers should be examined with a view to reform”. Once LAP was reconstituted during 2023, we engaged regularly with it about our projects.

Again in 2023, the Jersey Law Commission continued to raise its profile and that of Jersey’s legal system. We did so not only through our projects and communicating about them via traditional and social media, but also by involving ourselves in international initiatives, such as those relevant to smaller jurisdictions and participation in international conferences.

## **Commissioners**

Mark Dunlop left in March 2023 due to relocation to the UK.

## **Premises**

Meetings in 2023 took place largely in person, using the Santander Work Café and the public library meeting rooms..

## **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 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.

We have a strong commitment to community and stakeholder engagement with our research, publications and proposals, and have undertaken extensive work to ensure that our consultations reach relevant people and organisations worldwide, as well as in Jersey.

## **Consultations, Topic Reports and Projects**

The issues considered by the Jersey Law Commission during 2023 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 2023**

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**

#### **A Public Services Ombudsperson for Jersey**

A 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.

Work on this topic dates back to 2017, when the Jersey Law Commission's 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 Ombudsperson. 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 Ombudsperson scheme, subject to further research.

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 report was prepared by Commissioner Professor Andrew Le Sueur, working with colleagues Varda Bondy and Margaret Doyle of Essex Law School and the UK Administrative Justice Institute (UKAJI) also based at the University of Essex. The research was part-funded by a grant to the research team from the Economic and Social Research Council Impact Acceleration Account.

Following the general election 2022, the new Government of Jersey announced that legislation would be introduced to create an ombudsperson in Jersey as part of the Council of Minister's 100 Day Actions.

In October 2022, the Chief Minister published law drafting instructions ([link](#)) requesting the Legislative Drafting Office to prepare a new Law to establish a Public Services Ombudsperson for Jersey (JPSO). The instructions acknowledge the importance of the Jersey Law Commission's work in shaping the policy to create the JPSO and its proposed design. The Commission welcomes this progress in implementing its 2017 proposals and has met with key stakeholders during 2023 to discuss practical issues about the next steps.

## **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 servants' time being fully occupied with dealing with the COVID legislation. This report has had more consideration during 2021-2023 and it is hoped that reform will follow.

## **Current Projects**

### **Criminal Appeals**

The Jersey Law Commission, led by Professor Claire de Than, 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. As there is still no response from government despite considerable efforts by the JLC, it is hoped that the proposed reforms will be taken forward in 2024. The case for this is strengthened further by fresh cases which have demonstrated further potential issues concerning criminal appeals and retrials. Jersey's criminal appeals legislation continues to risk miscarriages of justice due to its anachronistic nature, with the English law on which it was based having long been consigned to history. Professor de Than will begin work on the next stage of the project in 2024.

## **Criminal Code**

Work began in 2017 on the Criminal Code project, with the first publication completed 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 to the public. 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 have been produced. 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. The second stage of the project has involved working with some of those bodies in conferences, publications and primary research projects related to the scope of criminal defences.

### **Digital Assets reform: Smart Contracts**

This project concerns the impact of the digital age on various Jersey laws and the ability for Jersey to maintain relevance as a key offshore financial centre. It will begin with a focus upon smart contracts. Key issues include whether smart contracts are capable of being recognised and enforceable in Jersey as valid legal contracts so called "smart legal contracts"; and if so, whether this should be subject to any specific conditions or rules in particular in relation to contracts concerning consumers. Related to the core topic of smart contracts are whether Jersey should follow Guernsey and other jurisdictions in recognising the concept of an "electronic agent" who may enter into smart contracts on behalf of its principal even where the principal has not read the terms of such contract. As smart contracts are enabled by blockchain, the project will also cover whether Jersey should introduce a new form of decentralised structure, a Jersey law governed decentralised autonomous organisation ("DAO") as these organisations are used increasingly to govern blockchain protocols. Considerable progress was made on this project in 2023, with a Consultation Paper expected in 2024.

### **Human Rights (Jersey) Law 2000**

In 2023, we continued our work on a comprehensive evaluation of the Human Rights (Jersey) Law 2000, in a project led by Professor Andrew Le Sueur. The law integrated 16 freedoms from the European Convention on Human Rights (ECHR) into Jersey law. Its objectives were to make it easier for islanders to seek protection for ECHR rights through Jersey courts, and to ensure that ministers and other public bodies operate in compliance with these rights.

We plan to publish a consultation report in 2024, presenting practical proposals for strengthening protection of these rights. Further commentary on this project will be provided in our 2024 Annual Report.

### **Improving administrative redress in Jersey**

Since 2016, the Jersey Law Commission has been researching and developing policies to improve how islanders can raise complaints against public bodies, led by Professor Andrew Le Sueur.

In October 2017, we published *Improving Administrative Redress in Jersey*. This made wide-ranging recommendations, including:

- Modernizing Jersey’s administrative tribunal system. Six years on, we have yet to receive any formal response from Government whether this proposal have been accepted.
- Replacing appeals to ministers with a rights of appeal to an independent tribunal or court. To date, no formal indication has been provided by the Government on whether this proposal has been accepted.
- Rationalising and simplifying administrative appeals to the Royal Court. We are still awaiting a formal response, six years on, from the Government on this recommendation.
- Expanding access to alternative dispute resolution (ADR). Similarly, six years on, the Government has not yet provided any formal indication of its position on this proposal.

On one proposed reform, there appeared to be progress. This was our recommendation to replace the States of Jersey Complaints Panel with an ombudsperson.

In 2018, the Government (under Chief Minister John Le Fondré) asked us to carry out further research into options for a public services ombudsperson tailored to Jersey’s needs. Supported by colleagues at the University of Essex, we published *Designing a Public Services Ombudsman for Jersey*. Using this groundwork, the Government consulted on establishing an ombudsperson in 2019. Incoming Chief Minister Kristina Moore announced plans in October 2022 to set up a Jersey Public Services Ombudsperson, based closely on our work. UK consultants prepared instructions for the Legislative Drafting Office, building on our research. Answering a written question in November 2023, the Chief Minister said, “the project has progressed well, and the draft Jersey Public Services Ombudsperson Law will be considered by the Council of Ministers at our meeting on 21 November” and “the draft Law remains on course to be loge in time for the States Assembly to debate in early 2024” (WQ.463/2023).

But following a change of Chief Minister and Council of Ministers in January 2024, the project was paused. Further commentary on this project will be provided in our 2024 Annual Report.

## **Maintenance and Champerty**

Work began in 2021 on a report 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. Due to the Topic Commissioner’s departure in March 2023, this project has been paused until 2024, since a new Commissioner will need to step in,.

## **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 2021 and 2022 drew attention to previously unnoticed access, equality and reporting issues, as well as those which are well-known in all comparable jurisdictions.

## **Parish Assemblies**

Work began in 2021 on a Consultation Paper concerning the legal framework governing parish assemblies in Jersey. Steven Pallot is the Topic Commissioner. The current legal framework is a mosaic of custom and centuries-old statute, often in French. Whilst this is a cherished part of Jersey's legal heritage, it is obscure to many and often lacks clarity on questions of procedure, such as the ability to attend and participate by electronic means in an assembly. This tends to discourage full attendance at parish assemblies.

In April 2023 the Commission published a Consultation Paper which explored possible reforms to encourage wider attendance and voting, in order to keep parish assemblies at the heart of community life in Jersey. The Paper reviewed the present legislative structure governing parish assemblies and proposed a new framework of enabling and subordinate legislation. There was emphasis as well on the position of St Helier, which houses Jersey's capital, and on how the suggested legislative framework could make for more flexibility in meeting the different needs of individual parishes.

In the latter part of 2023, the Commission received helpful feedback from the Law Officers Department and as well as from the Comité de Connétables and others. This enabled work to commence on a final Topic Report to include a brief for a modern Law, in English, on parish assemblies and related parish-level civil administration, which would set out fundamental aspects of membership, voting rights, and procedures at parish assemblies. Such a Law might also empower the States Assembly to make Regulations for further reforms enabling e.g. attendance and participation by electronic means at a parish assembly. The full detail of the proposed brief for a new Law will be contained in the Topic Report to be published in 2024.

## **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.

Following receipt of budgetary approval and the securing of external resources, a consultation paper was prepared and was published in December 2023. The paper contains a detailed set of recommendations to make Jersey's prescription law simpler, clearer and more suitable for contemporary society, drawing on the significant work undertaken in other jurisdictions to reform and simplify their laws in this area.

## **Future Projects**

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

### **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.

## **PART III – COST**

### **The cost of the Jersey Law Commission**

The Government of Jersey makes resources available to the Jersey Law Commission via LAP. No fixed budget is available from or agreed with the government, but expenses likely to be incurred are agreed in advance with LAP 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 – 2023 OVERVIEW, it is hoped that discussions will resume to improve and formalise these arrangements in a memorandum of understanding. As Chair I have instituted standardised, documented and transparent procedures by which the JLC proposes and approves its projects and then makes its budget requests to LAP.

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 approximately £15,000. The Secretary to the Jersey Law Commission from time to time is remunerated on an agreed hourly rate basis. The JLC hence represents exceptional value for money.

## **PART IV – IMPACT**

During the period covered by this Annual Report (2023), legislation has been enacted or proposed on the following matters on which the Jersey Law Commission has issued

Topic Reports and made recommendations. We also note where no response has been made to the Commission's work.

### **Improving Administrative Redress in Jersey**

In October 2017, the Commission published a detailed and wide-ranging review of how islanders aggrieved by the actions, inactions and decisions of public bodies in Jersey can seek redress (*Improving Administrative Redress in Jersey*, [Topic Report No. 1/2017/TR](#)). This covered complaint handling by public bodies, modernising the tribunal system, ending appeals and reviews to Ministers, the States of Jersey Complaints Panel, a proposal for a Jersey Public Services Ombudsperson, administrative appeals to the Royal Court, and use of Alternative Dispute Resolution (ADR).

The proposal for a Jersey Public Services Ombudsperson (see above) has been accepted by the Government and is being implemented.

In relation to the other aspects of the review, however, six years on from publication of the 2017 report during 2023 the Commission has not received any formal response from Government as to whether the proposals are accepted or rejected since the Chief Minister presented an interim response to the States Assembly on 2 January 2018 (*Jersey Law Commission Topic Report 'Improving Administrative Redress in Jersey: Initial Response*, [R.1/2018](#)).

### **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 2022. It is hoped that in 2024 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 originally

due to take place in 2021 was rescheduled in 2023 once restrictions allowed, and three 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 is be hosted on the Commission's website. Each 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. Articles published in the Journal have been submitted to the REF research evaluation framework in the UK on the basis that they are of internationally-excellent or world-leading quality. Further conferences took place in 2020, 2021 and 2022, with more planned for 2024 and 2025.

### **Small Jurisdictions**

The 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 continued in 2023 and beyond.



## **APPENDIX A:**

### **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.*

### **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

## **APPENDIX B:**

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 government. 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.

## **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)**

2023 Parish Assemblies: A Better Legislative Framework

2023 Prescription and Limitation

2016 Consultation (Phase 1) on Criminal Appeals Against Conviction

2016 Improving Administrative Redress In Jersey

2015 Divorce Reform

2010 Voisinage

## **APPENDIX C:**

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 by the Jersey Law Commission**

2022 The Resolution Journal Volume 3

2021 The Resolution Journal Volume 2

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 232019)

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 Professor de Than of 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

## **Publications and activities of Commissioners in 2023**

### **Professor Claire de Than**

During 2023, Professor de Than's work and publications on human rights in criminal cases continued to attract attention from governments large and small, and led to reform proposals in other jurisdictions. She also made regular media appearances as an expert, and contributions to a range of documentaries. She writes a monthly newspaper column on legal issues, and is a regular conference speaker. She made 15 Keynote speeches in 2023, including several on law reform in small jurisdictions. She is also a member of the Adjudication Panel of IMPRESS, the official UK media regulator and the Convenor of Environmental Law for the Society of Legal Scholars.

Her academic publications in 2023 include de Than, 'The regulation of sexual expression and joy: Complexities and contradictions' in *Sex Intimacy and Living with LLCs*, Routledge, 2023.,

### **Dr Elina Steinerte**

#### **Appointments:**

- On 1 January 2023, Dr Elina Steinerte commenced her four-year mandate with the [United Nations Subcommittee on Prevention of Torture \(UN SPT\)](#), the treaty body established in accordance with the terms of the Optional Protocol to the UN Convention against Torture, following her election to the UN SPT on 20 October 2022.
- On 30 March 2023, Dr Elina Steinerte was selected as one of the three independent experts to serve under the Moscow Mechanism of the Organisation for Security and Cooperation in Europe (OSCE). This [mission](#) focused on forcible transfer and deportation of Ukrainian children by the Russian Federation and the [final report](#) was presented to the Permanent Council of the OSCE on 4 May 2023.

- In May 2023 Dr Steinerte was invited to serve as a member of the [International Advisory Committee for The International Network Against Accusations of Witchcraft and Associated Harmful Practices](#).

#### **Expert advice:**

- On 6 February 2023 the expert written evidence by Dr Steinerte to the Commons Select Committee (Foreign Affairs Committee of the House of Commons) in the remits of the enquiry on [The FCDO's approach to state level hostage situations](#) was published.

#### **Academic publications:**

- ['Treaty Bodies and Special Procedures: Can They Work Better Together?'](#) *Journal of Human Rights Practice* (2023) (Vo. 15, Issue 3); pp. 784–793 (with V. Ploton).
- ['The Moscow Mechanism Expert Report on the Forcible Transfer and Deportation of Ukrainian Children'](#) (17 May, 2023) EJIL: Talk! (with V. Bilkova and C. Hellestveit).