

A CLINICAL APPROACH TO LEGAL DRAFTING

In recent issues I have commented on the attempts post-Leveson to create a system of press regulation acceptable to politicians, press and public, and will return to the topic when there is further progress to report. This editorial focuses on something nearer home – an important and successful development within the Institute itself.

The Sir William Dale Legislative Drafting Clinic (LDC) was launched in March 2013, and assists with small or medium-sized drafting projects up to about 20 clauses long. Advice is offered mainly on primary legislation, although work on secondary legislation will also be undertaken if it is of particular significance to the client's jurisdiction. Clients – typically governments, quasi/non-governmental organisations and Parliamentarians with limited resources – are offered a range of legislative services comprising assistance with drafting substantive provisions of Bills; amendments to legislation; independent review of legislation already prepared; comparative research on legislative solutions adopted in other jurisdictions; and review of the impact and effectiveness of draft legislation before and after it is made.

The clinic is chaired by Professor Helen Xanthaki, Director of the Sir William Dale Centre, who works with three directors. Dr Mazhar Ilahi completed his PhD in legislative studies at the IALS having undertaken extensive research on several aspects of the plain language movement of the writing of laws in multilingual jurisdictions. He focused on the Islamic Republic of Pakistan, where he has practised as an advocate in the High Court and as a judge in the Pakistan district judiciary. Dr Maria Mousmouti, a lawyer called before the Athens Bar, has worked extensively on projects to make legislation simpler and more accessible. She has a myriad of practical experience gained from operating in over 20 countries in Southern Europe, the Middle East, Africa and Central Asia, and was recently awarded her PhD at the IALS for work on legislating for the protection of human rights. Originally a barrister, Ronan Cormacain trained as a legislative drafter at the office of the Legislative Counsel in Northern Ireland, and is now a consultant who drafts or advises on legislative matters. He has drafted legislation on many topics, including company and commercial law and criminal and civil law procedures, and is studying part time for a PhD in legislative drafting and rule of law at the IALS.

Clients come to the LDC seeking free advice, and this is provided by trained volunteers who are normally experienced drafters from jurisdictions all over the world who are studying for an LLM in advanced legislative studies. The volunteers, who can also include PhD candidates and alumni of IALS professional training programmes, are overseen by the Dale clinic's three directors. Details of the services provided by the clinic have been the subject of a blog post on Agora, the knowledge platform on Parliamentary development read by Parliamentary staff and the related community. The clinic's profile was also

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November when Maria Mousmouti represented the LDC at the Law, Justice and Development week organised by the World Bank in Washington DC. She spoke on ways to ensure quality in legislation at an event organized by UN Habitat.

The clinic has a number of satisfied clients, including Raymond Gatera, Principal State Attorney at the Legislative Office of the Government of the Republic of Rwanda. He requested a draft piece of subsidiary legislation on the publication of Rwandan legislation by electronic means. A project undertaken by two drafters supervised by Dr Ilahi and reviewed by the LDC's management team produced three draft versions which addressed the client's requirement in different styles and enabled the Rwandan Government to select the option best suited to its requirements.

In addition to offering legislative drafting advice to clients, the clinic's other central purpose is to develop a forum for promoting legal education combined with practical legislative drafting skills. An example of the clinic's work in this area was the recent free workshop at the IALS on the mandatory reporting of child sex abuse, which was organised by Professor Xanthaki and her team and held on December 10. The Jimmy Savile case has led to increasing calls for the law to be changed to make failure to report a suspected case of child abuse an offence, and the workshop examined the social, legal and practical implications of such a reform.

The LDC also adds to the theoretical and professional drafting programmes offered by the William Dale Centre, which include the LLM in Advanced Legislative Studies (via conventional and distance learning methods) and the Summer Course in Legislative Drafting.

Volunteer drafters interested in becoming involved with the LDC, and anyone who may wish to request its services, should visit the clinic's web pages (at <http://ials.sas.ac.uk/postgrad/LDclinic/LDclinic.htm>) for further information.

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