

## LAW COMMISSION – FREEDOM OF INFORMATION ACT

### Previously released information / disclosure log

#### Notes

- Logs are updated at the end of each quarter
- Questions are produced in their original format.

### FY2011–2012

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## Quarter 1

<b>Topic</b>	1) The case <i>R v Colin Duffy and Brian Shivers</i> .
<b>Date of Response</b>	04 April 2011
<b>Details</b>	Request to disclose all files and all other documentation relating to a prosecution witness.

### Answer

I can confirm that the Law Commission does not have any documentation in our possession relating to [REDACTED]. I have searched the Law Commission's shared computer-based files and my own computer files (I was the Research Assistant who worked on the recent expert evidence project). Additionally, I have asked the lawyer who worked on that project and he has no recollection of this expert.

Finally, I have searched the shared computer-based files on expert evidence for the case *Broughton*, to which you refer. We made reference to *Broughton* [2010] EWCA Crim 549 in the recently published report, *Expert Evidence in Criminal Proceedings in England and Wales*. I am not sure if this is the same case to which you refer but the report is available online for your convenience (<http://www.justice.gov.uk/lawcommission/expert-evidence-in-criminal-trials.htm>). Reference is made to *Broughton* [2010] EWCA Crim 549 at footnote 21 on page 21 of this report.

<b>Topic</b>	2) IT related questions
<b>Date of Response</b>	17 May 2011
<b>Details</b>	<ol style="list-style-type: none"> <li>1. How many Staff (full head-count NOT WTE's) are employed in IT functions?</li> <li>2. Do you have an internal Information Technology team or is Information Technology totally Outsourced?</li> <li>3. If Outsourced, to which Company?</li> <li>4. Is your Information Technology Infrastructure managed internally or outsourced?</li> <li>5. If Outsourced, to which Company?</li> <li>6. Are your Desktop computers managed internally or outsourced?</li> <li>7. If Outsourced, to which Company?</li> <li>8. Is your Systems Development/Applications Management managed internally or Outsourced?</li> <li>9. If Outsourced, to which Company?</li> <li>10. How many Desktop Computers are in use?</li> <li>11. How many Laptop Computers are in use?</li> <li>12. Which Server Platform(s) do you use: <ul style="list-style-type: none"> <li>IBM/PCM Mainframe: (Please state which Operating System(s) – e.g. z/OS, z/VM, z/VSE)?</li> <li>UNIX: (Please state which Operating System(s) – e.g. Sun Solaris, AIX etc.)?</li> <li>Microsoft Windows: (Please state which Operating System(s) – 2003, 2008 etc)?</li> <li>System I: ?</li> <li>Others: (Please be kind enough to state)?</li> </ul> </li> <li>13. How many Physical Servers are in use?</li> <li>14. How many Virtual Servers are in use?</li> </ol>

### Answer

The answers to your questions are as follows. However, please note that Law Commission is funded by the Ministry of Justice (MoJ) and therefore operates under its IT umbrella:

1. We have one member of staff of which 10% of their time only is devoted to IT work.
2. Outsourced.
3. ATOS ORIGIN and Logica.
4. Outsourced.
5. ATOS ORIGIN.
6. Outsourced.
7. ATOS ORIGIN.
8. Both as we have a solution development team who are internal.
9. Logica
10. 64
11. 9

12. They are:

Windows NT, 2000, 2003, 2008

HP-UX 11-23

RHEL 3, 4 and 5

Solaris 2.3, 8, 9, 10

SuSE Linux 10

Tru 64 4.0

13. There are 2558 Physical Servers in use

14. There are 659 Virtual Servers in use

<b>Topic</b>	3) To confirm whether three judicial decisions have been published in Law Commission Consultation Papers and Reports.
<b>Date of Response</b>	24 May 2011
<b>Details</b>	The decisions are: <i>Buck v The Attorney General</i> (1965); <i>Dunoon Developments Ltd v The Secretary of State and Poole District Council</i> (1992); <i>Newbury District Council v The Secretary of State for the Environment</i> (1980)

## Answer

Thank you for your letter dated 23 May 2011. As your letter raises a number of separate issues, I will take these in order by paragraph number.

Paragraph 1: We can confirm that we have not published the decisions mentioned in your letter as Law Commission consultation papers or reports. Our work focuses on publishing consultation papers and reports on substantive law reform, rather than reporting court decisions.

Paragraph 2: We are aware of the volume of statutory instruments issued, and repealed, in the period from 1 January 1982.

Paragraph 3: We disagree. The making of a claim, or application for judicial review, is not dependent on new acts of Parliament.

Paragraph 4: Our law reform work is contained in programmes of law reform. We have, unfortunately, recently closed public consultation for our next programme of law reform, which will run from 2011. We do, however, encourage you to submit your request for consideration in our next programme of law reform, when consultation opens in spring 2014.

I hope that this is of use to you and can only apologise that we are not able to help you further.

<b>Topic</b>	4) To compile an overview of the total spend on ICT (Information and Communications Technology) within your department.
<b>Date of Response</b>	16 June 2011
<b>Details</b>	Please could you provide me with the total ICT spend or budget estimate for 2009/10 and 2010/11 and 2011/12 and 2012/13 for your organisation, and, if applicable, each of its agencies or Non Departmental Public Bodies with more than 10 full-time employees? Where possible could you please provide a breakdown of the budget/estimate for 2010/11 and 2011/12 and 2012/13 for your organisation only?

## Answer

I am replying to your Freedom of Information request. As you may know the Law Commission is funded by the Ministry of Justice (MoJ) and therefore operates under its IT umbrella. Therefore the answers to your questions are as follows and relate solely to our own spending/budgeting patterns. We do not have any agencies or Non Departmental Public Bodies associated to us.

### 1) Spend and budget:

FY 09/10

Budget £5300 (Made up of £2800 (Hardware – e.g. IT Consumables), £2500 (Services/Software e.g. IT orders), £0 (Communications), £0 (ICT Staff) and £0 (Other ICT Costs))

Spend £1277 (Made up of £4307 (Hardware – e.g. IT Consumables), -£3030 (credit) (Services/Software e.g. IT orders), £0 (Communications), £0 (ICT Staff) and £0 (Other ICT Costs))

FY10/11

Budget £14800 (Made up of £2800 (Hardware – e.g. IT Consumables), £12000 (Services/Software e.g. IT orders including upgrade of our distribution database), £0 (Communications), £0 (ICT Staff) and £0 (Other ICT Costs))

Spend £7082 (Made up of £41 (Hardware – e.g. IT Consumables), £7041 (Services/Software e.g. IT orders), £0 (Communications), £0 (ICT Staff) and £0 (Other ICT Costs))

FY11/12

Budget £6200 (Made up of £2000 (Hardware – e.g. IT Consumables), £4200 (Services/Software e.g. IT orders), £0 (Communications), £0 (ICT Staff) and £0 (Other ICT Costs))

FY13/14

Budget £6100 (Made up of £2000 (Hardware – e.g. IT Consumables), £4100 (Services/Software e.g. IT orders), £0 (Communications), £0 (ICT Staff) and £0 (Other ICT Costs))

### 2) ICT projects: We have none currently or planned

<b>Topic</b>	5) Details of payment card transactions.
<b>Date of Response</b>	16 June 2011
<b>Details</b>	<p>A list of every transaction made using payment cards where the transaction date occurred during the financial years: 2009-10 2010-11</p> <p>Please include, for each transaction, the transaction date, vendor name, transaction amount and any category recorded by either the payment card issuer or your organisation.</p> <p>Any policies and procedures relating to the proper use and misuse of payment cards and monitoring of their use.</p> <p>All details relating to all instances of misuse of payment cards during the financial years 2009-10 and 2010-11. For each instance, please include: transaction date vendor name transaction amount item purchased reason the transaction was not a proper use of the payment card disciplinary action taken if your organisation required the amount to be repaid if the amount was repaid</p>

### **Answer**

During the period in question some Law Commission staff held Government Procurement Cards but these are the only types of 'card' we have ever had in existence here.

Since the implementation of these cards there have never been any instances of misuse.

I attach for your information:

- 1) List of transactions covering FY09-10 and FY10-11 (annex to this document)
- 2) Copy of the Ministry of Justice policy guidance (available on Ministry of Justice website)

<b>Topic</b>	6) Statement of Expectations and Protocol
<b>Date of Response</b>	08 June 2011
<b>Details</b>	<p>I have been reading the Commission's Business Plan for 2011/12 which is accessible on the Commission's website. I noted that, in the foreword to the plan, you state "The Commission sets out the core standards of service that the Law Commission aims to provide internally and externally". Following page 3 (part of the the Plan's Content Pages), I went to paragraph 2.14.</p> <p>Para 2.14 states 'We have adopted a "Statement of expectations" for staff and managers, setting out what staff should expect and what is expected of them. This is attached.' Given that assertion and what is stated on page 3 of the Plan, I went to page 22 expecting to find the "statement of expectations". Instead of the "statement of expectations", the page sets out the Ministry of Justice's Equality and Diversity Statement. There appears to be no "statement of expectations" in the Plan notwithstanding the claim to the contrary.</p> <p>On a separate issue, I have a question which, as Chief Executive of the Commission, I believe you will be able to answer. On the "What happens to our reports" page on your website, there is a link to a lecture which Sir Terence Etherton, a previous Chairman of the Commission, delivered to the Bar Law Reform Committee in November 2007. At paragraph 62, he refers to an existing Protocol and goes on to state that, under the terms of that Protocol, Government Departments must give a definitive decision on whether they intend to implement a Law Commission report within two and a half years of its publication.</p> <p>I am aware that there is a new Protocol but my understanding is that it does not apply to reports that were published prior to March 2010. My question is: does the Protocol that Sir Terence Etherton refers to still apply to Reports published prior to March 2010? If the answer is "yes", have any of its terms been amended since the date of Sir Terence's lecture? My interest arises from the fact that the Commission is still awaiting a final response to its Cohabitation Report despite the fact that nealy four years have elapsed since its publication.</p>

## Answer

Thank you for your email. I am sorry about the Statement of Expectations not appearing as an annex to the Business Plan. Thank you for pointing it out - it has now been attached.

The former protocol (referred to in Sir Terence's speech) is now defunct. Strictly speaking the new protocol only applies to projects that were started since it was signed, in March 2010, though at the start of the new protocol there is a reference (paragraph 3) to its being taken into account for projects underway.

On the subject of implementation of reports, I don't know if you are aware of the provision of the Law Commission Act 2009, which requires the Lord Chancellor to lay before Parlaiment each year a report on where matters stand on reports that have not been implemented or rejected. The first of these was published in January this year <http://webarchive.nationalarchives.gov.uk/+http://www.justice.gov.uk/publications/report-law-commission-proposals-jan-2011.htm>. You will see that a response is given on cohabitation.

<b>Topic</b>	7) Composition of criminal law team
<b>Date of Response</b>	09 June 2011
<b>Details</b>	<p>I have been reading the Commission's Business Plan 2011/2012. I noted that during the last seven months of 2011 no less than five papers (either consultation or policy) from the Criminal Law Team are due to be considered by Commissioners.</p> <p>I have also looked today at the current composition of the Criminal Law Team. It is interesting reading. Apart from the Commissioner and Team Manager, it comprises five persons. Of that five, remarkably, the number of research assistants exceeds lawyers. I have also looked at the composition of the other Teams. Both the Commercial &amp; Common Law Team and the Public Law Team have four lawyers. The Property, Family &amp; Trusts Team has three lawyers. I also note that one lawyer who is a member of the Commercial &amp; Common Law Team is Raymond Emson who until earlier in the current year had been a long standing member of the Criminal Law Team. In posing the following questions, I am assuming that Clare Wade, who also had been a long standing member of the Criminal Law Team, is no longer employed by the Law Commission as I cannot find her name amongst any of the Teams.</p> <p>I have the following questions under the Freedom of Information Act 2000:</p> <ol style="list-style-type: none"> <li>1) Are the two lawyers who are currently members of the Criminal Law Team working full-time?</li> <li>2) If the answer is "no", how many are working part-time?</li> <li>3) Of those working part-time, how many days per week is each working?</li> <li>4) How many research assistants will be working as members of the Criminal Law Team with effect from 1 September 2011?</li> <li>5) On what date did Commissioners take the decision that Raymond Emson should transfer from the Criminal Law Team to the Commercial &amp; Common Law Team?</li> <li>6) If the decision was not made by Commissioners, who did take the decision?</li> <li>7) Why was the decision, whoever took it, taken to transfer Raymond Emson from the Criminal Law Team to the Commercial &amp; Common Law Team?</li> <li>8) Is it presently intended to recruit (whether internally or externally) a lawyer to the Criminal Law team to replace Clare Wade?</li> <li>9) Is it presently intended to recruit (whether internally or externally) a lawyer to the Criminal Law Team to replace Raymond Emson?</li> <li>10) In submitting to the Lord Chancellor its proposals for the Eleventh Programme, is the Commission working on the basis that for the duration of that Programme the number of lawyers working as member of the Criminal Law Team will not exceed two full-time?</li> <li>11) Is it right to assume that, given the current allocation of human resources within the Commission, reform of the criminal law is now at the bottom of the Commission's priorities?</li> </ol>

## Answer

Thank you for your email of 8 June. Please find below my response to your questions.

As you say, there are four lawyers working in the criminal team, if you include the Commissioner and the Team Manager. One of the Band A/Grade 7 lawyers works part time and counts as 0.6 of a full-time equivalent. On 1 September there will be one Research Assistant in the criminal team (two will have left on 19 August); and on 5 September two more are due to arrive. Another is due to arrive in October, and the one remaining from 2010 intake will leave on 16 September. So in 'steady state' during 2011-2012 there will be three Research Assistants. I should also mention that the Criminal Team has an intern from the US at the moment.

I do not think it appropriate for me to give information about staff moves but I can say that issues of staffing are ultimately the responsibility of the Chief Executive. Recruitment is currently underway for a Band A/Grade 7 lawyer in the criminal team and any who seem suitable for later appointment will be placed on a reserve list. This was an internal Government Legal Service competition and the closing date for applications was 6 June. The Commission is not working on the basis of any particular number of lawyers for the 11th Programme - these matters are decided on business need. Finally, the Commission does regard the reform of the criminal law as a priority.

<b>Topic</b>	8) Funding and staff time given to trades unions
<b>Date of Response</b>	04 August 2011
<b>Details</b>	<p>I am writing to obtain information about the total amount of money paid to trade unions by your organisation and the amount of staff time spent on trade union activities</p> <p>To outline my query as clearly as possible, I am requesting:</p> <ol style="list-style-type: none"> <li>1. The total amount of money paid to all trade unions for financial periods a) 2009-10 and b) 2010-11 broken down by trade union.</li> <li>2. For each trade union for which it applies, please provide the number of Full Time Equivalent (FTE) staff working for the union (this is sometimes called 'Trade Union facility time') in a) 2009-10 and b) 2010-11</li> </ol> <p>Please note that I will not accept any refusal to provide this information on the grounds that it is not recorded. The guidelines issued by ACAS state that "An employee who is a member of an independent trade union recognised by the employer in respect of that description of employee is to be permitted reasonable time off during working hours to take part in any trade union activity. An employee who is a member of an independent and recognised trade union is also permitted to take reasonable time off during working hours for the purposes of accessing the services of a Union Learning Representative (provided those services are services for which the Union Learning Representative is entitled to time off)." – If the information is not recorded, it cannot be possible to ascertain whether time-off provided is reasonable. If a formal record is not kept then I will accept a reasonable internal estimate.</p>

### Answer

This is to confirm that the Law Commission has made no payments to any trades unions in the financial periods 2009-10 and 2010-11, and there has been no staff time spent on trade union activities. In case you think this may be relevant, during the previous 3 months, 2 members of staff (Band E) spent 2 hours each and one member of staff (Band D) 1 hour attending PCS-led courses at 102 Petty France for MoJ employees which were open to all employees, not only union members.

<b>Topic</b>	9) Legal definitions
<b>Date of Response</b>	16 September 2011
<b>Details</b>	Please provide me with the following information: 1. What is a statute or statutory act? 2. What is the purpose of a statute or statutory act? 3. What is a statutory instrument? 4. What is the purpose for the creation of a statutory instrument? 5. What is the difference between a statutory act and a statutory instrument.

### Answer

Thank you for your enquiry, which has been passed to me. It does not, however, come under Freedom of Information as far as the Law Commission is concerned, as it does not relate to our area of activity or our terms of reference. These are set out on our website as follows:

The Law Commission is the statutory independent body created by the Law Commissions Act 1965 to keep the law under review and to recommend reform where it is needed. The aim of the Commission is to ensure that the law is: fair / modern / simple / as cost-effective as possible.

It is not the Law Commission's role to define legal terms such as "statute" or "statutory instrument". You could obtain these legal definitions from a variety of sources - such as the Internet or legal text books. However, the Law Commission is not the defining authority for the legal terms that you have referred to in your email, and for us to do so would mean going outside our proper statutory role.

Further information about the role of the Law Commission is available on our website, particularly at <http://www.justice.gov.uk/lawcommission/about/what-we-do.htm>.

<b>Topic</b>	10) Rights of reverter
<b>Date of Response</b>	20 September 2011
<b>Details</b>	Request for details of responses to Law Commission report

### Answer

I refer to our conversation last Tuesday - I have now scanned the material that we have located and attach it to this email (I apologise for the cryptic document names - they are automatically generated; the absence of DOC001 to DOC003 is not an error – the documents with those names relate to an unconnected matter).

As discussed, we have been unable to locate copies of all of the submissions made in respect of the draft report. The project is around 20 years old and was conducted by an ad hoc working party, it may be that some of the papers are elsewhere in Government, although I have not found information suggesting that this is the case. A brief check of the online national archives has not revealed any material other than the report itself.

The scanned documents fall, broadly, into two categories: submissions made in respect of the draft report (DOC005.pdf, DOC006.pdf and DOC009.pdf); and submissions made after the draft report was published (DOC007.pdf, DOC008.pdf and DOC010.pdf). DOC004.pdf is something that I thought that you might find interesting (it is not, technically, a response to our report - although it is a letter which identifies possible responses). From the letter, it appears that the Lord Chancellor's Department (which merged into the Department for Constitutional Affairs, now the Ministry of Justice) made substantial modifications to the recommendations of the working party in their own paper.

DOC005.pdf contains some redaction. I have made the redaction because the response takes the form of enclosing somebody else's work - an opinion from counsel, I have done this for the sake of that person's privacy but I am happy to discuss this redaction with you should you wish to do so.

I am sorry that I could not help you further, but I hope that the attached are of some use to you.

<b>Topic</b>	11) Criminal code
<b>Date of Response</b>	28 September 2011
<b>Details</b>	I am a student of Law at Bournemouth University currently working on my final year dissertation project, which involves an in-depth analysis of strict liability. In the course of my research, I have been searching the Law Commission website in an attempt to obtain a copy of its Draft Criminal Code (Law Com. No. 177, 'A Criminal Code for England and Wales' (1989)) and, thus far, I have had no success in finding it. I am therefore writing to determine whether it would be possible to access this document, of which I am primarily concerned with examining clause 20. Alternatively, I would be grateful if you could inform me of how I could access this document online?

### **Answer**

I attach the report (in two volumes) you are referring to.

<b>Topic</b>	12) Copyright
<b>Date of Response</b>	03 October 2011
<b>Details</b>	I am an A level student at Notre Dame Catholic VI Form College and I am currently doing an Extended Project Qualification on Copyright law. My main focus is the influence of the internet on copyright law in recent years and also any international issues relating to it. May I please request any information or documents you may have regarding this to be e-mailed to me please.

### **Answer**

Thank you for your email of 2 October 2011.

The Law Commission is a statutory body whose function is to keep the law under review. We are not currently conducting a review of intellectual property or copyright law. This has not been the subject of any of our previous projects and we have no plans at present to undertake a project of this nature in the future. We therefore do not hold the information you have requested.

I am sorry to have not been of more assistance.

<b>Topic</b>	13) ICT expenditure
<b>Date of Response</b>	09 November 2011
<b>Details</b>	<p>Please find below a Freedom of Information request.</p> <p>Kable provides ICT marketing data to public sector bodies including the Cabinet Office - through the Efficiency and Reform Group, and across the wider public sector as well as to private sector suppliers to government.</p> <p>The purpose of this request is to help compile an overview of the total spend on ICT within your organisation, and ultimately Central Government. Any results provided will be used in an aggregated form, in a format for public sector IT spend used by the industry and government.</p> <p>While I do understand that for some organisations this information is not held centrally or is not broken out by the taxonomy used below, any information or assistance that you are able to provide would be most useful.</p> <p>As such, under the current terms of the Freedom of Information Act please can you provide me with the answers to the following questions - where possible including any recharge costs to a central budget and ICT expenditure occurred through public finance initiatives that are off balance sheet.</p> <p>1 - The total budgeted ICT expenditure (capital and revenue) for your organisation for 2010/11 and 2011/12?</p> <p>2 - A breakdown of the actual / budgeted or estimate for 2010/11 and 2011/12 according to the following categories for your organisation, indicating the largest supplier for each category were known?</p> <p>3 – If you recharged any portion of this expenditure to another organisation please indicate which organisation and percentage of recharge.</p> <p>4 - If you have allocated spend in the IT outsourcing category, please identify which categories of IT service - as per the table below - are included in the contract(s) involved. If the relative percentages of spend are readily available (ie if you procure for these elements separately) then please also indicate these.</p> <p>5 – Please indicate how you expect the total ICT budget for 2012/13 and 2013/14 to change for your organisation (please tick one only for each year)</p> <p>6 - Please provide a list of all the ICT projects that you are undertaking; the cost of these projects and the estimated completion dates for these projects. If it is not possible to provide this under the current Fol limits I am happy to accept a listing of your most up to date schedule of contracts or other record of contracts.</p>

## Answer

I have entered the information you requested on your form. I believe I have covered everything, but if there is any further information you need, please let me know.

1 - The total budgeted ICT expenditure (capital and revenue) for your organisation for 2010/11 and 2011/12?

ANSWER – 2010/11: £7082.64 (actual spend) – 2011/12: £6,200 (budget) / £3,681.90 (actual spend to date)

WE HAVE ONLY ONE IT BUDGET TO COVER ALL AREAS

THE LAW COMMISSION ARE FUNDED BY THE MINISTRY OF JUSTICE FOR THE PROVISION OF OUR IT SERVICES

BREAKDOWN

2010/11

Hardware – £1,999.84 – ATOS Origin  
 Software – £506.64 – ATOS Origin  
 Services – £4,576.16 – Zed1.com

£7,082.64

2011/12

Hardware – £2,619.73 – ATOS Origin  
 Software – £33.51 – ATOS Origin  
 Services – £1,028.66 – ATOS Origin

£3,681.90

2 - A breakdown of the actual / budgeted or estimate for 2010/11 and 2011/12 according to the following categories for your organisation, indicating the largest supplier for each category were known?

<b>Category</b>	<b>Sub-category</b>	<b>2010/11</b>	<b>2011/12</b>	<b>Largest Supplier</b>
<b>Hardware</b>	Desktop computers Portable computers Servers IT consumables Network equipment Storage Peripherals			
<b>Software</b>	Application licences Middleware licences System licences			
<b>Services</b>	Hardware maintenance Software maintenance Custom software IT outsourcing Managed Communications IT consultancy System integration Training			
<b>Communications</b>	Fixed line			

	Wireless Networking equipment	
<b>Staff</b>	Staff	

3 – If you recharged any portion of this expenditure to another organisation please indicate which organisation and percentage of recharge.

Organisation	% recharged
N/A	

4 - If you have allocated spend in the IT outsourcing category, please identify which categories of IT service - as per the table below - are included in the contract(s) involved. If the relative percentages of spend are readily available (ie if you procure for these elements separately) then please also indicate these.

ANSWER

IT outsourcing – 2010/11: £4,576.16 – 2011/12: £407.90

Service Category	Is this service included in the IT outsourcing contract(s)?	If available, please indicate the relevant percentage of your spend under IT outsourcing contracts.
Hosting		
Desktop		
Application Development		
Application Management		
Service Integration and Management		

5 – Please indicate how you expect the total ICT budget for 2012/13 and 2013/14 to change for your organisation (please tick one only for each year)

	2012/13	2013/14
(a) increase by more than 10%		
(b) increase by less than 10%		
(c) remain the same		<b>X</b>
(d) decrease by up to 10%	<b>X</b>	
(e) decrease by more than 10%		

6 - Please provide a list of all the ICT projects that you are undertaking; the cost of these projects and the estimated completion dates for these projects. If it is not possible to provide this under the current FoI limits I am happy to accept a listing of your most up to date schedule of contracts or other record of contracts.

ANSWER – NO PROJECTS

<b>Topic</b>	14) Publication of the Attorney General's advice
<b>Date of Response</b>	16 November 2011
<b>Details</b>	I was wondering if you held some sort of report which shows how many times a request has been made to publish the advice of the Attorney General, and has been successful (Apart from the Iraq war). I am currently writing my dissertation on the Freedom of Information act and how it has affected the long standing convention that advice - or even knowledge of advice - should remain confidential.

### **Answer**

Thank you for your email. The subject of your request does not fall within the terms of reference of the Law Commission and so I am afraid we are unable to supply the information you require. The Law Commission was set up to promote the reform of the law and carries out legal research and presents proposals to Parliament for the reform of certain areas of the law. Our terms of reference and the areas of law that we deal with are set out on our website at <http://www.lawcom.gov.uk>.

We cannot advise you as to whom you should approach to obtain this information, although I would have thought that the Attorney General's Office or the Ministry of Justice might be able to help you.

<b>Topic</b>	15) Response to the consultation on the Forfeiture Rule and the Law of Succession
<b>Date of Response</b>	22 November 2011
<b>Details</b>	The submission that I would be interested to see relates to the Commission's report No 295 on The Forfeiture Rule and the Law of Succession. The academic Prof Roger Kerridge of Bristol University apparently submitted a detailed argument to the initial consultation paper which is referred to in paragraph 3.22 of the report. I should very much like to see a copy of that if at all possible.

### **Answer**

Please find attached Professor Kerridge's response to our consultation paper on The Forfeiture Rule and the Law of Succession. I hope you find it useful.

<b>Topic</b>	16) Responses to the consultation on Misleading and Aggressive Practices
<b>Date of Response</b>	01 December 2011
<b>Details</b>	I have really enjoyed reading the project [on misleading and aggressive practices] and I am most looking forward to analysing it for my dissertation. My dissertation is due in for the end of March, therefore whilst it may impact the content, I may also be able to incorporate it into the project. When would I be able to see the responses in full at the earliest?

### **Answer**

I am now in a position to provide you with copies of the responses to our Consultation Paper. We have withheld one confidential response and I have redacted the personal information from the remaining responses. The size of the files is quite large, 32 MB altogether. There are about 1000 pages. I plan to send the files bit by bit, as I do not want to overload your inbox. Please let me know if this is acceptable.

The response was:

Many thanks for your time and co operation. Sending the responses via email will be fine. Thank you once again.

<b>Topic</b>	17) Publication date of the report on pre-nuptial agreements
<b>Date of Response</b>	08 December 2011
<b>Details</b>	I should be extremely grateful if you would let me know when approximately your report on the review of prenups will be available next year.

### **Answer**

Thank you for your email today (05/12/11). I'm afraid that we can't add much to what we say on our website (<http://www.justice.gov.uk/lawcommission/areas/marital-property-agreements.htm>). We have analysed the consultation responses and are currently developing policy. If you would like me to add your name to the list of people to be notified on publication of the Marital Property Agreements Report (which will be available for download from our website), please let me know and I would be very happy to do so. I hope this is of some assistance.

<b>Topic</b>	18) Land Compensation Act 1973
<b>Date of Response</b>	08 December 2011
<b>Details</b>	Do you have any reports or other documents relating to work for the Land Compensation Bill which finally became the Land Compensation Act 1973? I am interested in section 14 of the Bill which became section 15 of the Act and is on "Information for ascertaining relevant date".

### **Answer**

Thank you for your email of 7 December enquiring whether the Law Commission has any reports or other documents relating to work for the Land Compensation Bill which became the Land Compensation Act 1973. That legislation was not part of a Law Commission project and I am therefore unable to provide you with any reports or documents relating to work on it.

From a cursory glance at Hansard it appears that the Land Compensation Act 1973 was based on the White Paper "Development and Compensation - Putting People First" (1972) Cmnd 5124 - although I do not have access to that document and so cannot be certain of this. Nevertheless, you may find that document to be of assistance.

<b>Topic</b>	19) Common law offences of 'mutilation of a corpse' and 'showing indignities to the dead'
<b>Date of Response</b>	13 December 2011
<b>Details</b>	I am trying to find out about the common law offences of 'mutilation of a corpse' and 'showing indignities to the dead', but have so far been unable to find out if they still exist/the authorities for them. I wondered if the Law Commission might hold this information from your various codification and simplification projects?

### **Answer**

This is not something we have come across in the course of our projects, which is not to say that it does not exist. I shall be interested to see what you discover. In some cases, exhuming or displaying body parts can amount to the common law offence of outraging public decency: see our Consultation Paper No 193 paras 3.2 3.19. However, the case cited dates from 1788.

I have had a look through our electronic archives and we have nothing on either of those offences. There is one file in the paper records which might have something relevant. That file is not kept in our offices here but has to be requested from storage. It will therefore be a little while before I can get back to you on this, so I shall be in touch again once I have received the file.

<b>Topic</b>	20) The Law Commission's Senior Information Risk Owner
<b>Date of Response</b>	12 January 2012
<b>Details</b>	In 2008 the government established a new position within government to try and deal with the serious problems of departments losing sensitive and confidential information, particularly that stored electronically. Those holding this new office are called Senior Information Risk Owners or Officers (SIRO's) and all departments as well as various other bodies within HM Gov must appoint someone to this post. Could you please tell me who the SIRO is for your organisation, their position within the organisation and their contact details?

### Answer

Thank you for your email. The SIRO for the Law Commission is our chief executive, Elaine Lorimer (with effect from 16/01/12): Tel - 020 3334 0250; Email - elaine.lorimer@lawcommission.gsi.gov.uk.

<b>Topic</b>	21) Easements Current Law
<b>Date of Response</b>	24 January 2012
<b>Details</b>	I have been on your website via this link - <a href="http://www.justice.gov.uk/lawcommission/areas/easements.htm">http://www.justice.gov.uk/lawcommission/areas/easements.htm</a> . Looking at Documentation for Easements, Covenants and Profits à Prendre. The pdf files listed all appear to be Impact Assessments, Consultation Analysis and Summaries documentation. Whilst these have been most useful, I really need a latest pdf copy of the Easements of Current Law. Please advise.

### Answer

Thank you for your email of 23 January seeking a pdf copy of "the Easements of Current Law". I am afraid that the nature of this document is not quite clear from your email.

We do not possess a document of that title and all of our published literature on the project on Easements, Covenants and Profits à Prendre is available on our website (<http://www.justice.gov.uk/lawcommission/areas/easements.htm>). If you wish to view a copy of our report on easements, covenants and profits à prendre, this is available at: [http://www.justice.gov.uk/lawcommission/docs/lc327\\_easements\\_report.pdf](http://www.justice.gov.uk/lawcommission/docs/lc327_easements_report.pdf). You may also like to read the consultation paper that preceded the report, which is available at: [http://www.justice.gov.uk/lawcommission/docs/cp186\\_Easements\\_Covenants\\_and\\_Profits\\_a\\_Prendre\\_Consultation.pdf](http://www.justice.gov.uk/lawcommission/docs/cp186_Easements_Covenants_and_Profits_a_Prendre_Consultation.pdf).

Alternatively, you may wish to consult a textbook on land law. Useful titles include: Mark Thompson, Modern Land Law (4th edition, published in 2009 by Oxford University Press) and Kevin Gray and Susan Francis Gray, Elements of Land Law (5th edition, published in 2009 by Oxford University Press).

I hope that this is of some assistance.

<b>Topic</b>	22) Successes of the Law Commission
<b>Date of Response</b>	25 January 2012
<b>Details</b>	Could you please tell me any successes of the Law Commission and one benefit of having the Law Commission. Why thank you.

#### Answer

Thank you for your enquiry. The scope of the Law Commission's work is set out on our website - <http://www.lawcom.gov.uk>. One measure of our success and the benefit of having the Law Commission would be the rate at which our law reform recommendations are implemented. We publish this information in our Annual Report, and the most recent report is available online at <http://www.justice.gov.uk/lawcommission/publications/annual-reports.htm>.

<b>Topic</b>	23) Executors who do not administer the will
<b>Date of Response</b>	8 February 2012
<b>Details</b>	My father was Killed nearly eight years ago, and the will produced gives my family £50,000 to share. We were told last year the inheritance would be forthcoming in a few weeks. We have heard nothing since and the two executors state today they do not know what is happening. Can we get rid of these executors and put someone else in place to administer the estate of around £680,000? If so how do we do that?

#### Answer

Thank you for your email. It seems to me that your request is not so much a Freedom of Information request as a request for legal advice on the appointment of new executors and a sense of dissatisfaction with the existing executors.

I am afraid the Law Commission does not deal with individual cases or provide legal advice. I would refer you to our website, which sets out our remit and the extent of our work. The relevant page is <http://www.justice.gov.uk/lawcommission/about/what-we-do.htm>. At the bottom of that page, you will find a selection of contacts which I hope you will find useful in obtaining the advice you seek.

<b>Topic</b>	24) Powers of entry																		
<b>Date of Response</b>	13 February 2012																		
<b>Details</b>	<p>I am writing to obtain details of the use of powers of entry by your authority under any of the relevant Acts or items of secondary legislation during the period 2008 – 2011, excluding Trading Standards investigations. I wish to obtain details of:</p> <p>How many times such powers were used in the past three years,  The legislation they were requested under,  The criminal offence or allegation being investigated  The outcome of their use, if any.</p> <p>I have included a table below, with example answers for the purposes of clarity.</p> <table border="1"> <thead> <tr> <th><b>Date of Use</b></th> <th><b>Time of powers</b></th> <th><b>Legislation exercised under</b></th> <th><b>Offence / Allegation</b></th> <th><b>Outcome</b></th> </tr> </thead> <tbody> <tr> <td>01/02/2010</td> <td>8 am</td> <td>X Act 2003, S 3</td> <td>Animal abuse</td> <td>Fine</td> </tr> <tr> <td>05/04/2011</td> <td>4pm</td> <td>Y Act 1997, S 1</td> <td>Excessive Noise</td> <td>None</td> </tr> </tbody> </table> <p>Under the terms of the Freedom of Information Act, I understand I am entitled to a response within twenty working days. I would prefer to receive any data by email, but I am happy to accept information via mail.</p> <p>I would be grateful if you could confirm receipt of this request as soon as possible.</p>				<b>Date of Use</b>	<b>Time of powers</b>	<b>Legislation exercised under</b>	<b>Offence / Allegation</b>	<b>Outcome</b>	01/02/2010	8 am	X Act 2003, S 3	Animal abuse	Fine	05/04/2011	4pm	Y Act 1997, S 1	Excessive Noise	None
<b>Date of Use</b>	<b>Time of powers</b>	<b>Legislation exercised under</b>	<b>Offence / Allegation</b>	<b>Outcome</b>															
01/02/2010	8 am	X Act 2003, S 3	Animal abuse	Fine															
05/04/2011	4pm	Y Act 1997, S 1	Excessive Noise	None															

### Answer

I acknowledge receipt of your Freedom of Information request. The Law Commission does not exercise powers of entry. This role is outside our terms of reference. The Law Commission is an advisory body to Government and its remit covers the field of law reform. The ways in which we carry out our remit include research, publishing law reform proposals for consultation, and making recommendations to Parliament. Fuller details of the nature of our work are available on our website at <http://www.lawcom.gov.uk>.

If there is any other way in which you think we may be able to help you, please contact us.

<b>Topic</b>	25) Legal Aid Calculator
<b>Date of Response</b>	12 March 2012
<b>Details</b>	<p>I wish to draw your attention to one of the flaws in Legal Aid Calculator as per below link:  <a href="http://www.legalservices.gov.uk/civil/guidance/eligibility_calculator.asp">www.legalservices.gov.uk/civil/guidance/eligibility_calculator.asp</a></p> <p>1) I wish to draw your attention to the flaw that, the Legal Aid calculator does not ask, whether applicant is resident in UK or not? I think it is a mistake, which should be corrected. I remember, as per MoJ proposals in 2010, Legal Aid, was proposed to be stopped for UK non residents, including British Citizens staying abroad.</p> <p>2) If someone is not a British Citizen &amp; came to UK as dependant of economic migrant &amp; then returns due to break of marriage, would the legal aid be still granted?</p> <p>3) Also if someone not living in UK, is eligible for Legal Aid, then the remaining fields, should be as per their native country's requirements, not as per UK standards.</p> <p>3) Should it not be checked, as to why the person in another country, should not use the legal aid in his/her country, instead of UK Legal Aid?</p> <p>4) If the Legal Aid is granted to the person abroad, what is the accountability of that person to use the Legal Aid, as applicant practically has no accountability to misuse of Legal Aid.</p> <p>5) If the person lived in UK for 2-3 yrs &amp; then returned to his own country, then should Legal Aid not be cancelled, as person can use the Legal Aid in country of residence?</p> <p>I appreciate, if I can get the reply of above issues, as in many cases Legal Aid is being misused. In my case, my wife does not have rights to come to UK, but was granted Legal Aid, while she was in UK, appealing against her visa cancellation. She was dependant on me &amp; then I withdrew the sponsorship. Even after her return, Legal Aid continues (£25K now).</p>

### Answer

Thank you for your enquiry. Unfortunately we are unable to help you with your enquiry. The Law Commission is a statutory body whose function is to advise Parliament on law reform. It was set up under the Law Commissions Act 1965 to review areas of law and recommend, where necessary, reform of those areas to the government.

The body with responsibility for administering Legal Aid is the Legal Services Commission and you may wish to contact them regarding your enquiry. For general enquires they can be contacted online at [http://legalservices.gov.uk/aboutus/contactus/our\\_local\\_offices.asp](http://legalservices.gov.uk/aboutus/contactus/our_local_offices.asp) or by telephone on 0300 200 20 20. Case specific enquiries need to be addressed to a local office. As the address given on your email is in Harrow I would expect that to be the London office and they can be contacted online at: [london@legalservices.gsi.gov.uk](mailto:london@legalservices.gsi.gov.uk) or by telephone on 020 7718 8000.

I am sorry not to be able to assist you further.

<b>Topic</b>	26) Regulation of Investigatory Powers
<b>Date of Response</b>	27 March 2012
<b>Details</b>	<p>I am writing to obtain information about your authority's use of the Regulation of Investigatory Powers Act 2000 (RIPA) and the Regulation of Investigatory Powers Act 2000 Scotland (RIPSA).</p> <p>To outline my query as clearly as possible, I am requesting:</p> <p>1. How many times has your authority authorised operations or investigations under RIPA or RIPSA in the periods:</p> <p>a) 1st March 2009– 28th February 2010?  b) 1st March 2010– 28th February 2011?  c) 1st March 2011– 29th February 2012</p> <p>In each instance, please state the nature of the offence (e.g. graffiti, fly tipping etc.).</p> <p>Please also provide details of how many resulted in prosecutions and convictions.</p> <p>Please note I am not asking for details of the defendants or the case itself.</p> <p>I understand that under the Freedom of Information Act, I am entitled to a response within 20 working days. I would be grateful if you could confirm in writing that you have received this request as soon as possible.</p>

### Answer

Thank you for your email dated 26 March 2012.

The Law Commission is an advisory body to Government and our remit is to consult on and to make proposals for the reform of the law. We are not a regulatory body and we do not use the Acts to which you refer. Our terms of reference are set out on our website at <http://www.lawcom.gov.uk>.

If you think we may be able to assist you further, please contact us.