



UNIFORM LAW CONFERENCE OF CANADA

**REPORT OF THE ADVISORY COMMITTEE ON
PROGRAM DEVELOPMENT AND MANAGEMENT
(ACPDM) 2022**

**Presented by
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**Edmonton Alberta
August, 2022**

This document is a publication of the
Uniform Law Conference of Canada.
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Report of the Advisory Committee on Program Development and Management (ACPDM) 2022

Uniform Law Conference of Canada Annual Meeting, August, 2022

[1] This Committee is responsible for the medium to long-term work of the Conference. It is comprised of people who have lengthy knowledge and experience in both leadership and the project activity of the Conference.

[2] My thanks to all of the members, listed at the end of this report, who give generously of their time and attention. We meet monthly, and the Committee has a balance of geographic and practice experience.¹

[3] The Criminal Section operates largely from year to year by Resolutions which tend to have a one-year shelf life. Where projects span more than one year, or are joint with the Civil Section, the Committee provides any requested guidance. Civil Section projects tend to be multiyear projects and therefore fall under the supervision of this Committee.

[4] The work of the Committee falls into three areas. First, choosing projects is the result of the application of our project selection criteria, and the process of project description which highlights a number of elements. Essentially, the process involves an initial suggestion, followed by a more comprehensive description, on the basis of which the Committee may recommend that the Conference commit to a project. The Committee will consider a number of suggestions but will not commit to a project until it has a clear understanding of the scope of the project and the demand for uniformity/harmonization. If necessary, a feasibility study may be contracted for, so that the Committee can make a fully informed decision.

[5] Second, the Committee has developed processes by which the working groups proceed – size of group, administrative leadership, subject matter expertise and meeting frequency. Often the Project Coordinator and the chair of this Committee will assist a working group in its process and deliberations.

[6] Finally, the task of implementation has now reverted to this Committee after the demise of the formal Implementation Committee. This process, so far, has been quite passive but builds on the commentary material in a draft act to promote the benefits of the legislative proposals.

[7] As well as its internally generated topics, the Committee has attempted different approaches to generating projects suggestions. These include specific requests and timelines for jurisdictional representatives. In 2021 this process generated one suggestion, and in 2022, despite a documented request describing the nature of the supporting material and numerous reminders no suggestions were received by the deadline. One jurisdiction did follow up after the deadline with a short list of suggestions. Overcoming this inactivity will be an ongoing challenge.

[8] Given the dearth of suggestions, the Committee decided in October 2021 to undertake a comprehensive review of all project suggestions received during the last 5 or 6 years. That review produced a more current and accurate short list of projects. As a result, the Civil Section has eight active projects and five under review. One project, online defamation, was put on hold while Canadian Federal proposals were being developed and consulted on. These proposals are now withdrawn and the Conference must decide how and when to proceed. A feasibility study on non-disclosure agreements is under way.

[9] The Committee also made a significant change in its budgeting process. This year the Committee moved to a three-year rolling budget so that the total project costs to completion are more clear. From that set of projections, the current year is extrapolated. The work of Kathleen Cunningham and Clark Dalton in developing the new documentation was very much appreciated.

[10] There are two project topics on which the Committee would like the views of the section. The Uniform Fatal Accidents Act is quite an old uniform act (1964), developed at a time when “fault” was the primary basis for recovery. Is there any appetite for updating this act, in the light of the no-fault schemes now in operation in some provinces?

[11] The second project is the possibility of extending remote witnessing to documents other than wills, powers of attorney and healthcare directives. Many jurisdictions introduced remote witnessing on a temporary basis during the recent pandemic, and the question is whether remote witnessing should be available on a more generic basis rather than be limited to certain types of documents.

[12] In early fall, the Committee will undertake more comprehensive reviews. The first relates to suggested topics and those highlighted in the review of law reform activity prepared for the Committee by the Albertan Law Reform Institute.

[13] The second is the membership of the Committee. Continuity is crucial for this Committee but we will also review whether we have the appropriate balance to meet the mandate of the Committee.

[14] It has been my honour to chair this Committee and to participate in many of the projects. I could not have done so without the support of my friend and colleague, Clark Dalton, and I thank him specifically for all his help.

I look forward to our discussion.

Peter J M Lown QC
Chair.

¹ Members of the ACPDM for 2021–2022 were:

Peter JM Lown, QC, Edmonton (AB), Chair; Sarah Dafoe, Alberta Justice, Edmonton (AB); Russell Getz, Retired, Victoria (BC); Kathleen Cunningham, ULCC Interim Executive Director, Vancouver, (BC); Christian Delaquis, Executive Director, retired, partial year, Winnipeg (MB); Manon Dostie, Justice Canada, Ottawa, (ON); Kathryn Sabo, Justice Canada, Ottawa, (ON); Valérie Simard, Justice Canada, Ottawa, (ON); Laura Pitcairn, Public Prosecution Service of Canada, Ottawa, (ON); Elizabeth Strange, Office of the Attorney General, Fredericton, (NB); Catherine Boily, Chambre des notaires du Québec, Montréal (QC); Michelle Cumyn, professeure à l'Université Laval (QC); Laurence Bergeron, Ministère de la Justice du Québec, Québec, (QC); Michel Deschamps, McCarthy Tetrault, Montréal (QC); Darcy McGovern, QC/Maria Markatos, Saskatchewan Justice, Regina, (SK); Christine Badcock, Regulations Officer - Legislative Counsel Office Government of the Yukon (YT); Kevin B. Westell, Partner, Pender Litigation, Vancouver, (BC); Clark Dalton, QC, ULCC Projects Coordinator, Edmonton (AB).