

Commonwealth Distance Training Course in Legislative Drafting

Meeting of the Project Advisory Group, September 29 1993

Aide-memoire

1. The meeting was conducted as an audio-conference. Participants were: Patrick Guiton (CoL, Vancouver); Vincent Crabbe (Barbados), Hilton McIntosh (Ottawa); John Hookway, Keith Patchett and Jeremy Pope (London).

2. The following documentation was before the meeting:

- (1) Proposals of the Course Developers
- (2) Report on the Evaluation of the Pilot Module
- (3) Pilot Module materials:
 - (i) Course Book;
 - (ii) Workbook;
 - (iii) Audio-cassette

3. Strong approval was expressed for the quality of the materials comprising the pilot module. The course developers were congratulated on the work to date and enthusiastic support was given for the continuation of the project on the lines developed in the pilot module.

4. The meeting discussed the proposals of the Course Developers arising out of the testing of the pilot module in Barbados in July 1993. The following paragraphs summarise the conclusions reached on those proposals.

A. Course content

1. Soundness of overall approach

5. In its essentials, the approach adopted in the pilot module provides an acceptable balance between the theory and practice and is capable of providing trainees with the basic knowledge and skills in an acceptable way of learning.

2. Coverage of topics selected

6. If the topics included in the pilot module are to be studied in accordance with the general course approach, there is little room for substantial reduction in coverage or length.

3. Level of difficulty

7. The course is to be designed for persons having legal qualifications. Those coming new to legislative drafting should be able to undertake a course using materials of the level of difficulty of the pilot module, provided that -

- the first modules enable the trainees to acquire a solid understanding of the foundations of the topic and to become familiar with basic concepts and techniques;
- sufficient study time is provided.

4. Syllabus coverage

8. The following topics should be deleted from the syllabus:

- 37: Financial provisions
- 40: Statutory Authorities and corporations
- 41: Licensing and registration
- 42: Legislation implementing treaties

These amount to about ½ module.

9. The possibility of developing specialist modules to cover matters omitted should be examined again once the basic course is operational.

10. Certain topics of a more descriptive or procedural nature should be accorded shorter treatment than originally proposed. These are to be found in the first parts of the syllabus:

1. History of parliamentary drafting
2. The function of legislation in the common law tradition
3. Legislative drafting in common law systems
4. The role and responsibilities of Legislative Counsel
5. Types of legislative instruments in common law systems
6. The structure of legislative instruments
8. Objectives in the preparation of written law
9. The organisation and operation of a Government drafting service
10. The relationship between the client Department and Legislative Counsel
14. Stages in the legislative process
15. The role of Legislative Counsel in relation to the legislative process

It should be possible to confine these to ½ module, especially if greater use is made of published sources as the course material.

5. Length of modules

11. These syllabus changes should permit the syllabus to be reconstituted into 5 modules, though the overall length of study should not be altered. The length of the study time for 5 modules should reflect the experience from the pilot that for a 6 module course a range of 60 to 90 hours per module would be needed.

12. Accordingly, for a course involving 5 modules, the minimum study period would need to be set at 75 hours, with a range of 75-100 hours per module (ie, the equivalent of 30-40 hours per week of full-time study for each of 12 weeks). It is recognised, and should be made clear to participants, that such a level of full-time commitment is unrealistic.

B. Course treatment

6. Use and frequency of boxes

13. The present scheme of boxes for activities and exercises should be continued. But greater emphasis must be given in the study guidance to the capacity for the individual trainees to organise the study process to suit their own preferences.

7. Organisation of materials

14. The division of materials between binders should be maintained. The course should comprise an Introductory Booklet and 4 Binders.

Introductory Booklet

This would include the kinds of material at present in the first 15 pages of the Workbook, but expanded to include more detailed guidance on the various features of the course. It should include illustrative examples of the activities set, including the Drafting Projects.

Binder 1: Course text.

Binder 2: Activity Boxes; Exercise Boxes; Drafting Projects.

Binder 3: Answer Boxes; Suggested Answers.

Binder 4: Course materials and precedents; locally acquired materials.

8. Supporting materials

15. Selected materials should be provided which would be directly concerned with the study and tailored for use with the course. A separate Reader of materials on legislative drafting should not be developed.

9. Course textbook

16. A course textbook should be prescribed and supplied as one of the course materials. The Course Developers with Jeremy Pope will confirm whether Vincent Crabbe's new text (*Legislative Drafting*, Cavendish Publishing, October 1993, £29.95) best fulfils the requirements for a textbook that complements this course.

17. Participants should also be supplied within the course fee with a Dictionary and a Thesaurus. The course should be designed on that assumption.

10. Audio-materials

18. As the Course Developers are satisfied that 4 tapes of 90 minutes each can be prepared without any extra financial implications, fuller use of audio-support should be explored. Audio materials should be used to support the course work and the subject-matter of the course, in cases where it is suited to that purpose.

19. Audio support should not be standard for all Projects; it should be used selectively for those which will most benefit from it.

20. Consideration should be given to the use of audio tapes by mentors to communicate their comments on Projects Drafts to participants.

C. Drafting Projects and Assessment

11. Drafting Projects

21. The maximum number of Drafting Projects should be set at the equivalent of 2 Projects a week over 12 weeks full-time.

22. Projects on the lines of those in the Pilot are appropriate, but a better quality of work would be likely if the following procedures (to be explained in the Introductory Booklet) are required:

(1) trainees be asked, as a first stage, in the preparation of their Project to work out, after studying the instructions, the topics and questions that will need to be dealt with in their draft. (In the very first Projects, these questions would be given at the end of the instructions to illustrate the technique);

(2) in the mid-range Projects, trainees be asked to compare and revise their plan of questions and topics with a check-list provided (with the Suggested Answer materials); in the later Projects, they would be expected to work independently in the finalisation of their legislative plan;

(3) trainees be asked to produce a first draft of their Project from their revised plan;

(4) in completing that draft, they would be expected to scrutinise it for errors, using a check list which they have evolved, under guidance, in the course of studying the earlier modules on syntax, style and structure;

(5) on completion of the first draft, trainees be asked to reconsider it by reference to a series of questions provided (with the Suggested Answer materials);

(6) the trainees be asked to prepare a revised draft of their Project to take account of matters suggested by their consideration of these questions;

(7) they be asked to compare this second draft only with the Suggested Answer and the commentary on it.

12. Self-assessment and external review

23. Self-assessment of Projects is feasible, under certain conditions; it should encourage the development in participants of a capacity for self-criticism.

24. Only a proportion of the Projects should be subjected to self-assessment; the remainder must be received externally if confidence in the standards of the trainees is to be created.

25. External review should be required as a minimum for the final Project in each Module and for one other in each of the last 3 modules. There should be a maximum of 12-16 self-assessed Projects, making a total of 20-24 Drafting Projects for the full Course.

D. Course Support

13. Mentor support

26. The course should continue to be written on the premise that mentor support will not be available for the study of the course matter. There would be many jurisdictions in which such support cannot be provided.

14. Moderator support

27. For the Drafting Projects, some external moderation is essential. But the course should be written on the assumption that such support may not always be locally available.

28. Where local support can be provided, it would be open to the trainee to submit all the Drafting Projects for moderation to a local moderator.

29. Where no local support is available, trainees should undertake their own review of those Projects

which are designated as suitable for self-assessment. They would be required to submit their work on the other Projects to an external moderator, by fax or post.

30. Although external moderators would be supplied with the Suggested Answers and commentaries on the drafting projects, the Course Developers should develop some form of manual to explain and give guidance to moderators on their role and responsibilities.

E. Timetable

31. The Course Developers are now in a position to proceed with the main course development. Completion cannot be expected earlier than the second half of 1994. It is not intended that any other modules would be exposed to pilot testing. The Course Developers accepted Hilton McIntosh's offer of the facilities of his programme to pilot test aspects or new features of the course that may be developed.

F. Miscellaneous

32. The meeting expressed support for the view that the course should ideally be delivered through regional centres rather than by a single institution. It was acknowledged that a single centre may be necessary in the initial stages. The scheme for delivery of the course is to be the subject of discussion between CoL and Com-Sec.

33. The Commonwealth Law Ministers are to be informed at their meeting in November of the progress of the work and asked to give their full support to the programme when it is instituted.

KWP

3 October 1993