JUDGMENT WRITING AND JUDGECRAFT: A VIEW FROM THE SUPREME COURT

Author: Lord Stephens of Creevyloughgare

Introduction

We are back together after Covid. What a relief and what a great pleasure to be with all of you today. I am also delighted to have an excuse to be back here in Belfast, and back in this building where I have spent most of my working life. I hope you will enjoy your time here. I understand that there is to be a trip to the Giant's Causeway and Old Bushmill's distillery tomorrow. I am sure that you will be able to enjoy what we call a 'wee' glass of whiskey in the distillery. That is whiskey spelt with an 'e' which means that it is Irish as opposed to whisky spelt without an 'e' which means that it is from Scotland which is to be contrasted with American Scotch which means that it is awful!

On the topic of sites to visit in Northern Ireland can I also act as the Northern Ireland tourist Board to entice you to come back. The National Trust property at Castleward on the shores of beautiful Strangford lough is an eccentric- built- example of the need for dispute resolution. The house was constructed in the 1760's for the First Viscount Bangor, Bernard Ward and his wife Ann. They couldn't agree on architectural styles so the entrance side of the building, under his direction, is done in a classical Palladian style, with columns and a triangular pediment. The opposite side, under her direction, is Georgian Gothic with pointed windows. Their architectural quarrel did not stop at the exterior. The whole of the interior is equally divided with a battle line right down the middle. On one side his simple classical decoration. Her side more over the top with detailed and ornate panelling and ceilings. John Betjeman referred to the ceiling in her boudoir as 'like sitting under a cows udder.' You must see it to understand. For me, it appears as a physical representation of the complex, multifaceted, and sometimes downright ugly disputes that fall to be decided by the courts about which we must give judgments.

I confess that when initially presented with the proposed topic of 'judgment writing and judgecraft', I was deeply embarrassed. First, what could I possibly say about judgment writing or judgecraft to all my distinguished colleagues? Second, I have spent the last 15 years as a judge - certainly writing many judgments, and perhaps practising what might be termed 'judgecraft' – but I have not had occasion to spend too much time pondering it from a wider perspective. I suppose that a good start for judgecraft is the Bible. In the book of Exodus Jethro advises Moses to establish a judiciary system to share the load of deciding the legal disputes which were taking up too much of his time. Jethro advises Moses to seek out 'able men, such as fear God, men of truth, hating covetousness'. Another starting place is Socrates. He said 'Four things belong to a judge: to listen courteously, to answer wisely, to consider soberly and to decide impartially'.

Of course judgecraft in the common law and civil jurisdictions is informed by the different routes to becoming a judge. In the common law jurisdictions, judges are appointed towards the latter end of a practitioner's career, and the appointment traditionally was not followed by structured or vocational training. Under this tradition, common law judges were thought to have developed the key skills necessary for judging through the practice of advising and representing clients in their practice as barristers or solicitors. Traditionally in the common

law world, a barrister could be practising as an Admiralty QC one day and then the next on appointment as a judge to be sent out to conduct a murder trial. It was thought that a successful barrister would not need any training in making the move to the Bench. Lord Judge, former Chief Justice, has remarked in a lecture given to the Judicial Studies Board that when he was appointed to be a Recorder of the Crown Court in 1976, he sat for two years before he received any training at all. That was not, he says with characteristic modesty, because of his remarkable talents but that there was not thought to be any need for training. Indeed, he notes that at the time the Judicial Studies Board was set up, there was significant judicial antipathy towards it with many thinking that training was an interference with judicial independence. The fact that it was called the Judicial Studies Board was a deliberate attempt to reconcile those who thought that they were demeaned by the implication that they might need training in the performance of their responsibilities. By 2013 when Lord Judge was giving his lecture, he said that judges now welcome training and know that it has no bearing whatever on their independence. 'Being a judge in the modern world does not merely require such education and training, it requires a frame of mind in which these positive advantages are welcomed.' So we are now following in the footsteps of civil law judges so that there is now training and induction for all judges.

Another feature of the common law system was that the idea of a career judiciary used to be almost unheard of in United Kingdom courts. People tended to choose the level at which they wanted to join the judicial system and expected to stay there for their whole judicial career. In more recent years there has been more movement, for example, judges appointed in the County Court moving to the High Court Bench and judges in the tribunal service moving to be district judges or county court judges. This has benefits for diversity too as those branches of the judiciary tend to have a better gender and ethnic balance. This of course stands in contrast to the training and appointment of judges in civil law systems. In France, a lawyer can qualify as a judge straight out of university and judges are not ordinarily recruited from the ranks of lawyers. They are specifically trained for the role via a standalone process and it is common for a person to become a judge before they turn 30. With certain exceptions, most aspiring judges in France are required to train at the Ecole nationale de la magistrature ('ENM') in Bordeaux. This is the only judicial training school in the country. Admission to the ENM is determined by competitive examination. The coursework lasts 31 months followed by a cycle of traineeships in the court system and supporting agencies (for example juvenile facilities). At the end of this period, a prospective judge takes another exam and is presented with a list of available judicial posts prepared by the Ministry of Justice. Initial appointments are made on the basis of exam scores – those who receive the highest scores get the pick of positions. Most ENM graduates are appointed to a judgeship in the provinces at the lowest level, working as investigating judges or members of benches adjudicating minor criminal cases. They then work their way up the judicial ladder throughout a long career entirely within the judiciary.

Judgecraft and Intellectual Ability

Every judge has to be sufficiently astute, hard-working or clever enough to be able, within the space of a few hours not only to read and understand the material but to get themselves into a position to decide which of the two competing sets of submissions is right – to be able to challenge those submissions of counsel – who may well have been working on the case for years – to discuss the case intelligently with colleagues, and then write a judgment or comment on a draft written by someone else. From start to finish the judge's involvement with the case may last a few weeks or months at the end of which the judge has to produce an authoritative and reasoned decision.

Another aspect of judgecraft I would like to focus on is the changing attitude to rudeness and bullying by judges. Socrates as I have mentioned listed the ability to listen courteously as one of the characteristics of a good judge but this quality has not invariably been manifest in our courts. This topic has been the subject of a great deal of attention recently. In February 2019, the Bar Council published guidance to barristers about judicial bullying. It defines bullying as offensive, intimidating, malicious, or insulting behaviour involving the misuse of power such as can make a person feel vulnerable, upset, humiliated, undermined, or threatened. The Bar Council recognises that when bullying by judges occurs, it presents additional challenges because those who are a target may feel unable, or particularly reluctant, to do anything about it, even though the impact may be particularly acute. I agree with the article written by a senior barrister in New South Wales and included in the Handbook for Judicial Officers in that Australian jurisdiction. It contains this observation:

> The idea that judicial bullying is a necessary "rite of passage" for junior counsel is outdated, dangerous and wholly unacceptable. Older practitioners relating "war stories" of how they were mistreated by former judges should not be a source of admiration but rather, a sad indictment that this issue has not been addressed earlier. Just because one has suffered the humiliation of judicial bullying and "lived to tell the tale" does not mean that it should be an experience visited upon the newer members of the Bar. Rather, it should be the trigger for right-thinking members of the Bench and Bar to ensure that such behaviour is treated with opprobrium.

Why has unpleasant behaviour in court fallen so far out of fashion? It is partly, I think, because younger lawyers have been educated in a school and university system that takes bullying seriously and they are, quite rightly, no longer prepared to put up with it. To my mind, this whole issue is much more significant than just being a way of protecting barristers from having a bad day at the office – important though that is. If lay clients sitting in court see the judge being rude and impatient with their counsel or with the witnesses on their side, they will feel strongly that they have not had a fair hearing. Their dissatisfaction will not be only with the judge, but also, however unfairly, with their counsel and with the overall process of adjudication. This becomes a vicious circle because an advocate will rarely give his or her best for the client, the cause, or for the court when subjected to undue pressure.

The final aspect of character and judgecraft I would wish to highlight is compassion. Judging is not an abstract or mechanical process – it is an intensely human process. The judge is engaged in unravelling and resolving disputes that often have had a profound effect on the lives of the litigants. A judge who is able to see all sides of a problem has a better chance of making a decision that is both fair and just and seen to be fair and just. A judge must be guided by an ever-present awareness and concern for the plight of others and the human condition – compassion is part and parcel of the nature and content of that which we call 'law'.

Judgment Writing

The purpose of a legal judgment is quite clearly first and foremost to resolve particular cases in accordance with the law and the facts, to determine the rights and duties of litigants, to do justice to them, and to provide principled, coherent, and clear guidance for future litigants

in similar situations. The means by which this is done, however, is subject to very few rigid constraints, whether with respect to form, tone, or substance.

Judgments in this jurisdiction range from say some 5 pages to some 100 pages. We produced a five page judgment in a recent Privy Council case by 3 pm having finished the hearing just before lunch. The length depends on varying levels of legal, procedural, and factual detail involved in the case. A judgment can be longer than 100 pages though that must be very rare as otherwise the judge loses the will to live or what is produced could choke a donkey. Much has been written about the constitutional implications for the rule of law, including principles of open justice, in ensuring that law is capable of being read and understood not only by those who study and practise law, but by the world at large, or the community in general. Indeed, much has also been written about what makes a well-written judgment, including in the context of the now significant body of academic work in the field of law and literature. Lord Denning, widely regarded as among the greatest of Britain's judicial stylists, observed:

> [Y]ou must cultivate a style [that] commands attention. No matter how sound your reasoning, if it is presented in a dull and turgid setting, your hearers- or your readers- will turn aside. They will not stop and listen. They will flick over the pages. But if it is presented in a lively and attractive setting, they will sit up and take notice. They will listen as if spellbound. They will read you with engrossment.[1]

Lord Denning himself is of course well known for his unique and engaging style – and most particularly, for some of the best opening lines. For example, few English lawyers would forget his scene-setting start in the case of *Miller v Jackson*, which involved a complaint that cricket balls being hit from a cricket ground were causing actual damage to a neighbouring house and apprehension of personal injury which interfered with their enjoyment of their house and garden whenever cricket was being played; Lord Denning started by stating:

> In summertime village cricket is the delight of everyone. Nearly every village has its own cricket field where the young men play and the old men watch. In the village of Lintz in County Durham they have their own ground, where they have played these last seventy years. They tend it well. The wicket area is well rolled and mown. The outfield is kept short. It has a good clubhouse for the players and seats for the onlookers. The village team play there on Saturdays and Sundays. They belong to a league, competing with the neighbouring villages. On other evenings after work, they practice while the light lasts. Yet now after these 70 years a Judge of the High Court has ordered that they must not play there anymore, He has issued an injunction to stop them. […][2]

Denning dissented. The use of the ground for cricket was a most reasonable use; and it does not suddenly become a nuisance because a neighbour chooses to come to a house in a position where it might occasionally be hit by a cricket ball.

[1] *Lord Denning, The Family Story* 216 (1982)
[2] *Miller v Jackson* [1977] EWCA Civ 6 [1].

Lord Denning is not the only one – another UK Law Lord whose judicial writing has garnered much admiration is that of Lord Rodger. Lord Rodger spoke widely of his view of judicial writing – that a judgment was personal to a judge and should therefore reflect his or her personality and interests. An example is *Re Guardian News and Media Ltd*, where his judgment begins with the provocative words, 'Your first term docket reads like alphabet soup.'[3] As such, judicial opinions of some of the greatest judges across the common law world can be regarded as having significant literary merit and they repay a close literary analysis. And of course, all legal cases come with their own cast of characters, and indeed their own narratives. There are many examples of great judgments incorporating tools and techniques from literature and poetry in order to elucidate or strengthen a particular conclusion. I like the passage from the second coming by Yates, 'The best lack all conviction, while the worst Are full of passionate intensity.' To my mind it sums up the doubts of honest witnesses and the contrasting bluster of manipulative liars.

In April 1995, the United States Supreme Court decided the case of *Plaut v Spendthrift Farm Inc.*[4] Though in its inception this case concerned the story of Mr and Ms Plaut, who along with other investors, alleged that Spendthrift Farm committed fraud and deceit when selling stock, by the time it came to the Supreme Court, the key issue to determine had become a constitutional question regarding the separation of powers – in this case, between the judiciary and Congress.[5] Justice Antonin Scalia, writing for the majority, employed the metaphor of constructing a wall to represent his view of the necessity of drawing clear distinctions between executive, legislative and judicial power. Justice Scalia took the perhaps unusual step of seeking support in the well-known poem of Robert Frost 'Mending Wall', citing the line 'Good fences make good neighbours' in this regard. Another member of the court, Justice Stephen Breyer gave a concurring opinion, but provided a different, more qualified analysis of the separation of powers question. In this critique, Justice Breyer also takes issue with Justice Scalia's interpretation of Frost's poem, noting that on his reading, the speaker in the poem expresses some clear discomfort in the very notion of sharp boundaries, demonstrated in the lines – 'before I build a wall I'd ask to know / What I was walling in or walling out.'

Another example closer to home is Lord Millet in the House of Lords decision in *Uratemp Ventures Limited v Collins*, where in order to divine the meaning of the word 'dwelling-house', examined that word's ordinary usage.[6] Lord Millet held that the meaning contended for by the landlord, that is, that a dwelling place is the place where a person habitually sleeps, eats *and* cooks his meals, had no support in English literature.[7] Citing texts from the Book of Common Prayer, to Milton's Paradise Lost, to Gilbert and Sullivan's the Mikado, Lord Millet sought to demonstrate that 'dwelling' contains no implication that it is the place where cooking occurs. He said:

> According to the Book of Common Prayer, "the fir trees are a dwelling for the storks" (Psalm 104); while W. S. Gilbert condemned the billiard sharp "to

[3] *Re Guardian News and Media Ltd* [2010] UKSC 1, [2010] 2 AC 697, [1]; Lord Reed, 'The Form and Language of Lord Rodger's Judgments', in Andrew Burrows, David Jognston QC, and Reinhard Zimmermann (eds), *Judge and Jurist: Essays in Memory of Lord Rodger of Earlsferry* (OUP 2013).
[4] *Plaut v Spendthrift Farm Inc et al* 514 US 211 (1995).
[5] Kieran Dolin, 'Introduction to law and literature: walking the boundary with Robert Frost and the Supreme Court' in *A Critical Introduction to Law and Literature* (CUP 2012).
[6] [2001] UKHL 43.
[7] ibid [30].

> dwell in a dungeon cell" (where it will be remembered he plays with a twisted cue on a cloth untrue with elliptical billiard balls): The Mikado Act II. It is hardly necessary to observe that Victorian prison cells did not possess cooking facilities. Of course, the word "dwell" may owe its presence to the exigencies of the rhyme, but it does not strike the listener as incongruous. If faintly humorous, it is because the occupation of a prison cell is involuntary, not because of the absence of cooking facilities. As I shall show hereafter, Gilbert, who had qualified at the Bar, had got his law right. An earlier and greater poet wrote of Lucifer being hurled "to bottomless perdition, there to dwell in adamantine chaos and penal fire": (Paradise Lost Book I l.47).[8]

There is little doubt in my mind that in the pen of a skilled writer, legal pronouncements can be made significantly clearer (and certainly more engaging) with added literary flair or elegance of expression. While one must avoid style over substance, it strikes me that it must be right in legal writing that the two often merge. As noted by American Jurist Benjamin Cardozo in his 1925 essay on Law and Literature, 'Form is not something added to substance as a mere protuberant adornment. The two are fused into a unity."[9] Of course, in reality, the real-life judge is constrained in many ways by the demands of statute and precedent, let alone the demands of time and resource, which no doubt contribute to establishing the parameters for what ends up in a judgment. While poetry, metaphor and narrative structure do assist, the central effort for any judge in writing judgments has to be towards clarity of communication. Though it might sound somewhat less lofty, it is the task of the judge to bear in mind the multiple audiences that must be reflected in the text of the judgment, and who will have recourse to it in relation to their specific dispute, or indeed in the context of future disputes.

Clarity and accessibility are at the forefront of my mind particularly when dealing with difficult family law cases. As a judge in the Family Division in Northern Ireland between 2008 and 2014, I learned the importance and value in writing clear and accessible judgments, easily understood by the litigants (to whom these judgments were of course of exceptional personal importance) as well as for social workers, local authorities, family liaison services and others, not to mention other judges and practitioners. I particularly welcome the recent developments in this jurisdiction and others towards writing judgments in plain English and in a child-friendly or indeed family-centric mode, which I hope we might hear more about from Lord Justice Peter Jackson, who is at the forefront of this development. I hope he won't mind if I draw on one or two of his judgments by way of example: for instance, in 2016 Mr Justice Peter Jackson (as he then was) handed down a 43-paragraph judgment in a difficult case concerning care proceedings in respect of four children, in which there was a concern that the father of the youngest two children might take them to Syria. The judgment starts with the opening line: 'This judgment is as short as possible so that the mother and the older children can follow it'. Following a short explanation of the family history, notes with (for me at least) some breath-taking simplicity: 'People can tell lies about some things and still tell the truth about other things.' [10] I can't think of how many family cases which I have had to decide that could be encapsulated in this observation. A handful of other judgments written in plain English, or otherwise made 'child-friendly' have emerged in this jurisdiction

[8] *Uratemp Ventures Limited v Collins* [2001] UKHL 43.
[9] Benjamin Cardozo, 'Law and Literature' (1925) Yale Review 699.
[10] *Lancashire County Council v M & Ors (Rev 1)* [2016] EWFC 9 (04 February 2016).

in the last few years.[11] An equally notable example is another one of Peter Jackson LJ's decisions in Re A: Letter to a Young Person.[12] This case concerned a bitter custody battle between a 14-year-old child's parents, one of whom wished to relocate to another country with the child. The judgment is only 2,750 words long, and again explains with admirable clarity the host of matters that the judge took into account in making the order he made, in the form of a letter to the child in question.

I confess that I do not think it terribly likely that the Supreme Court will adopt a similar approach in the near future in respect of the family cases that come before us, although as I hope I have made clear, I think this is an extremely positive development in the Family Courts, and one which contains significant lessons for all judges when thinking about how to communicate legal decisions. From the perspective of the Supreme Court, while of course ensuring clarity and accessibility for litigants is paramount, we are also called upon to decide difficult questions of general public importance, and often, to give guidance to the lower courts as to how a particular rule is to be applied. This necessitates a lengthier exposition of the relevant line or lines of authorities, and perhaps a more detailed analysis of the intricacies of the legal position. This point cuts both ways. Cases that come before the Supreme Court attract significant scrutiny among members of the public as well as judges and practitioners. Often, they also attract substantial media attention. There is much that we can do and should be doing to improve the accessibility and clarity of our judgments.

When reflecting on the past two years at the Supreme Court, a couple of themes have emerged. First, it has been instructive to see how the preparation of the press summaries can serve as a helpful check as to whether the key points in any particular judgment are as clearly and cleanly expressed as one would hope. A Press Summary is a short (ideally less than 2 pages of A4) précis of a Supreme Court decision, which is published on the Supreme Court website and the BAILI website alongside the handed-down judgment. The Justices work with their judicial assistants and the Supreme Court communications team to craft something that provides a clear and legally accurate overview of the key findings in a particular case. Of course, these summaries have no legal value whatsoever, but it has struck me that in terms of public understanding of the law, and indeed the public's conception of the role of the Supreme Court as an institution, these press summaries have an important role to play. It is not beyond the extent of my imagination to consider that in many high-profile cases, journalists covering case developments in the national press may be likely to have more regard to the contents of the two-page press summary than to wade through 100 pages of legal text on a print deadline. As a result, it is imperative that this document effectively communicates the salient points of the judgment, so that these make their way into the public consciousness. Anecdotally, I understand that busy practitioners will often also have regard to press summaries to garner a quick understanding of a case, not to mention law students and any combination or variety of interested lay people or groups.

Second, the greater scrutiny and attention focussed on Supreme Court judgments can mean we are nudged towards change by those who are closer to the coalface of a particular practice area on a day-to-day basis. For instance, in November last year, I handed down judgment in the case of *A Local Authority (Respondent) v JB (by his Litigation Friend, the Official Solicitor*). This case was the first time the Supreme Court had considered the concept of mental capacity

[11] Stalford and Hollingsworth, '"This case is about you and your future": Towards Judgments for Children', (2020) 83(5) Modern Law Review 1030.
[12] [2017] EWFC 48.

under the Mental Capacity Act 2005 and specifically had to answer what 'relevant information' a person should be able to understand, retain and use when assessing whether that person has capacity to consent to sexual relations. JB had a number of conditions, namely Aspergers, epilepsy, registered blind, significant brain damage, physical limitations and depression. When the case was listed, the Supreme Court communications team was approached by an interested party, who requested that an Easy Read version of the case summary that is normally published on the Supreme Court website also be provided, such that people with learning disabilities would be supported in following the case and understanding the issues at play. An 'Easy Read' document is one where the text is presented in an accessible, easy-to-understand format, with some or all of the following characteristics: Text should be in short sentences, language should be simplified, and any necessary complicated or technical words clearly explained, and the font and alignment of the text should be optimised for clarity. The Supreme Court communications team produced an Easy Read version of the case summary, [13] and of the press summary following the hand-down of the judgment.[14] I understand that this was well-received, and perhaps is something that we could consider doing more frequently.

Finally, I would also touch on the impact that co-authoring of the majority judgment has on the final product that is handed down. At the Supreme Court, we typically hear cases in panels of five (although occasionally in a smaller or larger configuration, depending on the requirements of the particular appeal), but it is now unusual to see cases where all the justices involved write a separate opinion. The merits or otherwise of this development have been discussed elsewhere, and I don't propose to address them here, save for adding to the mix the contribution in terms of clarity of writing that I think is made where two or more justices together write the opinion of the Court. I have co-authored a number of unanimous judgments since coming to the Supreme Court, and on each occasion, I have observed that through the process of melding together two parts or points, my own line of reasoning is much clarified.

Case Management at the Supreme Court

From judgment writing to 'judgecraft', as promised at the beginning of this paper. The main thing to note is that clearly case management as an appellate judge, and particularly in the UK Supreme Court, is vastly different from case management as a trial judge. The nature of the final appeals that come to us is such that there is much less to 'case manage', in terms of listing, documentation, filings and applications. We don't get many applications prior to the hearing, and when we do, they are usually straightforward. However, I thought it might be interesting to share some brief comments on what we at the UK Supreme Court are currently thinking about in terms of our practice and processes, as well as how we interact with our users, particularly post-pandemic.

There is in our court, as there is across the court systems as a whole, a strong movement towards digitising and modernising filing systems, with a view to increasing efficiency, as well as access to justice. Naturally, the Covid-19 pandemic accelerated the use of electronic filing

[13] UK Supreme Court, *A Local Authority (Respondent) v JB (by his Litigation Friend, the Official Solicitor) (Appellant): Easy Read case summary* < https://www.supremecourt.uk/docs/easy-read-case-summary-for-local-authority-v-jb-uksc-2020-0133.pdf> Accessed 26 June 2023.

[14] UK Supreme Court, *Easy Read Press Summary of A Local Authority (Respondent) v JB (By his Litigation Friend, the Official Solicitor) (Appellant)* <https://www.supremecourt.uk/docs/la-v-jb-easy-read-press-summary-2020-0133.pdf> Accessed 26 June 2023.

and online hearings virtually overnight. This was dealt with at the Supreme Court and JCPC by an introduction of a Covid Practice Note, which mandated electronic filing only, and provided for online hearings. The requirements for filing hard copies were suspended and payment of fees was allowed only by bank transfer. The Covid Practice Note has now been rescinded, but the provision confirming that filing may be in electronic form only remains, as well as the direction that hard copy documents will only be required for the full appeal hearing (and even then only the core documents).

The UK Supreme Court is committed to a program of further change over the next three years, focussing on modernising the court's processes. It seems likely that there will be further changes to the Practice Direction, and perhaps even to the Rules of the Supreme Court, in order to effect these changes. The Justices are all comfortable and confident with using electronic PDFs during hearings, and I don't think there is any likelihood of a return to voluminous bundles (some of which are inevitably never opened) arriving for each case. It has become a regular joke from counsel appearing before us that the Court has outpaced the Bar in going paperless. From a records management perspective, the use of electronic bundles brings significant benefits in terms of efficiency – as above, having vast and voluminous paper bundles is unwieldy and causes extra work in terms of processing and archiving following the conclusion of a case, not to mention the negative environmental impact. From my own perspective, the benefit of doing it electronically is of course that I have more flexibility in terms of working in the office or at home. One possible development arising from mandatory digital filing that I think has significant merit is that it may pave the way for establishing a version of the skeleton arguments or parties' cases to be made publicly available on the Supreme Court website prior to the hearing. This would have substantial benefits in terms of access to justice and open justice, for professional users, journalists, legal academics, and the interested public. How much easier it is to understand what is really being argued before the Court when one has access to the agreed facts and the parties' written cases. I understand this is done in some other courts, including Australia, and is under contemplation in others. This general direction of travel is I think to be welcomed, and we have much to learn from colleagues in other jurisdictions as to how to grapple with the challenges posed by the new normal.