



The Law and Regulation Directorate

BACKGROUND

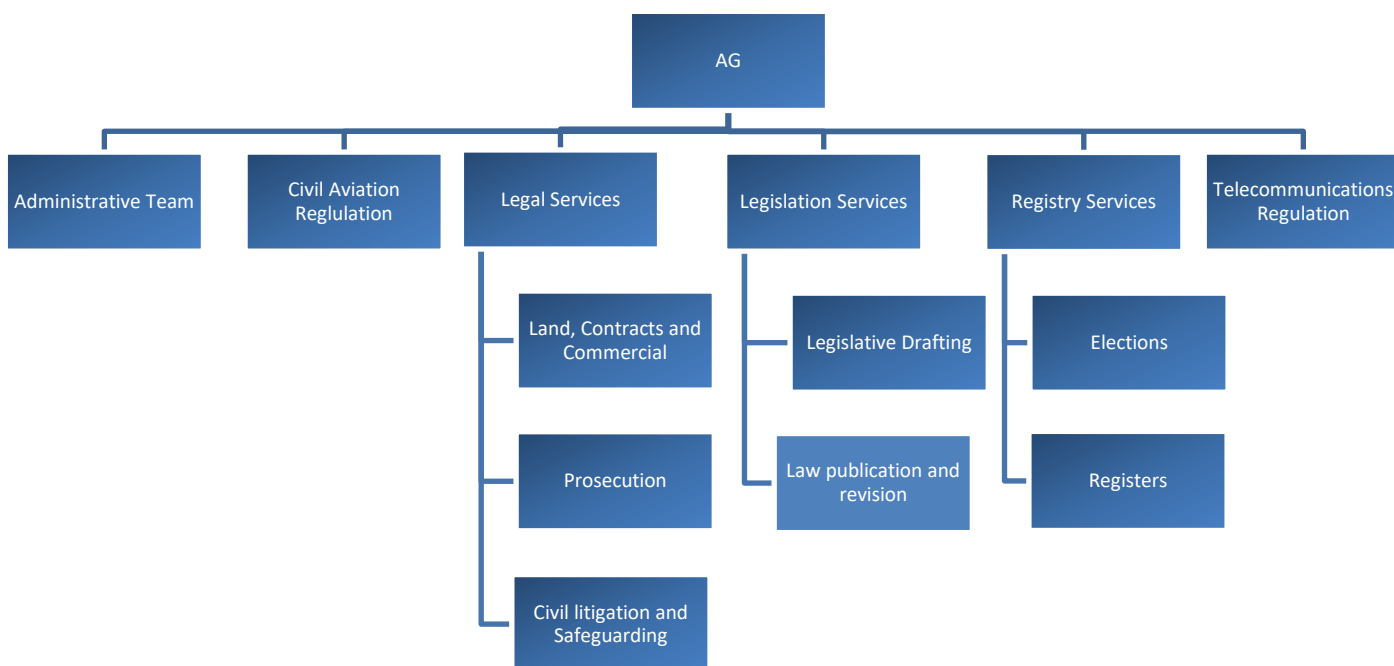
The Directorate:

The Law and Regulation Directorate provides a number of services, led by separate service heads who each report to the Attorney General.

- **The Legal Services team** provides general legal advice and support to the Government in all areas of the Government's functions and service provision. We also direct and conduct public prosecutions and act for the Government in all legal proceedings.
- **The Registry** maintains most statutory registers, including the registration of property, births, marriages and deaths, companies and charities. The Registrar General also administers elections to the Legislative Assembly.
- **The Civil Aviation team** forms part of the Directorate and, together with Air Safety Support International, regulates civil aviation in the Falkland Islands
- **The Legislation team** supports the Government by turning policy into legislation. The team also manages the publication of Falkland Islands laws (in the Gazette and online), and the Statute Law Commissioner has a duty to report on and revise laws.
- **The Telecommunications Regulator** is also based within the Directorate (the Attorney General currently carries out that function)
- **The Administrative team** enables the Directorate to function efficiently, and also manages the provision of notarial services to the public

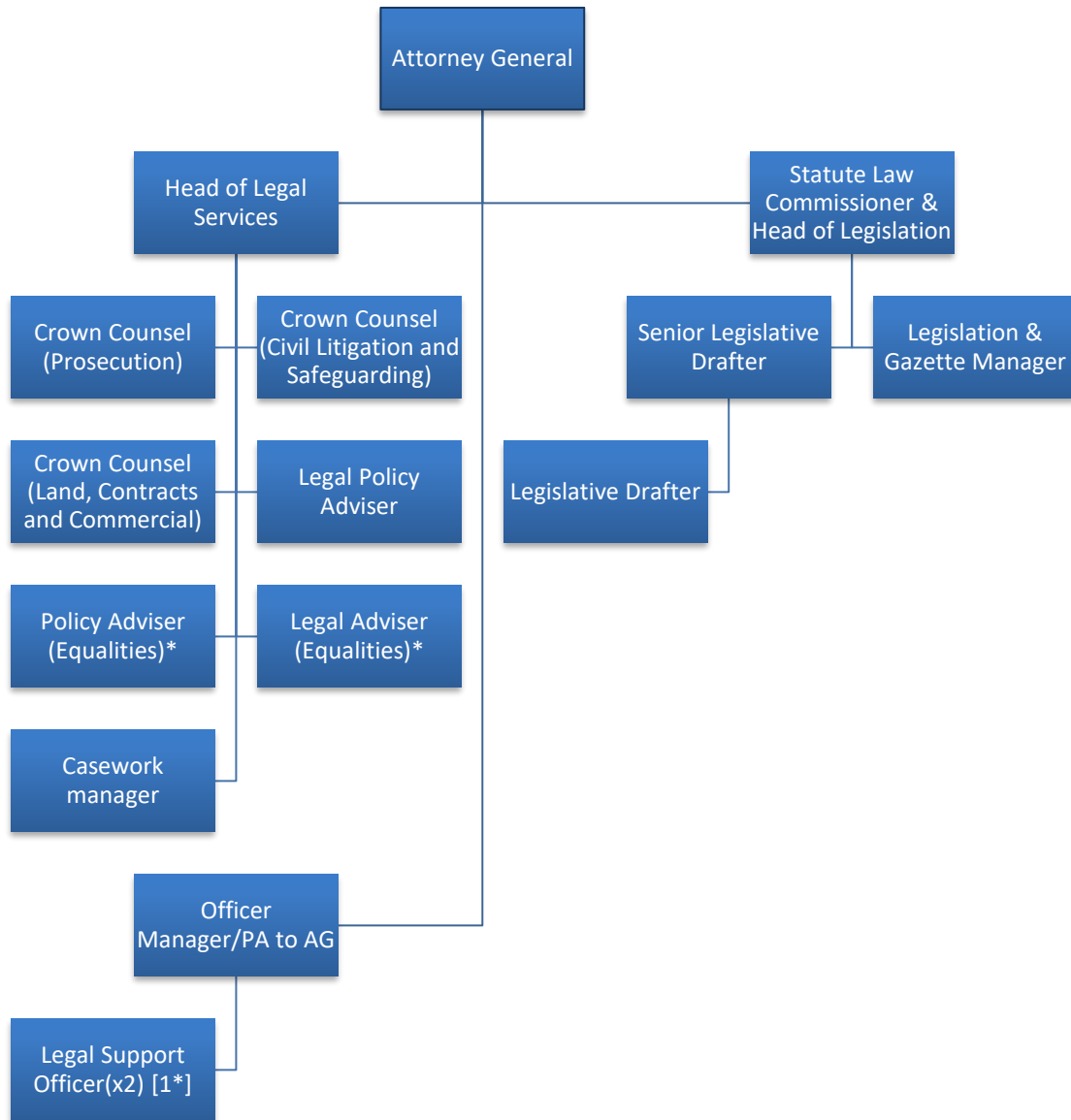
The Directorate also provides legal advice and support to the Government of South Georgia and the South Sandwich Islands, (GSGSSI) which is a separate British Overseas Territory

Our Structure:



The Legal and Legislation Service Teams

The teams consist of 16 staff (including the position on offer) and are structured as follows:



* Posts are currently vacant

1. Services

The Legal and Legislation Services teams provide the following services to the Falkland Islands Government and also, to the extent relevant, to the Government of South Georgia and the South Sandwich Islands:

- **General legal services**

The primary role of the Legal Services Team is to provide the Falkland Islands Government, and in particular its departments, with timely and effective legal advice and representation. The team also provides advice and representation for the Government of South Georgia and the South Sandwich Islands.

Our work includes:

Supporting the Governor, the Legislative Assembly Members and all levels of Government when making decisions.

We provide Government and Government Departments with legal advice on matters such as:

- The Constitution and the rights of individuals
- Contracts and Disputes
- Land and Property rights and transactions
- Licences
- Public Health
- Public Services
- Safeguarding and protecting children and the vulnerable
- Tax and Pensions Law

We also represent the Government in courts and tribunals (eg judicial review, Tax Appeals Tribunal, Fisheries Disputes Commission).

Our work involves the development of Government policy in the areas where the Attorney General has the leadership role; for example in connection with criminal justice, registration and elections.

The Attorney General is also the Chief Charity Commissioner and discharges responsibility for the Falkland Islands Board of Trade among other statutory roles.

- **Prosecution service** – We review cases investigated by the Royal Falkland Islands Police force and also by other departments such as Customs and Immigration, Fisheries and Environmental Planning. We carefully analyse each case to determine whether the evidential and public interest tests are satisfied, suggest any further investigation if appropriate, advise on charges, and prosecute all cases in the Summary Court, Magistrate’s Court and Supreme Court of the Falkland Islands.
- **Legislative drafting service** - We are responsible for the drafting of all laws (including bills and subsidiary legislation). Much of this is carried out in-house although it may be outsourced to external drafters where appropriate (for example, complex tax legislation or other areas where specialist knowledge is required). We manage the legislative drafting programme, as approved by Executive Council, which is formulated each year based on Government priorities such as those contained in the Islands Plan.
- **Statute Law Commissioner** – As well as managing the legislative drafting function, the Statute Law Commissioner manages the publication of the laws of the Falkland Islands through the Statute Law Database (www.legislation.gov.fk). The Commissioner also had duties to report regularly to the Legislative Assembly on the development of UK laws, and to undertake a programme of revision of the law.

2. Key drivers

Legal and legislation services are central to the effective working of Government and we are involved in all levels of decision-making. We attend Legislative Assembly, Executive Council, the Corporate Management Team and many other committees and working groups. Our advice has regard to the Constitution, all other laws of the Falkland Islands (and South Georgia and the South Sandwich Islands) and our international obligations.

Internally we are driven by the policy ambitions of the Members of the Legislative Assembly, by legal work essential to the provision of services by the Falkland Islands Government, and by our role helping to promote good governance.

Externally we are driven by changing economic and social circumstances, the actions of the population of the Falkland Islands and the Government’s response to current issues.

The Court System

The Court structure consists of the following:

- Summary Court
- Magistrate's Court
- Supreme Court
- Court of Appeal
- Judicial Committee of the Privy Council

The Summary Court consists of one or more Justices of the Peace (in practice, there are usually three). It has jurisdiction roughly equivalent to that of a magistrates' court in England. Most criminal cases will start in the Summary Court, so this court sits most regularly.

The resident Senior Magistrate sits in the Magistrate's Court. The Court has jurisdiction in criminal matters to deal with all offences except those which are triable only on indictment. However, indictable-only offences are much more limited in scope than in England. There are no "either way offences", and many offences which in England would be triable only on indictment are tried in the Islands in the Magistrate's Court. The Senior Magistrate has sentencing powers similar to those of the English Crown Court. So, in practice, this Court sits occasionally, and deals with more serious cases which are not appropriate for the Summary Court (because the Summary Court does not have adequate sentencing powers to deal with them).

The Supreme Court is presided over by the Chief Justice who is resident in the UK and visits the Islands when necessary. The Senior Magistrate also occasionally sits as an acting judge in this Court, which deals with indictable criminal offences and a variety of civil matters including matrimonial cases. The Supreme Court also has appellate jurisdiction in relation to the Summary Court and the Magistrate's Court. Appeals from it lie to the Court of Appeal, and from there to the Judicial Committee of the Privy Council.

Laws of the Falkland Islands

'Ordinances' are made by the Falkland Islands legislature and are our principal sources of law. Ordinances are supplemented by local orders and regulations. A number of UK laws are adopted under Falkland Islands law. However, some English Acts also have direct application to the Falkland Islands.

Falkland Islands made laws (including subsidiary legislation) have been consolidated and are available on-line (www.legislation.gov.fk). New laws are posted as and when implemented. This website also contains lists of the English laws which apply to the Falkland Islands (whether directly, or by adoption), and notes explaining how those laws apply.

Equalities Programme

The Falkland Islands Government is committed to a long-term programme of policy and legislative reform in the area of equalities; to ensure that the Government meets its international and Constitutional obligations.

The focus of the programme will be developing policies and legislation protecting against discrimination, using a phased approach. This programme will be led by the Legal Services team, but will work very closely with teams across government, including the Policy team, Legislation Services team, and the Equalities Working Group.

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Due for review - October 2024