



# **The Law and Regulation Directorate**

## BACKGROUND

### The Directorate

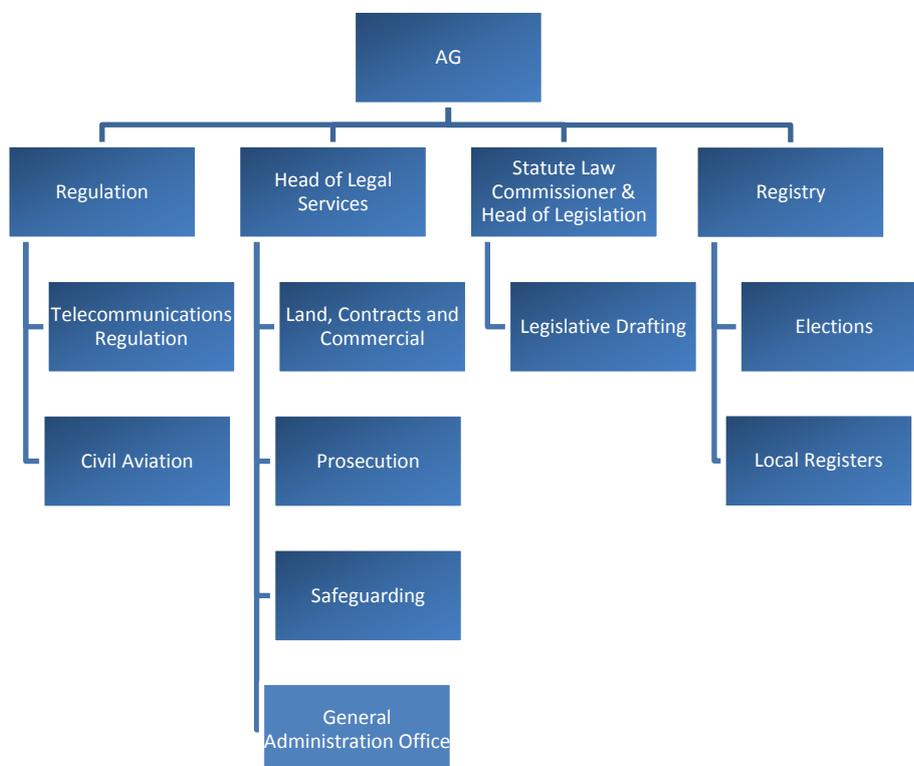
The Law and Regulation Directorate provides a number of services, led by separate service heads who each report to the Attorney General. These services are crucial to the achievement of the ambitions of the Falkland Islands Government.

- Legal Services provides general legal advice and support to the Government. We direct and conduct public prosecutions and act for the Government in all legal proceedings and transactions. We also support the development and delivery of Government initiatives by providing sound legal advice.
- The Registry maintains registers for property, births, marriages and deaths, local companies and charities. In addition to providing registry services, it provides a vital service to the community by ensuring elections are fair and the will of the people is freely expressed.
- The Regulation team protects the people of the Falkland Islands by regulating Civil Aviation and Telecommunications.
- The Law Commissioner heads the legislative drafting function which supports the Government by turning policy into legislation. The Commissioner also manages the publication of Falkland Islands laws online, and reviews, reforms and updates local legislation.

Recognising the variety of all these roles and the need to achieve best value with limited resources, it is important that we operate as a single unit. Our administrative team facilitates this efficiency and joint working as well as delivering vital services as official publisher of the Falkland Islands Gazette, providing support to Government land administration and arranging public notarial services.

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:



## **Our Mission**

To serve the people of the Falkland Islands by:

- being trusted advisors to the Governor and colleagues in the Falkland Islands Government and supporting the achievement of objectives set by Members of the Legislative Assembly
- supporting policy objectives by drafting legislation which gives them effect in conformity with the Constitution and international obligations
- prosecuting crime and bringing actions on behalf of the Crown robustly and impartially - bringing offenders to justice, supporting the reduction of crime and promoting public confidence in the rule of law
- promoting good governance and decision-making by the Falkland Islands Government
- maintaining national and international confidence in electoral and registry practices
- ensuring aviation safety and the fair and effective regulation of telecommunications, and
- providing legal advice and support to the Government of South Georgia and the South Sandwich Islands.

## **Our Vision**

To be the best Legal, Registry and Regulation service in any British Overseas Territory, given our size and available resources, and to be recognised as such by the people of the Falkland Islands and internationally.

## **Our Values and Behaviours**

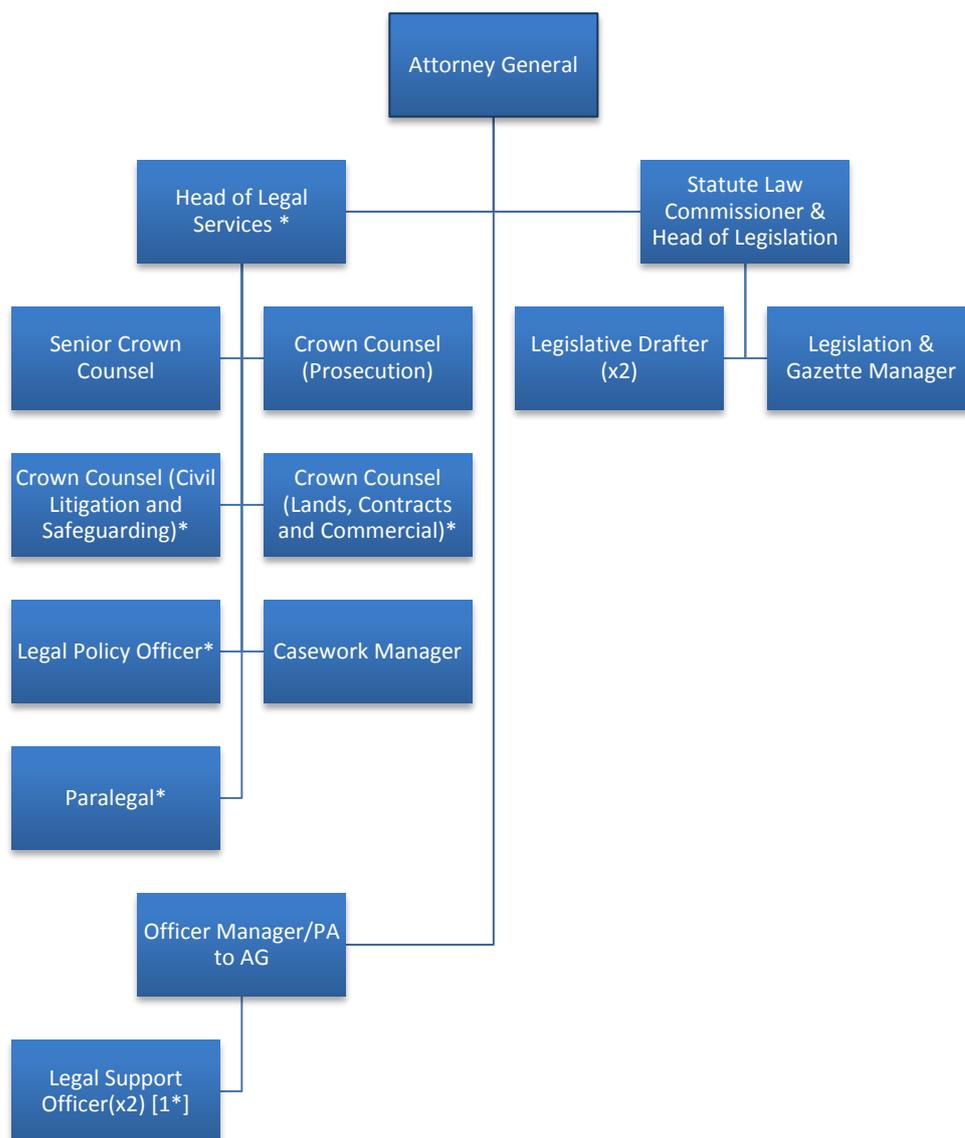
In the delivery of everything we do on a day-to-day basis, all the members of the Directorate are committed to behaving with:

- **Integrity** – we will do the right thing, especially when it is the hard thing
- **Courtesy** – we will treat people courteously
- **Respect** – we will respect ourselves and show respect for others and their needs and views
- **Professionalism** – we will always seek to do things to the highest professional standards and seek to continually improve

These values underpin the way our services are delivered.

# The Legal and Legislation Services Teams

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



\* Denotes posts which 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** - We aim to provide a high quality legal service. The service is critical to the successful implementation of the policies that the Falkland Islands Government seeks to deliver. It includes Government contracting, land work, support on governance and decision-making and providing advice to every part of the Civil Service (including to the Chief Executive and the Governor of the Falkland Islands). This work includes the development of Government policy in the areas where the Attorney General has the leadership role. The Attorney General is also the Chief Charity Commissioner and discharges responsibility for the Falkland Islands Board of Trade and various other appointments.

The service includes a role in the management of Government lands, with the Legal Services team currently administering the Government’s Lands Committee.

The Attorney General is also the Attorney General of South Georgia and the South Sandwich Islands and so Legal Services also support and provide legal advice to that Government.

- **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 which is formulated each year based on the priorities of the Legislative Assembly, as approved by Executive Council.
- **Statute Law Commissioner** – As well as managing the legislative drafting function, the Law Commissioner manages the publication on-line of the laws of the Falkland Islands and conducts a general review of those laws with a view to carrying out any necessary reforms, revisions and updating.

## 2. Key drivers

We are central to the effective working of Government and are involved in all levels of decision-making. We attend Legislative Assembly, Executive Council, Corporate Management Team and many other inter-departmental committees and working groups. Our advice has regard to the Constitution, the 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 continuing provision of services by the Falkland Islands Government, and by our role in 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.

We aim to:-

- provide the highest quality, cost-effective, legal services that meet the needs of the Falkland Islands Government and the Governor, and command the confidence of the judiciary and the public
- deliver the prosecution service through the consistent, fair and independent review of cases, and through their fair and thorough presentation in court
- achieve realistic targets set for the legislative drafting programme
- review and modernise laws
- provide these services with the highest standards of integrity
- develop our staff for the benefit of their own careers and in the interests of the Falkland Islands
- use appropriate systems for workload management, client care and legal research

## The Court System

The Court structure consists of the following legal tiers:

- 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.

The Magistrate's Court is the most commonly used court in the Islands and is presided over by the resident Senior Magistrate. 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.

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. However, some English Acts also have direct application to the Falkland Islands.

Falkland Islands laws (including subsidiary legislation) have been consolidated and are available on-line ([www.legislation.gov.fk](http://www.legislation.gov.fk)). New laws are posted as and when implemented. This website also contains references to English laws which apply to the Falkland Islands.