



**Attorney General  
for Northern Ireland**

**Attorney General for Northern Ireland**

**Seventh Annual Report**

**2016/17**

*Laid before the Northern Ireland Assembly  
under Section 26 (3) of the Justice (Northern Ireland) Act 2002  
by the First Minister and deputy First Minister*

*on*

*5 February 2021*



Attorney General  
for Northern Ireland

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# Attorney General for Northern Ireland

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## **Preface by the Attorney General for Northern Ireland**

This is my seventh annual report as Attorney General for Northern Ireland prepared pursuant to section 26 of the Justice (Northern Ireland) Act 2002.

The circumstances in which this report has been prepared differ markedly from those which have existed since May 2010. At the time of writing there is no Executive Committee, and while there is an Assembly, it does not currently sit.

It can be seen from the body of this report how this has impacted on the work of this office; only one Assembly Bill was considered during the period covered by this report in contrast with the large number of Bills that normally fall for consideration.

While it is not for me to prescribe or suggest this or that formula for the resolution of disputes between political parties, I should not refrain from observing that the devolution of legislative and executive authority to a local legislature is capable of delivering a level of accountability in Government that might otherwise be difficult to secure.

Few commentators lose support when they criticise MLAs; it is, I think, but justice to our MLAs to record that my experience in office has been that, irrespective of political allegiance, they have been invariably hard working, thoughtful and public spirited.

In the years ahead, I hope that the attention of the legislature will turn to consolidating and pruning our very extensive statute book. Perhaps it is unrealistic to hope that our statute book will ever be easily

accessible to citizens, but the aspiration that it should be much more accessible than it is now is not merely reasonable but necessary. The rule of law is not served if the citizen cannot, with a reasonable effort, find out relevant content of the statute book by which she or he is bound.

Lord Toulson has recently, and helpfully, pointed to the role of experimentation in law and life. When the Executive and the Legislature experiment wisely and carefully in law-making their efforts cannot be expected to be free from error but such errors, when they are discovered, are normally susceptible to remedy by the same process that brought them into being.

On the other hand, when judges in final appellate courts including the Court of Justice of the European Union make law (and it is universally acknowledged now that they do) it is by no means clear that they possess an infallibility that is denied to politicians. What is clear, however, is that an error by a final appellate court (including, here the CJEU or the European Court of Human Rights), particularly an error in the interpretation of the European Convention on Human Rights or on an issue of EU law may be much more difficult, if not impossible, to correct.

It seems to me that serious constitutional reflection now and in the future must properly have regard to the ways in which the politically accountable elements of the state can have the last word on all questions of domestic and foreign policy. A politically accountable 'last word' always has the advantage that a following generation need not regard it as final.

To serve as Attorney General for Northern Ireland has been, and continues to be, a high honour and privilege. No lawyer can be accused plausibly of having an unduly rosy view of human nature but it has been my pleasurable lot in discharging my official duties to meet so

many citizens of Northern Ireland whose selflessness and concern for others, kindness and humour, strength and charity means that hope for the future of our community is never vain.

A handwritten signature in black ink, appearing to read 'J F Larkin', with a small flourish at the end.

John F Larkin QC  
Attorney General for Northern Ireland

## **Introduction**

1. The Attorney General's role as set out in the Justice (Northern Ireland) Act 2002 differs in important ways from that of other law officers in these islands. The nature of the office and its work will, I hope, become clearer from this annual report.
2. From the vantage point of almost seven years as Attorney General for Northern Ireland my belief about the centrality of my responsibility as guardian of the rule of law has strengthened. The rule of law does not merely mean playing according to the rules in a technical sense; it also connotes the idea that the law should respect fundamental human values<sup>1</sup>. A responsibility for protecting the rule of law is not the same thing as a general commission to investigate (far less to remedy) abuses. While I very much welcome contact from the public it is often disheartening to have to advise correspondents, many of whom may have legal problems of significant complexity, that I cannot act as a lawyer for private citizens and this is so even when such citizens are raising issues of public concern.
3. Guardianship of the rule of law, in the context of this office, informs and governs the discharge of my specific duties. These include:
  - Serving as chief legal adviser to the Northern Ireland Executive for both civil and criminal matters that fall within the devolved powers of the Northern Ireland Assembly
  - Acting as the Executive's most senior representative in the courts
  - Discharging specific functions to protect the public interest in certain charity matters
  - Deciding whether or not to direct inquests under section 14 (1) of the Coroners Act (Northern Ireland) 1959

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<sup>1</sup> See the valuable discussion in the late Lord Bingham's [The Rule of Law](#) (London, 2010)

- Participating in the proceedings of the Assembly to the extent permitted by its Standing Orders but not voting in the Assembly (here, it is relevant to observe that no such Standing Orders have been made)
  - Appointing the Director and Deputy Director of the Public Prosecution Service for Northern Ireland
  - Producing guidance for criminal justice organisations on the exercise of their functions in a manner consistent with international human rights standards
  - Protecting the public interest in the courts which can include both bringing proceedings as well as participating in proceedings that are already extant.
4. By section 22 (5) of the Justice (Northern Ireland) Act 2002 my functions are exercised independently of any other person. This means, for example, that I am statutorily independent of the First Minister and deputy First Minister, the Northern Ireland Executive and the Northern Ireland Departments. Independence for the Attorney General under the 2002 Act means having sufficient material and institutional autonomy to permit the conscientious discharge of the duties of Office. It would, I believe, be inconsistent with the statutory independence of the Attorney General for Northern Ireland if budgetary pressures prevented me from taking courts action that I judged to be necessary in the public interest.
5. While statutory independence does serve a purpose in the present arrangements, a model of modified independence (as in Scotland) or the existence of strong conventions (as in Westminster) might also be considered for this office in future. I continue to reflect, in dialogue with others, on how the obligation to act independently can be effectively and transparently discharged and I very much welcome the active interest of the public in this office.

6. The role of staff appointed to my Office under section 22 (4) of the Justice (Northern Ireland) Act 2002 is to assist me in carrying out my statutory and other functions. I am fortunate to be assisted by talented and dedicated colleagues and I thank them again for the quality of their work and commitment throughout the period covered by this report. It is a pleasure to work with them
  
7. I have, of course, no formal role to play in relation to non-devolved matters. Legal advice in relation to them is the responsibility of the Advocate General for Northern Ireland, the Right Hon Jeremy Wright QC MP who is also the Attorney General for England and Wales.
  
8. The Overview of Work detailed in the following section of this report offers some illustration of how the rule of law and legal excellence can be placed at the heart of government in Northern Ireland.

## **Overview of Work in 2016/17**

### Chief Legal Adviser to the Executive

9. As Attorney General I may attend the meetings of the Northern Ireland Executive. Draft Executive papers are copied to me at the same time as they are submitted by Departments to the Executive Secretariat, so that relevant issues can be explored and addressed timeously. Normally the pattern of circulation begins with a paper addressed by one Minister to his colleagues inviting their views. My views are usually addressed to the Minister issuing the paper, but are normally sent also to everyone on the circulation list. On occasion it may be a response to the original paper rather than the original paper itself that attracts substantive comment from me. Often comments from me are followed up by detailed discussions between the relevant Department and this office.
10. My role as Attorney vis-à-vis the Executive is principally about ensuring that excellent legal advice is available to Ministers, and I consider it also helps to maintain or improve public confidence in good government when it is known that the Law Officer who is guardian of the rule of law can decide when direct interface with the Executive Committee as a whole is required. Following the 2016 Assembly Election I decided that it would be of benefit to both the Executive and the work of my office if I attended Executive Meetings on a more regular basis. It will be appreciated that for a substantial period covered by this report, there was no Executive.
11. One of my key responsibilities is to provide legal advice to the Executive on both civil and criminal matters that fall within the devolved powers of the Northern Ireland Assembly. It is my responsibility to consider and advise on matters of the greatest legal complexity or which cut across the responsibilities of two or more

Departments. I also advise in matters of political controversy or sensitivity.

12. Throughout the year I have given legal advice on a large number of matters. Both the nature of those matters and the contents of the advice are, by reason of a long standing constitutional convention, not normally disclosed.

### Departmental Litigation

13. In cases of particular significance it will often be appropriate for me to represent a Minister or Department in court. During the period covered by this report I appeared in several such cases.
14. I represented the First Minister and the deputy First Minister in a challenge to legislation recently passed by the Northern Ireland Assembly. The applicant for judicial review, a woman who earns her living through prostitution, challenges the lawfulness of section 15 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 which made it an offence to obtain sexual services from a person in exchange for payment. The application is being defended by the Minister for Justice and the First Minister and deputy First Minister. I am representing the First Minister and deputy First Minister. The applicant was granted leave to apply for judicial review but no date has yet been fixed for the substantive hearing for reasons which include an application on behalf of the First Minister and deputy First Minister for discovery of the applicant's financial records.
15. In my last report I also referred to a case in which the Health Minister instructed me to defend a judicial review application brought to compel the Minister to publish guidelines on the termination of pregnancy in Northern Ireland. Following the publication of guidelines in March 2016 the application was withdrawn.

16. As mentioned in my last report I represented the Department of Education in two judicial review cases concerning school development proposals and successfully defended the Minister's decision to close Avoniel Primary school. The second judicial review related to Drumragh Integrated College challenge against the Ministerial decision to refuse a Development Proposal to increase admission numbers at Drumragh Integrated College. I brought on behalf of the Department an application to set aside the grant of leave and in consequence the application for judicial review was withdrawn and was formally dismissed by the Court on 5 May 2016.
17. I was instructed to represent the Minister in judicial review challenge against the Education Minister's decision to introduce a pilot "Investing in the Teachers Workforce Scheme" to refresh the teaching workforce. The case has been listed for a rolled up hearing in May 2017.
18. I was instructed by the Minister of Culture Arts and Leisure to defend an application for judicial review in respect of the release of certain inquest and court files by the Public Records Office. An oral leave hearing took place on 10 September 2015 and the Court subsequently granted leave in a written judgment which was delivered on 17 January 2017 and the substantive hearing is scheduled to take place on 17 June 2017.
19. I was also instructed by the Minister of the Department of Infrastructure in respect of the Judicial Review challenge to the A5 dual carriageway and successfully defended at a judicial review leave hearing on 22 November 2016 the Minister's decision to proceed by way of public inquiry into the updated Environmental Statement.
20. In my last report I referred to a case before the Information Tribunal in which I intervened - *Matthew McDermott v Information Commissioner, Department of Health, Social Services & Public Safety*

*and Attorney General for Northern Ireland.* Mr McDermott sought a copy of any advice received by the Minister for Health, Social Services and Public Safety from the Attorney General for Northern Ireland in respect of the lifetime ban on men who have sex with men from donating blood in Northern Ireland. The Information Commission found in favour of the applicant and the Department appealed against its decision. The Information Tribunal allowed the appeal. The applicant sought permission to appeal to the Upper Tribunal but subsequently withdrew the application. The decision of the Information Tribunal therefore concludes the matter.

### Devolution Notices

21. Section 79 of, and Schedule 10 to, the Northern Ireland Act 1998 make provision for the service of devolution notices on a number of persons including the Attorney General for Northern Ireland. In broad terms the purpose of a devolution notice is to ensure that a court dealing with issues central to the interests of the devolved administration receives all necessary assistance.
22. The most prominent cases involving devolution issues in which I have been involved over the last year have been those arising from the referendum on European Union membership and the decision to trigger Article 50 of the Lisbon Treaty in order to commence the process of leaving the European Union. Legal challenges were brought both in Great Britain and Northern Ireland.
23. In Northern Ireland devolution arguments were raised in proceedings brought by Steven Agnew and others and by Raymond McCord against the Secretary of State for Exiting the European Union and the Secretary of State for Northern Ireland. I participated in these proceedings. The devolution arguments were rejected by Maguire J in a judgment given in the Northern Ireland High Court on 28 October 2016. On my application Maguire J referred four of

the issues in the *Agnew* case to the Supreme Court for determination. Following an appeal against Maguire J's decision, the Northern Ireland Court of Appeal also referred one issue to the Supreme Court. The five devolution questions were as follows:

(i) Does any provision of the NI Act, read together with the Belfast Agreement and the British-Irish Agreement, have the effect that primary legislation is required before Notice can be given?

(ii) If the answer is "yes", is the consent of the Northern Ireland Assembly required before the relevant legislation is enacted?

(iii) If the answer to question (i) is "no", does any provision of the NI Act read together with the Belfast Agreement and the British-Irish Agreement operate as a restriction on the exercise of the prerogative power to give Notice?

(iv) Does section 75 of the NI Act prevent exercise of the power to give Notice in the absence of compliance by the Northern Ireland Office with its obligations under that section?

(v) Does the giving of Notice without the consent of the people of Northern Ireland impede the operation of section 1 of the NI Act?

24. The hearing before the Supreme Court took place on 5, 6, 7 and 8 December 2016. I made written and oral submissions to the Court in which I supported the Secretaries of State's case that notice under Article 50 TEU could be validly given without specific statutory authority. There were interventions on devolution issues by the Lord Advocate on behalf of the Scottish government and the Counsel General for Wales on behalf of the Welsh government; they also relied on the Sewel Convention. These Law Officers supported the

argument that a statute is required before ministers can validly give notice under Article 50 TEU.

25. On 24 January 2017 the Supreme Court by a majority of 8 to 3 dismissed the Secretaries of State's appeal holding that an Act of Parliament is required to authorise ministers to give Notice of the decision by the United Kingdom to withdraw from the European Union. On the devolution issues the Court unanimously concluded that neither section 1 nor section 75 of the Northern Ireland Act 1998 is of assistance to the applicants and that the Sewel Convention does not give rise to a legally enforceable obligation. In so finding in relation to section 75 the Court expressly agreed with my submission that the decision to withdraw from the European Union and to give Notice is not a function carried out by the Secretary of State for Northern Ireland in relation to Northern Ireland within the meaning of section 75.
26. As mentioned in last year's report a devolution notice was issued in judicial review proceedings in which the applicants sought to challenge Article 6 (6) (e) of the Marriage (Northern Ireland) Act 2003 on the basis that it unlawfully prevented individuals of the same sex from entering into a civil marriage. The applicants also challenged the use of Petitions of Concern in the Assembly on the basis that such petitions could not be lawfully invoked in matters seeking to advance, protect and promote human rights. The hearing took place on 3-4 December 2015. I made written and oral submissions and judgment is still awaited.
27. I continue to participate in a judicial review application brought by the Northern Ireland Human Rights Commission ("NIHRC") against the Department of Justice in relation to the termination of pregnancy which also gave rise to a devolution issue. The applicant contended that the criminal law on abortion in Northern Ireland is incompatible with the rights protected by the Human Rights Act and sought a

declaration of incompatibility under section 4 of that Act. A devolution notice was served on 9 February 2015. I made written and oral submissions at the hearing. Mr Justice Horner gave judgment on 30 November 2015 in favour of the NIHRC and in a separate judgment on remedies on 16 December 2015 made a Declaration of Incompatibility under section 4 of the Human Rights Act 1998 in respect of sections 58 and 59 of the Offences against the Person Act 1861 and section 25 of the Criminal Justice Act (Northern Ireland) 1945.

28. Both the Minister of Justice and I appealed to the Court of Appeal. The appeal was heard on 20 -23 June 2016. Judgment has not yet been delivered but there has been further argument on the devolution issues and in consequence of a procedural decision of the Court of Appeal in the Ashers litigation I have considered it necessary to refer certain devolution issues to the Supreme Court for determination pursuant to paragraph 33 to Schedule 10 of the Northern Ireland Act 1998 before the Court of Appeal delivers its judgment. Concurrently the Court of Appeal also invited further submissions on the interpretation of the word “unlawfully” in sections 58 and 59 of the Offences Against the Person Act 1861.
  
29. As noted in my last report I intervened in *Lee v McArthur & Others* [2016] NICA 39, an appeal by way of case stated to the Court of Appeal. The appeal was heard on 9-12 May 2016 and I made both written and oral submissions. My concerns focussed on the provisions in the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 Regulations (“the 2006 Regulations”) and the Northern Ireland Act 1998 in particular the vires of Article 28 of the Fair Employment and Treatment (Northern Ireland) Order 1998 (“the 1998 Order”) insofar as this provision impedes or places a burden on certain forms of political or religious expression by suppliers of goods or services given the prohibition on Northern Ireland legislation discriminating on the ground of political opinion

contained in section 17 of the Northern Ireland Constitution Act 1973, a limitation on the power under Schedule 1 to the Northern Ireland Act 1974 to make subordinate legislation. The Court of Appeal gave judgment on 24 October 2016 and upheld the decision of the District Judge in Mr Lee's favour. In response to the devolution issues the Court found that the prohibition on discrimination in section 24 (1) of the Northern Ireland Act 1998 did not affect the power to make, confirm and approve Regulation 5 of the 2006 Regulations and the prohibition on discrimination in section 17 of the Northern Ireland Constitution Act 1973 did not affect the legality of Article 28 of the 1998 Order. In response to the Notice of Incompatibility of Subordinate Legislation the Court found that the provisions of the 2006 Regulations and the 1998 Order are not incompatible with Articles 9, 10 or 14 of the European Convention on Human Rights.

30. The appellants sought permission to appeal to the Supreme Court in relation to both the issues arising under 2006 Regulations and the 1998 Order. The Court of Appeal held that no appeal lay in respect of the 2006 Regulations and refused permission in respect of the 1998 Order. I also asked the Court to refer the devolution issues to the Supreme Court pursuant to paragraph 33 to Schedule 10 of the Northern Ireland Act 1998. The Court refused to do so on the basis that once it had delivered judgment there were no longer ongoing proceedings before it. As a result it has been necessary for me to utilise my power under paragraph 34 of the same schedule to refer to the Supreme Court both the devolution issues that I had sought to refer and issue of whether or not the Court of Appeal was correct to rule that it was unable to make a paragraph 33 referral post judgment.
31. A devolution notice was served on me by the Social Security Commissioner earlier this year in relation to a challenge to regulation 2 of the Social Security (Disability Living Allowance)

(Amendment) Regulations (NI) 2010, made by the former Department for Social Development, which sets out the definition of a 'severe visual impairment'. I am participating in the hearing of the case before a Tribunal of Commissioners, chaired by the Chief Social Security Commissioner for Northern Ireland.

32. In previous Annual Reports I mentioned a challenge to the lawfulness of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (NI) 2009 ("the 2009 Regulations"). The applicant challenged a decision that she was not entitled to a survivor's pension following the death of her partner as he had not formally nominated her as a cohabiting partner prior to his death. Treacy J gave judgment in favour of the applicant on 9 November 2012 and both NILGOSC and the Department of the Environment appealed. The Court of Appeal allowed the appeal but granted leave to appeal to the Supreme Court. I did not participate in the appeal which was heard on 24 November 2016. The Supreme Court gave judgment on 8 February 2017 and allowed the appeal on the basis that the objective of the relevant provisions in the 2009 Regulations must have been to remove the difference in treatment between a longstanding cohabitant and a married or civil partner of a scheme member. The Court thus held that the requirement in the 2009 Regulations that the appellant and her partner should have made a nomination should be misapplied and as a result the appellant is entitled to receive a survivor's pension under the scheme.
33. As referred to in my last report a devolution notice was served in a judicial review application brought by Stan Carberry by which he seeks an article 2 ECHR compliant investigation into the death of his father, also Stan Carberry, who was shot by members of the British Army on 13 November 1972. Mr Carberry seeks relief to the effect that it is the responsibility of the United Kingdom Government to provide an adequate and effective mechanism to investigate the

death of his father. I was not satisfied that a devolution issue arose. I am prepared to reconsider this matter further in the light of any submissions that may be made and to assist the court if requested to do so. A leave hearing took place on 16 May 2016 and judgment is awaited. The Judicial Review Judge has however indicated that a case brought by Brigid Hughes will be the lead case in this sphere.

34. In my last report I also referred to a devolution notice in a judicial review application brought by “AS”. The devolution issue arose from a challenge to certain provisions contained within the Marriage (Northern Ireland) Order 2003 and the Marriage (Northern Ireland) Regulations 2003. The challenge centred on provisions which require the General Register Office to keep a public record of the Applicant’s previous marital status in connection with the Applicant’s marriage certificate which, it was contended, might reveal the Applicant’s previous gender history, where the Applicant had changed gender and obtained a Gender Recognition Certificate. I filed a position paper on 21 January 2015 but did not participate orally in the subsequent hearing. Mr Justice Treacy gave judgment on 21 November 2016 and held that the impugned provisions breached Article 8 of the Convention and were unlawful insofar as they required the General Register Office to keep a public record, accessible on an unrestricted basis, which might reveal the applicant’s previous gender history.
35. I also intervened in proceedings in the Family Court in which issues arose on the question of parenthood when a child is conceived using assisted reproduction. The Human Fertilisation and Embryology Authority regulates assisted reproduction under the Human Fertilisation and Embryology Act 1990. A child was conceived following artificial insemination of Ms X with the gametes of the Notice Party, Mr Y. The artificial insemination did not take place in a licensed setting, and the applicant, Ms Z, and her partner, Ms X, were not in a civil partnership at the time of the insemination. Ms

X is the child's biological and legal mother, and the only person currently named on the child's birth certificate. Mr Y argues that his '*parental rights remain intact*', although he does not seek to assert any claim of parental responsibility, and does not oppose Ms Z's claim to be a co-parent of the child. The Applicant seeks a declaration of parentage under the Matrimonial and Family Proceedings (Northern Ireland) Order 1989, and seeks to have her name added to the child's birth certificate. She also seeks a number of orders under the Children Order (NI) 1995. I confined my submissions to the issues concerning the declaration of parentage and the naming of the Applicant as a 'second female parent' on the child's birth certificate. The Applicant sought to argue that the Human Fertilisation and Embryology Act 2008 ('the 2008 Act') should be read down in a manner that recognises the Applicant as the second parent of the child at the centre of these proceedings. The Applicant argued that such an approach is necessary to prevent a breach of her rights (and those of the subject child) under the European Convention on Human Rights. In a Notice of Incompatibility it was contended that sections 42 and 43 of the 2008 Act are incompatible with the Applicant's Convention Rights in the context wherein it is claimed "*... it is a breach of section 24 of the Northern Ireland Act 1998 for the Minister to continue to confirm / approve and act according with those provisions.*" The hearing took place before Mr Justice O'Hara on 18-20 October 2016 and judgment is still awaited.

36. I was served with a Notice of a Devolution Issue in an application for judicial review brought by the Renewable Heat Association Northern Ireland Limited and another who sought to challenge the Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017 on a number of grounds including as a devolution issue the contention that the Regulations are invalid by reason that they are incompatible with Article 1 Protocol 1 of the European Convention on Human Rights. The Court granted leave to apply for judicial

review and the substantive hearing is due to take place in June 2017. I am presently considering whether to participate in these proceedings and I have indicated that, depending on the outcome of that challenge, there may be a need to examine the validity of earlier regulations.

#### Intervention in Other Proceedings

37. When issues of importance arise I may either initiate litigation myself or intervene in litigation separately to protect important public interests.
38. I was concerned at the lack of adequate reasoning in an important decision of the Charity Tribunal and initiated an appeal. Confidence in the rule of law relies on the reasons for judicial decisions being clear. The Chancery Judge agreed to hear the appeal, having given guidance on how a decision should be recorded in his decision of 4 May 2016 granting leave. The Charity Commission agreed to not defend the decision of the tribunal and the matter, the removal of a trustee of the Disabled Police Officers Association, was returned to a freshly constituted tribunal for consideration.
39. I am also participating in a further challenge in respect of the law on abortion, "JR76". The applicants in this case seek to challenge a criminal prosecution taken against a woman under section 59 of the Offences Against the Person Act 1861. The essential facts of the case are largely undisputed being based on admissions made and are that the woman provided her daughter with abortifacient medication. My position is that that this case is an improper collateral challenge to a criminal prosecution and lacks both procedural and substantive merit. The case does not disclose any unjustified interference with the Convention rights of either applicant. A number of interested parties have made written submissions to the court. The application is to be listed for a substantive hearing before a divisional court in autumn 2017.

40. The protection of the public interest was central to my involvement in a case in the High Court this year (*Newry, Mourne and Down District Council v Hamill*). Having been invited to intervene by the judge, I agreed to take part and became a party to this case involving a disputed public right of way in South Armagh. The case will be heard later in 2017.
41. I was also put on notice by the Chancery Division of the High Court regarding a case in which a bank was attempting to have properties vested in itself under the Insolvency (NI) Order 1989 in circumstances where it was unclear that the bank had a valid proprietary interest. I intervened in order to argue that the making of such an order would not be proper. The Court agreed.

#### Appointment of Amicus Curiae and Special Counsel

42. Another aspect of my role as guardian of the rule of law is my function in appointing an amicus curiae or a special counsel in order to assist courts in appropriate cases.
43. An amicus curiae is a lawyer, usually a barrister, who is appointed to assist a court on matters of law connected with proceedings which are before the court. An amicus curiae is not a party to the proceedings but is appointed, at the invitation of the court, in order to assist the court by expounding the law impartially or by advancing relevant legal arguments which, due to the circumstances of the case, would not otherwise be made.
44. A special counsel is a barrister appointed to represent the interests of an accused from whom certain information or material is being withheld on public interest grounds. Special counsel perform two principal roles. Firstly they test the objections of the prosecution in order to establish whether more information could or should be

disclosed. Secondly, they represent the interests of the accused person substantively in any closed hearing or proceedings.

45. As noted above, I was invited by Mr Justice O'Hara to carry out an amicus role in family law proceedings concerning an application to revoke a freeing order for adoption and the possible issuing of a declaration of incompatibility of the applicable legislation under the Human Rights Act 1998. I provided written submissions to the court on this issue. Judgment is awaited.

### Relationship with the Assembly

#### Legislative Process

46. My role in the legislative process combines statutory and non-statutory elements. Both elements have, as a common purpose, a commitment to assisting with high quality law making in Northern Ireland.
47. By section 11 (1) of the Northern Ireland Act 1998 I may refer the question of whether any provision of a Bill would be within the competence of the Assembly to the Supreme Court of the United Kingdom. Accordingly, I give particular consideration to all Assembly Bills as they complete final stage. No fixed criteria exist to determine whether or not any provision of a Bill that I consider falls outside the legislative competence should be referred to the Supreme Court. Among the concerns that will weigh heavily with me is the desirability for a speedy determination of legal questions that would, if a reference were not made, occupy considerable time in the Northern Ireland Courts.
48. During the period covered by this report, I undertook final statutory scrutiny of one Bill, a Budget Bill.

49. Consideration at the stage of possible referral under section 11 of the Northern Ireland Act 1998 is mirrored by consideration in advance of a Bill's introduction. The form that this early consideration takes varies according to the nature of the proposed Bill and the particular needs of the relevant Departments. I gave early consideration to the Licensing and Registration of Clubs (Amendment) Bill but it was not able to complete its progress before dissolution.
50. I wish to pay tribute to the First Legislative Counsel, Ms Brenda King and her staff both for the precision and elegance of their work. I am grateful for the unfailing assistance they have given to me and my colleagues during this year.

#### Justice Committee

51. I continued my active working relationship with the Justice Committee this year.

#### Public Prosecution Service

52. It is my statutory responsibility under section 30 of the Justice (Northern Ireland) Act 2002 to appoint the Director and Deputy Director of the Public Prosecution Service as necessary. I may also convene, if necessary, a Tribunal to consider removal of the Director and Deputy Director.
53. In addition to appointing the Director and Deputy Director of the Public Prosecution Service, my main responsibilities in relation to that service are as a statutory consultee of the Director on his annual report (and arranging for publication of that report) and on any amendments to the Code for Prosecutors.

54. During the period of this report the Deputy Director, Pamela Atchison's term of office came to an end pursuant to Section 30 (5) of the Justice (Northern Ireland) Act 2002. I thank Pamela for her many years of service and wish her well in her retirement.
55. Section 42 (3) of the Justice (Northern Ireland) Act 2002 sets out the arrangements between the Attorney General and the Public Prosecution Service: the Attorney General and the Director may consult each other from time to time on any matter for which the Attorney is accountable to the Assembly; with the exception of the matters set out in paragraphs 51 and 52 above there are no matters relating to the Public Prosecution Service for which the Attorney General is accountable to the Assembly.
56. It is worth emphasising that I do not currently have responsibility for referring unduly lenient sentences to the Court of Appeal. Neither do I have a role with respect to any prosecutorial decision to accept a plea of guilty to a lesser charge than that originally preferred.
57. I continue to believe that a gap exists in the current superintendence and accountability arrangements between the Attorney General and the Public Prosecution Service. The Justice Minister has consulted on this matter. There is, of course, room for a variety of legitimate positions on how the superintendence balance should be struck ever since the issue was first debated in this jurisdiction in 1972<sup>2</sup>.
58. Irrespective of how the balance of prosecutorial accountability is struck I am determined to do all that I can to ensure that we have a Public Prosecution Service that fully meets the needs of the public in Northern Ireland. It has been a pleasure to work with the Director and Deputy Director of Public Prosecutions during the period covered by this report.

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<sup>2</sup> See the discussion in chapter 9 of John LL Edwards The Attorney General, Politics and the Public Interest (London, 1984)

## Departmental Solicitor's Office

59. Mr Hugh Widdis is the Departmental Solicitor and Head of the Government Legal Service Northern Ireland. I have enjoyed a strong working relationship with Mr Widdis and his senior team during the period covered by this report.

## Relator Actions

60. The rule of law lies at the foundations of a civilised society. As guardian of the rule of law I have a responsibility to represent the public interest in court and to thereby ensure that all persons, institutions and entities, public and private, including the State itself, are properly accountable.
61. Where a member of the public wishes in private law proceedings to enforce (typically by injunction) a right which belongs to the public as a whole rather than a right which has an exclusively private character, she or he can ask me to allow legal proceedings to be brought to assert that public right. The action that then takes place with my consent is known as a relator action. The reason for involving the Attorney General in such a procedure is largely historical in nature, and it may be that some future widening of the traditional rules about standing for injunctions may render relator proceedings obsolete. I did not grant any relators during the period covered by this report.

## Inquests

62. Under section 14 (1) of the Coroners Act (Northern Ireland) 1959 I can direct a Coroner to either hold an inquest into a death, if none has been held, or to hold a further inquest if one has already been held. At the core of the statutory test I apply in considering whether

to direct a Coroner to hold an inquest is a consideration of whether it is 'advisable' to do so. What is 'advisable' may vary considerably from case to case.

63. There are many circumstances that will often be considered as sufficient to warrant my direction. These include the existence of fraud, the improper rejection of significant evidence, irregularity or unfairness of proceedings, insufficiency of inquiry or the discovery of significant new evidence.
64. During 2016/17, under section 14 (1) of the 1959 Act, I directed the Coroner to hold an inquest in 1 case. In 9 cases I determined a fresh inquest was not advisable. 29 cases are still under consideration. In a further 3 cases solicitors have not progressed the initial notice of intent to a formal application for an inquest.
65. Many of the cases in relation to which I have been requested to exercise my power under section 14 of the Coroners Act (Northern Ireland) 1959 relate to deaths which occurred in the context of the Northern Ireland troubles. The question of whether I should direct a Coroner to hold an inquest into such a death is a decision to be exercised with regard to the circumstances of the individual case. A succession of individual decisions in such cases can readily prompt consideration of whether, and if so, how Northern Ireland should deal with its troubled past.
66. I have continued to reflect on the capacity of an inquest to discharge the article 2 ECHR obligations of the state in cases of deliberate killing. Given the emphasis on a criminal justice solution for such cases in the Strasbourg jurisprudence it does seem difficult to see how an inquest can ever, in itself, be a necessary or sufficient satisfaction of the article 2 obligations.

67. A continued feature of the last year has been judicial reviews brought seeking to challenge decisions made by me not to order fresh inquests pursuant to my power under section 14 of the Coroners Act (Northern Ireland) 1959. Most refusals have been based on my view that the proper course in many cases is to refer the matter to the Director of Public Prosecutions and the PSNI for further investigation where there is a prospect of a criminal justice solution. As I submitted in *Keyu* article 2 ECHR does not require proceedings in order to establish historic truths. It should also be remembered that a decision not to order an inquest is by definition never final and the matter can always be revisited in the event of fresh evidence coming to light or new submissions being made which may persuade me to order an inquest notwithstanding a previous refusal.
68. The High Court gave judgment in two judicial review challenges over the course of the last year. Leave was refused in one and the other was dismissed after a full hearing. A third application which was filed in October 2015 was withdrawn.
69. A request was made by Joseph Mulhern to me asking me to direct a new inquest into the death of the applicant's son, Francis Mulhern, ("the deceased"). The deceased was murdered by PIRA on a date unknown between 21 June 1993 and 23 June 1993. On 1 July 2015 I wrote to the Director of Public Prosecutions ("the DPP") enclosing relevant documents. I provided a summary to the DPP of the applicant's application and suggested that the DPP may wish to consider exercising his power under section 35(5)(a) of the Justice Act (Northern Ireland) 2002 in relation to the decision of the Police Service of Northern Ireland not to charge Freddie Scappaticci with any offence in connection with the murder of the deceased. In response to the applicant's pre-action protocol letter I stated that in my view the criminal justice route was the most appropriate route and I was keen to see if this could be advanced. I further stated that

the material supplied tended to support the proposition that Freddie Scappaticci has been involved in the murder of the deceased. The central issue was whether I had acted unlawfully in not directing an inquest. Mr Justice Maguire declined to grant leave on any of the grounds of challenge. In his written judgment of 17 June 2016 Mr Justice Maguire drew attention to a number of developments subsequent to the application being filed. He noted that the DPP had considered the papers passed on to him by me together with other materials he had available to him. This led to the DPP directing the police to carry out further investigation into a range of cases, including the present case, in which Freddie Scappaticci is believed to have been involved. The Judge pointed out that this further investigation is a criminal investigation which will have as its aim the bringing of the perpetrators of criminal acts to justice and that it will be on significant scale. It will take time to complete but it is conceivable that the outcome may be the prosecution of those responsible for this sort of murder, including the murder in this case.

70. The application by Dorothy Johnson challenged my decision not to order an inquest into the death of her father in 1988. The essential facts were that Mr Dalton's neighbour had been absent from his flat at 38 Kildrum Gardens in the City of Derry for some time by 31 August 1988. It later transpired that he had been kidnapped, with another man, by the Provisional IRA and held by them. The IRA had planted an explosive device in the flat. It is likely that the intended victims were police officers who would be lured to the flat either by the abduction of the occupant or by other steps that were taken between 25 and 31 August. Mr Dalton and two other neighbours, Sheila Lewis and Thomas Curran, gained entry to the flat at around 11.50 am on 31 August 1998 through a window but, tragically, having done so triggered an explosive device left by the terrorists. Mr Dalton and Ms Lewis were killed immediately and Thomas Curran later died of the injuries he received. I considered that Article 2 of

the European Convention and Human Rights did not require an inquest in this case and having regard to the investigation by the Police Ombudsman and the existence of current civil proceedings I did not consider an inquest to be advisable, even if the focus were to be purely on domestic factors. Leave to apply for judicial review was only granted in respect of the Article 2 issue and Mr Justice Deeny in delivering judgment of 28 March 2017 held that my decision was lawful and dismissed the application.

### Charities

71. My responsibility for protecting the public interest extends specifically to the law of charities, an area in which, historically, the Attorney General has always had a central role. Where a matter is before the Charity Tribunal, I have power to intervene so as to represent the wider public interest. I can also defend the interests of charities in proceedings before the High Court.
72. While provisions of the 1964 Act are still in force I retain a consultative and consent giving role as regards some charity matters. This includes section 29 of the 1964 Act as regards applications to the Court where there is or is alleged to be a breach of any charitable trust or where the advice or order of the Court is required in connection with the administration of any charitable trust. I have granted my fiat in a number of cases over the course of the year and also intervened in High Court proceedings involving a failed charitable bequest in a will in which I provided legal argument as to the relevant issues relating to the identification of the correct legal beneficiary.
73. There is also a role for the Attorney in consenting to references to the Charity Tribunal where the Charity Commission needs a question of law or practice resolved; in giving directions to the Charity Commission on its discretion to authorise *ex gratia*

payments by charities; and in presenting petitions for the winding-up of charities. In addition there are requirements that the Attorney be consulted on various matters.

74. In cases where a donor has shown a clear intention that he or she wishes a gift to be given to charitable purposes but has failed to define the particular charity they wish to benefit with sufficient clarity and no trust has been interposed, use can be made of the Royal Sign Manual procedure which now resides with the Minister for Social Development. In this regard, I have been involved in one case this year where the issue has been whether the Court has jurisdiction to make an order or whether the matter should be dealt with by the Department using the Royal Sign Manual. That case has now been resolved.
75. Where a matter is before the Charity Tribunal, I have power to intervene so as to represent the wider public interest and I did so this year in three cases. One of these was the remitted appeal against removal of a trustee of the Disabled Police Officers' Association. I am making a preliminary argument that the Charity Commission have allowed the removal decision to be made by a member of staff when such decisions can in my view be taken only by the Commission or a committee of the Commission.
76. Another involved the refusal of the charity Commission to waive the disqualification of a trustee of the charity Lough Neagh Rescue. Upon the invitation of the Tribunal, I presented a position paper to the Tribunal outlining my view that the refusal to waive disqualification could be considered to be disproportionate. The Tribunal ultimately dismissed the appeal against the refusal.
77. The third case concerned an appeal against the registration of May Street Congregation on the register of charities and I again presented a paper setting out my concerns on the proportionality of the

decision to register May Street Congregation. The Tribunal found the entry onto the register was proportionate under the circumstances.

78. I continue to be involved in the case of *O'Loughlin and Others v Her Majesty's Attorney General for Northern Ireland*, which concerns a cy-pres application in respect of a sizeable amount of lands, where the key issue to be determined was whether those lands were held under charitable trusts. Significant work was carried out to resolve the legal issues involved through legislation putting the trust on a statutory footing. New standing orders for hybrid bills in the Assembly were put in place this year but there was insufficient time for the bill to be introduced in the short 2016-17 mandate.
79. By virtue of the Charities Act (Northern Ireland) 2008 I have a consultative, direction giving and consent giving role as regards some of the Charity Commission's functions in charity law. Examples include my role in consenting to references to the Charity Tribunal where the Charity Commission needs a question of law or practice resolved; in giving directions to the Charity Commission on its discretion to authorise ex gratia payments by charities; and in presenting petitions for the winding-up of charities. In addition there are requirements that the Attorney be consulted on various matters.
80. One specific example is section 53(5) of the 2008 Act, which permits the Charity Commission to exercise the same powers with respect to, amongst other things, the taking of legal proceedings with reference to charities or the property or affairs of charities as are exercisable by the Attorney General acting ex officio. The powers exercisable by the Commission in this regard are only exercisable with my agreement.

## Human Rights

81. Under Section 8 of the Justice (Northern Ireland) Act 2004, I am required to produce guidance for criminal justice organisations on the exercise of their functions in a manner consistent with international human rights standards. As Attorney General I also have the responsibility of amending, by Order, from time to time, the list of organisations that are subject to the Section 8 guidance.
82. An aspect of this work includes the continuing challenge of keeping the guidance up to date in light of new developments and decisions from, for example, the European Court of Human Rights, the Council of Europe, and other sources.
83. Over the past year I have laid before the Northern Ireland Assembly one new set of guidance, addressed to the Police Service of Northern Ireland, the Public Prosecution Service and Forensic Science Northern Ireland on Co-operation and Operational Independence. This was laid before the Northern Ireland Assembly on 5 October 2016 and the guidance became operational on the 19 December 2016.
84. As I have previously noted, the Justice Committee has been of particular assistance to me through their detailed consideration of the draft guidance, for which I am very grateful.

## Contempt of Court

85. The Attorney General has a duty to protect the rights of parties to litigate in a fair and dispassionate atmosphere of objectivity. It is crucially important to maintain confidence in the administration of justice and foster a culture in which the independence of the judiciary is both recognised and respected. This, of course, does not preclude informed comment and critique.

86. I may be asked either to consider seeking an order from the court restraining a possible contempt of court or else to consider bringing contempt proceedings against someone who has allegedly engaged in actions which might amount to contempt. During this year I have on 6 occasions had to consider bringing contempt proceedings in relation to concerns about possible interference with the administration of the justice process.

#### Declaration of Parentage

87. The Attorney General must be placed on notice of every application to court seeking a declaration of parentage. In 2016/17 there were 23 such applications. While it would be unusual for me to seek to intervene in such cases every application must be carefully considered in case issues of wider concern arise which might merit my intervention. Occasionally the facts revealed in the applications make it necessary for me to refer those facts to the PSNI. This year I have been involved in litigation arising from two such applications concerning issues relating to the Human Fertilisation and Embryology Act 2008. Judgement is awaited in both cases.

#### Determination of Marital Status

88. I am also a notice party in any litigation concerning declarations as to status under Part V of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989. There have been no such cases this year.

#### Presumption of Death

89. Under section 9 of the Presumption of Death Act (Northern Ireland) 2009 the Attorney General must be served with a copy of every application to the High Court seeking a declaration that a missing

person is presumed to be dead. The Attorney General may intervene in the proceedings on any application in such manner if he thinks it necessary or expedient and argue before the Court any question in relation to the application which the Court considers it necessary to have fully argued. Applications of this nature are relatively rare in Northern Ireland however I was notified of an application this year in relation to a man who disappeared a number of years ago. I was able to assist the Court with an issue which arose as to its jurisdiction to hear and determine the application. My approach to the construction of section 1 of the 2009 Act was adopted by the Court.

### Vexatious Litigants

90. Under section 32 of the Judicature (Northern Ireland) Act 1978 the Attorney General may ask the High Court to make an order declaring someone to be a vexatious litigant which, if such an order is granted, precludes him or her from bringing further proceedings without the leave of the High Court.
91. Two applications of this nature remain under consideration by me.

### Mental Health

92. By Article 72 of the Mental Health (NI) Order 1986 I may refer the case of a patient<sup>3</sup> to the Mental Health Review Tribunal. I did not refer any cases to the Tribunal this year.

### Relations with both branches of the Legal Profession

93. During the period of this report I have continued to build and maintain good relations with both branches of the legal profession. As Attorney General I see my role with the Bar and the Solicitor

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<sup>3</sup> As defined by Article 2 (2) of The Mental Health (NI) Order 1986

profession principally as one of encouragement and support and to that end I have spoken at several events during the year. It is right that I acknowledge the strong sense of public spirit that I have observed in both branches of the legal profession and, in particular, a commitment to securing access to justice.

94. As Attorney General I am the titular Head of the Bar and can attend meetings of the Bar Council, the Executive Council and the Benchers of the Inn of Court. I am grateful to the Chairman of the Bar, Liam McCollum QC, the Vice Chair, Sarah Ramsey as well as the Chief Executive, David Mulholland for the assistance they have provided me in my work with the Bar.
95. While I have no institutional relationship with the Law Society I am grateful to both its President, Ian Huddleston, and its Chief Executive, Alan Hunter, for their continued cooperation and constructive engagement with my Office.
96. I am particularly grateful to both for their valuable support, along with Politics Plus, for my inaugural Constitutional Law Summer School in August 2016.

#### Development of External Relations

97. The legal system of Northern Ireland does not exist in isolation; in addition to obvious links with other jurisdictions in the United Kingdom it can safely be said that the influence – sometimes the dominant influence – of EU law and the law of the European Convention on Human Rights runs throughout our legal system and substantive law. It is essential that lawyers in Northern Ireland are aware not only of the formal content of EU law and the law of the European Convention on Human Rights but also how other European jurisdictions develop techniques to cope with these demands. My staff are also involved in assisting government in

preparing to leave the EU following the result of the referendum in particular through membership of and participation in the Interdepartmental Coordination Group.

98. In June 2016, my staff participated in a study visit to the European Court of Human Rights in Strasbourg.

#### Living Law

99. The Living Law programme consists of three elements and is aimed at raising knowledge about the importance of law as well as generating an interest in and appreciation for the law generally. Now in its sixth year, the programme continues to thrive, and builds on the successes of previous years.
100. The first of the three elements is an enrichment programme for students from non grammar schools with A Level classes who may be interested in studying law or learning more about how law operates in society. Past participants in this element of the programme are now studying law at universities throughout the United Kingdom.
101. Throughout the year 76 pupils from 20 schools across Northern Ireland took part in the schools element of the Living Law Programme designed to give young people a fresh and lively introduction to law and the justice system. The programme included a series of debates, case study analyses, a court visit, a session with the Public Prosecution Service, a session at the Northern Ireland Assembly and culminated with the pupils taking part in mock bail applications.
102. The second element is a general outreach programme to community and other groups aimed at raising public understanding about law.

This year marked a development of this community element (as well as an extension of my school outreach).

103. Supported by Fresh Start funding, I launched the 'It's your law' programme, in partnership with the Prince's Trust. The aim of 'It's your law' is to promote the rule of law: supporting law and order and the justice system; and promote active citizenship in building a culture of lawfulness. The programme is aimed at the most disengaged young people, who are far away from reaching their potential, some of whom have chaotic lifestyles and with young people in school who are at risk of exclusion and are educationally underachieving – with a focus on those schools /young people who are at risk of influence from paramilitary / organised crime. Subject to a positive evaluation of the pilot and a successful bid for funding, I intend to expand the programme in future years.
104. The third element is the provision of conferences and seminars bringing together practising lawyers, academics and policy makers for reflection on themes of general importance or topics of contemporary significance. In October, I hosted politicians, lawyers and policy makers to look at improvements to our legislative process with the aim of producing accessible, clear and effective law as and when, and only when, a change in law is appropriate. In March, I met with our key criminal justice organisations and those working in the field of tackling domestic abuse, including Women's Aid and Stalking NI to explore international human rights standards and how this could be reflected in practical guidance.
105. The Attorney General's Young Bar and Young Solicitor's Seminar Series is an integral part of the Living Law programme. The series of seminars was attended by delegates from the Young Bar and Young Solicitors' Associations. Speakers from my office along with other barristers and solicitors explored current issues.

106. This year I held a Constitutional Law Summer School from 10 – 12 August 2016. The Summer School, which was hosted in conjunction with The Law Society of Northern Ireland, The Bar of Northern Ireland, and Politics Plus, saw lawyers, politicians, academics; policy makers and expert speakers in exploring major constitutional law issues for the UK and Ireland drawing on the particular perspective of Northern Ireland. Speakers included Scotland’s Lord Advocate, The Rt Hon. James Wolffe QC; Juris Rudevskis, Pamela McCormick and Michelle Lafferty from the European Court of Human Rights; Dr Thomas Mohr, University College Dublin; Professor Dagmar Schiek, Queens University; Mr Justice Richard Humphreys; Tim Jones, Counsel General’s Office, Wales; and local speakers from the Office of the Attorney General, Office of the Legislative Counsel, and departmental bill teams. The success of the summer school has led the foundation for a second summer school to take place in August 2017.
107. As in previous years I offered a Pupillage Scholarship as support to pupil barristers who are unable to undertake paid advocacy during the first six months of their pupillage. This year I found it much more difficult to select a winner. I decided, therefore, to split the award between two first placed entrants. The Scholarships (together with the opportunity to do pro bono work for this office) were awarded to Emma McIlveen and Niamh Horscroft. I take this opportunity to wish them well in their careers at the Bar.

## Miscellaneous

108. In addition to the significant themes of work outlined above, I have also dealt with a number of miscellaneous issues:

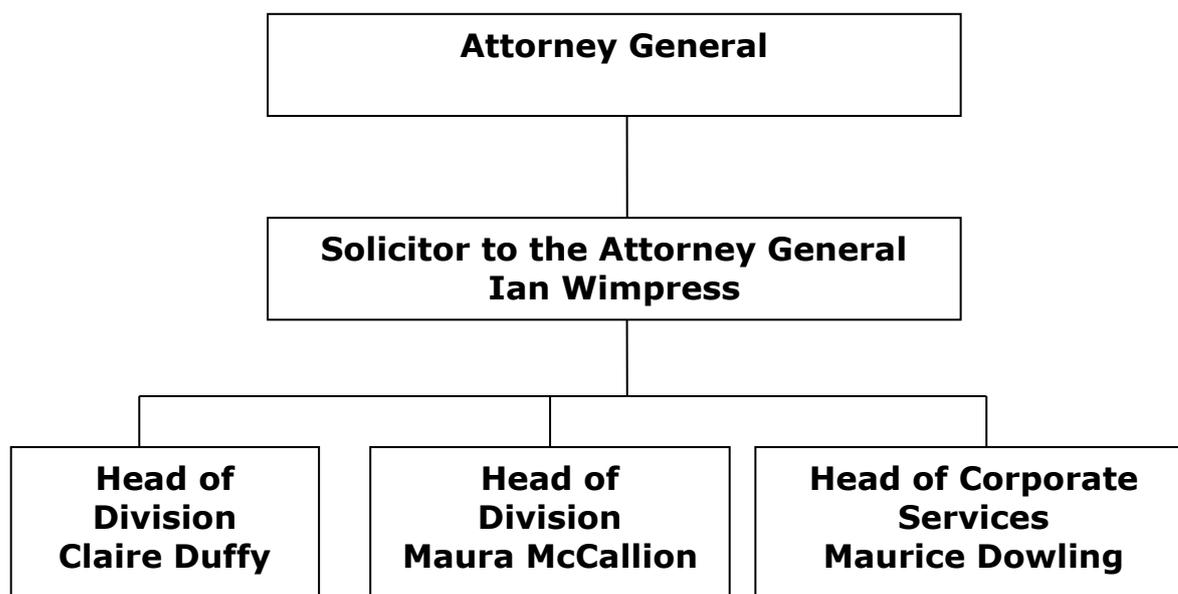
- I received 27 Departmental Consultations for consideration.
- The Office of the Attorney General provided responses to 10 Freedom of Information requests.
- I spoke at 8 external events.
- I hosted 12 work experience students.
- Lawyers from my office have participated in the work of the Court of Judicature Rules Committee, the Crown Court Rules Committee, the Criminal Justice Delivery Group and the Criminal Justice Issues Group.

## Staff

109. Subject to the approval of the First Minister and deputy First Minister as to numbers, salary, and other conditions of service I may appoint staff to the Office of the Attorney General.

110. As of 31 March 2017, my office consists of 11 full time staff, including 7 lawyers, who are all members of the Northern Ireland Civil Service. During the past year I have also had the benefit of lawyers on temporary secondment from the Public Prosecutions Service, the Department of Justice and the Crown Solicitor's Office.

## Senior Management Structure



## Corporate Services

111. By section 22 (3) of the Justice (Northern Ireland) Act 2002 the Attorney General is to be funded by the First Minister and deputy First Minister acting jointly.
112. For practical administrative and economic reasons my office avails of the Office of the First Minister and deputy First Minister's financial and audit systems.
113. In 2016/17 the Office of the Attorney General had a budget of £1.31m. The year end financial spend was £1.29m.
114. Robust systems and processes are in place to ensure effective corporate governance.
115. The office website [www.attorneygeneralni.gov.uk](http://www.attorneygeneralni.gov.uk) outlines the work and responsibilities of the Attorney General. It is regularly updated.

## **Conclusion**

116. Thanks are due, in advance, to those citizens who, having read this report, take time to share their reflections on it with me. Giving legal advice is a confidential exercise but, whether directly or indirectly, the work that is detailed in this report is done on behalf of all of the citizens of Northern Ireland, and everyone who benefits from the protection of our laws, and I welcome public participation in an assessment of that work.