



Attorney General for Northern Ireland

Second Annual Report

2011/12



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

7th November 2012



Attorney General for Northern Ireland

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Preface by the Attorney General for Northern Ireland

It is with pleasure that I present this second annual report as Attorney General for Northern Ireland pursuant to section 26 of the Justice (Northern Ireland) Act 2002.

This second year in Office has seen the development of work begun last year. I take this opportunity to thank my staff for meeting the challenges of this year so successfully and with such great commitment and enthusiasm.

By section 30 of the Justice (Northern Ireland) Act 2002, I am responsible for appointing the Director of Public Prosecutions and I was delighted to appoint Mr Barra McGrory QC to that position in November 2011. I am grateful to the Right Hon Dame Elish Angiolini QC, Professor Brian Speers and Dr Michael Maguire for serving with me on the appointment panel. Mr McGrory succeeded Sir Alasdair Fraser QC¹ and, latterly as Acting Director, Mr Jim Scholes both of whom have given many years of dedicated and effective service to the administration of justice in Northern Ireland.

During the period covered by this report and in the light of the Supreme Court judgment in *Re McCaughy and Quinn's Application*², it became abundantly clear how significant a role this office would have in 'dealing with the past'. The Inquests section of this report provides some indication of this work. My responsibilities with regard to inquests are by

¹ Sadly Sir Alasdair died shortly before this report was submitted. I extend my sympathies to Lady Fraser, her children and the wider Fraser family on their very great loss.

² [2012] 1 AC 725

virtue of section 14(1) of the Coroners Act (Northern Ireland) 1959. While I have carried out these responsibilities thoroughly, and will continue to do so, it is clear to me that a comprehensive approach to our troubled past cannot come from inquests alone.

Finally, in the preface of my 2010/2011 annual report, I concluded by encouraging those who read the report to forward their views to me. I am delighted to have received responses to this invitation as well as other expressions of opinion. My independence and interaction with the Northern Ireland Executive attracted the greatest curiosity from contributors. I am grateful to all those who raised this issue with me not least because they assist me as I continue to reflect on these matters.

I conclude this year also by encouraging those reading this report to share their views with me.

A handwritten signature in black ink, appearing to read 'J F Larkin', followed by a period.

John F Larkin QC
Attorney General for Northern Ireland

Introduction

1. With the devolution of justice responsibilities on 12 April 2010, the provisions of the Justice (Northern Ireland) Act 2002 relating to the Office of Attorney General for Northern Ireland came into effect. The structure of the Attorney General's role here is different from that of any Law Officer in these islands.

2. Even as my direct experience of the role deepens it remains clear that chief among the responsibilities of Attorney General is that of guardian of the rule of law. 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 values³. A responsibility for protecting the rule of law is not the same thing as a general commission to investigate (or remedy) abuses. My main specific responsibilities as Attorney General 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
 - Overseeing the legal work of the in-house legal advisers to the Northern Ireland Executive and its departments
 - Participating in the proceedings of the Assembly to the extent permitted by its standing orders but not voting in the Assembly
 - 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

³ See the valuable discussion in the late Lord Bingham's The Rule of Law (London, 2010)

3. 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. The necessary material and institutional autonomy have so far been satisfactorily provided for through the current arrangements. I continue to reflect on how the obligation to act independently can be effectively and transparently discharged.
4. 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 such talented and dedicated colleagues and I thank them again for the quality of their work throughout the period covered by this report.
5. 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 who is also the Attorney General for England and Wales. The holder of that Office is the Right Hon. Dominic Grieve QC MP.
6. The Overview of Work detailed in the following sections of this Report illustrates how the rule of law and legal excellence can be placed at the heart of government in Northern Ireland.

Overview of Work in 2011/12

Chief Legal Adviser to the Executive

7. As Attorney General I can attend the meetings of the Northern Ireland Executive. To assist me, I am copied into draft Executive papers at the same time as they are submitted by Departments to the Executive Secretariat, so that relevant issues can be explored and any outstanding legal questions can be 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 normally sent also to everyone on the circulation list. On occasion it may be a response to the original paper that attracts substantive comment from me.
8. My role as Attorney vis-à-vis the Executive is principally about ensuring that top-quality 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.
9. During the course of the period covered by this report I have considered how perceptions of independence might be affected by regular attendance at meetings of the Executive Committee. While I have reached no firm view I consider that there may be advantages in attending only for an issue or issues in which oral advice is plainly required.
10. 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.

11. Throughout the year I have given legal advice on a large number of matters. The nature of those matters, and the contents of the advice are, by reason of a long standing constitutional convention, not normally disclosed. The value of that convention can be readily acknowledged. I pause to note, however, that in some (notably, North American jurisdictions) opinions of the Attorney General are often routinely published. It also appears that in the early nineteenth century there was much less reticence than now about publishing the advice of law officers.
12. 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. During the course of this year I was served with Devolution Notices in 7 cases. I participated in four cases, one of which did not proceed to full hearing, a further case did not progress beyond service of the notice and I declined to intervene in two cases.
13. By way of example of the work in this area, I was served with a notice in February 2012 in a case in which the High Court was asked to determine whether it was lawful for the Court Funds Office to deduct management fees for professional investment advice from funds lodged in court for children and people lacking sufficient mental capacity to manage their own affairs.
14. I intervened in the case, which was heard in March 2012, submitting that these payments to stockbrokers from the funds of

children and patients were not lawful, there being no statutory basis for the interference with their property rights under Article 1 Protocol 1 of the European Convention on Human Rights (ECHR). It struck me as necessary to examine the 18th century origins and functions of the office of Accountant General. The judgment of McCloskey J delivered on April 2012 placed strong emphasis on the historical context in interpreting the current statutory regime.

15. In another Devolution Notice case in which I entered an appearance in March 2012 my submissions support the position of the Northern Ireland Local Government Officers' Superannuation Committee on the lawfulness of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (NI) 2009. In that case 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. The hearing on whether there is unlawful discrimination resulting from the nomination requirement, contrary to Article 1 of the Protocol 1 taken together with Article 14 ECHR, given that spouses and civil partners are automatically entitled to a pension, will take place later in 2012.
16. It has become clearer to me during the course of this year that active compliance with the provisions of Schedule 10 to the Northern Ireland Act 1998 (which deals with Devolution Issues) is, and will be, a powerful instrument for enhancing the rule of law in this jurisdiction.
17. In cases of particular significance it will often be appropriate for me to represent a Minister or Department in court. In March 2012, I represented the Department of Health, Social Services and Public Safety in a case which highlights the constitutional importance of recognising the respective roles of legislature and judiciary. Judgment is awaited in this case, *Re Northern Ireland Human*

Rights Commission's Application which is a challenge to Articles 14 and 15 of the Adoption (Northern Ireland) Order 1987 the combined effect of which is at present to confine adoption as a couple to married couples. The challenge was founded principally on Articles 8 and 14 ECHR.

18. On occasion, when issues of importance to Ministers arise in litigation I am able to intervene separately in litigation to protect important public interests. In July 2011, the Department of Justice drew to my attention to the judgment of the Divisional Court in the case of *R (Chief Constable of Greater Manchester Police) v Hookway and others*. This judgment concerned a judicial review of the refusal of a District Judge to extend a warrant of further detention under the provisions of the Police and Criminal Evidence Act 1984 in relation to a person who had been arrested on suspicion of murder. In its judgment the English Divisional Court had found that the “detention clock” or maximum period during which a person can be detained following their arrest was not suspended by the release of the detained person on police bail. The implication of this would have been that, in very many cases, any further detention of a suspect, upon his or her return to answer bail would be unlawful. As the provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989 largely mirror those of the 1984 Act, this would have had far reaching consequences for Northern Ireland. When the judgment was appealed by the Chief Constable of the Greater Manchester Police, I successfully applied to intervene in the proceedings before the Supreme Court of the United Kingdom in order to represent the interests of Northern Ireland. This was, in my view, particularly important, as Westminster legislation designed to reverse the effect of the judgment did not extend to Northern Ireland and similar legislation might arguably have been outside the legislative competence of the Assembly. The Chief Constable of the Greater Manchester Police subsequently withdrew his appeal. Happily, since then the

subsequent Northern Ireland decision in *Re Connelly* has established that *Hookway* is not law in Northern Ireland.

19. In August 2011, I intervened in the judicial review case of *Re Trevor Madden and William Devine*. This litigation resulted in important clarification of the provisions of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 as it related to court imposed prohibitions on convicted sex offenders working with children and vulnerable adults.

Relationship with the Assembly

20. Section 25 of the Justice (Northern Ireland) Act 2002 provides for the Attorney's participation in Assembly proceedings to the extent that is permitted by its Standing Orders. As reported in last year's Annual Report, I gave evidence to the Committee on Procedures on 28 September 2010 in relation to the development of such Standing Orders. At the time of writing this matter remains outstanding and is still with the Assembly for consideration.
21. During 2011/12 I was invited to assist the Assembly's Committee for Justice with policy on Criminal Aid Certificate Rules and also with the review of judicial appointments. In both of these areas the contribution of the Committee has been significant.

Legislative Process

22. My role in the legislative process is an interesting mixture of the statutory and non-statutory. Both aspects have, as a common purpose, a commitment to assisting with high quality law making in Northern Ireland.

23. 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 consideration to all Assembly Bills as they complete final stage. Consideration at this stage is mirrored by consideration in advance of introduction. The form that this early consideration takes varies according to the nature of the proposed Bill and the particular needs of Departments.

24. As anticipated, the number of Bills considered this year was less than in 2010/11. This is largely a reflection of the current stage of this Assembly's mandate. I wish again to pay tribute to the First Legislative Counsel, Mr George Gray and his staff both for the precision and elegance of their work and for the unfailing assistance they have given me during this year. During the period covered by this report Mr Gray retired. It is the nature of the work of legislative counsel that their work is not widely known and seldom sufficiently appreciated by the general public. Mr Gray has given exceptional service to the public of Northern Ireland and I wish him well in his retirement.

25. At the commencement of the legislative process, and, on occasion, even before then I am asked for advice about, the legislative competence of, and other legal issues arising from, proposed Bills. No fixed criteria exist to determine whether or not any provision of a Bill 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.

Public Prosecution Service

26. 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. On 7 November 2011 I was delighted to appoint, after an open competition, Barra McCrory QC as the new Director of Public Prosecutions for Northern Ireland. During the period since his appointment we have met regularly, continuing the excellent working relationship I had with Mr McGrory's predecessors Sir Alasdair Fraser QC and latterly the Acting Director Jim Scholes.
27. It is only fitting that I mention the immense contribution that Sir Alasdair Fraser and Jim Scholes, as Acting Director and now having resumed his Deputy Director responsibilities, have made to the Public Prosecution Service over many years. They are both public servants of the highest calibre⁴.
28. Due to the imminent retirement of the Deputy Director I have also initiated an open competition for the appointment for a new Deputy Director. At 31 March 2012 the appointment process is on-going.
29. 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. I may also convene, if necessary, a Tribunal to consider removal of the Director and Deputy Director.
30. 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

⁴ As recorded in a footnote to the preface, sadly, Sir Alasdair died shortly before the submission of this report. I hope to pay tribute to his achievements in the Report for 2012-2013.

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 26 and 29 above there are no matters relating to the Public Prosecution Service for which the Attorney General is accountable to the Assembly.

31. I do not, to give only two examples, have responsibility for referring unduly lenient sentences to the Court of Appeal, and I have no role with respect to any prosecutorial decision to accept a plea of guilty to a lesser charge than that originally preferred.
32. I believe that a gap exists in the current superintendence and accountability arrangements between the Attorney General and the Public Prosecution Service. The Justice Minister is consulting 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 1972⁵.
33. Irrespective of the outcome of this consultation 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.

Criminal Justice Inspectorate

34. The Chief Inspector of Criminal Justice, Dr Michael Maguire and I have continued to develop an excellent working relationship and understanding. Dr Maguire and I have met to discuss a number of specific issues as well as the CJI Inspection programme for 2011/2012. Dr Maguire has recently been appointed Police Ombudsman for Northern Ireland and I am sure that the energy and zeal he has displayed as Chief Inspector will be an enormous

⁵ See the discussion in chapter 9 of John LL Edwards The Attorney General, Politics and the Public Interest (London, 1984)

asset in his new role. I congratulate him and wish him well in this new and important role.

Relator Actions

35. 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.
36. 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 why such a procedure involving the Attorney General is necessary 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.
37. No relator actions were brought during this period.

Inquests

38. 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.

39. 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.
40. When my 2010/2011 annual report was published last year 23 requests were still under consideration. Of these the Coroner has now been directed to hold an inquest in 14 cases; in 5 cases I determined a fresh inquest was not advisable; 2 cases are still under consideration; and in the remaining 2 cases the initial notice of intent has never been progressed to a formal request for an inquest.
41. During 2011/12 I received 18 requests to direct an inquest under section 14 (1) of the 1959 Act. The Coroner was directed in 2 cases to hold an inquest; in 4 cases I determined a fresh inquest was not advisable; 11 cases are still under consideration; and 1 request was withdrawn. In a further 5 cases the initial notice of intent has not progressed to a formal request for an inquest.
42. Inquest requests involve careful consideration of the factual circumstances. In June 2011 in the case of Re S I was asked by a relative of man who had died in disputed circumstances in hospital to consider directing the Senior Coroner to hold a new inquest into the death. This request required a close consideration of detailed and complex medical issues pertaining to hospital procedures and practices. On balance I formed the view that the original inquest had not inquired sufficiently into the existence of circumstances which, if left unremedied, might lead to further deaths, and I directed that a new inquest be held.

43. In the case of Re C I was asked by the family of two victims of paramilitary violence to direct a new inquest into their deaths. Having considered this case carefully I formed the view that due to the loss of evidence and the unavailability of key witnesses that it would not be advisable to hold a new inquest.
44. In November 2011 I directed that new inquests be held into the deaths of ten civilians killed in the course of Army activity in Ballymurphy in 1971. Following months spent examining extensive written submissions and other papers I decided that new inquests would be advisable.
45. In February 2012 in the case of Re C2 I directed that a new inquest be held into the death of a young boy who had died after being vaccinated against Measles/Rubella. I considered that there was enormous public importance in an investigation of the role of the vaccine in this death particularly in the light of American medical evidence.
46. During the course of this year I have begun to consider the questions of principle that arise from the apparent non-availability of inquests for the deaths of children who die shortly before birth. I expect to make a decision shortly on whether, in my view, inquests are possible in such cases. I have already received a request from the mother of a stillborn child that I direct an inquest in the case of her child.
47. As I observed in the preface to this report, inquests by themselves cannot provide a comprehensive solution to the troubled past of Northern Ireland. Inquests are undoubtedly valuable – and in some cases are clearly required by Article 2 ECHR – but they cannot, it seems to me, deliver satisfactory outcomes for families whose primary wish is to see successful prosecutions, nor can they offer an effective vehicle for the exploration of broader themes and factors that have shaped our recent past.

Charities

48. As Attorney General my responsibility for protecting the public interest extends specifically to the law of charities, an area of law in which, historically, the Attorney has always had a central role. Where a matter is before the Charities Tribunal, I have power to intervene so as to represent the wider public interest. I also defend the interests of charities in proceedings before the High Court.
49. There is also a role for the Attorney in consenting to references to the Charities Tribunal where the Charities Commission needs a question of law or practice resolved; in giving directions to the Charities Commission on its discretion to authorize *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.
50. In order to ensure protection of the interests of charities, I may give or withhold my fiat or consent to allow cy-pres applications to proceed to the High Court. One such case this year involved granting the fiat to allow an application to the High Court by the National Council of the YMCA Ireland Ltd to sell property at Mountpottinger. The trustees intended to use the funds to extend the availability of personal development programmes and work with larger numbers of children, young people and families in Belfast. Another case in which I granted my fiat involved the approval of a cy-pres scheme for distribution of funds following the sale of Magheralin Evangelistic Hall.
51. In January 2012, I was Respondent in the case of Re CWT, which concerned an application by a post-primary school for a cy-pres scheme in respect of a gift made to it in a will. The original scheme provided for bursaries to pupils from a Northern Ireland school belonging to a specific religious denomination. The school wanted

to amend the scheme to allow the bursaries to be awarded more generally. Conscious of the wishes of the testatrix I submitted that the terms of the original gift should be adhered to as closely as possible. The final scheme ensured that first and foremost the wishes of the testatrix were considered and students belonging to the specific religious denomination prioritised before a more general distribution could be made.

52. In cases where a donor has shown a clear intention that he or she wishes a gift to be given to charitable purposes but they have 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. By Royal Warrant dated 24 November 2004 the Royal Sign Manual powers were delegated by Her Majesty to the Attorney General for Northern Ireland and his successors in that office. Therefore the Attorney General can issue a Sign Manual Direction 'curing' uncertainty by directing that an otherwise failing gift be given to one or more specific charities.
53. In June 2011 I issued my first Royal Sign Manual Direction in the case of Re T. This was a case in which a gift had been left to an undefined cancer research charity. Using these powers I was able to ensure that the testator's intentions, that a cancer research charity benefit from his estate, were reflected in an effective gift to a local cancer charity.

Human Rights

54. 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.

55. An aspect of this work includes the continuing challenge of keeping the guidance up-to-date in light of new decisions from the Strasbourg Court and the relevant output from, for example, the Council of Europe, UN Committees and other sources.
56. I have appointed a Senior Principal Legal Officer with a background in Human Rights Law to take forward this specific area of work. Guidance will start to be issued to the appropriate criminal justice organisations in 2012/13.

Contempt of Court

57. The Attorney General has a public 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.
58. 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 7 occasions had to consider bringing contempt proceedings in relation to concerns about possible interference with the administration of the justice process.
59. In March 2012, I was granted leave by the High Court to begin contempt proceedings against Peter Hain MP and Biteback Publishing in respect of passages in the Peter Hain memoir

‘Outside In’. My concern in this case was to protect the public’s right to confidence in the justice system against improper attack.

Declaration of Parentage

60. The Attorney General must be put on notice of every application to court seeking a declaration of parentage. In 2011/12 there were 77 such applications – a significant increase on the 29 applications last year. 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.

Vexatious Litigants

61. Under section 32 of the Judicature (Northern Ireland) Act 1978 the Attorney may ask the High Court to make an order declaring someone to be a vexatious litigant which, if such an Order is granted, precludes them from bringing further proceedings without the leave of the High Court. I am currently considering one case of this nature.

Mental Health

62. By Article 72 of the Mental Health (NI) Order 1986 (“the Order”) I may refer the case of a Patient⁶ to the Mental Health Review Tribunal. My understanding is that this power has never been exercised at any time by my predecessors. I am currently reflecting on how it may be placed at the service of Patients and those advising them. This provision is potentially a valuable safeguard in protecting the liberty of persons detained under the Order and I

⁶ As defined by Article 2 (2) of The Mental Health (NI) Order 1986

encourage persons concerned with the welfare of patients to give me their ideas on how it can best be used.

The Matrimonial Causes (Northern Ireland) Order 1978

63. Under Article 10 of the Matrimonial Causes (Northern Ireland) Order 1978 the Attorney General may intervene in the case of a petition for divorce where either the Judge hearing the petition or any other person has provided material to the Attorney which he believes makes an intervention by him appropriate. This is linked to the more general right of the Attorney to intervene when a divorce case gives rise to an important issue of public policy⁷.

Relations with both branches of the Legal Profession

64. 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 professions principally as one of encouragement and support and to that end I have spoken at several events during the year. I have also launched the Attorney General's Young Bar and Young Solicitor's Seminar Series, which I will say more about later in the report.
65. As Attorney I am the titular Head of the Bar and 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 Mark Mulholland QC, his predecessor Adrian Colton QC and its Chief Executive Brendan Garland for the assistance they have provided me in my work with the Bar.

⁷ See *Adams v Adams* [1970] 3 All ER 572 at 577

66. While I have no institutional relationship with the Law Society I am grateful to both its President, Imelda McMillen, and its Chief Executive, Alan Hunter, for their continued cooperation and constructive engagement with my Office.

Development of External Relations

67. 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 ECHR 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 ECHR but also how other European jurisdictions develop techniques to cope with these demands.
68. In this year I have been privileged to have learned much from the seminar programme organised by the Conseil d’Etat. In particular the seminars on consultation and aspects of healthcare regulation have proved particularly valuable with the former especially serving as the basis for presentations to officials and members of the legal profession.
69. In September 2011 the Attorney General of Ireland Ms Maire Whelan SC and I led a joint delegation to the Fundamental Rights Agency in Vienna. This was a valuable opportunity to discuss areas where Human Rights and Community law combine to impact on our respective jurisdictions and to hear generally about the work of the Agency.
70. During the period covered by this report I have hosted meetings with the Lord Advocate of Scotland, Frank Mulholland QC, and the

Counsel General of Wales, Theodore Huckle QC where matters of mutual interest for us as Law Officers of devolved administrations were discussed.

71. A separate issue arises about the ability for the specific needs of Northern Ireland to be reflected in the formulation of EU policy and legislation. My staff and I are working with Departments to see how Northern Ireland interventions in the making of EU policy and legislation may be improved.

Living Law

72. The Attorney's 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 second year, the programme continues to thrive, building on the successes of last year.
73. 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.
74. Throughout the year 29 pupils from six 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 at the Northern Ireland Assembly and culminated with the pupils taking part in mock bail applications.

75. The second element is a general outreach programme to community and other groups aimed at raising public understanding about law.
76. The most significant development in this element was the launch of the Attorney General's Media Awards. The Awards aim to recognise outstanding journalism in the published and broadcast media that contributes to the public's understanding of the law, the legal system or a specific legal issue.
77. 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.
78. In June 2011 I arranged an international conference in Belfast to examine the issue of Judicial Independence. The conference was an opportunity to hear from prominent international speakers on the subject of Judicial Independence which is currently at the forefront of both local and international debate
79. Attendees heard from the Lord Chief Justice on 'Judicial Independence in the 21st century'. I spoke on 'The Limits of Judicial Independence'.
80. The conference was also addressed by Judge Ann Power, Judge of the European Court of Human Rights; Gregor Vollkommer, a Judge who is currently working as a representative of the Ministry of Justice and Consumer Protection in the Bavarian Representation to the European Union; and Professor Anne-Lise Sibony of the University of Liege.
81. I also launched the Attorney General's Young Bar and Young Solicitor's Seminar Series as part of the Living Law programme.

The series of 3 seminars was attended by 40 delegates from the Young Bar and Young Solicitors' Associations. Speakers from the Office of the Attorney General; Barristers; Solicitors; and the President of the NI Young Solicitors Association explored several current issues on the theme of Human Rights. The series culminated with attendees participating in a debate in the Senate Chamber, Parliament Buildings.

82. Due to the success of the seminars, a second series of seminars was launched in March 2012.
83. For the second year I offered a Pupillage Scholarship to give support and recognition to pupil barristers who are unable to undertake paid advocacy during the first six months of their pupillage. I was delighted with the response and with the high quality of submissions received. The Scholarship, plus the opportunity to do some pro bono work for this office was awarded to Ms Julie Ellison. I take this opportunity to wish her well in her career at the Bar.

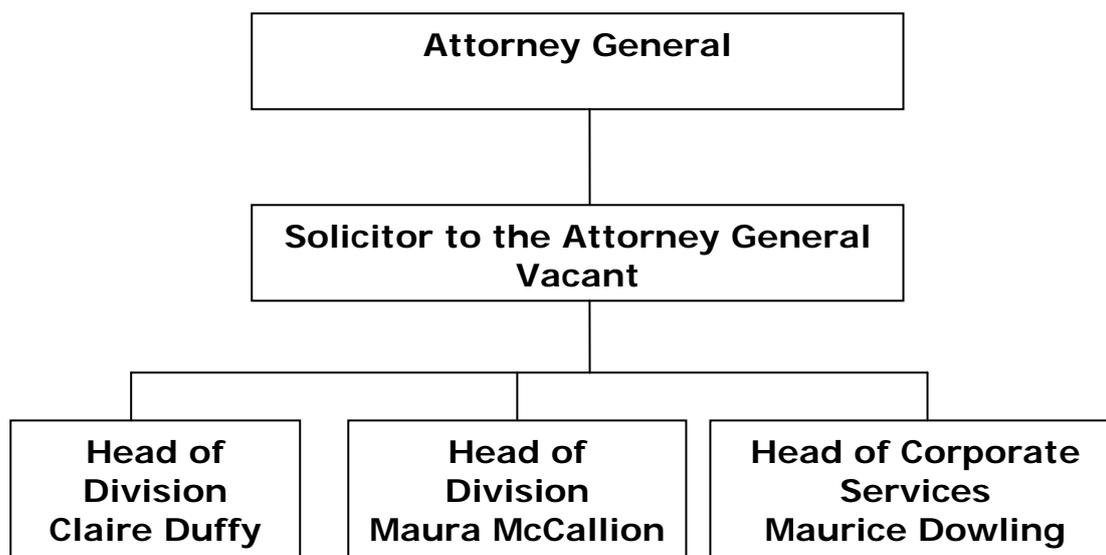
Miscellaneous

84. In addition to the significant themes of work outlined above, I have also dealt with a number of miscellaneous issues:
 - I agreed procedures on amicus appointments.
 - I considered 66 Departmental Consultations.
 - The Office of the Attorney General provided responses to 10 Freedom of Information requests.
 - I formally spoke at 9 external events.

Staff

85. 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.
86. During the year I appointed a Senior Principal Legal Officer to lead on the development of Human Rights Guidance as required under Section 8 of the Justice (Northern Ireland) Act 2004.
87. It was with mixed feelings in March 2012 that we saw Philip Gilpin depart as Solicitor to the Attorney General to be appointed as a District Judge. Judge Gilpin played a significant role in establishing the Office and a number of high profile and complex issues. Although he will be a great loss to this office I am extremely grateful to him for all his work and wish him well in his new appointment. The public and the justice system are fortunate to have the service of such a distinguished lawyer. An open recruitment competition to appoint his replacement is in progress.
88. As of 31 March 2011, my Office consists of 14 full time staff, including 8 lawyers, and 1 temporary recruited administration assistant who are all members of the Northern Ireland Civil Service.

Senior Management Structure



Corporate Services

89. 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.
90. 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.
91. In 2011/12 the Office of the Attorney General had a budget of £1.45m. During the year the budget was continually reviewed against the work of the office with some funding surrendered as part of the in year NICS Departmental Monitoring Rounds. The year end financial spend was £1.3m. Work was completed on the fitting out of new premises within the allocated capital budget of £305k.

92. Robust systems and processes are in place to ensure effective corporate governance.
93. The office website www.attorneygeneralni.gov.uk outlines the work and responsibilities of the Attorney. It is regularly updated.

Looking Forward to 2012/13

94. The Justice Minister is due to complete his consultation on the Governance and Accountability of the Public Prosecution Service in May 2012. I look forward to the outcome of this important consultation and to discussing any proposals that may emerge.
95. In autumn 2012 I intend to lay the first piece of human rights guidance before the Assembly. This will relate to Forensic Science Northern Ireland. I very much hope that Assembly Standing Orders dealing with my participation will be made to facilitate this work.
96. The Living Law programme for 2012-13 will commence with the inaugural study visit to the European Court of Human Rights for members of the Young Bar and Young Solicitors Associations. I hope to be able to build on existing relationships with ECtHR judges and registry staff to work towards a Belfast based conference in the autumn of 2012.
97. As Attorney General, I am committed to ensuring that the rule of law is at the heart of our devolved government and administration. I hope in the coming year to work closely with departments through a series of colloquia on the current legal and policy challenges that they face. Operation of the Chatham House rule can help those involved make progress on some difficult issues.

98. During the past year it has continued to strike me that there is a need for a realistic view about what role the law and human rights law in particular can be expected to play in contemporary society. At the heart of my role is a concern that law can have its full and proper place at the service of the community but it needs to be acknowledged that law cannot solve all of our problems; that while it is indispensable it is often subordinate.⁸ Through the living law programme, and generally, I want to increase an understanding of law and its importance, and to give the citizens of Northern Ireland greater ownership of their birthright.

⁸ For a discussion of some of these themes see Stéphane Rials Villey et les idoles (Paris, 2000) pp. 29-30