

Have you got what it takes?

Working with the Attorney General

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Important facts

The Attorney General is:

- **the chief legal adviser to the Crown (the state);**
- **a Minister of the Crown with a legal duty to superintend the Director of Public Prosecutions in England and Wales and the Director of the Serious Fraud Office; and**
- **responsible for a number of independent public interest functions.**

The Solicitor General supports the Attorney General across the range of his responsibilities.

The Attorney General's Office provides high-quality legal and strategic policy advice and support to the Attorney and the Solicitor General.

A protocol, produced in collaboration with the directors of the Crown Prosecution Service and the Serious Fraud Office, sets out the relationship of the Attorney General with these authorities.

The Attorney General also has a shared responsibility, with the Home Secretary and Secretary of State for Justice, for the effectiveness and performance of the criminal justice system.

One of the independent public-interest functions the Attorney carries out is to consider whether a criminal sentence should be referred to the Court of Appeal as 'unduly lenient' (see 'More information' section.)

Background

The Attorney General and the Solicitor General are the Government's Law Officers.

The Attorney General for England and Wales (with his deputy the Solicitor General) is the Minister of the Crown responsible in law for overseeing the main prosecuting authorities. These authorities are:

- **the Crown Prosecution Service, which is headed by the Director of Public Prosecutions; and**
- **the Serious Fraud Office, headed by its Director.**

The Law Officers are also the Ministers responsible for the Treasury Solicitor's Department and HM Crown Prosecution Service Inspectorate, and they oversee the Government Legal Service.

The Attorney General for England and Wales also holds the separate office of Advocate General for Northern Ireland. Northern Ireland has its own Attorney General.

A protocol (agreement) was published in July 2009 which sets out the relationship between the Attorney General and the Director of Public Prosecutions and the Director of the Serious Fraud Office. The protocol marked the end of a thorough review process which led the Government to conclude that the Attorney General should retain the roles of:

- **chief legal adviser to the Government;**
- **criminal justice Minister with responsibility for the prosecuting authorities; and**
- **independent guardian of the public interest.**

The protocol underlines and supports the independence of the prosecutors in taking prosecution decisions, and ensures that there is proper public and parliamentary accountability for the conduct of prosecutions. Both the Attorney and Solicitor General remain accountable to Parliament for the prosecuting bodies, including answering Parliamentary Questions.

The protocol between the Attorney General and the prosecuting departments is available on the Attorney General's Office (AGO) website at: <http://www.attorneygeneral.gov.uk/Publications/Pages/CriminalJusticeReports.aspx>

In addition, the Law Officers have a public interest role which they exercise independently of Government, such as whether to refer an unduly lenient sentence to the Court of Appeal. This is only relevant for certain offences and strict time limits apply.

The AGO is a small independent department and is made up of a mix of lawyers and administrators. The Office provides dedicated advice and support to the Law Officers in relation to all their functions.

More information

Do the law officers give legal advice to members of the public?

No. The Attorney and Solicitor General provide legal advice to the Government and government departments and cannot advise individual members of the public.

How does the AGO fit in with other criminal justice organisations? Is it part of the Home Office or Ministry of Justice?

The Attorney General's Office is an independent department which supports the Attorney General, who superintends the work of the Directors of the Crown Prosecution Service and the Serious Fraud Office.

Can the Attorney General overrule the Director of Public Prosecutions or Director of the Serious Fraud Office's decisions?

Although both Law Officers are often consulted on key decisions made by the directors, under the protocol which sets out their relationship with the directors the Law Officers will not intervene unless on grounds of national security.

Can the AGO intervene in a police investigation?

No, the Attorney General's Office has no investigative function. If a person is not happy with a police force, they may complain to them or the Independent Police Complaints Commission.

Can the Attorney General deal with a complaint against the Crown Prosecution Service or the Serious Fraud Office?

Each director has a procedure for dealing with complaints about the way in which particular cases have been dealt with by their department. If a complaint is not dealt with satisfactorily by the relevant director's department, the person making the complaint can refer the matter to the Attorney General. However, the AGO can only look at the way the complaint was handled, rather than the complaint itself.

Does the Attorney General run the courts?

No, HM Courts and Tribunals Service (HMCTS) is responsible for the administration of justice in courts and tribunals. HMCTS is an executive agency of the Ministry of Justice.

Who can ask the Attorney General to review an 'unduly lenient' sentence?

Victims, their families, and members of the public, including police and crime commissioners, can contact the Attorney General's Office if they think a sentence is not severe enough.

If a sentence is considered to be too low, can the Attorney General refer the case to the Court of Appeal?

Not all types of sentences can be looked at. The Attorney General has the power to ask the Court of Appeal to review some sentences which he thinks are 'unduly lenient' – so lenient that a judge could not reasonably have passed them. The power only applies to sentences for certain serious offences and there is a strict 28-day time limit from the day the sentence was passed to refer a case. The time limit cannot be extended. You can get more information about the Unduly Lenient Sentence scheme on the AGO website: <http://www.attorneygeneral.gov.uk/AboutUs/uls/Pages/default.aspx>