



# Attorney General for Northern Ireland

**Attorney General for Northern Ireland**

**Annual Report**

**2023/24**

*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*

*Tuesday 21<sup>st</sup> January 2025*



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# Attorney General for Northern Ireland

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

I am pleased to present my fourth report as Attorney General for Northern Ireland, prepared in accordance with section 26 of the Justice (Northern Ireland) Act 2002.

I resumed the constitutionally important role of chief legal adviser to the Northern Ireland Executive in February this year. I welcomed the return of the Executive, joining Ministers at Parliament Buildings on Saturday 3 February as they were appointed to their roles and affirmed the pledge of office in the Assembly chamber.

With the Executive's return, I once again attended Executive meetings and provided legal advice to the Executive and to individual Ministers. I also resumed my scrutiny of Assembly Bills, mindful of the pressures that a now compressed mandate will bring to bear on the legislative process.

The absence and return of the Executive, in addition to other factors, had a corresponding impact on the functions and resources of my office during the reporting year. Though the provision of legal advice to the Executive is a core part of my role, most of my other functions are not dependent on the existence of the Executive and these continued as normal. In particular, I continued to receive, and consider, devolution notices in relation to ongoing litigation raising devolution issues.

The prospective removal of my power to direct a coroner to hold an inquest in the case of "deaths resulting directly from the Troubles", as set out in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, led to a substantial increase in applications asking me to issue such directions in the period leading up to the removal of my powers on 1 May 2024.

This put considerable pressure on my team and I am grateful to all those who supported me in considering and determining all those applications before the deadline expired.

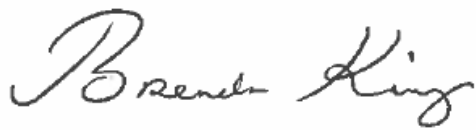
My previous annual report made reference to an appeal I brought to the UK Supreme Court in relation to the decision not to order an inquest into the death of Mr. Sean Eugene Dalton. On 18 October 2023, the Supreme Court gave judgment and allowed the appeal holding that the refusal to direct a new inquest into the death of Mr. Dalton could not be challenged in domestic courts under Article 2 ECHR because it occurred more than 12 years before the Human Rights Act came into force on 2 October 2000.

The discharge of my functions under the Mental Capacity Act (Northern Ireland) 2016, which includes consideration of the exercise of my power to refer authorisations of detentions to the Review Tribunal, came under further strain during this reporting year. This year saw an increase of 546 cases on the previous year, resulting in a total of 6,091 cases to be considered. It is clear that a longer term and strategic approach is needed to manage the increasing volume of these cases and ensure the protection of important human rights. I am encouraged by the collaborative work that my team carried out for me with partners and stakeholders to monitor developments and improve processes to ensure optimal solutions.

The work of my office described in the pages of this report provides only a glimpse of the whole of the work delivered by the office during the year. I could not deliver my functions without the help and support of my outstanding team of lawyers and administrative staff, all of whom are highly motivated and qualified, consistently going the extra mile to anticipate and respond to ever changing demands, to serve the public and protect the rule of law. I am grateful to them all.

This year saw events take place to mark the 25<sup>th</sup> anniversary of the signing of the Belfast/Good Friday Agreement. As someone who was involved in the implementation of the Agreement, it gave me great pleasure to attend some of these events. The further devolution of justice

matters to the Northern Ireland Assembly in 2010 is almost taken for granted now but it is something I am constantly aware of as Attorney General for Northern Ireland, a role which was re-established at that time. The achievement of the devolution settlement should never be underestimated. I will continue to support Ministers in their work to deliver sustainable government in Northern Ireland and to protect the rule of law.

A handwritten signature in black ink, reading "Brenda King". The signature is written in a cursive style with a large initial 'B' and a long, sweeping underline.

Dame Brenda King

Attorney General for Northern Ireland

## Introduction

1. The Justice (Northern Ireland) Act 2002 establishes the Attorney General for Northern Ireland as a statutory and independent office holder within the devolved administration of Northern Ireland. The functions and responsibilities of the Attorney General comprise both statutory duties and common law duties. A summary of the Attorney General's functions is set out in annex A to this report. The role of the Attorney General for Northern Ireland is similar to that of other law officers in these islands but differs from those roles in some important respects.
2. The Attorney acts as chief legal advisor to the Northern Ireland Executive. While the First Minister and deputy First Minister appoint the Attorney General, the Attorney is not a politician but works closely with the Northern Ireland Executive both as a collective and with Ministers individually in support of their departmental responsibilities.
3. While the Attorney General is appointed by the First Minister and the deputy First Minister acting jointly, the office is entirely independent of any direction or control by any political party [section 22(5) of the Justice (NI) Act 2002].
4. Guardianship of the rule of law is central to and governs the discharge of the Attorney General's specific duties. The range of work covered by the Attorney General reflects all of the areas which fall within the Executive's remit. The most significant of the Attorney General's duties include:
  - Serving as chief legal adviser to the Northern Ireland Executive in relation to any matter that falls within the devolved powers of the Northern Ireland Assembly.
  - Scrutiny of all Bills passed by the Northern Ireland Assembly (both Executive Bills and Private Members' Bills initiated by individual MLAs) to determine whether the provisions of those Bills are within the legislative competence of the Assembly and,

where appropriate, referring those Bills to the Supreme Court for a decision on competence.

- Assisting the Courts on devolution issues, that is, matters set out in paragraph 1 of Schedule 10 to the Northern Ireland Act 1998 –
  - (a) a question whether any provision of an Act of the Assembly is within the legislative competence of the Assembly.
  - (b) a question whether a purported or proposed exercise of a function by a Minister or Northern Ireland department is, or would be, invalid by reason of section 24 of the 1998 Act.
  - (c) a question whether a Minister or Northern Ireland department has failed to comply with any of the Convention rights; or
  - (d) any question arising under the 1998 Act about excepted or reserved matters.
- Protecting the public interest in the courts where appropriate. This can include the initiation of proceedings as well as participating in proceedings to assist the court.
- Deciding whether to direct a coroner to hold an inquest under section 14 of the Coroners Act (Northern Ireland) 1959.
- The discharge of statutory and historic functions to protect the public interest in matters relating to charities.
- The discharge of functions under the Mental Capacity Act (Northern Ireland) 2016: this includes the referral of relevant authorisations to the Review Tribunal.
- The examination of cases of contempt of court. The Attorney General can take legal action in the public interest if certain types of contempt of court have been committed.



- Producing guidance for criminal justice organisations on the exercise of their functions in a manner consistent with international human rights standards.
- Dealing with vexatious litigants. The Attorney General can apply to the High Court to have a person declared a vexatious litigant by applying to the court for an order to prevent that person from issuing further proceedings without leave of the High Court.
- The appointment of the Director of Public Prosecutions and the Deputy Director when vacancies arise.

#### **Statutory Independence of the office**

5. By virtue of section 22(5) of the Justice (Northern Ireland) Act 2002 the Attorney General's functions are exercised independently of any other person. The Attorney General is statutorily independent of the First Minister and deputy First Minister, the Northern Ireland Executive, and the Northern Ireland Departments.

#### **Reserved and excepted matters**

6. The Attorney General has no formal role to play in relation to non-devolved matters. Legal advice in relation to such matters is the responsibility of the Advocate General for Northern Ireland who is also the Attorney General for England and Wales. (The Rt Hon Victoria Prentis KC MP held office for the period of this report.)

## People

7. The Attorney General may, in accordance with section 22(4) of the Justice (Northern Ireland) Act 2002, appoint staff to assist her in carrying out her functions, subject to the approval of the First Minister and deputy First Minister.
8. While the absence of an Executive for much of this reporting period provided some flexibility in terms of staff resources, the office continued to operate with an exceptionally small team. Staffing remains under constant scrutiny by the Attorney and senior management team to ensure the office is sufficiently resourced, always with maximum efficiency at the forefront of its operating model. The ability to serve an Executive in tandem with having sufficient capability to respond to changing priorities and workloads remains paramount. The return of the Northern Ireland Executive and Assembly in February 2024 brought increased demands on the office and the need for agile and appropriately skilled staff into sharper focus.
9. The Office of the Attorney General for Northern Ireland (OAGNI) places a strong emphasis on valuing its people and developing their full potential. The ethos of an inclusive and supportive team, as reflected in actions set out in its Business and Learning and Development plans and via ongoing staff engagement, remain core elements of continuous efforts to maintain a fully inclusive and supportive working environment for everyone.

## **Overview of Work in 2023/24**

### **Absence of the Northern Ireland Executive and Assembly**

10. As noted in the foreword, a principal function for the Attorney General is that of chief legal adviser to the Northern Ireland Executive. From April 2023 of this reporting year this function was not exercised until the restoration of the Northern Ireland Executive and Assembly in early 2024. The Attorney did, however, provide legal support to Northern Ireland departments exercising functions under the Northern Ireland (Executive Formation) Act 2022, as amended by the Northern Ireland (Interim Arrangements) Act 2023.

### **Scrutiny of Assembly Legislation**

11. The ability of the Northern Ireland Assembly to make primary legislation (its legislative competence) is established by (and limited by) the Northern Ireland Act 1998. Where there is uncertainty as to whether a provision of a Bill passed by the Assembly is within legislative competence, the Attorney General can ask the UK Supreme Court to determine the point [Section 11 (1) of the Northern Ireland Act 1998]. This provision allows for an expedient and authoritative resolution of issues which might otherwise give rise to uncertainty as to the validity of the law.
12. During the short period in 2023-2024 which the Assembly was sitting, the Attorney scrutinised the Budget Bill which was subsequently passed in March 2024.

### **Litigation - Devolution and Incompatibility Notices**

13. The Attorney General may intervene in litigation which gives rise to devolution issues. 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, including the assistance of the Attorney General where appropriate.

14. In appropriate instances, the Attorney General may participate in the proceedings and make submissions to the court. During the reporting year the Attorney General was notified by the courts in six cases in which devolution issues arose and having assessed each case carefully chose to participate in one case in which the central issue was whether sections 12-16 of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 were within the legislative competence of the Northern Ireland Assembly.
15. The Attorney General for Northern Ireland is also served with notices of incompatibility under the Human Rights Act 1998 in proceedings where a declaration of incompatibility is sought in respect of primary legislation or where the compatibility of subordinate legislation is being considered by the court. During the reporting period the Attorney General was notified by the courts in eight cases in which an incompatibility issue arose but having assessed each case carefully did not participate.
16. The devolution or incompatibility issues arising for consideration this year included a challenge to the Illegal Migration Act 2023, a reference to the Court of Appeal by an Appeal Tribunal (social security), challenges to the exclusion of life sentence prisoners in Northern Ireland from early removal from the United Kingdom and to the compatibility of certain provisions of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, an appeal against sentencing, accreditation under the RHI scheme, the revocation of payments under the RHI scheme, an extradition matter and proceedings arising from a police misconduct case.
17. The Attorney considers each case individually and, generally, will participate in litigation on a devolution or incompatibility issue where:
  - Ministers request that the Attorney participates;

- The legal issues have not, in the opinion of the Attorney, been adequately covered, understood, or expressed correctly by the parties to the litigation;
- The issues relate to a particular responsibility of the Attorney.

### **Participation in litigation to assist the court**

18. The Attorney General may also provide submissions at the request of the court and did so in one case during the period covered by this report. A County Court Judge requested the Attorney's assistance in relation to an application under Article 12A of the Registration of Clubs (Northern Ireland) Order 1996. See: [In the matter of an application by Glentoran Premier Club in respect of premises at the Oval, Parkgate Drive, Belfast.pdf](#)

### **Appointment of Amicus Curiae and Special Counsel**

19. Another aspect of the Attorney General's role as guardian of the rule of law is the power to appoint an amicus curiae or a special counsel in order to assist the courts in appropriate cases.
20. 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 setting out the law impartially or by advancing relevant legal arguments which, due to the circumstances of the case, would not otherwise be made. The Court of Appeal sought assistance from the Attorney in one case this year in relation to procedural issues arising from an appeal against a sentence imposed for contempt in respect of a former solicitor. The Attorney appointed senior counsel as amicus curiae to assist the court. See: [KEE12226 Final - Approved.pdf](#)
21. During the period covered by this report there were no requests to appoint special counsel.

## Inquests

22. Under section 14(1) of the Coroners Act (Northern Ireland) 1959 the Attorney General 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 the Attorney General applies in considering whether to direct a coroner to hold an inquest is a consideration of whether it is 'advisable' to do so.
23. What is 'advisable' may vary considerably from case to case. The Attorney General will judiciously consider any application made that an inquest should be directed. Information which may be considered could include (but is not limited to) material available to any previous inquest, the sufficiency of inquiry by the inquest, any irregularity or unfairness in the inquest proceedings, any significant new evidence that may be available, whether the procedural obligation under Article 2 of the European Convention on Human Rights applies, any other investigations which are ongoing (in particular whether the death is being investigated or ought to be investigated by the PSNI and any investigation by the Police Ombudsman, for example), whether witnesses would be available to give evidence at a new inquest and the general utility of holding an inquest.
24. At the start of this reporting period there were 18 applications for inquests under active consideration with a further 20 new applications received in addition. The Attorney General directed the Presiding Coroner to hold an inquest in 13 cases and in 11 cases determined a fresh inquest was not advisable. At the conclusion of the reporting period 14 applications remained under consideration.

### **The Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 and inquests**

25. The enactment of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 signalled an alternative approach to legacy issues, including 'inquests into deaths "that resulted directly from the Troubles" as defined in the Act. The provisions of this wide-ranging Act included the removal of the Attorney General's power to direct inquests

into deaths that resulted directly from the Troubles, and the closure of inquests which have not reached an ‘advanced stage’. The removal of the power to direct this type of legacy inquest with effect from 1 May 2024 led to a substantial increase in fresh requests for inquests in this category which required considerable resolve to ensure that all such requests were determined in advance of the 1 May 2024 deadline.

### **Charities**

26. The Attorney General’s 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. In addition to the Attorney’s role in relation to charity related proceedings in the courts, where a matter is before the Charity Tribunal, the Attorney General is entitled to appear and is treated as a party for the purposes of any appeal from the Tribunal. Three cases were brought to the Attorney’s attention this year and after consideration of the papers no action was necessary. The High Court also placed the Attorney on notice of one case which was appealed from the Charity Tribunal during this year. Again, after consideration of the papers, no participation in the appeal was considered necessary. The Attorney General will normally only appear (or appeal) when there is some larger public interest at stake or when specifically invited to do so by the Charity Tribunal or the High Court.
27. The Attorney General can also defend the interests of charities in proceedings before the High Court and was placed on notice of two cases this year in which it was anticipated that this might be necessary.
28. The Attorney also engages with the Charity Commission on policy and legislative matters which this year included an agreement as to the handling of Chancery Court proceedings in which there is a requirement to obtain the Charity Commission’s consent in certain cases under section 54 of the Charities Act (Northern Ireland) 2008.

### **Contempt of Court**

29. The Attorney General may be asked to consider seeking an order from the High Court restraining a potential contempt of court or to consider bringing contempt proceedings against someone who may have engaged in actions which might amount to contempt. The Attorney General considered a number of matters potentially amounting to contempt during the reporting year and issued one Media Advisory Notice. This related to the inquest into the death of Noah Donohoe.
30. The Attorney General issued guidance in January 2024 on the use of social media and contempt of court.

### **Declaration of Parentage**

31. Applications for declaration of parentage must be sent to the Attorney General. In 2023/24, 30 such applications were received. While it would be unusual for the Attorney General to seek to intervene in such cases, every application must be carefully reviewed in order to firstly determine whether issues of wider concern arise which might merit intervention and whether the papers are complete. The Attorney will also assist the courts, if requested to do so.

### **Vexatious Litigants**

32. 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 that person from bringing further proceedings without the leave of the High Court. During the reporting period the Attorney General considered two such cases and agreed to make an application to the High Court in one of these cases.



## **Mental Capacity Act**

33. The Mental Capacity Act (NI) 2016 provides a statutory framework for people who lack capacity to make a decision for themselves, and for those who now have capacity but wish to make preparations for a time in the future when they lack capacity. The provisions of the Act dealing with deprivation of liberty (to address risks to the person who lacks capacity or others) were commenced on 2 December 2019. The 2016 Act is key to the safeguarding of the rights under Article 5 ECHR for many citizens, for example those with dementia or with significant learning disability.
34. A Health & Social Care Trust must notify the Attorney General where it appears that a person in respect of whom it has authorised a deprivation of liberty lacks capacity in relation to determining whether an application should be made to a Review Tribunal for an independent review of that authorisation. The Attorney General has a power under section 47 of the 2016 Act to refer to the Review Tribunal the question of whether the authorisation in a particular case is appropriate.
35. In deciding whether to exercise that power, it is necessary for the Attorney General to review, in relation to each case notified, the evidence on which it is said that the person is lawfully deprived of liberty. The Attorney General also needs to consider if the person, if they had capacity, would ask for the restrictive care arrangements to be reviewed by a Tribunal.
36. During the period of this report, the Attorney General received 6,091 notifications from the five Health and Social Care Trusts. In 1,183 cases the Attorney General exercised her power of referral to the Review Tribunal.
37. At the request of the Review Tribunal, the Attorney provided written submissions on points of law in seven cases.

38. The Attorney General was also served with papers as a notice party in a challenge to a decision of the Review Tribunal. After consideration of the papers, it was not necessary for the Attorney to take part in the litigation before the High Court.
39. A Principal Legal Officer from the Office of the Attorney General represents the Attorney General at and co-chairs the regional multi-agency Mental Capacity Act Implementation Group which meets monthly. This provides an effective forum for partnership working, bringing together the Health and Social Care Trusts, the Department of Health, the Northern Ireland Courts and Tribunal Service, the Regulation and Quality Improvement Authority and the Directorate of Legal Services. That Principal Legal Officer was also pleased to contribute to training on the Attorney's statutory role which was organised by the Children's Law Centre this year.
40. The implementation of these safeguards for persons deprived of liberty through care arrangements continues to be an important and demanding area of work which places significant additional pressure on the Attorney General's limited staffing resource. The Attorney General is grateful to colleagues in the Department of Health, the Health and Social Care Trusts and the Review Tribunal for their helpful engagement in ensuring these safeguards work effectively to protect the rights of those who lack capacity to make decisions for themselves. This continuous engagement ensures that best practice and efficiency is kept firmly under review.

### **Criminal Justice**

41. A senior lawyer represented the Attorney General on the Crown Court Rules Committee.

### **Relations with the Departmental Solicitor and Crown Solicitor**

42. During the period covered by this report the Attorney General continued to enjoy positive working relationships with colleagues across government legal services,

including the Departmental Solicitor's Office (DSO) and the Crown Solicitor's Office (CSO).

43. The Attorney General held monthly formal meetings with the Departmental Solicitor, Mr Hugh Widdis, and the Crown Solicitor, Mrs Jennifer Bell.
44. The Solicitor to the Attorney General, who handles all litigation and court work on behalf of the Attorney General also has formal meetings with his counterparts in DSO and CSO to review current litigation and trends together with other matters of mutual interest.
45. The Solicitor to the Attorney General also participated in meetings of the Northern Ireland Civil Service Legal Profession Steering Group, on behalf of the Attorney in an observer capacity, to discuss staffing and other matters of mutual interest to government legal offices.
46. The Attorney is grateful to the Departmental Solicitor and the Crown Solicitor for facilitating mutually beneficial working relationships. Early engagement on advisory, litigation and legislative matters is fundamental to supporting good government and in maximising efficiency in legal proceedings. The Attorney is appreciative of the continuing support afforded by the Departmental Solicitor and the Crown Solicitor in helping to achieve this.

### **Public Prosecution Service**

47. It is the Attorney General's statutory responsibility under section 30 of the Justice (Northern Ireland) Act 2002 to appoint the Director and Deputy Director of Public Prosecutions when such appointments are required. The Attorney General's other main responsibilities in relation to the Public Prosecution Service ("PPS") are as a statutory consultee of the Director of Public Prosecutions on his annual report (and arranging for publication of that report) and on any amendments to the Code for Prosecutors. The Attorney reviewed and arranged for the publication of the Director's annual report. The Attorney liaises with the Director as required.

48. Section 42(3) of the Justice (Northern Ireland) Act 2002 sets out that 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 the paragraph above, there are no matters relating to the PPS for which the Attorney General is accountable to the Assembly.
49. It is worth emphasising that the Attorney General does not have responsibility for referring unduly lenient sentences to the Court of Appeal, though the Attorney occasionally receives correspondence on this. The power to refer an unduly lenient sentence to the Court of Appeal rests with the Director of Public Prosecutions.

#### **Office of the Legislative Counsel**

50. A dynamic working relationship between the Attorney General and the Office of the Legislative Counsel (OLC) facilitates rigorous and timely scrutiny of Assembly Bills. Although only one Bill was passed during the period of this report, the Attorney worked with the acting First Legislative Counsel, Mr Alex Gordon, on preparation for the return of the legislature while senior AGNI legal staff attended the Legislation Programme Board.

#### **Criminal Justice Inspectorate for Northern Ireland**

51. In accordance with section 47 of the Justice (Northern Ireland) Act 2002, the Chief Inspector of Criminal Justice in Northern Ireland must consult the Attorney General about her programme of inspections of the following organisations:
- The Police Service of Northern Ireland;
  - Forensic Science Northern Ireland;
  - The State Pathologist's Department;
  - The Public Prosecution Service for Northern Ireland;

- The Probation Board for Northern Ireland;
- The Parole Commissioners for Northern Ireland;
- The Northern Ireland Prison Service;
- The Youth Justice Agency;
- The Northern Ireland Courts and Tribunal Service;
- The Office of the Police Ombudsman for Northern Ireland;
- The Legal Services Agency Northern Ireland;
- The Health and Social Care Boards and Trusts;
- The Department of Agriculture, the Environment and Rural Affairs;
- The Department for the Economy;
- The Department for Communities (Benefit and Fraud);
- The Department for Communities (Child Maintenance and Enforcement Division);
- The Health and Safety Executive for Northern Ireland;
- The Royal Mail Group;
- Belfast International Airport Limited;
- Belfast Harbour Commissioners;
- Larne Harbour Limited;
- Community-based restorative justice schemes; and
- Probation and Bail hostels (Approved premises).

52. The Attorney General met with the Chief Inspector of Criminal Justice to discuss and provide input to her programme of work.

### **Judicial Liaison**

53. During the period covered by this report the Attorney General met with members of the judiciary to discuss issues of mutual interest. The Attorney met on several occasions with the Lady Chief Justice, Dame Siobhan Keegan. The Attorney is an ex officio member of the Council of Law Reporting for Northern Ireland and attended meetings on a quarterly basis.

54. A senior lawyer attended meetings of the Mental Capacity Act (NI) 2016 Judicial Liaison Group.

### **Miscellaneous**

55. The Office of the Attorney General provided responses to 17 Freedom of Information requests.

### **External Engagements**

56. The Attorney spoke and attended in an official capacity at a number of engagements during the period covered by this report:

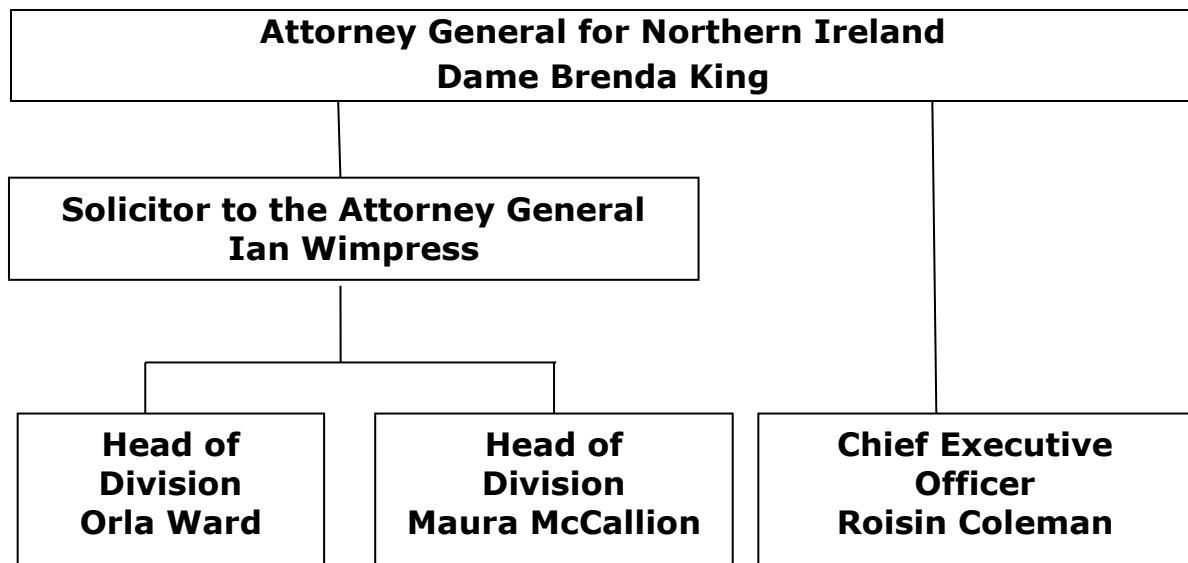
- Delivered a leadership talk to senior civil servants
- Good Friday Agreement 25<sup>th</sup> anniversary event hosted by the Speaker of the Northern Ireland Assembly
- Queens University Event to mark the 25<sup>th</sup> Anniversary of the Good Friday Agreement
- Launch of the NI Committee of Irish Centre for European Law
- Delivered a speech at the Commonwealth Association of Legislative Counsel (Cardiff)
- Gave a talk to students from Fordham University, USA, on the constitutional arrangements in Northern Ireland
- Delivered a keynote speech to celebrate the 80<sup>th</sup> anniversary of the Belfast Solicitors Association
- Engagement with Northern Ireland Public Service Ombudsman to discuss the role of the Attorney General in rule of law matters
- Attended the British Irish Association Conference at Oxford University
- Attended the Hale Lecture at Trinity College, Dublin
- Visited the Phoenix Education Centre
- Met with the President of the Supreme Court, Lord Reed

- Participated in the Government Legal Services for Northern Ireland Annual Conference
- Delivered a Masterclass on Public Policy to University of Ulster students
- Met with Belfast City Council to discuss the provision of an overdose prevention facility in Belfast
- Delivered a talk to Canadian Parliamentary Interns
- Attended the Charity Commission for Northern Ireland Annual Meeting
- Attended an event with the Irish Joint Secretary Laurence Simms and Emma Madigan to celebrate the strength, diversity & creativity of women
- Delivered a talk to schools on constitutional law for the Northern Ireland Assembly Education Service
- Attended a Women's Aid (NI) Domestic Violence Awareness Session
- Attended the 25<sup>th</sup> Anniversary Celebration of the Northern Ireland Human Rights Commission
- Participated in a panel discussion panel for International Women's Day
- Participated as a Mentor in the Law Society of Northern Ireland's Mentoring Programme

### **Staff**

57. Subject to the approval of the First Minister and deputy First Minister as to numbers, salary and other conditions of service, the Attorney General may appoint staff to the Office of the Attorney General. As of 1 April 2024, the Attorney General was supported by 3.8 full time equivalent lawyers (one of whom is deployed exclusively on deprivation of liberty cases); two trainee solicitors; four paralegals (who deal exclusively with deprivation of liberty cases); and 4.4 Administrative Staff.

## Senior Organisational Structure



## Corporate Services

58. Under section 22(3) of the Justice (Northern Ireland) Act 2002 the office of the Attorney General is to be funded by the First Minister and deputy First Minister acting jointly.
59. The financial expenditure of the Office of the Attorney General is included in the Annual Report and Accounts of The Executive Office.
60. In 2023/24 the Office of the Attorney General had a resource budget of £1.556m. The year-end financial spend was £1.479m. The majority of expenditure relates to salaries and accommodation.
61. Robust systems and processes are in place to ensure effective corporate governance in line with Northern Ireland Civil Service procedures and are overseen by the Interim Chief Executive.
62. The Office website [www.attorneygeneralni.gov.uk](http://www.attorneygeneralni.gov.uk) outlines the work and responsibilities of the Attorney.



**DUTIES AND RESPONSIBILITIES OF THE  
ATTORNEY GENERAL FOR NORTHERN IRELAND**

**Introduction**

1. The Justice (Northern Ireland) Act 2002 establishes the Attorney General for Northern Ireland as a statutory office-holder. With the devolution of justice responsibilities on 12 April 2010, the provisions establishing a new post of Attorney General for Northern Ireland were brought into force. Section 22(5) of the 2002 Act provides that the functions of the Attorney General shall be exercised by the Attorney independently of any other person.
  
2. The duties and responsibilities of the Attorney General may be classified as follows:
  - (a) principal duties;
  - (b) other statutory duties and responsibilities;
  - (c) other constitutional or common law duties.
  
3. Some functions can be traced back to both statute and the common law while the other duties fulfil the constitutional principles that inform both the statutory and common-law responsibilities of the office.

**Principal duties**

*Chief legal adviser to the Executive*

4. The Attorney General provides advice on the most important and complex legal matters facing the Executive and Ministers.

### *Engagement with the Executive*

5. The Attorney General may attend Executive meetings and pre-meetings. All draft Executive papers are copied to the Attorney General at the same time as they are circulated by the originating Minister to other Ministers for comment, to assist the Attorney General in identifying legal issues.

### *Scrutiny of legislation and devolution issues*

6. Section 11 of the Northern Ireland Act 1998 provides that the Attorney General may refer the question of whether a provision of a Bill would be within the legislative competence of the Northern Ireland Assembly to the Supreme Court for decision.
7. The Northern Ireland Act 1998 defines devolution issues, which relate to whether the Assembly is acting within its legislative competence and whether Ministers and Northern Ireland departments are acting compatibly with Convention Rights. The 1998 Act outlines the powers of the Attorney General to institute proceedings for the determination of a devolution issue.

### *Devolution Notices*

8. 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. To this end, in appropriate cases, the Attorney General may enter an appearance in the proceedings and make written and / or oral submissions to the court.

### *Incompatibility Notices*

9. The Attorney General for Northern Ireland is also served with notices of incompatibility under the Human Rights Act 1998 in proceedings where a declaration of incompatibility

is sought in respect of primary legislation or where the compatibility of subordinate legislation is being considered by the court. Again, the Attorney General may participate in the proceedings, if appropriate, and make written and / or oral submissions, as necessary.

#### *Litigation on behalf of The Executive*

10. In matters of litigation in which the Attorney General has provided advice, the Attorney General may act on behalf of the Executive.

#### *Guardian of the rule of law*

11. The Attorney General has an overarching duty to support and maintain the rule of law.

#### **Statutory duties and responsibilities**

##### *Independence*

12. The Attorney General is statutorily independent of the First Minister and deputy First Minister, the Northern Ireland Executive, and the Northern Ireland Departments. The Justice (Northern Ireland) Act 2002 requires that the Attorney's functions be exercised independently of any other person.

##### *Charities*

13. The Attorney General has a number of functions under the Charities Act (Northern Ireland) 2008 (the 2008 Act). The Attorney General also retains some functions under the earlier Charities Act (Northern Ireland) 1964 such as consent to the disposition of misdescribed charitable beneficiaries in wills.
14. Under the 2008 Act the Attorney General may intervene in Charity Tribunal proceedings the proceedings and has a right to appeal its decisions. The Attorney General may also

refer a question which involves either the operation of charity law or the application of charity law to a particular state of affairs to the Charity Tribunal.

15. The 2008 Act also requires the Attorney General to supervise the Charity Commission in the exercise of its power to authorise ex gratia payments.

#### *Mental Health*

16. The Mental Health (Northern Ireland) Order 1986 provides that the Attorney General may refer the case of any patient who is liable to be detained under Part II of the Order to the Review Tribunal.

#### *Mental Capacity*

17. The Mental Capacity Act (Northern Ireland) 2016 (the 2016 Act) imposes a number of duties on the Attorney General. Provisions relating to deprivation of liberty were commenced in December 2019.
18. The 2016 Act provides that the Attorney General may ask the Review Tribunal to consider whether any authorisation for detention or treatment under Schedule 1 (authorisation by panel of certain serious interventions) or Schedule 2 (authorisation of short-term detention in hospital for examination etc.) is appropriate.
19. The 2016 Act provides that the Attorney General must be notified where a number of events occur. These concern persons being detained where it appears that the person lacks or probably lacks capacity in relation to whether an application to the Tribunal should be made.

#### *Directing inquests*

20. Section 14(1) of the Coroners Act (Northern Ireland) 1959 provides that where the Attorney General has reason to believe that a deceased person has died in

circumstances which in the Attorney's opinion make the holding of an inquest advisable the Attorney General may direct any coroner to conduct an inquest into the death of that person, and that coroner shall proceed to conduct an inquest in accordance with the provisions of the 1959 Act.

#### *Guidance for criminal justice organisations on human rights standards*

21. The Justice (Northern Ireland) Act 2004 requires the Attorney General to issue guidance to criminal justice organisations on the exercise of their functions in a manner consistent with international human rights standards. The Attorney General may by order amend the list of organisations that are subject to the section 8 guidance.

#### *Contempt of Court*

22. The Attorney General may bring contempt proceedings in respect of actions which may interfere with the administration of justice usually in the context of civil or criminal proceedings. The Attorney General may also issue an advisory notice to the media and the public if there is a concern about an individual case, to flag up that particular care should be taken when reporting or discussing an issue relating to that case. There are special rules in relation to publications which may breach the contempt laws and the Contempt of Court Act 1981 provides a central role for the Attorney General in consenting to the instituting of proceedings for contempt of court under the strict liability rule.

#### *Restriction on vexatious litigants*

23. In accordance with 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 that person from bringing further proceedings without the leave of the High Court.

### *Declaration of parentage*

24. The Attorney General must be placed on notice of every application to the court seeking a declaration of parentage and may intervene in proceedings to argue before the court any question relating to the proceedings.

### *Missing persons presumed to be dead*

25. Section 9 of the Presumption of Death Act (Northern Ireland) 2009 provides that rules of court must require the Attorney General to 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 as the Attorney thinks necessary or expedient.

### *Declarations as to marital status*

26. The Matrimonial and Family Proceedings (Northern Ireland) Order 1989 provides that in applications for declarations as to marital status, the court may send papers in the matter to the Attorney General or, regardless of whether the court has sent papers, the Attorney General may intervene in the proceedings.

### *Divorce, dissolution and nullity*

27. The Matrimonial Causes (Northern Ireland) Order 1978 provides that the Attorney General may intervene in the case of a petition for divorce where either the court hearing the petition or any other person has provided material to the Attorney General which the Attorney General believes makes an intervention by the Attorney General appropriate.
28. The Civil Partnership Act 2004 provides that if an application has been made for a dissolution order or nullity order the court may, if it thinks fit, direct that all necessary papers in the matter are to be sent to the Crown Solicitor who must under the directions

of the Attorney General instruct counsel to argue before the court any question in relation to the matter which the court considers it necessary or expedient to have fully argued.

#### *Conduct of Councillors*

29. The Local Government Act (Northern Ireland) 1972 provides the Attorney General with a power to apply to the High Court in relation to the recovery of wrongful gains and remedies against councillor guilty of reprehensible conduct.

#### *Systemic maladministration or injustice*

30. Under section 54 of the Public Services Ombudsman Act (Northern Ireland) 2016 where the Ombudsman makes a finding of systemic maladministration or injustice and that this is likely to continue unless the High Court grants relief, the Attorney General may apply to the High Court for relief under section 55.

#### *The Director of Public Prosecutions for Northern Ireland and the Public Prosecution Service*

31. Under section 30 of the Justice (Northern Ireland) Act 2002, the Attorney General is required to appoint the Director and Deputy Director of Public Prosecutions for Northern Ireland (and to convene a tribunal for dismissal if necessary) when such appointments are required. The Attorney is a statutory consultee of the Director of Public Prosecutions on his annual report (and arranging for publication of that report) and on any amendments to the Code for Prosecutors.

#### *Consultative function with the Inspector of Criminal Justice*

32. The Chief Inspector of Criminal Justice must consult with the Attorney General in preparing a programme of Criminal Justice inspections.

*Consultative function on the appointment of Crown Solicitor for Northern Ireland*

33. The Advocate General for Northern Ireland must consult the Attorney General before appointing the Crown Solicitor for Northern Ireland.

*Consultative function relating to the Northern Ireland Law Commission*

34. The Minister responsible must consult with the Attorney General before appointing a person to the Northern Ireland Law Commission and before approving any programme of work prepared by the Commission.

*Reporting requirements*

35. The Attorney General, as soon as possible after the end of each financial year, must prepare a report on how the Attorney General has exercised their functions during the financial year.

**Constitutional or common law duties**

*Public interest litigation*

36. In the Attorney General's capacity as guardian of the public interest, the Attorney General may institute court proceedings or intervene in proceedings to protect a public right that is infringed or threatened.

*Appointment of amicus curiae and special counsel*

37. The Attorney General may appoint an amicus curiae to assist a court on matters of law. 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 setting out the law impartially or by advancing relevant legal arguments.



38. The Attorney General may appoint special counsel to represent the interests of an accused from whom certain information is being withheld on public interest grounds. Special counsel test the objections of the prosecution to the disclosure of information and represent the interests of the accused person in any closed hearing or proceedings.

*Relator actions*

39. 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, that member of the public can ask the Attorney General to allow legal proceedings to be brought to assert that public right.