

# Attorney General's Chambers



## Annual Operating Report for the year ended 31st March 2018

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# Introduction

This Report provides a summary of the work undertaken by my Chambers (“AGC”) during the year to 31st March 2018 which has again been a very busy and demanding year for all our staff and I thank them all sincerely for their continuing hard work and dedication.

Details of all activities in each of our Divisions are given in the body of this Report.

Despite the challenges of meeting the ever increasing scope of our work, my focus and that of my team has remained the same and that is to play our role in assisting with achieving the Isle of Man Programme for Government adopted and approved by Tynwald.

It is hoped that this Report will be informative and of value to both our Stakeholders and the public to enable all to better appreciate the nature and value of the work which we continue to do.

We remain committed to help ensure the Island remains a special place to both work and live by being an inclusive and caring society; an Island of enterprise and opportunity and with a financially responsible Government.

Along with H.M. Solicitor General (“HMSG”), I continue to look at opportunities to enhance the shared legal services which we provide in support of Government and in meeting its Agenda and objectives. The year to date has seen continuing emphasis upon the Island’s determination to meet its obligations in the fight against economic crime and money laundering which have presented significant resourcing issues in AGC. My Legal Officers have participated in presenting the Island’s case to various international organisations involving the Council of Europe/Moneyval and the United Nations. The International Cooperation and Asset Recovery Team within Chambers has enjoyed a busy and successful period and it is planned to supplement its professional staff. Similarly, I have seconded an experienced financial crime prosecutor to the Economic Crime Unit as a dedicated advice resource in relation to the investigation of financial crime.

Across Government the uncertainties relating to Brexit and the work in “preparing” for the outcomes have during this year involved Chambers dedicating significant resources (not least within AGC’s Legislative Drafting Division) to the project. The work in this regard will inevitably increase and intensify as we approach March 2019. Our challenge, which we will meet, is to continue to maintain our legal services across all our Divisions, notwithstanding Brexit.

**John L.M. Quinn QC MLC**  
**Her Majesty’s Attorney General**

# Progress Against The Business Plan

## Priority Strategic Aims

The following table provides an update against our published Business Plan. The Plan was revised in August 2017 and continues to form the basis for prioritisation of AGC work.

<b>Priority Strategic Aim 1</b>			
<b>Keeping Our Community Safe From Serious Crime And Financially Motivated Crime</b>			
Objective	Division	Progress	Comment
1.1 - Provide timely and effective international co-operation.	Prosecutions	Achieved	All International Letters of Request are responded to in a timely fashion. There were 42 requests received last year.
1.2 - Assist local and international law enforcement agencies by enforcing forfeiture and asset recovery in the Isle of Man on their behalf and where appropriate, make requests of other countries to support domestic investigations in suspected criminal cases.	Prosecutions	Ongoing	International Cooperation and Asset Recovery Team ("ICART") was established to process incoming and outgoing requests for mutual legal assistance in criminal cases. 16 requests were made to other jurisdictions.
1.3 - Pursue, through all available statutory powers including civil procedures, the assets of all who profit from crime wherever committed, when it is proper to do so.	Prosecutions	Achieved	ICART adopt a zero-tolerance approach to identify and seize the proceeds of crime at the earliest stage by utilising the provisions of the Proceeds of Crime Act 2008 and similar legislation.
1.4 - Support the Financial Intelligence Unit ("FIU") to ensure it is appropriately resourced and supervised to deliver its strategic and operational objectives in the fight against financially motivated crime.	Crown	Achieved	HMAG has chaired the FIU Board which provides strategic oversight for the FIU. The Crown Officers and team members continue to support the FIU by providing the secretariat and governance for the Board.
1.5 - Develop a criminal justice policy for money laundering investigation and prosecution.	Prosecutions	Achieved	The Prosecutions Policy for prosecuting financial crime is published on the AG's website.
1.6 - Ensure that wherever appropriate offences of money laundering are put before the courts.	Prosecutions	Ongoing	The Policy & Guidance for sanctions for money laundering is also published on the website.

1.7 - Prioritise identification, restraint and recovery of assets resulting from serious and organised crime, with a particular focus on economic crime both in the Isle of Man and overseas.	Prosecutions	Ongoing	In conjunction with the FIU, Isle of Man Constabulary and other agencies in the Island and elsewhere using sharing protocols to pursue through all available statutory powers, investigative and legal measures to deter and disrupt economic crime and seize assets of all who profit from crime wherever committed.
1.8 - Improve the enforcement of domestic and international confiscation orders.	Prosecutions	Ongoing	ICART Legal Officers allocated to manage and process all domestic and international confiscation orders to meet external international standards in anti-money laundering and combatting the financing of terrorism.
1.9 - Establish an approach for dealing with the management of seized assets other than money, including the instrumentalities of crime.	Prosecutions	Achieved	ICART was established in December 2016 to deal with retention and disposal of assets including management of restraint order variation requests.
1.10 Undertake a review and issue guidelines on the principle of proportionality.	Prosecutions	Achieved	Guidelines on the Principles of Proportionality developed during the period were issued on 17 <sup>th</sup> May 2018 and are published on the AGC website.

**Priority Strategic Aim 2**

**Providing Support To Our Stakeholders In Delivering Their Objectives**

Objective	Division	Progress	Comment
2.1 – Ensure that the Government Legislative Programme is progressed in a timely and effective manner through effective liaison with instructing Departments and Boards.	Drafting	Ongoing	In addition to liaising with Departments and Boards, HMAG and the Chief Legislative Drafter both attend the regular meetings of the Council of Ministers' Legislation sub-committee, which controls the throughput of legislation in accordance with the Government's published legislative programme.

2.2 - Give priority to advisory and other work that supports the Programme for Government or other subsequent priorities identified by the Government.	Civil	Ongoing	The Civil Division receives requests for advice and assistance from all parts of Government. The Division endeavours to respond to all requests without delay but at times of high demand, the requests are prioritised based upon the priorities identified in the Programme for Government.
2.3 - Work with the Cabinet Office to support the introduction of legislation to meet the equivalency requirements of the EU General Data protection regulation by May 2018.	Civil	Ongoing	An experienced lawyer from the Civil Division is seconded to the project for the delivery of a GDPR solution. Tynwald now having introduced legislation in line with the EU deadline, she continues to work collaboratively with the legislative drafter from within Chambers, a Director from Cabinet Office and representatives from the Office of Cyber Security and Information Assurance ("OCSIA").
2.4 - Work with the Cabinet Office to support the continuing preparations for Brexit and provide or secure appropriate legal advice and representation as required.	Drafting	Ongoing	The European Union (Withdrawal) Bill is due to be introduced into the House of Keys in October 2018. The Drafting Division is also supporting the Cabinet Office in relation to queries arising in connection with the proposed operation of the Bill.
2.5 - Roll out the new Procurement Policy.	Civil	Achieved	The Commercial Team was involved with Treasury in the drafting and implementation of the new procurement policy. The Commercial Team was also involved in briefings to Treasury and to Chief Officers prior to its introduction and to Finance Officers following its introduction. As part of the roll out following the introduction of the policy the Commercial Team provided training to 220 officers across Government in relation to

			procurement generally, the changes introduced by the policy and an overview of the Procurement portal and provided more specialist portal training to a 88 officers so as to enable them to gain proficiency in the use of the portal.
<b>Priority Strategic Aim 3 Implementing The Criminal Justice Strategy</b>			
Objective	Division	Progress	Comment
3.1 - Put victims at the centre of our considerations and aim to ensure they are fully informed on case progress and made aware of the procedure and of likely outcomes.	Prosecutions	Ongoing	In line with our Sexual Offences Protocol and Domestic Abuse Protocol, victims are always spoken to and kept updated.
3.2 - Work constructively to ensure that the time taken from charge to case disposal is reduced and that trials are more effective (and the number of 'cracked' trials is reduced) in order to reduce the impact on victims and to reduce costs.	Prosecutions	Ongoing	Time limits are complied with through the procedure to ensure that delays are minimized. Files are all detailed on a centralized spreadsheet and are reviewed on a regular basis to ensure compliance.
3.3 - Support initiatives to reduce reoffending and ensure that we fully support our partners within the Criminal Justice System ("CJS") with an effective prosecution function.	Prosecutions	Ongoing	The Diversion Procedure to take individuals out of the CJS, as promoted by the Constabulary, is supported by the prosecution. There are regular meetings between the Prosecution Division and the Constabulary to consider the Diversion Procedure and how best it can be implemented.
3.4 - Continue to work constructively with our partners to deliver the reform needed to move to a digital system of case management and digital Courts.	Prosecutions	Ongoing	We are working with our partners on a weekly basis so as to deliver the digital strategy of the Criminal Justice Board and Government.

3.5 - Support our partners in delivering services for families and children, which ensures the safety and wellbeing of the child is of paramount importance.	Civil	Ongoing	The Advisory and Community Law Team continue to work closely with the Children and Families Division of the Department of Health and Social Care in the making of public law applications in connection with children. In order to better provide support the Team has taken steps to re-structure its provision to provide better capacity and cover, this has enabled them to address the changes in court practices that have been introduced.
3.6 - Work with the Legal Aid Committee on proposals to develop a more efficient effective and equitable legal aid provision for the future	Crown	Ongoing	The Director of Civil Law will supervise a senior policy resource, who has been transferred to AGC to commence this project with effect from September 2018. The majority of the work for this project will be carried out in the forthcoming year.
3.7 - Manage the Seized Assets Fund ("SAF") to ensure that the proceeds of crime are used appropriately in line with the Fund's agreed objectives.	Crown	Achieved	The SAF's original objectives were replaced with a statutory model of governance and allocation on 1/11/2017. The new model is overseen by the FIU Board and is managed by AGC.
<b>Priority Strategic Aim 4</b>			
<b>Improving Our Culture And Managing Ourselves More Efficiently</b>			
Objective	Division	Progress	Comment
4.1 - Continue to improve our management information and develop our performance framework to ensure that our service provides value for money.	All Divisions	Ongoing	Work has continued to improve our management structure, time recording and availability of management information.
4.2 - Establish and use a clear and transparent framework for career progression and job evaluation for legal roles so that the levels of contribution required are clear.	Crown	Achieved	A new framework was consulted upon and is now used to supplement the grading criteria for all reviews which pertain to legal roles.



4.3 - Ensure that our practice management system is further developed and tailored to support more effective and efficient working.	Crown	Ongoing	Further training has been undertaken to enable the Crown IT and Finance Manager to design bespoke screens and further develop business reporting.
4.4 - Improve our change management process and our internal communication to ensure our employees are engaged and well informed.	All Divisions	Ongoing	Work completed this year included encouraging more regular team briefings, a new series of practice directions and better systems for managing the communication of change.
4.5 - With the aim of further raising standards, undertake a review of the availability and suitability of external legal accreditation systems for our practice.	All Divisions	Ongoing	This is a longer term aim which will be reviewed in the coming year as resources permit. A programme of professional development has now been established to support future accreditation.
<b>Priority Strategic Aim 5</b>			
<b>Improving The Quality Of Advice, Trust In Our Service And Our Reputation</b>			
Objective	Division	Progress	Comment
5.1 - Ensure work is undertaken at the right experience level to ensure quality and to re-build a high level of trust in our services.	All Divisions	Ongoing	All Directors are now responsible to ensure that work is undertaken at the correct level and supervised appropriately.
5.2 - Develop our people to ensure that we have adequate skilled cover and a good system of succession planning in place.	All Divisions	Ongoing	Managers are now expected to ensure a wider spread of skills to ensure business continuity. All staff have been asked to develop a personalised development plan.
5.3 - Improve ongoing training and development to ensure it meets the needs of our people and is informed by likely future demands on our services.	All Divisions	Ongoing	Directors actively monitor the future demands through liaison with client departments.
5.4 - Provide an annual report on performance and publish the document.	Crown	Achieved	As evidenced by this document.

**Aim 6**  
**Improving Our Relationship With Our Clients &**  
**Building Our Relationships Within The Community**

Objective	Division	Progress	Comment
6.1 - In consultation with law enforcement agencies, develop, review and publish prosecution policies so that people are made aware of the manner in which criminal offences on the Island will be dealt with and how we will try to bring about attitudinal change.	Prosecutions	Ongoing	All Policies, Procedures and Protocols are signed-off by HMAG and are published on the Chambers website which become published documents. 9 such documents are now available online (click <a href="#">here</a> for link to website).
6.2 - Improve the information available to our stakeholders about Chambers services.	Drafting	Ongoing	The Drafting Division provides regular training courses through LEaD in relation to instructing the drafter and drafting secondary legislation. The Division publishes on the intranet the progress of Bills to Royal Assent and other miscellaneous publications. The Division also updates the Chambers' webpages on the Government website.
6.3 - Ensure that we deliver what is required under the statutory responsibilities of HMAG.	All Divisions	Ongoing	<p>All Divisions have identified HMAG's statutory responsibilities and continue to provide delivery of those functions. The focus and challenges this year have been to:-</p> <ol style="list-style-type: none"> <li>1. Implement the actions required as a result of the review of the Island's effectiveness in preventing and dealing with financial crime and terrorist financing.</li> <li>2. Absorb the growth and complexity of dealing with the financial affairs of persons who lack capacity;</li> </ol>

			<p>3. Supporting HMAG in his role as Chair of the Board of the Financial Intelligence Unit and its oversight of the Seized Asset Fund;</p> <p>4. Continuing to improve the accessibility of legislation through improving the Statues website.</p>
6.4 - Ensure the resilience of the legislation website and increase the amount of information publically accessible in respect of the legislation of the Isle of Man.	Drafting	Ongoing	The Drafting Division has made various improvements on its Legislation Website including uploading Appointed Day Orders and re-structuring the layout. The Division also publishes a legislation newsletter (which is to be the forerunner of a formal Gazette). The Division is planning to publish and maintain a list of UK Orders in Council which are relevant to the Isle of Man. The longer term plan is to publish consolidated secondary legislation on the website.
6.5 - Maintain a responsive complaints handling process.	Crown	Ongoing	All complaints are managed by the Complaints Officer and reviewed or investigated by an appropriate officer.
<b>Priority Strategic Aim 7</b>			
<b>Supporting Government's Policy of Reform</b>			
Objective	Division	Progress	Comment
7.1 - Continue to identify ways to reduce expenditure by government departments, boards and offices on external legal advice and representation.	Crown	Ongoing	HMAG has worked with Government to identify areas where savings can be made on the costs of engaging external legal advisers. In particular research was undertaken in the year 2017/18 to establish whether it would be more cost effective to provide legal advice and assistance in relation to clinical negligence which led to a business case and following that to a recruitment

			process. Further similar opportunities will be considered.
7.2 - Continue to develop a commercial service offering legal commercial and procurement advice.	Civil	Ongoing	The development of the Commercial Team continues. The introduction of the procurement policy part way through the year has changed the way in which the procurement function is provided and it is anticipated that this will enable the Commercial Team to offer Government greater assistance in the provision of commercial advice and advice in relation to on-going contract management.
7.3 Improve our Public Records management by increasing our use of digital working to reduce our storage requirements	Crown	Ongoing	Work was started during the year to revise our records retention schedule and once finalized it will permit us to reduce our storage requirements in our archive. All case management and the majority of public records are now retained electronically.
7.4 - Work with Treasury to support improvements to debt management procedures.	Civil	Ongoing	The requirement for legal assistance in recovering debt due to Government is increasing. The Litigation Team has had a series of meetings with Treasury with a view to further developing Government policy in relation to the recovery of debt.
7.5 - Ensure that the Government's procurement policy is implemented to increase local spend where possible.	Civil	Achieved	The Commercial Team was involved with Treasury in drafting the new Procurement Policy (now implemented). The Procurement Policy includes a requirement that Government Departments, Statutory Boards and Offices should consider the local economic benefit offered by a procurement at the time that a procurement is considered.

7.6 - To update immigration advice and legislation.	Drafting	Ongoing	The Drafting Division provides a Legal Officer to provide advice to the Cabinet Office on immigration law and to assist with the development and drafting of immigration legislation, regulations, orders and other subordinate legislation required to bring the Isle of Man up to date and, thereafter, kept in line with the UK (or as otherwise determined by the Council of Ministers). Additionally, that officer is also required to assist with the immigration legal implications of Brexit.
7.7 - Work on a charities project to update charities legislation for the Island.	Civil	Ongoing	A new Charities Bill has been drafted and will be consulted on during August/September 2018, aiming to be introduced in the year 2018/19.

# Crown Division

The Crown Officers have a broad range of statutory and non-statutory duties and when necessary HMSG is available to step in to HMAG's position to provide cover. In practice, the Crown Officers have separate legal duties but ensure that they are both aware of major developments in order to provide effective cover for their busy roles. The following table provides statistics in relation to HMAG's formal committee attendance and roles during the year.

<u>Meeting</u>	<u>Role</u>	<u>Frequency</u>	<u>Attendance</u>
Tynwald	Non-voting Member	Monthly (Oct to Jul)	10
Legislative Council	Non-voting Member	Weekly (Oct to Jul)	19
Council of Ministers When HMAG cannot attend, HMSG or another AGC legally qualified person attends in his place.	Legal Adviser	Weekly	42
European Union Advisory Group	Committee Member	As called	8
Financial Crime Strategic Board	Committee Member	As Called	7
Financial Intelligence Unit Board	Chair	As Called	6
International Relations Coordinating Group	Committee Member	As Called	11
National Strategy Group	Legal Adviser	As Called	14
Banking Reform Working Group	Legal Adviser	As Called	2
CoMin Legislation Sub Committee	Legal Adviser	As Called	5
EU Listing Group	Committee Member	As Called	6
Financial Crime Prosecutions Forum	Chair	As Called	2

In respect of routine duties, HMAG continues to provide advice to His Excellency the Lieutenant Governor as required. HMAG also attends to his Parliamentary duties which are made up of the regular weekly meeting of Legislative Council and the monthly sittings of Tynwald during the Parliamentary Year. HMAG attends routine weekly and any extraordinary meetings of the Council of Ministers as its primary source of legal advice. HMAG's work with Council of Ministers and its sub-committees includes supporting the Government's delivery of the Legislative Programme, National Strategy, International Relations, Banking Reform and most recently Brexit. HMAG also provides legal superintendence to his Directors and Legal Officers in relation to the delivery of his many statutory functions, such as Charities oversight and Receiverships under the Mental Health legislation. HMAG is Chairman of the Financial Intelligence Board, which Board provides statutory oversight of the Financial Intelligence Unit.

HMSG provides oversight and strategic level support for the Government's International Engagement Programme, including attendance at Moneyval plenary and other meetings, and ensuring work is undertaken which is aligned to the Financial Action Task Force standards, OECD Global standards and other entities. HMAG provides legal supervision to the International Cooperation work within AGC and has personally supported the Financial Services Authority ("FSA") with several enforcement actions.

The Crown Officers meet the AGC Senior Leadership Team ("SLT") weekly. The SLT is made up of the Chief Operating Officer ("COO"), the Director of Civil Law, the Director of Prosecutions and the Chief Legislative Drafter.

The Crown Officers and SLT are supported by a Personal Assistant ("PA"), who acts as Secretary to the SLT's formal management meetings and who also acts as Secretary to the Board of the FIU. Their PA also supports their other committee work, attends to their public record management responsibilities, co-ordinates diaries and deals with correspondence.

The Crown Officers are further supported by the COO in the management of HMAG's private office functions and all aspects of practice compliance and development, including acting as Data Protection Officer ("DPO"), contributing to wider reforms and strategic planning, and oversight of the design and implementation of improvement projects and the delivery of operational services as required by HMAG.

# Civil Division

The Civil Division comprises three teams:

- Commercial and Property
- Civil Litigation
- Advisory & Community Law

The core objective of the Civil Division is to meet HMAG's advisory and statutory obligations as follows:

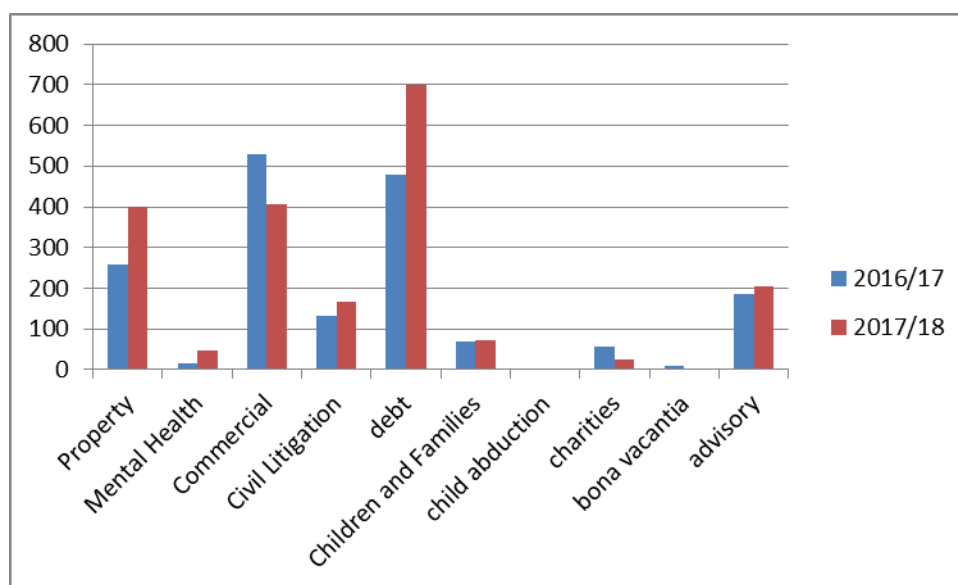
1. To provide advice and assistance to all Departments, Statutory Boards and Offices of Government on all matters of civil law.
2. To bring and defend proceedings in the Civil courts for an on behalf of all Departments, Statutory Boards and Offices of Government.
3. To provide a centralised procurement and commercial resource to provide assistance to all Departments, certain Statutory Boards and Offices of Government when procuring goods and services.
4. To undertake all legal work in connection with the buying, selling and leasing of property and the re-development of land owned by Departments, Statutory Boards or Offices of Government or to be purchased by a Department, Statutory Board or Office of Government.
5. To undertake the statutory functions of HMAG in relation to:-
  - (a) Charities;
  - (b) Persons unable to manage their financial affairs due to a lack of capacity; and
  - (c) International child abduction.
6. To provide training to all parts of Government as required in relation to all areas of civil law.

## New Matters Opened For The Division

The number of new case referrals is not an accurate measure of the amount of work undertaken within the Division. The Division has a policy whereby a new file is only opened if no prior record exists and if the amount of work anticipated exceeds 1 hour. The number of new matters opened also does not reflect the amount of work undertaken on each file, which could range from a few hours to many hundreds of hours. Notwithstanding this, the numbers of files opened are useful indicators of the volume of work undertaken by the Division and can illustrate trends when compared to previous years.



The following chart compares the number of new matters opened in the year 2016/17 to those opened in the year 2017/18:



Looking at each of these headings in turn:

## Property

The figures show that there has been a 55% increase in the number of property matters opened in the year 2017/18 (399 in 2017/18 compared to 257 in 2016/17). This is a larger than expected increase in numbers but is reflective of the number of queries and transactions that are dealt with annually.

## Mental Health Matters

HMAG has a statutory duty to attend to the financial affairs of persons who lack capacity where there is no family member willing or able to undertake this role and where there are insufficient monies to permit the engagement of a third party professional to undertake this role.

As anticipated in last year's Operational Report the number of new matters in this area has increased significantly (from 16 in the year 2016/17 to 32 in the year 2017/18 which equates to a 100% increase). This reflects the change in the age demographic on the Island and the changing extent to which families now live separate from each other. Not only have the figures in this area risen considerably, the complexity of the work has also increased. Whereas previously the majority of persons for whom HMAG acted lived in residential or nursing homes many more now reside in their own homes meaning that the conduct of their financial affairs requires much greater involvement.

## Commercial

The Commercial Team deals with all commercial matters on behalf of Government to include the centralised procurement function. The Treasury issued a new Procurement Policy part way through the 2017/18 year which not only changed the way in which procurement is addressed within Chambers but also attracted significant commitment on the part of the Commercial team in providing training to officers of Government as to the changes that the policy introduced. In addition to their normal workload the team undertook the training of 308 officers across Government giving them an overview of procurement generally, the changes introduced by the procurement policy and the functionality of the new procurement portal. The numbers of new files in this area has decreased slightly (from 529 in 2016/17 to 407 in 2017/18) but this can be accounted for by the time taken for Government to adjust to the introduction of the new policy. The Commercial Team generally also had to deal with the increase in the property workload as mentioned above.

## Civil Litigation

The figures for Civil Litigation continue to show a year on year increase. The increase for this year was 25% (from 133 matters in 2016/17 to 166 matters in 2017/18). There continues to be an increase in the number of contentious employment matters.

## Debt

Taking steps for the recovery of debts due to Government falls within the Litigation Team. In the previous year (2016/17) Chambers received 460 instructions to issue formal demand, which increased to 700 requests in 2017/18 (equating to a 52% increase).

## Children & Families

The numbers of new Children and Families matters remains relatively constant (70 in 2016/17 and 71 in 2017/18) but the introduction of new court processes and the greater number of litigants in person has meant that the workload of the lawyers and paralegals in this area has increased over the year.

## Child Abduction

The numbers of Hague Convention child abduction matters has remained almost the same (4 in the year 2016/17 and 3 in the year 2017/18). When Chambers is instructed in relation to child abduction matters, it is required to act immediately.

## Charities

Here too, the number of new files is not necessarily the best way of judging volumes for Charities oversight as new files are only opened when a new charity is placed on the register. There has been a decrease in the number of files for new charities (from 56 in 2016/17 to 25 in 2017/18) but in general terms the amount of work in this area has remained constant. In the forthcoming year, HMAG will sponsor the Charities Registration

and Regulation Bill in order to better regulate Charities on the Island. The preparation for this work has involved a significant amount of work during this year.

## Bona Vacantia

Chambers acts on behalf of Treasury in relation to a range of *bona vacantia* matters. The figures on the chart deal only with bona vacantia estates (i.e. where a person has died without heirs). There has been a small decrease in the number of estates dealt with in this year (from 7 in 2016/17 to 3 in 2017/18).

# Legislative Drafting Division

## Core Objectives

The core objectives of the Legislative Drafting Division (“LDD”) are to enable HMAG to meet his legislative obligations as follows —

1. To draft primary legislation in response to appropriate drafting instructions and to supply completed drafts to Tynwald in Bill format in a timely, professional and accurate manner in accordance with the priorities of the Government’s Legislative Programme.
2. To facilitate the enactment of Bills by drafting amendments as requested by Members of Tynwald and assisting in the preparation of Bills for Royal Assent, in particular by preparing memoranda for submission to the Ministry of Justice.
3. To acknowledge requests to review secondary legislation drafted by the Departments and Statutory Boards within 2 working days and to review the legislation within 2 weeks to ensure it is legally sound and capable of clear interpretation.
4. To provide advice, support and training to Government in respect of matters relating to legislation.
5. To provide and maintain access by Government and the public to:-
  - (a) Acts of Tynwald as currently in operation; and
  - (b) current legal developments.

## The Team

The LDD resources in AGC are made up of a Chief Legislative Drafter, four other Legislative Drafters and an Assistant Legislative Drafter. In addition to this the LDD includes —

- one Legal Officer (International), who provides advice to Government in relation to all aspects of international law affecting the Island and, where appropriate, working with colleagues in the LDD;
- one Legal Officer (Immigration), who provides advice to Government (primarily His Excellency the Lieutenant Governor, the Cabinet Office and HMAG) in relation to immigration matters and, where appropriate, working with colleagues in the LDD; and
- the Legislation and Research Officer, who maintains the Legislation website and provides research assistance to all lawyers within AGC and, where appropriate, working with colleagues in the LDD.

## Drafting Of Bills

Whereas the financial year for the AGC runs from 1 April to 31 March every year, the Acts (and secondary legislation) come into operation within a calendar year and the statistics provided below reflect that fact.

<u>Year</u>	<u>New Acts Coming Into Operation</u>
2015	15
2016	16
2017	10
2018 (as at 4 <sup>th</sup> July)	11

As at 4th July 2018 Royal Assent is awaited in respect of 2 Bills and a further 5 are currently passing through the Branches.

Instructions have been received and are being actioned or are to be actioned following the completion of other draft Bills, in relation to a number of new Bills.

The Primary Legislation passed during 2017 and 2018 (to date) has been analysed by type and size.

	<u>2017</u>		<u>2018 To Date</u>	
	<u>Substantive</u>	<u>Amending</u>	<u>Substantive</u>	<u>Amending</u>
Total (all excluding Schedules)	5	5	4	7
Small (less than 20 sections)	1	1	2	5
Medium (20-50 sections)	2	1	2	2
Large (51-100 sections)	1	1	0	0
Very Large (100-300 sections)	1	0	0	0

In addition to the actual drafting process, often considerable time is spent by members of the LDD with Departments, Boards and Offices as policy requirements are refined prior to drafting instructions being finalised.

## Secondary Legislation

Most secondary legislation is drafted by the relevant Department, Board or Office but all secondary legislation should be sent to the LDD for review and, where necessary, for advice and amendment.

On occasion the LDD also drafts secondary legislation, such as the Data Protection (Application of GDPR) Order 2018, Data Protection (Application of LED) Order 2018 and the GDPR and LED Implementing Regulations 2018 and Appointed Day Orders.

The secondary legislation website (<http://www.tynwald.org.im/links/tls/SD/Pages/default.aspx>) lists statutory documents which have been submitted to and, where necessary, approved (or not annulled) by Tynwald. It does not include other quasi-legislative instruments which may have been reviewed by the LDD. The number of statutory documents which were added to the secondary legislation website is as follows —

2015	422
2016	381
2017	388

As at 4 July 2018, the most recently published statutory document was numbered 173.

The figures for 2015 and 2016 were obtained from the secondary legislation website and were correct at the time at which they were obtained. Tynwald library publishes statutory documents as and when they are supplied to it by the originating Department etc.

## Advice

The LDD provides advice pertaining to legislation to all Departments, Boards and Offices of the Isle of Man Government and on occasion to MHKs and MLCs (in relation to Bill amendments and Private Members Bills). The advice provided by the LDD can relate to a Bill or proposed Bill, or may be of a more general nature to assist with the interpretation and application of current legislation.

## International Matters

The Legal Officer (International) sits within the LDD and provides advice to Government in relation to all aspects of international law affecting the Island.

One of the areas of responsibility of the Legal Officer (International) is the provision of advice and assistance in relation to Exchange of Information Requests (“EOIs”) received by the Isle of Man. This includes requests made under Tax Information Exchange Agreements (“TIEA”) with various jurisdictions and also under the multilateral Convention on Mutual Administrative Assistance in Tax Matters.

## Immigration Matters

The Legal Officer (Immigration) sits within the LDD and provides advice to the Passport, Immigration and Nationality Office of the Cabinet Office and the Lieutenant Governor in respect of passport, immigration and nationality matters. The role also involves advice on legislative issues which affect the movement of people within the Common Travel Area.

The Legal Officer (Immigration) has drafted a substantial Order in Council to update certain provisions of the Island’s immigration law and to transfer immigration functions from the Lieutenant Governor to the Cabinet Office Minister. In addition, the Legal Officer (Immigration) advised upon a Memorandum of Understanding on the sharing of passenger data with the United Kingdom and related issues.

## Legislation & Research Matters

The Legislation and Research Officer is responsible for the administration of the legislation website (<https://legislation.gov.im/cms>).

Two major pieces of legislation making general provision for Manx legislation and non-legislative public documents came into operation on 1 January 2018. The combined effect of the Legislation Act 2015 and the Interpretation Act 2015 is to —

- consolidate and re-enact certain existing legislation in respect of interpretation of statutes;
- state what forms part of, and to state basic rules for interpreting, Manx legislation;
- make generic provisions about functions and powers for Manx legislation and non-legislative public documents;
- shorten Manx legislation by avoiding the need for repetition;
- promote consistency in the language and form of Manx legislation
- support, update and streamline procedures for managing Acts and statutory documents (collectively called “Manx legislation”);
- improve the presentation of Manx legislation;
- streamline procedures for making statutory documents; and
- make it easier to update and access Manx legislation.

The broad divide between the Legislation Act and the Interpretation Act is that the Interpretation Act deals with interpretative and empowering provisions, whereas the Legislation Act deals with the actual mechanics of legislation (that is, the making, amendment, repeal and publication of legislation of all descriptions). These major pieces of legislation should lead to improvements in the drafting process and generally ensure that Manx legislation is of the highest standard.

## Legislation Website

The legislation website had over 24,000 visitors in the year and figures show that the position continues at over 2,000 hits on average, per month.

The target that the legislation website should be up to date to the beginning of the previous month has been consistently achieved and exceeded. In order to meet that target, over 1100 changes have been made to the website during the period 1 April 2017 to 31 March 2018, including:-

- 252 Acts amended (comprising 528 amending provisions);
- minor corrections to 102 Acts;
- 14 new Acts prepared and uploaded to website;
- 12 administrative changes made to website;
- 13 Bills uploaded to website;
- 10 Isle of Man Legislation Newsletters prepared and uploaded to website; and
- 314 Appointed Day Orders uploaded to website of which 23 were made in 2017/18

<u>For Comparison</u>	<u>2015/16</u>	<u>2016/17</u>	<u>2017/18</u>
Acts amended	142	59	252
Amending provisions	349	193	528
Acts with minor corrections	108	47	102
New Acts	14	18	14
Acts amending Acts	14	18	25
Statutory Documents amending Acts	38	25	33
Resolutions amending Acts	1	1	1
Administrative changes	6	21	12

## Training & Guidance

The LDD offers, and regularly provides, courses to Government employees and politicians. The majority of courses are offered via the Government's Learning, Education and Development Division. The LDD aims to provide at least 3 courses in every calendar year, subject to demand. Courses during the period 1.4.17 to 31.3.18 were:

- Instructing the Drafter
- Drafting Statutory Documents (Level 1)
- Drafting Statutory Documents (Level 2)

The LDD also provides a number of resources for the use of officers drafting secondary legislation, people involved in sending instructions to the drafters and regarding Manx legislation and the passage of Bills more generally. This is published on the AGC website and is periodically reviewed and updated.



# Prosecutions Division

The Prosecutions Division comprises two teams:

- Prosecutions
- International Cooperation & Asset Recovery Team ("ICART")

## Core Objectives

The core objectives of the Prosecution Division are to:-

1. Provide advice and assistance to Departments Boards and Offices of the Government in relation to the prosecution of criminal offences.
2. Bring forward criminal prosecutions to the appropriate Court in a timely and efficient manner.
3. Work with other Criminal Justice organisations to deliver the shared objectives of the Criminal Justice Strategy.
4. Continue to develop the International Cooperation and Asset Recovery function in order to provide timely assistance to other jurisdictions and disrupt criminal activity at the earliest stage possible.

## The Team

The Prosecutions Team consists of 7 Prosecuting Advocates (including the Director), all of whom deal with a mixture of criminal case work, ranging from the Summary and Magistrates Courts to the more serious cases which are committed to the Court of General Gaol Delivery. This team is assisted by 5 Support Staff.

The Prosecutions Team works to standardised time limits, within which prosecution advices must be completed and peer reviewed. Advice files received from all Government Departments, including the Constabulary, decreased by 8.3% in the year 1 April 2017 to 31 March 2018 (177 compared to 193 in the previous year).

April 2017 saw the introduction of the CPIA (Criminal Procedure and Investigations Act 2016). This has meant that stringent disclosure deadlines must now be met by the Prosecuting Division, which required a major procedural change within the Division.

## Summary Court Cases

During the period 1 April 2017 to 31 March 2018 there were a total number of 1,015 cases heard before the Summary Court, an increase of 8.7% from the previous year.

For the period 1 April 2016 to 31 March 2017, there were a total of 934 cases. An analysis of the source of instructions for these 1,015 cases is detailed below:-

	<u>Apr 2016 – Mar 2017</u>	<u>Apr 2017- Mar 2018</u>
Department of Infrastructure	9	0
Department for Enterprise (formerly the Department of Economic Development)	4	0
Cabinet Office	0	8
Department of Environment, Food & Agriculture	1	5
Information Commissioner	0	1
Treasury	14	19
Police	906	982
	<b>934</b>	<b>1,015</b>

## Summary Cases By Referring Organisation

The clear majority of the cases still come from the Constabulary, with the remaining 3% from other Government Departments. As in previous years, the largest number of the non-Police cases (2%) was from Treasury with cases primarily involving benefit fraud and the remaining 1% of cases came from DEFA, the Cabinet Office and the Information Commissioner.

During this period, we received 1 instruction from the Information Commissioner in relation to breaches of the Data Protection Act 2002, where judgment is awaited.

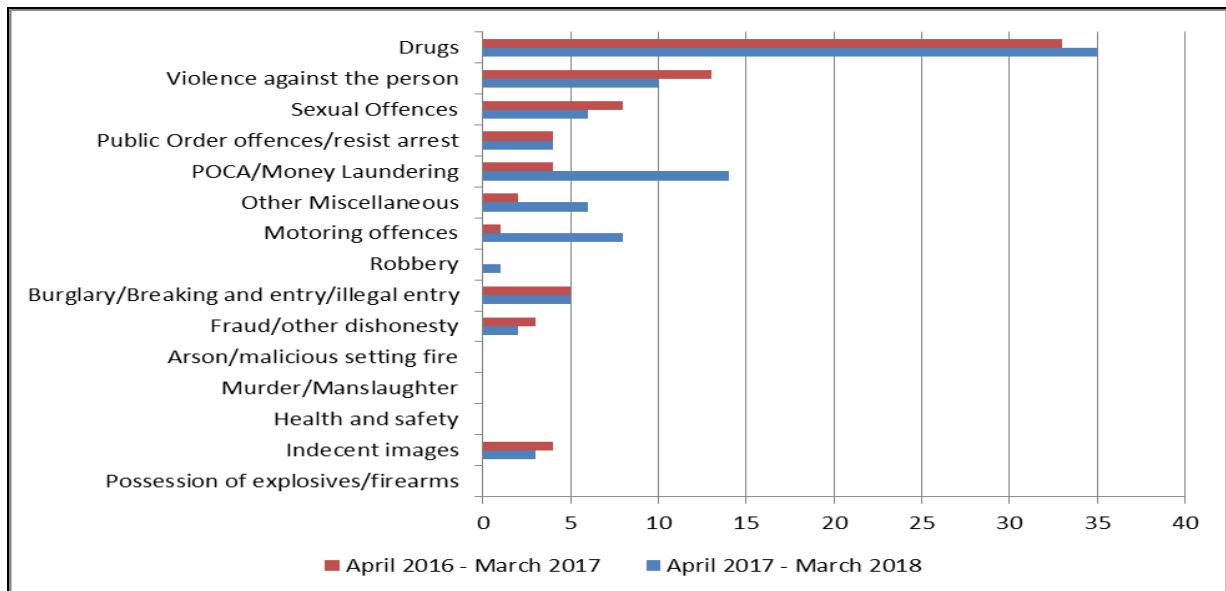
We successfully prosecuted 3 new matters referred by the Cabinet Office for failure to complete the 2016 Census form.

## Tax Court (AG's List)

There is a separate monthly Court prosecuting Income Tax and National Insurance cases for the Assessor of Income Tax. From April 2017 to March 2018, there were a total number of 373 cases, an average of 31 cases a month.

## General Gaol Cases

During the period 1 April 2017 to 31 March 2018 there were a total number of 83 matters heard before the Court of General Gaol Delivery, a slight drop from the 88 cases in the period 1 April 2016 to 31 March 2017. An analysis of the nature of the offences charged in respect of these cases shows as follows: -



## General Gaol Cases By Offence

Drug related offences still make up the highest percentage of the crimes committed. As predicted in our April 2016 – March 2017 report, the focus on financial crime following the recommendations from the Moneyval Evaluation, has led to a rise in POCA/Money Laundering cases from 4 cases in 1 April 2016 – 31 March 2017 to 14 cases during 1 April 2017 – 31 March 2018.

The 'Other Miscellaneous' category of cases includes offences of Doing Acts against Justice, Accessory to Wounding, Offences Contrary to Merchant Shipping Legislation and Assisting an Offender.

A total of 12 General Gaol trials took place (the number of Defendants was 13), of which 9 cases (10 Defendants) were found Guilty after trial. The Defendants in 3 trials were acquitted. Of these, one Defendant was tried twice and both trials resulted in a hung jury.

## Appeals

For the period 1 April 2017 to 31 March 2018, the number of Criminal Appeals to the Staff of Government Division was 10. Where HMAG believes that a sentence is unduly lenient, he may seek a review of sentence. 3 of the appeals related to such cases. Out of these, 1 case was successful and 2 were dismissed.

4 of the appeals lodged by the Defence were against sentence, 1 case was successful and 3 were dismissed.

1 appeal lodged by the Defence was against conviction, this was dismissed.

2 of the appeals were lodged by the Defence against both sentence and conviction. 1 was dismissed on both sentence and conviction. 1 was successful as to sentence, but dismissed against the conviction.

## International Cooperation & Asset Recovery Team

International Cooperation & Asset Recovery Team (“ICART”) consists of 2 dedicated Legal Officers, who are assisted by 3 Support Staff.

ICART has continued to operate by the “zero tolerance” mantra taken from the Programme for Government. The team, led by an experienced senior prosecutor, has significantly increased the assets restrained and frozen in the jurisdiction as well as using a number of previously untested methods of depriving criminals of their ill-gotten gains and disrupting multi-national organised crime, and taking steps not used before to enforce Orders of the Courts.

Our outreach work this year saw ICART raising awareness regarding its work, and included presentations at the IoM Financial Supervision Authority’s Annual Conference, at the Law Society’s Anti Money Laundering masterclass and at the AML/CFT Advisory Group.

Part 1 of the Proceeds of Crime Act 2008 had been under-utilised by the jurisdiction prior to the creation of ICART in December 2016, which has now addressed this. HMAG authorised the first civil recovery investigators ever employed in the Island, and, following bespoke training, ICART commenced 10 civil recovery investigations during the relevant period, acquiring investigatory orders from the High Court and securing 4 Property Freezing Orders. In terms of international co-operation, ICART has continued the response to foreign central authorities, receiving and acting upon International Letters of Request.

An asset sharing agreement resulted in £390,000 being ordered to be paid into the Seized Assets fund.

There has been a very significant rise in the number of outgoing letters of request from the Isle of Man to central authorities in other jurisdictions.

ICART has obtained investigative Court Orders in 24 matters during the year covered by this Report and shown in the table below.

Confiscations	A total confiscated of £148,988.90 from 18 cases
Cash Seizures	A total forfeited under the civil cash seizure regimes £536,369.29 from 12 matters
Restraint Orders	31 restraint orders and the total funds restrained during the period was £188M. This is the total volume of the balance of all accounts which have been subject to an order. In itself, it is not an indication of an amount which will be transferred to the SAF.
International ILORS incoming	42 requests for assistance have been received

International ILORS outgoing	16 letters were sent out for 9 cases
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## Enforcement Of Foreign Confiscation Order

During the same period, ICART has defended challenges against registration and enforcement of two separate foreign confiscation orders. In one case, ICART was successful (although the matter is now being appealed to the Staff of Government Division) and in the other judgment is awaited.

# Support Services & Core Operations

## Financial Overview

AGC operates within an annual budget set by Treasury and approved by Tynwald of £4,575,000 in 2017/2018. Of that sum, £300,000 was ring fenced as a revenue budget to meet the costs of paying independent external advocates and guardians to support children who are the subject of Family Court proceedings.

The employee cost budget, covering all costs associated with the position of HMAG, HMSG, the legally qualified staff and the support staff, was £4,149,204. This includes salaries, Law Society fees, training and recruitment costs.

The remainder of the annual budget is allocated to non-employee related expenditure which covers such items as the electronic software licenses and legal library subscriptions, printing and stationery etc. Any unexpected expenditure, such as any adverse court cost awards, is generally met from the Legal Costs Reserve with appropriate Treasury permissions being sought in advance wherever possible.

Annual expenditure for the year was £4,573,335 and was within budget, except for some unbudgeted expenditure which arose and was agreed by Treasury prior to being re-claimed from the Legal Costs Reserve and Seized Assets Fund, which expenditure enabled HMAG to set up and provide administrative resources to the International Cooperation and Asset Recovery Team.

HMAG also collects fees and expenses and had an income target of £63,528 (estimated on a prior year's basis). The end of year position was that £47,396 was collected, which fell short of the estimated target.

## Recharging Of Costs

HMAG does not currently re-charge the operational costs of AGC to any other areas of Government for the provision of legal services to them, but there is an increasing need for Departments to understand the value of the support which is provided free of charge: It can help to know the indirect costs of legal support on contracts and procurement when out-sourcing services or quantifying costs of legal advice when preparing certain business cases.

## Time Recording

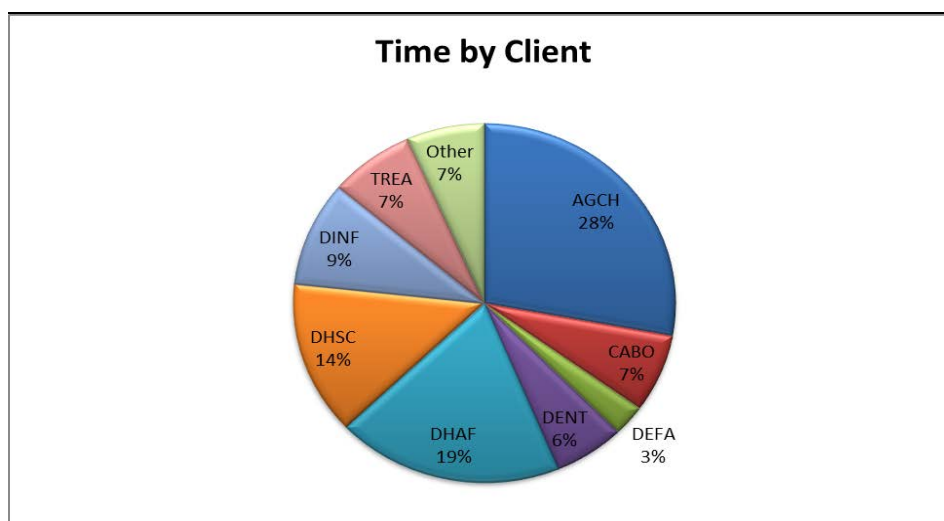
As AGC expenditure is primarily made up of salaries, it is imperative that there are effective controls in place in AGC on how time is spent and whether that expenditure represents best value. Since 1 April 2016, all staff in AGC (legal officers and support staff) have recorded their attendance with details of how their time is spent during each working day. This now allows improved reporting to support a better understanding of how AGC divides its time and how it uses its legal officers to support its clients' needs across government. As the records begin to build up through each successive financial year, reflecting on trends

identified will allow HMAG to identify how best to seek to reduce operating costs and be even more efficient. AGC is seeking to continually improve its performance and the methodology used to record time. Time is recorded daily and a record is kept against each separate legal matter or Court sitting. The total time available in AGC is calculated as being 365 days, less 116 days for Saturdays and Sundays and other non-working days and a further deduction for annual leave and training days which averages 29 days deducted per person. That leaves an average available time of 220 days per person.

AGC had an average staffing complement of 59 persons (including the two Crown Officers). However, adjusted for part time workers, maternity leave absence, leavers and joiners, the complement was equal to an approximate average of 49 full time persons for 220 days (1,628 hours) which equates to 79,772 available hours.

## Detailed Time Recording

The chart below shows time recorded as expended to support our clients as a percentage of overall support provided. It does not include time not attributed to a particular client.



	<u>Hours</u>	<u>%</u>
AGCH - Attorney General's Chambers (statutory duties etc.)	14,521	28
CABO - Cabinet Office	3,657	7
DEFA - Department for the Environment, Food & Agriculture	1,424	3
DENT - Department for Enterprise (formerly the Department of Economic Development)	3,132	6
DHAF - Department of Home Affairs	9,973	19
DHSC - Department of Health & Social Care	7,188	14
DINF - Department of Infrastructure	4,920	9
TREA - Treasury	3,760	7
Other	3,432	7
	<b>52,007</b>	<b>100%</b>



Time recording records are particularly relevant when considering the support provided to each of the areas of Government and the relative value of such legal advice and representation. It also aids an understanding of how much it costs to undertake HMAG's statutory functions, civil litigation (for various areas of Government) and criminal prosecutions (primarily for the Constabulary which is shown under the Department of Home Affairs).

HMAG's statutory responsibilities are broad and his parliamentary duties, which duties include attendance at Legislative Council and Tynwald and other related duties are shown as 'AGCH'. This category includes services such as charities oversight and acting as guardian for those persons who lack capacity to manage their own affairs. The figure has increased this year from 12% last year to 28% this year due partly to all teams making a concerted effort to more accurately record the nature of HMAG's statutory responsibilities, improving the time recording against internal management functions and also because of the new work undertaken in ICART in relation to Asset Recovery, which was not previously undertaken.

Not surprisingly the majority of our resources utilized outside of AGC are given to supporting criminal prosecutions and working with the Department of Home Affairs (19%). This includes liaison with the Police and defence advocates and Court attendance.

The relatively broad scope of certain departments and level of contract management and public interaction explains the high level of support provided to the Departments of Infrastructure and Health and Social Care.

Areas of Government which have been provided with less than 3% of the overall support have been grouped as 'Other'.

## AGC Website

The website was restructured to provide additional information for the public. AGC's Business Plan and Annual Operating Reports are now routinely published, as are any new Policy Statements or Guidance Notes in respect of each team's public services.

The website was visited on 8,635 instances, with 6,192 of those visits being external to Government.

# Feedback/Contact Us

This report is the second published Annual Operating Report produced by the AGC and we welcome feedback on information that you would find helpful to include in future reports. We will endeavor to continuously improve the amount of information that is routinely published by AGC.

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