

# Overview of the Department of the Attorney General in Australia

Compiled by Lilian Schmid.

Below is an overview of this Department as at April 2019 for the purpose of praying for the staff and institutions of Law and Justice in Australia.

## **Attorney General**

The Attorney-General's Department leads a portfolio that provides expert advice and services on a range of law and justice issues and the management of government records to the Attorney-General.

The current Attorney-General is the Hon. Christian Porter MP.

## **Senior Management**

<i>Secretary</i>	Chris Moraitis
<i>Deputy Secretary, Legal Services and Families Group</i>	Iain Anderson
<i>Deputy Secretary, Integrity and International Group</i>	Sarah Chidgey
<i>Australian Government Solicitor</i>	Michael Kingston
<i>Chief Operating Officer, Enabling Services Group</i>	Helen Daniels
<i>Chief Operating Officer, Australian Government Solicitor</i>	Louise Vardanega

## **Solicitor-General**

The Solicitor-General is the second law officer of the Commonwealth of Australia.

The Solicitor-General appears in most matters in the High Court of Australia involving the Commonwealth and its emanations and in select matters of importance in the intermediate appellate courts of Australia. The Solicitor-General has a wide practice, appearing in matters involving constitutional law, extradition, migration, native title, trade practices, taxation, corporations, customs, international arbitration and criminal law.

The Solicitor-General will ordinarily appear as one of the counsel representing the Commonwealth in all matters before international judicial and arbitral tribunals.

The Solicitor-General is assisted by two counsel assisting and also works in close collaboration with senior officers of the Attorney-General's Department, Australian Government Solicitor, other key departments and agencies and with leading counsel from the private bar.

Dr Stephen Donaghue QC was appointed Solicitor-General on 14 December 2016 and commenced in the role on 16 January 2017

## **Portfolio Agencies**

- Courts and tribunals
- Administrative Appeals Tribunal
- Family Court of Australia
- Federal Circuit Court of Australia

## Overview of the Department of the Attorney General in Australia

- Federal Court of Australia
- High Court of Australia
- Legal services
- Office of Parliamentary Counsel
- Management of government records
- National Archives of Australia
- National security and law enforcement
- Australian Commission for Law Enforcement Integrity
- Commonwealth Director of Public Prosecutions
- Independent National Security Legislation Monitor
- Inspector-General of Intelligence and Security
- Regulation and reform
- Australian Financial Security Authority
- Australian Human Rights Commission
- Australian Law Reform Commission
- Commonwealth Ombudsman
- Office of the Australian Information Commissioner

### **Royal Commissions**

(Current only – Royal Commissions are created as determined by Parliament and run as long as required.)

- Royal Commission into Aged Care Quality and Safety
- Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
- Royal Commission into the Protection and Detention of Children in the Northern Territory
- Royal Commission into Institutional Responses to Child Sexual Abuse

### **Committees and Councils**

Chair, coordinate and contribute to councils and committees spanning work across the portfolio.

#### **Ministerial councils**

Council of Attorneys-General (CAG)—assists the Council of Australian Governments by developing a national and Trans-Tasman focus on maintaining and promoting best practice in law reform.

#### **International committees**

Commonwealth Law Ministers Meeting—meet annually to discuss current law and justice issues of common concern including counter-terrorism, cybercrime, human rights and access to justice.

## Overview of the Department of the Attorney General in Australia

### Quintet of Attorneys-General

Brings together Attorneys-General from Australia, Canada, New Zealand, United Kingdom and the United States annually to address challenges and progress matters of common interest.

### Administrative Review Council

Enquires into and advises on the federal administrative law system, administrative decision making practices and tribunal practice and procedure.

### Admiralty Rules Committee

Advises the Attorney-General about rules concerning the practice and procedure to be followed in courts exercising jurisdiction under the Act, and matters incidental to such practice and procedure.

### Family Law Council

Advises on the workings of the Family Law Act 1975 (Cth), other family law matters and legal aid as it applies to families.

### Industry Consultation on National Security (ICONS)

A CEO-level consultative body, providing a forum for Australian Government to engage directly with Australia's business leaders on key national security issues.

### Office of General Counsel

AGS's Office of General Counsel (OGC) specialises in the provision of legal advice and assistance to the Commonwealth spanning the spectrum of the Commonwealth's activities across all portfolios. OGC's team of over 75 lawyers (including a large number of outposted lawyers) has specialist expertise in constitutional and public law, statutory interpretation and the development, implementation and administration of legislation and the team includes Australia's leading specialists on constitutional law, public international law and national security law. As well as providing constitutional advice, OGC specialises in acting for the Commonwealth in constitutional litigation and coordinating the conduct of other cases involving constitutional issues.

AGS offers services in these areas of law:

- Government and administrative law
- Corporate and commercial
- Dispute resolution and litigation
- Other legal services

### Professional Leaders

*Chief General Counsel*

Guy Aitken QC

*Deputy General Counsel*

Leo Hardiman Damian Page

### National Leader and Manager

*National Leader*

Leo Hardiman

*Team Leaders*

Darryl Everett  
Darryl Wookey

*Constitutional Litigation*

Andrew Buckland

## Overview of the Department of the Attorney General in Australia

*People, Security and Information*

Genevieve Ebbeck

*Employment, Entitlements and Money*

Bridget Gilmour-Walsh

*Energy, Environment and Regulation*

Sacha Moran

### **Council of Attorneys-General**

The CAG consists of Attorneys-General from the Australian Government, all states and territories, and the New Zealand Minister for Justice.

The CAG's responsibilities cover the broad theme of law reform to improve justice outcomes in relation to civil justice reforms and responses, legal profession regulation and evidence law, national security legal frameworks, intergovernmental reforms and implementation of cross-jurisdictional oversight and integrity measures.

The Council of Attorneys-General (CAG) assists the Council of Australian Governments (COAG) by developing a national and Trans-Tasman focus on maintaining and promoting best practice in law reform.

### **The Courts**

This department provides advice to government on issues about the federal courts, including:

- the conferral of jurisdiction on courts and related issues
- the role, structure and administration of the federal courts
- court operations and resources
- matters arising under legislation relating to federal courts and judiciary
- judicial and other statutory appointments to federal courts
- terms and conditions applying to federal judicial officers.

### **Separation of Powers and Independence of Judges**

The power to make laws in Australia is divided between the executive, the parliament and the judiciary. This is known as the separation of powers doctrine and is an essential feature of the Australian system of government.

Under Australia's Constitution, our judiciary is independent from the other arms of government. The separation of powers doctrine means that in interpreting and applying the law, judicial officers act independently and without interference from the parliament or the executive. The constitutional guarantees of tenure and remuneration assist in securing judicial independence.

Federal judicial officers are appointed by the government of the day and cannot be removed from office except on the grounds of proved misbehavior or incapacity. The remuneration of judicial officers cannot be reduced while the judge holds office.

### **Australia's Federal Courts**

There are four principal federal courts:

#### **High Court of Australia**

The highest court and the final court of appeal in Australia. Hears matters involving a dispute about the meaning of the Constitution, as well as final appeals in civil and criminal matters from all courts in Australia.

## Overview of the Department of the Attorney General in Australia

### **Federal Court of Australia**

Hears matters on a range of different subject matter including bankruptcy, corporations, industrial relations, native title, taxation and trade practices laws, and hears appeals from decisions (except family law decisions) of the Federal Circuit Court

### **Family Court of Australia**

Australia's specialist court dealing with family disputes, and hears appeals from decisions in family law matters of the Federal Circuit Court. Sits in each state and territory except Western Australia, where family law matters are heard by a state court, the Family Court of Western Australia

### **Federal Circuit Court of Australia**

on 12 April 2013 the Federal Magistrates Court was renamed the Federal Circuit Court of Australia and the titles of 'Chief Federal Magistrate' and 'Federal Magistrate' changed to 'Chief Judge' and 'Judge' respectively.

The court hears less complex disputes in matters including family law and child support, administrative law, admiralty law, bankruptcy, copyright, human rights, industrial law, migration, privacy and trade practices.

### **Australian States Supreme Courts**

Each state and territory has their own laws and court system. State and territory courts fall within the responsibilities of the relevant state or territory Attorney General or Minister for Justice.

- Supreme Court of the Australian Capital Territory
- Supreme Court of New South Wales
- Supreme Court of the Northern Territory
- Supreme Court of Queensland
- Supreme Court of South Australia
- Supreme Court of Tasmania
- Supreme Court of Victoria
- Supreme Court of Western Australia