

Legal adviser at heart of power

As the decision to abandon the trial of intelligence whistle-blower Katharine Gun raises questions about any possible role by Lord Goldsmith QC, BBC News Online examines his historic role of attorney general.

The office of Attorney General of England and Wales has existed for centuries - the first recorded mention as far back as 1461.

Historically, one of its main tasks was to act in court as a Crown advocate.

But since its creation, the role has grown to include many different - and influential - functions across a wide range of areas of government.

Appointed by the prime minister, the attorney general - assisted by the solicitor general - is the government's chief legal adviser.

LAW OFFICERS' DEPARTMENTS

Legal Secretariat to the Law Officers (own department)
Crown Prosecution Service
Crown Prosecution Service Inspectorate
Serious Fraud Office
Treasury Solicitor's Department

They are also members of several Cabinet committees and, together with the advocate general who advises on Scottish law, form the Law Officers, responsible for several departments.

But the attorney general is also expected to act impartially, both when advising ministers and as "guardian of the public interest" on legal matters.

Describing the "unique" role of Law Officers, Lord Goldsmith has said: "Our strength lies in our singular position as members of the government who are obliged to act independently, in the public interest. "

Law Officers may be called upon to advise ministers or departments - individually or collectively - on matters involving domestic, European or international law.

Supervisory role

But, by convention, this advice - and even the fact it has been sought - may not be disclosed outside government without their consent, a restriction which even covers Parliament.

Advice will generally be sought where there is doubt over the legality of proposed action or legislation, such as whether it complies with the European Convention on

SUPERVISORY ROLE

Government Legal Service
Customs and Excise
Health and Safety Executive
Department for Trade and Industry
Inland Revenue
Department for Work and Pensions
(Military) Service Prosecuting Authorities

It will also be requested where government action may have important political repercussions, raises tricky legal issues, or where departmental lawyers cannot agree.

The attorney general acts as claimant or defendant in cases where no government department is suitable, and in "appropriate cases" represents the government's case.

One example of this was the so-called Oakington case, where Lord Goldsmith argued the government's policy of detaining asylum applicants for short periods was compatible with domestic and European law.

When acting as guardian of the public interest in a case, he may seek ministerial views to determine where that lies - the so-called Shawcross Convention - but the final decision is his alone.

But the attorney general's responsibilities go much further.

He - and thus far the holders have all been male - supervises a swathe of government departments, with responsibility for numerous appointments.

Some appointments made by others require his consent.

Crime policy

But it is in the realm of criminal justice that the attorney general has some of the widest powers.

He appoints, supervises and can even overrule the director of public prosecutions, who heads the Crown Prosecution Service.

And he works with the home secretary and lord chancellor to decide the policy and strategy of the criminal justice system.

ATTORNEY GENERAL APPOINTEES

Director of Public Prosecutions (CPS)
Director of Serious Fraud Office
Chief Inspector of CPS Inspectorate

Law Officers can refer "unduly lenient" sentences to the Court of Appeal for

review.

The attorney general also appoints Special Advocates for immigration appeals of people suspected of involvement in terrorism, where the information against them may be sensitive.

'Guardian of public interest'

The attorney general's public interest functions include protecting charities by determining the recipient when will bequests are unclear.

Other functions include Leader of the Bar - the regulatory and representative body for barristers.

He also advises the monarch on peerage succession, and Royal Charters must be approved by a Law Officer.

Lord Goldsmith, appointed by Tony Blair to the role in June 2001, has hit the headlines on a number of occasions during his tenure.

He has been vocal against press coverage of court cases in the past, notably the Soham murders and the trial of Leeds United stars Jonathan Woodgate and Lee Bowyer, which collapsed over the publication of an interview in the Sunday Mirror.

But it is his advice to ministers on the legality of the war in Iraq that is likely to make news in the months to come.

Story from BBC NEWS:

http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/3489274.stm

Published: 2004/02/26 15:19:22 GMT

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