



**The  
Falkland Islands  
Courts and Tribunals Service**

**Courts and Tribunals Service  
Framework Document**

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Presented to the Legislative Assembly by the Attorney General at the instruction of Executive Council and with consent of the Chief Justice of the Falkland Islands Simon Bryan QC and His Excellency the Governor, Colin Roberts CVO.

Dated

5 April 2017

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## 1. Introduction

### *Background*

- 1.1 The Courts of the Falkland Islands are mandated by the Falkland Islands Constitution 2008, Chapter VII.
- 1.2 The fundamental rights contained in Chapter I of the Constitution enshrine protections for people in the Falkland Islands including the right to due process under the law and access to justice (sections 5 and 6). It is the responsibility of all public servants, in whichever branch of government they serve, to respect and uphold our Constitution and the rights and responsibilities enshrined within it.

### *Separation of Powers*

- 1.3 The Constitution of the Falkland Islands guarantees a constitutional democracy with a proper separation between the roles and responsibilities of Executive, Legislature and Judiciary.
- 1.4 The stability of the legal framework rests on maintaining complementary but different roles delivered by each of the three pillars, and public trust in this system is underpinned by the respect shown by each pillar towards the others.
- 1.5 The Judicial pillar of our constitutional democracy extends from lay Justices (JPs) to the Judicial Committee of the Privy Council. The Falkland Island has its own Court of Appeal. The higher courts are rarely engaged and, in practice, the Judiciary is primarily represented by the JPs, the Senior Magistrate and the Chief Justice. The structure of the Judicial pillar is represented by the diagram in **Schedule 1**.
- 1.6 HM the Queen is the source of all executive authority and is represented in the Falklands Islands by HE the Governor. Executive authority is ordinarily exercised only in accordance with the advice of Executive Council. The Chief Executive heads the Public Service which delivers executive functions in accordance with the policies determined by Executive Council.
- 1.7 The Falkland Islands does not maintain a strict separation of powers in practice. HE the Governor holds various constitutional responsibilities in all three pillars of

government. The Constitution gives the Governor particular responsibilities in relation to the appointment of the Judiciary and the administration of justice. The Chief Justice and the Attorney General share practical responsibilities in relation to the regulation of the legal profession and the Attorney General and some Government Legal Service staff are Legal Practitioners and, as such, professionally officers of the Supreme Court. The Head of Courts and Tribunals Service may in practice exercise Judicial function under the authority of the Judiciary, etc.

- 1.8 In accordance with the Constitution the Chief Executive is the Head of the Public Service and, under the direction of Executive Council, is the person responsible, on behalf of the whole of Government, for ensuring that there is an efficient and effective system to support the business of the Courts and Tribunals. This involves ensuring adequate resources and ensuring that the Judiciary is supported in undertaking its functions to deliver justice independently, fairly and justly and in accordance with its Constitutional responsibilities.
- 1.9 The Chief Justice of the Falkland Islands is responsible under the Constitution and Ordinances for representing the views of the Judiciary to the Executive and HE the Governor and for supporting the development and training of the Judiciary (including JPs).
- 1.10 The Chief Justice is also the President of the Criminal Justice Council and plays a role in other bodies designed to support the efficient and effective operation of civil, criminal and family justice to the people of the Falkland Islands.
- 1.11 When any person is discharging Judicial functions (for example those that may be delegated to the Head of Courts and Tribunal Service by the Judiciary from time to time or the Attorney General's role to act as Coroner in the absence of the Senior Magistrate) these functions are discharged in accordance with the Judicial Code of Conduct as determined by the Chief Justice and in the discharge of Judicial functions do so under the superintendence of the Chief Justice.

## **2. Agreed Principles**

- 2.1 The Courts and Tribunals Service provides a system of support including infrastructure and resources for the administration of the business of the Courts and Tribunals in the Falkland Islands. The Service provides support necessary to enable the Judiciary, lay Justices and tribunal members to exercise their judicial functions independently, fairly and justly.
- 2.2 This framework document reflects an agreement reached by the Chief Executive, HE the Governor and the Chief Justice on a partnership between them in relation to the effective governance, financing and operation of the Falkland Islands Courts and Tribunals Service. It is endorsed by Executive Council, which has authorised the Chief Executive to enter into it.
- 2.3 Executive Council has ordered that this framework document be presented to the Legislative Assembly by the Attorney General, in order that it may be debated in the House as necessary.
- 2.4 The Legislative Assembly, through the Budget Select Committee process sets the budget for the Courts and Tribunals Services to ensure adequate provision to support the effective exercise of Judicial functions, including adequate Judicial training.
- 2.5 The Chief Justice, the Executive (represented by Executive Council and the Chief Executive) and HE the Governor share responsibility through this Agreement for overseeing the leadership and direction of the Courts and Tribunals Service. They will not intervene in the day to day operations of the Service.. The Head of the Courts and Tribunals Service, who will be legally qualified, is responsible for the day to day operations in administration of the Courts and Tribunals Service and will work closely with, and be supported by, the Director of Central Services (or equivalent) to ensure the delivery of efficient and effective operations.

### **3. Aim and Objectives**

3.1 The Executive (represented by Executive Council and the Chief Executive), the Chief Justice and HE the Governor have set the following aim and objectives for the Courts and Tribunals Service:

#### ***Aim***

3.2 To run an efficient and effective Courts and Tribunals Service which enables the rule of law to be upheld and provides access to justice for all.

#### ***Objectives***

3.3 The objectives of the Courts and Tribunals Service are to:

- Provide the supporting administration for a fair, efficient and accessible court and tribunal system;
- Support an independent Judiciary in the administration of justice;
- Drive continuous improvement of performance and efficiency across all aspects of the administration of courts and tribunals; and
- collaborate effectively with other justice organisations and agencies, including the legal profession, in the Falkland Islands, the United Kingdom and other Overseas Territories for the purpose of improving access to justice, to work together to improve the quality and timeliness of decision making in order to reduce the level of bureaucracy and reduce the number of cases coming before the tribunals and courts.

#### ***Joint responsibilities***

3.4 The Courts and Tribunals Service Staff have a responsibility to both the executive and judicial pillars for the efficient and effective operation of the courts and tribunals. All members of the judiciary have a similar responsibility to the Chief Justice to work with the staff to deliver these objectives. The Senior Magistrate has a particular role in guiding and supporting the work of the CTS.

3.5 Courts and Tribunals Service staff work in accordance with the Judicial decisions and directions of the Judiciary in relation to the conduct of the matters before the courts and tribunals in matters such as case allocation and case management, in accordance

with court and tribunal processes. The primary responsibility for the administration and proper functioning of the Court facilities and operations rests with the Head of the Courts and Tribunals Service.

3.6 Courts and Tribunals Service staff have a responsibility both to executive and judicial pillars to ensure that any advice they give is high-quality, impartial, transparent and honest.

3.7 Line management arrangements and the terms of conditions of employment of members of staff within the Courts and Tribunals Service will be in accordance with the Management Code and FIG standard procedures. The extent to which Courts and Tribunals Service staff fulfil their responsibility will be reflected in the annual objectives and appraisals. FIG will ensure that the objectives and appraisals of the Courts and Tribunals staff will take the views of the Judiciary into account. FIG will further ensure that all staff who engage with the Court and Tribunal Service have objectives and appraisals which reflect the maintenance of a constructive working relationship with the Court and Tribunal Service.

#### **4. The Head of Courts and Tribunals Service**

4.1 The Head of Courts and Tribunals Service will be responsible for leadership within the court administration and, supported by the Director of Central Services, his/her responsibilities will include :

4.1.1 The efficient and effective management of the Courts and Tribunals Service, to ensure it meets its objectives and targets.

4.1.2 The effective leadership of the Courts and Tribunals Service.

4.1.3 Overseeing staff performance within the Courts and Tribunals Service.

4.1.4 Reporting on organisational performance to the Chief Justice, HE the Governor (in Executive Council) and the Chief Executive of FIG.

4.1.5 Ensuring that the Chief Justice, the Chief Executive of FIG and HE the Governor, are provided with high quality, impartial, transparent and honest advice on the operation and administration of the Courts and Tribunals Service and any proposals for change, in its functions or role.

4.1.6 The Head of Courts and Tribunals Service is accountable to the Director of Central Services (on behalf of the Chief Executive of FIG) for his or her personal performance. The Director of Central Services will consult with the Senior Magistrate and the Chief Justice on such matters.

4.2 The Head of Courts and Tribunals Service will be responsible for the day to day running of the Courts and Tribunals Service.

## **5. Accountabilities**

### ***Assurance***

5.1 The activities of the Courts and Tribunals Service may be investigated by the Complaints Commissioner or the Public Accounts Committee in accordance with the legal responsibilities of those bodies.

### ***Conduct***

5.2 The Courts and Tribunals Service and its staff will operate in accordance with the FIG Management Code and General Orders and will be subject to disciplinary rules and procedures accordingly. For the avoidance of doubt this includes acceptable use policies for the use of the government computers and the internet.

### ***Finance, Resources and Performance***

5.3 Subject to the provisions of 1.8 and 2.4 above, the Courts and Tribunals Service will participate in the usual FIG budget setting process on the same basis as all government departments and will be awarded resources on that basis.

5.4 The Courts and Tribunals Service and its staff will operate in accordance with the FIG Financial Instructions from time to time in force.



5.5 The Courts and Tribunals Service and its staff will manage risk and performance in accordance with FIG risk and performance management arrangements including the provision of information to be provided in management information reports alongside other government departments.

***Audit and Inspection***

5.6 The Courts and Tribunals Service will be subject to internal audit and participate in the audit of government accounts as required by the Financial Secretary.

**6. Review and interpretation**

6.1 This Framework Document will be reviewed every three years under an arrangement agreed between HE the Governor, the Chief Executive and the Chief Justice, but may be reviewed at any other time if any of them so wish. The Governor reserves the right to bring the review of this Framework Document to Executive Council at any time where he adjudges that its operation interferes or might be seen to interfere with the independence of the Judiciary.

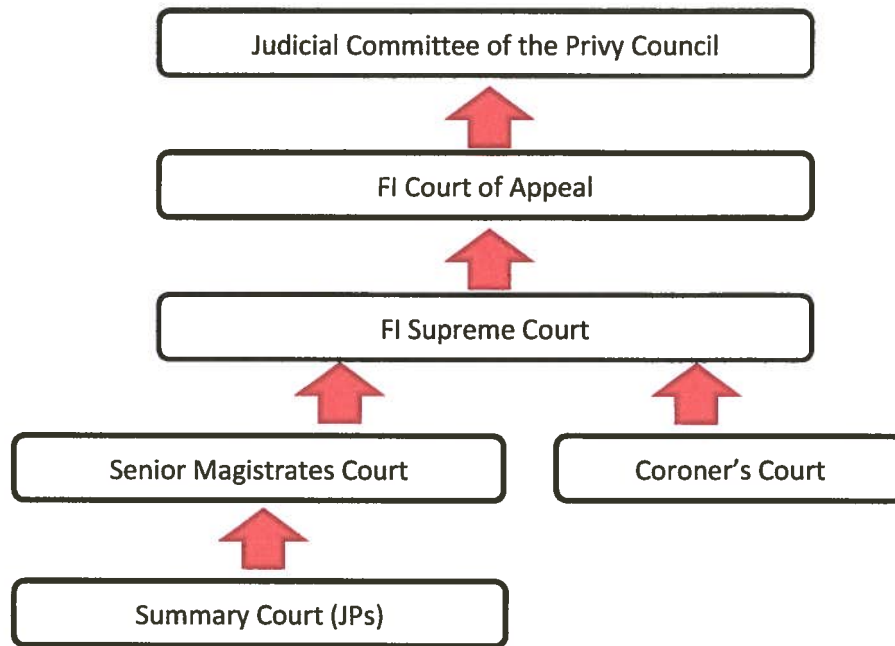
6.2 Any amendments to this Framework Document must be agreed by all parties.

6.3 Any departure from the provision of this Framework Document must be agreed in writing on a case-by-case basis by all affected parties.

6.4 Copies of this Framework Document and any subsequent amendments will be made available to the public including through the Falkland Islands Government and Judiciary websites.

6.5 Any questions concerning the interpretation of this Framework Document will be resolved between HE the Governor, the Chief Executive and the Chief Justice.

**Schedule 1  
(Diagram of the Judicial Pillar)**



**Other Officers of the Court**  
Clerks to Courts/Tribunals; Bailiffs; Admiralty Marshal; Legal Practitioners

**(FI Tribunals)**


<b>Tribunal</b>	<b>Source</b>	<b>Membership</b>
Fisheries Disputes Tribunal	S.98 Fisheries (Conservation and Management) Ordinance	7 members as appointed by HE the Governor
Mental Health Tribunal	S.40 Mental Health Ordinance	Senior Magistrate (Chair) 2 x JPs
Taxation Appeals Tribunal	S.180 Taxes Ordinance	5 – 7 members as appointed by HE the Governor

This framework document sets out the agreement made between His Excellency the Governor of the Falkland Islands, the Chief Justice of the Falkland Islands and the Chief Executive of the Falkland Islands Government.

### Signatories

Date of agreement: ..... 5 April 2017 .....

His Excellency the Governor,  
Colin Roberts CVO



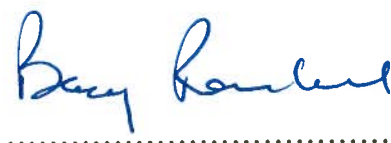
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Chief Justice of the Falkland Islands,  
Simon Bryan QC



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Chief Executive of the Falkland Islands  
Government, Mr Barry Rowland



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