

History of the Department

There is a long tradition of legal advisors to the Crown and the State going back as far as the reign of King Ine in the sixth century.

The post of Treasury Solicitor was first officially defined in 1661 with the appointment of John Rushworth, who was known as "the solicitor for negotiating and looking after the affairs of the Treasury".

Early Treasury Solicitors undertook cases for the Crown, Secretaries of State and the Attorney General. They were much involved in state trials; during the 1745 rebellion, King George II commissioned the Solicitor "to forthwith repair to such places as the Attorney General shall direct in order to make proper enquiries into their (the rebels) several cases, and to take care for carrying out the said prosecutions in the most effectual manner".

The great expansion in the number and size of the Departments of State over the early nineteenth century led to a much wider role for the Treasury Solicitor with many wanting the Treasury Solicitor to act for them, whilst others acquired their own legal officers. By 1842, the office handled the legal affairs of 13 out of 23 Departments.

The Department's role was widened further by the Treasury Solicitor Act 1876, which made the Solicitor a corporation sole and transferred to him functions formerly carried out by the solicitors attached to the Admiralty, the War Office, and the Office of Works. The Act reflected the findings of a committee set up in 1875 under Sir George Jessel, Master of the Rolls, to examine the Government's legal business. The committee recommended the appointment of a common head of profession "who would act as a referee in all matters of practise, and would be adviser to the Government in all that concerned the organisation of the legal departments of its offices". There was not to be a single office for the conduct of all government legal business but all the departmental solicitors now had a common head in the Treasury Solicitor.

From 1885, the Treasury Solicitor also held the office of Director of Public Prosecutions, until that office was formally separated under the Prosecution of Offences Act 1908. One of the last major cases in which the Solicitor acted as Public Prosecutor was the Inquiry following the theft in 1907 of the Crown Jewels of Ireland, which were never recovered.

20th Century Progress

By the time of the Second World War, the Treasury Solicitor's Department was recognised as being one of the largest and best organised legal concerns in the country. War brought additional work in the form of compulsory acquisitions, matters relating to the Defence of the Realm, and claims of all kinds by and against the authorities.

The Bona Vacantia Division claims to be the oldest part of the Department. Bona Vacantia means "ownerless goods" and accurately describes what the Division deals in. The concept of bona vacantia goes back to the old feudal theory brought over by William the Conqueror that all property ultimately belonged to the Crown. The Treasury Solicitor is the Crown's nominee in England and Wales (except the Duchies of Lancaster and Cornwall) and Northern Ireland to exercise the Royal Prerogative of collection of assets and making grants by way of the royal Bounty. Nowadays there

are two main areas of collection. Firstly the estates of people who die intestate with no kin entitled to inherit under the Intestacy Rules. The second area is much more recent, though now very active and important, namely the assets of dissolved companies and other corporate bodies.

There is a long historical link between the office of Treasury Solicitor and that of Procurator General. The Procurator General is appointed by the Royal Warrant and acts under the direction of the Attorney General as solicitor for the Crown in matrimonial issues and, in time of war, in maritime causes of prize and prize bounty. Legend has it that William the Conqueror was the first Procurator General and from his time, if not before, all bastards' estates were considered the first prerogative of the Crown until 1926.

More recently ...

In 1970 some new large Government Department's were formed. Some parts of the new departments had their own legal staff, while others relied on the Treasury Solicitor. Sir Edmund Compton was asked to report on what should happen in the future and in 1971 his report recommended that litigation and conveyancing were centralised under the Treasury Solicitor, who would be head of a legal career service. The Law Officer's Department was to remain as a small secretariat, staffed largely by secondments from other departments. Compton recommended that in departments where legal advice was of continuous importance lawyers should be members of the departmental team, whereas in departments where legal matters were not of continuous importance, advice should continue to come from the Treasury Solicitor. This forms the basis of the present arrangements.

From 1st April 1991, most of the Treasury Solicitor's activities were placed on a repayment basis. Since that date, the Department has been required to recover its full costs by billing other Government Departments. On 1st April 1996, the Treasury Solicitor's Department became an Executive Agency.

On the 1st September 2002 the Employment and Commercial Contracts Group (ECCG) was set up. This addressed the need for teams focused on employment law, which had become a very complex and fast developing area. ECCG brought advisory and litigation teams together.

Currently the Agency is organised into the following Divisions;

- Litigation and Employment Group
- Cabinet Office and Central Advisory Division (COCAD)
- Culture, Media and Sport Advisory Division
- DCSF/DIUS Advisory Division
- Treasury Advisory Division (TLA)
- European Division
- Bona Vacantia
- Government Legal Service Secretariat (GLSS)
- Corporate Teams (HR, Finance, OTCS)
- Business Partnership Directorate (BPD)

In the past 20 years, an explosion in the amount of public law litigation, and in particular judicial review, has led to an increase in the amount of litigation conducted by the Treasury Solicitor's Department. The enactment of the Human Rights Act, devolution in Scotland and Wales, and the ever increasing importance of European

Community law, as well as the continuing development of judicial review, means that lawyers in the Treasury Solicitor's Department, be they litigators or advisors, find themselves at the centre of a rapidly changing legal world.