



**The Attorney General**  
HM Government of Gibraltar

Sir Ben Bathurst KCVO, CBE  
Governor and Commander-in-Chief Gibraltar  
The Convent  
Main Street  
Gibraltar.

The Hon Fabian Picardo MP KC  
Chief Minister  
HM Government of Gibraltar  
6 Convent Place  
Gibraltar

17 April 2026

Your Excellency, Chief Minister,

**On the role of HM Attorney General for Gibraltar.**

In the leading legal textbook on the subject-matter, “British Overseas Territories Law”, it is stated that the Attorney General in the Territories “has a dual role, in that as well as advising the territory government, of which the Governor is part, he or she must also separately advise the Governor as head of the territory government and [His] Majesty’s representative in the territory. This can sometimes be a slightly uncomfortable position for an Attorney General, especially when the Governor and the elected members of the government are not in agreement on a particular matter, or where the Governor wishes to take a different course of action from the one that they advise”<sup>1</sup>.

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<sup>1</sup> “British Overseas Territories Law”, Ian Hendry and Susan Dickson, Hart Publishing 2018, second edition, p.134.



The authors go on to state that “the Attorney General might be regarded as wearing several different legal hats. And although there may sometimes be a perception that the Attorney General cannot effectively and impartially advise these different groups and individuals, that is not the case. It is incumbent of the Attorney General to give objective and professional legal advice to anyone in the government who seeks it, and the different aspects of the role should not cause a problem for an Attorney General most of the time. If, however, an Attorney General feels, in a particular situation, that it is not possible to advise without being conflicted in some way, it is open to the Attorney General to use members of his or her chambers, or even instruct outside counsel, to advise one of the parties involved”<sup>2</sup>.

In the over ten years I have held the office of HM Attorney General for Gibraltar I have never found myself in such a position of conflict between the Governor and the elected government, but the potential for such or other conflicts does clearly exist.

Furthermore, this issue was raised by Sir Peter Openshaw in his Report in the Inquiry into the Retirement of the Former Commissioner of Police dated 6 November 2025. He addresses it at paras. 13.9 and 13.10 of that Report. He has found that I did not act improperly in advising different groups and individuals in the criminal investigation in issue, but highlights the potential risks which might arise from the Attorney General wearing different legal hats in any given situation. He has therefore made the following recommendation:

**“Recommendation 5:** I recommend that consideration is given to more precisely defining the Attorney-General’s role in such situations and identifying those circumstances where he might consider instructing external counsel to advise one of these parties (as is suggested in ‘British Overseas Territories Law’, Hendry and Dickson Hart Publishing 2018, at page 135).

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<sup>2</sup> ditto, at pp. 134-135.



On that basis, I wish to inform you that I have prepared the attached Protocol, agreed and signed by both the Attorney General and the Director of Public Prosecutions, which defines the role and responsibilities of the Attorney General in Gibraltar and sets out guidance on how potential conflicts of interests can be addressed. In preparing the Protocol I have taken into account the Framework Agreement between the Law Officers and the Director of Public Prosecutions of 18 December 2020 and other relevant documents in the UK.

The Protocol will be published in the Government Law Office's website.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M Llamas', with a horizontal line underneath.

**Michael Llamas CMG KC**

**HM Attorney General for Gibraltar.**