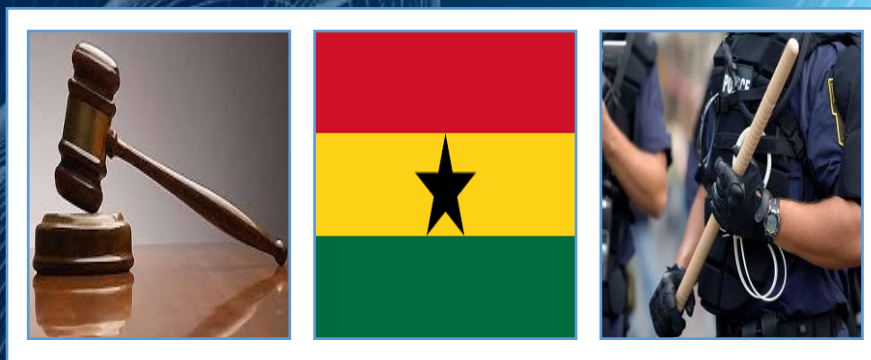


Consultancy Services for the Development of Standard Operating Procedures (SOPs) for the Ministry of Justice and Attorney-General's Department and its Agencies



ShawbellConsulting

**Volume II
Final Report
Law Reform Commission**

July 2016

Table of Contents

SECTION 1: FINDINGS, OBSERVATIONS AND GAPS EMERGING OUT OF THIS ASSIGNMENT4
SECTION 2: STANDARD OPERATING PROCEDURES.....7
SECTION 3: RECOMMENDATIONS FOR THIS ASSIGNMENT30

SECTION 1

FINDINGS, OBSERVATIONS AND GAPS EMERGING OUT OF THIS ASSIGNMENT

SECTION 1: FINDINGS, OBSERVATIONS AND GAPS EMERGING OUT OF THIS ASSIGNMENT

The Law Reform Commission faces several constraints in carrying out its functions. As a result of stakeholder engagements with the Law Reform Commission, including review of relevant documents provided to us by the Commission, interviews and discussions with staff of the Commission, the following issues were identified as requiring attention and focus to enable the Commission carry out its mandate efficiently and effectively:

Our findings, observations and gaps emerging out of this project were categorized under the broad thematic areas as follows:

- Standard Operating Procedures;
- Human Resource;
- Information, Communications and Technology (ICT)
- Libraries and Resource Centres
- Training and Development

Standard Operating Procedures

We noted that the Law Reform Commission has a Charter (titled “The New Charter”), which spells out the Commission’s mandate, vision, mission, functions and service standards (comprising service items and corresponding time frames for completion).

A formalized and structured Standard Operating Procedures incorporating the procedures outlined in the Charters well as current practice at the Commission would optimize performance of the Commission and enhance the delivery of Justice in Ghana.

Human Resource

During the stakeholder engagements that we undertook to enable our firm develop standard operating procedures for the Commission, it was realized that the Legal Department currently has only one lawyer. Considering that the Commission’s eight (8) mandated functions would normally be researched and undertaken primarily by the Legal Department, this shortage of lawyers presents a serious hurdle in efficient and effective justice delivery.

Information, Communications and Technology (ICT)

We observed that the Law Reform Commission has a computer system that is networked internally and interconnected to two (2) institutions, namely National Information Technology Agency (NITA) and the Ghana Integrated Financial Management Information System (GIFMIS). Furthermore, we observed that there is one ICT professional and one supporting staff member at the Law Reform Commission. As legal research and interconnectivity to other law reform institutions are important requirements for a viable Law Reform Commission, we observed that the following ICT challenges are hampering important and timely research:

1. Inadequate desktop and laptop computers, printer, scanner
2. Inability to acquire relevant application software and antivirus software due to lack of funds
3. Irregular maintenance of the Commission's website, due to lack of funds. (If the Commission's website is not maintained, it is taken offline.)

Libraries and Resource Centers

Another constraint that we observed is the lack of a modernized law library that has good online access and is well stocked with contemporary legal literature and law books. Without their own modernized library, the Commission would need to depend on other libraries for some of their research, potentially introducing delays in completing their legal reform work. Regular donations of legal information come from the Supreme Court Law Reports, Commonwealth Law Bulletin, and other Law Commissions.

Training and Development

We observed during our discussion with the Law Reform Commission that training and development of staff does not appear to be happening on a regular and consistent basis. We observed that funding for regular training and development is not available. However, the specialized function of law reform makes the lack of a regular and consistent training and development regime a concern.

Current trends in the Commonwealth suggest the need for conventional training for legal officers and researchers. The Law Reform Commission receives training programmes from South Africa, England, and other countries but is unable to send legal officers and researchers because no funding exists for such training. There are various training programmes that are offered based on individual needs, including training at the Institute of Statistical, Social and Economic Research (ISSER) in Report Writing and Database Analysis for lawyers and researchers, training at Public Administration International, UK specific for the Law Reform Commission, regional conferences in the sub-region specifically for law reform, law faculty juris confab and symposia at which new topics are introduced. Most of the individual lawyers and researchers have been footing their own training bills. Well-trained lawyers have left because of the unattractive salary situation.

SECTION 2

STANDARD OPERATING PROCEDURES

LAW REFORM COMMISSION

SECTION 2: STANDARD OPERATING PROCEDURES

The Intended Output from the Project is to develop and implement Institutional Standards to support new Systems and Procedures. Thus, the Standard Operating Procedures have been developed through a comprehensive study of the formal procedures, actual practices and mandates of respective institutions.

We developed the SOPs on the basis of current observations and functional requirements of the Institutions. Nonetheless, the results would reflect the Operating Procedures as they can be anticipated for the medium term (0-3 years). The Results and Resources Framework of this Project indicates Year 2 and 3 Targets as follows:

- Year 2 Targets: Develop and Operationalise Relevant Policies for the Attorney-General and Ministry for Justice's Department and its Agencies by the end of year 2
- Year 3 Targets: 30% of improved capacity for Institutional Policy formulation and implementation by the end of year 3.

The Targets would be achieved through the preparation, adoption, publication and communication of substantive and subsidiary legislations with respect to effective justice delivery in Ghana.

THE LAW REFORM COMMISSION

The object of the Law Reform Commission is to promote law reform in the country. According to Section 2 and 3 of the Law Reform Commission Act 2011 (Act 822), the object of the Commission is to undertake the following functions:

- a. Receive, consider and make proposals for the initiation and reform of any law in the country;
- b. Prepare and submit through the Minister of Justice and Attorney-General, proposals for the examination of different aspects of the law including recommendations for the codification and consolidation of legislation;
- c. Make practical proposals for the development, simplification and modernization of the law;
- d. Advise the Minister on policies for law reform;
- e. Undertake the examination of particular areas of the law and formulate proposals for reform after appropriate research;

The Purpose of the SOPs is to establish the procedural guidelines for the functions of the Law Reform Commission. Therefore, on the following pages, we have provided Standard Operating Procedures as contained in the Functions of the Law Reform Commission that are core to Justice Delivery in Ghana.

LAW REFORM COMMISSION

NAME OF INSTITUTION: MINISTRY OF JUSTICE AND ATTORNEY- GENERAL'S DEPARTMENT – LAW REFORM COMMISSION	NUMBER OF PAGES: 4
	SOP NUMBER: SOP-LRC01-16
	SOP REVISED NUMBER:
SECTION 3 (a) FUNCTION: RECEIVE, CONSIDER AND MAKE PROPOSALS FOR THE INITIATION AND REFORM OF ANY LAW IN THE COUNTRY	REVIEWED DATE:
	APPROVED DATE:
	IMPLEMENTATION DATE:

PURPOSE

The Law Reform Commission is mandated to ensure that the laws are as fair and responsive at all times to the needs of the country. This Standard Operating Procedure establishes the procedural guidelines on how to receive, consider and make proposals for the initiation and reform of any law in Ghana.

SCOPE

This SOP applies to all staff members of the Law Reform Commission and has been designed to provide sufficient direction and guidance for the initiation and reform of any law in the country.

PREREQUISITE

Law Reform Commission chooses its own programmes.

RESPONSIBILITIES

The personnel and entities that have core roles in this SOP are as follows:

- Commissioners of the Law Reform Commission.
- Executive Director of the Law Reform Commission
- Officers of the Legal Department and Research Department of the Law Reform Commission

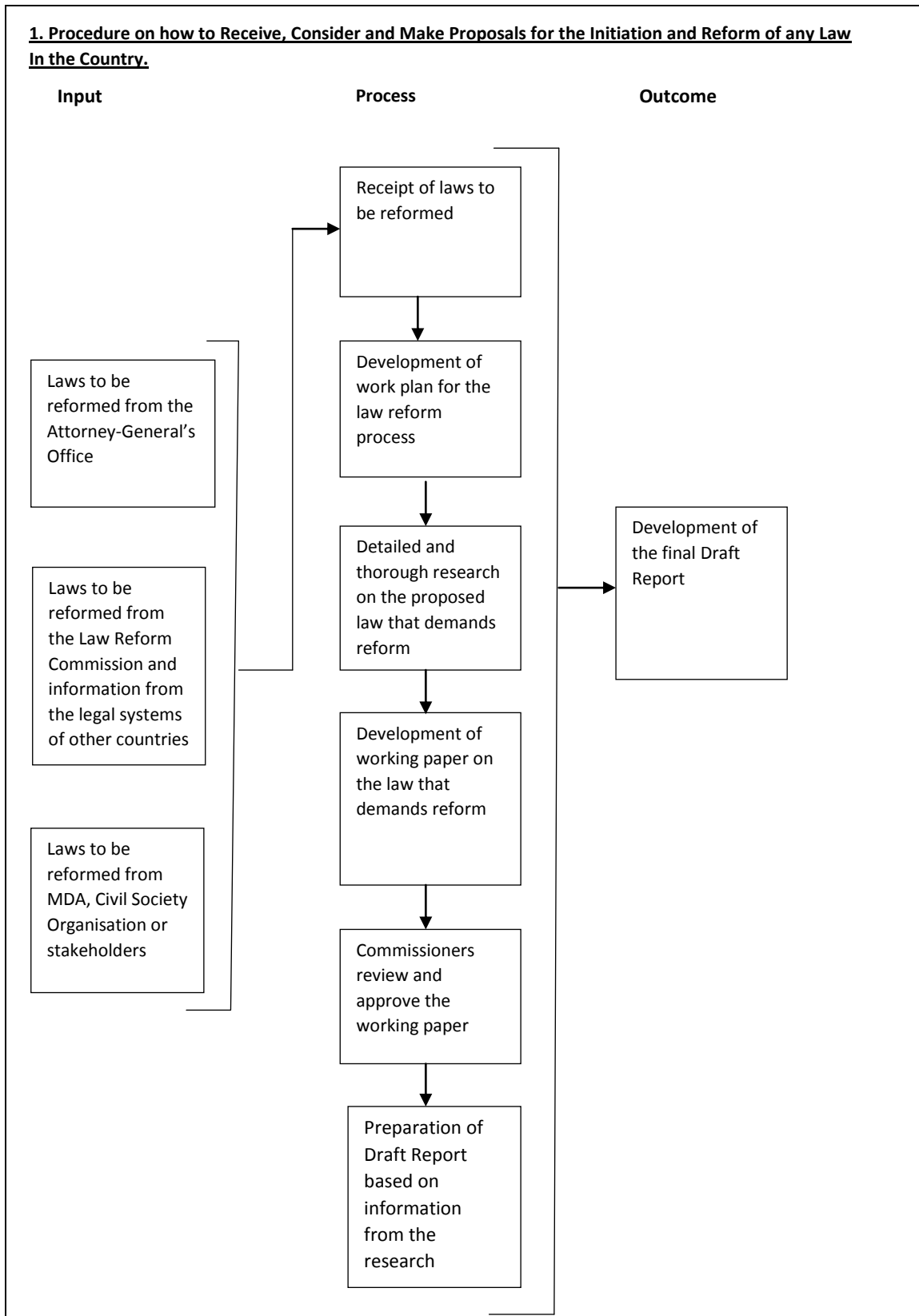
PROCEDURE

1. The Law Reform Commission receives recommendations from stakeholders.
2. The Law Reform Commission can also initiate a law reform process.
3. In addition, any MDA or Civil Society Organisation or individual can propose a law reform by communicating to the Law Reform Commission.
4. Obtains information from legal systems of the countries or model laws for adaptation.
5. The Law Reform Commission develops a work plan detailing the tasks involved in the proposed law reform. A Terms of Reference is developed for the issues of concern, including research methodology, literature review, general consultation with major stakeholders, methods of data collection, required library research, among others.

LAW REFORM COMMISSION

6. The Law Reform Commission conducts research on the law in question, including background to the law, when the law was passed, the present state of the law, and comparative review in different jurisdictions. International best practice for the law in question is ascertained.
7. A Working Paper is then developed and submitted to the Commissioners of the Law Reform Commission for review and approval.
8. The working paper is presented at a meeting with stakeholders, workshops, fora, round table conferences and media discussions, where participants are encouraged to share their opinion on issues raised in the working document.
9. After the Working paper is approved, a Draft Report is prepared which comprises data from research conducted, written responses and oral submissions from various stakeholders, and recommendations. Concerns raised by the various stakeholders are included in the evaluation portion of the Draft Report.
10. A Final Report developed and approved by the Law Reform Commission, including recommendations based on their findings, is submitted to the Attorney-General and Minister for Justice.
11. The Law Reform Commission may be invited to Parliament during deliberations on the Draft Bill.

The Process flowchart of this SOP is depicted below:



RELATED POLICIES, DOCUMENTS AND LEGISLATION

Laws of Ghana; The Constitution; Laws of other Commonwealth jurisdictions; International Law; International Treaties; and other jurisdictions.

INTERNAL LINKAGES

The internal departments and entities at the Law Reform Commission that are involved in the law reform process include the following:

- The Commissioners of the Law Reform Commission providing project direction
- Legal and Research Department
- Research Department
- Library
- Administration

The law reform work is done by the Legal Department of the Law Reform Commission, working closely with the Library and Research Departments, with the Commissioners providing overall project direction.

EXTERNAL LINKAGES

The Law Reform Commission's clients and collaborating agencies include the following:

- Minister for Justice and Attorney-General's Department-Principal Client
- Ministries, Departments and Agencies (MDAs)-Collaborating Agency
- The Judiciary
- Civil Society Organizations
- Professional Groupings
- The General Public

LAW REFORM COMMISSION

NAME OF INSTITUTION: MINISTRY OF JUSTICE AND ATTORNEY- GENERAL'S DEPARTMENT - LAW REFORM COMMISSION	NUMBER OF PAGES:4
	SOP NUMBER: SOP-LRC02-16
	SOP REVISED NUMBER:
SECTION 3(b) FUNCTION: PREPARE AND SUBMIT THROUGH THE ATTORNEY-GENERAL AND MINISTER FOR JUSTICE AND, PROPOSALS FOR THE EXAMINATION OF DIFFERENT ASPECTS OF THE LAW INCLUDING RECOMMENDATIONS FOR THE CODIFICATION AND CONSOLIDATION OF LEGISLATION	REVIEWED DATE:
	APPROVED DATE:
	IMPLEMENTATION DATE:

PURPOSE

The Law Reform Commission is responsible for promoting law reform in Ghana. This Standard Operating Procedure establishes the procedural guidelines on how to prepare and submit proposals for the examination of different aspects of the law including recommendations for the codification and consolidation of legislation.

SCOPE

This SOP applies to all staff members of the Law Reform Commission and has been designed to provide sufficient direction and guidance for the examination of different aspects of the law including recommendations for the codification and consolidation of legislation

PREREQUISITE

The personnel and entities that have core roles in this SOP are as follows:

- Commissioners of the Law Reform Commission
- Staff of the Legal and Research Departments, Law Reform Commission

PROCEDURE

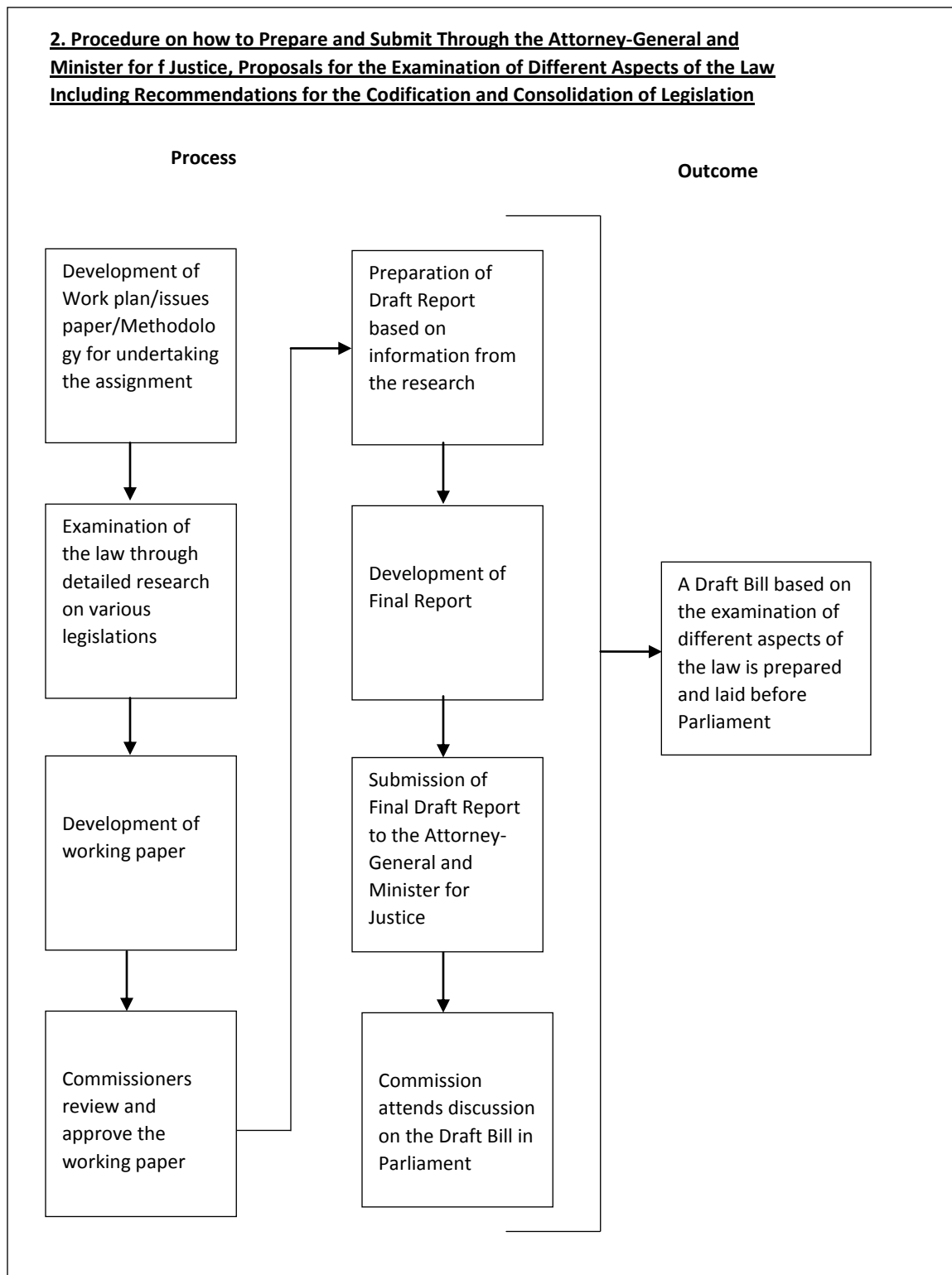
1. The Law Reform Commission develops a work plan to guide the tasks involved in the project.
2. The Law Reform Commission examines different aspects of the law. The Commission also conducts research on consolidation of legislation, in which legislation from different sources are combined into a single Act.
3. A Working Paper is then developed and submitted to the Commissioners of the Law Reform Commission for review and approval.
4. After the Working Paper is approved, a Draft Report is prepared which comprises data from research conducted, written responses and oral contribution from various stakeholders, and recommendations. Concerns raised by the various stakeholders are included in the evaluation portion of the Draft Report.

LAW REFORM COMMISSION

5. A Final Report developed and approved by the Law Reform Commission, including recommendations based on their findings, is submitted to the Attorney-General.
6. The Law Reform Commission may be invited to Parliament during deliberations on the Draft Bill.

The Process flowchart of this SOP is depicted below:

2. Procedure on how to Prepare and Submit Through the Attorney-General and Minister for Justice, Proposals for the Examination of Different Aspects of the Law Including Recommendations for the Codification and Consolidation of Legislation



RELATED POLICIES, DOCUMENTS AND LEGISLATION

Laws of Ghana; The Constitution; Laws of other Commonwealth jurisdictions; International Law; International Treaties; and other jurisdictions.

INTERNAL LINKAGES

The internal departments and entities at the Law Reform Commission that are involved in codification and consolidation of legislation include the following:

- Commissioners of the Law Reform Commission
- Legal Department
- Research Department
- Library
- Administration

EXTERNAL LINKAGES

The Law Reform Commission's clients and collaborating agencies include the following:

- The Minister of Justice and Attorney-General
- Staff of Ministry of Justice and Attorney-General's Department with expertise on drafting bills for Parliament
- Civil Society Organizations
- Professional Groupings
- The General Public
- Judiciary

LAW REFORM COMMISSION

NAME OF INSTITUTION: MINISTRY OF JUSTICE AND ATTORNEY- GENERAL'S DEPARTMENT - LAW REFORM COMMISSION)	NUMBER OF PAGES:4
	SOP NUMBER: SOP-LRC03-16
	SOP REVISED NUMBER:
SECTION 3(c) FUNCTION: MAKE PRACTICAL PROPOSALS FOR THE DEVELOPMENT, SIMPLIFICATION AND MODERNIZATION OF THE LAW.	REVIEWED DATE:
	APPROVED DATE:
	IMPLEMENTATION DATE:

PURPOSE

The Law Reform Commission is responsible for promoting law reform in Ghana. This Standard Operating Procedure establishes the procedural guidelines on how to make practical proposals for the development, simplification and modernization of the law.

SCOPE

This SOP applies to all staff members of the Law Reform Commission and has been designed to provide sufficient direction and guidance for the development, simplification and modernization of the law.

PREREQUISITE

The personnel and entities that have core roles in this SOP are as follows:

- Commissioners of the Law Reform Commission
- Senior staff of the Legal Department, Law Reform Commission
- Staff of the Law Reform Commission
- General Public

PROCEDURE

1. The Law Reform Commission develops a work plan to guide the tasks involved in the project.
2. The Law Reform Commission researches all branches of the law in order to identify areas that can benefit from development, simplification and modernization. Some of the actions that can provide the benefits of simplification and modernization include:
 - the repeal of obsolete or unnecessary provisions
 - the removal of anomalies and defects in the law
 - bringing the law in line with current conditions and needs
 - steps geared toward making the law more readily available and accessible.
3. A Working Paper is then developed and submitted to the Commissioners of the Law Reform Commission for review and approval.
4. After the Working paper is approved, a Draft Report is prepared which comprises data from research conducted, written responses and oral contribution from various stakeholders, and

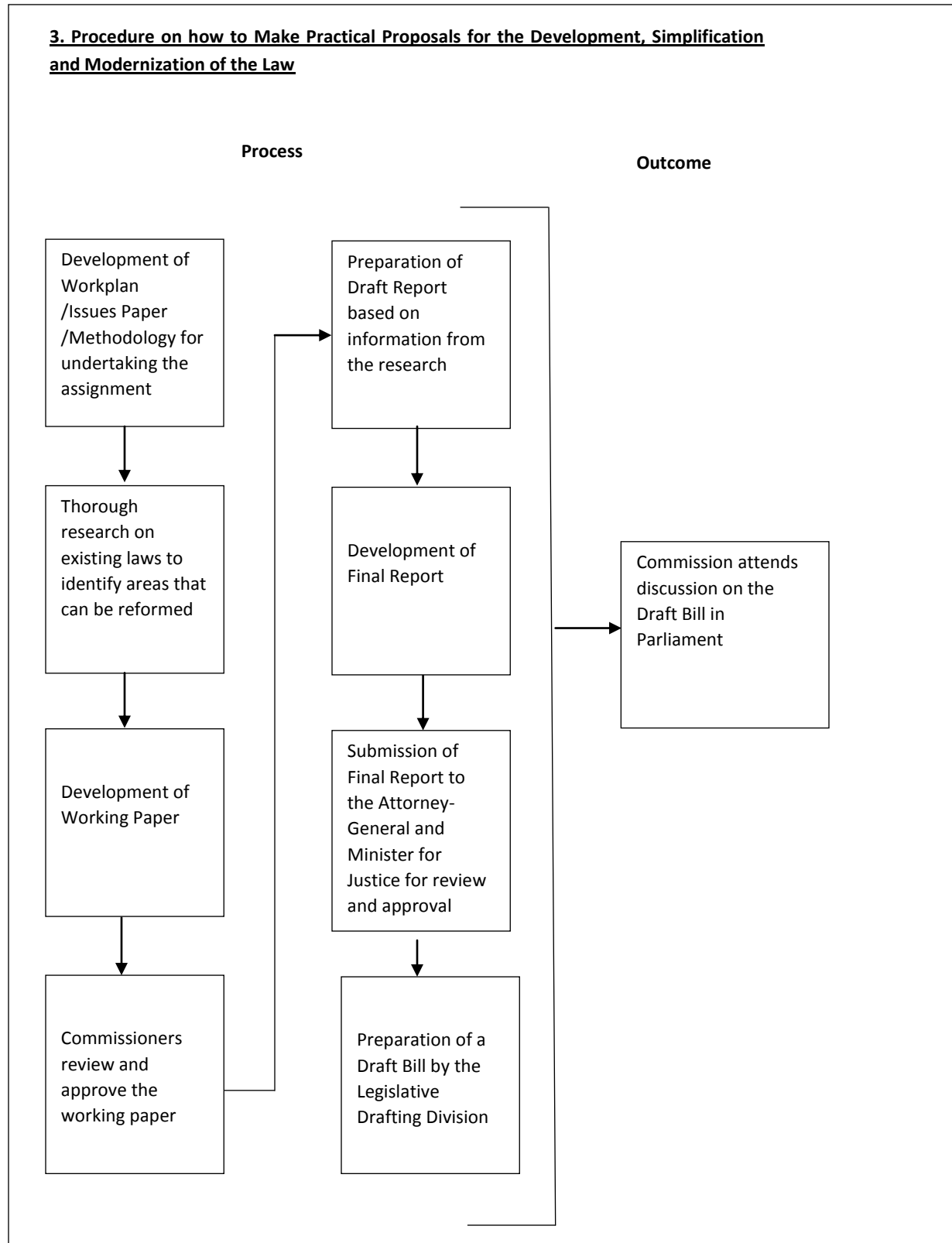
LAW REFORM COMMISSION

recommendations. Concerns raised by the various stakeholders will be included in the evaluation portion of the Draft Report.

5. A Final Report developed and approved by the Law Reform Commission, including recommendations based on their findings, is submitted to the Attorney-General and Minister for Justice for review and feedback.
6. The Law Reform Commission may be invited to Parliament during deliberations on the Draft Bill.

The Process flowchart of this SOP is depicted below:

3. Procedure on how to Make Practical Proposals for the Development, Simplification and Modernization of the Law



RELATED POLICIES, DOCUMENTS AND LEGISLATION

Laws of Ghana; The Constitution; Laws of other Commonwealth jurisdictions; International Law; International Treaties; and other jurisdictions.

INTERNAL LINKAGES

The internal departments and entities at the Law Reform Commission that are involved in development, simplification and modernization of the law include the following:

- Commissioners of the Law Reform Commission
- Legal Department
- Research Department
- Library
- Administration

EXTERNAL LINKAGES

The Law Reform Commission's clients and collaborating agencies include the following:

- Attorney-General and Minister for Justice
- MDAs
- Select or Standing Committee of Parliament (depending on the law to be reviewed)
- Civil Society Organizations
- Professional Groupings
- Judiciary
- The General Public

LAW REFORM COMMISSION

NAME OF INSTITUTION: MINISTRY OF JUSTICE AND ATTORNEY- GENERAL'S DEPARTMENT - LAW REFORM COMMISSION	NUMBER OF PAGES:3
	SOP NUMBER: SOP-LRC04-16
	SOP REVISED NUMBER:
SECTION 3(d) FUNCTION: ADVISE THE ATTORNEY- GENERAL AND MINISTER FOR JUSTICE ON POLICIES FOR LAW REFORM.	REVIEWED DATE:
	APPROVED DATE:
	IMPLEMENTATION DATE:

PURPOSE

This Standard Operating Procedure establishes the procedural guidelines on how to advise the Attorney-General and Minister for Justice on Policies for Law Reform.

SCOPE

This SOP applies to all staff members of the Law Reform Commission and has been designed to provide sufficient direction and guidance for advising the Minister of Justice and Attorney-General on policies for law reform.

PREREQUISITE

The personnel and entities that have core roles in this SOP are as follows:

- Commissioners of the Law Reform Commission
- Senior staff of the Legal Department, Law Reform Commission
- Staff of the Law Reform Commission
- Civil Society Organizations
- Professional Groupings
- The General Public
- The Judiciary

PROCEDURE

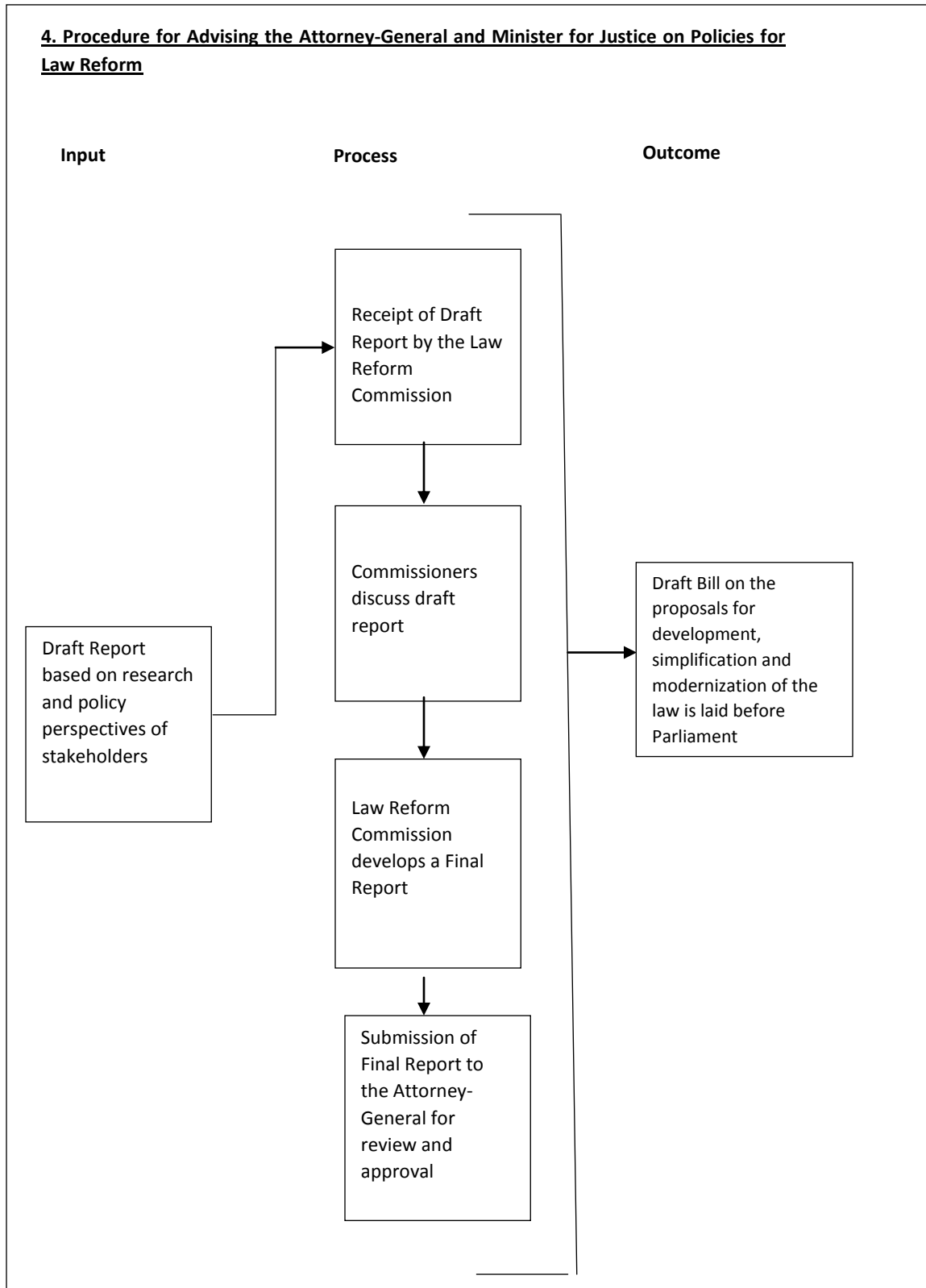
1. In the course of a law reform process, the Law Reform Commission provides a Draft Report to the Attorney-General and Minister for Justice. This Draft Report includes policy positions collated from various stakeholders, as well as data from research conducted, written responses and oral contribution from various stakeholders, and recommendations.
2. A Final Report developed and approved by the Law Reform Commission, including recommendations based on their findings, is submitted to the Attorney-General and Minister of Justice.
3. Once the Final Report is approved by the Minister of Justice and Attorney-General, the Legislative Drafting Division at the Attorney General's Department will prepare a Draft Bill on the proposals for development, simplification and modernization of the law, which will be

LAW REFORM COMMISSION

submitted to the Select or Standing Committee of Parliament (depending on the law to be reviewed.)

4. The Law Reform Commission is invited to Parliament during deliberations on the Draft Bill.

The Process flowchart of this SOP is depicted below



LAW REFORM COMMISSION

RELATED POLICIES, DOCUMENTS AND LEGISLATION

Laws of Ghana; The Constitution; Laws of other Commonwealth jurisdictions; International Law; International Treaties; and other jurisdictions.

INTERNAL LINKAGES

The internal departments and entities at the Law Reform Commission that are involved in advising the Minister of Justice and Attorney-General on policies for law reform:

- Commissioners of the Law Reform Commission
- Legal Department
- Research Department
- Library
- Administration

EXTERNAL LINKAGES

The Law Reform Commission's clients and collaborating agencies include the following:

- Attorney-General and Minister for Justice
- MDAs
- Select or Standing Committee of Parliament (depending on the law to be reviewed)
- Civil Society Organizations
- Professional Groupings
- Judiciary

LAW REFORM COMMISSION

NAME OF INSTITUTION: MINISTRY OF JUSTICE AND ATTORNEY-GENERAL'S DEPARTMENT - LAW REFORM COMMISSION	NUMBER OF PAGES:3
	SOP NUMBER: SOP-LRC05-16
	SOP REVISED NUMBER:
SECTION 3(e) FUNCTION: UNDERTAKE THE EXAMINATION OF PARTICULAR AREAS OF THE LAW AND FORMULATE PROPOSALS FOR REFORM AFTER APPROPRIATE RESEARCH.	REVIEWED DATE:
	APPROVED DATE:
	IMPLEMENTATION DATE:

PURPOSE

This Standard Operating Procedure establishes the procedural guidelines on how to examine particular areas of the law, conduct appropriate research, and formulate proposals for reform.

SCOPE

This SOP applies to all staff members of the Law Reform Commission and has been designed to provide sufficient direction and guidance for the examination of particular areas of the law, conducting appropriate research, and formulating proposals for research.

PREREQUISITE

The personnel and entities that have core roles in this SOP are as follows:

- Commissioners
- Senior staff of the Legal Department, Law Reform Commission
- Staff of the Research Department, Law Reform Commission

PROCEDURE

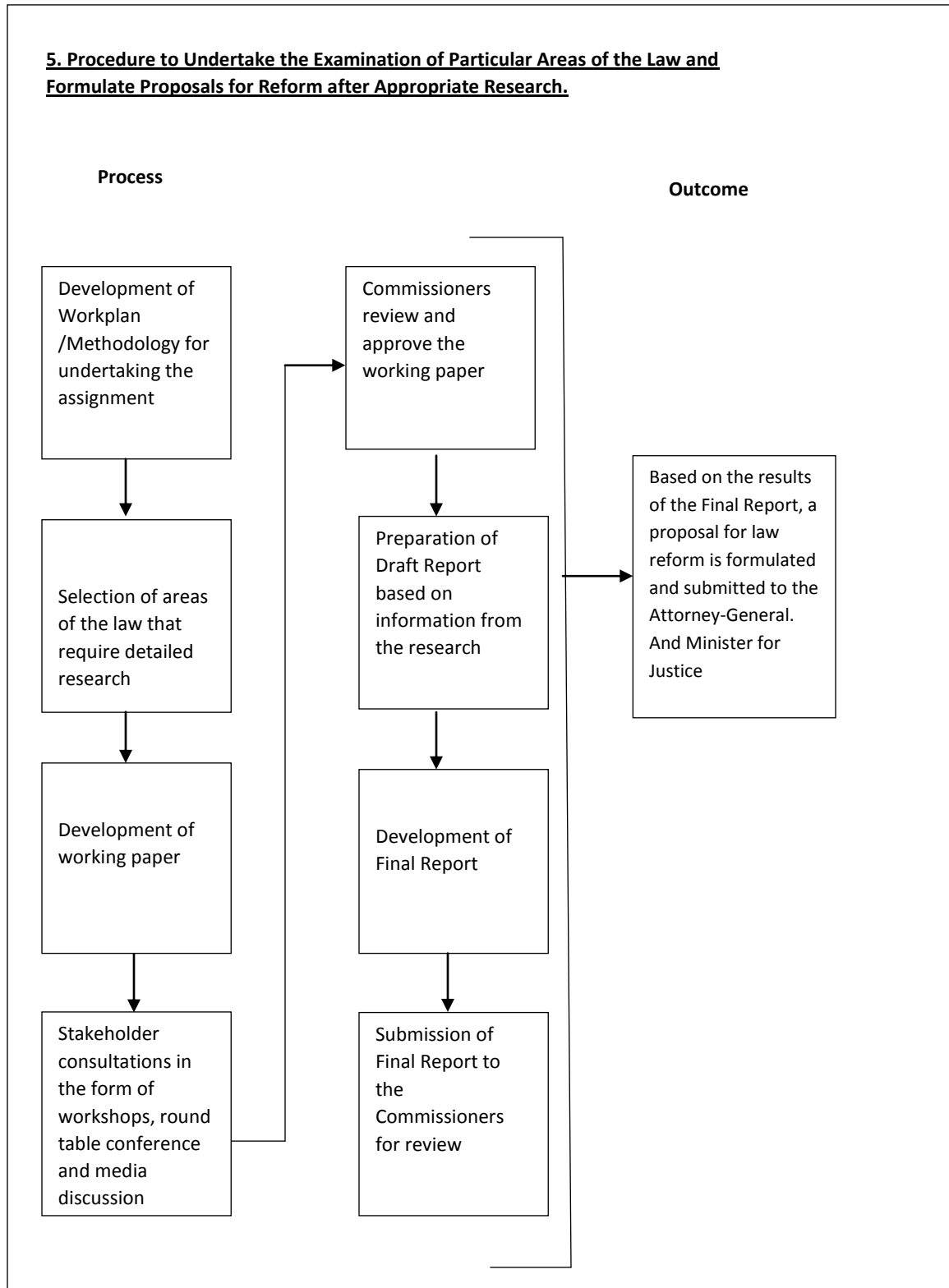
1. The Law Reform Commission develops a work plan to guide the tasks involved in this SOP.
2. The Law Reform Commission, under the direction of the Commissioners selects particular areas of the law for appropriate research.
3. A Working Paper detailing the nature and extent of the research is then developed and submitted to the Commissioners of the Law Reform Commission for review and approval.
4. The working paper is presented at a meeting with stakeholders, workshops, fora, round table conferences and media discussions, where participants are encouraged to share their opinion on issues raised in the working document.
5. After the Working paper is approved, a Draft Report is prepared which comprises data from the research conducted, written responses and oral contribution from various stakeholders, and recommendations. Concerns raised by the various stakeholders are included in the evaluation portion of the Draft Report.

LAW REFORM COMMISSION

6. A Final Report developed and approved by the Law Reform Commission, including recommendations based on their findings, is submitted to the Commissioners of the Law Reform Commission for review and feedback.
7. Based on the results of the research, a proposal for law reform is formulated and submitted to the Minister of Justice and Attorney-General.

The Process flowchart of this SOP is depicted below:

5. Procedure to Undertake the Examination of Particular Areas of the Law and Formulate Proposals for Reform after Appropriate Research.



RELATED POLICIES, DOCUMENTS AND LEGISLATION

Laws of Ghana; The Constitution; Laws of other Commonwealth jurisdictions; International Law; International Treaties; and other jurisdictions.

INTERNAL LINKAGES

The internal departments and entities at the Law Reform Commission that are involved in examination of particular areas of the law, conducting appropriate research, and formulating proposals for research include the following:

- Commissioners of the Law Reform Commission
- Legal Department
- Research Department
- Library
- Administration

EXTERNAL LINKAGES

The Law Reform Commission's clients and collaborating agencies include the following:

- The Minister of Justice and Attorney-General
- Civil Society Organizations
- Professional Groupings
- The General Public

SECTION 3

RECOMMENDATIONS

LAW REFORM COMMISSION

SECTION 3: RECOMMENDATIONS FOR THIS ASSIGNMENT

Our recommendations were developed in cognizance of the findings, observations and gaps emerging out of this project.

The Recommendations are categorized under the thematic areas as follows:

- Human Resource;
- Information, Communications and Technology (ICT)
- Libraries and Resource Centres
- Training and Development

Human Resource

The Legal Department of the Law Reform Commission is seriously under-resourced, with only one lawyer currently working there. Additional lawyers in the Legal Department, including a senior lawyer to supervise the Department, would enable the Department to produce more legal reform work faster. The Law Reform Commission is mandated to carry out several important functions, and for that to take place efficiently and effectively, more than one lawyer is required in the Legal Department at the Commission. In addition, as staff members from the Commission are often required to travel to the other regions in Ghana to conduct field research, having more lawyers will ensure that legal reform work at the head office in Accra is not put on hold when such travel occurs.

The Commission requests for a minimum of seven (7) lawyers to operate efficiently and effectively.

Information, Communications and Technology (ICT)

A networked computer system is a minimum, yet critical, requirement for an agency such as the Law Reform Commission for whom legal research is paramount. We are therefore recommending that the Commission is provided with:

- networked computers with online access, plus access to partner institutions' websites, for every lawyer working in the Legal Department
- a networked computer with online access, plus access to partner institutions' websites, in the Law Library
- Another ICT professional to complement the current ICT professional at the Commission. As we have discussed, online research is a critical component of the law reform work that the Commission does, and so having two ICT professionals would provide adequate support with some backup in case of exigencies.

Libraries and Resource Centres

We recommend that funding must be provided for the Law Library to acquire contemporary/ updated legal literature, which is vital for a Commission whose core functions includes the requirement to "... Make practical proposals for the development, simplification **and modernization** of the law". In addition, as discussed earlier, online access needs to be provided for the Law Library, including online access to foreign partner websites. This would expand the research capability of the Commission by providing access to online as well as foreign partner legal resources.

Training and Development

We recommend that regular training be implemented for all staff of the Law Reform Commission, perhaps at the Civil Service Training Centre. In addition, given the specialized function of law reform, we recommend that funding be made available for specialized training to be implemented for key managers and staff, including all the lawyers in the Legal Department, to keep them current with the law as well as international best practices. Furthermore, seminars, workshops and exchanges with Law Reform Commissions in the sub-region and partner Commonwealth countries would keep staff of the Commission abreast of best practices in other jurisdictions.

Logistical Support

We recommend that one to two cross-country (robust) vehicles be provided to enable the Law Reform Commission to carry out field research work.