

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
The Legal Service Civil Division

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SECTION 1

FINDINGS, OBSERVATIONS AND GAPS EMERGING OUT OF THIS ASSIGNMENT

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

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

- Standard Operating Procedures
- Record-keeping in the Ministries, Departments and Agencies (MDAs);
- Timely engagement in negotiations of contracts or agreements and arbitration processes
- Paralegal Staff in LSCD and MDAs
- Information, Communications and Technology (ICT)
- LSCD Non-representation in the Courts

Standard Operating Procedures

We noted that formalized documentation on Standard Operating Procedures was non-existent at the Legal Service Civil Division. Nonetheless, staff had their own working notes on procedures. Thus, a formalized and structured development of Standard Operating Procedures would optimize performance of the Division. This would ensure that current and envisaged procedures are well-documented to curtail procedural inefficiencies and enhance the delivery of Justice in Ghana.

Record-keeping in MDAs

A key component of the functions of the Legal Service Civil Division (LSCD) is to represent and protect the interest of the state in legal matters that are of a civil nature. On this point, it is critical for the Ministries, Departments and Agencies (MDAs), being the key constituents of the Government of Ghana to provide required information on a timely basis.

We noted that there were instances where information provided by the MDAs did not meet the quality standards and timelines of the LSCD. These challenges were attributed to record-keeping in the MDAs. Thus, there are challenges for the LSCD in obtaining documentation and comments to support Civil Suit against the State.

Therefore, credible record-keeping in the MDAs would be critical in preparing and building Civil Case files as a precursor to justice delivery.

Timely engagement in negotiations of contracts or agreements and arbitration processes

The LSCD is mandated to engage in negotiations of contract or agreements and arbitration processes on behalf of the Government of Ghana. It is expedient that the LSCD is part of the process from its inception through to finalization.

THE LEGAL SERVICE CIVIL DIVISION

We noted that there were instances where the LSCD was invited at advanced stages of the negotiation or arbitration process. This could have serious financial and legal implications for the State, as the interest of the latter may not be fully addressed.

Paralegal Staff in LSCD and MDAs

The working relationships between the LSCD and the Legal Departments of MDAs would improve with the recruitment of Paralegal Officers in respective institutions. Paralegal Officers would play mediating roles in the institutions, as they liaise with State Attorneys and Legal Officers in the LSCD and MDAs respectively. Additionally, Paralegal Officers would be focal persons to address concerns in the institutions.

Information, Communications and Technology (ICT)

Information, Communications and Technology continues to be an enabler of business processes. Thus, the challenges of obtaining, storing and disseminating information in the LSCD could be curtailed in a networked environment with dedicated servers. We noted that the primary challenge confronting the LSCD was the lack of logistical support; notably: computers, photocopiers, scanners, and printers. Therefore, an optimal utilization of Information and Communications Technology applications would enhance the performance of the LSCD in executing their mandate of Justice Delivery.

SECTION 2

STANDARD OPERATING PROCEDURES (SOP)

THE LEGAL SERVICE CIVIL DIVISION

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 Ministry of Justice and the Attorney-General'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 LEGAL SERVICE CIVIL DIVISION

The Legal Services Civil Division, LSCD, is one of the three units of the Legal Service of the Attorney-General's Department. The Civil Division undertakes the following functions:

- I. Initiates and Conducts civil action on behalf of the state.
- II. Defends the State in all civil matters initiated against the state.
- III. Reviews and advises Ministries, Departments and Agencies (MDAs) on Memorandum of Understanding (MoU), agreements/contracts they intend to enter or are in the process of executing/concluding.
- IV. Conduct of Appeals at Court of Appeal and Supreme Courts.
- V. Represents the State in negotiations and arbitrations.
- VI. Proffers legal opinions to MDAs.
- VII. Serves on the Boards of MDAs.

The Purpose of the SOPs is to establish the procedural guidelines for the functions of the Legal Service Civil Division. On the following pages, we have provided Standard Operating Procedures as contained in the Functions of the Legal Service Civil Division that are core to Justice Delivery in Ghana.

THE LEGAL SERVICE CIVIL DIVISION

NAME OF INSTITUTION: MINISTRY OF JUSTICE AND ATTORNEY- GENERAL'S DEPARTMENT - LEGAL SERVICE CIVIL DIVISION (LSCD)	NUMBER OF PAGES:4
	SOP NUMBER: SOP-LSCD01-16
	SOP REVISED NUMBER:
FUNCTION: INITIATING AND CONDUCTING CIVIL ACTION ON BEHALF OF THE STATE	REVIEWED DATE:
	APPROVED DATE:
	IMPLEMENTATION DATE:

PURPOSE

The Legal Service Civil Division aims at protecting Government and its interests. This Standard Operating Procedure establishes the procedural guidelines on how to initiate and conduct civil action on behalf of the state.

SCOPE

This Standard Operating Procedure applies to the Attorney- General, Solicitor General, and all Attorneys as well as the MDAs. The SOP ensures the Initiation of civil action against individuals or groups of people to prevent injustices from being perpetrated against the state.

PREREQUISITE

The information required prior to this SOP includes:

- Writ of Summons and Statement of Claim
- High Court (Civil Procedure) Rules, 2004, (C.I. 47)

RESPONSIBILITIES

Every activity or work undertaken at the Civil Division emanates from the Attorney-General's office and goes through sequential steps in descending order of seniority. Typically, cases and issues are referred to Group heads. These responsibility channels vary and may depend on:

- The nature of the case.
- The grade or rank of the Attorney.

PROCEDURE

- I. A Ministry, Department or Agency (MDA) which wants to commence an action will send the facts of the case to the Attorney General for advice.
- II. Where the Attorney- General is of the opinion that there is a cause of action, she will minute the documents to the Solicitor- General to initiate an action on behalf of the MDA.
- III. The Solicitor General then minutes the documents to the group head detailed to handle matters pertaining to the Ministry, Department or Agency (MDA) where the particular document is emanating from. The group head then minutes the said documents to the Attorney he/she deems capable of handling the matter.

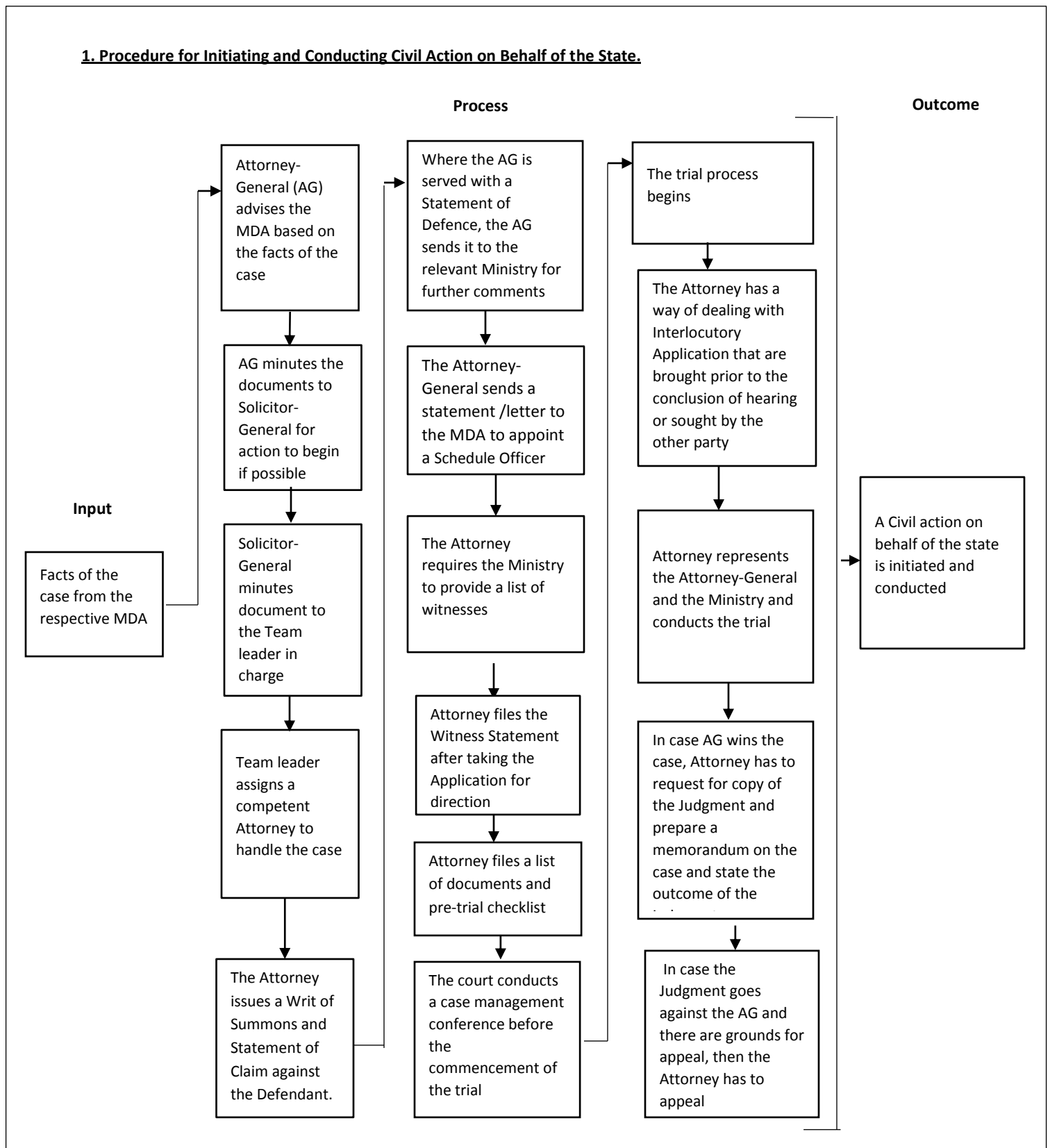
THE LEGAL SERVICE CIVIL DIVISION

- IV. The Attorney will issue a Writ of Summons and Statement of Claim to commence the action against the Defendant.
- V. Where the Attorney-General is served with a Statement of Defence to the action instituted by the Attorney-General. The Attorney-General will send the Statement of Defence to the relevant ministry for further comments. This will enable the Attorney-General file a reply within the statutory period.
- VI. The said letter also asks the MDA to appoint a Schedule Officer who is well vested with the facts of the case and with whom the Attorney can communicate with and who will be expected to be in Court each time the matter is called. Where the required comments are not forthcoming from the MDA, the Attorney has to personally go to the MDA and request for the comments. This may be done repeatedly by the Attorney until the comments are received.
- VII. By the new High Court (Civil Procedure) Rules, 2004, (C.I. 47) as amended, it is required that a Witness Statement is filed. In compliance with the Rules, the Attorney also asks the Ministry to provide a list of witnesses within 7 days on receipt of the above stated letter in order that the said Attorney can adequately prepare the Witnesses to file the Witness Statement.
- VIII. If the concerned Ministry complies and forwards to the Attorney-General the requested documents and witnesses in due time. The Attorney then files the Witness Statement after the Application for Directions have been taken. A list of documents and pre-trial checklist are filed. Thereafter a case management conference is conducted by the court. The trial will then commence accordingly.
- IX. In the event that there is a need for an Interlocutory Application prior to the conclusion of the hearing, the Attorney in consultation with the relevant Ministry will file a motion and an Affidavit in support/In the event that an Interlocutory Application is sought by the other party, the Attorney in consultation with the relevant Ministry will file an Affidavit in opposition to the application sought by the other party.
- X. At trial, the Attorney represents the Attorney-General and the Ministry and conducts the trial as such. After all Parties have opened and closed their cases, the Attorney writes a Final Address and files it within the time given by the Court to do so. Should Judgment be in favour of the Attorney-General, the Attorney has to request for copy of the Judgment and prepare a memorandum on the case and state the outcome of the judgment. The file thereafter will be closed, unless if an appeal by any of the parties will directly affect the Attorney-General. If the Judgment goes against the Attorney-General, the Attorney assigned with the case will have to prepare a memorandum and state so. The Attorney is also required to request for a copy of the Judgment. If there are genuine grounds of appeal, then the Attorney will have to appeal against the Judgment in the Court of Appeal and if required to do so, in the Supreme Court.

The Process flowchart of this SOP is depicted below:

THE LEGAL SERVICE CIVIL DIVISION

1. Procedure for Initiating and Conducting Civil Action on Behalf of the State.



RELATED POLICIES, DOCUMENTS AND LEGISLATION

- The Constitution; Laws of Ghana
- High Court (Civil Procedure) Rules, 2004(C.I. 47)
- Laws of other Commonwealth jurisdictions;
- International Law; International Treaties; and other jurisdictions.

INTERNAL LINKAGES

At the Civil Division the different cases, agreements, contracts and arbitrations are distributed by the Group Heads to the Attorneys they oversee at their own discretion and according to the abilities of the Attorney. Any work done by an Attorney is done under the supervision and direction of the Group Head. The Group Head in turn directly receives instructions from the Solicitor General/Attorney-General. In certain circumstances, the Solicitor General/Attorney-General assigns an Attorney with particular duties based on the abilities and expertise of the Attorney.

EXTERNAL LINKAGES

All Ministries, Departments and Agencies (MDA) which by law are required to be represented by the Attorney-General.

THE LEGAL SERVICE CIVIL DIVISION

NAME OF INSTITUTION: MINISTRY OF JUSTICE AND ATTORNEY- GENERAL'S DEPARTMENT - LEGAL SERVICE CIVIL DIVISION (LSCD)	NUMBER OF PAGES: 4
	SOP NUMBER: SOP-LSCD02-16
	SOP REVISED NUMBER:
FUNCTION: DEFENDING THE STATE IN ALL CIVIL MATTERS INITIATED AGAINST THE STATE.	REVIEWED DATE:
	APPROVED DATE:
	IMPLEMENTATION DATE:

PURPOSE

The Legal Service Civil Division aims at protecting Government and its interests. This Standard Operating Procedure establishes the procedural guidelines on how to defend the state in all civil matters initiated against the state.

SCOPE

This Standard Operating Procedure applies to the Attorney- General, Solicitor General, and all Attorneys as well as the MDAs.

PREREQUISITE

The information required prior to this SOP includes:

- Writ of Summons and statement of claim

RESPONSIBILITIES

Every activity or work undertaken at the Civil Division emanates from the Attorney-General's office and goes through sequential steps in descending order of seniority. Typically, cases and issues are referred to Group heads. These responsibility channels vary and may depend on:

- The nature of the case,
- The grade or rank of the Attorney.

PROCEDURE

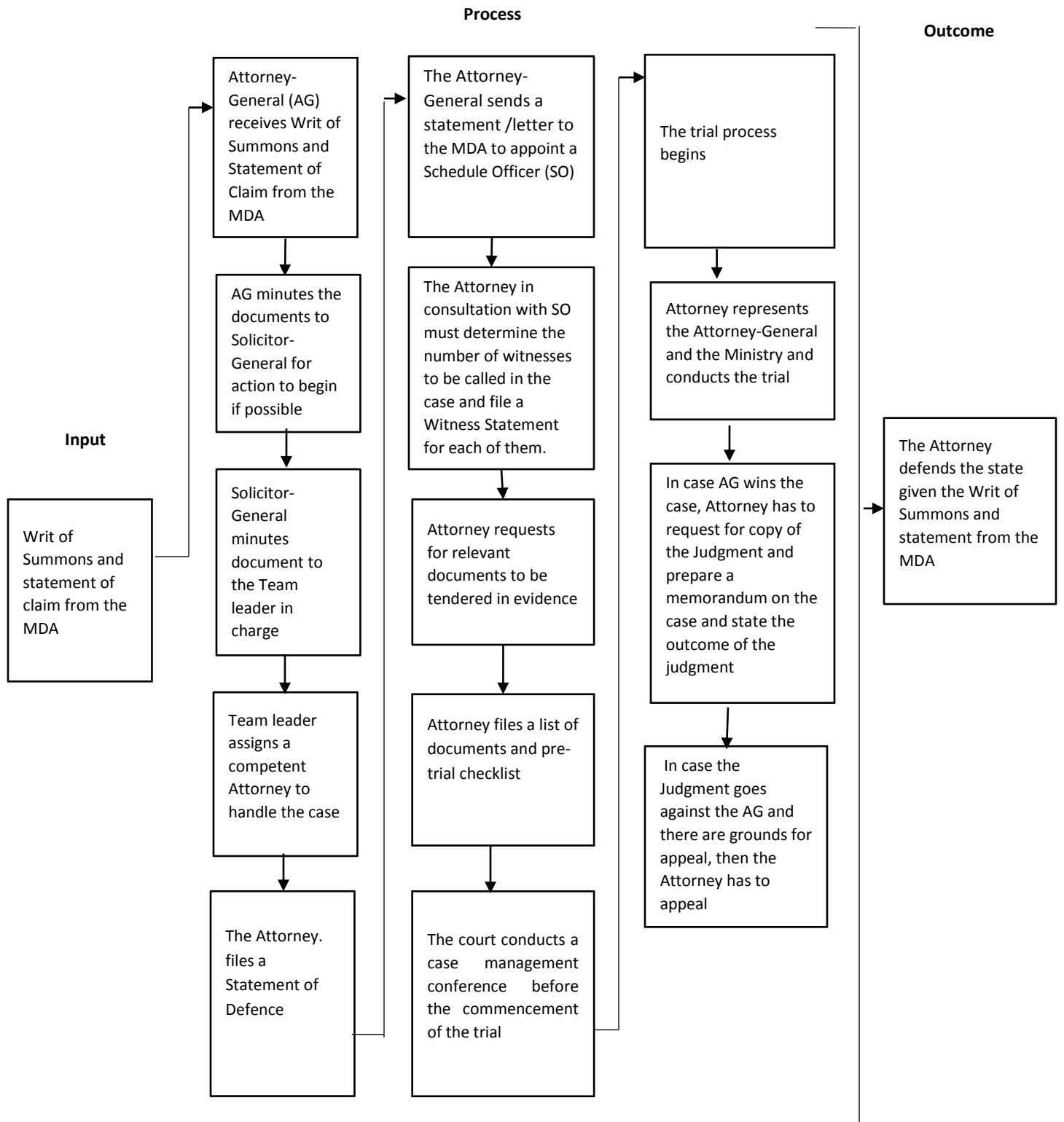
- I. MDAs which are sued will forward to the Attorney-General the Writ of Summons and Statement of Claim for necessary action.
- II. The Attorney- General on receipt of the Writ of Summons and Statement of Claim, will minute the documents to the Solicitor-General for necessary action.
- III. The Solicitor General then minutes the documents to the group head detailed to handle matters pertaining to the Ministry, Department or Agency (MDA) where the particular document is emanating from. The group head then minutes the said documents to the Attorney he/she deems capable of handling the matter.

THE LEGAL SERVICE CIVIL DIVISION

- IV. The Attorney will enter an appearance to the Writ of Summons and then forward Statement of Claim to the relevant Ministry for their comment to enable the Attorney file a Statement of Defence.
- V. On receipt of comments from the MDA, the Attorney will then proceed to file a Statement of Defence.
- VI. The said letter also asks the MDA to appoint a Schedule Officer who is well vested with the facts of the case and with whom the Attorney can communicate with and who will be expected to be in Court each time the matter is called. Where the required comments are not forthcoming from the MDA, the Attorney has to personally go to the MDA and request for the comments. This may be done repeatedly by the Attorney until the comments are received.
- VII. The Attorney in consultation with the Schedule Officer must determine the number of witnesses to be called in the case and proceed to file the Witness Statement for each of them, in compliance with High Court Civil Procedure Rules CI 47 as amended.
- VIII. The Attorney in consultation with the Schedule Officer may request for the relevant documents to be tendered in evidence and on receipt of document the Attorney must prepare and file a list of documents to be relied on, during the trial. A list of documents and pre-trial checklist are filed. There after a case management conference is conducted by the court. The trial will then commence accordingly.
- IX. At trial, the Attorney represents the Attorney-General and the Ministry and conducts the trial as such. After all Parties have opened and closed their cases, the Attorney writes a Final Address and files it within the time given by the Court to do so. Should Judgment be in favour of the Attorney-General, the Attorney has to request for copy of the Judgment and prepare a memorandum on the case and state the outcome of the judgment. The file thereafter will be closed, unless if an appeal by any of the parties will directly affect the Attorney-General. If the Judgment goes against the Attorney-General, the Attorney assigned with the case will have to prepare a memorandum and state so. The Attorney is also required to request for a copy of the Judgment. If there are genuine grounds of appeal, then the Attorney will have to appeal against the Judgment in the Court of Appeal and if required to do so, in the Supreme Court.

The Process flowchart of this SOP is depicted below:

2. Procedure for Defending the State In All Civil Matters Initiated Against the State.



THE LEGAL SERVICE CIVIL DIVISION

RELATED POLICIES, DOCUMENTS AND LEGISLATION

- The Constitution; Laws of Ghana
- High Court (Civil Procedure) Rules, 2004(C.I. 47)
- Laws of other Commonwealth jurisdictions;
- International Law; International Treaties; and other jurisdictions.

INTERNAL LINKAGES

At the Civil Division the different cases, agreements, contracts and arbitrations are distributed by the Group Heads to the Attorneys they oversee at their own discretion and according to the abilities of the Attorney. Any work done by an Attorney is done under the supervision and direction of the Group Head. The Group Head in turn directly receives instructions from the Solicitor General/Attorney-General. In certain circumstances, the Solicitor General/Attorney-General assigns an Attorney with particular duties based on the abilities and expertise of the Attorney.

EXTERNAL LINKAGES

All Ministries, Departments and Agencies (MDA) which by law are required to be represented by the Attorney-General.

THE LEGAL SERVICE CIVIL DIVISION

NAME OF INSTITUTION: MINISTRY OF JUSTICE AND ATTORNEY- GENERAL'S DEPARTMENT - LEGAL SERVICE CIVIL DIVISION (LSCD)	NUMBER OF PAGES: 4
	SOP NUMBER: SOP-LSCD03-16
	SOP REVISED NUMBER:
FUNCTION: III. REVIEWS AND ADVISES MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS) ON MEMORANDUM OF UNDERSTANDING),AGREEMENTS/CONTRACTS THEY INTEND TO ENTER OR ARE IN THE PROCESS OF EXECUTING/CONCLUDING	REVIEWED DATE:
	APPROVED DATE:
	IMPLEMENTATION DATE:

PURPOSE

The Legal Service Civil Division aims at protecting Government and its interests in agreements/contracts entered into with other parties. This Standard Operating Procedure establishes the procedural guidelines on how to review and advise MDAs on MoU, agreements/contracts they intend to enter or are in the process of executing/ concluding.

SCOPE

This Standard Operating Procedure applies to the Attorney-General, Attorney-General's Secretariat, Solicitor General, Group Head/Team leader assigned to handle the documents/agreements Attorneys as well as the relevant MDA.

PREREQUISITE

The information required prior to this SOP includes:

- An Agreement or Document requiring Legal Opinion

RESPONSIBILITIES

Every activity or work undertaken at the Civil Division emanates from the Attorney-General's office and goes through sequential steps in descending order of seniority. Typically, cases and issues are referred to Group heads. These responsibility channels vary and may depend on:

- The rank or grade of the Attorney.

PROCEDURE

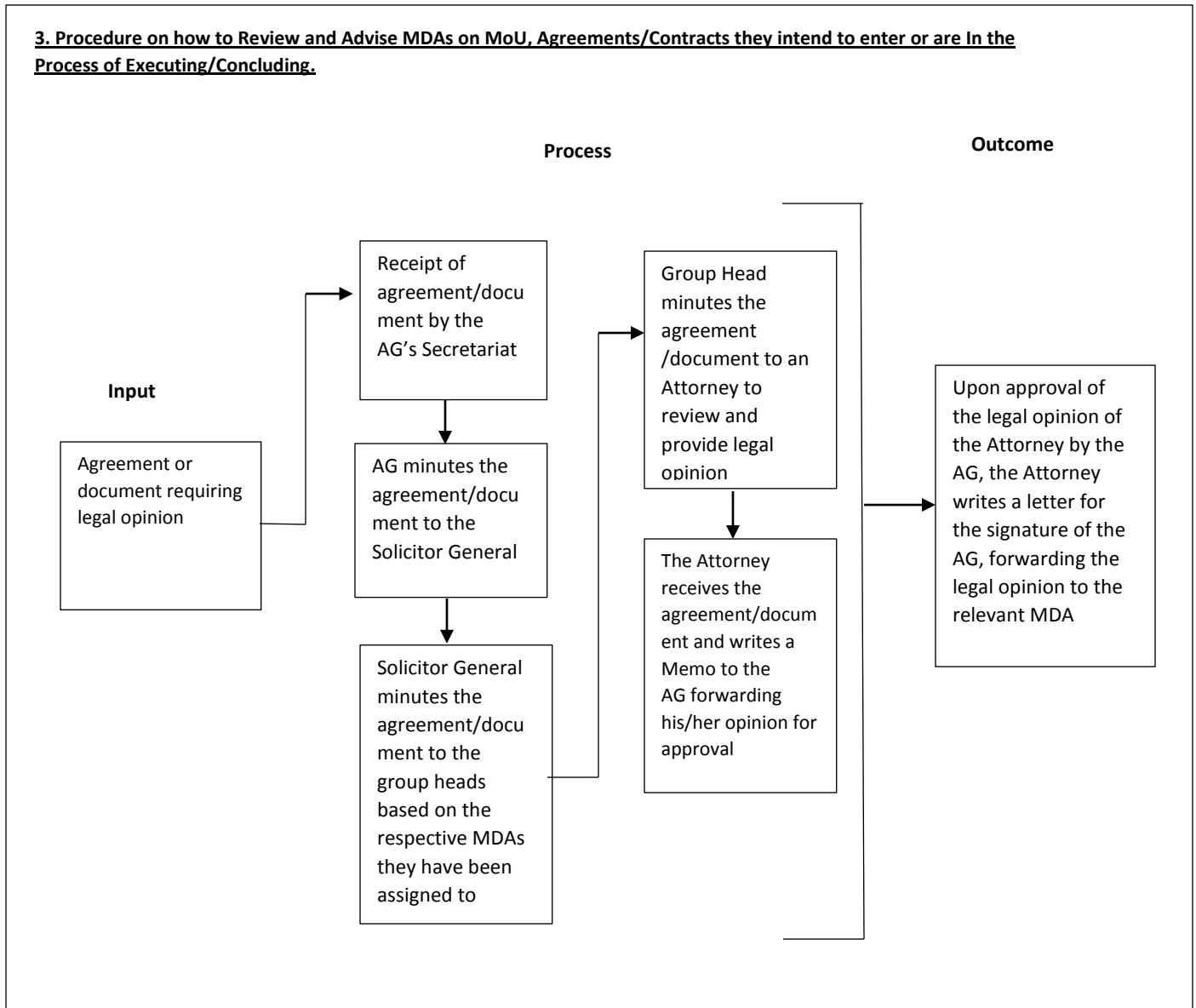
- I. An agreement or document requiring legal opinion or advice is received by the Attorney-General's Secretariat and brought to the attention of the Attorney-General;
- II. The Attorney-General minutes the Agreement/Document to the Solicitor General;
- III. The Solicitor General in turn minutes the said Agreement/document to the group heads who have been detailed to work on any such agreement/documents requiring legal opinion.

THE LEGAL SERVICE CIVIL DIVISION

- IV. Agreements/Documents requiring legal opinions are minuted to a particular group based on the respective Ministries, Departments and Agencies they have been assigned to;
- V. The group head then minutes the agreement/document to the Attorney whom he/she deems is capable of reviewing the agreement or providing the legal opinion to the document.
- VI. The Attorney upon receiving of the agreement/document must write a Memo to the Attorney-General forwarding his/her opinion for approval. In the event that the Legal opinion is approved, the Attorney then writes a letter for the signature of the Attorney-General, forwarding the Legal opinion to the relevant MDA.

The Process flowchart of this SOP is depicted below:

3. Procedure on how to Review and Advise MDAs on MoU, Agreements/Contracts they intend to enter or are In the Process of Executing/Concluding.



THE LEGAL SERVICE CIVIL DIVISION

RELATED POLICIES, DOCUMENTS AND LEGISLATION

- The Constitution; Laws of Ghana
- High Court (Civil Procedure) Rules, 2004 (C.I. 47), CA Rules and SC Rules
- Laws of other Commonwealth jurisdictions;
- International Law; International Treaties; and other jurisdictions.

INTERNAL LINKAGES

At the Civil Division the different cases, agreements, contracts and arbitrations are distributed by the Group Heads to the Attorneys they oversee at their own discretion and according to the abilities of the Attorney. Any work done by an Attorney is done under the supervision and direction of the Group Head. The Group Head in turn directly receives instructions from the Solicitor General/Attorney-General. In certain circumstances, the Solicitor General/Attorney-General assigns an Attorney with particular duties based on the abilities and expertise of the Attorney.

EXTERNAL LINKAGES

All Ministries, Departments and Agencies (MDA) which by law are required to be represented by the Attorney-General.

THE LEGAL SERVICE CIVIL DIVISION

NAME OF INSTITUTION: MINISTRY OF JUSTICE AND ATTORNEY- GENERAL'S DEPARTMENT - LEGAL SERVICE CIVIL DIVISION (LSCD)	NUMBER OF PAGES: 4
	SOP NUMBER: SOP-LSCD04-16
	SOP REVISED NUMBER:
FUNCTION: CONDUCT OF APPEALS AT THE COURT OF APPEAL AND SUPREME COURTS	REVIEWED DATE:
	APPROVED DATE:
	IMPLEMENTATION DATE:

PURPOSE

This Standard Operating Procedure establishes the procedural guidelines for the conduct of Appeals at the Court of Appeal and Supreme Courts

SCOPE

This Standard Operating Procedure applies to the Attorney-General and all Attorneys of the Legal Service Civil Division (LSCD) in the conduct of Appeals.

PREREQUISITE

The information required prior to this SOP includes:

- Notice of Appeal
- Civil Form 6
- Record of Proceedings

RESPONSIBILITIES

Every activity or work undertaken at the Civil Division emanates from the Attorney-General's Office and goes through sequential steps in descending order of seniority. Typically, cases and issues are referred to Group heads. The order of seniority in case referrals descend from: Attorney-General/DAG; Solicitor-General; Group Heads (Chief State Attorneys); Principal State Attorneys; Senior State Attorneys; State Attorneys; and Assistant State Attorneys.

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

- Attorney-General
- Attorneys of the Legal Service Civil Division
- Registry of the Trial or Last Court
- Registrar of the Trial or Last Court

PROCEDURE

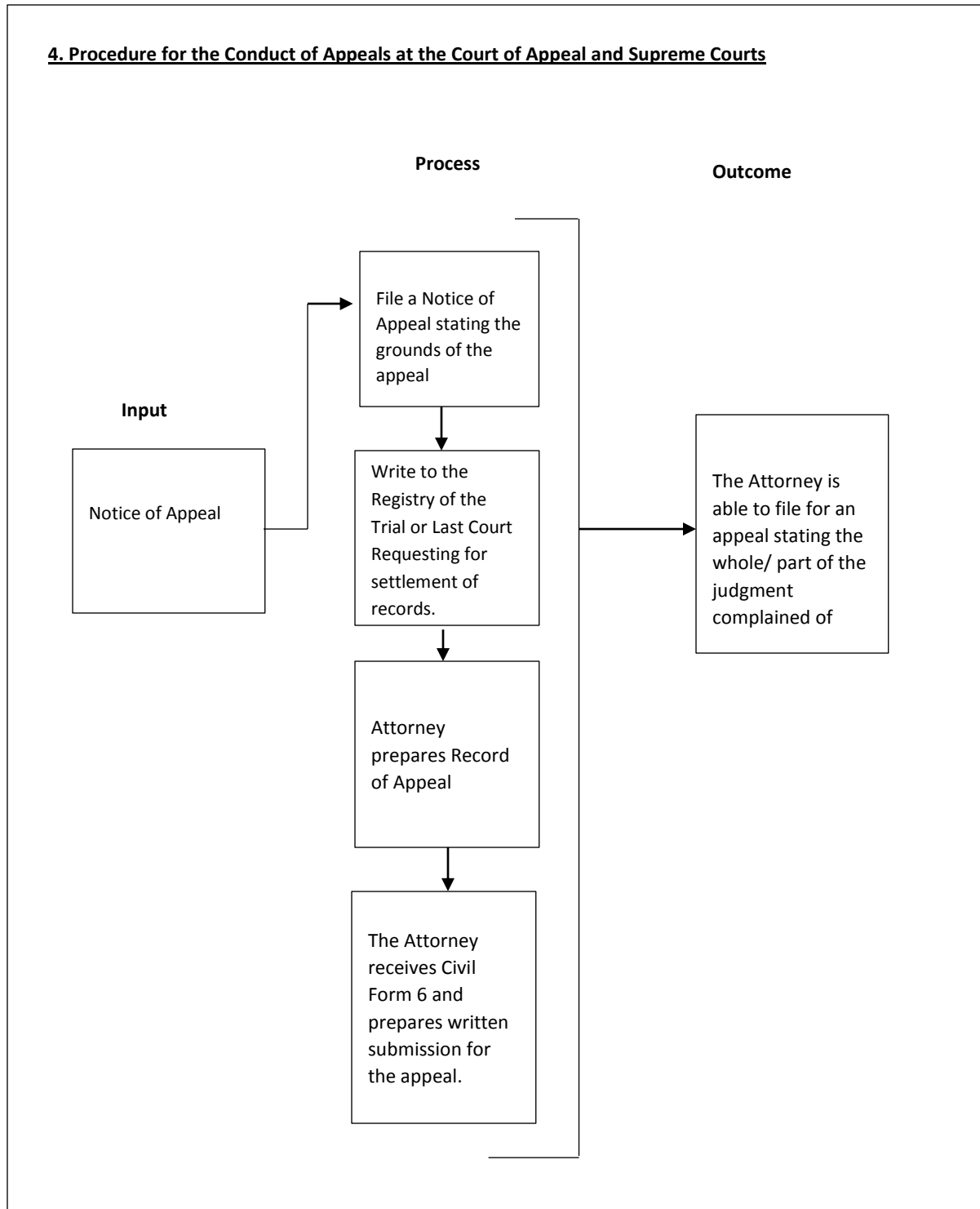
- I. File a Notice of Appeal stating the grounds of the appeal and the whole /part of the judgements complained of and file same in the Registry of the Trial or last Court.
- II. You must write to the Registry of the Trial or Last Court Requesting for Settlement of Records.

THE LEGAL SERVICE CIVIL DIVISION

- III. After the Record of Appeal is prepared, the Attorney will be served with a Civil Form 6. On receipt of this form, he has to prepare a written submission in respect of appeal lodged.
- IV. This information will apply if the Attorney-General is served with an appeal. The Attorney must write to the Registrar of the Court requesting for Settlement of Records. When the Record of Appeal is prepared and the Attorney is served with the Civil Form 6, thereafter, the attorney must take steps to procure copies of the record of proceedings and then prepare written submissions within 21 days in respect of the Appeal.

The Process flowchart of this SOP is depicted below:

4. Procedure for the Conduct of Appeals at the Court of Appeal and Supreme Courts



RELATED POLICIES, DOCUMENTS AND LEGISLATION

- The Constitution; Laws of Ghana
- The rules of the particular arbitration house
- The Alternative Dispute Resolution Act, 2010 (Act 798)
- Laws of other Commonwealth jurisdictions;
- International Law; International Treaties; and other jurisdictions.

INTERNAL LINKAGES

At the Civil Division the different cases, agreements, contracts and arbitrations are distributed by the Group Heads to the Attorneys they oversee at their own discretion and according to the abilities of the Attorney. Any work done by an Attorney is done under the supervision and direction of the Group Head. The Group Head in turn directly receives instructions from the Solicitor General/Attorney-General. In certain circumstances, the Solicitor General/Attorney-General assigns an Attorney with particular duties based on the abilities and expertise of the Attorney.

The internal linkages in the execution of the SOP for the conduct of Appeals at the Court of Appeal and Supreme courts include:

- Office of the Attorney-General
- Attorneys of the Legal Service Civil Division

EXTERNAL LINKAGES

All Ministries, Departments and Agencies (MDA) which by law are required to be represented by the Attorney-General.

THE LEGAL SERVICE CIVIL DIVISION

NAME OF INSTITUTION: MINISTRY OF JUSTICE AND ATTORNEY- GENERAL'S DEPARTMENT - LEGAL SERVICE CIVIL DIVISION (LSCD)	NUMBER OF PAGES: 4
	SOP NUMBER: SOP-LSCD05-16
	SOP REVISED NUMBER:
FUNCTION: REPRESENTS THE STATE IN NEGOTIATION AND ARBITRATIONS.	REVIEWED DATE:
	APPROVED DATE:
	IMPLEMENTATION DATE:

PURPOSE

This Standard Operating Procedure establishes the procedural guidelines for protecting Government and its interests in negotiations of any kind as well as making adequate submission on behalf of Government on any dispute.

SCOPE

This SOP applies to personnel that undertake relevant submissions on behalf of Government in all issues requiring negotiation and arbitration.

PREREQUISITE

The information required prior to this SOP includes:

- Facts and documentation on the substantive issue which may be the subject of negotiation and/or arbitration.
- Letter or document requesting for the State to take part in a negotiation or
- Engaging legal counsel

RESPONSIBILITIES

Every activity or work undertaken at the Civil Division emanates from the Attorney-General's office and goes through sequential steps in descending order of seniority. Typically, cases and issues are referred to Group heads.

These responsibility channels vary and may depend on:

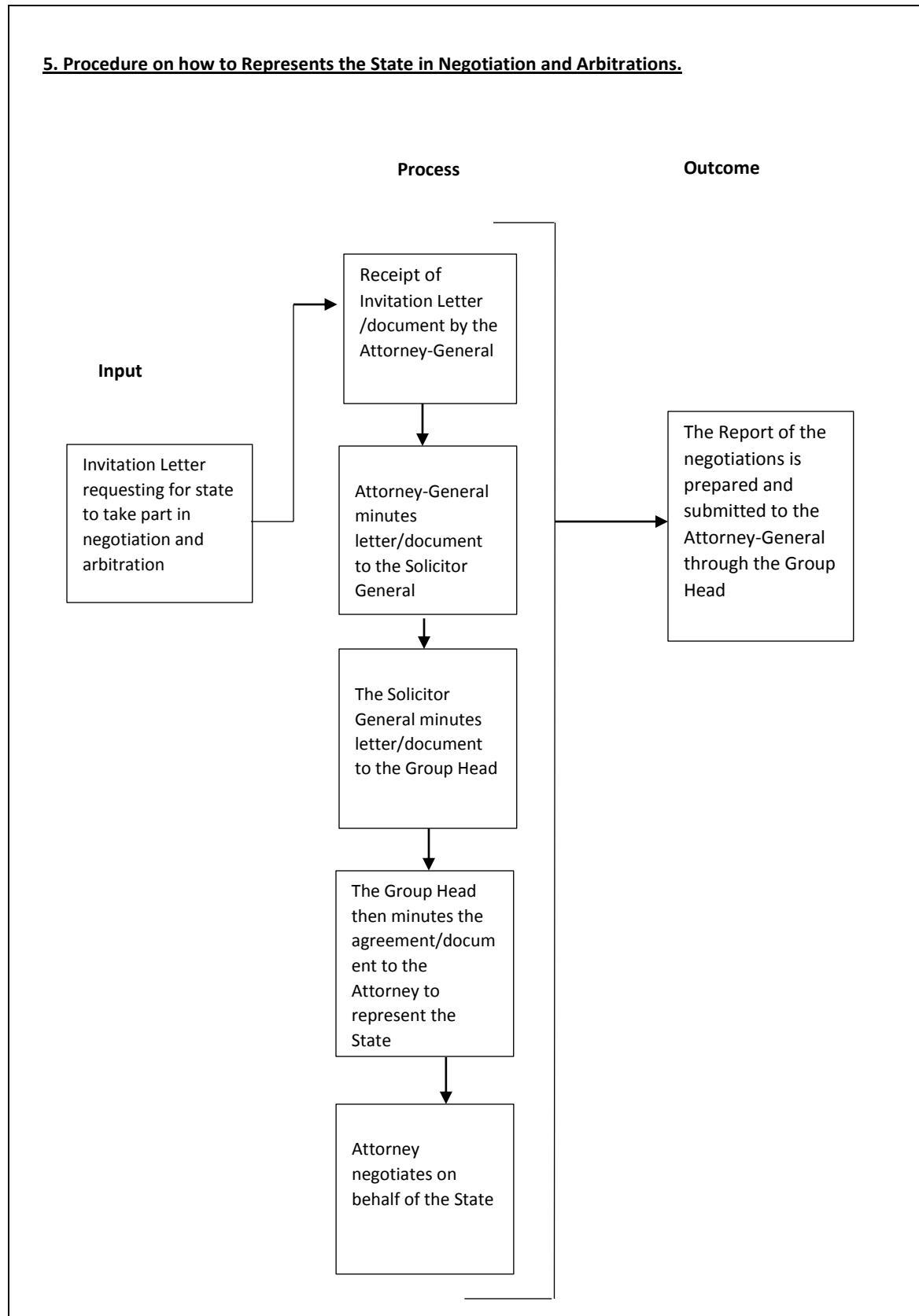
- The nature of the case requiring arbitration/ to be negotiated,
- The grade/rank of the Attorney.

PROCEDURE

- I. A letter or document requesting for the State to take part in a negotiation or arbitration is received by the Attorney-General;
- II. The Attorney-General minutes the Document to the Solicitor General;
- III. The Solicitor General in turn minutes the said document to the Group Head who has been detailed to work on international negotiation or arbitration.
- IV. The group head then minutes the agreement/document to the Attorney whom he/she deems is capable of representing the State based on expertise and competence.
- V. The Attorney proceeds to represent the State and may attend meetings or events in this capacity.
- VI. After negotiations the Attorney reports the outcome of the assignment to the Group Head for onwards submission to the Attorney General through the command chain.

The Process flowchart of this SOP is depicted below:

5. Procedure on how to Represents the State in Negotiation and Arbitrations.



THE LEGAL SERVICE CIVIL DIVISION

RELATED POLICIES, DOCUMENTS AND LEGISLATION

- The Constitution; Laws of Ghana
- High Court (Civil Procedure) Rules, 2004(C.I. 47)
- Laws of other Commonwealth jurisdictions;
- International Law; International Treaties; and other jurisdictions.

INTERNAL LINKAGES

At the Civil Division the different cases, agreements, contracts and arbitrations are distributed by the Group Heads to the Attorneys they oversee at their own discretion and according to the abilities of the Attorney. Any work done by an Attorney is done under the supervision and direction of the Group Head. The Group Head in turn directly receives instructions from the Solicitor General/Attorney-General. In certain circumstances, the Solicitor General/Attorney-General assigns an Attorney with particular duties based on the abilities and expertise of the Attorney.

EXTERNAL LINKAGES

- All Ministries, Departments and Agencies (MDA) which by law are required to be represented by the Attorney-General.
- External Solicitors

THE LEGAL SERVICE CIVIL DIVISION

NAME OF INSTITUTION: MINISTRY OF JUSTICE AND ATTORNEY- GENERAL'S DEPARTMENT - LEGAL SERVICE CIVIL DIVISION (LSCD)	NUMBER OF PAGES: 3
	SOP NUMBER: SOP-LSCD05-16
	SOP REVISED NUMBER:
FUNCTION: PROFFER LEGAL OPINIONS BY THE ATTORNEY-GENERAL	REVIEWED DATE:
	APPROVED DATE:
	IMPLEMENTATION DATE:

PURPOSE

The Legal Service Civil Division aims at protecting Government and its interests. This Standard Operating Procedure establishes the procedural guidelines on how to proffer legal opinions by the Attorney-General.

SCOPE

Ensure that Governments dealings and relations are in accordance with law

PREREQUISITE

The information required prior to this SOP includes:

- Facts and documentation on substantive issues

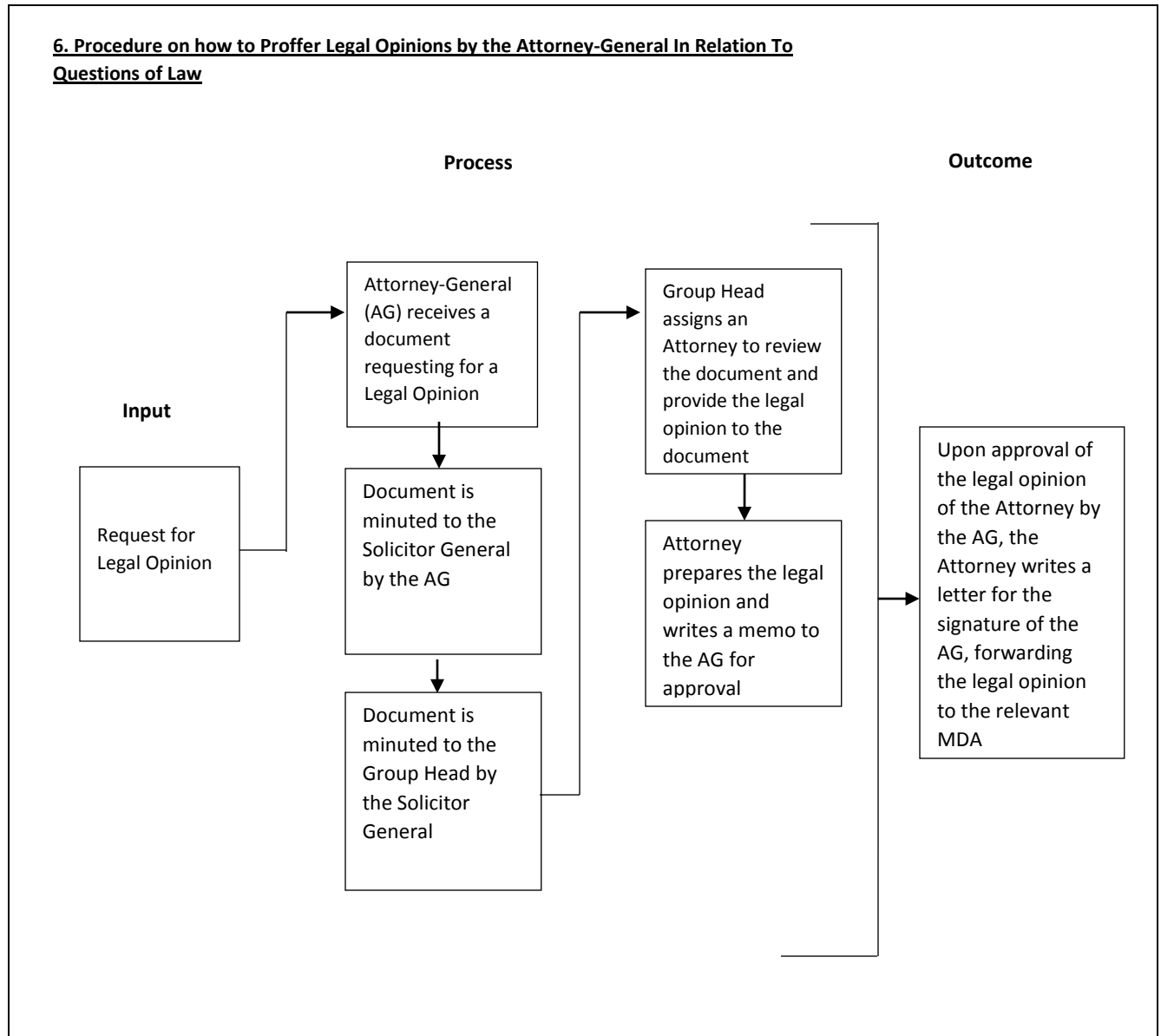
RESPONSIBILITIES

Every activity or work undertaken at the Civil Division emanates from the Attorney-General's office and goes through sequential steps in descending order of seniority. Typically, cases and issues are referred to Group heads.

PROCEDURE

- I. Where a request for legal opinion is received by the Attorney-General, the Attorney-General minutes the document to the Solicitor General;
- II. The Solicitor General in turn minutes the request document to the group heads who have been detailed to work on the Legal opinion.
- III. Legal opinions are directed to a particular group based on the respective Ministries, Departments and Agencies they have been assigned to;
- IV. The group head then minutes the document to the Attorney whom he/she deems is capable of reviewing the document or providing Legal opinion to the document.
- V. When the Attorney prepares the Opinion, he /she must write a memo to the Attorney-General for approval
- VI. When the Attorney-General gives his/her approval, the Attorney then writes a letter for the signature of the Attorney-General and forwards the Legal opinion to the relevant MDA.

The Process flowchart of this SOP is depicted below



RELATED POLICIES, DOCUMENTS AND LEGISLATION

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

INTERNAL LINKAGES

At the Civil Division the different cases, agreements, contracts and arbitrations are distributed by the Group Heads to the Attorneys they oversee at their own discretion and according to the abilities of the Attorney. Any work done by an Attorney is done under the supervision and direction of the Group Head. The Group Head in turn directly receives instructions from the Solicitor General/Attorney-General. In certain circumstances, the Solicitor General/Attorney-General assigns an Attorney with particular duties based on the abilities and expertise of the Attorney.

EXTERNAL LINKAGES

All Ministries, Departments and Agencies (MDA) which by law are required to be represented by the Attorney-General and relevant institutions.

THE LEGAL SERVICE CIVIL DIVISION

NAME OF INSTITUTION: MINISTRY OF JUSTICE AND ATTORNEY- GENERAL'S DEPARTMENT - LEGAL SERVICE CIVIL DIVISION (LSCD)	NUMBER OF PAGES: 4
	SOP NUMBER: SOP-LSCD05-16
	SOP REVISED NUMBER:
FUNCTION: SERVE ON THE BOARDS OF MINISTRIES, DEPARTMENTS AND AGENCIES (MDAs)	REVIEWED DATE:
	APPROVED DATE:
	IMPLEMENTATION DATE:

PURPOSE

Protecting Government and its interests

SCOPE

Ensure that Government's business is carried out in accordance with law.

PREREQUISITE

The information required prior to this SOP includes:

- Background documents of the MDAs
- Facts and documents on the mandates and objectives of the particular MDAs.

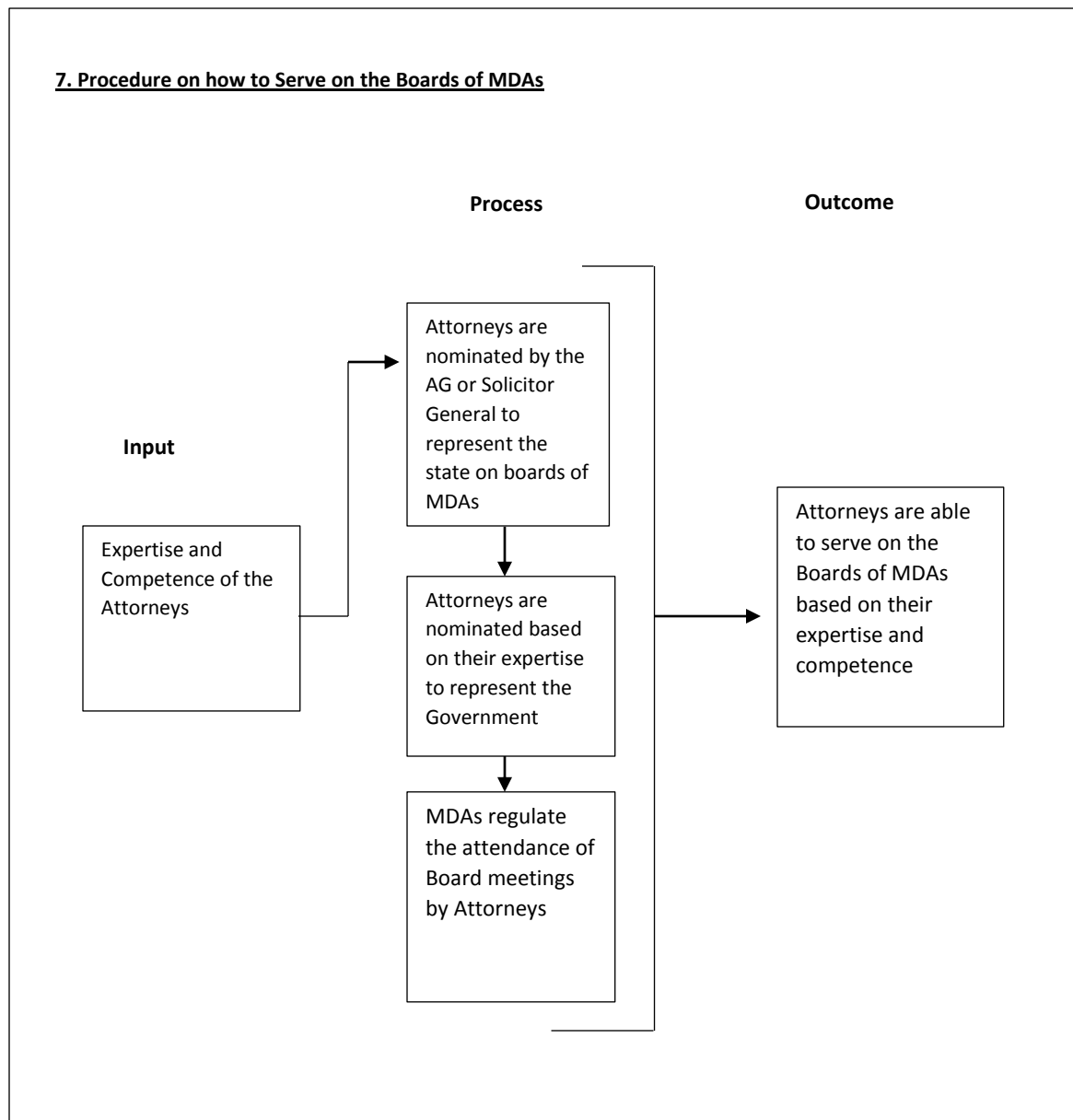
RESPONSIBILITIES

Every activity or work undertaken at the Civil Division emanates from the Attorney-General's office and goes through sequential steps in descending order of seniority. Typically, cases and issues are referred to Group heads.

PROCEDURE

- I. Attorneys are nominated on the basis of their expertise and competence to negotiate on behalf of the Government.
- II. Representation and attendance of meetings by Attorneys on Boards is regulated by the Institutions (MDA's) on whose Board they are;
- III. Board meetings may be monthly, bi monthly or quarterly;
- IV. Senior State Attorneys, Principal State Attorneys and Chief State Attorneys are chosen by the Attorney-General or the Solicitor General to represent the State on the boards.

The Process flowchart of this SOP is depicted below:



THE LEGAL SERVICE CIVIL DIVISION

RELATED POLICIES, DOCUMENTS AND LEGISLATION

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

INTERNAL LINKAGES

At the Civil Division the different cases, agreements, contracts and arbitrations are distributed by the Group Heads to the Attorneys they oversee at their own discretion and according to the abilities of the Attorney. Any work done by an Attorney is done under the supervision and direction of the Group Head. The Group Head in turn directly receives instructions from the Solicitor General/Attorney-General. In certain circumstances, the Solicitor General/Attorney-General assigns an Attorney with particular duties based on the abilities and expertise of the Attorney.

EXTERNAL LINKAGES

- All Ministries, Departments and Agencies, MDAs, of the Government of Ghana
- Agencies (public);
- (national/international) that particular MDA may have dealings with

THE INTERNAL POLICIES THAT PERTAIN AT THE ATTORNEY-GENERAL'S DEPARTMENT INCLUDE THE FOLLOWING:

- I. All Attorneys may undertake approved courses of study and training
- II. Each Team Leader is to submit an Annual Staff Performance appraisal report on each team member to the Solicitor General and then to the Chief Director
- III. Promotion shall be on merit and tied to increased duty and higher responsibility
- IV. Attorneys are entitled to thirty-six working days leave in respect of each calendar year.
- V. Annual Leave does not include Saturdays, Sundays, Public Holidays, Sick leave certified by a registered medical practitioner, Study Leave and Maternity leave.
- VI. An Attorney is entitled to enjoy an uninterrupted period of leave.
- VII. Where an Attorney is required to interrupt leave, that member shall not forfeit the right to the remainder of the leave and may take the leave later.
- VIII. An Attorney may take annual leave in installments during a leave year.
- IX. An Attorney cannot accumulate deferred leave for more than two years.
- X. Where a female Attorney becomes pregnant, she may be granted annual leave already earned in addition to three months' maternity leave with full pay.
- XI. An Attorney returning to duty after maternity leave shall work for a maximum of five hours a day in order to nurse the baby for continuous periods of twelve months after the date of delivery.
- XII. An Attorney who wishes to resign shall give at least three months' notice of resignation or pay three months' salary in lieu of the notice as stated in the letter of appointment of the said Attorney.

RULES THAT PERTAIN TO CASES AT THE ATTORNEY-GENERAL'S DEPARTMENT

- I. An attorney in handling a case should not in any way deal with the party on the other side without the knowledge, consent and presence of that parties' lawyer. This applies to both the cases that we have been sued or we have initiated.
- II. An attorney should not settle a case being handled without seeking the express written consent and approval of the Attorney-General. Where the Court directs that the matter should be settled, the Attorney should write a memorandum to the Attorney-General seeking his/her consent or approval.

SECTION 3

RECOMMENDATIONS

THE LEGAL SERVICE CIVIL DIVISION

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:

- Record-keeping in the Ministries, Departments and Agencies (MDAs);
- Timely engagement in negotiations of contracts or agreements and arbitration processes
- Paralegal Staff in LSCD and MDAs
- Information, Communications and Technology (ICT)
- Attorneys with Special Needs

Record-keeping in MDAs

A key component of the functions of the Legal Service Civil Division (LSCD) is to represent and protect the interest of the state in legal matters that are of a civil nature. On this point, it critical for the Ministries, Departments and Agencies (MDAs), being the key constituents of the Government of Ghana to provide required information on a timely basis.

Therefore, credible record-keeping in the MDAs would be critical in preparing and building civil case files as a precursor to Justice Delivery. To this end MDAs, should be encouraged to constantly document information regarding all of their operations.

We recommend the following procedures in the MDAs to ensure that information is made readily available when needed:

- Minutes and records of all MDAs' operations are filed in readiness for use by the LSCD;
- The Records and Reports should be assigned to scheduled managers in the MDAs, as part of their core duties;
- The Records and Reports should be reviewed periodically and signed-off by superiors to ensure compliance with established policies, rules and regulations in the Ministry of Justice and Attorney-General's Department.

Timely engagement in negotiations of contracts or agreements and arbitration processes

The LSCD is mandated to engage in negotiations of contract or agreements and arbitration processes on behalf of the Government of Ghana. It is expedient that the LSCD is part of the process from its inception through to finalization.

On this point, we recommend that:

- The LSCD be furnished with time-tables of activities of MDAs at pre-determined periods;
- Information and documentation on contracts, arbitrations be made available to the LSCD from the Inception through to the finalization of the processes; and
- The LSCD should be notified immediately of ad-hoc or critical situations that would impinge on the workings of the LSCD and MDAs.

Paralegal Staff in LSCD and MDAs

The working relationships between the LSCD and the Legal Departments of MDAs would improve with the recruitment of Paralegal Officers in respective institutions. Paralegal Officers would play mediating roles in the institutions, as they liaise with State Attorneys and Legal Officers in the LSCD and MDAs respectively. Additionally, Paralegal Officers would be focal persons to address concerns in the institutions.

Therefore, we recommend that the processes required for approval to recruit Paralegal Officers within the Ministry of Justice and Attorney-General's Department and MDAs be initiated. This must be done within financial constraints and Human Resource Policies.

Information, Communications and Technology (ICT)

Information, Communications and Technology continues to be an enabler of business processes. Thus, the challenges of obtaining, storing and disseminating information in the LSCD could be curtailed in a networked environment with dedicated servers. Therefore, an optimal utilization of Information and Communications Technology applications would enhance the performance of the LSCD in executing their mandate of Justice Delivery.

Therefore we recommend the following measures:

- A filing system within MDAs and LSCD be periodically reviewed to ensure that workflow in their registries are consistent with established procedures;
- Superiors should undertake regular inspection of files and documents as part of their routine compliance procedures;
- Staff assigned on ICT-related duties should be trained regularly in emerging trends in ICT, electronic filing and database management;
- Regular upgrade of ICT Systems to meet global and emerging standards.

Attorneys with Special Needs

In our assessment of special needs for persons with disability, we observed that the main challenges were in areas of logistical support such as equipment and tools for effective performance as Attorneys. This suggests that the special needs for persons with disability are not requirements for training or capacity-building. Nonetheless, the provision of logistical support would enhance the performance of persons with disability. Therefore, logistical challenges and support for persons with disability must be addressed comprehensively in multi-institutional projects that focus on persons with disability.