

TERMS OF REFERENCE FOR SENIOR CROWN COUNSEL, IN THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS (ODPP)

These terms of reference apply to the position of Senior Crown Counsel, within the Office of the Director of Public Prosecutions, Montserrat.

BACKGROUND

The Office of the Director of Public Prosecutions was established in Montserrat in 2011. Prior to its establishment, criminal matters were prosecuted through the Attorney General's Chambers.

The current office structure comprises of the Director of Public Prosecutions, two Senior Crown Counsels and two Junior Crown Counsels. One of the two Senior Crown Counsel positions is vacant. This vacancy, coupled with the fact that both Junior Crown Counsel positions are filled with counsel who have less than 3 years' practical experience, has left the office with competency gaps. Consequently, an additional, experienced counsel is required to provide support to the Director.

Prosecuting Counsel appear before the Magistrate's Court daily, as well as in the High Court and Courts of Appeal during the respective sittings. The workload is such that the Office handles in excess of 200 cases on average annually in the Magistrates Court, about 35 -40 in the High Court and about 15 on appeal. In addition, there are another 60 on average annually that were handled exclusively by the police.

More specifically, in 2019, there were 458 prosecutions instituted, all of which started in the magistrate's court. Fifty (50) of those matters were transferred to the High Court. Only fifteen of those matters made their way to the court of appeal.

Whilst there are several convictions on the books for drug offences and fraud, very few have resulted in money laundering and confiscation proceedings. This was highlighted by the CFATF in their evaluation of Montserrat in 2010. There is an ongoing need, based on this assessment, for the Office to utilize, more frequently, the provisions under the Proceeds of Crime Act, which it is currently limited in doing because of lack of capacity. It is expected that the recruit will come fully trained, and have experience in dealing with the proceeds of crime.

In addition to rendering advice and appearing before the respective levels of the Court, all counsels within the OPP are mandated to provide assistance to the Royal Montserrat Police Service in its Recruit Training Programme, and other training initiatives.

PURPOSE OF ASSIGNMENT

Prosecuting Counsel are required to render advice on a range of criminal matters, appear at every level of the Eastern Caribbean Supreme Court, and assist with the delivery of training to the Royal Montserrat Police Service and other agencies. Specifically, the post of Senior Crown Counsel will concentrate on the following deliverables:

- (i) support the DPP to deliver office targets including timely processing of criminal proceedings
- (ii) conduct criminal proceedings in accordance with established principles,
- (iii) take particular responsibility for criminal proceedings in the areas of money laundering/proceeds of crime/asset recovery,
- (iv) mentor/train junior counsel to fulfil their role,
- (v) contribute to the ongoing strengthening of the Montserrat criminal justice system.

QUALIFICATIONS, SKILLS AND EXPERIENCE

The officer will be a Barrister or Solicitor of no less than 5 years' practice experience in the prosecution of criminal offences. The appointee should possess at minimum an LLB or its equivalent, be entitled to practise in any Commonwealth Jurisdiction and is required to have a working knowledge of, and a minimum of two (2) years' experience utilizing the Proceeds of Crime Act.

SCOPE OF WORK

The Officer will be required to perform the following duties:

- a) Prosecution of criminal cases in the Magistrates' Court and in the Criminal Division of the High Court; as well as represent the Crown, whether alone or along with the DPP or other Crown Counsel as required in Criminal Appeals at the Court of Appeal.
- b) Advise the Police and other Law Enforcement Agencies, including, but not limited to, Her Majesty's Customs and Excise and Revenue Services in their investigation of cases and on all criminal matters. This includes advice in relation to:

- What criminal charges are appropriate based on the material available;
 - Whether there is sufficient, cogent material to support a charge;
 - The admissibility of evidence;
 - The current state of the law;
 - Whether a case should be tried summarily or on indictment;
 - The disclosure of material relevant to the case;
 - Legal Submissions with case authorities; Additional areas of investigation; Securing exhibits.
- c) Provide direction, mentorship, guidance and advice to junior prosecutors in their handling of summary cases.
- d) Provide opinions and advice to other government agencies or departments on matters which have implications for the criminal law.
- e) Represent the Government of Montserrat/Office of the DPP at conferences, workshops, seminars whether locally or abroad on matters relating to or touching on and concerning prosecution.
- f) Follow all guidance and directions issued by the DPP to ensure that decisions in all cases are appropriate and correct.
- g) Train Crown Counsel in the prosecution of offences such as Money Laundering Frauds, white collar crime and Drug offences.

REPORTING AND MANAGEMENT ARRANGEMENTS

The Officer shall be subject to the statutory rules, orders, general orders, financial instructions, rules and any and all other laws, regulations and practices applicable to members of the Montserrat Public Service for the duration of this agreement. The officer shall report to the Director of Public Prosecutions or any other officer acting in that capacity from time to time.

The Officer should have good interpersonal skills, tact and diplomacy and must be able to work as part of a team or on his/her own initiative.

DURATION

The duration of the assignment will be for a period of two years, with options to renew.