

ATTORNEY-GENERAL'S VALUES FOR CROWN CIVIL LITIGATION

1. The Attorney-General is constitutionally responsible for determining the Crown's view of what the law is, and ensuring that the Crown's litigation is properly conducted.
2. As such, the Attorney-General wishes to ensure that all civil litigation is conducted to a standard of fairness and integrity as befits the Crown. The Solicitor-General's Prosecution Guidelines 2013 address relevant standards for Crown prosecutions.
3. The Attorney-General's Values for Crown Civil Litigation apply to all civil litigation (or proposed litigation) before courts, tribunals, inquiries, and in arbitration and other alternative dispute resolution processes conducted on behalf of Crown departments, officers, and Ministers. They apply whether or not the counsel instructed is employed by the Crown. They have no legal effect and are not enforceable in any court.
4. There is only one Crown in New Zealand. Accordingly, the Crown needs to be able to have a single and consistent view, and speak with one voice, on questions of law. There is no conflict of interest if a government lawyer is instructed by different government departments.
5. The Crown will:
 - 5.1 Take and defend litigation in accordance with the rule of law, ensuring the Government is able to pursue its objectives and responsibilities lawfully and effectively.
 - 5.2 Deal with litigation promptly and efficiently and without causing unnecessary delays or expense, and seek to have cases resolved as early as is appropriate and on such terms as are appropriate.
 - 5.3 Apply a fair and objective approach in the handling of litigation, promoting the just and fair application of the law to all.
 - 5.4 Consider the possibilities for, and initiate where appropriate, alternative means of avoiding or resolving litigation, including by cooperation or other agreed resolution.
 - 5.5 Responsibly spend public funds in relation to litigation.
 - 5.6 Not take inappropriate or unfair advantage of an impecunious or unrepresented opponent.
 - 5.7 Not contest matters which it accepts as correct.
 - 5.8 Not take unmeritorious points for tactical reasons.
 - 5.9 Not pursue appeals unless it considers that it has reasonable prospects of success or the appeal is otherwise justified in the public interest.
6. The Crown may take any steps open to a private individual and, without limitation, may:

- 6.1 Test and defend claims which are made against it.
- 6.2 Oppose unreasonable, oppressive or vexatious claims or processes.
- 6.3 Decline to settle litigation when settlement will not satisfy the Crown's objectives.
- 6.4 Move to strike out untenable causes of action, defences or proceedings.
- 6.5 Enforce costs orders and seek to recover costs.
- 6.6 Rely on legal professional privilege and other forms of privilege and claims for public interest immunity.
- 6.7 Plead limitation and other defences.
- 6.8 Seek security for costs.
- 6.9 Oppose applications for leave to appeal, or leave applications arising from a party's failure to comply with the Court's rules or directions.
- 6.10 Require opposing litigants to comply with procedural obligations.

Approved by the Attorney-General

31 July 2013