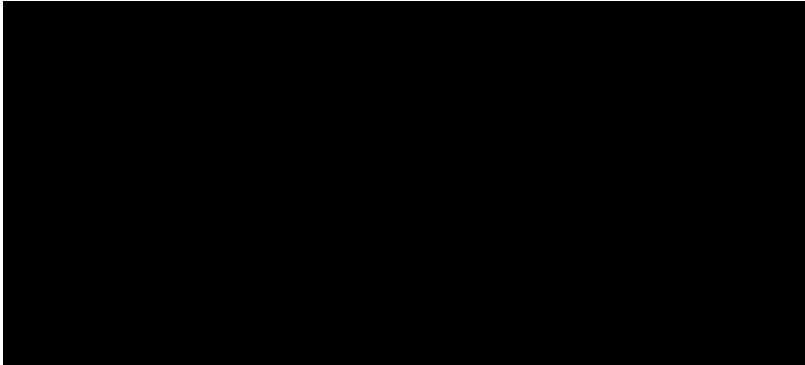




17 July 2023



Official information request for average cost of conviction for drug offences

Our Ref: OIA353/1

1. I refer to your official information request to the Ministry of Justice (**MoJ**) of 15 June 2023 seeking “information regarding charges and convictions relating to drug offences.”
2. On 22 June 2023, MoJ transferred part of your request to us,¹ specifically your request for information about the estimated average cost of:

... conviction for drug offences, including (and broken down by) ... [the] cost of criminal trial including appeals. Broken down by type of drug offence.
3. In short, we do not hold this information and consequently cannot provide it to you. Nonetheless, we do hold some information about the effective average cost of illicit drug prosecutions which may be relevant. I detail that below.

The “effective average cost” of Crown prosecutions for illicit drug offending

4. While Crown Law administers funding of the Crown Solicitor Network, that is limited to funding Crown prosecutions only. All costs incurred in a criminal proceeding before it becomes a Crown prosecution are met by the relevant prosecuting agency. In illicit drug cases, that is typically Police or the Customs Service. Crown Law does not hold, nor have access to, information about those costs.
5. Crown Solicitors have operated in a bulk funding environment since 1 July 2013. Because of this, they do not invoice Crown Law for individual Crown prosecutions and are not remunerated on an hourly basis. It is therefore not possible to identify

¹ As contained in bullet point 4 of your request.

the precise “cost” of any one case, nor is it possible to provide a precise average cost (including for prosecutions of illicit drug charges).

6. From the fixed amount of bulk funding that is available to the Crown Solicitor Network in a financial year, each Crown Solicitor receives an annual fee (paid in adjusted monthly instalments) proportionate to the number and type of prosecutions their office conducts that year.
7. As part of this process, each *type* of prosecution (murder, fraud, illicit drugs, etc) is broken down into various case categories. These categories reflect the number of charges and defendants involved in an individual prosecution.
8. For illicit drug prosecutions, there are currently four case categories.² These categories apply universally to all illicit drug prosecutions, irrespective of the type of drug in question (e.g., Class A, Class B, and/or Class C controlled drugs, etc) or the type of offence (e.g., manufacture, import/export, possession, supply, etc). While the *true* cost of any individual case or type of case cannot be identified, each category is afforded an “effective average cost”, as follows:

Case Category	Criteria	Effective average cost
Illicit Drugs 1	One defendant Four or fewer charges	\$4,394
Illicit Drugs 2	One defendant Five or more charges	\$5,662
Illicit Drugs 3	Two or more defendants Four or fewer charges	\$9,324
Illicit Drugs 4	Two or more defendants Five or more charges	\$20,343

9. Effective average costs are calculated by multiplying the reported hours spent on disposed cases by the applicable effective hourly rate for the level of prosecutor assigned. Effective hourly rates do not account for funding distributed via the flexi fund, which allocates additional funding for exceptional cases based on reported hours. For the effective average costs above, the effective hourly rates from the 2021/2022 financial year were used.
10. The effective average costs are used – together with the volume and type of prosecutions – to assist in proportionately dispensing funding across the Network from the bulk fund. They are applied regardless of the number of hours spent on a prosecution and the outcome of a case. Therefore, in addition to cases where a conviction is entered, the averages equally apply to cases where a defendant is

² These case categories are effective from the 2023/2024 financial year.

found not guilty, where charges are withdrawn, and where charges are dismissed. Importantly, the *effective averages do not represent an actual monetary value* that Crown Solicitors receive.

The estimated average cost of appeals for illicit drug offending

11. While Crown Law does hold information about the “effective average costs” of appeals conducted by Crown Solicitors, that cannot be broken down by the type of offence in question (i.e., no distinction is made between an appeal relating to violent offending (for example) and an appeal relating to illicit drug offending).
12. For criminal appeals relating to illicit drug offending that are conducted by Crown Law, there is no estimated average cost. Crown Law does not receive funding for individual cases and is not paid on an hourly basis. The only information we do hold relates to time spent by Crown Counsel on a matter.

Proactive release

13. We may publish this response (with your personal details redacted), and any related documents, on Crown Law’s website if we decide proactive release of this information is or may be in the public interest. If you have any concerns about this, please let us know within 10 working days of the date of this letter.

Right to seek investigation and review

14. You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.
15. If you wish to discuss this decision with us, please feel free to contact me.

